

116TH CONGRESS
1ST SESSION

H. R. 3529

To require the Secretary of Homeland Security to promptly notify appropriate State and local officials and Members of Congress if Federal officials have credible evidence of an unauthorized intrusion into an election system and a basis to believe that such intrusion could have resulted in voter information being altered or otherwise affected, to require State and local officials to notify potentially affected individuals of such intrusion, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2019

Mrs. MURPHY (for herself, Mr. WALTZ, Ms. SHALALA, Mr. SOTO, Mr. FITZPATRICK, Ms. KENDRA S. HORN of Oklahoma, Mr. GAETZ, Mr. DEUTCH, Mr. SPANO, Ms. MUCARSEL-POWELL, Mr. MAST, Ms. WASSERMAN SCHULTZ, Mr. DIAZ-BALART, Mr. CRIST, Mr. RUTHERFORD, Mr. ARRINGTON, Mr. BUCHANAN, and Mr. YOHIO) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To require the Secretary of Homeland Security to promptly notify appropriate State and local officials and Members of Congress if Federal officials have credible evidence of an unauthorized intrusion into an election system and a basis to believe that such intrusion could have resulted in voter information being altered or otherwise affected, to require State and local officials to notify potentially affected individuals of such intrusion, 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.**

4 This Act may be cited as the “Achieving Lasting
5 Electoral Reforms on Transparency and Security Act” or
6 the “ALERTS Act”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress finds as follows:

9 (1) Free and fair elections are central to our
10 democratic system of government.

11 (2) An attack on election systems in the United
12 States by a foreign government is a hostile act, and
13 protecting our election systems from such attacks is
14 a critical national security objective.

15 (3) The March 2019 “Report on the Investiga-
16 tion into Russian Interference in the 2016 Presi-
17 dential Election”, known as the Mueller Report, con-
18 cludes that Russian military intelligence officers tar-
19 geted individuals and entities involved in the admin-
20 istration of the November 2016 elections, including
21 State boards of elections, Secretaries of State, coun-
22 ty governments, and private technology firms re-
23 sponsible for manufacturing and administering elec-
24 tion-related software and hardware.

1 (4) The Mueller Report states that Russian
2 military intelligence officers sent spearphishing
3 emails to over 120 email accounts used by Florida
4 county officials responsible for administering the
5 2016 elections, and further states that the Federal
6 Bureau of Investigation “believes that this operation
7 enabled Russian military intelligence officers to gain
8 access to the network of at least one Florida county
9 government”.

10 (5) In May 2019, it came to light that Russian
11 military intelligence officers had gained access to the
12 computer network of a second Florida county in the
13 run-up to the 2016 elections.

14 (6) To date, government officials have not pub-
15 licly disclosed or confirmed the identity of the Flor-
16 ida counties whose voter registration systems were
17 breached.

18 (7) As a result, voters in affected counties do
19 not possess the information necessary to take appro-
20 priate responsive action, such as taking affirmative
21 steps to confirm that their individual registration
22 data is accurate and holding State and local election
23 officials accountable for their actions or inactions.

24 (b) SENSE OF CONGRESS.—It is the sense of Con-
25 gress that the principal victim of an attack on election

1 systems in the United States is the voting public and, ex-
2 cept in certain narrowly defined cases, the voting public
3 should be promptly informed if Federal officials have cred-
4 ible evidence of an unauthorized intrusion into an election
5 system and a basis to believe that such intrusion could
6 have resulted in voter information systems or voter tabula-
7 tion systems being altered or otherwise affected.

8 **SEC. 3. DEFINITIONS.**

9 In this Act, the following definitions apply:

10 (1) APPROPRIATE MEMBERS OF CONGRESS.—

11 The term “appropriate Members of Congress”
12 means, with respect to a notification described in
13 section 3(b)(2)—

14 (A) the Speaker of the House of Rep-
15 resentatives, the Minority Leader of the House
16 of Representatives, the chairs and ranking mi-
17 nority members of the Committees on House
18 Administration, Homeland Security, the Judici-
19 ary, and Permanent Select Committee on Intel-
20 ligence of the House of Representatives, and
21 each Member of the House of Representatives
22 (including a Delegate or Resident Commissioner
23 to the Congress) who represents a congressional
24 district in which the unit of local government
25 involved is located; and

1 (B) the Majority Leader of the Senate, the
2 Minority Leader of the Senate, the chairs and
3 ranking minority members of the Committees
4 on Rules and Administration, Homeland Security
5 and Governmental Affairs, the Judiciary,
6 and Select Committee on Intelligence of the
7 Senate, and the Senators who represent the
8 State involved.

9 (2) DEPARTMENT.—The term “Department”
10 means the Department of Homeland Security.

11 (3) ELECTION AGENCY.—The term “election
12 agency” means any component of a State or any
13 component of a unit of local government of a State
14 that is responsible for administering Federal elec-
15 tions.

16 (4) ELECTION CYBERSECURITY INCIDENT.—
17 The term “election cybersecurity incident” means
18 any incident, as defined in section 2209(a)(3) of the
19 Homeland Security Act of 2002 (6 U.S.C.
20 659(a)(3)), involving an election system.

21 (5) ELECTION SYSTEM.—The term “election
22 system” means a voting system, an election manage-
23 ment system, a voter registration website or data-
24 base, an electronic pollbook, a system for tabulating
25 or reporting election results, an election agency com-

1 munications system, or any other information sys-
2 tem (as defined in section 3502 of title 44, United
3 States Code) that the Secretary identifies as central
4 to the management, support, or administration of a
5 Federal election.

