

AMENDMENT

OFFERED BY MR. RODNEY DAVIS OF ILLINOIS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the "Election Security As-
3 sistance Act".

**4 SEC. 2. GRANTS TO STATES FOR ELECTION ADMINISTRA-
5 TION IMPROVEMENTS.**

6 (a) AUTHORIZATION OF FUNDS.—Notwithstanding
7 section 104(c)(2)(B) of the Help America Vote Act of
8 2002 (52 U.S.C. 20904(c)(2)(B)), there is authorized to
9 be appropriated \$380,000,000 for fiscal year 2020 to the
10 Election Assistance Commission for necessary expenses to
11 make payments to States for activities to improve the ad-
12 ministration of elections for Federal office, including to
13 enhance election technology and make election security im-
14 provements, as authorized by sections 101, 103, and 104
15 of such Act.

16 (b) PAYMENTS TO STATES.—

17 (1) STATE MATCH.—Not later than two years
18 after receiving funds under subsection (a), a State
19 shall make available funds for activities described in

1 such subsection in an amount equal to 25 percent of
2 the total amount of the payment made to the State
3 under such subsection.

4 (2) TIMING.—The Election Assistance Commis-
5 sion shall make payments to States under subsection
6 (a) not later than 45 days after the date of enact-
7 ment of this Act.

8 (3) GUARANTEED MINIMUM PAYMENT.—For
9 purposes of this section, with respect to section 103
10 of such Act (52 U.S.C. 20903)—

11 (A) each reference to “\$5,000,000” shall
12 be deemed to refer to “\$3,000,000”; and

13 (B) each reference to “\$1,000,000” shall
14 be deemed to refer to “\$600,000”.

15 (c) REFERENCE.—For purposes of this section, with
16 respect to sections 101 and 103 of such Act, each ref-
17 erence to the “Administrator of General Services” or the
18 “Administrator” shall be deemed to refer to the “Election
19 Assistance Commission”.

20 **SEC. 3. TREATMENT OF ELECTRONIC POLL BOOKS AS PART**
21 **OF VOTING SYSTEMS.**

22 (a) INCLUSION IN DEFINITION OF VOTING SYS-
23 TEM.—Section 301(b) of the Help America Vote Act of
24 2002 (52 U.S.C. 21081(b)) is amended—

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

3 (2) by striking “and” at the end of paragraph
4 (1);

5 (3) by redesignating paragraph (2) as para-
6 graph (3); and

7 (4) by inserting after paragraph (1) the fol-
8 lowing new paragraph:

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

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

13 (1) by redesignating subsections (c) and (d) as
14 subsections (d) and (e); and

15 (2) by inserting after subsection (b) the fol-
16 lowing new subsection:

17 “(c) ELECTRONIC POLL BOOK DEFINED.—In this
18 Act, the term ‘electronic poll book’ means the total com-
19 bination of mechanical, electromechanical, or electronic
20 equipment (including the software, firmware, and docu-
21 mentation required to program, control, and support the
22 equipment) that is used—

23 “(1) to retain the list of registered voters at a
24 polling location, or vote center, or other location at

1 which voters cast votes in an election for Federal of-
2 fice; and

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

5 (c) EFFECTIVE DATE.—Section 301(e) of such Act
6 (52 U.S.C. 21081(e)), as redesignated by subsection (b),
7 is amended by striking the period at the end and inserting
8 the following: “, or, with respect to any requirements re-
9 lating to electronic poll books, on and after January 1,
10 2020.”.

11 **SEC. 4. SECURITY CLEARANCE ASSISTANCE FOR ELECTION**
12 **OFFICIALS.**

13 (a) STATE OFFICIALS.—In order to promote the
14 timely sharing of information on threats to election infra-
15 structure, the Secretary of Homeland Security may—

16 (1) help expedite a security clearance at the top
17 secret level for the chief State election official and
18 other appropriate State personnel involved in the ad-
19 ministration of elections, as designated by the chief
20 State election official;

21 (2) sponsor a security clearance at the top se-
22 cret level for the chief State election official and
23 other appropriate State personnel involved in the ad-
24 ministration of elections, as designated by the chief
25 State election official; and

1 (3) facilitate the issuance of a temporary clear-
2 ance at the top secret level to the chief State election
3 official and other appropriate State personnel in-
4 volved in the administration of elections, as des-
5 ignated by the chief State election official, if the
6 Secretary determines classified information to be
7 timely and relevant to the election infrastructure of
8 the State at issue.

