HOUSE DOCKET, NO. 3245 FILED ON: 1/16/2025

HOUSE . . . . . No. 876

The Commonwealth of Massachusetts

PRESENTED BY:

Andres X. Vargas

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 strengthening the post-election audit process.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Andres X. Vargas	*3rd Essex*	*1/16/2025*
Bruce E. Tarr	*First Essex and Middlesex*	*3/3/2025*

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HOUSE . . . . . No. 876

By Representative Vargas of Haverhill, a petition (accompanied by bill, House, No. 876) of Andres X. Vargas and Bruce E. Tarr relative to the post-election audit process. Election Laws.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act strengthening the post-election audit process.

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

SECTION 1. Section 109A of chapter 54 of the General Laws, as appearing in the 2024 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:--

(b) An audit shall be conducted pursuant to this section following every biennial state election and every regular state primary.

(1) For each precinct selected pursuant to subsection (c), the city or town clerk shall conduct a hand-counted audit of all votes validly cast in: (i) races in which more than 1 candidate's name appears on the ballot for representative in congress, senator in congress, representative in the general court and senator in the general court; (ii) 1 election chosen by random drawing from the following: all offices elected under Article XVII of the Articles of Amendment to the Constitution and all statewide ballot questions, if any appear on the ballot; and (iii) the race for governor or president and vice president.

13 (2) If a valid petition for a recount is made pursuant to section 135 for a race subject to
14 audit by this section, then the votes for that race shall not be audited in any precinct named in the
15 petition. If an audit has commenced but not been completed in a precinct where the valid petition
16 for a recount is made, the audit in the precinct shall be suspended. The audit of the race in
17 question shall proceed in any precinct selected pursuant to subsection (c) not included in the
18 petition for a recount.

19 (3) Any random drawing required by this subsection shall be conducted by the state
20 secretary. The drawing shall occur at the same time and place as the drawing required by
21 subsection (c).

22 SECTION 2. Said section 109A of said chapter 54, as so appearing, is hereby further
23 amended by striking out paragraph (1) of subsection (d) and inserting in place thereof:--

24 (d)(1) The board of registrars or election commission in a municipality where 1 or more
25 precincts selected to be audited are located shall conduct the audit. The board of registrars or
26 election commission may employ tally clerks to count the ballots. Audits shall begin on the
27 fifteenth day following the election and shall continue on each successive business day or other
28 day at the discretion of the board or commission in each municipality. Audits shall be completed
29 before returns are certified pursuant to section 129 of this chapter. The time and place of the
30 audits in a municipality where 1 or more precincts selected to be audited are located shall be
31 publicly announced in advance. The audits shall be performed in full public view and conducted
32 pursuant to the procedures for hand counts of ballots in sections 135 and 135A.

33 SECTION 3. Said section 109A of said chapter 54, as so appearing, is hereby further
34 amended by striking out subsection (f) and inserting in place thereof:--

35 (f) Upon receipt of the results of the audit, the state secretary shall calculate the total
36 number of votes for each candidate and ballot question as recorded in the audit hand count and
37 shall compare this total to the sum of the originally reported votes for each candidate and ballot
38 question in the audited precincts. When the comparison reveals a discrepancy between the hand-
39 counted audit and the originally reported tally of the audited precincts the discrepancy shall be
40 analyzed to ascertain its cause. The state secretary shall oversee the analysis and shall publish the
41 findings and make the findings available online, along with the factual information on which
42 such findings were based, within 30 days of the election. If that report of findings does not fully
43 explain all discrepancies between the hand-counted audit and the originally reported tally of the
44 audited precincts, the state secretary may publish a supplemental report with additional findings
45 within 90 days of the election. All reports of findings, along with the factual information on
46 which such findings were based, shall be maintained online by the state secretary for a period not
47 less than 6 years.

48

49 SECTION 4. Said section 109A of said chapter 54, as so appearing, is hereby further
50 amended by adding the following subsection:--

51 (k) A city or town may, at its discretion, conduct an audit of any election following
52 regulations prescribed by the state secretary.

53 SECTION 5. Section 116 of chapter 54 of the General Laws, as appearing in the 2024
54 Official Edition, is hereby amended by striking the word “fifteen” and inserting in place thereof
55 the word “twenty-one.”

56 SECTION 6. Section 129 of chapter 54 of the General Laws, as appearing in the 2024
57 Official Edition, is hereby amended by striking the word “fifteen” and inserting in place thereof
58 the word “twenty-one.”

59 SECTION 7. There shall be a risk-limiting audit workgroup to investigate future
60 implementation of audits which incorporate methods that afford a high degree of statistical
61 confidence that the reported outcomes in the audited contests are correct. Workgroup members
62 shall include three experts in post-election audits to be appointed by the Governor and the
63 following persons or their designees, who shall be named before March 4, 2025: the state
64 secretary; the chairs of the joint committee on election laws; the president of the Massachusetts
65 Town Clerks Association; the executive director of Common Cause Massachusetts; the executive
66 director of the League of Women Voters of Massachusetts; the president of Verified Voting; and
67 the president of the Brennan Center for Justice.

68 The chairs of the joint committee on election laws, or their designees, shall serve as
69 chairs of the workgroup, convene its meetings and direct its activities. The first meeting of the
70 workgroup shall be held within 90 days of the passage of this act.

71 The workgroup shall consider best practices in the field of post-election audits, including
72 those described by the U.S. Election Assistance Commission, the National Academies of
73 Sciences and the American Statistical Association.

74 The workgroup may provide that pilot audits be conducted, as may be convenient to their
75 investigation. Notwithstanding other laws to the contrary, such pilot audits may use ballots cast
76 in previous elections; and such ballots may be transferred to the custody of the state secretary for
77 use in the pilot audits.

78 The workgroup shall publish a report of its findings, on or before July 31 2027. Such
79 report shall include recommendations concerning future legislation to authorize risk-limiting
80 audits in the Commonwealth; and may also include recommendations for other improvements to
81 the current audit process provided by section 109A of chapter 54; be submitted to the house and
82 senate; and be maintained online by the joint committee on election laws for a period not less
83 than 6 years.

84 The workgroup may adjourn after publication of its report, or may continue activities that
85 it considers beneficial for the purpose of improving the commonwealth's post-election audit
86 process.