

**AMENDMENT TO H.R. 4555**

**OFFERED BY MR. MORELLE OF NEW YORK**

Page 1, line 1, strike “**TITLE**” and insert “**TITLE;  
FINDINGS**”.

Page 1, line 2, strike “This Act” and insert “(a)  
SHORT TITLE.—This Act”.

Page 1, after line 3, insert the following:

- 1 (b) FINDINGS.—Congress finds the following:
- 2 (1) Following the 2020 presidential election,
- 3 false claims were made about the results in multiple
- 4 states and across the country.
- 5 (2) These false claims of election fraud or mal-
- 6 feasance led to several attempted and actual fraudu-
- 7 lent post-election audits in an attempt to cast doubt
- 8 on the 2020 election results.
- 9 (3) Numerous hand-counts and forensic audits
- 10 conducted in Arizona found no irregularities or dis-
- 11 crepancies, and did not change the results of the
- 12 presidential election.
- 13 (4) In 2021, despite the overwhelming evidence
- 14 of President Biden’s victory, and without proof of
- 15 any fraud, allies of former President Trump in the

1 Arizona Senate hired an organization known as  
2 Cyber Ninjas to conduct another audit of the 2020  
3 presidential election in Arizona's Maricopa County.

4 (5) Cyber Ninjas had no experience auditing  
5 elections, though the company's CEO had spread  
6 conspiracy theories and election disinformation on  
7 the Internet.

8 (6) The audit cost Arizona taxpayers millions of  
9 dollars, even though post-election audits had already  
10 been conducted in the State.

11 (7) In 2021, third party vendors without experi-  
12 ence in election auditing contacted several counties  
13 in Colorado offering to conduct audits in the State,  
14 despite the fact that Colorado law already mandates  
15 post-election risk-limiting audits.

16 (8) The post-2020 election risk-limiting audit in  
17 Colorado found that there was no significant fraud  
18 or irregularities that would have altered the outcome  
19 of any election in Colorado.

20 (9) Attempts to conduct deceptive or disruptive  
21 audits in Colorado forced the Secretary of State of  
22 Colorado, in order to protect the integrity of Colo-  
23 rado elections, to issue rules prohibiting sham elec-  
24 tion audits from being conducted in the State.

1           (10) In 2021, election deniers attempted to  
2           force Michigan to conduct a sham post-election audit  
3           similar to the one conducted in Arizona, despite no  
4           evidence showing significant fraud or irregularities  
5           in the State.

6           (11) In 2022, the Michigan Bureau of Elections  
7           confirmed that its official post-election audit con-  
8           firmed that President Biden had carried the State in  
9           2020.

10          (12) Risk-limiting audits are considered the  
11          “gold standard of post-election audits” and  
12          “[p]olitical scientists, statisticians, and election-secu-  
13          rity experts have all lauded the benefits of post-elec-  
14          tion, risk-limiting audits.” See Christopher Deluzio,  
15          A Smart and Effective Way to Safeguard Elections,  
16          Brennan Ctr. for Just. (July 25, 2018).

17          (13) Following the 2020 presidential election,  
18          the Georgia Secretary of State selected the presi-  
19          dential contest for a statewide risk-limiting audit,  
20          which confirmed that the original machine count ac-  
21          curately portrayed the winner of the election.

22          (14) Post-election audits are a necessary and  
23          critical part of the election administration process  
24          and bolster confidence in the outcome of an election;  
25          however, the 2020 election illustrated how this proc-

1       ess can be abused by those willing to deny the out-  
2       come of an election, spread false information about  
3       our electoral process, and profit from the spread of  
4       lies and misinformation.

5           (15) Congress has the duty to ensure that any  
6       post-election audit which utilizes taxpayer dollars  
7       meets the highest standards of rigor and integrity,  
8       and that taxpayer dollars are not used to further  
9       election denialism.

      In the matter proposed to be inserted in section  
251(b)(1) of the Help America Vote Act of 2002 by sec-  
tion 2(a) of the bill, strike “paragraph (4)” and insert  
“paragraph (4) and subsection (g).”

      Add at the end the following:

10 **SEC. 3. REQUIREMENTS FOR USE OF PAYMENTS TO CON-**  
11 **DUCT AUDITS.**

12       (a) **REQUIREMENTS.**—Section 251 of the Help Amer-  
13 ica Vote Act of 2002 (52 U.S.C. 21001) is amended by  
14 adding at the end the following new subsection:

15       “(g) **REQUIREMENTS FOR USE OF PAYMENTS TO**  
16 **CONDUCT AUDITS.**—

17           “(1) **LIMITATIONS ON PARTICIPATION OF**  
18 **THIRD PARTIES.**—A State may not use a require-  
19 ments payment to conduct any audit described in

1 subsection (b)(1) if the State permits a third party,  
2 including a vendor, to have access to voting systems  
3 or other election equipment, voter information, bal-  
4 lots, or voter registration systems as part of con-  
5 ducting the audit, unless—

6 “(A) the appropriate State or local election  
7 official authorizes the third party to have such  
8 access;

9 “(B) the audit is conducted with full trans-  
10 parency to the public on the basis of a com-  
11 prehensive plan established and made public  
12 prior to the conduct of the audit;

13 “(C) the State implements procedures to  
14 ensure the proper chain of custody and security  
15 of any equipment and supplies used to conduct  
16 the audit; and

17 “(D) the State implements procedures to  
18 protect voter privacy in the conduct of the  
19 audit..

