

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

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

**S. 2593**

To protect the administration of Federal elections against  
cybersecurity threats.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. BLUNT (for himself and Ms.  
KLOBUCHAR)

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
8 TEES.—The term “appropriate congressional com-  
9 mittees” means—

10 (A) the Committee on Rules and Adminis-

11 tration, the Committee on Armed Services, the

1 Committee on Homeland Security and Govern-  
2 mental Affairs, the Committee on Appropria-  
3 tions, the Select Committee on Intelligence, the  
4 majority leader, and the minority leader of the  
5 Senate; and

6 (B) the Committee on House Administra-  
7 tion, the Committee on Armed Services, the  
8 Committee on Homeland Security, the Com-  
9 mittee on Appropriations, the Permanent Select  
10 Committee on Intelligence, the Speaker, and the  
11 minority leader of the House of Representa-  
12 tives.

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

15 (A) the Department of Commerce, includ-  
16 ing the National Institute of Standards and  
17 Technology;

18 (B) the Department of Defense;

19 (C) the Department, including the compo-  
20 nent of the Department that reports to the  
21 Under Secretary responsible for overseeing crit-  
22 ical infrastructure protection, cybersecurity, and  
23 other related programs of the Department;

24 (D) the Department of Justice, including  
25 the Federal Bureau of Investigation;

1 (E) the Commission; and

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

9 (3) COMMISSION.—The term “Commission”  
10 means the Election Assistance Commission.

11 (4) CYBERSECURITY INCIDENT.—The term “cy-  
12 bersecurity incident” has the meaning given the  
13 term “incident” in section 227 of the Homeland Se-  
14 curity Act of 2002 (6 U.S.C. 148).

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

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

22 (7) ELECTION CYBERSECURITY INCIDENT.—  
23 The term “election cybersecurity incident” means  
24 any cybersecurity incident involving an election sys-  
25 tem.

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

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

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

17           (11) ELECTION SYSTEM.—The term “election  
18 system” means a voting system, an election manage-  
19 ment system, a voter registration website or data-  
20 base, an electronic pollbook, a system for tabulating  
21 or reporting election results, an election agency com-  
22 munications system, or any other information sys-  
23 tem (as defined in section 3502 of title 44, United  
24 States Code) that the Secretary, in consultation with  
25 the Commission, identifies as central to the manage-

1       ment, support, or administration of a Federal elec-  
2       tion.

3               (12) FEDERAL ELECTION.—The term “Federal  
4       election” means a general, special, primary, or run-  
5       off election for the office of President or Vice Presi-  
6       dent, or of a Senator or Representative in, or Dele-  
7       gate or Resident Commissioner to, the Congress that  
8       is conducted by an election agency.

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

12              (14) SECRETARY.—The term “Secretary”  
13       means the Secretary of Homeland Security.

14              (15) SIGNIFICANT CYBERSECURITY INCI-  
15       DENT.—The term “significant cybersecurity inci-  
16       dent” is a cybersecurity incident that is, or a group  
17       of related cybersecurity incidents that together are,  
18       likely to result in demonstrable harm to the national  
19       security interests, foreign relations, or economy of  
20       the United States or to the public confidence, civil  
21       liberties, or public health and safety of the American  
22       people.

23              (16) SIGNIFICANT ELECTION CYBERSECURITY  
24       INCIDENT.—The term “significant election cyberse-

1       curity incident” means any significant cybersecurity  
2       incident involving an election system.

3           (17) STATE.—The term “State” means each of  
4       the several States of the United States, the District  
5       of Columbia, the Commonwealth of Puerto Rico,  
6       Guam, American Samoa, the Commonwealth of  
7       Northern Mariana Islands, and the United States  
8       Virgin Islands.

9           (18) STATE ELECTION OFFICIAL.—The term  
10       “State election official” means—

11           (A) the chief State election official of a  
12       State designated under section 10 of the Na-  
13       tional Voter Registration Act of 1993 (52  
14       U.S.C. 20509); or

15           (B) in the Commonwealth of Puerto Rico,  
16       Guam, American Samoa, the Commonwealth of  
17       Northern Mariana Islands, and the United  
18       States Virgin Islands, a chief State election of-  
19       ficial designated by the State for purposes of  
20       this Act.

