



Senate

General Assembly

File No. 606

January Session, 2023

Substitute Senate Bill No. 1150

Senate, April 17, 2023

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, 2025*) (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 any provision of the general statutes,
23 the Secretary of the State shall ensure such office is included in the office
24 or offices selected under subparagraph (C) of subdivision (1) of this
25 subsection.

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

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

35 (d) The risk-limiting audit described in subsection (a) of this section
36 shall be conducted in accordance with instructions and procedures
37 prescribed by the Secretary of the State not later than January 1, 2026,
38 which instructions and procedures shall be consistent across all offices.
39 The risk limit for each such audit shall be not more than five per cent.
40 The results of each audit conducted pursuant to this section, including
41 any such audit that produces an outcome of "INCONCLUSIVE" as
42 described in subsection (e) of this section, shall be reported on a form
43 and in a manner prescribed by the Secretary. Such reported results shall
44 be filed with the Secretary, who shall immediately forward such
45 reported results to The University of Connecticut for analysis. The
46 University of Connecticut shall submit to the Secretary a written report

47 regarding such analysis that describes any concerns identified. After
48 receipt of such written report, the Secretary shall transmit to the State
49 Elections Enforcement Commission a copy of such written report.

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

54 (f) If the written report submitted by The University of Connecticut
55 under subsection (d) of this section indicates that a voting tabulator
56 failed to record votes accurately and in the manner provided by title 9
57 of the general statutes, the Secretary of the State shall require that the
58 voting tabulator be examined and recertified by the Secretary, or the
59 Secretary's designee. Nothing in this subsection shall be construed to
60 prohibit the Secretary from requiring that a voting tabulator be
61 examined and recertified.

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

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

80 any violations of the general statutes concerning election law have been
81 committed.

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

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

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

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

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

112 subsection (a) of this section.

113 (n) As used in this section:

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

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

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

125 Sec. 2. Section 9-320f of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective January 1, 2025*):

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

143 this section shall be compensated by the municipality at the standard
144 rate of pay established by such municipality for elections or primaries,
145 as the case may be.

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

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

168 (d) The manual or electronic audit described in subsection (a) of this
169 section shall consist of the manual or electronic tabulation of the paper
170 ballots cast and counted by each voting tabulator subject to such audit.
171 Once complete, the vote totals established pursuant to such manual or
172 electronic tabulation shall be compared to the results reported by the
173 voting tabulator on the day of the election or primary. The results of
174 such manual or electronic tabulation shall be reported on a form
175 prescribed by the Secretary of the State which shall include the total

176 number of ballots counted, the total votes received by each candidate in
177 question, the total votes received by each candidate in question on
178 ballots that were properly completed by each voter and the total votes
179 received by each candidate in question on ballots that were not properly
180 completed by each voter. Such [report] reported results shall be filed
181 with the Secretary, [of the State] who shall immediately forward such
182 [report] reported results to The University of Connecticut for analysis.
183 The University of Connecticut shall [file] submit to the Secretary a
184 written report [with the Secretary of the State] regarding such analysis
185 that describes any discrepancies identified. After receipt of such written
186 report, the Secretary [of the State shall file such report with] shall
187 transmit to the State Elections Enforcement Commission a copy of such
188 written report.

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

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

208 (g) If the written report submitted by The University of Connecticut

209 [report described in] under subsection (d) of this section indicates that a
210 voting tabulator failed to record votes accurately and in the manner
211 provided by [the general statutes] this title, the Secretary of the State
212 shall require that the voting tabulator be examined and recertified by
213 the Secretary [of the State,] or the Secretary's designee. Nothing in this
214 subsection shall be construed to prohibit the Secretary [of the State] from
215 requiring that a voting tabulator be examined and recertified.

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

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

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

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

242 (l) After an election or primary described in subsection (a) of this
243 section, any voting tabulator may be kept locked for a period longer
244 than that prescribed by sections 9-266, 9-310 and 9-447, if such an
245 extended period is ordered by either a court of competent jurisdiction,
246 the Secretary of the State or the State Elections Enforcement
247 Commission. Either the court or the Secretary of the State may order an
248 audit of such voting tabulator to be conducted by such persons as the
249 court or the Secretary [of the State] may designate, provided the State
250 Elections Enforcement Commission may order such an audit under the
251 circumstances prescribed in subsection (f) of this section. If the machine
252 utilized in such election or primary is an optical scan voting system,
253 such order to lock such machine shall include the tabulator, memory
254 card and all other components and processes utilized in the
255 programming of such machine.

