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S.L.C.

AMENDMENT NO. _____ Calendar No. _____

Purpose: To protect the administration of Federal elections
against cybersecurity threats.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 5515

T **AMENDMENT N^o 2427** military
By Lankford military
To: Amr No 2282 Depart-
personnel
purposes.

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Page(s)

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and

*Lankford
Klobuchar
Collins
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AMENDMENT intended to be proposed by
to the amendment (No.
) proposed by

Viz:

1 At the end of title X, add the following:

2 **Subtitle —Election Security**

3 SEC. 1 **1. SHORT TITLE.**

4 This subtitle may be cited as the “Secure Elections
5 Act”.

6 SEC. 2 **2. DEFINITIONS.**

7 In this subtitle:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Rules and Adminis-
5 tration, the Committee on Armed Services, the
6 Committee on Homeland Security and Govern-
7 mental Affairs, the Committee on Appropria-
8 tions, the Select Committee on Intelligence, the
9 majority leader, and the minority leader of the
10 Senate; and

11 (B) the Committee on House Administra-
12 tion, the Committee on Armed Services, the
13 Committee on Homeland Security, the Com-
14 mittee on Appropriations, the Permanent Select
15 Committee on Intelligence, the Speaker, and the
16 minority leader of the House of Representa-
17 tives.

18 (2) APPROPRIATE FEDERAL ENTITIES.—The
19 term “appropriate Federal entities” means—

20 (A) the Department of Commerce, includ-
21 ing the National Institute of Standards and
22 Technology;

23 (B) the Department of Defense;

24 (C) the Department, including the compo-
25 nent of the Department that reports to the

1 Under Secretary responsible for overseeing crit-
2 ical infrastructure protection, cybersecurity, and
3 other related programs of the Department;

4 (D) the Department of Justice, including
5 the Federal Bureau of Investigation;

6 (E) the Commission; and

7 (F) the Office of the Director of National
8 Intelligence, the National Security Agency, and
9 such other elements of the intelligence commu-
10 nity (as defined in section 3 of the National Se-
11 curity Act of 1947 (50 U.S.C. 3003)) as the
12 Director of National Intelligence determines are
13 appropriate.

14 (3) CHAIRMAN.—The term “Chairman” means
15 the Chairman of the Election Assistance Commis-
16 sion.

17 (4) COMMISSION.—The term “Commission”
18 means the Election Assistance Commission.

19 (5) DEPARTMENT.—The term “Department”
20 means the Department of Homeland Security.

21 (6) ELECTION AGENCY.—The term “election
22 agency” means any component of a State or any
23 component of a county, municipality, or other sub-
24 division of a State that is responsible for admin-
25 istering Federal elections.

1 (7) ELECTION CYBERSECURITY INCIDENT.—

2 The term “election cybersecurity incident” means
3 any incident involving an election system.

4 (8) ELECTION CYBERSECURITY THREAT.—The
5 term “election cybersecurity threat” means any cy-
6 bersecurity threat (as defined in section 102 of the
7 Cybersecurity Information Sharing Act of 2015 (6
8 U.S.C. 1501)) to an election system.

9 (9) ELECTION CYBERSECURITY VULNER-
10 ABILITY.—The term “election cybersecurity vulner-
11 ability” means any security vulnerability (as defined
12 in section 102 of the Cybersecurity Information
13 Sharing Act of 2015 (6 U.S.C. 1501)) that affects
14 an election system.

15 (10) ELECTION SERVICE PROVIDER.—The term
16 “election service provider” means any person pro-
17 viding, supporting, or maintaining an election sys-
18 tem on behalf of an election agency, such as a con-
19 tractor or vendor.

20 (11) ELECTION SYSTEM.—The term “election
21 system” means a voting system, an election manage-
22 ment system, a voter registration website or data-
23 base, an electronic pollbook, a system for tabulating
24 or reporting election results, an election agency com-
25 munications system, or any other information sys-

1 tem (as defined in section 3502 of title 44, United
2 States Code) that the Secretary identifies as central
3 to the management, support, or administration of a
4 Federal election.

