

116TH CONGRESS
1ST SESSION

S. 1472

To amend the Help America Vote Act of 2002 to require paper ballots and risk-limiting audits in all Federal elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 15, 2019

Mr. WYDEN (for himself, Mr. BLUMENTHAL, Mr. MARKEY, Mr. MERKLEY, Ms. DUCKWORTH, Mr. SCHATZ, Ms. WARREN, Mr. BOOKER, Mrs. GILLIBRAND, Ms. BALDWIN, Mr. SANDERS, Ms. HARRIS, Ms. CANTWELL, Mr. BROWN, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Help America Vote Act of 2002 to require paper ballots and risk-limiting audits in all Federal 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 “Protecting American Votes and Elections Act of 2019”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Paper ballot and hand tabulation requirements.

Sec. 3. Risk-limiting audits.

Sec. 4. Enhancement of enforcement of Help America Vote Act of 2002.

Sec. 5. Financial assistance to States.

Sec. 6. Cybersecurity requirements for and testing and certification of voting systems.

Sec. 7. Voting system cybersecurity requirements.

Sec. 8. Ballot cybersecurity, confidentiality, and access for individuals with disabilities.

Sec. 9. Application of Help America Vote Act to Northern Mariana Islands.

Sec. 10. Biennial reports on election security.

1 **SEC. 2. PAPER BALLOT AND HAND TABULATION REQUIRE-**
 2 **MENTS.**

3 (a) VOTER-VERIFIABLE PAPER BALLOTS.—Section
 4 301(a)(2) of the Help America Vote Act of 2002 (52
 5 U.S.C. 21081(a)(2)) is amended to read as follows:

6 “(2) PAPER BALLOT REQUIREMENT.—

7 “(A) VOTER-VERIFIABLE PAPER BAL-
 8 LOTS.—

9 “(i) PAPER BALLOT REQUIREMENT.—

10 “(I) IN GENERAL.—The voting
 11 system shall require the use of an in-
 12 dividual, durable, voter-verifiable,
 13 paper ballot of the voter’s vote that
 14 shall be marked and made available
 15 for physical inspection and verification
 16 by the voter before the voter’s vote is
 17 cast and tabulated. For purposes of
 18 this subclause, the term ‘individual,
 19 durable, voter-verifiable, paper ballot’
 20 means a paper ballot marked by the

1 voter by hand or a paper ballot print-
2 ed or marked through the use of a
3 ballot marking device, so long as the
4 voter shall have the option to mark
5 his or her ballot by hand.

6 “(II) REQUIREMENTS FOR BAL-
7 LOT MARKING DEVICES.—Except as
8 required to meet the accessibility re-
9 quirements under paragraph (3), in
10 the case of a ballot marking device—

11 “(aa) the printed or marked
12 paper ballot shall be presented to
13 the voter for physical inspection
14 and verification before the ballot
15 is tabulated and preserved in ac-
16 cordance with clause (ii);

17 “(bb) the paper ballot shall
18 be printed or marked in such a
19 way that vote selections, includ-
20 ing all vote selections scanned by
21 voting systems to tabulate votes,
22 can be inspected and verified by
23 the voter without training or in-
24 struction or audited by election

officials without the aid of any machine or other equipment; and

“(cc) the ballot marking device shall be designed and built in a manner in which it is mechanically impossible for the device to add or change the vote selections on a printed or marked ballot at any time after the ballot has been presented to the voter for inspection and verification under item (aa).

“(III) CONFIDENTIALITY.—The voting system shall not preserve or mark the individual, durable, voter-verifiable paper ballots in any manner that makes it possible, at any time after the ballot has been cast, to associate a voter with the ballot cast by the voter or with any other record of the voter’s vote selections.

“(ii) PRESERVATION AS OFFICIAL RECORD.—The individual, durable, voter-verifiable, paper ballot used in accordance with clause (i) shall constitute the official

1 ballot and shall be preserved and used as
2 the official ballot for purposes of ballot
3 tabulation and any recount or audit con-
4 ducted with respect to any election for
5 Federal office in which the voting system
6 is used.

7 “(iii) HAND TABULATION REQUIRE-
8 MENTS FOR RECOUNTS.—

9 “(I) IN GENERAL.—Each paper
10 ballot used pursuant to clause (i) shall
11 be tabulated by hand in any recount
12 conducted with respect to any election
13 for Federal office.

14 “(II) INCONSISTENCIES.—In the
15 event of any inconsistencies or irreg-
16 ularities between any vote tallies de-
17 termined through the use of an optical
18 scanning device and vote tallies deter-
19 mined by tabulating by hand the indi-
20 vidual, durable, voter-verifiable, paper
21 ballots used pursuant to clause (i),
22 and subject to subparagraph (B), the
23 individual, durable, voter-verifiable,
24 paper ballots shall be the true and
25 correct record of the votes cast.

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

9 “(B) SPECIAL RULE FOR TREATMENT OF
 10 DISPUTES WHEN PAPER BALLOTS HAVE BEEN
 11 SHOWN TO BE COMPROMISED.—

12 “(i) IN GENERAL.—In the event
 13 that—

14 “(I) there is any inconsistency
 15 between any vote tallies determined
 16 through the use of an optical scanning
 17 device and vote tallies determined by
 18 tabulating by hand the individual, du-
 19 rable, voter-verifiable, paper ballots
 20 used pursuant to subparagraph (A)(i)
 21 with respect to any election for Fed-
 22 eral office; and

23 “(II) it is demonstrated by clear
 24 and convincing evidence (as deter-
 25 mined in accordance with the applica-

1 ble standards in the jurisdiction in-
 2 volved) in any recount, audit, or con-
 3 test of the result of the election that
 4 the paper ballots have been com-
 5 promised (by damage or mischief or
 6 otherwise) and that a sufficient num-
 7 ber of the ballots have been so com-
 8 promised that the result of the elec-
 9 tion could be changed,
 10 the determination of the appropriate rem-
 11 edy with respect to the election shall be
 12 made in accordance with applicable State
 13 law, except that the electronic tally shall
 14 not be used as the exclusive basis for de-
 15 termining the official certified result.

