

116TH CONGRESS
1ST SESSION

S. 2053

To protect elections for public office by providing financial support and enhanced security for the infrastructure used to carry out such elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 28 (legislative day, JUNE 27), 2019

Ms. KLOBUCHAR introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To protect elections for public office by providing financial support and enhanced security for the infrastructure used to carry out such elections, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Securing America’s Federal Elections Act” or the
6 “SAFE Act”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FINANCIAL SUPPORT FOR ELECTION INFRASTRUCTURE

Subtitle A—Voting System Security Improvement Grants

PART 1—PROMOTING ACCURACY, INTEGRITY, AND SECURITY THROUGH
VOTER-VERIFIED PERMANENT PAPER BALLOT

- Sec. 101. Short title.
- Sec. 102. Paper ballot and manual counting requirements.
- Sec. 103. Accessibility and ballot verification for individuals with disabilities.
- Sec. 104. Durability and readability requirements for ballots.
- Sec. 105. Paper ballot printing requirements.
- Sec. 106. Study and report on optimal ballot design.
- Sec. 107. Effective date for new requirements.

PART 2—GRANTS TO CARRY OUT IMPROVEMENTS

- Sec. 111. Grants for obtaining compliant paper ballot voting systems and carrying out voting system security improvements.
- Sec. 112. Coordination of voting system security activities with use of requirements payments and election administration requirements under Help America Vote Act of 2002.
- Sec. 113. Incorporation of definitions.

Subtitle B—Risk-Limiting Audits

- Sec. 121. Risk-limiting audits.
- Sec. 122. Funding for conducting post-election risk-limiting audits.
- Sec. 123. GAO analysis of effects of audits.

TITLE II—PROMOTING CYBERSECURITY THROUGH
IMPROVEMENTS IN ELECTION ADMINISTRATION

- Sec. 201. Voting system cybersecurity requirements.
- Sec. 202. Testing of existing voting systems to ensure compliance with election cybersecurity guidelines and other guidelines.
- Sec. 203. Requiring use of software and hardware for which information is disclosed by manufacturer.
- Sec. 204. Treatment of electronic poll books as part of voting systems.
- Sec. 205. Pre-election reports on voting system usage.
- Sec. 206. Streamlining collection of election information.

TITLE III—USE OF VOTING MACHINES MANUFACTURED IN THE
UNITED STATES

- Sec. 301. Use of voting machines manufactured in the United States.

TITLE IV—SEVERABILITY

- Sec. 401. Severability.

1 **TITLE I—FINANCIAL SUPPORT**
 2 **FOR ELECTION INFRASTRUC-**
 3 **TURE**

4 **Subtitle A—Voting System Security**
 5 **Improvement Grants**

6 **PART 1—PROMOTING ACCURACY, INTEGRITY,**
 7 **AND SECURITY THROUGH VOTER-VERIFIED**
 8 **PERMANENT PAPER BALLOT**

9 **SEC. 101. SHORT TITLE.**

10 This subtitle may be cited as the “Voter Confidence
 11 and Increased Accessibility Act of 2019”.

12 **SEC. 102. PAPER BALLOT AND MANUAL COUNTING RE-**
 13 **QUIREMENTS.**

14 (a) **IN GENERAL.**—Section 301(a)(2) of the Help
 15 America Vote Act of 2002 (52 U.S.C. 21081(a)(2)) is
 16 amended to read as follows:

17 “(2) **PAPER BALLOT REQUIREMENT.**—

18 “(A) **VOTER-VERIFIED PAPER BALLOTS.**—

19 “(i) **PAPER BALLOT REQUIREMENT.**—

20 (I) The voting system shall require the use
 21 of an individual, durable, voter-verified
 22 paper ballot of the voter’s vote that shall
 23 be marked and made available for inspec-
 24 tion and verification by the voter before
 25 the voter’s vote is cast and counted, and

1 which shall be counted by hand or read by
2 an optical character recognition device or
3 other counting device. For purposes of this
4 subclause, the term ‘individual, durable,
5 voter-verified paper ballot’ means a paper
6 ballot marked by the voter by hand or a
7 paper ballot marked through the use of a
8 nontabulating ballot marking device or sys-
9 tem, so long as the voter shall have the op-
10 tion to mark his or her ballot by hand. The
11 paper ballot shall be printed or marked in
12 such a way that vote selections, including
13 all vote selections scanned by voting sys-
14 tems to tabulate votes, can be inspected
15 and verified by the voter without training
16 or instruction or audited by election offi-
17 cials without the aid of any machine or
18 other equipment.

19 “(II) The voting system shall provide
20 the voter with an opportunity to correct
21 any error on the paper ballot before the
22 permanent voter-verified paper ballot is
23 preserved in accordance with clause (ii).

24 “(III) The voting system shall not
25 preserve the voter-verified paper ballots in

1 any manner that makes it possible, at any
2 time after the ballot has been cast, to asso-
3 ciate a voter with the record of the voter's
4 vote without the voter's consent.

5 “(ii) PRESERVATION AS OFFICIAL
6 RECORD.—The individual, durable, voter-
7 verified paper ballot used in accordance
8 with clause (i) shall constitute the official
9 ballot and shall be preserved and used as
10 the official ballot for purposes of any re-
11 count or audit conducted with respect to
12 any election for Federal office in which the
13 voting system is used.

14 “(iii) MANUAL COUNTING REQUIRE-
15 MENTS FOR RECOUNTS AND AUDITS.—(I)
16 Each paper ballot used pursuant to clause
17 (i) shall be suitable for a manual audit,
18 and shall be counted by hand in any re-
19 count or audit conducted with respect to
20 any election for Federal office.

21 “(II) In the event of any inconsist-
22 encies or irregularities between any elec-
23 tronic vote tallies and the vote tallies de-
24 termined by counting by hand the indi-
25 vidual, durable, voter-verified paper ballots

1 used pursuant to clause (i), and subject to
2 subparagraph (B), the individual, durable,
3 voter-verified paper ballots shall be the
4 true and correct record of the votes cast.

5 “(iv) APPLICATION TO ALL BAL-
6 LOTS.—The requirements of this subpara-
7 graph shall apply to all ballots cast in elec-
8 tions for Federal office, including ballots
9 cast by absent uniformed services voters
10 and overseas voters under the Uniformed
11 and Overseas Citizens Absentee Voting Act
12 and other absentee voters.

13 “(B) SPECIAL RULE FOR TREATMENT OF
14 DISPUTES WHEN PAPER BALLOTS HAVE BEEN
15 SHOWN TO BE COMPROMISED.—

16 “(i) IN GENERAL.—In the event
17 that—

18 “(I) there is any inconsistency
19 between any electronic vote tallies and
20 the vote tallies determined by count-
21 ing by hand the individual, durable,
22 voter-verified paper ballots used pur-
23 suant to subparagraph (A)(i) with re-
24 spect to any election for Federal of-
25 fice; and

1 “(II) it is demonstrated by clear
2 and convincing evidence (as deter-
3 mined in accordance with the applica-
4 ble standards in the jurisdiction in-
5 volved) in any recount, audit, or con-
6 test of the result of the election that
7 the paper ballots have been com-
8 promised (by damage or mischief or
9 otherwise) and that a sufficient num-
10 ber of the ballots have been so com-
11 promised that the result of the elec-
12 tion could be changed,

13 the determination of the appropriate rem-
14 edy with respect to the election shall be
15 made in accordance with applicable State
16 law, except that the electronic tally shall
17 not be used as the exclusive basis for de-
18 termining the official certified result.

19 “(ii) RULE FOR CONSIDERATION OF
20 BALLOTS ASSOCIATED WITH EACH VOTING
21 MACHINE.—For purposes of clause (i),
22 only the paper ballots deemed com-
23 promised, if any, shall be considered in the
24 calculation of whether or not the result of

1 the election could be changed due to the
2 compromised paper ballots.”.

3 (b) CONFORMING AMENDMENT CLARIFYING APPLI-
4 CABILITY OF ALTERNATIVE LANGUAGE ACCESSIBILITY.—
5 Section 301(a)(4) of such Act (52 U.S.C. 21081(a)(4))
6 is amended by inserting “(including the paper ballots re-
7 quired to be used under paragraph (2))” after “voting sys-
8 tem”.

9 (c) OTHER CONFORMING AMENDMENTS.—Section
10 301(a)(1) of such Act (52 U.S.C. 21081(a)(1)) is amend-
11 ed—

12 (1) in subparagraph (A)(i), by striking “count-
13 ed” and inserting “counted, in accordance with
14 paragraphs (2) and (3)”;

15 (2) in subparagraph (A)(ii), by striking “count-
16 ed” and inserting “counted, in accordance with
17 paragraphs (2) and (3)”;

18 (3) in subparagraph (A)(iii), by striking “count-
19 ed” each place it appears and inserting “counted, in
20 accordance with paragraphs (2) and (3)”;

21 (4) in subparagraph (B)(ii), by striking “count-
22 ed” and inserting “counted, in accordance with
23 paragraphs (2) and (3)”.