5 (12) FEDERAL ELECTION.—The term “Federal
6 election” means any election (as defined in section
7 301(1) of the Federal Election Campaign Act of
8 1971 (52 U.S.C. 30101(1)) for Federal office (as
9 defined in section 301(3) of the Federal Election
10 Campaign Act of 1971 (52 U.S.C. 30101(3))).

11 (13) FEDERAL ENTITY.—The term “Federal
12 entity” means any agency (as defined in section 551
13 of title 5, United States Code).

14 (14) INCIDENT.—The term “incident” has the
15 meaning given the term in section 227(a) of the
16 Homeland Security Act of 2002 (6 U.S.C. 148(a)).

17 (15) SECRETARY.—The term “Secretary”
18 means the Secretary of Homeland Security.

19 (16) STATE.—The term “State” means each of
20 the several States of the United States, the District
21 of Columbia, the Commonwealth of Puerto Rico,
22 Guam, American Samoa, the Commonwealth of
23 Northern Mariana Islands, and the United States
24 Virgin Islands.

1 (17) STATE ELECTION OFFICIAL.—The term
2 “State election official” means—

3 (A) the chief State election official of a
4 State designated under section 10 of the Na-
5 tional Voter Registration Act of 1993 (52
6 U.S.C. 20509); or

7 (B) in the Commonwealth of Puerto Rico,
8 Guam, American Samoa, the Commonwealth of
9 Northern Mariana Islands, and the United
10 States Virgin Islands, a chief State election of-
11 ficial designated by the State for purposes of
12 this Act.

13 (18) STATE LAW ENFORCEMENT OFFICER.—
14 The term “State law enforcement officer” means the
15 head of a State law enforcement agency, such as an
16 attorney general.

17 (19) VOTING SYSTEM.—The term “voting sys-
18 tem” has the meaning given the term in section
19 301(b) of the Help America Vote Act of 2002 (52
20 U.S.C. 21081(b)).

21 **SEC. _____ 3. INFORMATION SHARING.**

22 (a) DESIGNATION OF RESPONSIBLE FEDERAL ENTI-
23 TY.—The Secretary shall have primary responsibility with-
24 in the Federal Government for sharing information about
25 election cybersecurity incidents, threats, and

1 vulnerabilities with Federal entities and with election
2 agencies.

3 (b) PRESUMPTION OF FEDERAL INFORMATION
4 SHARING TO THE DEPARTMENT.—If a Federal entity re-
5 ceives information about an election cybersecurity inci-
6 dent, threat, or vulnerability, the Federal entity shall
7 promptly share that information with the Department, un-
8 less the head of the entity (or a Senate-confirmed official
9 designated by the head) makes a specific determination
10 in writing that there is good cause to withhold the par-
11 ticular information.

12 (c) PRESUMPTION OF FEDERAL AND STATE INFOR-
13 MATION SHARING FROM THE DEPARTMENT.—If the De-
14 partment receives information about an election cyberse-
15 curity incident, threat, or vulnerability, the Department
16 shall promptly share that information with—

- 17 (1) the appropriate Federal entities;
18 (2) all State election agencies;
19 (3) to the maximum extent practicable, all elec-
20 tion agencies that have requested ongoing updates
21 on election cybersecurity incidents, threats, or
22 vulnerabilities; and
23 (4) to the maximum extent practicable, all elec-
24 tion agencies that may be affected by the risks asso-

1 ciated with the particular election cybersecurity inci-
2 dent, threat, or vulnerability.

3 (d) TECHNICAL RESOURCES FOR ELECTION AGEN-
4 CIES.—In sharing information about election cybersecu-
5 rity incidents, threats, and vulnerabilities with election
6 agencies under this section, the Department shall, to the
7 maximum extent practicable—

8 (1) provide cyber threat indicators and defen-
9 sive measures (as such terms are defined in section
10 102 of the Cybersecurity Information Sharing Act of
11 2015 (6 U.S.C. 1501)), such as recommended tech-
12 nical instructions, that assist with preventing, miti-
13 gating, and detecting threats or vulnerabilities;

14 (2) identify resources available for protecting
15 against, detecting, responding to, and recovering
16 from associated risks, including technical capabilities
17 of the Department; and

18 (3) provide guidance about further sharing of
19 the information.

