

118TH CONGRESS
1ST SESSION

H. R. 4462

To direct the Secretary of Homeland Security and the Director of National Intelligence to submit a joint report on foreign threats to elections in the United States and to establish procedures to test for and monitor cybersecurity vulnerabilities in certain equipment used in the administration of elections for Federal office, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 3, 2023

Ms. MACE introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committees on Homeland Security, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To direct the Secretary of Homeland Security and the Director of National Intelligence to submit a joint report on foreign threats to elections in the United States and to establish procedures to test for and monitor cybersecurity vulnerabilities in certain equipment used in the administration of elections for Federal office, 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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. REPORTS TO CONGRESS ON FOREIGN THREATS TO**
5 **ELECTIONS.**

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

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

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

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

24 (2) the Department of Defense;

25 (3) the Department of Homeland Security, in-
26 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 ignated 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. 3. PROCESS TO TEST FOR AND MONITOR CYBERSECU-**
17 **RITY VULNERABILITIES IN ELECTION EQUIP-**
18 **MENT.**

19 (a) PROCESS FOR COVERED VOTING SYSTEMS.—

20 (1) IN GENERAL.—The Director of the Cyberse-
21 curity and Infrastructure Security Agency of the De-
22 partment of Homeland Security and the Election As-
23 sistance Commission (in consultation with the Tech-
24 nical Guidelines Development Committee and the
25 Standards Board of the Commission), shall jointly

1 establish a voluntary process to test for and monitor
2 covered voting systems for cybersecurity
3 vulnerabilities. Such process shall include the fol-
4 lowing:

5 (A) Mitigation strategies and other rem-
6 edies.

7 (B) Notice to the Commission and appro-
8 priate entities of the results of testing con-
9 ducted pursuant to such process.

10 (2) IMPLEMENTATION.—The Director shall im-
11 plement the process established under paragraph (1)
12 at the request of the Commission.

13 (b) LABELING FOR VOTING SYSTEMS.—The Commis-
14 sion (in consultation with the Technical Guidelines Devel-
15 opment Committee and the Standards Board of the Com-
16 mission), shall establish a process to provide for the de-
17 ployment of appropriate labeling available through the
18 website of the Commission to indicate that covered voting
19 systems passed the most recent cybersecurity testing pur-
20 suant to the process established under subsection (a).

21 (c) RULES OF CONSTRUCTION.—The process estab-
22 lished under subsection (a), including the results of any
23 testing carried out pursuant to this section, shall not af-
24 fect—

1 (1) the certification status of equipment used in
2 the administration of an election for Federal office
3 under the Help America Vote Act of 2002; or

4 (2) the authority of the Commission to so cer-
5 tify such equipment under such Act.

6 (d) DEFINITION.—In this section, the term “covered
7 voting systems” means equipment used in the administra-
8 tion of an election for Federal office that is certified in
9 accordance with versions of Voluntary Voting System
10 Guidelines under the Help America Vote Act of 2002
11 under which such equipment is not required to be tested
12 for cybersecurity vulnerabilities.

13 **SEC. 4. DUTY OF SECRETARY OF HOMELAND SECURITY TO**
14 **NOTIFY STATE AND LOCAL OFFICIALS OF**
15 **ELECTION CYBERSECURITY INCIDENTS.**

16 (a) DUTY TO SHARE INFORMATION WITH DEPART-
17 MENT OF HOMELAND SECURITY.—If a Federal entity re-
18 ceives information about an election cybersecurity inci-
19 dent, the Federal entity shall promptly share that infor-
20 mation with the Department of Homeland Security, unless
21 the head of the entity (or a Senate-confirmed official des-
22 ignated by the head) makes a specific determination in
23 writing that there is good cause to withhold the particular
24 information.

1 (b) RESPONSE TO RECEIPT OF INFORMATION BY
2 SECRETARY OF HOMELAND SECURITY.—

3 (1) IN GENERAL.—Upon receiving information
4 about an election cybersecurity incident under sub-
5 section (a), the Secretary of Homeland Security, in
6 consultation with the Attorney General, the Director
7 of the Federal Bureau of Investigation, and the Di-
8 rector of National Intelligence, shall promptly (but
9 in no case later than 96 hours after receiving the in-
10 formation) review the information and make a deter-
11 mination whether each of the following apply:

12 (A) There is credible evidence that the in-
13 cident occurred.

