HB 1172   **Support**
Postelection Tabulation Audits - Risk-Limiting Audits
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Dear Chair Kaiser and Members of the House Ways and Means Committee:

I strongly support House Bill 1172, Postelection Tabulation Audits - Risk-Limiting Audits to improve the accuracy and security of Maryland's elections.

For background, I am a co-author of "*Principles and Best Practices for Post-Election Tabulation Audits,*" written in 2008 and updated in 2018. This document has been endorsed by many organizations, including the American Statistical Association. I was also part of the team that planned and executed Rhode Island's Risk Limiting Audit Pilot. [i]

Unlike Maryland's current manual audits, risk-limiting audits use statistical means to check election outcomes. If the evidence (the sample of voter verified ballots examined) does not support the initial election outcomes, the risk-limiting audit expands to a larger sample of ballots. The audit will continue to expand, even if necessary to a full hand count, thereby correcting any incorrect initial outcomes. This statistical approach uses resources as efficiently as possible. In the National Academies of Sciences, Engineering and Medicine study, "*Securing the Vote: Protecting American Democracy*," a major recommendation was: "States should mandate a specific type of audit known as a "risk-limiting" audit prior to the certification of election results." [ii]

I am happy to note that this bill does an excellent job in making sure that Maryland's risk limiting audits will follow many of the 9 recommended principles suggested in "*Principles and Best Practices for Post-Election Tabulation Audits.*" In particular, the bill provides language to ensure that the Maryland's risk-limiting audit will require:
- Human examination of voter-verifiable paper ballots (Principle 1)
- Transparency (Principle 2)
- Separation of responsibilities (Principle 3)
- Completion before certification and the change of official outcomes if handcounts so indicate (Principle 8)

Appropriately, this bill allows flexibility in its implementation by leaving other aspects of the audit design to regulation. In particular, the statistical design (Principle 6) is left to regulation to be drafted by a working group including "experts in the theory and practice of risk-limiting audits." Such flexibility is wise because Maryland will gain audit experience and because voting systems may change. I would, however, suggest that the law require an additional regulation - - a regulation on the method and timing for the random selection.

It is crucial that Maryland implement risk-limiting audits and not rely solely on the automated audit, which has significant weaknesses:

1. <u>The Automated audit software cannot audit ballots produced by ballot marking devices.</u> Ballot marking devices, used by voters with disabilities and other voters, produce a summary ballot of the voter's selections and carry a QR code (barcode) that encodes the voter's selections. The automated audit cannot read the text on the summary ballots produced by these devices. Instead, the QR codes, which voters cannot verify, are read.

2. <u>The automated audit cannot read internet-delivered absentee ballots.</u> For the tens of thousands of internet-delivered absentee ballots that the local boards receive by mail and have to manually copy, the automated audit only sees the image of the newly made ballot, which the voter has had no opportunity to verify.

3. <u>The automated audit is not an independent audit of the voting system.</u> The automated audit relies on the images that are created by the voting system itself. Therefore, it is not an independent audit.

4. <u>Many of the images generated by the voting system are too poor for the automated software to determine the votes on those ballots.</u> These ballots have to be manually adjudicated. iii

5. <u>The automated audit is performed without being "blind" to the preliminary results.</u> Preliminary results are posted on the SBE websites, so the company performing the automated audit may know the results before its analysis.

This legislation requires a risk-limiting audit that examines voter-verified ballots to help ensure the election outcomes reflect the will of the people. Please vote for this bill.

Sincerely,

Lynn Garland,
Bethesda, Maryland

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i See Rhode Island's report on its pilot audit: https://www.commoncause.org/wp-content/uploads/2019/09/RI-Report-Design-FINAL-WEB5.pdf

ii https://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=25120

iii "Almost 70K unreadable images that had to be manually adjudicated by Clear Ballot." Nov 20, 2018 memo from Hartman (SBE) to Walker (SBE),