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

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

requirements of this paragraph for the first regularly scheduled election for Federal office held more than 1 year after the date of the enactment of the Protecting American Votes and Elections Act of 2019, and for each subsequent election for Federal office.”.

(b) CONFORMING AMENDMENTS.—

(1) INDIVIDUAL WITH DISABILITIES.—Section 301(a)(3)(B) of such Act (52 U.S.C. 21081(a)(3)(B)) is amended by striking “direct recording electronic voting system or other”.

(2) ALTERNATIVE LANGUAGE ACCESSIBILITY.—Section 301(a)(4) of such Act (52 U.S.C. 21081(a)(4)) is amended by inserting “(including the paper ballots required to be used under paragraph (2))” after “voting system”.

(3) EFFECTIVE DATE.—Section 301(d) of such Act (52 U.S.C. 21081(d)) is amended by striking “Each State” and inserting “Except as otherwise provided in this section, each State”.

SEC. 3. RISK-LIMITING AUDITS.

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

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

2 “(a) DEFINITIONS.—In this section:

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

6 “(A) has a probability of at least 95 per-
7 cent of correcting the reported outcome if the
8 reported outcome is not the correct outcome;

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

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

14 “(2) REPORTED OUTCOME; CORRECT OUTCOME;
15 OUTCOME.—

16 “(A) REPORTED OUTCOME.—The term ‘re-
17 ported outcome’ means the outcome of an elec-
18 tion contest which is determined according to
19 the canvass and which will become the official,
20 certified outcome unless it is revised by an
21 audit, recount, or other legal process.

22 “(B) CORRECT OUTCOME.—The term ‘cor-
23 rect outcome’ means the outcome that would be
24 determined by a manual adjudication of voter
25 intent for all votes validly cast in the election
26 contest.

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

4 “(3) MANUAL ADJUDICATION OF VOTER IN-
 5 TENT.—The term ‘manual adjudication of voter in-
 6 tent’ means direct inspection and determination by
 7 humans, without assistance from electronic or me-
 8 chanical tabulation devices, of the ballot choices
 9 marked by voters on each voter-verifiable paper
 10 record.

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

14 “(A) is created without reliance on any
 15 part of the voting system used to tabulate
 16 votes;

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

19 “(C) accounts for all ballots validly cast re-
 20 gardless of how or whether they were tabulated
 21 and includes a precise description of the man-
 22 ner in which the ballots are physically stored,
 23 including the total number of physical groups of
 24 ballots, the numbering system for each group, a

1 unique label for each group, and the number of
2 ballots in each such group.

3 “(b) REQUIREMENTS.—

4 “(1) IN GENERAL.—

5 “(A) AUDITS.—

6 “(i) IN GENERAL.—Each State and
7 jurisdiction shall administer risk-limiting
8 audits of the results of all election contests
9 for Federal office held in the State in ac-
10 cordance with the requirements of para-
11 graph (2).

12 “(ii) EXCEPTION.—Clause (i) shall
13 not apply to any election contest for which
14 the State or jurisdiction conducts a full re-
15 count through a manual adjudication of
16 voter intent.

17 “(B) FULL MANUAL TABULATION.—If a
18 risk-limiting audit conducted under subpara-
19 graph (A) corrects the reported outcome of an
20 election contest, the State or jurisdiction shall
21 use the results of the manual adjudication of
22 voter intent conducted as part of the risk-lim-
23 iting audit as the official results of the election
24 contest.

25 “(2) AUDIT REQUIREMENTS.—

1 “(A) RULES AND PROCEDURES.—

2 “(i) IN GENERAL.—Not later than 1
3 year after the date of the enactment of this
4 section, the chief State election official of
5 the State shall establish rules and proce-
6 dures for conducting risk-limiting audits.

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

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

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

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

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

1 State election official of the State and
2 made public.

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

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

11 “(VII) Rules and procedures for
12 testing any software used to conduct
13 risk-limiting audits.

14 “(B) PUBLIC REPORT.—

15 “(i) IN GENERAL.—After the comple-
16 tion of the risk-limiting audit and at least
17 5 days before the election contest is cer-
18 tified, the State shall publish a report on
19 the results of the audit, together with such
20 information as necessary to confirm that
21 the audit was conducted properly.

22 “(ii) FORMAT OF DATA.—All data
23 published with the report under clause (i)
24 shall be published in machine-readable,
25 open data formats.

1 “(iii) PROTECTION OF ANONYMITY OF
 2 VOTES.—Information and data published
 3 by the State under this subparagraph shall
 4 not compromise the anonymity of votes.

5 “(c) EFFECTIVE DATE.—Each State and jurisdiction
 6 shall be required to comply with the requirements of this
 7 section for the first regularly scheduled election for Fed-
 8 eral office held more than 1 year after the date of the
 9 enactment of the Protecting American Votes and Elections
 10 Act of 2019, and for each subsequent election for Federal
 11 office.”.

12 (b) CONFORMING AMENDMENTS RELATED TO EN-
 13 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
 14 is amended by striking “and 303” and inserting “303, and
 15 303A”.

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

“Sec. 303A. Risk-limiting audits.”.

19 **SEC. 4. ENHANCEMENT OF ENFORCEMENT OF HELP AMER-**
 20 **ICA VOTE ACT OF 2002.**

21 (a) IN GENERAL.—Section 401 of the Help America
 22 Vote Act of 2002 (52 U.S.C. 21111), as amended by sec-
 23 tion 3(b), is amended—

1 (1) by striking “The Attorney General” and in-
2 serting “(a) IN GENERAL.—The Attorney General”;
3 and

4 (2) by adding at the end the following new sub-
5 sections:

6 “(b) AVAILABILITY OF PRIVATE RIGHT OF AC-
7 TION.—Any person who is aggrieved by a violation of sec-
8 tion 301 or 303A which has occurred, is occurring, or is
9 about to occur after the date that is 6 years after the date
10 of the enactment of the Protecting American Votes and
11 Elections Act of 2019 may file an action under section
12 1979 of the Revised Statutes of the United States (42
13 U.S.C. 1983) to enforce the requirements under such sec-
14 tion.