1 **SEC. 103. ACCESSIBILITY AND BALLOT VERIFICATION FOR**
2 **INDIVIDUALS WITH DISABILITIES.**

3 (a) IN GENERAL.—Section 301(a)(3)(B) of the Help
4 America Vote Act of 2002 (52 U.S.C. 21081(a)(3)(B)) is
5 amended to read as follows:

6 “(B)(i) ensure that individuals with dis-
7 abilities and others are given an equivalent op-
8 portunity to vote, including with privacy and
9 independence, in a manner that produces a
10 voter-verified paper ballot as for other voters;

11 “(ii) satisfy the requirement of subpara-
12 graph (A) through the use of at least one voting
13 system equipped for individuals with disabili-
14 ties, including nonvisual and enhanced visual
15 accessibility for the blind and visually impaired,
16 and nonmanual and enhanced manual accessi-
17 bility for the mobility and dexterity impaired, at
18 each polling place; and

19 “(iii) meet the requirements of subpara-
20 graph (A) and paragraph (2)(A) by using a sys-
21 tem that—

22 “(I) allows the voter to privately and
23 independently verify the permanent paper
24 ballot through the presentation, in acces-
25 sible form, of the printed or marked vote
26 selections from the same printed or

1 marked information that would be used for
2 any vote counting or auditing; and

3 “(II) allows the voter to privately and
4 independently verify and cast the perma-
5 nent paper ballot without requiring the
6 voter to manually handle the paper ballot;
7 and”.

8 (b) SPECIFIC REQUIREMENT OF STUDY, TESTING,
9 AND DEVELOPMENT OF ACCESSIBLE PAPER BALLOT
10 VERIFICATION MECHANISMS.—

11 (1) STUDY AND REPORTING.—Subtitle C of
12 title II of such Act (52 U.S.C. 21081 et seq.) is
13 amended—

14 (A) by redesignating section 247 as section
15 248; and

16 (B) by inserting after section 246 the fol-
17 lowing new section:

18 **“SEC. 247. STUDY AND REPORT ON ACCESSIBLE PAPER**
19 **BALLOT VERIFICATION MECHANISMS.**

20 “(a) STUDY AND REPORT.—The Director of the Na-
21 tional Science Foundation shall make grants to not fewer
22 than three eligible entities to study, test, and develop ac-
23 cessible paper ballot voting, verification, and casting mech-
24 anisms and devices and best practices to enhance the ac-
25 cessibility of paper ballot voting and verification mecha-

1 nisms for individuals with disabilities, for voters whose pri-
2 mary language is not English, and for voters with difficul-
3 ties in literacy, including best practices for the mecha-
4 nisms themselves and the processes through which the
5 mechanisms are used.

6 “(b) ELIGIBILITY.—An entity is eligible to receive a
7 grant under this part if it submits to the Director (at such
8 time and in such form as the Director may require) an
9 application containing—

10 “(1) certifications that the entity shall specifi-
11 cally investigate enhanced methods or devices, in-
12 cluding non-electronic devices, that will assist such
13 individuals and voters in marking voter-verified
14 paper ballots and presenting or transmitting the in-
15 formation printed or marked on such ballots back to
16 such individuals and voters, and casting such ballots;

17 “(2) a certification that the entity shall com-
18 plete the activities carried out with the grant not
19 later than December 31, 2020; and

20 “(3) such other information and certifications
21 as the Director may require.

22 “(c) AVAILABILITY OF TECHNOLOGY.—Any tech-
23 nology developed with the grants made under this section
24 shall be treated as non-proprietary and shall be made

1 available to the public, including to manufacturers of vot-
 2 ing systems.

3 “(d) COORDINATION WITH GRANTS FOR TECH-
 4 NOLOGY IMPROVEMENTS.—The Director shall carry out
 5 this section so that the activities carried out with the
 6 grants made under subsection (a) are coordinated with the
 7 research conducted under the grant program carried out
 8 by the Commission under section 271, to the extent that
 9 the Director and Commission determine necessary to pro-
 10 vide for the advancement of accessible voting technology.

11 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
 12 is authorized to be appropriated to carry out subsection
 13 (a) \$5,000,000, to remain available until expended.”.

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

16 (A) by redesignating the item relating to
 17 section 247 as relating to section 248; and

18 (B) by inserting after the item relating to
 19 section 246 the following new item:

“Sec. 247. Study and report on accessible paper ballot verification mecha-
 nisms.”.

20 (c) CLARIFICATION OF ACCESSIBILITY STANDARDS
 21 UNDER VOLUNTARY VOTING SYSTEM GUIDANCE.—In
 22 adopting any voluntary guidance under subtitle B of title
 23 III of the Help America Vote Act with respect to the ac-
 24 cessibility of the paper ballot verification requirements for

1 individuals with disabilities, the Election Assistance Com-
 2 mission shall include and apply the same accessibility
 3 standards applicable under the voluntary guidance adopt-
 4 ed for accessible voting systems under such subtitle.

5 (d) PERMITTING USE OF FUNDS FOR PROTECTION
 6 AND ADVOCACY SYSTEMS TO SUPPORT ACTIONS TO EN-
 7 FORCE ELECTION-RELATED DISABILITY ACCESS.—Sec-
 8 tion 292(a) of the Help America Vote Act of 2002 (52
 9 U.S.C. 21062(a)) is amended by striking “; except that”
 10 and all that follows and inserting a period.

11 **SEC. 104. DURABILITY AND READABILITY REQUIREMENTS**
 12 **FOR BALLOTS.**

13 Section 301(a) of the Help America Vote Act of 2002
 14 (52 U.S.C. 21081(a)) is amended by adding at the end
 15 the following new paragraph:

16 “(7) DURABILITY AND READABILITY REQUIRE-
 17 MENTS FOR BALLOTS.—

18 “(A) DURABILITY REQUIREMENTS FOR
 19 PAPER BALLOTS.—

20 “(i) IN GENERAL.—All voter-verified
 21 paper ballots required to be used under
 22 this Act shall be marked or printed on du-
 23 rable paper.

24 “(ii) DEFINITION.—For purposes of
 25 this Act, paper is ‘durable’ if it is capable

1 of withstanding multiple counts and re-
2 counts by hand without compromising the
3 fundamental integrity of the ballots, and
4 capable of retaining the information
5 marked or printed on them for the full du-
6 ration of a retention and preservation pe-
7 riod of 22 months.

8 “(B) READABILITY REQUIREMENTS FOR
9 PAPER BALLOTS MARKED BY BALLOT MARKING
10 DEVICE.—All voter-verified paper ballots com-
11 pleted by the voter through the use of a ballot
12 marking device shall be clearly readable by the
13 voter without assistance (other than eyeglasses
14 or other personal vision enhancing devices) and
15 by an optical character recognition device or
16 other device equipped for individuals with dis-
17 abilities.”.

18 **SEC. 105. PAPER BALLOT PRINTING REQUIREMENTS.**

19 (a) REQUIRING PAPER BALLOTS TO BE PRINTED ON
20 RECYCLED PAPER MANUFACTURED IN UNITED
21 STATES.—Section 301(a) of the Help America Vote Act
22 of 2002 (52 U.S.C. 21081(a)), as amended by section 104,
23 is amended by adding at the end the following new para-
24 graph:

1 “(2) SPECIAL RULE FOR CERTAIN REQUIRE-
2 MENTS.—

3 “(A) IN GENERAL.—Except as provided in
4 section 105(b) of the Securing America’s Fed-
5 eral Elections Act and subparagraphs (B) and
6 (C), the requirements of this section which are
7 first imposed on a State and jurisdiction pursu-
8 ant to the amendments made by the Voter Con-
9 fidence and Increased Accessibility Act of 2019
10 shall apply with respect to voting systems used
11 for any election for Federal office held in 2020
12 or any succeeding year.

13 “(B) DELAY FOR JURISDICTIONS USING
14 CERTAIN PAPER RECORD PRINTERS OR CERTAIN
15 SYSTEMS USING OR PRODUCING VOTER-
16 VERIFIED PAPER RECORDS IN 2018.—

17 “(i) DELAY.—In the case of a juris-
18 diction described in clause (ii), subpara-
19 graph (A) shall apply to a voting system in
20 the jurisdiction as if the reference in such
21 subparagraph to ‘2020’ were a reference to
22 ‘2022’, but only with respect to the fol-
23 lowing requirements of this section:

1 “(I) Paragraph (2)(A)(i)(I) of
2 subsection (a) (relating to the use of
3 voter-verified paper ballots).

4 “(II) Paragraphs (3)(B)(iii)(I)
5 and (II) of subsection (a) (relating to
6 access to verification from and casting
7 of the durable paper ballot).

8 “(III) Paragraph (7) of sub-
9 section (a) (relating to durability and
10 readability requirements for ballots).

11 “(ii) JURISDICTIONS DESCRIBED.—A
12 jurisdiction described in this clause is a ju-
13 risdiction—

14 “(I) which used voter-verified
15 paper record printers attached to di-
16 rect recording electronic voting ma-
17 chines, or which used other voting
18 systems that used or produced paper
19 records of the vote verifiable by voters
20 but that are not in compliance with
21 paragraphs (2)(A)(i)(I), (3)(B)(iii)(I)
22 and (II), and (7) of subsection (a) (as
23 amended or added by the Voter Con-
24 fidence and Increased Accessibility
25 Act of 2019), for the administration

1 of the regularly scheduled general
2 election for Federal office held in No-
3 vember 2018; and

4 “(II) which will continue to use
5 such printers or systems for the ad-
6 ministration of elections for Federal
7 office held in years before 2022.

