

116TH CONGRESS  
1ST SESSION

# H. R. 2754

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 HOUSE OF REPRESENTATIVES

MAY 15, 2019

Mr. BLUMENAUER (for himself, Ms. CLARKE of New York, Miss RICE of New York, Ms. BONAMICI, Mr. RASKIN, Mr. HASTINGS, Mr. LEWIS, Mr. DEFAZIO, Mr. HECK, and Mr. COOPER) introduced the following bill; which was referred to the Committee on House 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  
 21 voter by hand or a paper ballot print-

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

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

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

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

1           “(cc) the ballot marking de-  
2           vice shall be designed and built  
3           in a manner in which it is me-  
4           chanically impossible for the de-  
5           vice to add or change the vote se-  
6           lections on a printed or marked  
7           ballot at any time after the ballot  
8           has been presented to the voter  
9           for inspection and verification  
10          under item (aa).

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

20          “(ii) PRESERVATION AS OFFICIAL  
21          RECORD.—The individual, durable, voter-  
22          verifiable, paper ballot used in accordance  
23          with clause (i) shall constitute the official  
24          ballot and shall be preserved and used as  
25          the official ballot for purposes of ballot

1 tabulation and any recount or audit con-  
2 ducted with respect to any election for  
3 Federal office in which the voting system  
4 is used.

5 “(iii) HAND TABULATION REQUIRE-  
6 MENTS FOR RECOUNTS.—

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

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

24 “(iv) APPLICATION TO ALL BAL-  
25 LOTS.—The requirements of this subpara-

1 graph shall apply to all ballots cast in elec-  
2 tions for Federal office, including ballots  
3 cast by absent uniformed services voters  
4 and overseas voters under the Uniformed  
5 and Overseas Citizens Absentee Voting Act  
6 and other absentee voters.

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

10 “(i) IN GENERAL.—In the event  
11 that—

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

21 “(II) it is demonstrated by clear  
22 and convincing evidence (as deter-  
23 mined in accordance with the applica-  
24 ble standards in the jurisdiction in-  
25 volved) in any recount, audit, or con-

1 test of the result of the election that  
2 the paper ballots have been com-  
3 promised (by damage or mischief or  
4 otherwise) and that a sufficient num-  
5 ber of the ballots have been so com-  
6 promised that the result of the elec-  
7 tion could be changed,

8 the determination of the appropriate rem-  
9 edy with respect to the election shall be  
10 made in accordance with applicable State  
11 law, except that the electronic tally shall  
12 not be used as the exclusive basis for de-  
13 termining the official certified result.

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

22 “(C) EFFECTIVE DATE.—Each State and  
23 jurisdiction shall be required to comply with the  
24 requirements of this paragraph for the first reg-  
25 ularly scheduled election for Federal office held

1 more than 1 year after the date of the enact-  
2 ment of the Protecting American Votes and  
3 Elections Act of 2019, and for each subsequent  
4 election for Federal office.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) INDIVIDUAL WITH DISABILITIES.—Section  
7 301(a)(3)(B) of such Act (52 U.S.C.  
8 21081(a)(3)(B)) is amended by striking “direct re-  
9 cording electronic voting system or other”.

10 (2) ALTERNATIVE LANGUAGE ACCESSIBILITY.—  
11 Section 301(a)(4) of such Act (52 U.S.C.  
12 21081(a)(4)) is amended by inserting “(including  
13 the paper ballots required to be used under para-  
14 graph (2))” after “voting system”.

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

19 **SEC. 3. RISK-LIMITING AUDITS.**

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

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

24 “(a) DEFINITIONS.—In this section:



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

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

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

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

12           “(2) REPORTED OUTCOME; CORRECT OUTCOME;  
13 OUTCOME.—

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

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

1 the date of the enactment of this part (in such  
2 form as the Commission may require) that con-  
3 tains—

4 “(i) an estimate of the cost of replac-  
5 ing nonqualified voting systems within the  
6 State with voting systems described in sub-  
7 section (b);

8 “(ii) certifications that the State will  
9 use the payment to replace such non-  
10 qualified voting systems by the deadline  
11 described in subsection (c);

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

15 “(iv) certifications that the replace-  
16 ment voting systems will meet the require-  
17 ments of subsection (b); and

18 “(v) such other information and cer-  
19 tifications as the Commission may require  
20 which are necessary for the administration  
21 of the program.

22 “(2) COMPLIANCE OF STATES THAT REQUIRE  
23 CHANGES TO STATE LAW.—In the case of a State  
24 that requires State legislation to carry out an activ-  
25 ity 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)”; and

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.—

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

9           “(B) EFFECTIVE DATE.—Each State and  
10          jurisdiction shall be required to comply with the  
11          requirements of this paragraph for the regularly  
12          scheduled election for Federal office in Novem-  
13          ber 2020, and for each subsequent election for  
14          Federal office.”.

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

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

21                 “(10) BALLOT MARKING DEVICES.—

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

25                                 “(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        appropriate 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.

○