21           (19) STATE LAW ENFORCEMENT OFFICER.—  
22       The term “State law enforcement officer” means the  
23       head of a State law enforcement agency, such as an  
24       attorney general.

1           (20) VOTING SYSTEM.—The term “voting sys-  
2           tem” has the meaning given the term in section  
3           301(b) of the Help America Vote Act of 2002 (52  
4           U.S.C. 21081(b)).

5 **SEC. 3. INFORMATION SHARING.**

6           (a) DESIGNATION OF RESPONSIBLE FEDERAL ENTI-  
7           TY.—The Secretary shall have primary responsibility with-  
8           in the Federal Government for sharing information about  
9           election cybersecurity incidents, threats, and  
10          vulnerabilities with Federal entities and with election  
11          agencies.

12          (b) PRESUMPTION OF FEDERAL INFORMATION  
13          SHARING TO THE DEPARTMENT.—If a Federal entity re-  
14          ceives information about an election cybersecurity inci-  
15          dent, threat, or vulnerability, the Federal entity shall  
16          promptly share that information with the Department, un-  
17          less the head of the entity (or a Senate-confirmed official  
18          designated by the head) makes a specific determination  
19          in writing that there is good cause to withhold the par-  
20          ticular information.

21          (c) ESTABLISHMENT OF INFORMATION SHARING  
22          PLANS AND PROTOCOLS.—

23                  (1) IN GENERAL.—The Secretary shall establish  
24          and maintain a communication plan and protocols to

1 promptly share information related to election cyber-  
2 security incidents, threats, and vulnerabilities.

3 (2) CONTENTS.—The communication plan and  
4 protocols required to be established under paragraph  
5 (1) shall require that the Department promptly  
6 share appropriate information with—

7 (A) the appropriate Federal entities;

8 (B) all State election officials;

9 (C) to the maximum extent practicable, all  
10 election agencies that have requested ongoing  
11 updates on election cybersecurity incidents,  
12 threats, or vulnerabilities; and

13 (D) to the maximum extent practicable, all  
14 election agencies that may be affected by the  
15 risks associated with the particular election cy-  
16 bersecurity incident, threat, or vulnerability.

17 (d) DEVELOPMENT OF STATE ELECTION CYBERSE-  
18 CURITY INCIDENT RESPONSE AND COMMUNICATION PLAN  
19 TEMPLATE.—The Secretary shall, in coordination with the  
20 Commission and the Election Infrastructure Government  
21 Coordinating Council, establish a template that a State  
22 may use when establishing a State election cybersecurity  
23 incident response and communication plan.

24 (e) TECHNICAL RESOURCES FOR ELECTION AGEN-  
25 CIES.—In sharing information about election cybersecu-



1 rity incidents, threats, and vulnerabilities with election  
2 agencies under this section, the Department shall, to the  
3 maximum extent practicable—

4 (1) provide cyber threat indicators and defen-  
5 sive measures (as such terms are defined in section  
6 102 of the Cybersecurity Information Sharing Act of  
7 2015 (6 U.S.C. 1501)), such as recommended tech-  
8 nical instructions, that assist with preventing, miti-  
9 gating, and detecting threats or vulnerabilities;

10 (2) identify resources available for protecting  
11 against, detecting, responding to, and recovering  
12 from associated risks, including technical capabilities  
13 of the Department; and

14 (3) provide guidance about further sharing of  
15 the information.

16 (f) DECLASSIFICATION REVIEW.—If the Department  
17 receives classified information about an election cybersecu-  
18 rity incident, threat, or vulnerability—

19 (1) the Secretary shall promptly submit a re-  
20 quest for expedited declassification review to the  
21 head of a Federal entity with authority to conduct  
22 the review, consistent with Executive Order 13526  
23 or any successor order, unless the Secretary deter-  
24 mines that such a request would be harmful to na-  
25 tional security; and

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

3           (g) ROLE OF NON-FEDERAL ENTITIES.—The De-  
4 partment may share information about election cybersecu-  
5 rity incidents, threats, and vulnerabilities through a non-  
6 Federal entity.