15 “(c) NO EFFECT ON STATE PROCEDURES.—Nothing
16 in this section may be construed to affect the availability
17 of the State-based administrative complaint procedures re-
18 quired under section 402 to any person filing a complaint
19 under this subsection.”.

20 (b) USE OF PROTECTION AND ADVOCACY SYSTEM
21 GRANTS FOR DISABILITY ACCESS ENFORCEMENT.—Sec-
22 tion 292(a) of the Help America Vote Act of 2002 (52
23 U.S.C. 21062(a)) is amended by striking “; except that”
24 and all that follows and inserting a period.

1 **SEC. 5. FINANCIAL ASSISTANCE TO STATES.**

2 (a) IN GENERAL.—

3 (1) ADDITIONAL GRANT PROGRAMS.—Subtitle
 4 D of title II of the Help America Vote Act of 2002
 5 (52 U.S.C. 21001 et seq.) is amended by adding at
 6 the end the following new part:

7 **“PART 7—PAYMENTS TO STATES FOR**
 8 **REPLACEMENT VOTING DEVICES**

9 **“SEC. 297. REPLACEMENT OF PAPERLESS VOTING SYS-**
 10 **TEMS.**

11 “(a) IN GENERAL.—Not later than 45 days after the
 12 date of the enactment of this part, the Commission shall
 13 establish a program under which the Commission shall
 14 make a payment under this part to each eligible State.

15 “(b) USE OF FUNDS.—

16 “(1) IN GENERAL.—A State shall use the funds
 17 provided under a payment under this section to re-
 18 place nonqualified voting systems with a voting sys-
 19 tem that—

20 “(A) uses optical scanning devices that
 21 meet the requirements of section 301(a)(7) to
 22 read and tabulate votes;

23 “(B) is capable of facilitating the require-
 24 ments for risk-limiting audits under section
 25 303A; and

1 “(C) meets such minimum security stand-
 2 ards as established by the Director of Cyberse-
 3 curity and Infrastructure Security under section
 4 2215 of the Homeland Security Act.

5 “(2) LIMITATION.—A State may not use the
 6 funds provided under a payment made under this
 7 section to acquire any electronic device that a voter
 8 can use to mark a paper ballot.

9 “(c) DEADLINE.—A State receiving a payment under
 10 the program under this section shall ensure that all non-
 11 qualified voting systems in the eligible State have been re-
 12 placed before the first regularly scheduled general election
 13 for Federal office held more than 1 year after the date
 14 of the enactment of the Protecting American Votes and
 15 Elections Act of 2019.

16 “(d) ELIGIBLE STATE.—

17 “(1) IN GENERAL.—For purposes of this sec-
 18 tion, the term ‘eligible State’ means any State
 19 that—

20 “(A) has precincts within the State that
 21 used a nonqualified voting system to record
 22 votes in the regularly scheduled general election
 23 for Federal office held in November 2018; and

24 “(B) submits to the Commission a notice
 25 not later than the date that is 6 months after

the date of the enactment of this part (in such form as the Commission may require) that contains—

“(i) an estimate of the cost of replacing nonqualified voting systems within the State with voting systems described in subsection (b);

“(ii) certifications that the State will use the payment to replace such nonqualified voting systems by the deadline described in subsection (c);

“(iii) certifications that the State will continue to comply with the laws described in section 906;

“(iv) certifications that the replacement voting systems will meet the requirements of subsection (b); and

“(v) such other information and certifications as the Commission may require which are necessary for the administration of the program.

“(2) COMPLIANCE OF STATES THAT REQUIRE CHANGES TO STATE LAW.—In the case of a State that requires State legislation to carry out an activity covered by any certification submitted under this

1 subsection, the State shall be permitted to make the
 2 certification notwithstanding that the legislation has
 3 not been enacted at the time the certification is sub-
 4 mitted and such State shall submit an additional
 5 certification once such legislation is enacted.

6 “(e) AMOUNT OF PAYMENT.—

7 “(1) IN GENERAL.—The amount of funds pro-
 8 vided to a State under a payment under this section
 9 shall be equal to the product obtained by multi-
 10 plying—

11 “(A) the lesser of—

12 “(i) total amount appropriated for
 13 payments pursuant to the authorization
 14 under subsection (g); or

15 “(ii) the total amount of costs esti-
 16 mated by all eligible States on the notices
 17 submitted under subsection (d)(1)(B)(i);
 18 by

19 “(B) the State allocation percentage for
 20 the eligible State (as determined under para-
 21 graph (2)).

22 “(2) STATE ALLOCATION PERCENTAGE.—The
 23 State allocation percentage for any eligible State is
 24 the amount (expressed as a percentage) equal to the
 25 quotient obtained by dividing—

1 “(A) the total voting age population of all
2 eligible States (as reported in the most recent
3 decennial census); by

4 “(B) the voting age population of the eligi-
5 ble State (as reported in the most recent decen-
6 nial census).

7 “(f) NONQUALIFIED VOTING SYSTEM.—For purposes
8 of this section, the term ‘nonqualified voting system’
9 means any voting system that does not use individual, du-
10 rable, voter-verifiable paper ballots meeting the require-
11 ments of section 301(a)(2) (other than for purposes of
12 meeting the accessibility requirements of section
13 301(a)(3)).

14 “(g) AUTHORIZATION OF APPROPRIATIONS.—

15 “(1) IN GENERAL.—There is authorized to be
16 appropriated to the Commission to carry out this
17 section \$500,000,000 for fiscal year 2019.