20 (e) DECLASSIFICATION REVIEW.—If the Department
21 receives classified information about an election cybersecu-
22 rity incident, threat, or vulnerability—

23 (1) the Secretary shall promptly submit a re-
24 quest for expedited declassification review to the
25 head of a Federal entity with authority to conduct

1 the review, consistent with Executive Order 13526
2 or any successor order, unless the Secretary deter-
3 mines that such a request would be harmful to na-
4 tional security; and

5 (2) the head of the Federal entity described in
6 paragraph (1) shall promptly conduct the review.

7 (f) ROLE OF NON-FEDERAL ENTITIES.—The De-
8 partment may share information about election cybersecu-
9 rity incidents, threats, and vulnerabilities through a non-
10 Federal entity.

11 (g) PROTECTION OF PERSONAL AND CONFIDENTIAL
12 INFORMATION.—

13 (1) IN GENERAL.—If a Federal entity shares
14 information relating to an election cybersecurity inci-
15 dent, threat, or vulnerability, the Federal entity
16 shall, within Federal information systems (as de-
17 fined in section 3502 of title 44, United States
18 Code) of the entity—

19 (A) minimize the acquisition, use, and dis-
20 closure of personal information of voters, except
21 as necessary to identify, protect against, detect,
22 respond to, or recover from election cybersecu-
23 rity incidents, threats, and vulnerabilities;

1 (B) notwithstanding any other provision of
2 law, prohibit the retention of personal informa-
3 tion of voters, such as—

4 (i) voter registration information, in-
5 cluding physical address, email address,
6 and telephone number;

7 (ii) political party affiliation or reg-
8 istration information; and

9 (iii) voter history, including registra-
10 tion status or election participation; and

11 (C) protect confidential Federal and State
12 information from unauthorized disclosure.

13 (2) EXEMPTION FROM DISCLOSURE.—Informa-
14 tion relating to an election cybersecurity incident,
15 threat, or vulnerability, such as personally identifi-
16 able information of reporting persons or individuals
17 affected by such incident, threat, or vulnerability,
18 shared by or with the Federal Government shall
19 be—

20 (A) deemed voluntarily shared information
21 and exempt from disclosure under section 552
22 of title 5, United States Code, and any State,
23 tribal, or local provision of law requiring disclo-
24 sure of information or records; and

1 (B) withheld, without discretion, from the
2 public under section 552(b)(3)(B) of title 5,
3 United States Code, and any State, tribal, or
4 local provision of law requiring disclosure of in-
5 formation or records.

6 (h) DUTY TO ASSESS POSSIBLE CYBERSECURITY IN-
7 CIDENTS.—

8 (1) ELECTION AGENCIES.—If an election agen-
9 cy becomes aware of the possibility of an election cy-
10 bersecurity incident, the election agency shall
11 promptly assess whether an election cybersecurity in-
12 cident occurred and notify the State election official.

13 (2) ELECTION SERVICE PROVIDERS.—If an
14 election service provider becomes aware of the possi-
15 bility of an election cybersecurity incident, the elec-
16 tion service provider shall promptly assess whether
17 an election cybersecurity incident occurred and no-
18 tify the relevant election agencies consistent with
19 subsection (j).

20 (i) INFORMATION SHARING ABOUT CYBERSECURITY
21 INCIDENTS BY ELECTION AGENCIES.—If an election
22 agency has reason to believe that an election cybersecurity
23 incident has occurred with respect to an election system
24 owned, operated, or maintained by or on behalf of the elec-
25 tion agency, the election agency shall, in the most expe-

1 dient time possible and without unreasonable delay, pro-
2 vide notification of the election cybersecurity incident to
3 the Department.

4 (j) INFORMATION SHARING ABOUT CYBERSECURITY
5 INCIDENTS BY ELECTION SERVICE PROVIDERS.—If an
6 election service provider has reason to believe that an elec-
7 tion cybersecurity incident may have occurred, or that an
8 incident related to the role of the provider as an election
9 service provider may have occurred, the election service
10 provider shall—

11 (1) notify the relevant election agencies in the
12 most expedient time possible and without unreason-
13 able delay; and

14 (2) cooperate with the election agencies in pro-
15 viding the notifications required under subsections
16 (h)(1) and (i).

