

118TH CONGRESS
1ST SESSION

S. _____

To amend the Help America Vote Act of 2002 to require the Election Assistance Commission to provide for the conduct of penetration testing as part of the testing and certification of voting systems and to provide for the establishment of an Independent Security Testing and Coordinated Vulnerability Disclosure Pilot Program for Election Systems.

IN THE SENATE OF THE UNITED STATES

Mr. WARNER (for himself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Help America Vote Act of 2002 to require the Election Assistance Commission to provide for the conduct of penetration testing as part of the testing and certification of voting systems and to provide for the establishment of an Independent Security Testing and Coordinated Vulnerability Disclosure Pilot Program for Election Systems.

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 “Strengthening Election
3 Cybersecurity to Uphold Respect for Elections through
4 Independent Testing Act” or the “SECURE IT Act”.

5 **SEC. 2. REQUIRING PENETRATION TESTING AS PART OF**
6 **THE TESTING AND CERTIFICATION OF VOT-**
7 **ING SYSTEMS.**

8 Section 231 of the Help America Vote Act of 2002
9 (52 U.S.C. 20971) is amended by adding at the end the
10 following new subsection:

11 “(e) **REQUIRED PENETRATION TESTING.**—

12 “(1) **IN GENERAL.**—Not later than 180 days
13 after the date of the enactment of this subsection,
14 the Commission shall provide for the conduct of pen-
15 etration testing as part of the testing, certification,
16 decertification, and recertification of voting system
17 hardware and software by accredited laboratories
18 under this section.

19 “(2) **ACCREDITATION.**—The Director of the
20 National Institute of Standards and Technology
21 shall recommend to the Commission entities the Di-
22 rector proposes be accredited to carry out penetra-
23 tion testing under this subsection and certify compli-
24 ance with the penetration testing-related guidelines
25 required by this subsection. The Commission shall
26 vote on the accreditation of any entity recommended.

1 The requirements for such accreditation shall be a
2 subset of the requirements for accreditation of lab-
3 oratories under subsection (b) and shall only be
4 based on consideration of an entity's competence to
5 conduct penetration testing under this subsection.”.

6 **SEC. 3. INDEPENDENT SECURITY TESTING AND COORDI-**
7 **NATED CYBERSECURITY VULNERABILITY**
8 **DISCLOSURE PROGRAM FOR ELECTION SYS-**
9 **TEMS.**

10 (a) IN GENERAL.—Subtitle D of title II of the Help
11 America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is
12 amended by adding at the end the following new part:

13 **“PART 7—INDEPENDENT SECURITY TESTING AND**
14 **COORDINATED CYBERSECURITY VULNER-**
15 **ABILITY DISCLOSURE PILOT PROGRAM FOR**
16 **ELECTION SYSTEMS**

17 **“SEC. 297. INDEPENDENT SECURITY TESTING AND COORDI-**
18 **NATED CYBERSECURITY VULNERABILITY**
19 **DISCLOSURE PILOT PROGRAM FOR ELEC-**
20 **TION SYSTEMS.**

21 “(a) IN GENERAL.—

22 “(1) ESTABLISHMENT.—The Commission, in
23 consultation with the Secretary, shall establish an
24 Independent Security Testing and Coordinated Vul-
25 nerability Disclosure Pilot Program for Election Sys-

1 tems (VDP–E) (in this section referred to as the
2 ‘program’) in order to test for and disclose cyberse-
3 curity vulnerabilities in election systems.

4 “(2) DURATION.—The program shall be con-
5 ducted for a period of 5 years.

6 “(3) REQUIREMENTS.—In carrying out the pro-
7 gram, the Commission, in consultation with the Sec-
8 retary, shall—

9 “(A) establish a mechanism by which an
10 election systems vendor may make their election
11 system (including voting machines and source
12 code) available to cybersecurity researchers par-
13 ticipating in the program;

14 “(B) provide for the vetting of cybersecu-
15 rity researchers prior to their participation in
16 the program, including the conduct of back-
17 ground checks;

18 “(C) establish terms of participation
19 that—

20 “(i) describe the scope of testing per-
21 mitted under the program;

22 “(ii) require researchers to—

23 “(I) notify the vendor, the Com-
24 mission, and the Secretary of any cy-
25 bersecurity vulnerability they identify

1 with respect to an election system;
2 and

3 “(II) otherwise keep such vulner-
4 ability confidential for 180 days after
5 such notification;