14 (B) There is a basis to believe that the in-
15 cident resulted, could have resulted, or could re-
16 sult in voter information systems or voter tab-
17 ulation systems being altered or otherwise af-
18 fected.

19 (2) DUTY TO NOTIFY STATE AND LOCAL OFFI-
20 CIALS.—

21 (A) DUTY DESCRIBED.—If the Secretary
22 makes a determination under paragraph (1)
23 that subparagraphs (A) and (B) of such para-
24 graph apply with respect to an election cyberse-
25 curity incident, not later than 96 hours after

1 making the determination, the Secretary shall
2 provide a notification of the incident to each of
3 the following:

4 (i) The chief executive of the State in-
5 volved.

6 (ii) The State election official of the
7 State involved.

8 (iii) The local election official of the
9 election agency involved.

10 (B) TREATMENT OF CLASSIFIED INFORMA-
11 TION.—

12 (i) EFFORTS TO AVOID INCLUSION OF
13 CLASSIFIED INFORMATION.—In preparing
14 a notification provided under this para-
15 graph to an individual described in clause
16 (i), (ii), or (iii) of subparagraph (A), the
17 Secretary shall attempt to avoid the inclu-
18 sion of classified information.

19 (ii) PROVIDING GUIDANCE TO STATE
20 AND LOCAL OFFICIALS.—To the extent
21 that a notification provided under this
22 paragraph to an individual described in
23 clause (i), (ii), or (iii) of subparagraph (A)
24 includes classified information, the Sec-
25 retary (in consultation with the Attorney

1 General and the Director of National Intel-
2 ligence) shall indicate in the notification
3 which information is classified.

4 (3) EXCEPTION.—

5 (A) IN GENERAL.—If the Secretary, in
6 consultation with the Attorney General and the
7 Director of National Intelligence, makes a de-
8 termination that it is not possible to provide a
9 notification under paragraph (1) with respect to
10 an election cybersecurity incident without com-
11 promising intelligence methods or sources or
12 interfering with an ongoing investigation, the
13 Secretary shall not provide the notification
14 under such paragraph.

15 (B) ONGOING REVIEW.—Not later than 30
16 days after making a determination under sub-
17 paragraph (A) and every 30 days thereafter,
18 the Secretary shall review the determination. If,
19 after reviewing the determination, the Secretary
20 makes a revised determination that it is pos-
21 sible to provide a notification under paragraph
22 (2) without compromising intelligence methods
23 or sources or interfering with an ongoing inves-
24 tigation, the Secretary shall provide the notifi-

1 cation under paragraph (2) not later than 96
2 hours after making such revised determination.

3 (4) COORDINATION WITH ELECTION ASSIST-
4 ANCE COMMISSION.—The Secretary shall make de-
5 terminations and provide notifications under this
6 subsection in the same manner, and subject to the
7 same terms and conditions relating to the role of the
8 Election Assistance Commission, in which the Direc-
9 tor of the Cybersecurity and Infrastructure Security
10 Agency of the Department of Homeland Security
11 makes determinations as to the necessity of an advi-
12 sory and the issuance of an advisory under section
13 3(a) and the provision of notification under section
14 3(b).

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 (including a
3 vote tabulation system), or actually or imminently
4 jeopardizes, without lawful authority, such an infor-
5 mation system of election infrastructure.

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

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

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

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

22 (7) STATE.—The term “State” means each of
23 the several States, the District of Columbia, the
24 Commonwealth of Puerto Rico, Guam, American

1 Samoa, the Commonwealth of Northern Mariana Is-
2 lands, and the United States Virgin Islands.

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

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

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

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

18 **SEC. 5. RULE OF CONSTRUCTION.**

19 Nothing in this Act may be construed as authorizing
20 the Secretary of Homeland Security to carry out the ad-
21 ministration of an election for Federal office.

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