17 (k) CONTENT OF NOTIFICATION BY ELECTION
18 AGENCIES.—The notifications required under subsections
19 (h)(1) and (i)—

20 (1) shall include an initial assessment of—

21 (A) the date, time, and duration of the
22 election cybersecurity incident;

23 (B) the circumstances of the election cy-
24 bersecurity incident, including the specific elec-

1 tion systems believed to have been accessed and
2 information acquired; and

3 (C) planned and implemented technical
4 measures to respond to and recover from the
5 incident; and

6 (2) shall be updated with additional material in-
7 formation, including technical data, as it becomes
8 available.

9 (1) SECURITY CLEARANCE.—Not later than 30 days
10 after the date of enactment of this Act, the Secretary—

11 (1) shall establish an expedited process for pro-
12 viding appropriate security clearance to State elec-
13 tion officials and designated technical personnel em-
14 ployed by State election agencies;

15 (2) shall establish an expedited process for pro-
16 viding appropriate security clearance to members of
17 the Commission and designated technical personnel
18 employed by the Commission; and

19 (3) shall establish a process for providing ap-
20 propriate security clearance to personnel at other
21 election agencies.

22 (m) PROTECTION FROM LIABILITY.—Nothing in this
23 subtitle may be construed to provide a cause of action
24 against a State, unit of local government, or an election
25 service provider.

1 (n) ASSESSMENT OF INTER-STATE INFORMATION
2 SHARING ABOUT ELECTION CYBERSECURITY.—

3 (1) IN GENERAL.—The Secretary and the
4 Chairman, in coordination with the heads of the ap-
5 propriate Federal entities and appropriate officials
6 of State and local governments, shall conduct an as-
7 sessment of—

8 (A) the structure and functioning of the
9 Multi-State Information Sharing and Analysis
10 Center for purposes of election cybersecurity;
11 and

12 (B) other mechanisms for inter-state infor-
13 mation sharing about election cybersecurity.

14 (2) COMMENT FROM ELECTION AGENCIES.—In
15 carrying out the assessment required under para-
16 graph (1), the Secretary and the Chairman shall so-
17 licit and consider comments from all State election
18 agencies.

19 (3) DISTRIBUTION.—The Secretary and the
20 Chairman shall jointly issue the assessment required
21 under paragraph (1) to—

22 (A) all election agencies known to the De-
23 partment and the Commission; and

24 (B) the appropriate congressional commit-
25 tees.

1 (o) CONGRESSIONAL NOTIFICATION.—

2 (1) IN GENERAL.—If an appropriate Federal
3 entity has reason to believe that a significant elec-
4 tion cybersecurity incident has occurred, the entity
5 shall—

6 (A) not later than 7 calendar days after
7 the date on which there is a reasonable basis to
8 conclude that the significant incident has oc-
9 curred, provide notification of the incident to
10 the appropriate congressional committees; and

11 (B) update the initial notification under
12 paragraph (1) within a reasonable period of
13 time after additional information relating to the
14 incident is discovered.

15 (2) REPORTING THRESHOLD.—The Secretary
16 shall—

17 (A) promulgate a uniform definition of a
18 “significant election cybersecurity incident”;
19 and

20 (B) shall submit the definition promul-
21 gated under subparagraph (A) to the appro-
22 priate congressional committees.

1 **SEC. _____ 4. ELECTION SECURITY AND ELECTION AUDIT**

2 **GUIDELINES.**

3 (a) DEVELOPMENT BY TECHNICAL ADVISORY
4 BOARD.—

5 (1) IN GENERAL.—

6 (A) ADDITIONAL DUTIES.—Section
7 221(b)(1) of the Help America Vote Act of
8 2002 (52 U.S.C. 20961(b)(2)) is amended by
9 striking “in the development of the voluntary
10 voting system guidelines” and inserting “in the
11 development of—

12 “(A) the voluntary voting system guide-
13 lines;

14 “(B) the election security guidelines in ac-
15 cordance with paragraph (3); and

16 “(C) the election audit guidelines in ac-
17 cordance with paragraph (4).”.