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

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

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

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

275 subsection (e) of this section; [, "state election" means "state election", as
276 defined in section 9-1, "municipal election"]

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

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

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

283 Sec. 3. (NEW) (*Effective January 1, 2025*) (a) Except as provided in
284 subsection (b) of this section, not later than seventy-two hours after the
285 close of the polls at each state election, as defined in section 9-1 of the
286 general statutes:

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

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

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

306 the State.

307 (c) All ballot manifest creation procedures shall be open to public
308 observation.

309 (d) Immediately after a ballot manifest has been created pursuant to
310 this section, the moderator shall submit such ballot manifest to the
311 registrars of voters.

312 Sec. 4. Section 9-323 of the general statutes is repealed and the
313 following is substituted in lieu thereof (*Effective January 1, 2025*):

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

339 brought not later than seven days after the close of any such [manual
340 tabulation] audit, and in either such circumstance, the judge shall
341 forthwith order a hearing to be had upon such complaint, upon a day
342 not more than five or less than three days from the making of such order,
343 and shall cause notice of not less than three or more than five days to be
344 given to any candidate or candidates whose election may be affected by
345 the decision upon such hearing, to such election official, to the Secretary
346 of the State, to the State Elections Enforcement Commission and to any
347 other party or parties whom such judge deems proper parties thereto,
348 of the time and place for the hearing upon such complaint. Such judge,
349 with two other judges of the Supreme Court to be designated by the
350 Chief Court Administrator, shall, on the day fixed for such hearing and
351 without unnecessary delay, proceed to hear the parties. If sufficient
352 reason is shown, such judges may order any voting tabulators to be
353 unlocked or any ballot boxes to be opened and a recount of the votes
354 cast, including absentee ballots, to be made. Such judges shall
355 thereupon, in the case they, or any two of them, find any error in the
356 rulings of the election official, any mistake in the count of such votes or
357 any violation of said sections, certify the result of their finding or
358 decision, or the finding or decision of a majority of them, to the Secretary
359 of the State before the first Monday after the second Wednesday in
360 December. Such judges may order a new election or a change in the
361 existing election schedule, provided such order complies with Section
362 302 of the Help America Vote Act, P.L. 107-252, as amended from time
363 to time. Such certificate of such judges, or a majority of them, shall be
364 final upon all questions relating to the rulings of such election officials,
365 to the correctness of such count and, for the purposes of this section
366 only, such claimed violations, and shall operate to correct the returns of
367 the moderators or presiding officers so as to conform to such finding or
368 decision.

369 Sec. 5. Section 9-324 of the general statutes is repealed and the
370 following is substituted in lieu thereof (*Effective January 1, 2025*):

371 Any elector or candidate who claims that such elector or candidate is
372 aggrieved by any ruling of any election official in connection with any

373 election for Governor, Lieutenant Governor, Secretary of the State, State
374 Treasurer, Attorney General, State Comptroller or judge of probate, held
375 in such elector's or candidate's town, or that there has been a mistake in
376 the count of the votes cast at such election for candidates for said offices
377 or any of them, at any voting district in such elector's or candidate's
378 town, or any candidate for such an office who claims that such candidate
379 is aggrieved by a violation of any provision of section 9-355, 9-357 to 9-
380 361, inclusive, 9-364, 9-364a or 9-365 in the casting of absentee ballots at
381 such election or any candidate for the office of Governor, Lieutenant
382 Governor, Secretary of the State, State Treasurer, Attorney General or
383 State Comptroller, who claims that such candidate is aggrieved by a
384 violation of any provision of sections 9-700 to 9-716, inclusive, may bring
385 such elector's or candidate's complaint to any judge of the Superior
386 Court, in which such elector or candidate shall set out the claimed errors
387 of such election official, the claimed errors in the count or the claimed
388 violations of said sections. In any action brought pursuant to the
389 provisions of this section, the complainant shall send a copy of the
390 complaint by first-class mail, or deliver a copy of the complaint by hand,
391 to the State Elections Enforcement Commission. If such complaint is
392 made prior to such election, such judge shall proceed expeditiously to
393 render judgment on the complaint and shall cause notice of the hearing
394 to be given to the Secretary of the State and the State Elections
395 Enforcement Commission. If such complaint is made subsequent to the
396 election, it shall be brought not later than fourteen days after the election
397 or, if such complaint is brought in response to [the manual tabulation of
398 paper ballots authorized] an audit conducted pursuant to section 9-320f,
399 as amended by this act, or section 1 of this act, such complaint shall be
400 brought not later than seven days after the close of any such [manual
401 tabulation] audit and, in either such circumstance, such judge shall
402 forthwith order a hearing to be had upon such complaint, upon a day
403 not more than five nor less than three days from the making of such
404 order, and shall cause notice of not less than three nor more than five
405 days to be given to any candidate or candidates whose election may be
406 affected by the decision upon such hearing, to such election official, the
407 Secretary of the State, the State Elections Enforcement Commission and