18 “(2) AUTHORIZATION OF APPROPRIATIONS FOR
19 COMMISSION.—In addition to the amounts author-
20 ized under paragraph (1), there are authorized to be
21 appropriated to the Commission such sums as may
22 be necessary to administer the programs under this
23 part.

1 **“SEC. 297A. ACQUISITION OF ACCESSIBLE BALLOT MARK-**
 2 **ING DEVICES FOR VOTERS WITH DISABIL-**
 3 **ITIES.**

4 “(a) IN GENERAL.—The Commission shall pay to
 5 States the amount of eligible accessible ballot marking de-
 6 vice costs.

7 “(b) ELIGIBLE ACCESSIBLE BALLOT MARKING DE-
 8 VICE COSTS.—

9 “(1) IN GENERAL.—For purposes of this sec-
 10 tion, the term ‘eligible accessible ballot marking de-
 11 vice costs’ means costs paid or incurred by a State
 12 or local government to acquire an accessible ballot
 13 marking device.

14 “(2) ACCESSIBLE BALLOT MARKING DEVICE
 15 DEFINED.—For purposes of this section, the term
 16 ‘accessible ballot marking device’ means a ballot
 17 marking device that is used by the State or local
 18 government exclusively to comply with the require-
 19 ments of section 301(a)(3) (as applied to elections
 20 for Federal office occurring after the date that is 6
 21 years after the date of the enactment of the Pro-
 22 tecting American Votes and Elections Act of 2019).

23 “(c) PAYMENTS.—

24 “(1) LIMITATIONS.—

25 “(A) IN GENERAL.—Except as provided in
 26 subparagraph (B), the Commission shall not

1 pay eligible accessible ballot marking device
 2 costs with respect to more than 1 accessible bal-
 3 lot marking device in any precinct.

4 “(B) EXCEPTION.—The Commission may
 5 pay for more than 1 accessible ballot marking
 6 device in any precinct if the State demonstrates
 7 the need for more accessible ballot marking de-
 8 vices in such precinct due to the number of vot-
 9 ers with disabilities voting in such precinct com-
 10 pared to other precincts.

11 “(2) RULES AND PROCEDURES.—The Commis-
 12 sion shall establish rules and procedures for submis-
 13 sion of eligible accessible ballot marking device costs
 14 for payments under this section.

15 “(3) INSUFFICIENT FUNDS.—In any case in
 16 which the amounts appropriated under subsection
 17 (d) are insufficient to pay all eligible accessible bal-
 18 lot marking device costs submitted by States with
 19 respect to any Federal election, the amount of such
 20 costs paid under subsection (a) to any State shall be
 21 equal to the amount that bears the same ratio to the
 22 amount which would be paid to such State (deter-
 23 mined without regard to this paragraph) as—

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

1 “(B) the total number of individuals who
 2 voted in such Federal election in all States sub-
 3 mitting a claim for eligible accessible ballot
 4 marking device costs.

5 “(d) AUTHORIZATION OF APPROPRIATIONS.—

6 “(1) IN GENERAL.—There is hereby authorized
 7 to be appropriated to the Commission to carry out
 8 this section \$250,000,000 for fiscal years 2019
 9 through 2025.

10 “(2) AVAILABILITY.—Any amounts appro-
 11 priated pursuant to paragraph (1) shall remain
 12 available without fiscal year limitation until ex-
 13 pended.

14 **“PART 8—FUNDING FOR BALLOT DESIGN AND**
 15 **PRINTING**

16 **“SEC. 298. PAYMENTS FOR BALLOT DESIGN AND PRINTING.**

17 “(a) IN GENERAL.—The Commission shall pay to
 18 States the amount of eligible ballot design and printing
 19 costs.

20 “(b) ELIGIBLE DESIGN AND PRINTING COSTS.—For
 21 purposes of this section, the term ‘eligible ballot design
 22 and printing costs’ means, with respect to any State, costs
 23 paid or incurred by the State or any local government
 24 within the State for the design and printing of any ballot
 25 that—

1 “(1) is used in an election for Federal office oc-
 2 curring after the date of the enactment of this part;
 3 and

4 “(2) meets such minimum standards for
 5 usability and accessibility as established by the Com-
 6 mission, in consultation with the Director of the Na-
 7 tional Institute of Standards and Technology, for
 8 purposes of this section.

9 “(c) SPECIAL RULES.—

10 “(1) RULES AND PROCEDURES.—The Commis-
 11 sion shall establish rules and procedures for submis-
 12 sion of eligible ballot design and printing costs for
 13 payments under this section.

14 “(2) INSUFFICIENT FUNDS.—In any case in
 15 which the amounts appropriated under subsection
 16 (d) are insufficient to pay all eligible ballot design
 17 and printing costs submitted by States with respect
 18 to any Federal election, the amount of such costs
 19 paid under subsection (a) to any State shall be equal
 20 to the amount that bears the same ratio to the
 21 amount which would be paid to such State (deter-
 22 mined without regard to this paragraph) as—

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

1 “(B) the total number of individuals who
 2 voted in such Federal election in all States sub-
 3 mitting a claim for eligible ballot design and
 4 printing costs.

5 “(d) AUTHORIZATION OF APPROPRIATIONS.—

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

9 “(2) AVAILABILITY.—Any amounts appro-
 10 priated pursuant to paragraph (1) shall remain
 11 available without fiscal year limitation until ex-
 12 pended.

13 **“PART 9—FUNDING FOR POST-ELECTION RISK-**
 14 **LIMITING AUDITS**

15 **“SEC. 299. PAYMENTS FOR POST-ELECTION RISK-LIMITING**
 16 **AUDITS.**

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

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

24 “(1) the conduct of any risk-limiting audit (as
 25 defined in section 303A) with respect to an election

1 for Federal office occurring after the date of the en-
 2 actment of this part; and

3 “(2) any equipment, software, or services nec-
 4 essary for the conduct of any such risk-limiting
 5 audit.