7           (h) PROTECTION OF PERSONAL AND CONFIDENTIAL  
8 INFORMATION.—

9           (1) IN GENERAL.—If a Federal entity shares or  
10 receives information relating to an election cyberse-  
11 curity incident, threat, or vulnerability, the Federal  
12 entity shall, within Federal information systems (as  
13 defined in section 3502 of title 44, United States  
14 Code) of the entity—

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

20                   (B) notwithstanding any other provision of  
21 law, prohibit the retention of personal informa-  
22 tion of voters, such as—

23                           (i) voter registration information, in-  
24 cluding physical address, email address,  
25 and telephone number;

1 (ii) political party affiliation or reg-  
2 istration information; and

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

5 (C) protect confidential Federal and State  
6 information from unauthorized disclosure.

7 (2) EXEMPTION FROM DISCLOSURE.—Informa-  
8 tion relating to an election cybersecurity incident,  
9 threat, or vulnerability, such as personally identifi-  
10 able information of reporting persons or individuals  
11 affected by such incident, threat, or vulnerability,  
12 shared by or with the Federal Government shall  
13 be—

14 (A) deemed voluntarily shared information  
15 and exempt from disclosure under section 552  
16 of title 5, United States Code, and any State,  
17 tribal, or local provision of law requiring disclo-  
18 sure of information or records; and

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

24 (i) DUTY TO ASSESS POSSIBLE CYBERSECURITY IN-  
25 CIDENTS.—

1           (1) ELECTION AGENCIES.—If an election agen-  
2           cy becomes aware of the possibility of an election cy-  
3           bersecurity incident, the election agency shall  
4           promptly—

5                   (A) assess whether an election cybersecu-  
6                   rity incident occurred;

7                   (B) notify the State election official in ac-  
8                   cordance with any notification process estab-  
9                   lished by the State election official; and

10                  (C) notify the Department in accordance  
11                  with subsection (j).

12           (2) ELECTION SERVICE PROVIDERS.—If an  
13           election service provider becomes aware of the possi-  
14           bility of an election cybersecurity incident, the elec-  
15           tion service provider shall promptly—

16                   (A) assess whether an election cybersecu-  
17                   rity incident occurred; and

18                   (B) notify the relevant election agencies in  
19                   accordance with subsection (k).

20           (j) 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 in accordance with any notification proc-  
4 ess established by the Secretary.

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

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

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

18 (l) CONTENT OF NOTIFICATION BY ELECTION AGEN-  
19 CIES.—The notifications required under subsections (i)(1)  
20 and (j)—

21 (1) shall include an initial assessment of—

22 (A) the date, time, and time zone when the  
23 election cybersecurity incident began, if known;

24 (B) the date, time, and time zone when the  
25 election cybersecurity incident was detected;

1 (C) the date, time, and duration of the  
2 election cybersecurity incident;

3 (D) the circumstances of the election cy-  
4 bersecurity incident, including the specific elec-  
5 tion systems believed to have been accessed and  
6 information acquired; and

7 (E) planned and implemented technical  
8 measures to respond to and recover from the  
9 incident; and

10 (2) shall be updated with additional material in-  
11 formation, including technical data, as it becomes  
12 available.

13 (m) SECURITY CLEARANCE.—Not later than 30 days  
14 after the date of enactment of this Act, the Secretary—

15 (1) shall establish an expedited process for pro-  
16 viding appropriate security clearance to State elec-  
17 tion officials and designated technical personnel em-  
18 ployed by State election agencies;

19 (2) shall establish an expedited process for pro-  
20 viding appropriate security clearance to members of  
21 the Commission and designated technical personnel  
22 employed by the Commission; and

23 (3) shall establish a process for providing ap-  
24 propriate security clearance to personnel at other  
25 election agencies.

1           (n) PROTECTION FROM LIABILITY.—Nothing in this  
2 Act may be construed to provide a cause of action against  
3 a State, unit of local government, or an election service  
4 provider.

