

SENATE No. 388

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 relating to post-election audits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>	<i>1/29/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/29/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/31/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/1/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/1/2019</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/1/2019</i>
<i>James K. Hawkins</i>	<i>2nd Bristol</i>	<i>2/5/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>3/26/2019</i>
<i>Peter Capano</i>	<i>11th Essex</i>	<i>10/2/2019</i>

SENATE No. 388

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 388) of Harriette L. Chandler, Andres X. Vargas, James B. Eldridge, Bradley H. Jones, Jr. and other members of the General Court for legislation relative to post-election audits. Election Laws.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relating to post-election 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 SECTION 1: Chapter 54 of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby amended by inserting after Section 109A the following new section:-

3 Section 109B.

4 (a) For purposes of this section, the following terms have the following meanings:

5 (1) "Audit unit" means a precinct, a set of ballots, or a single ballot. A precinct, a set of
6 ballots, or a single ballot may be used as an audit unit for purposes of this section only if all of
7 the following conditions are satisfied:

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

10 (ii) Each ballot is assigned to not more than one audit unit.

11 (2) "Contest" means an election for an office or for a measure.

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

21 (4) "Unofficial final results" means election results tabulated pursuant §§17-19-36 and
22 33 17-19-37.

23 (b) Commencing in 2020 the State Secretary, in conjunction with board of registrars or
24 election commission of election, is authorized to conduct risk-limiting audits after all statewide
25 primary, general and special elections in accordance with the requirements of this section.
26 Commencing in 2022 the Secretary in conjunction with board of registrars or election
27 commission must conduct risk-limiting audits after the presidential and state primary and general
28 elections in accordance with requirements in this section.

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

30 (1) The following contests are subject to a risk-limiting audit if more than 1 candidate's
31 name appears on the ballot: president and vice president, representative in congress, senator in

32 congress, Governor, representative in the general court and senator in the general court; and (ii) 1
33 statewide ballot question, if any appear on the ballot, chosen by random drawing. The state
34 secretary may include other contests if he determines there is a substantial public interest in
35 doing so;

36 (2) The state secretary shall audit units selected shall be chosen in a random, publicly
37 verifiable, non-computerized drawing supervised by the state secretary within 48 hours after
38 polls are closed. The drawing shall be fully observable to the public and representatives of each
39 political party and shall use a procedure that can be easily understood to be random by members
40 of the public. Notice of the time and place of the drawing shall be given at least 10 days before
41 the election on the electronic website of the state secretary;

42 (3) The state secretary shall make available to the public a report of the vote tabulating
43 device results for the contest, including the results for each audit unit in the contest, prior to the
44 random selection of audit units to be manually tallied and prior to the commencement of the
45 audit;

46 (4) The state secretary in conjunction with the board of registrars or election commission
47 shall conduct the audit upon tabulation of the unofficial final results; and

48 (5) The state secretary in conjunction with the board of registrars or election commission
49 shall conduct the audit in public view by manually interpreting the ballots according to rules
50 established by the state secretary.

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

54 (e) The results of any audits conducted under this section shall be published on the
55 website of the state secretary within forty-eight (48) hours of being completed. If the audit
56 involved a manual tally of one or more entire precincts, then the names and numbers of all
57 precincts audited and a comparison of the vote tabulator results with the hand counts for each
58 precinct shall be published with the audit results on the website.

59 (f) Any audit required under this section shall not commence for any election subject to a
60 recount pursuant to a valid petition under section 135.

61 (g) The state secretary shall promulgate rules, regulations, and procedures to implement
62 this section.

63 SECTION 2. Section 109A of chapter 54 is hereby amended by striking the first sentence
64 of subsection (b) and inserting therefore:--

65 (b) An audit shall be conducted pursuant to this section following any biennial state
66 election, state primary preceding a biennial state election, presidential primary, or special general
67 election for senator in congress or representative in congress in which a risk limiting audit is not
68 conducted under section 109B. If a risk limiting audit is not conducted statewide, the
69 participating jurisdictions shall be exempt from selection for the fixed audit prescribed by this
70 section.

71 SECTION 3. Section 109A is hereby further amended by inserting the word "Governor"
72 following the words "Senator in Congress."

73 SECTION 4. This act shall take effect upon its passage.