

Senate Engrossed

~~presidential electors; constitutional appointments~~
(now: elections; systems; equipment)

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE CONCURRENT RESOLUTION 1037

A CONCURRENT RESOLUTION

SUPPORTING THE MANUFACTURE OF VOTING SYSTEM COMPONENTS IN THE UNITED STATES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Whereas, public functions such as voting should be open to the
2 public and transparent except to preserve voter anonymity; and

3 Whereas, recognizing the vital role of elections in national
4 security, in 2017 the United States Department of Homeland Security
5 designated election infrastructure as critical infrastructure of the
6 United States; and

7 Whereas, supply chain risks related to manufacturing, assembling and
8 testing critical infrastructure items, including computerized voting
9 machines, can be mitigated by appropriate standards and actions adopted by
10 the United States government; and

11 Whereas, computerized voting machines and systems used in this state
12 contain electronic components that are manufactured, assembled or tested
13 in foreign nations that pose a threat to the United States and include
14 unsecure components in computerized devices that can and have been used to
15 infiltrate, exfiltrate and manipulate data as discussed in various
16 publications; and

17 Whereas, actual breaches of computerized devices and computer
18 systems have been discovered at the United States Department of Defense,
19 thousands of government contractors and agencies and Fortune 100
20 companies, illustrating the threat to computerized systems, including
21 computerized voting machines as noted by the United States Cybersecurity
22 and Infrastructure Security Agency and various media outlets; and

23 Whereas, the United States Senate Intelligence Committee held a
24 hearing on March 21, 2018 relating to potential foreign interference in
25 the 2016 election; and

26 Whereas, at the March 21, 2018 meeting Election Systems and Software
27 denied selling voting machines with remote access software, a fact
28 Election Systems and Software later admitted was true in a letter to
29 Senator Ron Wyden; and

30 Whereas, Election Systems and Software represented to its customers
31 and potential customers that its DS200 voting system was "fully certified
32 and compliant with United States Election Assistance Commission
33 guidelines" even if used with a modem, a critical access point by which
34 unauthorized access can be made; and

35 Whereas, the United States Election Assistance Commission issued a
36 letter to Election Systems and Software dated March 20, 2020 stating that
37 Election Systems and Software misrepresented that its voting machines with
38 modems complied with the United States Election Assistance Commission
39 requirements and required Election Systems and Software to correct its
40 misrepresentations; and

41 Whereas, on June 3, 2022, the United States Cybersecurity and
42 Infrastructure Security Agency issued an advisory warning identifying nine
43 critical security vulnerabilities in the Dominion ImageCast X devices and
44 any voting machine components having a direct or indirect connection to
45 that device; and

1 Whereas, the Dominion ImageCast X devices and any voting machine
2 components having a direct or indirect connection to that device are used
3 in sixteen states, including this state; and

4 Whereas, the United States Cybersecurity and Infrastructure Security
5 Agency issued a June 3, 2022 advisory warning in direct response to the
6 findings of a recognized computer science expert, Dr. J. Alex Halderman,
7 who had twelve weeks to examine this voting system; and

8 Whereas, before the United States Cybersecurity and Infrastructure
9 Security Agency's warning, Dr. Halderman filed multiple sworn declarations
10 in federal court attesting that:

11 1. Certain security failures could be exploited to steal or alter
12 votes while evading all known safety procedures such as logic and accuracy
13 tests and risk-limiting audits; and

14 2. Dominion ignored Dr. Halderman's requests to meet to seek a
15 remedy for these security failures; and

16 3. It would take many months for Dominion to try to fix these
17 security failures and obtain United States Election Assistance Commission
18 and state-level approvals for such changes; and

19 Whereas, Dr. Halderman filed a twenty-five thousand word report with
20 a federal district court detailing the critical security failures related
21 to United States Cybersecurity and Infrastructure Security Agency's June
22 3, 2022 advisory warning; and

23 Whereas, Dominion has a copy of that report and has not made or
24 sought the court's permission to make that report available to the public;
25 and