20 “(2) SPECIAL REQUIREMENTS FOR CON-  
21 DUCTING AUDITS OF OUTCOMES OF ELECTIONS.—

22 “(A) AUDIT REQUIREMENTS.—A State  
23 may not use a requirements payment to con-  
24 duct a post-election audit of the outcome of an

1 election unless the audit is conducted in accord-  
2 ance with the requirements of this paragraph.

3 “(B) RULES AND PROCEDURES.—

4 “(i) IN GENERAL.—Prior to con-  
5 ducting the audit, the chief State election  
6 official of the State shall establish rules  
7 and procedures for conducting the audits.

8 “(ii) MATTERS INCLUDED.—The rules  
9 and procedures established under clause (i)  
10 shall include the following:

11 “(I) Rules and procedures for en-  
12 suring the security of ballots and doc-  
13 umenting that prescribed procedures  
14 were followed.

15 “(II) Rules and procedures for  
16 ensuring the accuracy of ballot mani-  
17 fests produced by jurisdictions.

18 “(III) Rules and procedures for  
19 governing the format of ballot mani-  
20 fests and other data involved in post-  
21 election audits.

22 “(IV) Methods to ensure that  
23 any cast vote records used in a post-  
24 election audit are those used by the  
25 voting system to tally the results of

1 the election contest sent to the chief  
2 State election official of the State and  
3 made public.

4 “(V) Rules and procedures for  
5 the random selection of ballots to be  
6 inspected manually during each audit.

7 “(VI) Rules and procedures for  
8 the calculations and other methods to  
9 be used in the audit and to determine  
10 whether and when the audit of each  
11 election contest is complete.

12 “(VII) Rules and procedures for  
13 testing any software used to conduct  
14 post-election audits.

15 “(C) PUBLIC REPORT.—

16 “(i) IN GENERAL.—After the comple-  
17 tion of the post-election audit and at least  
18 5 days before the election contest is cer-  
19 tified by the State, the State shall make  
20 public and submit to the Commission a re-  
21 port on the results of the audit, together  
22 with such information as necessary to con-  
23 firm that the audit was conducted prop-  
24 erly.

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

5           “(iii) PROTECTION OF ANONYMITY OF  
6           VOTES.—Information and data published  
7           by the State under this subparagraph shall  
8           not compromise the anonymity of votes.

9           “(iv) REPORT MADE AVAILABLE BY  
10          COMMISSION.—After receiving any report  
11          submitted under clause (i), the Commis-  
12          sion shall make such report available on its  
13          website.

14          “(3) DEFINITIONS.—In this subsection:

15               “(A) POST-ELECTION AUDIT.—The term  
16               ‘post-election audit’ means, with respect to any  
17               election contest, a post-election process that—

18                       “(i) has a probability of at least 95  
19                       percent of correcting the reported outcome  
20                       if the reported outcome is not the correct  
21                       outcome;

22                       “(ii) will not change the outcome if  
23                       the reported outcome is the correct out-  
24                       come; and



1                   “(iii) involves a manual adjudication  
2                   of voter intent from some or all of the bal-  
3                   lots validly cast in the election contest.

4                   “(B) REPORTED OUTCOME; CORRECT OUT-  
5                   COME; OUTCOME.—

6                   “(i) REPORTED OUTCOME.—The term  
7                   ‘reported outcome’ means the outcome of  
8                   an election contest which is determined ac-  
9                   cording to the canvass and which will be-  
10                  come the official, certified outcome unless  
11                  it is revised by an audit, recount, or other  
12                  legal process.

13                  “(ii) CORRECT OUTCOME.—The term  
14                  ‘correct outcome’ means the outcome that  
15                  would be determined by a manual adju-  
16                  dication of voter intent for all votes validly  
17                  cast in the election contest.

18                  “(iii) OUTCOME.—The term ‘outcome’  
19                  means the winner or set of winners of an  
20                  election contest.

21                  “(C) MANUAL ADJUDICATION OF VOTER  
22                  INTENT.—The term ‘manual adjudication of  
23                  voter intent’ means direct inspection and deter-  
24                  mination by humans, without assistance from  
25                  electronic or mechanical tabulation devices, of

1 the ballot choices marked by voters on each  
2 voter-verifiable paper record.

3 “(D) BALLOT MANIFEST.—The term ‘bal-  
4 lot manifest’ means a record maintained by  
5 each jurisdiction that—

6 “(i) is created without reliance on any  
7 part of the voting system used to tabulate  
8 votes;

9 “(ii) functions as a sampling frame  
10 for conducting a post-election audit; and

11 “(iii) accounts for all ballots validly  
12 cast regardless of how they were tabulated  
13 and includes a precise description of the  
14 manner in which the ballots are physically  
15 stored, including the total number of phys-  
16 ical groups of ballots, the numbering sys-  
17 tem for each group, a unique label for each  
18 group, and the number of ballots in each  
19 such group.”.

20 (b) STUDY ON POST-ELECTION AUDIT BEST PRAC-  
21 TICES.—

22 (1) IN GENERAL.—The Director of the National  
23 Institute of Standards and Technology shall estab-  
24 lish an advisory committee to study post-election au-

1       dits and establish best practices for post-election  
2       audit methodologies and procedures.

3           (2) **ADVISORY COMMITTEE.**—The Director of  
4       the National Institute of Standards and Technology  
5       shall appoint individuals to the advisory committee  
6       and secure the representation of—

7           (A) State and local election officials;

8           (B) individuals with experience and exper-  
9       tise in election security;

10          (C) individuals with experience and exper-  
11       tise in post-election audit procedures; and

12          (D) individuals with experience and exper-  
13       tise in statistical methods.

