

115TH CONGRESS  
2D SESSION

# S. 3116

To establish an Election Security grant program.

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IN THE SENATE OF THE UNITED STATES

JUNE 21, 2018

Mr. MENENDEZ introduced the following bill; which was read twice and  
referred to the Committee on Rules and Administration

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## A BILL

To establish an Election Security grant program.

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.**

4 This Act may be cited as the “Protecting the Right  
5 to Independent and Democratic Elections Act” or the  
6 “PRIDE Voting Act”.

7 **SEC. 2. ELECTION SECURITY GRANT PROGRAM.**

8 (a) ESTABLISHMENT.—

9 (1) IN GENERAL.—There is hereby established  
10 an Election Security grant program (in this section  
11 referred to as the “program”) under which the Sec-  
12 retary of Homeland Security awards grants to

1 States to carry out one of more of the following ac-  
2 tivities:

3 (A) Implementing or improving the use of  
4 auditable paper ballots in accordance with the  
5 requirements of paragraph (2), including the  
6 updating of any voting system in order to im-  
7 plement or improve the use of auditable paper  
8 ballots.

9 (B) Conducting post-election risk limiting  
10 audits.

11 (C) Implementing cybersecurity standards  
12 and best practices developed by the National  
13 Institute of Standards and Technology, includ-  
14 ing frameworks, consistent with section 2(c) of  
15 the National Institute of Standards and Tech-  
16 nology Act (15 U.S.C. 272(c)). In implementing  
17 such standards and best practices, a State  
18 shall, to the extent practicable, utilize CIS Con-  
19 trols from the nonprofit Center for Internet Se-  
20 curity (formerly the 20 Critical Security Con-  
21 trols).

22 (2) PAPER BALLOT REQUIREMENT.—

23 (A) VOTER-VERIFIED PAPER BALLOTS.—

24 The requirements described in this paragraph,

1 with respect to the use of paper ballots in a vot-  
2 ing system, are the following:

3 (i) PAPER BALLOT REQUIREMENT.—

4 (I) The voting system shall require the use  
5 of an individual, durable, voter-verified,  
6 paper ballot of the voter's vote that shall  
7 be marked and made available for inspec-  
8 tion and verification by the voter before  
9 the voter's vote is cast and counted, and  
10 which shall be counted by hand or read by  
11 a digital scanning device or other counting  
12 device. For purposes of this subclause, the  
13 term "individual, durable, voter-verified,  
14 paper ballot" means a paper ballot marked  
15 by the voter by hand or a paper ballot  
16 marked through the use of a nontabulating  
17 ballot marking device or system.

18 (II) The voting system shall provide  
19 the voter with an opportunity to correct  
20 any error on the paper ballot before the  
21 permanent voter-verified paper ballot is  
22 preserved in accordance with clause (ii).

23 (III) The voting system shall not pre-  
24 serve the voter-verified paper ballots in any  
25 manner that makes it possible, at any time

1 after the ballot has been cast, to associate  
2 a voter with the record of the voter's vote.

3 (ii) PRESERVATION AS OFFICIAL  
4 RECORD.—The individual, durable, voter-  
5 verified, paper ballot used in accordance  
6 with clause (i) shall constitute the official  
7 ballot and shall be preserved and used as  
8 the official ballot for purposes of any re-  
9 count or audit conducted with respect to  
10 any election for Federal office in which the  
11 voting system is used.

12 (iii) MANUAL COUNTING REQUIRE-  
13 MENTS FOR RECOUNTS AND AUDITS.—(I)  
14 Each paper ballot used pursuant to clause  
15 (i) shall be suitable for a manual audit,  
16 and shall be counted by hand in any re-  
17 count or audit conducted with respect to  
18 any election for Federal office.

19 (II) In the event of any inconsist-  
20 encies or irregularities between any elec-  
21 tronic vote tallies and the vote tallies de-  
22 termined by counting by hand the indi-  
23 vidual, durable, voter-verified, paper ballots  
24 used pursuant to clause (i), and subject to  
25 subparagraph (B), the individual, durable,

voter-verified, paper ballots shall be the true and correct record of the votes cast.

(iv) CLARIFICATION REGARDING USE OF GRANT FUNDS.—Grant funds awarded to the State for the purposes described in paragraph (1)(A) shall not be used with respect to any form of remote ballot casting that results in an electronic transmission of a voted ballot.

