

# MAINE STATE LEGISLATURE

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MAJORITY

L.D. 1155

Date: 6-9-21

(Filing No. H-530)

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REPORT A  
VETERANS AND LEGAL AFFAIRS

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STATE OF MAINE

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HOUSE OF REPRESENTATIVES

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130TH LEGISLATURE

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FIRST SPECIAL SESSION

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COMMITTEE AMENDMENT "A" to H.P. 833, L.D. 1155, "An Act To Require Election Transparency and Audits"

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Amend the bill by striking out all of section 1 and inserting the following:

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'Sec. 1. 21-A MRSA §610 is enacted to read:

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**§610. Election transparency**

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**1. Guide to election procedures.** The Secretary of State shall produce and publicly disseminate a guide to election laws, rules and procedures beginning February 1, 2022 and every 2 years thereafter. The guide must describe:

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A. Requirements for polling places and the conduct of elections;

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B. Devices and software used to capture, interpret or tally votes and the capabilities and deployment of the devices and software;

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C. Duties of election officials on, before and after election day;

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D. Opportunities for citizens to monitor election procedures; and

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E. Other election laws, rules or procedures that the Secretary of State determines appropriate for the public interest.

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**2. Log of public concerns.** The Secretary of State shall implement a system for collecting and logging concerns from members of the public regarding the conduct of elections. The log must describe each concern and any action taken to address the concern. Instructions for reporting concerns under this subsection must be posted at all polling places and included in the guide produced under subsection 1.

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**3. Election report.** Beginning December 15, 2023 and every 2 years thereafter, the Secretary of State shall submit a report to the joint standing committee of the Legislature having jurisdiction over elections matters that includes a list of all election-related studies or reports issued by the Secretary of State after the date of the previous report as well as the following information regarding the most recent general election and all subsequent elections:

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A. A summary of the election-related concerns received and logged under subsection 2;

B. A summary of any post-election audits conducted;

C. A summary of any recounts conducted, including a description of any discrepancies in vote totals and explanations for discrepancies when available; and

D. Recommendations for remedying any problems identified in the election process at the state or local level.

4. Rules. The Secretary of State may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to carry out the purposes of this section.'

Amend the bill by inserting after section 1 the following:

'**Sec. 2. 21-A MRSA §726** is enacted to read:

**§726. Post-election audits**

1. Definition. For purposes of this section, "eligible election" includes any contested election for state or federal office and any election on a statewide referendum question.

2. Authority. Beginning January 1, 2024, the Secretary of State shall conduct post-election audits of selected eligible elections pursuant to this section.

3. Post-election audit design. Post-election audits must be conducted on the basis of statistical principles designed to limit the risk that certified election returns may produce an incorrect outcome. The risk limit must be established by the Secretary of State prior to each eligible election. Auditors shall visually examine each original, paper ballot selected for the audit and shall review the records documenting the chain of custody and secure storage of ballots as well as any additional documents identified by the Secretary of State by rule.

4. Selection of elections to be audited. Eligible elections to be audited must be selected in accordance with criteria established by the Secretary of State by rule.

5. Public proceeding. A post-election audit is a public proceeding as defined in Title 1, section 402, subsection 2. Notwithstanding Title 1, section 403, the Secretary of State may limit the number of members of the public and representatives of the media who may attend if there is insufficient space and the presence of additional individuals would interfere with the conduct of the post-election audit. The public notice required by Title 1, section 406 must be provided at least 24 hours prior to the commencement of the post-election audit.

6. Rulemaking. The Secretary of State may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7. Repeal. This section is repealed April 15, 2027.'

Amend the bill by striking out all of section 3.

Amend the bill by striking out all of section 4 and inserting the following:

'**Sec. 4. Secretary of State to conduct pilot post-election audit.** The Secretary of State shall design and conduct a pilot post-election audit based on statistical principles designed to limit the risk that certified election returns may produce an incorrect outcome.

1 In designing and conducting the pilot post-election audit, the Secretary of State shall  
 2 consult with an ad hoc committee composed of state and municipal election officials,  
 3 election security advocates and other experts in the field of election audits and recounts.  
 4 The pilot post-election audit must be conducted following the general election scheduled  
 5 for November 2022. By February 1, 2023, the Secretary of State shall submit a report on  
 6 the pilot post-election audit with any recommended legislation to the joint standing  
 7 committee of the Legislature having jurisdiction over elections matters. The joint standing  
 8 committee may report out legislation based upon the report to the First Regular Session of  
 9 the 131st Legislature.

10 **Sec. 5. Appropriations and allocations.** The following appropriations and  
 11 allocations are made.

12 **SECRETARY OF STATE, DEPARTMENT OF**  
 13 **Bureau of Administrative Services and Corporations 0692**

14 Initiative: Provides funding for one Auditor I position, one Auditor II position, one Training  
 15 and Outreach Coordinator position, one Division Assistant position and one Division  
 16 Director position and related costs to study, develop and conduct post-election audits  
 17 beginning with the November 2022 election.

18 <b>GENERAL FUND</b>	2021-22	2022-23
19 POSITIONS - LEGISLATIVE COUNT	5,000	5,000
20 Personal Services	\$455,382	\$477,187
21 All Other	\$81,093	\$10,981
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23 <b>GENERAL FUND TOTAL</b>	<b>\$536,475</b>	<b>\$488,168</b>

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 25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
 26 number to read consecutively.

27 **SUMMARY**

28 This amendment, which is the majority report of the committee, clarifies that the  
 29 Secretary of State must produce and publicly disseminate the guide to election procedures  
 30 required by the bill by February 1st of each even-numbered year. The amendment replaces  
 31 the bill's requirement that the Secretary of State develop an election complaint process with  
 32 a requirement that the Secretary of State implement a system for collecting and logging  
 33 concerns from members of the public regarding the conduct of elections. A summary of  
 34 these concerns must be included in the election report submitted to the joint standing  
 35 committee of the Legislature having jurisdiction over elections matters by December 15th  
 36 of each odd-numbered year.

37 Like the bill, the amendment also requires the Secretary of State to design and conduct  
 38 a risk-limiting pilot post-election audit after the November 2022 general election. The  
 39 amendment also requires the Secretary of State to conduct post-election audits beginning  
 40 January 1, 2024 on eligible elections that are selected by the Secretary of State for audit  
 41 according to criteria established by rule. For purposes of the amendment, an eligible  
 42 election includes a contested election for state or federal office and any election on a state

COMMITTEE AMENDMENT *A* to H.P. 833, L.D. 1155

H.P. 833

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referendum question. The provision governing the requirement to conduct post-election audits is repealed April 15, 2027.

**FISCAL NOTE REQUIRED**  
**(See attached)**



# 130th MAINE LEGISLATURE

LD 1155

LR 1282(02)

## An Act To Require Election Transparency and Audits

Fiscal Note for Bill as Amended by Committee Amendment *A(H 530)*

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$536,475	\$488,168	\$503,437	\$519,196
<b>Appropriations/Allocations</b>				
General Fund	\$536,475	\$488,168	\$503,437	\$519,196

#### Fiscal Detail and Notes

The bill provides a General Fund appropriation of \$536,475 in fiscal year 2021-22 and \$488,168 in fiscal year 2022-23 to the Department of Secretary of State for one Auditor I position, one Auditor II position, one Training and Outreach Coordinator position, one Division Assistant, one Division Director and related costs to study, develop and conduct post-election audits beginning with the November, 2022 election.