5           (o) ASSESSMENT OF INTER-STATE INFORMATION  
6 SHARING ABOUT ELECTION CYBERSECURITY.—

7           (1) IN GENERAL.—The Secretary and the Com-  
8 mission, in coordination with the heads of the appro-  
9 priate Federal entities and appropriate officials of  
10 State and local governments, shall conduct an as-  
11 sessment of—

12                   (A) the structure and functioning of the  
13 Elections Infrastructure Information Sharing  
14 and Analysis Center for purposes of election cy-  
15 bersecurity; and

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

18           (2) COMMENT FROM ELECTION AGENCIES.—In  
19 carrying out the assessment required under para-  
20 graph (1), the Secretary and the Commission shall  
21 solicit and consider comments from all State election  
22 agencies.

23           (3) DISTRIBUTION.—The Secretary and the  
24 Commission shall jointly issue the assessment re-  
25 quired under paragraph (1) to—

1 (A) all election agencies known to the De-  
2 partment and the Commission; and

3 (B) the appropriate congressional commit-  
4 tees.

5 (p) CONGRESSIONAL NOTIFICATION.—If an appro-  
6 priate Federal entity has reason to believe that a signifi-  
7 cant election cybersecurity incident has occurred, the enti-  
8 ty shall—

9 (1) not later than 7 calendar days after the  
10 date on which there is a reasonable basis to conclude  
11 that the significant election cybersecurity incident  
12 has occurred, provide notification of the significant  
13 election cybersecurity incident to the appropriate  
14 congressional committees; and

15 (2) update the initial notification under para-  
16 graph (1) within a reasonable period of time after  
17 additional information relating to the significant  
18 election cybersecurity incident is discovered.

19 **SEC. 4. REQUIREMENT FOR THE ESTABLISHMENT OF CY-**  
20 **BERSECURITY INCIDENT RESPONSE PLANS.**

21 (a) IN GENERAL.—Subtitle D of title II of the Help  
22 America Vote Act of 2002 (52 U.S.C. 20901 et seq.) is  
23 amended by adding at the end the following new part:





1 “(A) the voluntary voting system guide-  
2 lines;

3 “(B) the voluntary election cybersecurity  
4 guidelines (referred to in this part as the ‘elec-  
5 tion cybersecurity guidelines’) in accordance  
6 with paragraph (3); and

7 “(C) the voluntary election audit guidelines  
8 (referred to in this part as the ‘election audit  
9 guidelines’) in accordance with paragraph (4).”.

10 (B) CONFORMING AMENDMENTS.—Sec-  
11 tions 202(1) and 207(3) of the Help America  
12 Vote Act of 2002 (52 U.S.C. 20922(1) and  
13 20927(3)) are each amended by striking “vol-  
14 untary voting system”.

15 (2) MEMBERSHIP AND RENAMING OF TECH-  
16 NICAL GUIDELINES DEVELOPMENT COMMITTEE.—

17 (A) MEMBERSHIP.—Section 221(c)(1) of  
18 the Help America Vote Act of 2002 (52 U.S.C.  
19 20961(c)(1)) is amended—

20 (i) by striking “14” and inserting  
21 “19”; and

22 (ii) by striking subparagraphs (A)  
23 through (E) and inserting the following:

24 “(A) 2 Members of the Standards Board.

25 “(B) 2 Members of the Board of Advisors.

1           “(C) 2 Members of the Architectural and  
2           Transportation Barrier Compliance Board  
3           under section 502 of the Rehabilitation Act of  
4           1972 (29 U.S.C. 792).

5           “(D) A representative of the Institute of  
6           Electrical and Electronics Engineers.

7           “(E) 2 representatives of the National As-  
8           sociation of Secretaries of State selected by  
9           such Association who are not members of the  
10          Standards Board or Board of Advisors, and  
11          who are not of the same political party.

12          “(F) 2 representatives of the National As-  
13          sociation of State Election Directors selected by  
14          such Association who are not members of the  
15          Standards Board or Board of Advisors, and  
16          who are not of the same political party.

17          “(G) A representative of the Department  
18          of Homeland Security who possesses technical  
19          and scientific expertise relating to cybersecurity  
20          and the administration of elections.

