

1 **INDEPENDENT ELECTION AUDITS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Phil Lyman**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill requires independent audits relating to elections.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ requires the lieutenant governor to contract with an independent auditor to conduct
13 a voter registration audit, a post-election audit, and an election statistics audit;
14 ▶ describes audit procedures and requirements;
15 ▶ provides for access by the independent auditor to, and for the protection of, records
16 needed for the independent audits; and
17 ▶ requires public audit reports.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 ENACTS:

24 **20A-4-407**, Utah Code Annotated 1953

25 **20A-4-408**, Utah Code Annotated 1953

26 **20A-4-409**, Utah Code Annotated 1953

27 **20A-4-410**, Utah Code Annotated 1953



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **20A-4-407** is enacted to read:

20A-4-407. Independent election auditor -- Requirements -- Publication of audit results.

(1) The lieutenant governor shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, contract with an independent auditor to conduct the following election audits:

(a) the independent voter registration audit described in Section [20A-4-408](#);

(b) the independent post-election audit described in Section [20A-4-409](#); and

(c) the independent election statistics audit described in Section [20A-4-410](#).

(2) The lieutenant governor and the county clerks shall give the independent auditor full access to the list of registered voters and all other information necessary to conduct the audits described in Subsection (1).

(3) The lieutenant governor shall:

(a) establish protocols and requirements to ensure the protection and integrity of information and records provided to the independent auditor by the lieutenant governor or a county clerk; and

(b) ensure, via the contract with the independent auditor, that the independent auditor complies with the protocols and requirements described in Subsection (3)(a).

(4) The independent auditor shall, within 30 days after the day on which the independent auditor completes an audit described in Subsection (1):

(a) complete an audit report identifying the results of the audit in a manner that does not disclose identifying information of a voter; and

(b) provide a copy of the audit report to the lieutenant governor and the Government Operations Interim Committee.

(5) Upon receipt of an audit report described in Subsection (4), the lieutenant governor shall post the audit report on the lieutenant governor's website for at least one year.

(6) The independent auditor shall make an oral report on the audit to the Government Operations Interim Committee upon request by the committee or the committee chairs.

Section 2. Section **20A-4-408** is enacted to read:

59 **20A-4-408. Independent voter registration audit.**

60 (1) The independent auditor described in Section 20A-4-407 shall, on an annual basis,
61 conduct an independent voter registration audit in accordance with the procedures described in
62 Section 20A-5-901.

63 (2) The independent audit described in this section is in addition to, and separate from,
64 the audit conducted by the lieutenant governor under Section 20A-5-901.

65 Section 3. Section 20A-4-409 is enacted to read:

66 **20A-4-409. Independent post-election audit.**

67 (1) The independent auditor described in Section 20A-4-407 shall, following the
68 regular general election, conduct a post-election audit of the accuracy of electronic vote
69 tabulators in the state.

70 (2) Except as provided in Subsection (3), the independent auditor shall, conduct the
71 audit for races conducted for:

72 (a) each federal office;

73 (b) governor; and

74 (c) of the following offices, the race where the winning candidate won by the smallest
75 percentage margin:

76 (i) attorney general;

77 (ii) state auditor; or

78 (iii) state treasurer.

79 (3) The independent auditor shall exclude from the audit a race for which:

80 (a) a recount is conducted for a reason other than as a result of the audit described in
81 this section; or

82 (b) the margin between the top two candidates is greater than 15%.

83 (4) No later than 10 days after the day of the regular general election, the independent
84 auditor shall:

85 (a) for each race audited, publicly select a random sample of precincts, from among all
86 precincts in the race, sufficient in number to ensure by at least a 90% probability that faulty
87 tabulators would be detected if they would change the outcome of the race;

88 (b) select precincts for the audits in the following manner:

89 (i) select precincts for audits of statewide races starting with the statewide race with the

90 largest winning margin and ending with the statewide race with the smallest winning margin;
91 (ii) if any precincts previously selected for the audit of a race can be used for the audit
92 of a race for which precincts are subsequently selected, use the previously selected precincts for
93 the subsequent race before randomly selecting the necessary number of additional precincts for
94 that subsequent race; and
95 (iii) to the extent possible, use the precincts selected under Subsections (4)(b)(i) and
96 (ii) for audits of United States House of Representatives races before randomly selecting the
97 necessary number of additional precincts for those races; and
98 (c) notify the clerks for the precincts selected under Subsection (4)(b).
99 (5) The clerks described in Subsection (4)(c) shall:
100 (a) conduct a hand recount of the votes cast for the race in each precinct selected under
101 Subsection (4)(b);
102 (b) compare the tally of the hand recount of each precinct with the electronic tabulation
103 for the precinct; and
104 (c) report to the independent auditor the results of the recount described in Subsection
105 (5)(a) and the comparison described in Subsection (5)(b).
106 (6) The independent auditor shall determine the error rate in the sample for each race.
107 (7) If, based on the hand recounts described in Subsection (5), the winning margin
108 decreases and the error rate, based on the difference between the vote totals for the hand
109 recounts and the original electronic vote totals, exceeds 90% of the winning margin for the
110 race:
111 (a) the independent auditor shall randomly select a sample of precincts equal in size to
112 the previously selected sample; and
113 (b) the county clerks for those precincts shall:
114 (i) conduct a hand recount of the votes cast for the race in each precinct selected under
115 Subsection (7)(a);
116 (ii) compare the tally of the hand recount of each precinct with the electronic tabulation
117 for the precinct; and
118 (iii) report to the independent auditor the results of the recount described in Subsection
119 (7)(b)(i) and the comparison described in Subsection (7)(b)(ii).
120 (8) If, based on the hand recounts described in Subsection (7), the winning margin of

121 the original electronic tabulation decreases and the error rate, based on the difference between
122 the vote totals for the hand recounts and the original electronic vote totals, exceeds 90% of the
123 winning margin for the race, the county clerks for the precincts that participated in the race
124 shall conduct a hand recount of all votes in that race.

125 (9) Poll watchers may observe an audit or hand recount described in this section.

126 Section 4. Section **20A-4-410** is enacted to read:

127 **20A-4-410. Independent election statistics audit.**

128 The independent auditor described in Section [20A-4-407](#) shall, for each regular general
129 election:

130 (1) following the state canvass, conduct an audit to determine the accuracy of the
131 statistics posted by the lieutenant governor under Subsection [20A-3a-405\(3\)\(c\)](#) ; and

132 (2) randomly select three counties and, following the canvass by each of those
133 counties, conduct an audit to determine the accuracy of the statistics posted by those counties'
134 election officers under Subsection [20A-3a-405\(3\)\(c\)](#).