



Jon Husted
Ohio Secretary of State

180 East Broad Street, 16th Floor
Columbus, Ohio 43215
Tel: (877) 767-6446 Fax: (614) 644-0649
www.OhioSecretaryofState.gov

September 29, 2016

The Honorable Mitch McConnell
United States Senator for Kentucky
Majority Leader, United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Paul Ryan
The Speaker of the House of Representatives
The Capitol, H-232
Washington, DC 20515

Dear Senator McConnell and Speaker Ryan,

On August 3, 2016, Secretary Jeh Johnson of the U.S. Department of Homeland Security (DHS) announced an Administration review that could result in the designation of State election systems as “critical infrastructure” under the Homeland Security Act of 2002. This would be an unprecedented overstep by the federal government into the States’ constitutional duty to administer elections.

As recently underscored in an open letter from the National Association of Secretaries of State (NASS), “States are on high alert and will continue to vigilantly monitor their election systems for ongoing cyber threats and vulnerabilities. [...] Our collective imperative must be to ensure that actions to protect our elections do not create undue alarm or mistrust that will threaten voters’ confidence in the outcomes.”¹ Instead of building voter confidence, I can think of few actions that would undermine confidence in elections more than a federal intervention of this magnitude.

The bipartisan leadership of the United States Senate and House of Representatives has recently affirmed their opposition to declaring States’ elections-related IT systems to be critical infrastructure. I urge you to take an additional, necessary step: clarify in law that any such federal takeover of state elections and voting systems is not authorized under the Homeland Security Act. This would eliminate any ambiguity or uncertainty regarding the question in the future.

Under the U.S. Constitution the right and responsibility to administer elections is reserved to the States. Any attempt to usurp these duties in the name of security is a step too far.

There is, however, a proper role for collaboration between the federal and state governments,

¹ <http://www.nass.org/news-releases-and-statements/release-nass-open-letter-to-congress-cybersecurity-elections/>.

including DHS, to further ensure the security of our elections. In Ohio, we have proactively sought the assistance of state and federal officials to assist us in making physical and cybersecurity preparations for the upcoming elections. And, as NASS suggested, “[I]et’s explore how an investment in voting technology can benefit the security of our nation’s election process for the long-term, including cyber security Besides asking what the next generation of voting technology will look like and how it will be secured, we must also determine how it will be adequately funded.”

I am not suggesting that Secretary Johnson or DHS has anything other than honorable intentions and a sincere desire to ensure our nation’s elections are secure.

Indeed, Secretary Johnson has since clarified that DHS will only study the matter (in concert with organizations like NASS) and “downplayed concerns about malicious hackers influencing U.S. elections.”² But one day, this federal power could be used for far less honorable purposes or without authorization from state elections officials.

The Constitution gives the States the right to administer federal elections as a check on the power of the federal government. If federal law can be used to take control of voting machines and voter databases, then that law must be changed to restore the balance that was intended in the Constitution and has served America well.

Sincerely,



Jon Husted
Ohio Secretary of State

cc: The Honorable Sherrod Brown, United States Senator
The Honorable Rob Portman, United States Senator
The Honorable Marcy Kaptur, Member of Congress
The Honorable Steve Chabot, Member of Congress
The Honorable Pat Tiberi, Member of Congress
The Honorable Tim Ryan, Member of Congress
The Honorable Michael Turner, Member of Congress
The Honorable Jim Jordan, Member of Congress
The Honorable Bob Latta, Member of Congress
The Honorable Marcia Fudge, Member of Congress
The Honorable Bob Gibbs, Member of Congress
The Honorable Bill Johnson, Member of Congress
The Honorable Jim Renacci, Member of Congress
The Honorable Steve Stivers, Member of Congress
The Honorable Joyce Beatty, Member of Congress
The Honorable David Joyce, Member of Congress
The Honorable Brad Wenstrup, Member of Congress
The Honorable Warren Davidson, Member of Congress

² <http://thehill.com/policy/national-security/294956-homeland-head-very-difficult-for-hackers-to-skew-vote>