18 (B) CONFORMING AMENDMENTS.—Sec-
19 tions 202(1) and 207(3) of the Help America
20 Vote Act of 2002 (52 U.S.C. 20922(1) and
21 20927(3)) are each amended by striking “vot-
22 ing system”.

23 (2) ADDITIONAL MEMBERSHIP AND RENAMING
24 OF TECHNICAL GUIDELINES DEVELOPMENT COM-
25 MITTEE.—

1 (A) ADDITIONAL MEMBERSHIP.—Section
2 221(c)(1) of the Help America Vote Act of
3 2002 (52 U.S.C. 20961(c)(1)) is amended—

4 (i) by striking “14” and inserting
5 “18”; and

6 (ii) by redesignating subparagraph
7 (E) as subparagraph (I) and by inserting
8 after subparagraph (D) the following new
9 subparagraphs:

10 “(E) A representative of the Department
11 of Homeland Security.

12 “(F) A representative of the Election In-
13 frastructure Information Sharing and Analysis
14 Center.

15 “(G) A representative of the National As-
16 sociation of State Chief Information Officers.

17 “(H) A representative of State election in-
18 formation technology directors selected by the
19 National Association of Secretaries of State.”.

20 (B) RENAMING OF COMMITTEE.—

21 (i) IN GENERAL.—Section 221(a) of
22 the Help America Vote Act of 2002 (52
23 U.S.C. 20961(a)) is amended by striking
24 “Technical Guidelines Development Com-
25 mittee (hereafter in this part referred to as

1 the ‘Development Committee’)” and insert-
2 ing “Technical Advisory Board”.

3 (ii) CONFORMING AMENDMENTS.—

4 (I) Section 201 of such Act (52
5 U.S.C. 20921) is amended by striking
6 “Technical Guidelines Development
7 Committee” and inserting “Technical
8 Advisory Board”.

9 (II) Section 221 of such Act (52
10 U.S.C. 20921) is amended by striking
11 “Development Committee” each place
12 it appears and inserting “Technical
13 Advisory Board”.

14 (III) Section 222(b) of such Act
15 (52 U.S.C. 20962(b)) is amended—

16 (aa) by striking “Technical
17 Guidelines Development Com-
18 mittee” in paragraph (1) and in-
19 serting “Technical Advisory
20 Board”,

21 (bb) by striking “DEVELOP-
22 MENT COMMITTEE” in the head-
23 ing and inserting “TECHNICAL
24 ADVISORY BOARD”, and

1 (IV) Section 271(e) of such Act
2 (52 U.S.C. 21041(e)) is amended by
3 striking “Technical Guidelines Devel-
4 opment Committee” and inserting
5 “Technical Advisory Board”.

6 (V) Section 281(d) of such Act
7 (52 U.S.C. 21051(d)) is amended by
8 striking “Technical Guidelines Devel-
9 opment Committee” and inserting
10 “Technical Advisory Board”.

11 (VI) The heading for section
12 221of such Act (52 U.S.C. 20961) is
13 amended by striking “**TECHNICAL**
14 **GUIDELINES DEVELOPMENT COM-**
15 **MITTEE**” and inserting “**TECHNICAL**
16 **ADVISORY BOARD**”.

17 (VII) The heading for part 3 of
18 subtitle A of title II of such Act is
19 amended by striking “**TECHNICAL**
20 **GUIDELINES DEVELOPMENT COM-**
21 **MITTEE**” and inserting “**TECHNICAL**
22 **ADVISORY BOARD**”.

23 (VIII) The items relating to sec-
24 tion 221 and part 3 of title II in the
25 table of contents of such Act are each

1 amended by striking “Technical
2 Guidelines Development Committee”
3 and inserting “Technical Advisory
4 Board”.

5 (b) GUIDELINES.—

6 (1) ELECTION SECURITY GUIDELINES.—Section
7 221(b) of the Help America Vote Act of 2002 (52
8 U.S.C. 20961(b)) is amended by adding at the end
9 the following new paragraph:

10 “(3) ELECTION SECURITY GUIDELINES.—

11 “(A) IN GENERAL.—The election security
12 guidelines shall contain guidelines for election
13 cybersecurity, including standards for pro-
14 curing, maintaining, testing, operating, and up-
15 dating election systems.