408 to any other party or parties whom such judge deems proper parties
409 thereto, of the time and place for the hearing upon such complaint. Such
410 judge shall, on the day fixed for such hearing and without unnecessary
411 delay, proceed to hear the parties. If sufficient reason is shown, such
412 judge may order any voting tabulators to be unlocked or any ballot
413 boxes to be opened and a recount of the votes cast, including absentee
414 ballots, to be made. Such judge shall thereupon, in case such judge finds
415 any error in the rulings of the election official, any mistake in the count
416 of the votes or any violation of said sections, certify the result of such
417 judge's finding or decision to the Secretary of the State before the
418 fifteenth day of the next succeeding December. Such judge may order a
419 new election or a change in the existing election schedule. Such
420 certificate of such judge of such judge's finding or decision shall be final
421 and conclusive upon all questions relating to errors in the rulings of
422 such election officials, to the correctness of such count, and, for the
423 purposes of this section only, such claimed violations, and shall operate
424 to correct the returns of the moderators or presiding officers, so as to
425 conform to such finding or decision, unless the same is appealed from
426 as provided in section 9-325.

427 Sec. 6. Section 9-328 of the general statutes is repealed and the
428 following is substituted in lieu thereof (*Effective January 1, 2025*):

429 Any elector or candidate claiming to have been aggrieved by any
430 ruling of any election official in connection with an election for any
431 municipal office or a primary for justice of the peace, or any elector or
432 candidate claiming that there has been a mistake in the count of votes
433 cast for any such office at such election or primary, or any candidate in
434 such an election or primary claiming that he is aggrieved by a violation
435 of any provision of sections 9-355, 9-357 to 9-361, inclusive, 9-364, 9-364a
436 or 9-365 in the casting of absentee ballots at such election or primary,
437 may bring a complaint to any judge of the Superior Court for relief
438 therefrom. In any action brought pursuant to the provisions of this
439 section, the complainant shall send a copy of the complaint by first-class
440 mail, or deliver a copy of the complaint by hand, to the State Elections
441 Enforcement Commission. If such complaint is made prior to such

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

477 such finding or decision, except that this section shall not affect the right
478 of appeal to the Supreme Court and it shall not prevent such judge from
479 reserving such questions of law for the advice of the Supreme Court as
480 provided in section 9-325. Such judge may, if necessary, issue his writ of
481 mandamus, requiring the adverse party and those under him to deliver
482 to the complainant the appurtenances of such office, and shall cause his
483 finding and decree to be entered on the records of the Superior Court in
484 the proper judicial district.

485 Sec. 7. Subsection (a) of section 9-329a of the general statutes is
486 repealed and the following is substituted in lieu thereof (*Effective January*
487 *1, 2025*):

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

511 Sec. 8. Subsection (b) of section 9-3 of the general statutes is repealed
512 and the following is substituted in lieu thereof (*Effective January 1, 2025*):

513 (b) During any municipal, state or federal election, primary or
514 recanvass, or any audit conducted pursuant to section 9-320f, as
515 amended by this act, or section 1 of this act, the Secretary of the State
516 may issue an order, whether orally or in writing, to any registrar of
517 voters or moderator to correct any irregularity or impropriety in the
518 conduct of such election, primary or recanvass or audit. Any such order
519 shall be effective upon issuance. As soon as practicable after issuance of
520 an oral order pursuant to this subsection, the Secretary shall reduce such
521 order to writing, cite within such order any applicable provision of law
522 authorizing such order and cause a copy of such written order to be
523 delivered to the individual who is the subject of such order or, in the
524 case that such order was originally issued in writing, issue a subsequent
525 written order that conforms to such requirements. The Superior Court,
526 on application of the Secretary or the Attorney General, may enforce by
527 appropriate decree or process any such order issued pursuant to this
528 subsection.