26 Whereas, the presence of the security failures identified in the
27 United States Cybersecurity and Infrastructure Security Agency's advisory
28 warning would directly prevent computerized voting systems' compliance
29 with voting systems standards; and

30 Whereas, although the United States Cybersecurity and Infrastructure
31 Security Agency stated in that advisory that it has "no evidence that
32 these vulnerabilities have been exploited in any election," there is no
33 indication that the United States Cybersecurity and Infrastructure
34 Security Agency or officials in this state ever investigated whether
35 computerized voting machines in this state have been exploited through
36 these known vulnerabilities or any other vulnerabilities; and

37 Whereas, the United States Cybersecurity and Infrastructure Security
38 Agency's June 3, 2022 advisory warning identified thirteen defensive
39 measures that have not been undertaken in this state; and

40 Whereas, computerized voting machines used in this state are
41 unsecure, lack full public transparency and deprive voters of the right to
42 know that their votes are counted and reported in an accurate, auditable,
43 legal and transparent process; and

44 Whereas, on November 3, 2021, the Tennessee Secretary of State's
45 office reported to the United States Election Assistance Commission that

1 an "anomaly" was observed during a municipal election in Williamson
2 county, Tennessee, which used Dominion tabulators for a municipal
3 election; and

4 Whereas, the Tennessee anomaly caused the scanners to mislabel valid
5 ballots as provisional, and therefore did not include these ballots in the
6 poll report totals; and

7 Whereas, after conducting a formal investigation of the Tennessee
8 anomaly, the United States Election Assistance Commission issued a report
9 on March 31, 2022 concluding that the "anomaly" was likely rooted in
10 "erroneous code" present in Dominion's system; and

11 Whereas, there was no conclusion in the United States Election
12 Assistance Commission report on how the "erroneous code" came to be on the
13 voting machine, or how such code was not detected in the certification
14 process or other safety testing procedures; and

15 Whereas, instances of computerized voting machine failures to
16 accurately record vote totals have repeatedly occurred since 2002 and
17 continue to occur to this day; and

18 Whereas, because of the lack of transparency and detailed public
19 postelection audits of computerized voting machines, there is no way to
20 tell how many times inaccurate election results have been wrongly
21 certified; and

22 Whereas, the United States government employs open source technology
23 to foster transparency; and

24 Whereas, the source code used to read and tabulate ballots in
25 computerized voting machines used in elections in this state for federal
26 office is not open source and not openly available to the public to
27 evaluate that code for malicious activity; and

28 Whereas, Article I, Section 4, Clause 1 of the United States
29 Constitution empowers state legislatures, including the legislature of
30 this state, to prescribe the "Times, Places and Manner" of conducting
31 federal elections; and

32 Whereas, the definition of "manner" is at the sole discretion of the
33 legislature; and

34 Whereas, Article II, Section 1, Clause 2 of the United States
35 Constitution empowers state Legislatures, including the legislature of
36 this state, to direct the manner of appointing electors for President and
37 Vice President of the United States.

38 Therefore

39 Be it resolved by the Senate of the State of Arizona, the House of
40 Representatives concurring:

41 That no voting system or component or subcomponent of a voting
42 system or component, including firmware software or hardware, assemblies
43 and subassemblies with integrated circuits or on which any firmware or
44 software operates, may be used or purchased as the primary method for

1 casting, recording and tabulating ballots used in any election held in
2 this state for federal office unless:

3 1. All components have been designed, manufactured, integrated and
4 assembled in the United States from trusted suppliers, using trusted
5 processes accredited by the Defense Microelectronics Activity as
6 prescribed by the United States Department of Defense; and

7 2. The source code used in any computerized voting machine for
8 federal elections is made available to the public; and

9 3. The ballot images and system log files from each tabulator are
10 recorded on a secure write-once, read-many media with clear chain of
11 custody and posted on the Secretary of State's website free of charge to
12 the public within twenty-four hours after the close of the polls; and

13 4. The legislature transmits this resolution to the secretary of
14 state.