16 “(B) REQUIREMENTS.—In developing the
17 guidelines, the Technical Advisory Board
18 shall—

19 “(i) identify the top risks to election
20 systems;

21 “(ii) describe how specific technology
22 choices can increase or decrease those
23 risks; and

24 “(iii) provide recommended policies,
25 best practices, and overall security strate-

gies for identifying, protecting against, detecting, responding to, and recovering from the risks identified under subparagraph (A).

“(C) ISSUES CONSIDERED.—

“(i) IN GENERAL.—In developing the election security guidelines, the Technical Advisory Board shall consider—

“(I) applying established cybersecurity best practices to Federal election administration by States and local governments, including appropriate technologies, procedures, and personnel for identifying, protecting against, detecting, responding to, and recovering from cybersecurity events;

“(II) providing actionable guidance to election agencies that seek to implement additional cybersecurity protections; and

“(III) any other factors that the Technical Advisory Board determines to be relevant.

“(D) RELATIONSHIP TO VOLUNTARY VOTING SYSTEM GUIDELINES AND NATIONAL INSTI-

TUTE OF STANDARDS AND TECHNOLOGY CYBERSECURITY GUIDANCE.—In developing the election security guidelines, the Technical Advisory Board shall consider—

“(i) the voluntary voting system guidelines; and

“(ii) cybersecurity standards and best practices developed by the National Institute of Standards and Technology, including frameworks, consistent with section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)).”.

(2) AUDIT GUIDELINES.—Section 221(b) of such Act (52 U.S.C. 20961(b)), as amended by paragraph (1), is amended by adding at the end the following new paragraph:

“(4) ELECTION AUDIT GUIDELINES.—

“(A) IN GENERAL.—The election audit guidelines shall include provisions regarding voting systems and statistical audits for Federal elections, including that—

“(i) each vote is cast using a voting system that allows the voter an opportunity to inspect and confirm the marked

1 ballot before casting it (consistent with ac-
2 cessibility requirements); and

3 “(ii) each election result is determined
4 by tabulating marked ballots (by hand or
5 device), and prior to the date on which the
6 winning Federal candidate in the election
7 is sworn into office, election agencies with-
8 in the State inspect (by hand and not by
9 device) a random sample of the marked
10 ballots and thereby establish high statis-
11 tical confidence in the election result.

12 “(B) ISSUES CONSIDERED.—In developing
13 the election audit guidelines, the Technical Ad-
14 visory Board shall consider—

15 “(i) specific types of election audits,
16 including procedures and shortcomings for
17 such audits;

18 “(ii) mechanisms to verify that elec-
19 tion systems accurately tabulate ballots, re-
20 port results, and identify a winner for each
21 election for Federal office, even if there is
22 an error or fault in the voting system;

23 “(iii) durational requirements needed
24 to facilitate election audits in a timely
25 manner that allows for confidence in the

1 outcome of the election prior to the swear-
2 ing-in of a Federal candidate, including
3 variations in the acceptance of postal bal-
4 lots, time allowed to cure provisional bal-
5 lots, and election certification deadlines;

6 “(iv) how the guidelines could assist
7 other components of State and local gov-
8 ernments; and

9 “(v) any other factors that the Tech-
10 nical Advisory Board to be relevant.”.

11 (3) DEADLINES.—Section 221(b)(2) of such
12 Act (52 U.S.C. 20961(b)(2)) is amended—

13 (A) by striking “The Development” and
14 inserting the following:

15 “(A) VOLUNTARY VOTING SYSTEM GUIDE-
16 LINES.—The Development”;

17 (B) by striking “this section” and insert-
18 ing “paragraph (1)(A)”; and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(B) ELECTION SECURITY AND ELECTION
22 AUDIT GUIDELINES.—

23 “(i) INITIAL GUIDELINES.—The Tech-
24 nical Advisory Board shall provide its ini-
25 tial set of recommendations under sub-

1 paragraphs (B) and (C) of paragraph (1)
2 to the Executive Director not later than
3 180 days after the date of the enactment
4 of the Secure Elections Act.