8 “(iii) MANDATORY AVAILABILITY OF
9 PAPER BALLOTS AT POLLING PLACES
10 USING GRANDFATHERED PRINTERS AND
11 SYSTEMS.—

12 “(I) REQUIRING BALLOTS TO BE
13 OFFERED AND PROVIDED.—The ap-
14 propriate election official at each poll-
15 ing place that uses a printer or sys-
16 tem described in clause (ii)(I) for the
17 administration of elections for Federal
18 office shall offer each individual who
19 is eligible to cast a vote in the election
20 at the polling place the opportunity to
21 cast the vote using a blank pre-print-
22 ed paper ballot which the individual
23 may mark by hand and which is not
24 produced by the direct recording elec-
25 tronic voting machine or other such

1 system. The official shall provide the
2 individual with the ballot and the sup-
3 plies necessary to mark the ballot, and
4 shall ensure (to the greatest extent
5 practicable) that the waiting period
6 for the individual to cast a vote is the
7 lesser of 30 minutes or the average
8 waiting period for an individual who
9 does not agree to cast the vote using
10 such a paper ballot under this clause.

11 “(II) TREATMENT OF BALLOT.—
12 Any paper ballot which is cast by an
13 individual under this clause shall be
14 counted and otherwise treated as a
15 regular ballot for all purposes (includ-
16 ing by incorporating it into the final
17 unofficial vote count (as defined by
18 the State) for the precinct) and not as
19 a provisional ballot, unless the indi-
20 vidual casting the ballot would have
21 otherwise been required to cast a pro-
22 visional ballot.

23 “(III) POSTING OF NOTICE.—
24 The appropriate election official shall
25 ensure there is prominently displayed

1 at each polling place a notice that de-
2 scribes the obligation of the official to
3 offer individuals the opportunity to
4 cast votes using a pre-printed blank
5 paper ballot.

6 “(IV) TRAINING OF ELECTION
7 OFFICIALS.—The chief State election
8 official shall ensure that election offi-
9 cials at polling places in the State are
10 aware of the requirements of this
11 clause, including the requirement to
12 display a notice under subclause (III),
13 and are aware that it is a violation of
14 the requirements of this title for an
15 election official to fail to offer an indi-
16 vidual the opportunity to cast a vote
17 using a blank pre-printed paper ballot.

18 “(V) PERIOD OF APPLICA-
19 BILITY.—The requirements of this
20 clause apply only during the period in
21 which the delay is in effect under
22 clause (i).

23 “(C) SPECIAL RULE FOR JURISDICTIONS
24 USING CERTAIN NONTABULATING BALLOT
25 MARKING DEVICES.—In the case of a jurisdic-

1 tion which uses a nontabulating ballot marking
 2 device which automatically deposits the ballot
 3 into a privacy sleeve, subparagraph (A) shall
 4 apply to a voting system in the jurisdiction as
 5 if the reference in such subparagraph to ‘any
 6 election for Federal office held in 2020 or any
 7 succeeding year’ were a reference to ‘elections
 8 for Federal office occurring held in 2022 or
 9 each succeeding year’, but only with respect to
 10 paragraph (3)(B)(iii)(II) of subsection (a) (re-
 11 lating to nonmanual casting of the durable
 12 paper ballot).”.

13 **PART 2—GRANTS TO CARRY OUT**

14 **IMPROVEMENTS**

15 **SEC. 111. GRANTS FOR OBTAINING COMPLIANT PAPER BAL-**
 16 **LOT VOTING SYSTEMS AND CARRYING OUT**
 17 **VOTING SYSTEM SECURITY IMPROVEMENTS.**

18 (a) AVAILABILITY OF GRANTS.—Subtitle D of title
 19 II of the Help America Vote Act of 2002 (52 U.S.C.
 20 21001 et seq.) is amended by adding at the end the fol-
 21 lowing new part:

1 **“PART 7—GRANTS FOR OBTAINING COMPLIANT**
2 **PAPER BALLOT VOTING SYSTEMS AND CAR-**
3 **RYING OUT VOTING SYSTEM SECURITY IM-**
4 **PROVEMENTS**

5 **“SEC. 297. GRANTS FOR OBTAINING COMPLIANT PAPER**
6 **BALLOT VOTING SYSTEMS AND CARRYING**
7 **OUT VOTING SYSTEM SECURITY IMPROVE-**
8 **MENTS.**

9 “(a) AVAILABILITY AND USE OF GRANT.—The Com-
10 mission shall make a grant to each eligible State—

11 “(1) to replace a voting system—

12 “(A) which does not meet the requirements
13 which are first imposed on the State pursuant
14 to the amendments made by the Voter Con-
15 fidence and Increased Accessibility Act of 2019
16 with a voting system which does meet such re-
17 quirements, for use in the regularly scheduled
18 general elections for Federal office held in No-
19 vember 2020; or

20 “(B) which does meet such requirements
21 but which is not in compliance with the most
22 recent voluntary voting system guidelines issued
23 by the Commission prior to the regularly sched-
24 uled general election for Federal office held in
25 November 2020 with another system which does

1 meet such requirements and is in compliance
2 with such guidelines;

3 “(2) to carry out voting system security im-
4 provements described in section 297A with respect
5 to the regularly scheduled general elections for Fed-
6 eral office held in November 2020 and each suc-
7 ceeding election for Federal office; and

8 “(3) to implement and model best practices for
9 ballot design, ballot instructions, and the testing of
10 ballots.

11 “(b) AMOUNT OF GRANT.—The amount of a grant
12 made to a State under this section shall be such amount
13 as the Commission determines to be appropriate, except
14 that such amount may not be less than the product of
15 \$1 and the average of the number of individuals who cast
16 votes in any of the two most recent regularly scheduled
17 general elections for Federal office held in the State.

18 “(c) PRO RATA REDUCTIONS.—If the amount of
19 funds appropriated for grants under this part is insuffi-
20 cient to ensure that each State receives the amount of the
21 grant calculated under subsection (b), the Commission
22 shall make such pro rata reductions in such amounts as
23 may be necessary to ensure that the entire amount appro-
24 priated under this part is distributed to the States.

1 “(d) SURPLUS APPROPRIATIONS.—If the amount of
2 funds appropriated for grants authorized under section
3 297D(a)(2) exceed the amount necessary to meet the re-
4 quirements of subsection (b), the Commission shall con-
5 sider the following in making a determination to award
6 remaining funds to a State:

7 “(1) The record of the State in carrying out the
8 following with respect to the administration of elec-
9 tions for Federal office:

10 “(A) Providing voting machines that are
11 less than 10 years old.

12 “(B) Implementing strong chain of custody
13 procedures for the physical security of voting
14 equipment and paper records at all stages of
15 the process.

16 “(C) Conducting pre-election testing on
17 every voting machine and ensuring that paper
18 ballots are available wherever electronic ma-
19 chines are used.

20 “(D) Maintaining offline backups of voter
21 registration lists.

22 “(E) Providing a secure voter registration
23 database that logs requests submitted to the
24 database.

1 “(F) Publishing and enforcing a policy de-
2 tailing use limitations and security safeguards
3 to protect the personal information of voters in
4 the voter registration process.

5 “(G) Providing secure processes and proce-
6 dures for reporting vote tallies.

7 “(H) Providing a secure platform for dis-
8 seminating vote totals.

9 “(2) Evidence of established conditions of inno-
10 vation and reform in providing voting system secu-
11 rity and the proposed plan of the State for imple-
12 menting additional conditions.

13 “(3) Evidence of collaboration between relevant
14 stakeholders, including local election officials, in de-
15 veloping the grant implementation plan described in
16 section 297B.

17 “(4) The plan of the State to conduct a rig-
18 orous evaluation of the effectiveness of the activities
19 carried out with the grant.

20 “(e) ABILITY OF REPLACEMENT SYSTEMS TO AD-
21 MINISTER RANKED CHOICE ELECTIONS.—To the greatest
22 extent practicable, an eligible State which receives a grant
23 to replace a voting system under this section shall ensure
24 that the replacement system is capable of administering
25 a system of ranked choice voting under which each voter

1 shall rank the candidates for the office in the order of
2 the voter's preference.

3 **“SEC. 297A. VOTING SYSTEM SECURITY IMPROVEMENTS**
4 **DESCRIBED.**

5 “(a) PERMITTED USES.—A voting system security
6 improvement described in this section is any of the fol-
7 lowing:

8 “(1) The acquisition of goods and services from
9 qualified election infrastructure vendors by purchase,
10 lease, or such other arrangements as may be appro-
11 priate.

12 “(2) Cyber and risk mitigation training.

13 “(3) A security risk and vulnerability assess-
14 ment of the State's election infrastructure which is
15 carried out by a provider of cybersecurity services
16 under a contract entered into between the chief
17 State election official and the provider.

18 “(4) The maintenance of election infrastruc-
19 ture, including addressing risks and vulnerabilities
20 which are identified under either of the security risk
21 and vulnerability assessments described in para-
22 graph (3), except that none of the funds provided
23 under this part may be used to renovate or replace
24 a building or facility which is used primarily for pur-

1 poses other than the administration of elections for
2 public office.

3 “(5) Providing increased technical support for
4 any information technology infrastructure that the
5 chief State election official deems to be part of the
6 State’s election infrastructure or designates as crit-
7 ical to the operation of the State’s election infra-
8 structure.