529 Sec. 9. Subdivision (3) of subsection (b) of section 9-229 of the general
530 statutes is repealed and the following is substituted in lieu thereof
531 (*Effective January 1, 2025*):

532 (3) The duties of each regional election monitor shall include, but not
533 be limited to: (A) Holding the regional instructional sessions described
534 in subdivision (2) of this subsection; (B) communicating with registrars
535 of voters to assist, to the extent permitted under law, in preparations for
536 and operations of any election, primary or recanvass, or any audit
537 conducted pursuant to section 9-320f, as amended by this act, or section
538 1 of this act; and (C) transmitting any order issued by the Secretary of
539 the State, pursuant to subsection (b) of section 9-3, as amended by this
540 act.

541 Sec. 10. Subsection (a) of section 9-229b of the general statutes is
542 repealed and the following is substituted in lieu thereof (*Effective January*
543 *1, 2025*):

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

550 Sec. 11. Section 9-320g of the general statutes is repealed and the
551 following is substituted in lieu thereof (*Effective January 1, 2025*):

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

566 Sec. 12. (*Effective October 1, 2023*) The Secretary of the State shall
567 establish a pilot program for the conduct of risk-limiting audits at
568 municipal elections in 2023. The Secretary shall randomly select three
569 municipalities for participation in such pilot program, in accordance
570 with the following: (1) One municipality with a population of less than
571 twenty thousand; (2) one municipality with a population of twenty
572 thousand or greater, but less than ninety thousand; and (3) one
573 municipality with a population of ninety thousand or greater. For the
574 purposes of this section, "population" means the estimated number of
575 people according to the most recent version of the State Register and
576 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, 2025	New section
Sec. 2	January 1, 2025	9-320f
Sec. 3	January 1, 2025	New section
Sec. 4	January 1, 2025	9-323
Sec. 5	January 1, 2025	9-324
Sec. 6	January 1, 2025	9-328
Sec. 7	January 1, 2025	9-329a(a)
Sec. 8	January 1, 2025	9-3(b)
Sec. 9	January 1, 2025	9-229(b)(3)
Sec. 10	January 1, 2025	9-229b(a)
Sec. 11	January 1, 2025	9-320g
Sec. 12	October 1, 2023	New section

Statement of Legislative Commissioners:

In Section 1, "any provision of" was added before "the general statutes" in Subsecs. (b)(2)(A) and (b)(2)(B) for consistency with standard drafting conventions, and "title 9 of" was added before "the general statutes" in Subsec. (f) for accuracy; in Section 2, "any provision of" was added before "the general statutes" in Subsec. (c) for consistency with standard drafting conventions, and "the general statutes" was changed to "[the general statutes] this title" in Subsec. (g) for accuracy.

GAE *Joint Favorable Subst. -LCO*

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 24 \$	FY 25 \$
Secretary of the State	GF - Cost	492,000	192,000

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill has a cost of \$492,000 in FY 24 and \$192,000 in FY 25 to establish risk limiting audits. Although the program is a pilot program the most extensive portion of the costs will come from upgrades needed to the UConn Voter center. This requires the addition of \$300,000 in one-time costs to secure necessary equipment to complete the audits. This also requires the purchase of Risk Limiting audit software and amending the agreement between the Secretary of State's Office and the UConn voter center. This creates an ongoing expense of approximately \$192,000 annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the continuation or closure of the program following the trial period.

OLR Bill Analysis**sSB 1150*****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 guarantee 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) requiring the creation of 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 doing the audits. It allows her to adopt associated regulations.

The bill also establishes a pilot program to do RLAs of 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, 2025, except the provision establishing the 2023 municipal pilot program is effective October 1, 2023.

RISK-LIMITING AUDIT SCOPE

Definitions

The bill requires registrars of voters to do 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 got 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 done 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 do the RLAs and SOTS must prescribe instructions and procedures for doing them by January 1, 2026, consistent for all offices. The bill also allows her to adopt necessary regulations for the audits and to set 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 them 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 following state law;
4. requires carefully preserving and returning paper ballots used in an RLA in 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, SEEC, or a court with competent jurisdiction to issue an order after a state election to keep a voting tabulator locked for a longer period than prescribed by law.

The bill allows either the court or the secretary to order an audit of the voting tabulator by people they designate, but SEEC may order an audit if SOTS is the office in question. 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.

Under the bill, 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 implementing 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 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 do the audits by hand unless the secretary, in consultation with UConn, authorizes them to be done electronically (CGS § 9-320f).

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 to 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

Yea 19 Nay 0 (03/27/2023)