5 “(ii) PERIODIC REVIEW.—Not later
6 than January 31, 2020, and once every 2
7 years thereafter, the Technical Advisory
8 Board shall review and update the guide-
9 lines described in subparagraphs (B) and
10 (C) of paragraph (1).”.

11 (c) PROCESS FOR ADOPTION.—

12 (1) PUBLICATION OF RECOMMENDATIONS.—
13 Section 221(f) of the Help America Vote Act of
14 2002 (52 U.S.C. 20961(f)) is amended—

15 (A) by striking “At the time the Commis-
16 sion” and inserting the following:

17 “(1) VOLUNTARY VOTING SYSTEM GUIDE-
18 LINES.—At the time the Commission”; and.

19 (B) by adding at the end the following new
20 paragraph:

21 “(2) ELECTION SECURITY AND ELECTION
22 AUDIT GUIDELINES.—The Technical Advisory Board
23 shall—

24 “(A) provide a reasonable opportunity for
25 public comment, including through Commission

1 publication in the Federal Register, on the
2 guidelines required under subparagraphs (B)
3 and (C) of subsection (b)(1), including a 45-day
4 opportunity for public comment on a draft of
5 the guidelines before they are submitted to Con-
6 gress under section 223(a), which shall, to the
7 extent practicable, occur concurrently with the
8 other activities of the Technical Advisory Board
9 under this section with respect to such guide-
10 lines; and

11 “(B) consider the public comments in de-
12 veloping the guidelines.”.

13 (2) ADOPTION.—

14 (A) IN GENERAL.—Part 3 of subtitle A of
15 title II of the Help America Vote Act of 2002
16 (52 U.S.C. 20961 et seq.) is amended—

17 (i) by inserting “**OF VOLUNTARY**
18 **VOTING GUIDELINES**” after “**ADOP-**
19 **TION**” in the heading of section 222; and

20 (ii) by adding at the end the following
21 new section:

22 “**SEC. 223. PROCESS FOR ADOPTION OF ELECTION SECU-**
23 **RITY AND ELECTION AUDIT GUIDELINES.**”

24 “(a) SUBMISSION TO CONGRESS.—

1 “(1) IN GENERAL.—Not later than 14 calendar
2 days after the date on which the Commission re-
3 ceives recommendations for the guidelines required
4 described in subparagraphs (B) and (C) of section
5 221(b)(1), the Commission shall submit the guide-
6 lines to the appropriate congressional committees.

7 “(2) MODIFICATION.—The Commission may
8 modify the guidelines in advance of submission to
9 Congress if—

10 “(A) the Commission determines that there
11 is good cause to modify the guidelines, con-
12 sistent with the considerations established in
13 paragraphs (3) or (4) of section 221(b) (as the
14 case may be) and notwithstanding the rec-
15 ommendation of the Technical Advisory Board;
16 and

17 “(B) the Commission submits a written
18 justification of the modification to the Tech-
19 nical Advisory Board and the appropriate con-
20 gressional committees.

21 “(b) DISTRIBUTION TO ELECTION AGENCIES.—The
22 Commission shall distribute the guidelines described in
23 subparagraphs (B) and (C) of section 221(b)(1) (b) to all
24 election agencies known to the Commission.

1 “(c) PUBLICATION.—The Commission shall make the
2 guidelines described in subparagraphs (B) and (C) of sec-
3 tion 221(b)(1) (b) available on the public website of the
4 Commission.

5 “(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—
6 For purposes of this section, the term ‘appropriate con-
7 gressional committees’ means—

8 “(1) the Committee on Rules and Administra-
9 tion, the Committee on Armed Services, the Com-
10 mittee on Homeland Security and Governmental Af-
11 fairs, the Committee on Appropriations, the Select
12 Committee on Intelligence, the majority leader, and
13 the minority leader of the Senate; and

14 “(2) the Committee on House Administration,
15 the Committee on Armed Services, the Committee
16 on Homeland Security, the Committee on Appropria-
17 tions, the Permanent Select Committee on Intel-
18 ligence, the Speaker, and the minority leader of the
19 House of Representatives.