9 “(6) Enhancing the cybersecurity and oper-
10 ations of the information technology infrastructure
11 described in paragraph (4).

12 “(7) Enhancing the cybersecurity of voter reg-
13 istration systems.

14 “(b) QUALIFIED ELECTION INFRASTRUCTURE VEN-
15 DORS DESCRIBED.—

16 “(1) IN GENERAL.—For purposes of this part,
17 a ‘qualified election infrastructure vendor’ is any
18 person who provides, supports, or maintains, or who
19 seeks to provide, support, or maintain, election in-
20 frastructure on behalf of a State, unit of local gov-
21 ernment, or election agency, who meets the criteria
22 described in paragraph (2).

23 “(2) CRITERIA.—The criteria described in this
24 paragraph are such criteria as the Chairman, in co-
25 ordination with the Secretary of Homeland Security,

1 shall establish and publish, and shall include each of
2 the following requirements:

3 “(A) The vendor must be owned and con-
4 trolled by a citizen or permanent resident of the
5 United States.

6 “(B) The vendor must disclose to the
7 Chairman and the Secretary, and to the chief
8 State election official of any State to which the
9 vendor provides any goods and services with
10 funds provided under this part, of any sourcing
11 outside the United States for parts of the elec-
12 tion infrastructure.

13 “(C) The vendor agrees to ensure that the
14 election infrastructure will be developed and
15 maintained in a manner that is consistent with
16 the cybersecurity best practices issued by the
17 Technical Guidelines Development Committee.

18 “(D) The vendor agrees to maintain its in-
19 formation technology infrastructure in a man-
20 ner that is consistent with the cybersecurity
21 best practices issued by the Technical Guide-
22 lines Development Committee.

23 “(E) The vendor agrees to meet the re-
24 quirements of paragraph (3) with respect to
25 any known or suspected cybersecurity incidents

1 involving any of the goods and services provided
2 by the vendor pursuant to a grant under this
3 part.

4 “(F) The vendor agrees to permit inde-
5 pendent security testing by the Commission (in
6 accordance with section 231(a)) and by the Sec-
7 retary of the goods and services provided by the
8 vendor pursuant to a grant under this part.

9 “(3) CYBERSECURITY INCIDENT REPORTING
10 REQUIREMENTS.—

11 “(A) IN GENERAL.—A vendor meets the
12 requirements of this paragraph if, upon becom-
13 ing aware of the possibility that an election cy-
14 bersecurity incident has occurred involving any
15 of the goods and services provided by the ven-
16 dor pursuant to a grant under this part—

17 “(i) the vendor promptly assesses
18 whether or not such an incident occurred,
19 and submits a notification meeting the re-
20 quirements of subparagraph (B) to the
21 Secretary and the Chairman of the assess-
22 ment as soon as practicable (but in no case
23 later than 3 days after the vendor first be-
24 comes aware of the possibility that the in-
25 cident occurred);

1 “(ii) if the incident involves goods or
2 services provided to an election agency, the
3 vendor submits a notification meeting the
4 requirements of subparagraph (B) to the
5 agency as soon as practicable (but in no
6 case later than 3 days after the vendor
7 first becomes aware of the possibility that
8 the incident occurred), and cooperates with
9 the agency in providing any other nec-
10 essary notifications relating to the inci-
11 dent; and

12 “(iii) the vendor provides all necessary
13 updates to any notification submitted
14 under clause (i) or clause (ii).

15 “(B) CONTENTS OF NOTIFICATIONS.—
16 Each notification submitted under clause (i) or
17 clause (ii) of subparagraph (A) shall contain
18 the following information with respect to any
19 election cybersecurity incident covered by the
20 notification:

21 “(i) The date, time, and time zone
22 when the election cybersecurity incident
23 began, if known.

1 “(ii) The date, time, and time zone
2 when the election cybersecurity incident
3 was detected.

4 “(iii) The date, time, and duration of
5 the election cybersecurity incident.

6 “(iv) The circumstances of the elec-
7 tion cybersecurity incident, including the
8 specific election infrastructure systems be-
9 lieved to have been accessed and informa-
10 tion acquired, if any.

11 “(v) Any planned and implemented
12 technical measures to respond to and re-
13 cover from the incident.

14 “(vi) In the case of any notification
15 which is an update to a prior notification,
16 any additional material information relat-
17 ing to the incident, including technical
18 data, as it becomes available.

19 **“SEC. 297B. ELIGIBILITY OF STATES.**

20 “A State is eligible to receive a grant under this part
21 if the State submits to the Commission, at such time and
22 in such form as the Commission may require, an applica-
23 tion containing—

1 “(1) a description of how the State will use the
2 grant to carry out the activities authorized under
3 this part;

4 “(2) a certification and assurance that, not
5 later than 5 years after receiving the grant, the
6 State will carry out voting system security improve-
7 ments, as described in section 297A; and

8 “(3) such other information and assurances as
9 the Commission may require.

10 **“SEC. 297C. REPORTS TO CONGRESS.**

11 “Not later than 90 days after the end of each fiscal
12 year, the Commission shall submit a report to the appro-
13 priate congressional committees, including the Committees
14 on Homeland Security, House Administration, and the Ju-
15 diciary of the House of Representatives and the Commit-
16 tees on Homeland Security and Governmental Affairs, the
17 Judiciary, and Rules and Administration of the Senate,
18 on the activities carried out with the funds provided under
19 this part.

20 **“SEC. 297D. AUTHORIZATION OF APPROPRIATIONS.**

21 “(a) AUTHORIZATION.—There are authorized to be
22 appropriated for grants under this part—

23 “(1) \$600,000,000 for fiscal year 2019; and

24 “(2) \$175,000,000 for each of the fiscal years
25 2020, 2022, 2024, and 2026.

1 “(b) CONTINUING AVAILABILITY OF AMOUNTS.—Any
 2 amounts appropriated pursuant to the authorization of
 3 this section shall remain available until expended.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
 5 of such Act is amended by adding at the end of the items
 6 relating to subtitle D of title II the following:

“PART 7—GRANTS FOR OBTAINING COMPLIANT PAPER BALLOT VOTING
 SYSTEMS AND CARRYING OUT VOTING SYSTEM SECURITY IMPROVEMENTS

“Sec. 297. Grants for obtaining compliant paper ballot voting systems and car-
 rying out voting system security improvements.

“Sec. 297A. Voting system security improvements described.

“Sec. 297B. Eligibility of States.

“Sec. 297C. Reports to Congress.

“Sec. 297D. Authorization of appropriations.”.

7 **SEC. 112. COORDINATION OF VOTING SYSTEM SECURITY**
 8 **ACTIVITIES WITH USE OF REQUIREMENTS**
 9 **PAYMENTS AND ELECTION ADMINISTRATION**
 10 **REQUIREMENTS UNDER HELP AMERICA**
 11 **VOTE ACT OF 2002.**

12 (a) DUTIES OF ELECTION ASSISTANCE COMMIS-
 13 SION.—Section 202 of the Help America Vote Act of 2002
 14 (52 U.S.C. 20922) is amended in the matter preceding
 15 paragraph (1) by striking “by” and inserting “and the se-
 16 curity of election infrastructure by”.

17 (b) MEMBERSHIP OF SECRETARY OF HOMELAND SE-
 18 CURITY ON BOARD OF ADVISORS OF ELECTION ASSIST-
 19 ANCE COMMISSION.—Section 214(a) of such Act (52
 20 U.S.C. 20944(a)) is amended—

1 (1) by striking “37 members” and inserting
2 “38 members”; and

3 (2) by adding at the end the following new
4 paragraph:

5 “(17) The Secretary of Homeland Security or
6 the Secretary’s designee.”.

7 (c) REPRESENTATIVE OF DEPARTMENT OF HOME-
8 LAND SECURITY ON TECHNICAL GUIDELINES DEVELOP-
9 MENT COMMITTEE.—Section 221(c)(1) of such Act (52
10 U.S.C. 20961(c)(1)) is amended—

11 (1) by redesignating subparagraph (E) as sub-
12 paragraph (F); and

13 (2) by inserting after subparagraph (D) the fol-
14 lowing new subparagraph:

15 “(E) A representative of the Department
16 of Homeland Security.”.

17 (d) GOALS OF PERIODIC STUDIES OF ELECTION AD-
18 MINISTRATION ISSUES; CONSULTATION WITH SECRETARY
19 OF HOMELAND SECURITY.—Section 241(a) of such Act
20 (52 U.S.C. 20981(a)) is amended—

21 (1) in the matter preceding paragraph (1), by
22 striking “the Commission shall” and inserting “the
23 Commission, in consultation with the Secretary of
24 Homeland Security (as appropriate), shall”;

1 (2) by striking “and” at the end of paragraph
2 (3);

3 (3) by redesignating paragraph (4) as para-
4 graph (5); and

5 (4) by inserting after paragraph (3) the fol-
6 lowing new paragraph:

7 “(4) will be secure against attempts to under-
8 mine the integrity of election systems by cyber or
9 other means; and”.

10 (e) REQUIREMENTS PAYMENTS.—

11 (1) USE OF PAYMENTS FOR VOTING SYSTEM
12 SECURITY IMPROVEMENTS.—Section 251(b) of such
13 Act (52 U.S.C. 21001(b)) is amended by adding at
14 the end the following new paragraph:

15 “(4) PERMITTING USE OF PAYMENTS FOR VOT-
16 ING SYSTEM SECURITY IMPROVEMENTS.—A State
17 may use a requirements payment to carry out any
18 of the following activities:

19 “(A) Cyber and risk mitigation training.