6 “(c) SPECIAL RULES.—

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

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

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

22 “(B) the total number of individuals who
 23 voted in such Federal election in all States sub-
 24 mitting a claim for eligible post-election audit
 25 costs.

1 “(d) AUTHORIZATION OF APPROPRIATIONS.—

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

5 “(2) AVAILABILITY.—Any amounts appro-
6 priated pursuant to paragraph (1) shall remain
7 available without fiscal year limitation until ex-
8 pended.”.

9 (2) CLERICAL AMENDMENT.—The table of con-
10 tents for the Help America Vote Act of 2002 (52
11 U.S.C. 30101 et seq.) is amended by inserting after
12 the item related to section 296 the following:

“PART 7—PAYMENTS TO STATES FOR REPLACEMENT VOTING DEVICES

“Sec. 297. Replacement of paperless voting systems.

“Sec. 297A. Acquisition of accessible ballot marking devices for voters with dis-
abilities.

“PART 8—FUNDING FOR BALLOT DESIGN AND PRINTING

“Sec. 298. Payments for ballot design and printing.

“PART 9—FUNDING FOR POST-ELECTION RISK-LIMITING AUDITS

“Sec. 299. Payments for post-election risk-limiting audits.”.

13 (b) MODIFICATIONS TO PROTECTION AND ADVOCACY
14 SYSTEM GRANTS.—Section 291(b) of the Help America
15 Vote Act of 2002 (52 U.S.C. 21061(b)) is amended—

16 (1) by striking “as set forth in subsections
17 (c)(3)” and inserting “as set forth in subsections
18 (c)(1)(B) (regardless of the fiscal year), (c)(3)”;

19 (2) by striking “except that” and all that fol-
20 lows and inserting “except that the amount of the

1 grants to systems referred to in subsection (c)(3)(B)
 2 of that section shall not be less than \$70,000 and
 3 the amount of the grants to systems referred to in
 4 subsections (c)(1)(B) and (c)(4)(B) of that section
 5 shall not be less than \$35,000.”.

6 **SEC. 6. CYBERSECURITY REQUIREMENTS FOR AND TEST-**
 7 **ING AND CERTIFICATION OF VOTING SYS-**
 8 **TEMS.**

9 (a) IN GENERAL.—Subtitle A of title XXII of the
 10 Homeland Security Act of 2002 (6 U.S.C. 651 et seq.)
 11 is amended by adding at the end the following:

12 **“SEC. 2215. MANDATORY CYBERSECURITY REQUIREMENTS**
 13 **FOR SYSTEMS USED IN FEDERAL ELECTIONS.**

14 “Not later than 180 days after the date of enactment
 15 of Protecting American Votes and Elections Act of 2019,
 16 the Secretary, acting through the Director, shall promul-
 17 gate rules establishing minimum cybersecurity require-
 18 ments for the use in Federal elections of—

19 “(1) optical scanning devices (within the mean-
 20 ing of section 301(a)(7) of the Help America Vote
 21 Act of 2002);

22 “(2) ballot marking devices (within the meaning
 23 of section 301(a)(10) of such Act);

24 “(3) election management systems, including
 25 those systems used—

1 “(A) to configure optical scanning devices
2 and ballot marking devices;

3 “(B) to aggregate election results; and

4 “(C) to design paper ballots;

5 “(4) electronic poll books;

6 “(5) any government database, website, or asso-
7 ciated information system used by voters or govern-
8 ment agencies for voter registration (including the
9 management of voter registration status);

10 “(6) systems used to deliver or publish election
11 results; and

12 “(7) such other components of voting systems
13 (as defined in section 301(b) of such Act) as is de-
14 termined appropriate by the Director.

15 **“SEC. 2216. TESTING AND CERTIFICATION OF BALLOT**
16 **MARKING AND OPTICAL SCANNING DEVICE**
17 **CYBERSECURITY.**

18 “(a) IN GENERAL.—Any State or jurisdiction which
19 intends to use a ballot marking device or an optical scan-
20 ning device in an election for Federal office may submit
21 an application to the Director for cybersecurity testing
22 and certification of the hardware and software of such de-
23 vice under this section.

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

25 “(1) ASSIGNMENT.—

1 “(A) IN GENERAL.—Upon receipt of an
 2 application for testing under this section, the
 3 Director, in consultation with the Director of
 4 the National Institute of Standards and Tech-
 5 nology, shall contract with a qualified labora-
 6 tory for the testing of whether the ballot mark-
 7 ing device or optical scanning device intended to
 8 be used by the State or jurisdiction, as the case
 9 may be, meets the requirements of section
 10 301(a)(7)(B) of the Help America Vote Act of
 11 2002.

12 “(B) OPTIONAL TESTING OF STATE RE-
 13 QUIREMENTS.—In the case of a ballot marking
 14 device or optical scanning device for which the
 15 source code has been published under an open
 16 source license, the contract under subparagraph
 17 (A) shall also include, at the request of any
 18 State or jurisdiction, testing of whether such
 19 device meets any applicable requirements of the
 20 State or jurisdiction.

21 “(2) REQUIREMENTS FOR TESTING.—Any con-
 22 tract described in paragraph (1) shall require the
 23 qualified research laboratory to—

24 “(A) not later than 30 days before testing
 25 begins, submit to the Director for approval the

1 protocol for the simulated election scenario used
2 for testing the security of the ballot marking
3 device or optical scanning device, as the case
4 may be;

5 “(B) use only protocols approved by the
6 Director in conducting such security testing;
7 and

8 “(C) submit to the Director a report on
9 the results of the security testing.

10 “(3) QUALIFIED RESEARCH LABORATORY.—For
11 purposes of this section, the term ‘qualified research
12 laboratory’ means a laboratory accredited under this
13 subsection by the Director, in consultation with the
14 Director of the National Institute of Standards and
15 Technology.