21          “(H) A representative of the Election In-  
22          frastructure Information Sharing and Analysis  
23          Center who possesses technical and scientific  
24          expertise relating to cybersecurity.

1           “(I) A representative of the National Asso-  
2 ciation of State Chief Information Officers.

3           “(J) A representative of State election in-  
4 formation technology directors selected by the  
5 National Association of State Election Direc-  
6 tors.

7           “(K) A representative of a manufacturer of  
8 voting system hardware and software who pos-  
9 sesses technical and scientific expertise relating  
10 to cybersecurity and the administration of elec-  
11 tions.

12           “(L) A representative of a laboratory ac-  
13 credited under section 231(b) who possesses  
14 technical and scientific expertise relating to cy-  
15 bersecurity and the administration of elections.

16           “(M) A representative that is an academic  
17 or scientific researcher who possesses technical  
18 and scientific expertise relating to cybersecu-  
19 rity.

20           “(N) A representative who possesses tech-  
21 nical and scientific expertise relating to the ac-  
22 cessibility and usability of voting systems.”.

23           (B) RENAMING OF COMMITTEE.—

24           (i) IN GENERAL.—Section 221(a) of  
25 the Help America Vote Act of 2002 (52

1 U.S.C. 20961(a)) is amended by striking  
2 “Technical Guidelines Development Com-  
3 mittee (hereafter in this part referred to as  
4 the ‘Development Committee’)” and insert-  
5 ing “Technical Advisory Board”.

6 (ii) CONFORMING AMENDMENTS.—

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

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

17 (III) Section 222(b) of such Act  
18 (52 U.S.C. 20962(b)) is amended—

19 (aa) by striking “Technical  
20 Guidelines Development Com-  
21 mittee” in paragraph (1) and in-  
22 serting “Technical Advisory  
23 Board”,

24 (bb) by striking “DEVELOP-  
25 MENT COMMITTEE” in the head-

1 ing and inserting “TECHNICAL  
2 ADVISORY BOARD”, and

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

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

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

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

1 (VIII) The items relating to sec-  
2 tion 221 and part 3 of title II in the  
3 table of contents of such Act are each  
4 amended by striking “Technical  
5 Guidelines Development Committee”  
6 and inserting “Technical Advisory  
7 Board”.

8 (b) GUIDELINES.—

9 (1) ELECTION CYBERSECURITY GUIDELINES.—  
10 Section 221(b) of the Help America Vote Act of  
11 2002 (52 U.S.C. 20961(b)) is amended by adding at  
12 the end the following new paragraph:

13 “(3) ELECTION CYBERSECURITY GUIDE-  
14 LINES.—

15 “(A) IN GENERAL.—The election cyberse-  
16 curity guidelines shall contain guidelines for  
17 election cybersecurity, including standards for  
18 procuring, maintaining, testing, operating, and  
19 updating election systems.

20 “(B) REQUIREMENTS.—In developing the  
21 guidelines, the Technical Advisory Board  
22 shall—

23 “(i) identify the top risks to election  
24 systems;

1           “(ii) describe how specific technology  
2 choices can increase or decrease those  
3 risks; and

4           “(iii) provide recommended policies,  
5 best practices, and overall security strate-  
6 gies for identifying, protecting against, de-  
7 tecting, responding to, and recovering from  
8 the risks identified under subparagraph  
9 (A).

10           “(C) ISSUES CONSIDERED.—

11           “(i) IN GENERAL.—In developing the  
12 election cybersecurity guidelines, the Tech-  
13 nical Advisory Board shall consider—

14           “(I) applying established cyberse-  
15 curity best practices to Federal elec-  
16 tion administration by States and  
17 local governments, including appro-  
18 priate technologies, procedures, and  
19 personnel for identifying, protecting  
20 against, detecting, responding to, and  
21 recovering from election cybersecurity  
22 incidents, threats, and vulnerabilities;

23           “(II) providing actionable guid-  
24 ance to election agencies that seek to



1                   implement additional cybersecurity  
2                   protections; and

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

6                   “(D) RELATIONSHIP TO VOLUNTARY VOT-  
7                   ING SYSTEM GUIDELINES AND NATIONAL INSTI-  
8                   TUTE OF STANDARDS AND TECHNOLOGY CY-  
9                   BERSECURITY GUIDANCE.—In developing the  
10                  election cybersecurity guidelines, the Technical  
11                  Advisory Board shall consider—

12                  “(i) the voluntary voting system  
13                  guidelines; and

14                  “(ii) cybersecurity standards and best  
15                  practices developed by the National Insti-  
16                  tute of Standards and Technology, includ-  
17                  ing frameworks, consistent with section  
18                  2(c) of the National Institute of Standards  
19                  and Technology Act (15 U.S.C. 272(c)).”.