20 “(B) Providing increased technical support
21 for any information technology infrastructure
22 that the chief State election official deems to be
23 part of the State’s election infrastructure or
24 designates as critical to the operation of the
25 State’s election infrastructure.

1 “(C) Enhancing the cybersecurity and op-
2 erations of the information technology infra-
3 structure described in subparagraph (B).

4 “(D) Enhancing the security of voter reg-
5 istration databases.”.

6 (2) INCORPORATION OF ELECTION INFRA-
7 STRUCTURE PROTECTION IN STATE PLANS FOR USE
8 OF PAYMENTS.—Section 254(a)(1) of such Act (52
9 U.S.C. 21004(a)(1)) is amended by striking the pe-
10 riod at the end and inserting “, including the protec-
11 tion of election infrastructure.”.

12 (3) COMPOSITION OF COMMITTEE RESPONSIBLE
13 FOR DEVELOPING STATE PLAN FOR USE OF PAY-
14 MENTS.—Section 255 of such Act (52 U.S.C.
15 21005) is amended—

16 (A) by redesignating subsection (b) as sub-
17 section (c); and

18 (B) by inserting after subsection (a) the
19 following new subsection:

20 “(b) GEOGRAPHIC REPRESENTATION.—The mem-
21 bers of the committee shall be a representative group of
22 individuals from the State’s counties, cities, towns, and
23 Indian tribes, and shall represent the needs of rural as
24 well as urban areas of the State, as the case may be.”.

1 (f) ENSURING PROTECTION OF COMPUTERIZED
2 STATEWIDE VOTER REGISTRATION LIST.—Section
3 303(a)(3) of such Act (52 U.S.C. 21083(a)(3)) is amend-
4 ed by striking the period at the end and inserting “, as
5 well as other measures to prevent and deter cybersecurity
6 incidents, as identified by the Commission, the Secretary
7 of Homeland Security, and the Technical Guidelines De-
8 velopment Committee.”.

9 **SEC. 113. INCORPORATION OF DEFINITIONS.**

10 (a) IN GENERAL.—Section 901 of the Help America
11 Vote Act of 2002 (52 U.S.C. 21141) is amended to read
12 as follows:

13 **“SEC. 901. DEFINITIONS.**

14 “In this Act, the following definitions apply:

15 “(1) The term ‘cybersecurity incident’ has the
16 meaning given the term ‘incident’ in section 227 of
17 the Homeland Security Act of 2002 (6 U.S.C. 659).

18 “(2) The term ‘election agency’ means any com-
19 ponent of a State, or any component of a unit of
20 local government in a State, which is responsible for
21 the administration of elections for Federal office in
22 the State.

23 “(3) The term ‘election infrastructure’ means
24 storage facilities, polling places, and centralized vote
25 tabulation locations used to support the administra-

1 tion of elections for public office, as well as related
2 information and communications technology (includ-
3 ing the technology used by or on behalf of election
4 officials to produce and distribute voter guides to
5 elections), including voter registration databases,
6 voting machines, electronic mail and other commu-
7 nications systems (including electronic mail and
8 other systems of vendors who have entered into con-
9 tracts with election agencies to support the adminis-
10 tration of elections, manage the election process, and
11 report and display election results), and other sys-
12 tems used to manage the election process and to re-
13 port and display election results on behalf of an elec-
14 tion agency.

15 “(4) The term ‘State’ means each of the several
16 States, the District of Columbia, the Commonwealth
17 of Puerto Rico, Guam, American Samoa, the United
18 States Virgin Islands, and the Commonwealth of the
19 Northern Mariana Islands.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 of such Act is amended by amending the item relating to
22 section 901 to read as follows:

“Sec. 901. Definitions.”.

1 **Subtitle B—Risk-Limiting Audits**

2 **SEC. 121. RISK-LIMITING AUDITS.**

3 (a) IN GENERAL.—Title III of the Help America
4 Vote Act of 2002 (52 U.S.C. 21081 et seq.) is amended
5 by inserting after section 303 the following new section:

6 **“SEC. 303A. RISK-LIMITING AUDITS.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) RISK-LIMITING AUDIT.—The term ‘risk-
9 limiting audit’ means, with respect to any election
10 contest, a post-election process that—

11 “(A) has a probability of at least 95 per-
12 cent of correcting the reported outcome if the
13 reported outcome is not the correct outcome;

14 “(B) will not change the outcome if the re-
15 ported outcome is the correct outcome; and

16 “(C) involves a manual adjudication of
17 voter intent from some or all of the ballots val-
18 idly cast in the election contest.

19 “(2) REPORTED OUTCOME; CORRECT OUTCOME;
20 OUTCOME.—

21 “(A) REPORTED OUTCOME.—The term ‘re-
22 ported outcome’ means the outcome of an elec-
23 tion contest which is determined according to
24 the canvass and which will become the official,

1 certified outcome unless it is revised by an
2 audit, recount, or other legal process.

3 “(B) CORRECT OUTCOME.—The term ‘cor-
4 rect outcome’ means the outcome that would be
5 determined by a manual adjudication of voter
6 intent for all votes validly cast in the election
7 contest.

8 “(C) OUTCOME.—The term ‘outcome’
9 means the winner or set of winners of an elec-
10 tion contest.

11 “(3) MANUAL ADJUDICATION OF VOTER IN-
12 TENT.—The term ‘manual adjudication of voter in-
13 tent’ means direct inspection and determination by
14 humans, without assistance from electronic or me-
15 chanical tabulation devices, of the ballot choices
16 marked by voters on each voter-verified paper
17 record.

18 “(4) BALLOT MANIFEST.—The term ‘ballot
19 manifest’ means a record maintained by each juris-
20 diction that—

21 “(A) is created without reliance on any
22 part of the voting system used to tabulate
23 votes;

24 “(B) functions as a sampling frame for
25 conducting a risk-limiting audit; and

1 “(C) accounts for all ballots validly cast re-
2 gardless of how they were tabulated and in-
3 cludes a precise description of the manner in
4 which the ballots are physically stored, includ-
5 ing the total number of physical groups of bal-
6 lots, the numbering system for each group, a
7 unique label for each group, and the number of
8 ballots in each such group.

9 “(b) REQUIREMENTS.—

10 “(1) IN GENERAL.—

11 “(A) AUDITS.—

12 “(i) IN GENERAL.—Each State and
13 jurisdiction shall administer risk-limiting
14 audits of the results of all election contests
15 for Federal office held in the State in ac-
16 cordance with the requirements of para-
17 graph (2).

18 “(ii) EXCEPTION.—Clause (i) shall
19 not apply to any election contest for which
20 the State or jurisdiction conducts a full re-
21 count through a manual adjudication of
22 voter intent.

23 “(B) FULL MANUAL TABULATION.—If a
24 risk-limiting audit conducted under subpara-
25 graph (A) corrects the reported outcome of an

1 election contest, the State or jurisdiction shall
2 use the results of the manual adjudication of
3 voter intent conducted as part of the risk-lim-
4 iting audit as the official results of the election
5 contest.

6 “(2) AUDIT REQUIREMENTS.—

7 “(A) RULES AND PROCEDURES.—

8 “(i) IN GENERAL.—Not later than 1
9 year after the date of the enactment of this
10 section, the chief State election official of
11 the State shall establish rules and proce-
12 dures for conducting risk-limiting audits.

13 “(ii) MATTERS INCLUDED.—The rules
14 and procedures established under clause (i)
15 shall include the following:

16 “(I) Rules and procedures for en-
17 suring the security of ballots and doc-
18 umenting that prescribed procedures
19 were followed.

20 “(II) Rules and procedures for
21 ensuring the accuracy of ballot mani-
22 fests produced by jurisdictions.

23 “(III) Rules and procedures for
24 governing the format of ballot mani-

1 fects and other data involved in risk-
2 limiting audits.

3 “(IV) Methods to ensure that
4 any cast vote records used in a risk-
5 limiting audit are those used by the
6 voting system to tally the results of
7 the election contest sent to the chief
8 State election official of the State and
9 made public.

10 “(V) Rules and procedures for
11 the random selection of ballots to be
12 inspected manually during each audit.

13 “(VI) Rules and procedures for
14 the calculations and other methods to
15 be used in the audit and to determine
16 whether and when the audit of each
17 election contest is complete.

18 “(VII) Rules and procedures for
19 testing any software used to conduct
20 risk-limiting audits.

21 “(B) PUBLIC REPORT.—

22 “(i) IN GENERAL.—After the comple-
23 tion of the risk-limiting audit and at least
24 5 days before the election contest is cer-
25 tified, the State shall publish a report on

1 the results of the audit, together with such
2 information as necessary to confirm that
3 the audit was conducted properly.

4 “(ii) **FORMAT OF DATA.**—All data
5 published with the report under clause (i)
6 shall be published in machine-readable,
7 open data formats.

8 “(iii) **PROTECTION OF ANONYMITY OF**
9 **VOTES.**—Information and data published
10 by the State under this subparagraph shall
11 not compromise the anonymity of votes.