16 “(c) REPORTING AND CERTIFICATION.—The Direc-
17 tor shall—

18 “(1) publish on the website of the Cybersecurity
19 and Infrastructure Security Agency the results of
20 the testing conducted under subsection (b); and

21 “(2) certify a ballot marking device or optical
22 scanning device if the ballot marking device or opti-
23 cal scanning device, as the case may be, is deter-
24 mined by the qualified research laboratory to meet

1 the requirements of section 301(a)(7)(B) of the Help
2 America Vote Act of 2002.

3 “(d) PROHIBITION ON FEES.—The Director may not
4 charge any fee to a State or jurisdiction, a developer or
5 manufacturer of a ballot marking device or optical scan-
6 ning device, or any other person in connection with testing
7 and certification under this section (including any testing
8 conducted under subsection (b)(1)(B)).”.

9 (b) CONFORMING AMENDMENT.—The table of con-
10 tents in section 1(b) of the Homeland Security Act of
11 2002 (Public Law 107–296; 116 Stat. 2135) is amended
12 by inserting after the item relating to section 2214 the
13 following:

“Sec. 2215. Mandatory cybersecurity requirements for systems used in Federal
elections.

“Sec. 2216. Testing and certification of ballot marking and optical scanning de-
vice cybersecurity.”.

14 **SEC. 7. VOTING SYSTEM CYBERSECURITY REQUIREMENTS.**

15 (a) BALLOT TABULATING DEVICES.—Section 301(a)
16 of the Help America Vote Act of 2002 (52 U.S.C.
17 21081(a)) is amended by adding at the end the following
18 new paragraph:

19 “(7) BALLOT TABULATING METHODS.—

20 “(A) IN GENERAL.—The voting system
21 tabulates ballots by hand or through the use of
22 an optical scanning device that meets the re-
23 quirements of subparagraph (B).

1 “(B) REQUIREMENTS FOR OPTICAL SCAN-
2 NING DEVICES.—Except as provided in sub-
3 paragraph (C), the requirements of this sub-
4 paragraph are as follows:

5 “(i) The device is designed and built
6 in a manner in which it is mechanically im-
7 possible for the device to add or change the
8 vote selections on a printed or marked bal-
9 lot.

10 “(ii) The device is capable of export-
11 ing its data (including vote tally data sets
12 and cast vote records) in a machine-read-
13 able, open data standard format required
14 by the Commission, in consultation with
15 the Director of the National Institute of
16 Standards and Technology.

17 “(iii) The device consists of hardware
18 that—

19 “(I) is certified under section
20 2216 of the Homeland Security Act;
21 and

22 “(II) demonstrably conforms to a
23 hardware component manifest describ-
24 ing point-of-origin information (in-
25 cluding upstream hardware supply

1 chain information for each compo-
2 nent) that—

3 “(aa) has been provided to
4 the Commission, the Director of
5 Cybersecurity and Infrastructure
6 Security, and the chief State
7 election official for each State in
8 which the device is used; and

9 “(bb) may be shared by any
10 entity to whom it has been pro-
11 vided under item (aa) with inde-
12 pendent experts for cybersecurity
13 analysis.

14 “(iv) The device utilizes technology
15 that prevents the operation of the device if
16 any hardware components do not meet the
17 requirements of clause (iii).

18 “(v) The device operates using soft-
19 ware—

20 “(I) for which the source code,
21 system build tools, and compilation
22 parameters—

23 “(aa) have been provided to
24 the Commission, the Director of
25 Cybersecurity and Infrastructure

1 Security, and the chief State
2 election official for each State in
3 which the device is used; and

4 “(bb) may be shared by any
5 entity to whom it has been pro-
6 vided under item (aa) with inde-
7 pendent experts for cybersecurity
8 analysis; and

9 “(II) that is certified under sec-
10 tion 2216 of the Homeland Security
11 Act.

12 “(vi) The device utilizes technology
13 that prevents the running of software on
14 the device that does not meet the require-
15 ments of clause (v).

16 “(vii) The device utilizes technology
17 that enables election officials, cybersecurity
18 researchers, and voters to verify that the
19 software running on the device—

20 “(I) was built from a specific,
21 untampered version of the code that is
22 described in clause (v); and

23 “(II) uses the system build tools
24 and compilation parameters that are
25 described in clause (v).

1 “(viii) The device contains such other
2 security requirements as the Director of
3 Cybersecurity and Infrastructure Security
4 requires.

5 “(C) WAIVER.—

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

15 “(ii) PUBLICATION.—Information re-
16 lating to any waiver granted under clause
17 (i) shall be made publicly available on the
18 Internet.

19 “(D) EFFECTIVE DATE.—Each State and
20 jurisdiction shall be required to comply with the
21 requirements of this paragraph for the regularly
22 scheduled election for Federal office in Novem-
23 ber 2024, and for each subsequent election for
24 Federal office.”.

1 (b) OTHER CYBERSECURITY REQUIREMENTS.—Sec-
 2 tion 301(a) of the Help America Vote Act of 2002 (52
 3 U.S.C. 21081(a)), as amended by subsection (a), is
 4 amended by adding at the end the following new para-
 5 graphs:

6 “(8) PROHIBITION OF USE OF WIRELESS COM-
 7 MUNICATIONS DEVICES IN SYSTEMS OR DEVICES.—

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

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

24 “(9) PROHIBITING CONNECTION OF SYSTEM TO
 25 THE INTERNET.—

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

“(B) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of this paragraph for the regularly scheduled election for Federal office in November 2020, and for each subsequent election for Federal office.”.

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

(1) IN GENERAL.—Section 301(a) of the Help America Vote Act of 2002 (52 U.S.C. 21081(a)), as amended by subsections (a) and (b), is amended by adding at the end the following new paragraph:

“(10) BALLOT MARKING DEVICES.—

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

“(i) is not capable of tabulating votes;

1 “(ii) except in the case of a ballot
 2 marking device used exclusively to comply
 3 with the requirements of paragraph (3), is
 4 certified in accordance with section 232 as
 5 meeting the requirements of subparagraph
 6 (B); and

7 “(iii) is certified under section 2216
 8 of the Homeland Security Act as meeting
 9 the requirements of clauses (iii) through
 10 (viii) of section 301(a)(7)(B).