20 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
21 tion shall be construed to subject the process for devel-
22 oping the guidelines described in subparagraphs (B) and
23 (C) of section 221(b)(1) to subchapter II of chapter 5,
24 and chapter 7, of title 5, United States Code (commonly
25 known as the ‘Administrative Procedure Act’).”.

1 (B) CLERICAL AMENDMENT.—The table of
2 contents of such Act is amended by inserting
3 after the item relating to section 222 the fol-
4 lowing new item:

“Sec. 223. Process for adoption of election security and election audit guide-
lines.”.

5 **SEC. _____ 5. REQUIREMENT TO CONDUCT POST-ELEC-**
6 **TION AUDITS.**

7 (a) REQUIREMENT.—

8 (1) IN GENERAL.—Subtitle A of title III of the
9 Help America Vote Act of 2002 (52 U.S.C. 21081
10 et seq.) is amended—

11 (A) by redesignating sections 304 and 305
12 as sections 305 and 306, respectively; and

13 (B) by inserting after section 303 the fol-
14 lowing new section:

15 **“SEC. 304. POST-ELECTION AUDITS.**

16 “(a) IN GENERAL.—Each State and jurisdiction
17 shall—

18 “(1) conduct a post-election audit of each elec-
19 tion for Federal office through the inspection of a
20 random sample of marked ballots of sufficient quan-
21 tity to establish high statistical confidence in the
22 election result; and

1 “(2) provide reports to the Election Assistance
2 Commission on the details of the audits conducted
3 under paragraph (1).

4 “(b) TIME FOR COMPLETING AUDIT.—The audit re-
5 quired by subsection (a) shall be completed in a timely
6 manner to ensure confidence in the outcome of the elec-
7 tion and before the date on which the winning candidate
8 in the election is sworn into office.

9 “(c) EFFECTIVE DATE.—

10 “(1) IN GENERAL.—Except as provided in sub-
11 paragraph (B), each State and jurisdiction shall be
12 required to comply with the requirements of this sec-
13 tion for the regularly scheduled general election for
14 Federal office held in November 2020, and each sub-
15 sequent election for Federal office.

16 “(2) WAIVER.—If a State or jurisdiction cer-
17 tifies to the Commission not later than November 1,
18 2020, that the State or jurisdiction will not meet the
19 deadline described in subparagraph (A) for good
20 cause and includes in the certification the reasons
21 for the failure to meet such deadline, subparagraph
22 (A) shall apply to the State or jurisdiction as if the
23 reference in such subparagraph to ‘November 2020’
24 were a reference to ‘November 2022’.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
2 tents of such Act is amended—

3 (A) by redesignating the items relating to
4 sections 304 and 305 as relating to sections
5 305 and 306, respectively; and

6 (B) by inserting after the item relating to
7 section 303 the following new item:

 “Sec. 304. Post-election audits.”.

8 (b) REPORTING.—The Election Assistance Commis-
9 sion shall submit reports to Congress on the information
10 provided to the Commission under section 304(a)(2) of the
11 Help America Vote Act of 2002, as added by subsection
12 (a). Such reports shall be submitted concurrently with the
13 reports required under section 9(a)(3) of the National
14 Voter Registration Act of 1993.

15 **SEC. _____ 6. REPORTS TO CONGRESS ON FOREIGN**
16 **THREATS TO ELECTIONS.**

17 (a) IN GENERAL.—Not later than 30 days after the
18 date of enactment of this Act, and 30 days after the end
19 of each fiscal year thereafter, the Secretary and the Direc-
20 tor of National Intelligence, in coordination with the heads
21 of the appropriate Federal entities, shall submit a joint
22 report to the appropriate congressional committees on for-
23 eign threats to elections in the United States, including
24 physical and cybersecurity threats.

1 (b) VOLUNTARY PARTICIPATION BY STATES.—The
2 Secretary shall solicit and consider comments from all
3 State election agencies. Participation by an election agen-
4 cy in the report under this subsection shall be voluntary
5 and at the discretion of the State.