6 “(iii) require the good faith participa-
7 tion of all participants in the program;

8 “(iv) require an election system ven-
9 dor, after receiving notification of a critical
10 or high vulnerability (as defined by the
11 National Institute of Standards and Tech-
12 nology) in an election system of the ven-
13 dor, to—

14 “(I) send a patch or propound
15 some other fix or mitigation for such
16 vulnerability to the appropriate State
17 and local election officials, in con-
18 sultation with the researcher who dis-
19 covered it; and

20 “(II) notify the Commission and
21 the Secretary that such patch has
22 been sent to such officials;

23 “(D) in the case where a patch or fix to
24 address a vulnerability disclosed under subpara-

1 graph (C)(ii)(I) is intended to be applied to a
2 system certified by the Commission, provide—

3 “(i) for the expedited review of such
4 patch or fix within 90 days after receipt by
5 the Commission; and

6 “(ii) if such review is not completed
7 by the last day of such 90 day period, that
8 such patch or fix shall be deemed to be
9 certified by the Commission; and

10 “(E) 180 days after the disclosure of a
11 vulnerability under subparagraph (C)(ii)(I), no-
12 tify the Director of the Cybersecurity and In-
13 frastructure Security Agency of the vulner-
14 ability for inclusion in the database of Common
15 Vulnerabilities and Exposures.

16 “(4) VOLUNTARY PARTICIPATION; SAFE HAR-
17 BOR.—

18 “(A) VOLUNTARY PARTICIPATION.—Par-
19 ticipation in the program shall be voluntary for
20 election systems vendors and researchers.

21 “(B) SAFE HARBOR.—When conducting
22 research under this program, such research and
23 subsequent publication shall be considered to
24 be:

1 “(i) Authorized in accordance with
2 section 1030 of title 18, United States
3 Code (commonly known as the ‘Computer
4 Fraud and Abuse Act’), (and similar state
5 laws), and the election system vendor will
6 not initiate or support legal action against
7 the researcher for accidental, good faith
8 violations of the program.

9 “(ii) Exempt from the anti-circumven-
10 tion rule of section 1201 of title 17, United
11 States Code (commonly known as the ‘Dig-
12 ital Millennium Copyright Act’), and the
13 election system vendor will not bring a
14 claim against a researcher for circumven-
15 tion of technology controls.

16 “(C) RULE OF CONSTRUCTION.—Nothing
17 in this paragraph may be construed to limit or
18 otherwise affect any exception to the general
19 prohibition against the circumvention of techno-
20 logical measures under subparagraph (A) of
21 section 1201(a)(1) of title 17, United States
22 Code, including with respect to any use that is
23 excepted from that general prohibition by the
24 Librarian of Congress under subparagraphs (B)
25 through (D) of such section 1201(a)(1).

1 vendors who have entered into con-
2 tracts with election agencies to sup-
3 port the administration of elections,
4 manage the election process, and re-
5 port and display election results); and

6 “(V) other systems used to man-
7 age the election process and to report
8 and display election results on behalf
9 of an election agency.

10 “(C) ELECTION SYSTEM.—The term ‘elec-
11 tion system’ means any information system that
12 is part of an election infrastructure, including
13 any related information and communications
14 technology described in subparagraph (B)(ii).

15 “(D) ELECTION SYSTEM VENDOR.—The
16 term ‘election system vendor’ means any person
17 providing, supporting, or maintaining an elec-
18 tion system on behalf of a State or local elec-
19 tion official.

20 “(E) INFORMATION SYSTEM.—The term
21 ‘information system’ has the meaning given the
22 term in section 3502 of title 44, United States
23 Code.

24 “(F) SECRETARY.—The term ‘Secretary’
25 means the Secretary of Homeland Security.

1 “(G) SECURITY VULNERABILITY.—The
2 term ‘security vulnerability’ has the meaning
3 given the term in section 102 of the Cybersecu-
4 rity Information Sharing Act of 2015 (6 U.S.C.
5 1501).”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 of such Act is amended by adding at the end of the items
8 relating to subtitle D of title II the following:

“PART 7—INDEPENDENT SECURITY TESTING AND COORDINATED CYBERSE-
CURITY VULNERABILITY DISCLOSURE PROGRAM FOR ELECTION SYSTEMS

“Sec. 297. Independent security testing and coordinated cybersecurity vulner-
ability disclosure program for election systems.”.