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Testimony of Delegate Samuel I. Rosenberg

Before the House Ways and Means Committee

In Support Of

House Bill 369

Election Law - Security of Election Systems

Madam Chair and Members of the Committee:

The danger of allowing reasonable doubt as to our ability to conduct a free and fair election was reinforced by the revelation of Russian hacking of government and commercial computer systems.

Today, against the backdrop of election security concerns and strategically motivated cybercrime by other nations, the urgency of maintaining our system is as potent as ever.

"Election security should not be a partisan issue."

Congressman John Sarbanes, the lead sponsor of H.R. 1, the For the People Act of 2021 (originally introduced in 2019), wrote that in his attached letter in support of House Bill 392 of the 2020 session.

House Bill 369 is modeled upon H.R. 1. It is identical to HB 392, as favorably reported by the Ways and Means Committee and enacted by the House of Delegates, 134-0.

Congressman Sarbanes further wrote, "All Americans deserve and expect their votes to count, unencumbered by foreign or domestic interference. While partisanship has, for the time being, delayed comprehensive federal reform efforts, Maryland has an opportunity to once again lead the nation by adopting common-sense reforms to ensure the integrity of the vote and our elections."

As policymakers we must take into consideration the unique threat of election technology produced in foreign countries, which have no duty to uphold and protect our democracy. HB 369

would help secure the supply chain of our election infrastructure and require our State's election system to comply with the guidelines issued by the United States Election Assistance Commission.

Currently, the State Board of Elections (SBE) may not certify a voting system unless it accurately counts and records the vote, protects the secrecy and security of the ballot, and protects all other rights of voters and candidates. The existing law requires disclosure only of foreign ownership of an election system, but not of the foreign manufacture of or material change to any of its components.

House Bill 369 would enhance election security by requiring SBE to deny contracts to election service providers if the contract does not include a clause mandating disclosure of the foreign manufacture of any component of or any material change to the voting system. The service provider must also disclose all measures taken to ensure that the manufacturing process is secure. Furthermore, the election system provider must have hardware and software developed to optimize security and minimize risk of malfunction.

HB 369 is a logical next step after the enactment in the 2019 session of Senate Bill 743, Election Law - Election Service Providers - Contract Clauses and Termination of Contract, which prohibited the SBE from approving a contract with an election service provider unless the contract includes a clause regarding notice of ownership of, investment in, or control of the election service provider by a foreign national.

As our law currently stands, SBE could be stuck in a contract with an election system service provider that changes its manufacture process or makes a material change to it after being awarded the contract. HB 369 requires that if a previously approved election service provider changes its manufacture process in a way that would compromise any aspect of its security or make it more vulnerable to foreign interference, the provider must disclose the material changes to any components, new manufacture process, and any new measures taken to ensure security.

Failure to disclose such changes or failure to adequately protect the security of the election system may result in a voided contract. HB 369 amends the current law to authorize the State Administrator to terminate, in whole or in part, a contract with any election service provider if the Administrator determines foreign manufacturing of an election system or its components could compromise the integrity of conducting a legitimate election.

As recent events have shown, our democracy is fragile and ought not to be taken for granted. To ensure the continued vitality of our free, honest, and fair elections for all Marylanders, I urge your favorable vote on House Bill 369.

January 19, 2021