

SB 43 - AS AMENDED BY THE SENATE

02/18/2021 0432s

2021 SESSION

21-0405

11/08

SENATE BILL **43**

AN ACT authorizing an audit of the Rockingham County district 7 state representative race.

SPONSORS: Sen. Gannon, Dist 23; Sen. Avar, Dist 12; Sen. Bradley, Dist 3; Sen. Ricciardi, Dist 9; Sen. Giuda, Dist 2; Rep. Piemonte, Rock. 4; Rep. Baldasaro, Rock. 5; Rep. Welch, Rock. 13

COMMITTEE: Election Law and Municipal Affairs

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AMENDED ANALYSIS

This bill authorizes an audit of the Rockingham county district 7 state representative race.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT authorizing an audit of the Rockingham County district 7 state representative race.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Findings. Rockingham County district 7 state representative election night results and the  
2 results of a state recount declared the same candidates elected. On appeal, the recount was upheld  
3 by the ballot law commission. Those results were certified to the New Hampshire house of  
4 representatives. The house of representatives have seated those winners of the election. The  
5 election results are therefore final; however, questions have been raised regarding the variance  
6 between the election night results and the recount results. This act authorizes an audit which will  
7 respond to those questions.

8 2 Applicability. This act is limited to authorizing an audit of the Rockingham County state  
9 representative district 7 race from the November 3, 2020 general election.

10 3 Audit Authorized.

11 I. Notwithstanding any provisions of law to the contrary, the secretary of state and attorney  
12 general are authorized to conduct an audit of the Rockingham county district 7 state representative  
13 race using the ballots cast on November 3, 2020, in Windham, New Hampshire. The audit shall  
14 include hand counting 4 separate sets of ballots from the Rockingham county district 7 state  
15 representative race. To allow for a direct comparison of the results from the 2 systems for counting,  
16 the audit hand count shall include all counts done by the ballot counting device, including votes cast  
17 for candidates on the ballot, write-in votes, and blanks or undervotes. The same sets of ballots shall  
18 be counted using a different ballot counting device for each set. The audit shall use the 4 ballot  
19 counting devices used by the town of Windham on November 3, 2020. The audit shall compare the  
20 results from each device to the results from hand counting the same set of ballots. The secretary of  
21 state and attorney general shall determine, in their discretion, the manner and process for  
22 conducting the audit.

23 II. The audit shall be a test of the ballot counting devices, not a recount of the results of the  
24 election. The results of this audit shall not alter the official results of the Rockingham County  
25 district 7 state representative race as determined by the ballot law commission ruling on November  
26 25, 2020, upholding the recount of that race.

27 III. The audit shall be conducted in public and shall be live streamed. The methodology and  
28 results of the audit shall be made public.

29 IV. The secretary of state and the attorney general shall issue a report to the ballot law  
30 commission with a conclusion regarding whether the ballot counting devices accurately counted the

**SB 43 - AS AMENDED BY THE SENATE**

**- Page 2 -**

1 sets of ballots audited. After receiving the report and pursuant to its authority under RSA 656:41,  
2 the ballot law commission shall make a determination as to whether the ballot counting device in  
3 use requires upgrading.

4 V. The secretary of state and attorney general are granted authority to unseal the ballot  
5 boxes from the town of Windham's November 3, 2020 general election in order to conduct the audit.

6 4 Effective Date. This act shall take effect upon its passage.