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

(i) IN GENERAL.—In the event that—

(I) there is any inconsistency between any electronic vote tallies and the vote tallies determined by counting by hand the individual, durable, voter-verified, paper ballots used pursuant to subparagraph (A)(i) with respect to any election for Federal office; and

(II) it is demonstrated by clear and convincing evidence (as determined in accordance with the applicable standards in the jurisdiction in-

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

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

23                  (3) OUTSIDE EXPERT SUPPORT.—A State may  
24                  use grant funds provided under the program to em-  
25                  ploy or contract with private sector entities or indi-

1       viduals with expertise in information technology or  
2       cybersecurity to carry out activities under the pro-  
3       gram.

4       (b) DURATION.—

5           (1) INITIAL PERIOD.—Except as provided in  
6       paragraph (2), the program shall be carried out for  
7       a period of 5 years.

8           (2) ADDITIONAL PERIOD.—The Secretary may  
9       carry out the program for an additional period of 5  
10      years if the Secretary determines, based on the re-  
11      port submitted under subsection (d)(2), that the  
12      program is efficacious and such additional period is  
13      appropriate.

14      (c) APPLICATION.—

15           (1) IN GENERAL.—A State desiring a grant  
16      under this section shall submit to the Secretary of  
17      Homeland Security an application at such time, in  
18      such manner, and containing or accompanied by  
19      such information, as the Secretary may reasonably  
20      require.

21           (2) CONTENTS.—An application submitted  
22      under paragraph (1) shall describe the activities for  
23      which a grant under this section is sought.

24      (d) REPORTS.—

1           (1) GRANTEE REPORTING.—Not later than 1  
2       year after the execution of a grant agreement pursu-  
3       ant to this section, the State shall submit to the Sec-  
4       retary a report on the activities conducted with the  
5       funds provided, including information regarding how  
6       and where such funds were spent and such addi-  
7       tional information as the Secretary determines is ap-  
8       propriate for oversight of the program under this  
9       section.

10          (2) REPORT TO CONGRESS BY THE SEC-  
11       RETARY.—Not later than 18 months after the date  
12       of enactment of this Act, the Secretary shall submit  
13       to the appropriate Congressional committees a re-  
14       port on the program under this section, together  
15       with recommendations for such legislation and ad-  
16       ministrative action as the Secretary determines ap-  
17       propriate.

18       (e) INDIAN TRIBE ELIGIBILITY.—An Indian Tribe is  
19       eligible to apply for and receive a grant under this section  
20       in the same manner as a State, except that the Secretary  
21       may adjust any requirement under this section for an In-  
22       dian Tribe to accomplish the purposes of this grant.

23       (f) DEFINITIONS.—In this section:

1           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
2           TEES.—The term “appropriate Congressional com-  
3           mittees” means—

4                   (A) the Committee on Homeland Security  
5                   and Governmental Affairs, the majority leader,  
6                   and the minority leader of the Senate; and

7                   (B) the Committee on Homeland Security,  
8                   the Speaker, and the minority leader of the  
9                   House of Representatives.

10          (2) INDIAN TRIBE.—The term “Indian Tribe”  
11          has the meaning given the term “Indian tribe” in  
12          section 4 of the Indian Self-Determination and Edu-  
13          cation Assistance Act (25 U.S.C. 5304).

14          (3) RISK LIMITING AUDIT.—The term “risk  
15          limiting audit” means an audit protocol that makes  
16          use of statistical methods and is designed to limit to  
17          acceptable levels the risk of certifying a preliminary  
18          election outcome that constitutes an incorrect out-  
19          come.

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

22          (5) STATE.—The term “State” includes the  
23          District of Columbia, the Commonwealth of Puerto  
24          Rico, Guam, American Samoa, and the United  
25          States Virgin Islands.

1           (6) VOTING SYSTEM.—The term “voting sys-  
2       tem” has the meaning given that term in section  
3       301(b) of the Help America Vote Act of 2002 (52  
4       U.S.C. 21081(b)).

5       (g) AUTHORIZATION OF APPROPRIATIONS.—To carry  
6       out this section, there is authorized to be appropriated  
7       \$2,500,000,000 for the period of fiscal years 2019  
8       through 2028. Amounts appropriated under the preceding  
9       sentence shall remain available until expended.

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