22104062D

1 **SENATE BILL NO. 605**
2 Offered January 12, 2022
3 Prefiled January 12, 2022
4 *A BILL to amend the Code of Virginia by adding a section numbered 24.2-671.2, relating to elections;*
5 *conduct of election; election results; post-election forensic audits.*
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Patron—Chase
7 ——————————
8 Referred to Committee on Privileges and Elections
9 ——————————
10 **Be it enacted by the General Assembly of Virginia:**
11 **1. That the Code of Virginia is amended by adding a section numbered 24.2-671.2 as follows:**
12 *§ 24.2-671.2. Post-election forensic audits.*
13 *A. A forensic audit of an election in a county or city shall be conducted at the request of any elected*
14 *official representing individuals in that county or city or of any election official who worked in the*
15 *election in question or upon a petition signed by at least 1,000 residents of the county or city. Such*
16 *request or petition shall be filed with the clerk of the circuit court for that county or city after the day*
17 *of the election and no later than seven days after the certification of results for that election by the*
18 *local electoral board. The request shall identify a qualified and independent third party that has agreed*
19 *to be responsible for coordinating the audit.*
20 *B. Forensic audits conducted pursuant to this section shall be for the purpose of determining the*
21 *accuracy and legality of the election in question and shall include a review of all materials, equipment,*
22 *and procedures used during any part of the election, including ballots, pollbooks, voting machines, and*
23 *routers. The audit shall be open to the public and may provide for the participation of residents of the*
24 *county or city in the audit process.*
25 *C. The results of the audit shall be presented to a jury composed of randomly selected residents of*
26 *the county or city in which the election results are being audited. The jury shall have the power to*
27 *declare the validity or invalidity of the election based on the evidence presented. If the jury decides that*
28 *the election is invalid, the jury shall declare the election void, and any vacancies shall be filled in*
29 *conformity with §§ 24.2-226 and 24.2-227.*
30 *D. The cost of a forensic audit conducted pursuant to this section shall be assessed to the county or*
31 *city in which the audit is conducted and may be reimbursed by federal, state, or private funds.*
32 **2.** *§ 1. A. The State Inspector General shall coordinate and manage an audit of the 2020 general*
33 *election conducted in the Commonwealth. The audit shall include statistically significant samples chosen*
34 *from each county in the Commonwealth.*
35 *B. The State Inspector General shall issue a report to accompany the audit that shall include the*
36 *following data related to the administration of the 2020 general election by the State Board of*
37 *Elections, the Department of Elections, a local electoral board, or local general registrar:*
38 *1. For each locality and the sum for the Commonwealth, the number of applications for an absentee*
39 *ballot that were received by the local registrar;*
40 *2. For each locality and the sum for the Commonwealth, the number of applications for an a*
41 *absentee ballot that were approved by the local general registrar;*
42 *3. For each locality and the sum for the Commonwealth, the number of absentee ballots returned by*
43 *qualified voters that were canvassed;*
44 *4. For each locality and the sum for the Commonwealth, the number of qualified voters voting by*
45 *provisional ballot pursuant to § 24.2-651.1 of the Code of Virginia;*
46 *5. For each locality and the sum for the Commonwealth, the number of qualified voters voting by*
47 *provisional ballot pursuant to § 24.2-652 of the Code of Virginia;*
48 *6. For each locality and the sum for the Commonwealth, the number of qualified voters voting by*
49 *provisional ballot pursuant to § 24.2-653 of the Code of Virginia;*
50 *7. For each locality and the sum for the Commonwealth, the number of qualified voters voting by*
51 *provisional ballot pursuant to § 24.2-653.1 of the Code of Virginia;*
52 *8. For each locality and the sum for the Commonwealth, the number of qualified voters voting by*
53 *provisional ballot pursuant to § 24.2-653.2 of the Code of Virginia;*
54 *9. For each locality and the sum for the Commonwealth, the number of qualified voters voting by*
55 *provisional ballot pursuant to § 24.2-653.3 of the Code of Virginia;*
56 *10. For each locality and the sum for the Commonwealth, the number of applications for an*
57 *absentee ballot submitted by an individual who was not a registered voter at the time of the application*
58 *and for whom a voter registration application was timely received;*