9 (b) ELECTION ASSISTANCE COMMISSION.—The Sec-
10 retary shall expeditiously issue a security clearance at the
11 top secret level to the following officials:

12 (1) Each member of the Election Assistance
13 Commission appointed pursuant to section 203(a) of
14 the Help America Vote Act of 2002 (52 U.S.C.
15 20923(a)).

16 (2) The Executive Director of the Election As-
17 sistance Commission appointed pursuant to section
18 204(a)(1) of such Act (52 U.S.C. 20924(a)(1)).

19 (3) The General Counsel of the Election Assist-
20 ance Commission appointed pursuant to section
21 204(a)(4) of such Act (52 U.S.C. 20924(a)(4)).

22 (c) DEFINITIONS.—In this section—

23 (1) the term “chief State election official”
24 means, with respect to a State, the individual des-
25 ignated by the State under section 10 of the Na-

1 tional Voter Registration Act of 1993 (52 U.S.C.
2 20509) to be responsible for coordination of the
3 State's responsibilities under such Act;

4 (2) the term "election infrastructure" means
5 storage facilities, polling places, and centralized vote
6 tabulation locations used to support the administra-
7 tion of elections for public office, as well as related
8 information and communications technology, includ-
9 ing voter registration databases, voting machines,
10 electronic mail and other communications systems
11 (including electronic mail and other systems of elec-
12 tion service providers who have entered into con-
13 tracts with election agencies to support the adminis-
14 tration of elections, manage the election process, and
15 report and display election results), and other sys-
16 tems used to manage the election process and to re-
17 port and display election results on behalf of an elec-
18 tion agency.

19 (3) the term "Secretary" means the Secretary
20 of Homeland Security; and

21 (4) the term "State" has the meaning given
22 such term in section 901 of the Help America Vote
23 Act of 2002 (52 U.S.C. 21141).

1 **SEC. 5. DUTY OF SECRETARY OF HOMELAND SECURITY TO**
2 **NOTIFY STATE AND LOCAL OFFICIALS OF**
3 **ELECTION CYBERSECURITY INCIDENTS.**

4 (a) **DUTY TO SHARE INFORMATION WITH DEPART-**
5 **MENT OF HOMELAND SECURITY.**—If a Federal entity re-
6 ceives information about an election cybersecurity inci-
7 dent, the Federal entity shall promptly share that infor-
8 mation with the Department of Homeland Security, unless
9 the head of the entity (or a Senate-confirmed official des-
10 ignated by the head) makes a specific determination in
11 writing that there is good cause to withhold the particular
12 information.

13 (b) **RESPONSE TO RECEIPT OF INFORMATION BY**
14 **SECRETARY OF HOMELAND SECURITY.**—

15 (1) **IN GENERAL.**—Upon receiving information
16 about an election cybersecurity incident under sub-
17 section (a), the Secretary of Homeland Security, in
18 consultation with the Attorney General, the Director
19 of the Federal Bureau of Investigation, and the Di-
20 rector of National Intelligence, shall promptly (but
21 in no case later than 48 hours after receiving the in-
22 formation) review the information and make a deter-
23 mination whether each of the following apply:

24 (A) There is credible evidence that the in-
25 cident occurred.

1 (B) There is a basis to believe that the in-
2 cident resulted, could have resulted, or could re-
3 sult in voter information systems or voter tab-
4 ulation systems being altered or otherwise af-
5 fected.

6 (2) DUTY TO NOTIFY STATE AND LOCAL OFFI-
7 CIALS.—

8 (A) DUTY DESCRIBED.—If the Secretary
9 makes a determination under paragraph (1)
10 that subparagraphs (A) and (B) of such para-
11 graph apply with respect to an election cyberse-
12 curity incident, not later than 48 hours after
13 making the determination, the Secretary shall
14 provide a notification of the incident to each of
15 the following:

16 (i) The chief executive of the State in-
17 volved.

18 (ii) The State election official of the
19 State involved.

20 (iii) The local election official of the
21 election agency involved.

22 (B) TREATMENT OF CLASSIFIED INFORMA-
23 TION.—

24 (i) EFFORTS TO AVOID INCLUSION OF
25 CLASSIFIED INFORMATION.—In preparing

1 a notification provided under this para-
2 graph to an individual described in clause
3 (i), (ii), or (iii) of subparagraph (A), the
4 Secretary shall attempt to avoid the inclu-
5 sion of classified information.

6 (ii) PROVIDING GUIDANCE TO STATE
7 AND LOCAL OFFICIALS.—To the extent
8 that a notification provided under this
9 paragraph to an individual described in
10 clause (i), (ii), or (iii) of subparagraph (A)
11 includes classified information, the Sec-
12 retary (in consultation with the Attorney
13 General and the Director of National Intel-
14 ligence) shall indicate in the notification
15 which information is classified.