12 “(c) **EFFECTIVE DATE.**—Each State and jurisdiction
13 shall be required to comply with the requirements of this
14 section for the first regularly scheduled election for Fed-
15 eral office held more than 1 year after the date of the
16 enactment of the Securing America’s Federal Elections
17 Act and for each subsequent election for Federal office.”.

18 (b) **CONFORMING AMENDMENT RELATING TO EN-**
19 **FORCEMENT.**—Section 401 of such Act (52 U.S.C. 21111)
20 is amended by striking “sections 301, 302, and 303” and
21 inserting “subtitle A of title III”.

22 (c) **CLERICAL AMENDMENT.**—The table of contents
23 for such Act is amended by inserting after the item relat-
24 ing to section 303 the following new item:

“Sec. 303A. Risk-limiting audits.”.

1 **SEC. 122. FUNDING FOR CONDUCTING POST-ELECTION**
2 **RISK-LIMITING AUDITS.**

3 (a) PAYMENTS TO STATES.—Subtitle D of title II of
4 the Help America Vote Act of 2002 (52 U.S.C. 21001 et
5 seq.), as amended by section 111(a), is amended by adding
6 at the end the following new part:

7 **“PART 8—FUNDING FOR POST-ELECTION RISK-**
8 **LIMITING AUDITS**

9 **“SEC. 298. PAYMENTS FOR POST-ELECTION RISK-LIMITING**
10 **AUDITS.**

11 “(a) IN GENERAL.—The Commission shall pay to
12 States the amount of eligible post-election audit costs.

13 “(b) ELIGIBLE POST-ELECTION AUDIT COSTS.—For
14 purposes of this section, the term ‘eligible post-election
15 audit costs’ means, with respect to any State, costs paid
16 or incurred by the State or local government within the
17 State for—

18 “(1) the conduct of any risk-limiting audit (as
19 defined in section 303A) with respect to an election
20 for Federal office occurring after the date of the en-
21 actment of this part; and

22 “(2) any equipment, software, or services nec-
23 essary for the conduct of any such risk-limiting
24 audit.

25 “(c) SPECIAL RULES.—

1 “(1) RULES AND PROCEDURES.—The Commis-
2 sion shall establish rules and procedures for submis-
3 sion of eligible post-election audit costs for payments
4 under this section.

5 “(2) INSUFFICIENT FUNDS.—In any case in
6 which the amounts appropriated under subsection
7 (d) are insufficient to pay all eligible post-election
8 audit costs submitted by States with respect to any
9 Federal election, the amount of such costs paid
10 under subsection (a) to any State shall be equal to
11 the amount that bears the same ratio to the amount
12 which would be paid to such State (determined with-
13 out regard to this paragraph) as—

14 “(A) the number of individuals who voted
15 in such Federal election in such State; bears to

16 “(B) the total number of individuals who
17 voted in such Federal election in all States sub-
18 mitting a claim for eligible post-election audit
19 costs.

20 “(d) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There is hereby authorized
22 to be appropriated to the Commission such sums as
23 are necessary to carry out this part.

24 “(2) AVAILABILITY.—Any amounts appro-
25 priated pursuant to paragraph (1) shall remain

1 available without fiscal year limitation until ex-
2 pended.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 of such Act, as amended by section 111(b), is further
5 amended by adding at the end of the items relating to
6 subtitle D of title II the following:

“PART 8—FUNDING FOR POST-ELECTION RISK-LIMITING AUDITS

“Sec. 298. Payments for post-election risk-limiting audits.”.

7 **SEC. 123. GAO ANALYSIS OF EFFECTS OF AUDITS.**

8 (a) ANALYSIS.—Not later than 6 months after the
9 first elections for Federal office is held for which States
10 must conduct risk-limiting audits under section 303A of
11 the Help America Vote Act of 2002 (as added by section
12 121), the Comptroller General of the United States shall
13 conduct an analysis of the extent to which such audits
14 have improved the administration of such elections and the
15 security of election infrastructure in the States receiving
16 such grants.

17 (b) REPORT.—The Comptroller General of the
18 United States shall submit a report on the analysis con-
19 ducted under subsection (a) to the Committee on House
20 Administration of the House of Representatives and the
21 Committee on Rules and Administration of the Senate.

1 **TITLE II—PROMOTING CYBERSE-**
2 **CURITY THROUGH IMPROVE-**
3 **MENTS IN ELECTION ADMIN-**
4 **ISTRATION**

5 **SEC. 201. VOTING SYSTEM CYBERSECURITY REQUIRE-**
6 **MENTS.**

7 (a) **BALLOT TABULATING DEVICES.**—Section 301(a)
8 of the Help America Vote Act of 2002 (52 U.S.C.
9 21081(a)), as amended by section 104 and section 105,
10 is further amended by adding at the end the following new
11 paragraph:

12 “(9) **BALLOT TABULATING METHODS.**—

13 “(A) **IN GENERAL.**—The voting system
14 tabulates ballots by hand or through the use of
15 an optical scanning device that meets the re-
16 quirements of subparagraph (B).

17 “(B) **REQUIREMENTS FOR OPTICAL SCAN-**
18 **NING DEVICES.**—Except as provided in sub-
19 paragraph (C), the requirements of this sub-
20 paragraph are as follows:

21 “(i) The device is designed and built
22 in a manner in which it is mechanically im-
23 possible for the device to add or change the
24 vote selections on a printed or marked bal-
25 lot.

1 “(ii) The device is capable of export-
2 ing its data (including vote tally data sets
3 and cast vote records) in a machine-read-
4 able, open data standard format required
5 by the Commission, in consultation with
6 the Director of the National Institute of
7 Standards and Technology.

8 “(iii) The device consists of hardware
9 that demonstrably conforms to a hardware
10 component manifest describing point-of-or-
11 igin information (including upstream hard-
12 ware supply chain information for each
13 component) that—

14 “(I) has been provided to the
15 Commission, the Director of Cyberse-
16 curity and Infrastructure Security,
17 and the chief State election official for
18 each State in which the device is used;
19 and

20 “(II) may be shared by any enti-
21 ty to whom it has been provided under
22 subclause (I) with independent experts
23 for cybersecurity analysis.

24 “(iv) The device utilizes technology
25 that prevents the operation of the device if

1 any hardware components do not meet the
2 requirements of clause (iii).

3 “(v) The device operates using soft-
4 ware for which the source code, system
5 build tools, and compilation parameters—

6 “(I) have been provided to the
7 Commission, the Director of Cyberse-
8 curity and Infrastructure Security,
9 and the chief State election official for
10 each State in which the device is used;
11 and

12 “(II) may be shared by any enti-
13 ty to whom it has been provided under
14 subclause (I) with independent experts
15 for cybersecurity analysis.

16 “(vi) The device utilizes technology
17 that prevents the running of software on
18 the device that does not meet the require-
19 ments of clause (v).

20 “(vii) The device utilizes technology
21 that enables election officials, cybersecurity
22 researchers, and voters to verify that the
23 software running on the device—

1 “(I) was built from a specific,
2 untampered version of the code that is
3 described in clause (v); and

4 “(II) uses the system build tools
5 and compilation parameters that are
6 described in clause (v).

7 “(viii) The device contains such other
8 security requirements as the Director of
9 Cybersecurity and Infrastructure Security
10 requires.

11 “(C) WAIVER.—

12 “(i) IN GENERAL.—The Director of
13 Cybersecurity and Infrastructure Security,
14 in consultation with the Director of the
15 National Institute of Standards and Tech-
16 nology, may waive one or more of the re-
17 quirements of subparagraph (B) (other
18 than the requirement of clause (i) thereof)
19 with respect to any device for a period of
20 not to exceed 2 years.

21 “(ii) PUBLICATION.—Information re-
22 lating to any waiver granted under clause
23 (i) shall be made publicly available on the
24 internet.

1 “(D) EFFECTIVE DATE.—Each State and
2 jurisdiction shall be required to comply with the
3 requirements of this paragraph for the regularly
4 scheduled election for Federal office in Novem-
5 ber 2024, and for each subsequent election for
6 Federal office.”.

7 (b) OTHER CYBERSECURITY REQUIREMENTS.—Sec-
8 tion 301(a) of such Act (52 U.S.C. 21081(a)), as amended
9 by section 104, section 105, and subsection (a), is further
10 amended by adding at the end the following new para-
11 graphs:

12 “(10) PROHIBITION OF USE OF WIRELESS COM-
13 MUNICATIONS DEVICES IN SYSTEMS OR DEVICES.—

14 “(A) IN GENERAL.—No system or device
15 upon which ballot marking devices or optical
16 scanners are configured, upon which ballots are
17 marked by voters (except as necessary for indi-
18 viduals with disabilities to use ballot marking
19 devices that meet the accessibility requirements
20 of paragraph (3)), or upon which votes are cast,
21 tabulated, or aggregated shall contain, use, or
22 be accessible by any wireless, power-line, or con-
23 cealed communication device.

24 “(B) EFFECTIVE DATE.—Each State and
25 jurisdiction shall be required to comply with the

1 requirements of this paragraph for the regularly
2 scheduled election for Federal office in Novem-
3 ber 2020, and for each subsequent election for
4 Federal office.

5 “(11) PROHIBITING CONNECTION OF SYSTEM
6 TO THE INTERNET.—

7 “(A) IN GENERAL.—No system or device
8 upon which ballot marking devices or optical
9 scanners are configured, upon which ballots are
10 marked by voters, or upon which votes are cast,
11 tabulated, or aggregated shall be connected to
12 the internet or any non-local computer system
13 via telephone or other communication network
14 at any time.