11 “(B) REQUIREMENTS.—

12 “(i) IN GENERAL.—A ballot marking
 13 device meets the requirements of this sub-
 14 paragraph if, during a double-masked test
 15 conducted by a qualified independent user
 16 experience research laboratory (as defined
 17 in section 232(b)(4)) of a simulated elec-
 18 tion scenario which meets the requirements
 19 of clause (ii), there is less than a 5 percent
 20 chance that an ordinary voter using the de-
 21 vice would not detect and report any dif-
 22 ference between the vote selection printed
 23 on the ballot by the ballot marking device
 24 and the vote selection indicated by the
 25 voter.

1 “(ii) SIMULATED ELECTION SCE-
 2 NARIO.—A simulated election scenario
 3 meets the requirements of this clause if it
 4 is conducted with—

5 “(I) a pool of subjects that are—

6 “(aa) diverse in age, gender,
 7 education, and physical limita-
 8 tions; and

9 “(bb) representative of the
 10 communities in which the voting
 11 system will be used; and

12 “(II) ballots that are representa-
 13 tive of ballots ordinarily used in the
 14 communities in which the voting sys-
 15 tem will be used.

16 “(C) EFFECTIVE DATE.—Each State and
 17 jurisdiction shall be required to comply with the
 18 requirements of this paragraph for the regularly
 19 scheduled election for Federal office in Novem-
 20 ber 2022, and for each subsequent election for
 21 Federal office.”.

22 (2) PROCEDURE FOR TESTING.—

23 (A) IN GENERAL.—Subtitle B of title II of
 24 the Help America Vote Act of 2002 (52 U.S.C.

1 20971 et seq.) is amended by adding at the end
 2 the following new section:

3 **“SEC. 232. TESTING AND CERTIFICATION OF BALLOT MARK-**
 4 **ING DEVICES.**

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

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

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

18 “(2) ASSIGNMENT.—Upon receipt of an appli-
 19 cation for testing under this section, the Commission
 20 shall contract with a qualified independent user ex-
 21 perience research laboratory for the testing of
 22 whether the ballot marking device intended to be
 23 used by the State or jurisdiction meets the require-
 24 ments of section 301(a)(10)(B).

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

5 “(A) not later than 30 days before testing
6 begins, submit to the Commission for approval
7 the protocol for the simulated election scenario
8 used for testing the ballot marking device;

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

11 “(C) submit to the Commission a report on
12 the results of the testing.

13 “(4) QUALIFIED INDEPENDENT USER EXPERI-
14 ENCE RESEARCH LABORATORY.—For purposes of
15 this section:

16 “(A) IN GENERAL.—The term ‘qualified
17 independent user experience research labora-
18 tory’ means a laboratory accredited under this
19 subsection by the Election Assistance Commis-
20 sion in accordance with standards determined
21 by the Commission, in consultation with the Di-
22 rector of the National Institute of Standards
23 and Technology and the Secretary of Homeland
24 Security.

1 “(B) CRITERIA.—A laboratory shall not be
2 accredited under this subsection unless such
3 laboratory demonstrates that—

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

9 “(ii) any group of individuals con-
10 ducting tests under this section collectively
11 meet the following qualifications:

12 “(I) Experience designing and
13 running user research studies and ex-
14 periments using both qualitative and
15 quantitative methodologies.

16 “(II) Experience with voting sys-
17 tems.

18 “(c) REVIEW BY INDEPENDENT BOARD.—

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

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

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

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

8 “(3) INDEPENDENT REVIEW BOARD.—

9 “(A) IN GENERAL.—An independent re-
 10 view board established under this paragraph
 11 shall be composed of 5 independent scientists
 12 appointed by the Commission, in consultation
 13 with the Director of the National Institute of
 14 Standards and Technology.

15 “(B) QUALIFICATIONS.—The members of
 16 the independent review board—

17 “(i) shall have expertise and relevant
 18 peer-reviewed publications in the following
 19 fields: cognitive psychology, experimental
 20 design, statistics, and user experience re-
 21 search and testing; and

22 “(ii) may not have, or have had dur-
 23 ing the 5 preceding years, any financial re-
 24 lationship with a manufacturer of voting
 25 systems.

1 “(4) PUBLICATION.—The Commission shall
2 make public—

3 “(A) any protocol approved under this sub-
4 section;

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

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

9 “(d) CERTIFICATION.—If—

10 “(1) a ballot marking device is determined by
11 the qualified independent user experience research
12 laboratory to meet the requirements of section
13 301(a)(7); and

14 “(2) the report submitted under subsection
15 (b)(3)(C) is approved by a majority of the members
16 of the independent review board under subsection
17 (d)(2),

18 then the Commission shall certify the ballot marking de-
19 vice.

20 “(e) PROHIBITION ON FEES.—The Commission may
21 not charge any fee to a State or jurisdiction, a developer
22 or manufacturer of a ballot marking device, or any other
23 person in connection with testing and certification under
24 this section.”.

25 (B) CONFORMING AMENDMENTS.—

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

6 (ii) The heading for subtitle B of title
 7 II of such Act is amended by inserting “;
 8 **Ballot Marking Devices**”.