16 (3) EXCEPTION.—

17 (A) IN GENERAL.—If the Secretary, in
18 consultation with the Attorney General and the
19 Director of National Intelligence, makes a de-
20 termination that it is not possible to provide a
21 notification under paragraph (1) with respect to
22 an election cybersecurity incident without com-
23 promising intelligence methods or sources or
24 interfering with an ongoing investigation, the

1 Secretary shall not provide the notification
2 under such paragraph.

3 (B) ONGOING REVIEW.—Not later than 30
4 days after making a determination under sub-
5 paragraph (A) and every 30 days thereafter,
6 the Secretary shall review the determination. If,
7 after reviewing the determination, the Secretary
8 makes a revised determination that it is pos-
9 sible to provide a notification under paragraph
10 (2) without compromising intelligence methods
11 or sources or interfering with an ongoing inves-
12 tigation, the Secretary shall provide the notifi-
13 cation under paragraph (2) not later than 48
14 hours after making such revised determination.

15 (c) DEFINITIONS.—In this section, the following defi-
16 nitions apply:

17 (1) ELECTION AGENCY.—The term “election
18 agency” means any component of a State, or any
19 component of a unit of local government in a State,
20 which is responsible for the administration of elec-
21 tions for Federal office in the State.

22 (2) ELECTION CYBERSECURITY INCIDENT.—
23 The term “election cybersecurity incident” means an
24 occurrence that actually or imminently jeopardizes,
25 without lawful authority, the integrity, confiden-

1 tiality, or availability of information on an informa-
2 tion system of election infrastructure, or actually or
3 imminently jeopardizes, without lawful authority, an
4 information system of election infrastructure.

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

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

14 (5) LOCAL ELECTION OFFICIAL.—The term
15 “local election official” means the chief election offi-
16 cial of a component of a unit of local government of
17 a State that is responsible for administering Federal
18 elections.

19 (6) SECRETARY.—The term “Secretary” means
20 the Secretary of Homeland Security.

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

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

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

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

12 (d) EFFECTIVE DATE.—This section shall apply with
13 respect to information about an election cybersecurity inci-
14 dent which is received on or after the date of the enact-
15 ment of this Act.

16 **SEC. 6. ESTABLISHMENT OF ELECTION CYBER ASSISTANCE**

17 **UNIT IN ELECTION ASSISTANCE COMMIS-**
18 **SION.**

19 (a) IN GENERAL.—Subtitle A of title II of the Help
20 America Vote Act of 2002 (52 U.S.C. 20921 et seq.) is
21 amended by adding at the end the following new part:

1 **“PART 4—ELECTION CYBER ASSISTANCE UNIT**

2 **“SEC. 225. ELECTION CYBER ASSISTANCE UNIT.**

3 “(a) ESTABLISHMENT.—There is established in the
4 Commission the Election Cyber Assistance Unit (hereafter
5 in this part referred to as the ‘Unit’).

6 “(b) DUTIES.—The Unit will provide State and local
7 election officials in various geographic regions of the
8 United States with access to risk-management, resiliency,
9 and technical support services provided by election admin-
10 istration and cybersecurity experts who will be based in
11 such regions and who may provide such services in person,
12 by telephone, or online.”.

13 (b) CLERICAL AMENDMENT.—The table of contents
14 of such Act is amended by adding at the end of the items
15 relating to subtitle A of title II the following:

 “PART 4—ELECTION CYBER ASSISTANCE UNIT

 “Sec. 225. Election Cyber Assistance Unit.”.

16 **SEC. 7. REPRESENTATIVE OF DEPARTMENT OF HOMELAND**
17 **SECURITY ON TECHNICAL GUIDELINES DE-**
18 **VELOPMENT COMMITTEE.**

19 Section 221(c)(1) of the Help America Vote Act of
20 2002 (52 U.S.C. 20961(c)(1)) is amended—

21 (1) by redesignating subparagraph (E) as sub-
22 paragraph (F); and

23 (2) by inserting after subparagraph (D) the fol-
24 lowing new subparagraph:

1 “(E) A representative of the Department
2 of Homeland Security.”.