15 “(B) EFFECTIVE DATE.—Each State and
16 jurisdiction shall be required to comply with the
17 requirements of this paragraph for the regularly
18 scheduled election for Federal office in Novem-
19 ber 2020, and for each subsequent election for
20 Federal office.”.

21 (c) SPECIAL CYBERSECURITY RULES FOR CERTAIN
22 BALLOT MARKING DEVICES.—

23 (1) IN GENERAL.—Section 301(a) of such Act
24 (52 U.S.C. 21081(a)), as amended by section 104,
25 section 105, and subsections (a) and (b), is further

1 amended by adding at the end the following new
2 paragraph:

3 “(12) BALLOT MARKING DEVICES.—

4 “(A) IN GENERAL.—In the case of a voting
5 system that uses a ballot marking device, the
6 ballot marking device shall be a device that—

7 “(i) is not capable of tabulating votes;

8 “(ii) except in the case of a ballot
9 marking device used exclusively to comply
10 with the requirements of paragraph (3), is
11 certified in accordance with section 232 as
12 meeting the requirements of subparagraph
13 (B); and

14 “(iii) meets the requirements of
15 clauses (iii) through (viii) of section
16 301(a)(9)(B).

17 “(B) REQUIREMENTS.—

18 “(i) IN GENERAL.—A ballot marking
19 device meets the requirements of this sub-
20 paragraph if, during a double-masked test
21 conducted by a qualified independent user
22 experience research laboratory (as defined
23 in section 232(b)(4)) of a simulated elec-
24 tion scenario which meets the requirements
25 of clause (ii), there is less than a 5 percent

1 chance that an ordinary voter using the de-
2 vice would not detect and report any dif-
3 ference between the vote selection printed
4 on the ballot by the ballot marking device
5 and the vote selection indicated by the
6 voter.

7 “(ii) SIMULATED ELECTION SCE-
8 NARIO.—A simulated election scenario
9 meets the requirements of this clause if it
10 is conducted with—

11 “(I) a pool of subjects that are—

12 “(aa) diverse in age, gender,
13 education, and physical limita-
14 tions; and

15 “(bb) representative of the
16 communities in which the voting
17 system will be used; and

18 “(II) ballots that are representa-
19 tive of ballots ordinarily used in the
20 communities in which the voting sys-
21 tem will be used.

22 “(C) EFFECTIVE DATE.—Each State and
23 jurisdiction shall be required to comply with the
24 requirements of this paragraph for the regularly
25 scheduled election for Federal office in Novem-

1 ber 2022, and for each subsequent election for
2 Federal office.”.

3 (2) PROCEDURE FOR TESTING.—

4 (A) IN GENERAL.—Subtitle B of title II of
5 the Help America Vote Act of 2002 (52 U.S.C.
6 20971 et seq.) is amended by adding at the end
7 the following new section:

8 **“SEC. 232. TESTING AND CERTIFICATION OF BALLOT MARK-**
9 **ING DEVICES.**

10 “(a) IN GENERAL.—Any State or jurisdiction which
11 intends to use a ballot marking device (other than a ballot
12 marking device used exclusively to comply with the re-
13 quirements of section 301(a)(3)) in an election for Federal
14 office may submit an application to the Commission for
15 testing and certification under this section.

16 “(b) APPLICATION, ASSIGNMENT, AND TESTING.—

17 “(1) IN GENERAL.—An application under sub-
18 section (a) shall be submitted not later than 18
19 months before the date of the election for Federal
20 office in which the ballot marking device is intended
21 to be used and shall contain such information as the
22 Commission requires.

23 “(2) ASSIGNMENT.—Upon receipt of an appli-
24 cation for testing under this section, the Commission
25 shall contract with a qualified independent user ex-

1 perience research laboratory for the testing of
2 whether the ballot marking device intended to be
3 used by the State or jurisdiction meets the require-
4 ments of section 301(a)(12)(B).

5 “(3) REQUIREMENTS FOR TESTING.—Any con-
6 tract described in paragraph (2) shall require the
7 qualified independent user experience research lab-
8 oratory to—

9 “(A) not later than 30 days before testing
10 begins, submit to the Commission for approval
11 the protocol for the simulated election scenario
12 used for testing the ballot marking device;

13 “(B) use only protocols approved by the
14 Commission in conducting such testing; and

15 “(C) submit to the Commission a report on
16 the results of the testing.

17 “(4) QUALIFIED INDEPENDENT USER EXPERI-
18 ENCE RESEARCH LABORATORY.—For purposes of
19 this section:

20 “(A) IN GENERAL.—The term ‘qualified
21 independent user experience research labora-
22 tory’ means a laboratory accredited under this
23 subsection by the Election Assistance Commis-
24 sion in accordance with standards determined
25 by the Commission, in consultation with the Di-

1 rector of the National Institute of Standards
2 and Technology and the Secretary of Homeland
3 Security.

4 “(B) CRITERIA.—A laboratory shall not be
5 accredited under this subsection unless such
6 laboratory demonstrates that—

7 “(i) no employee of, or individual with
8 an ownership in, such laboratory has, or
9 has had during the 5 preceding years, any
10 financial relationship with a manufacturer
11 of voting systems; and

12 “(ii) any group of individuals con-
13 ducting tests under this section collectively
14 meet the following qualifications:

15 “(I) Experience designing and
16 running user research studies and ex-
17 periments using both qualitative and
18 quantitative methodologies.

19 “(II) Experience with voting sys-
20 tems.

21 “(c) REVIEW BY INDEPENDENT BOARD.—

22 “(1) IN GENERAL.—The Commission shall sub-
23 mit for approval to an independent review board es-
24 tablished under paragraph (3) the following:

1 “(A) Any protocol submitted to the Com-
2 mission under subsection (b)(3)(A).

3 “(B) Any report submitted to the Commis-
4 sion under subsection (b)(3)(C).

5 “(2) FINAL APPROVAL.—Not later than the
6 date that is 12 months before the date of the elec-
7 tion for Federal office in which a State or jurisdic-
8 tion intends to use the ballot marking device, the
9 independent review board shall report to the Com-
10 mission on whether it has approved a report sub-
11 mitted under paragraph (1)(B).

12 “(3) INDEPENDENT REVIEW BOARD.—

13 “(A) IN GENERAL.—An independent re-
14 view board established under this paragraph
15 shall be composed of five independent scientists
16 appointed by the Commission, in consultation
17 with the Director of the National Institute of
18 Standards and Technology.

19 “(B) QUALIFICATIONS.—The members of
20 the independent review board—

21 “(i) shall have expertise and relevant
22 peer-reviewed publications in the following
23 fields: cognitive psychology, experimental
24 design, statistics, and user experience re-
25 search and testing; and

1 “(ii) may not have, or have had dur-
2 ing the 5 preceding years, any financial re-
3 lationship with a manufacturer of voting
4 systems.

5 “(4) PUBLICATION.—The Commission shall
6 make public—

7 “(A) any protocol approved under this sub-
8 section;

9 “(B) any report submitted under sub-
10 section (b)(3)(C); and

11 “(C) any determination made by an inde-
12 pendent review board under paragraph (2).

13 “(d) CERTIFICATION.—If—

14 “(1) a ballot marking device is determined by
15 the qualified independent user experience research
16 laboratory to meet the requirements of section
17 301(a)(12); and

18 “(2) the report submitted under subsection
19 (b)(3)(C) is approved by a majority of the members
20 of the independent review board under subsection
21 (d)(2),

22 then the Commission shall certify the ballot marking de-
23 vice.

24 “(e) PROHIBITION ON FEES.—The Commission may
25 not charge any fee to a State or jurisdiction, a developer

1 or manufacturer of a ballot marking device, or any other
 2 person in connection with testing and certification under
 3 this section.”.

4 (B) CONFORMING AMENDMENTS.—

5 (i) Section 202(2) of the Help Amer-
 6 ica Vote Act of 2002 (52 U.S.C. 20922(2))
 7 is amended by inserting “and ballot mark-
 8 ing devices” after “hardware and soft-
 9 ware”).

10 (ii) The heading for subtitle B of title
 11 II of such Act is amended by inserting at
 12 the end “; **Ballot Marking Devices**”.

13 (iii) The table of contents of such Act
 14 is amended—

15 (I) by inserting “; Ballot Mark-
 16 ing Devices” at the end of the item
 17 relating to subtitle B of title II; and

18 (II) by inserting after the item
 19 related to section 231 the following:

“Sec. 232. Testing and certification of ballot marking devices.”.

20 **SEC. 202. TESTING OF EXISTING VOTING SYSTEMS TO EN-**
 21 **SURE COMPLIANCE WITH ELECTION CYBER-**
 22 **SECURITY GUIDELINES AND OTHER GUIDE-**
 23 **LINES.**

24 (a) **REQUIRING TESTING OF EXISTING VOTING SYS-**
 25 **TEMS.—**

1 (1) IN GENERAL.—Section 231(a) of the Help
2 America Vote Act of 2002 (52 U.S.C. 20971(a)) is
3 amended by adding at the end the following new
4 paragraph:

5 “(3) TESTING TO ENSURE COMPLIANCE WITH
6 GUIDELINES.—

7 “(A) TESTING.—Not later than 9 months
8 before the date of each regularly scheduled gen-
9 eral election for Federal office, the Commission
10 shall provide for the testing by accredited lab-
11 oratories under this section of the voting system
12 hardware and software which was certified for
13 use in the most recent such election, on the
14 basis of the most recent voting system guide-
15 lines applicable to such hardware or software
16 (including election cybersecurity guidelines)
17 issued under this Act.