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

24                  “(4) ELECTION AUDIT GUIDELINES.—

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

5           “(i) each vote is cast using a voting  
6 system that allows the voter an oppor-  
7 tunity to inspect and confirm the marked  
8 ballot before casting it (consistent with ac-  
9 cessibility requirements); and

10           “(ii) each election result is determined  
11 by tabulating marked ballots, and prior to  
12 the date on which the winning Federal  
13 candidate in the election is sworn into of-  
14 fice, election agencies within the State in-  
15 spect a random sample of the marked bal-  
16 lots and thereby establish high statistical  
17 confidence in the election result.

18           “(B) ISSUES CONSIDERED.—In developing  
19 the election audit guidelines, the Technical Ad-  
20 visory Board shall consider—

21           “(i) specific types of election audits,  
22 including procedures and shortcomings for  
23 such audits;

24           “(ii) mechanisms to verify that elec-  
25 tion systems accurately tabulate ballots, re-

1 port results, and identify a winner for each  
2 election for Federal office, even if there is  
3 an error or fault in the voting system;

4 “(iii) durational requirements needed  
5 to facilitate election audits in a timely  
6 manner that allows for confidence in the  
7 outcome of the election prior to the swear-  
8 ing-in of a Federal candidate, including  
9 variations in the acceptance of postal bal-  
10 lots, time allowed to cure provisional bal-  
11 lots, and election certification deadlines;  
12 and

13 “(iv) any other factors that the Tech-  
14 nical Advisory Board considers to be rel-  
15 evant.”.

16 (3) DEADLINES.—Section 221(b)(2) of such  
17 Act (52 U.S.C. 20961(b)(2)), as amended by this  
18 Act, is amended—

19 (A) by striking “The Technical” and in-  
20 serting the following:

21 “(A) VOLUNTARY VOTING SYSTEM GUIDE-  
22 LINES.—The Technical”;

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

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

3 “(B) ELECTION CYBERSECURITY AND  
4 ELECTION AUDIT GUIDELINES.—

5 “(i) INITIAL GUIDELINES.—The Tech-  
6 nical Advisory Board shall provide its ini-  
7 tial set of recommendations under sub-  
8 paragraphs (B) and (C) of paragraph (1)  
9 to the Executive Director not later than  
10 180 days after the date of the enactment  
11 of the Secure Elections Act.

12 “(ii) PERIODIC REVIEW.—Not later  
13 than March 31, 2021, and once every 2  
14 years thereafter, the Technical Advisory  
15 Board shall review and update the guide-  
16 lines described in subparagraphs (B) and  
17 (C) of paragraph (1).”.

18 (c) PROCESS FOR ADOPTION.—

19 (1) PUBLICATION OF RECOMMENDATIONS.—  
20 Section 221(f) of the Help America Vote Act of  
21 2002 (52 U.S.C. 20961(f)) is amended—

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

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

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

3 “(2) ELECTION CYBERSECURITY AND ELECTION  
4 AUDIT GUIDELINES.—The Technical Advisory Board  
5 shall—

6 “(A) provide a reasonable opportunity for  
7 public comment, including through Commission  
8 publication in the Federal Register, on the  
9 guidelines required under subparagraphs (B)  
10 and (C) of subsection (b)(1), including a 45-day  
11 opportunity for public comment on a draft of  
12 the guidelines before they are submitted to Con-  
13 gress under section 223(a), which shall, to the  
14 extent practicable, occur concurrently with the  
15 other activities of the Technical Advisory Board  
16 under this section with respect to such guide-  
17 lines; and

18 “(B) consider the public comments in de-  
19 veloping the guidelines.”.