3 **SEC. 8. REPORTS TO CONGRESS ON FOREIGN THREATS TO**
4 **ELECTIONS.**

5 (a) **IN GENERAL.**—Not later than 30 days after the
6 date of enactment of this Act, and 30 days after the end
7 of each fiscal year thereafter, the Secretary of Homeland
8 Security and the Director of National Intelligence, in co-
9 ordination with the heads of the appropriate Federal enti-
10 ties, shall submit a joint report to the appropriate congres-
11 sional committees and the chief State election official of
12 each State on foreign threats to elections in the United
13 States, including physical and cybersecurity threats.

14 (b) **VOLUNTARY PARTICIPATION BY STATES.**—The
15 Secretary shall solicit and consider comments from all
16 State election agencies. Participation by an election agen-
17 cy in the report under this section shall be voluntary and
18 at the discretion of the State.

19 (c) **APPROPRIATE FEDERAL ENTITIES.**—In this sec-
20 tion, the term “appropriate Federal entities” means—

21 (1) the Department of Commerce, including the
22 National Institute of Standards and Technology;

23 (2) the Department of Defense;

24 (3) the Department of Homeland Security, in-
25 cluding the component of the Department that re-

1 ports to the Under Secretary responsible for over-
2 seeing critical infrastructure protection, cybersecu-
3 rity, and other related programs of the Department;

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

6 (5) the Election Assistance Commission; and

7 (6) the Office of the Director of National Intel-
8 ligence, the National Security Agency, and such
9 other elements of the intelligence community (as de-
10 fined in section 3 of the National Security Act of
11 1947 (50 U.S.C. 3003)) as the Director of National
12 Intelligence determines are appropriate.

13 (d) OTHER DEFINITIONS.—In this section—

14 (1) the term “appropriate congressional com-
15 mittees” means—

16 (A) the Committee on Rules and Adminis-
17 tration, the Committee on Homeland Security
18 and Governmental Affairs, the Select Com-
19 mittee on Intelligence, and the Committee on
20 Foreign Relations of the Senate; and

21 (B) the Committee on House Administra-
22 tion, the Committee on Homeland Security, the
23 Permanent Select Committee on Intelligence,
24 and the Committee on Foreign Affairs of the
25 House of Representatives;

1 (2) the term “chief State election official”
2 means, with respect to a State, the individual des-
3 igned by the State under section 10 of the Na-
4 tional Voter Registration Act of 1993 (52 U.S.C.
5 20509) to be responsible for coordination of the
6 State’s responsibilities under such Act;

7 (3) the term “election agency” means any com-
8 ponent of a State or any component of a unit of
9 local government of a State that is responsible for
10 administering Federal elections;

11 (4) the term “Secretary” means the Secretary
12 of Homeland Security; and

13 (5) the term “State” has the meaning given
14 such term in section 901 of the Help America Vote
15 Act of 2002 (52 U.S.C. 21141).

16 **SEC. 9. GAO ANALYSIS OF FEASIBILITY OF CONDUCTING**
17 **RISK-LIMITING AUDITS.**

18 (a) ANALYSIS.—The Comptroller General of the
19 United States shall conduct an analysis of the following:

20 (1) The feasibility for States to conduct risk-
21 limiting audits of elections for Federal office.

22 (2) The types of risk-limiting audits performed
23 by States.

1 (3) The extent to which risk-limiting audits per-
2 formed by States have improved the administration
3 of elections in such States.

4 (b) REPORT.—Not later than 1 year after the date
5 of enactment of this Act, the Comptroller General of the
6 United States shall submit to Congress a report on the
7 analysis conducted under subsection (a).

8 **SEC. 10. GAO ANALYSIS OF FEASIBILITY OF REQUIRING**
9 **USE OF PAPER BALLOTS.**

10 (a) ANALYSIS.—The Comptroller General of the
11 United States shall conduct an analysis of the following:

12 (1) The feasibility of requiring the use of paper
13 ballots in elections for Federal office on a nationwide
14 basis.

15 (2) The impacts with respect to accessibility for
16 individuals with disabilities of requiring the use of
17 paper ballots in elections for Federal office.

18 (b) REPORT.—Not later than 180 days after the date
19 of the enactment of this Act, the Comptroller General shall
20 submit to Congress a report on the analysis conducted
21 under subsection (a).

22 **SEC. 11. STUDY AND REPORT ON OPTIMAL BALLOT DESIGN.**

23 (a) STUDY.—The Election Assistance Commission
24 shall conduct a study of the best ways to design ballots
25 used in elections for public office, including paper ballots

1 and electronic or digital ballots, to minimize confusion and
2 user errors.

3 (b) REPORT.—Not later than January 1, 2020, the
4 Election Assistance Commission shall submit to Congress
5 a report on the study conducted under subsection (a).