18 “(B) DECERTIFICATION OF HARDWARE OR
19 SOFTWARE FAILING TO MEET GUIDELINES.—If,
20 on the basis of the testing described in subpara-
21 graph (A), the Commission determines that any
22 voting system hardware or software does not
23 meet the most recent guidelines applicable to
24 such hardware or software issued under this

1 Act, the Commission shall decertify such hard-
2 ware or software.”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply with respect to the reg-
5 ularly scheduled general election for Federal office
6 held in November 2020 and each succeeding regu-
7 larly scheduled general election for Federal office.

8 (b) ISSUANCE OF CYBERSECURITY GUIDELINES BY
9 TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE.—
10 Section 221(b) of the Help America Vote Act of 2002 (52
11 U.S.C. 20961(b)) is amended by adding at the end the
12 following new paragraph:

13 “(3) ELECTION CYBERSECURITY GUIDE-
14 LINES.—Not later than 6 months after the date of
15 the enactment of the Securing America’s Federal
16 Elections Act, the Development Committee shall
17 issue election cybersecurity guidelines, including
18 standards and best practices for procuring, main-
19 taining, testing, operating, and updating election
20 systems to prevent and deter cybersecurity inci-
21 dents.”.

1 **SEC. 203. REQUIRING USE OF SOFTWARE AND HARDWARE**
2 **FOR WHICH INFORMATION IS DISCLOSED BY**
3 **MANUFACTURER.**

4 (a) REQUIREMENT.—Section 301(a) of the Help
5 America Vote Act of 2002 (52 U.S.C. 21081(a)), as
6 amended by sections 104, 105, 201(a), 201(b), and
7 201(c), is amended by adding at the end the following new
8 paragraph:

9 “(13) REQUIRING USE OF SOFTWARE AND
10 HARDWARE FOR WHICH INFORMATION IS DISCLOSED
11 BY MANUFACTURER.—

12 “(A) REQUIRING USE OF SOFTWARE FOR
13 WHICH SOURCE CODE IS DISCLOSED BY MANU-
14 FACTURER.—

15 “(i) IN GENERAL.—In the operation
16 of voting systems in an election for Federal
17 office, a State may only use software for
18 which the manufacturer makes the source
19 code (in the form in which will be used at
20 the time of the election) publicly available
21 online under a license that grants a world-
22 wide, royalty-free, non-exclusive, perpetual,
23 sub-licensable license to all intellectual
24 property rights in such source code, except
25 that the manufacturer may prohibit a per-
26 son who obtains the software from using

1 the software in a manner that is primarily
2 intended for or directed toward commercial
3 advantage or private monetary compensa-
4 tion that is unrelated to carrying out legiti-
5 mate research or cybersecurity activity.

6 “(ii) EXCEPTIONS.—Clause (i) does
7 not apply with respect to—

8 “(I) widely used operating system
9 software which is not specific to vot-
10 ing systems and for which the source
11 code or baseline functionality is not
12 altered; or

13 “(II) widely used cybersecurity
14 software which is not specific to vot-
15 ing systems and for which the source
16 code or baseline functionality is not
17 altered.

18 “(B) REQUIRING USE OF HARDWARE FOR
19 WHICH INFORMATION IS DISCLOSED BY MANU-
20 FACTURER.—

21 “(i) REQUIRING DISCLOSURE OF
22 HARDWARE.—A State may not use a vot-
23 ing system in an election for Federal office
24 unless the manufacturer of the system
25 publicly discloses online the identification

1 of the hardware used to operate the sys-
2 tem.

3 “(ii) ADDITIONAL DISCLOSURE RE-
4 QUIREMENTS FOR CUSTOM OR ALTERED
5 HARDWARE.—To the extent that the hard-
6 ware used to operate a voting system or
7 any component thereof is not widely used,
8 or is widely used but is altered, the State
9 may not use the system in an election for
10 Federal office unless—

11 “(I) the manufacturer of the sys-
12 tem publicly discloses online the com-
13 ponents of the hardware, the design of
14 such components, and how such com-
15 ponents are connected in the oper-
16 ation of the system; and

17 “(II) the manufacturer makes
18 the design (in the form which will be
19 used at the time of the election) pub-
20 licly available online under a license
21 that grants a worldwide, royalty-free,
22 non-exclusive, perpetual, sub-licens-
23 able license to all intellectual property
24 rights in the design of the hardware
25 or the component, except that the

1 manufacturer may prohibit a person
2 who obtains the design from using the
3 design in a manner that is primarily
4 intended for or directed toward com-
5 mercial advantage or private monetary
6 compensation that is unrelated to car-
7 rying out legitimate research or cyber-
8 security activity.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply with respect to elections for
11 Federal office held in 2020 or any succeeding year.

12 **SEC. 204. TREATMENT OF ELECTRONIC POLL BOOKS AS**
13 **PART OF VOTING SYSTEMS.**

14 (a) INCLUSION IN DEFINITION OF VOTING SYS-
15 TEM.—Section 301(b) of the Help America Vote Act of
16 2002 (52 U.S.C. 21081(b)) is amended—

17 (1) in the matter preceding paragraph (1), by
18 striking “this section” and inserting “this Act”;

19 (2) by striking “and” at the end of paragraph
20 (1);

21 (3) by redesignating paragraph (2) as para-
22 graph (3); and

23 (4) by inserting after paragraph (1) the fol-
24 lowing new paragraph:

1 “(2) any electronic poll book used with respect
2 to the election; and”.

3 (b) DEFINITION.—Section 301 of such Act (52
4 U.S.C. 21081) is amended—

5 (1) by redesignating subsections (c) and (d) as
6 subsection (d) and (e); and

7 (2) by inserting after subsection (b) the fol-
8 lowing new subsection:

9 “(c) ELECTRONIC POLL BOOK DEFINED.—In this
10 Act, the term ‘electronic poll book’ means the total com-
11 bination of mechanical, electromechanical, or electronic
12 equipment (including the software, firmware, and docu-
13 mentation required to program, control, and support the
14 equipment) that is used—

15 “(1) to retain the list of registered voters at a
16 polling location, or vote center, or other location at
17 which voters cast votes in an election for Federal of-
18 fice; and

19 “(2) to identify registered voters who are eligi-
20 ble to vote in an election.”.

21 (c) EFFECTIVE DATE.—Section 301(e) of such Act
22 (52 U.S.C. 21081(e)), as amended by section 107 and as
23 redesignated by subsection (b), is amended—

24 (1) in paragraph (1), by striking “paragraph
25 (2)” and inserting “paragraphs (2) and (3)”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(3) SPECIAL RULE FOR ELECTRONIC POLL
4 BOOKS.—In the case of the requirements of sub-
5 section (c) (relating to electronic poll books), each
6 State and jurisdiction shall be required to comply
7 with such requirements on or after January 1,
8 2020.”.

9 **SEC. 205. PRE-ELECTION REPORTS ON VOTING SYSTEM**
10 **USAGE.**

11 (a) REQUIRING STATES TO SUBMIT REPORTS.—Title
12 III of the Help America Vote Act of 2002 (52 U.S.C.
13 21081 et seq.) is amended by inserting after section 301
14 the following new section:

15 **“SEC. 301A. PRE-ELECTION REPORTS ON VOTING SYSTEM**
16 **USAGE.**

17 “(a) REQUIRING STATES TO SUBMIT REPORTS.—
18 Not later than 120 days before the date of each regularly
19 scheduled general election for Federal office, the chief
20 State election official of a State shall submit a report to
21 the Commission containing a detailed voting system usage
22 plan for each jurisdiction in the State which will admin-
23 ister the election, including a detailed plan for the usage
24 of electronic poll books and other equipment and compo-
25 nents of such system.

1 **TITLE III—USE OF VOTING MA-**
2 **CHINES MANUFACTURED IN**
3 **THE UNITED STATES**

4 **SEC. 301. USE OF VOTING MACHINES MANUFACTURED IN**
5 **THE UNITED STATES.**

6 Section 301(a) of the Help America Vote Act of 2002
7 (52 U.S.C. 21081(a)), as amended by sections 104, 105,
8 201(a), 201(b), 201(c), and 203(a), is further amended
9 by adding at the end the following new paragraph:

10 “(14) VOTING MACHINE REQUIREMENTS.—By
11 not later than the date of the regularly scheduled
12 general election for Federal office occurring in No-
13 vember 2022, each State shall seek to ensure that
14 any voting machine used in such election and in any
15 subsequent election for Federal office is manufac-
16 tured in the United States.”.

17 **TITLE IV—SEVERABILITY**

18 **SEC. 401. SEVERABILITY.**

19 If any provision of this Act or amendment made by
20 this Act, or the application of a provision or amendment
21 to any person or circumstance, is held to be unconstitu-
22 tional, the remainder of this Act and amendments made
23 by this Act, and the application of the provisions and

- 1 amendment to any person or circumstance, shall not be
- 2 affected by the holding.

○