20 (2) ADOPTION.—

21 (A) IN GENERAL.—Part 3 of subtitle A of  
22 title II of the Help America Vote Act of 2002  
23 (52 U.S.C. 20961 et seq.) is amended—

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

4 (ii) by adding at the end the following  
5 new section:

6 **“SEC. 223. PROCESS FOR ADOPTION OF ELECTION CYBER-**  
7 **SECURITY AND ELECTION AUDIT GUIDE-**  
8 **LINES.**

9 “(a) SUBMISSION TO CONGRESS.—

10 “(1) IN GENERAL.—Not later than 30 calendar  
11 days after the date on which the Commission re-  
12 ceives recommendations for the guidelines described  
13 in subparagraphs (B) or (C) of section 221(b)(1),  
14 the Commission shall consider the guidelines and  
15 submit the guidelines to the appropriate congress-  
16 sional committees.

17 “(2) MODIFICATION.—In considering the guide-  
18 lines, the Commission may modify the guidelines  
19 if—

20 “(A) the Commission determines that there  
21 is good cause to modify the guidelines, con-  
22 sistent with the considerations established in  
23 paragraphs (3) or (4) of section 221(b) (as the  
24 case may be) and notwithstanding the rec-

1           ommendation of the Technical Advisory Board;  
2           and

3                   “(B) the Commission submits a written  
4           justification of the modification to the Tech-  
5           nical Advisory Board and the appropriate con-  
6           gressional committees.

7           “(b) DISTRIBUTION TO ELECTION AGENCIES.—The  
8           Commission shall distribute the guidelines described in  
9           subparagraphs (B) and (C) of section 221(b)(1) to all elec-  
10          tion agencies known to the Commission.

11          “(c) PUBLICATION.—The Commission shall make the  
12          guidelines described in subparagraphs (B) and (C) of sec-  
13          tion 221(b)(1) available on the public website of the Com-  
14          mission.

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

18                   “(1) the Committee on Rules and Administra-  
19           tion, the Committee on Armed Services, the Com-  
20           mittee on Homeland Security and Governmental Af-  
21           fairs, the Committee on Appropriations, the Select  
22           Committee on Intelligence, the majority leader, and  
23           the minority leader of the Senate; and

24                   “(2) the Committee on House Administration,  
25           the Committee on Armed Services, the Committee

1 on Homeland Security, the Committee on Appropria-  
 2 tions, the Permanent Select Committee on Intel-  
 3 ligence, the Speaker, and the minority leader of the  
 4 House of Representatives.

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

11 (B) CLERICAL AMENDMENT.—The table of  
 12 contents of such Act is amended by inserting  
 13 after the item relating to section 222 the fol-  
 14 lowing new item:

“Sec. 223. Process for adoption of election cybersecurity and election audit  
 guidelines.”.

15 **SEC. 6. REQUIREMENT TO CONDUCT POST-ELECTION AU-**  
 16 **DITS.**

17 (a) REQUIREMENT.—

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

21 (A) by redesignating sections 304 and 305  
 22 as sections 305 and 306, respectively; and

23 (B) by inserting after section 303 the fol-  
 24 lowing new section:



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

2 “(a) IN GENERAL.—Each State and jurisdiction  
3 shall—

4 “(1) conduct a post-election audit of each Fed-  
5 eral election (as defined in section 2 of the Secure  
6 Elections Act) through the inspection of a random  
7 sample of marked ballots of sufficient quantity to es-  
8 tablish high statistical confidence in the election re-  
9 sult, as determined by the chief State election offi-  
10 cial;

11 “(2) provide a description of the planned audit,  
12 excluding any information deemed to create a secu-  
13 rity risk, to be conducted under paragraph (1) on a  
14 public website administered by the chief State elec-  
15 tion official 90 days prior to each such Federal elec-  
16 tion; and

17 “(3) provide results of the completed audit  
18 under paragraph (1) on a public website adminis-  
19 tered by the chief State election official within 10  
20 days of the completion of the audit.