9 (iii) The table of contents for the
 10 Help America Vote Act of 2002 (52 U.S.C.
 11 30101 et seq.) is amended—

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

15 (II) by inserting after the item
 16 related to section 231 the following:

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

17 **SEC. 8. BALLOT CYBERSECURITY, CONFIDENTIALITY, AND**
 18 **ACCESS FOR INDIVIDUALS WITH DISABIL-**
 19 **ITIES.**

20 (a) IN GENERAL.—Section 301(a)(3)(B) of the Help
 21 America Vote Act of 2002 (52 U.S.C. 21081(a)(3)(B)),
 22 as amended by section 2(b)(1), is amended to read as fol-
 23 lows:

1 “(B)(i) satisfy the requirement of subpara-
2 graph (A) through the use of at least 1 voting
3 system at each polling place that—

4 “(I) is equipped for individuals with
5 disabilities, including nonvisual and en-
6 hanced visual accessibility for the blind
7 and visually impaired, and contains fea-
8 tures to support enhanced manual accessi-
9 bility for the mobility and dexterity im-
10 paired;

11 “(II) in the case of any election for
12 Federal office occurring after the date that
13 is 6 years after the date of the enactment
14 of the Protecting American Votes and
15 Elections Act of 2019—

16 “(aa) marks ballots that are
17 identical in size, ink, and paper stock
18 to those ballots that would be marked
19 by hand or a ballot marking device
20 used by voters who do not have acces-
21 sibility needs;

22 “(bb) marks the ballot in such a
23 way that someone examining the bal-
24 lot will not be able to readily deter-

1 mine whether the ballot was marked
2 by hand or machine; and

3 “(cc) combines ballots produced
4 by the voting system with ballots
5 marked by voters using other types of
6 voting systems used by the State or
7 jurisdiction in a way that prevents
8 identification of which ballots were
9 cast using each voting system; and

10 “(III) is made available for use by
11 any voter who requests to use it; and

12 “(ii) in the case of any election for Federal
13 office occurring after the date that is 6 years
14 after the date of the enactment of the Pro-
15 tecting American Votes and Elections Act of
16 2019, meet the requirements of subparagraph
17 (A) and paragraph (2)(A) by using a system
18 that allows the voter to privately and independ-
19 ently verify the accuracy of the permanent
20 paper ballot through the presentation, in acces-
21 sible form, of the printed or marked vote selec-
22 tions from the same printed or marked informa-
23 tion that would be used for any vote tabulation
24 or auditing; and”.

1 (b) CLARIFICATION WITH RESPECT TO APPLICATION
 2 OF REQUIREMENT TO BALLOTS MARKED AT HOME.—
 3 Section 301(a)(3) of such Act (52 U.S.C. 21081(a)(3))
 4 is amended by adding at the end the following new flush
 5 sentence:

6 “Nothing in subparagraph (B) shall be construed to
 7 prohibit the use of an accessible ballot that may be
 8 printed or marked by the voter at home.”.

9 **SEC. 9. APPLICATION OF HELP AMERICA VOTE ACT TO**
 10 **NORTHERN MARIANA ISLANDS.**

11 Section 901 of the Help America Vote Act of 2002
 12 (52 U.S.C. 21141) is amended by striking “and the
 13 United States Virgin Islands” and inserting “the United
 14 States Virgin Islands, and the Northern Mariana Is-
 15 lands”.

16 **SEC. 10. BIENNIAL REPORTS ON ELECTION SECURITY.**

17 (a) IN GENERAL.—

18 (1) BIENNIAL REPORT.—Not later than Sep-
 19 tember 20 of each odd numbered year the Secretary
 20 of the Department of Homeland Security shall sub-
 21 mit to the appropriate congressional committees a
 22 report on the security of Federal elections.

23 (2) SUPPLEMENTAL REPORTS.—The Secretary
 24 of Homeland Security may submit to the appro-

1 piate congressional committees periodic updates to
2 the most recently filed report under paragraph (1).

3 (3) CONSULTATION.—In preparing any report
4 under this section, the Secretary of Homeland Secu-
5 rity shall consult with the Director of National Intel-
6 ligence, the Secretary of Defense, and the Election
7 Assistance Commission.

8 (b) MATTERS INCLUDED.—Reports under subsection
9 (a) shall include the following:

10 (1) A list of States and jurisdictions that have
11 received training, advice, and other cybersecurity as-
12 sistance from the Department of Homeland Secu-
13 rity.

14 (2) An inventory of the election equipment
15 (hardware and software versions) that was used in
16 each election precinct to conduct each election for
17 Federal office during the period covered by the re-
18 port.

19 (3) A list of known, unpatched security
20 vulnerabilities in election equipment that was used
21 in each election precinct to conduct each election for
22 Federal office during the period covered by the re-
23 port.

24 (4) Statistics about cyber attack attempts de-
25 tected by States or the Federal Government against

1 State election infrastructure during the period cov-
2 ered by the report.

3 (5) Incident reports from cyber attacks that re-
4 quired remediation during the period covered by the
5 report.

6 (6) A full assessment of the security of Federal
7 elections during the period covered by the report.

8 (7) An assessment of Federal and State cyber-
9 security efforts to prepare for future Federal elec-
10 tions, together with any recommendations on further
11 actions with respect to such efforts.

12 The Secretary of Homeland Security may modify reports
13 provided under paragraph (5) to anonymize any informa-
14 tion that would reveal the identity of the victim of such
15 cyber attack if such revelation would disrupt the relation-
16 ship between the Department of Homeland Security and
17 a State or jurisdiction.

18 (c) TREATMENT OF CLASSIFIED MATERIAL.—Re-
19 ports submitted under this section shall be submitted in
20 unclassified form, but may include a classified annex.

21 (d) APPROPRIATE CONGRESSIONAL COMMITTEES.—
22 For purposes of this section, the term “appropriate con-
23 gressional committees” means—

24 (1) the Committee on Rules and Administra-
25 tion, the Committee on Homeland Security and Gov-

1 ernmental Affairs, the Select Committee on Intel-
2 ligence, and the Committee on Appropriations of the
3 Senate; and

4 (2) the Committee on House Administration,
5 the Committee on Homeland Security, the Perma-
6 nent Select Committee on Intelligence, and the Com-
7 mittee on Appropriations of the House of Represent-
8 atives.

○