

SENATE No. 423

The Commonwealth of Massachusetts

PRESENTED BY:

Edward J. Kennedy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting elections using risk-limiting audits.

PETITION OF:

NAME:

Edward J. Kennedy

DISTRICT/ADDRESS:

First Middlesex

SENATE No. 423

By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 423) of Edward J. Kennedy for legislation to protect elections using risk-limiting audits. Election Laws.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act protecting elections using risk-limiting audits.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 54 of the General Laws is hereby amended by striking out section 109A and
2 inserting in place thereof the following section:-

3 Section 109A. (a) As used in this section, the following terms shall have the following
4 meanings:

5 "Audit unit", a precinct, a set of ballots, or a single ballot. A precinct, a set of ballots, or a
6 single ballot may be used as an audit unit for purposes of this section only if:

7 (i) the relevant vote tabulating device is able to produce a report of the votes cast in the
8 precinct, set of ballots, or single ballot; and

9 (ii) each ballot is assigned to not more than 1 audit unit.

10 "Contest", an election for an office or for a ballot question.

11 "Risk-limiting audit", a manual tally employing a statistical method that ensures a large,
12 predetermined minimum chance of requiring a full manual tally whenever a full manual tally
13 would show an electoral outcome that differs from the outcome reported by the vote tabulating
14 system for the audited contest. A risk-limiting audit shall begin with a hand tally of the votes in 1
15 or more audit units and shall continue to hand tally votes in additional audit units until there is
16 strong statistical evidence that the electoral outcome is correct. If counting additional audit units
17 does not provide statistical evidence to 95 per cent certainty that the electoral outcome is correct,
18 the audit shall continue until there has been a full manual tally to determine the correct electoral
19 outcome of the audited contest.

20 "Unofficial final results", election results determined under sections 105 and 105A.

21 (b) The state secretary, in conjunction with the registrars, shall conduct risk-limiting
22 audits after every regular state primary and biennial state election under this section.

23 (c) The audit program shall be conducted as follows:

24 (1) The following contests are subject to a risk-limiting audit if more than 1 candidate's
25 name appears on the ballot: (i) president and vice president, representative in congress, senator in
26 congress, governor, representative in the general court and senator in the general court; and (ii) 1
27 statewide ballot question, if any appear on the ballot, chosen by random drawing. The state
28 secretary may include other contests if the secretary determines there is a substantial public
29 interest in doing so.

30 (2) The state secretary shall audit units selected in a random, publicly verifiable, non-
31 computerized drawing supervised by the state secretary within 48 hours after polls are closed.
32 The drawing shall be fully observable to the public and representatives of each political party

33 and shall use a procedure that can be easily understood to be random by members of the public.
34 Notice of the time and place of the drawing shall be given at least 10 days before the election on
35 the website of the state secretary.

36 (3) The state secretary shall make available to the public a report of the vote tabulating
37 device results for the contest, including the results for each audit unit in the contest, before the
38 random selection of audit units to be manually tallied and before the commencement of the audit.

39 (4) The state secretary in conjunction with the registrars shall conduct the audit upon
40 tabulation of the unofficial final results.

41 (5) The state secretary in conjunction with the registrars shall conduct the audit in public
42 view by manually counting the ballots according to regulations adopted by the state secretary.

43 (d) If a risk-limiting audit of a contest leads to a full manual tally of the ballots cast using
44 the voting system, the vote counts according to that manual tally shall replace the vote counts
45 reported for the purpose of determining the official contest results.

46 (e) The results of any audits conducted under this section shall be published on the
47 website of the state secretary within 48 hours of being completed. If the audit involved a manual
48 tally of 1 or more entire precincts, then the names and numbers of all precincts audited and a
49 comparison of the vote tabulator results with the hand counts for each precinct shall be published
50 with the audit results on the website.

51 (f) Any audit required under this section shall not commence for an election subject to a
52 recount under section 135.

53 (g) The state secretary shall prepare and publish on the secretary's website a
54 comprehensive report of the results of audits under this section, not later than January 15 after a
55 biennial state election.

56 (h) The state secretary shall adopt regulations and procedures to carry out this section.