59   *11. For each locality and the sum for the Commonwealth, the number of voter registration*
60 *applications received:*
61   *a. Fewer than 30 days before the 2020 general election; and*
62   *b. Fewer than 15 days before the 2020 general election;*
63   *12. For each locality, the date and time that the general registrar began processing absentee ballots;*
64   *13. The number of incidents known to the State Board of Elections, the Department of Elections, a*
65 *local electoral board, or a local general registrar relating to each of the following categories:*
66   *a. An absentee ballot that was sent to the wrong individual or wrong address;*
67   *b. An absentee ballot that was voted by an individual other than the individual who applied for the*
68 *absentee ballot; or*
69   *c. An absentee ballot that was returned to the general registrar by a means other than that which is*
70 *permissible by law, notwithstanding any court opinion or order;*
71   *14. To the extent consistent with federal and state law, a review of any action taken by the State*
72 *Board of Elections, the Department of Elections, a local electoral board, or a local general registrar in*
73 *response to an incident identified under subdivision 13, including determinations made on the incident,*
74 *legal actions filed, and referrals to law enforcement;*
75   *15. A review of issues or incidents encountered with an electronic voting system that received the*
76 *approval of the State Board of Elections pursuant to § 24.2-629 of the Code of Virginia, including any*
77 *technical issues or software problems encountered in polling places and recommendations for spot*
78 *verifications of tabulated votes as compared with reported votes;*
79   *16. A review of the audit logs (i) of any contractor having access to pollbooks, cloud storage, or*
80 *any other network access in or around a central absentee precinct during early voting and (ii) of the*
81 *voter registration system at any time during the 45 days prior to the election through the certification of*
82 *results.*
83   *17. A review of any actions taken with respect to voting equipment during the 45 days prior to the*
84 *election through the certification of results, including any testing, software or hardware update, moving*
85 *of equipment, swapping of machines during the election and the appropriateness of such actions in light*
86 *of Department of Elections and local electoral board equipment security protocols;*
87   *18. A review of any inconsistent treatment of absentee ballots received by localities after 7 p.m. on*
88 *November 3, 2020, under Chapter 7 (§ 24.2-700 et seq.) of Title 24.2 of the Code of Virginia;*
89   *19. A review of any inconsistencies in the manner in which localities processed returned absentee*
90 *ballots determined to be incomplete or otherwise deficient under Chapter 7 (§ 24.2-700 et seq.) of Title*
91 *24.2 of the Code of Virginia;*
92   *20. A review of access given to authorized representatives as provided for under § 24.2-604.4 of the*
93 *Code of Virginia, including any inconsistencies in the standards used in allowing access or disparate*
94 *treatment of authorized representatives due to political affiliation;*
95   *21. A review of access given to additional persons authorized to observe elections as provided for*
96 *under § 24.2-604.5 of the Code of Virginia, including any inconsistencies in the standards used in*
97 *allowing access or disparate treatment of such observers due to political affiliation;*
98   *22. A review of issues or incidents regarding the use of drop boxes, the monitoring of drop boxes,*
99 *and any inconsistencies in the monitoring and usage of drop boxes by localities; and*
100   *23. A review of issues or incidents of the review process of absentee ballots submitted by mail,*
101 *absentee ballots submitted in person, and provisional ballots and any inconsistencies in the standards*
102 *applied to determine eligibility of voters or the validity of ballots by each locality.*
103   *C. The State Inspector General may issue subpoenas requiring the attendance of witnesses and the*
104 *production of books, accounts, papers, records, documents, and files and may examine such witnesses*
105 *and documents to the extent that they are relevant to matters covered under this section.*
106   *D. The State Inspector General or his representative may invoke the aid of any court of record of*
107 *the Commonwealth to enforce subpoenas issued pursuant to subsection C. Failure to obey an order of*
108 *the court may be punished by contempt of court.*
109   *E. 1. Except as provided in subdivision 3, documentary material produced under this section may*
110 *not, unless otherwise ordered by a court for good cause, be produced for inspection or copying to a*
111 *person other than an authorized employee of the State Inspector General without the consent of the*
112 *person who produced the material.*
113   *2. Except as provided in subdivision 3, the content of documentary material produced under this*
114 *section may not, unless ordered by a court for good cause, be disclosed to a person other than an*
115 *authorized employee of the State Inspector General without the consent of the person who produced the*
116 *material.*
117 *3. Documentary material produced under this section shall be provided in a reasonable manner as*
118 *determined by the State Inspector General. A person shall not be required to compile, maintain, format,*
119 *or organize documentary material in a manner in which the person does not currently compile,*
120 *maintain, or format, or organize the documentary material.*

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