21 “(b) TIME FOR COMPLETING AUDIT.—The audit re-  
22 quired by subsection (a) shall be completed in a timely  
23 manner to ensure confidence in the outcome of the election  
24 and before the date on which the winning candidate in  
25 the election is sworn into office.

26 “(c) EFFECTIVE DATE.—

1           “(1) IN GENERAL.—Except as provided in para-  
2           graph (2), each State and jurisdiction shall be re-  
3           quired to comply with the requirements of this sec-  
4           tion for the regularly scheduled general election for  
5           Federal office held in November 2020, and each sub-  
6           sequent election for Federal office.

7           “(2) WAIVER.—If a State or jurisdiction cer-  
8           tifies to the Commission not later than November 1,  
9           2020, that the State or jurisdiction will not meet the  
10          deadline described in paragraph (1) for good cause  
11          and includes in the certification the reasons for the  
12          failure to meet such deadline, paragraph (1) shall  
13          apply to the State or jurisdiction as if the reference  
14          in such subparagraph to ‘November 2020’ were a  
15          reference to ‘November 2022’.”.

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

18                  (A) by redesignating the items relating to  
19                  sections 304 and 305 as relating to sections  
20                  305 and 306, respectively; and

21                  (B) by inserting after the item relating to  
22                  section 303 the following new item:

“Sec. 304. Post-election audits.”.

23          (b) REPORTING.—The Election Assistance Commis-  
24          sion shall—

1           (1) collect information regarding audits con-  
2           ducted by States under section 304 of the Help  
3           America Vote Act of 2002 (as added by subsection  
4           (a)); and

5           (2) submit reports to Congress on the informa-  
6           tion provided by the States under section 304(a)(2)  
7           and 304(a)(3) of such Act (as so added) and other  
8           information collected by the Commission under para-  
9           graph (1).

10          The reports under paragraph (2) shall be submitted con-  
11          currently with the reports required under section 9(a)(3)  
12          of the National Voter Registration Act of 1993.

13          **SEC. 7. REQUIREMENT FOR PAPER BALLOTS.**

14          (a) IN GENERAL.—Part 7 of subtitle D of title II  
15          of the Help America Vote Act of 2002, as added by section  
16          4, is amended by adding at the end the following new sec-  
17          tion:

18          **“SEC. 298. PAPER BALLOTS.**

19          “No State or jurisdiction may use any grant awarded  
20          under this Act after the date of the enactment of this sec-  
21          tion to obtain voting equipment unless such voting equip-  
22          ment exclusively records each vote on a marked, individ-  
23          ualized, readable paper ballot and allows the voter an op-  
24          portunity to inspect and confirm the marked ballot (con-

1 sistent with accessibility requirements under Federal law)  
2 before the ballot is cast and counted.”.

3 (b) CONFORMING AMENDMENT.—The table of con-  
4 tents in section 1(b) of the Help America Vote Act of  
5 2002, as amended by section 4, is amended by inserting  
6 after the item relating to section 297 the following:

“Sec. 298. Paper ballots.”.

7 **SEC. 8. STREAMLINING THE COLLECTION OF ELECTION IN-**  
8 **FORMATION.**

9 Section 202 of the Help America Vote Act of 2002  
10 (52 U.S.C. 20922) is amended by adding at the end the  
11 following flush sentence:

12 “Subchapter I of chapter 35 of title 44, United States  
13 Code, shall not apply to the collection of information for  
14 purposes of maintaining any clearinghouse with respect to  
15 the administration of Federal elections or the experiences  
16 of State and local governments in implementing the guide-  
17 lines described in paragraph (1) or in operating voting sys-  
18 tems in general.”.

19 **SEC. 9. REPORTS TO CONGRESS ON FOREIGN THREATS TO**  
20 **ELECTIONS.**

21 (a) IN GENERAL.—Not later than 30 days after the  
22 date of enactment of this Act, and 30 days after the end  
23 of each fiscal year thereafter, the Secretary and the Direc-  
24 tor of National Intelligence, in coordination with the heads  
25 of the appropriate Federal entities, shall submit a joint

1 report to the appropriate congressional committees on for-  
2 eign threats to elections in the United States, including  
3 physical and cybersecurity threats.

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