6 (6) 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 (7) FEDERAL ENTITY.—The term “Federal en-
13 tity” means any agency (as defined in section 551
14 of title 5, United States Code).

15 (8) 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 (9) SECRETARY.—The term “Secretary” means
21 the Secretary of Homeland Security.

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

1 of the Northern Mariana Islands, and the United
2 States Virgin Islands.

3 (11) 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 (12) VOTING SYSTEM.—The term “voting sys-
15 tem” has the meaning given the term in section
16 301(b) of the Help America Vote Act of 2002 (52
17 U.S.C. 21081(b)).

18 **SEC. 4. DUTY OF SECRETARY OF HOMELAND SECURITY TO**
19 **NOTIFY STATE AND LOCAL OFFICIALS AND**
20 **APPROPRIATE MEMBERS OF CONGRESS OF**
21 **UNAUTHORIZED INTRUSIONS INTO ELECTION**
22 **SYSTEMS.**

23 (a) DUTY TO SHARE INFORMATION WITH DEPART-
24 MENT OF HOMELAND SECURITY.—If a Federal entity re-
25 ceives information about an election cybersecurity inci-

1 dent, the Federal entity shall promptly share that infor-
2 mation with the Department, unless the head of the entity
3 (or a Senate-confirmed official designated by the head)
4 makes a specific determination in writing that there is
5 good cause to withhold the particular information.

6 (b) RESPONSE TO RECEIPT OF INFORMATION BY
7 SECRETARY OF HOMELAND SECURITY.—

8 (1) IN GENERAL.—Upon receiving information
9 about an election cybersecurity incident under sub-
10 section (a), the Secretary, in consultation with the
11 Attorney General and the Director of National Intel-
12 ligence, shall promptly (but in no case later than 96
13 hours after receiving the information) review the in-
14 formation and make a determination whether each
15 of the following apply:

16 (A) There is credible evidence that an un-
17 authorized intrusion into an election system oc-
18 curred.

19 (B) There is a basis to believe that the un-
20 authorized intrusion resulted, could have re-
21 sulted, or could result in voter information sys-
22 tems or voter tabulation systems being altered
23 or otherwise affected.

24 (2) DUTY TO NOTIFY STATE AND LOCAL OFFI-
25 CIALS AND APPROPRIATE MEMBERS OF CONGRESS.—

1 (A) DUTY DESCRIBED.—If the Secretary
2 makes a determination under paragraph (1)
3 that subparagraphs (A) and (B) of such para-
4 graph apply with respect to an unauthorized in-
5 trusion into an election system, not later than
6 48 hours after making the determination, the
7 Secretary shall provide a notification of the un-
8 authorized intrusion to each of the following:

9 (i) The chief executive of the State in-
10 volved.

11 (ii) The State election official of the
12 State involved.

13 (iii) The local election official of the
14 election agency involved.

15 (iv) The appropriate Members of Con-
16 gress.

17 (B) TREATMENT OF CLASSIFIED INFORMA-
18 TION.—

19 (i) EFFORTS TO AVOID INCLUSION OF
20 CLASSIFIED INFORMATION.—In preparing
21 a notification provided under this para-
22 graph to an individual described in clause
23 (i), (ii), or (iii) of subparagraph (A), the
24 Secretary shall attempt to avoid the inclu-
25 sion of classified information.

1 (ii) PROVIDING GUIDANCE TO STATE
2 AND LOCAL OFFICIALS.—To the extent
3 that a notification provided under this
4 paragraph to an individual described in
5 clause (i), (ii), or (iii) of subparagraph (A)
6 includes classified information, the Sec-
7 retary (in consultation with the Attorney
8 General and the Director of National Intel-
9 ligence) shall indicate in the notification
10 which information is classified.

11 (3) EXCEPTION.—

12 (A) IN GENERAL.—If the Secretary, in
13 consultation with the Attorney General and the
14 Director of National Intelligence, makes a de-
15 termination that it is not possible to provide a
16 notification under paragraph (1) with respect to
17 an unauthorized intrusion without compro-
18 mising intelligence methods or sources or inter-
19 fering with an ongoing investigation, the Sec-
20 retary—

21 (i) shall not provide the notification
22 under such paragraph; and

23 (ii) shall, not later than 48 hours
24 after making the determination under this
25 subparagraph, provide a classified briefing

1 on the unauthorized intrusion to the ap-
2 propriate Members of Congress.

3 (B) ONGOING REVIEW.—Not later than 30
4 days after making a determination under sub-
5 paragraph (A) and every 30 days thereafter,
6 the Secretary shall review the determination. If,
7 after reviewing the determination, the Secretary
8 makes a revised determination that it is pos-
9 sible to provide a notification under paragraph
10 (2) without compromising intelligence methods
11 or sources or interfering with an ongoing inves-
12 tigation, the Secretary shall provide the notifi-
13 cation under paragraph (2) not later than 48
14 hours after making such revised determination.

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

19 **SEC. 5. RESPONSIBILITIES OF STATE AND LOCAL OFFI-**
20 **CIALS TO NOTIFY AFFECTED INDIVIDUALS.**

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

1 **“SEC. 303A. RESPONSIBILITIES OF STATE AND LOCAL OFFI-**
2 **CIALS TO NOTIFY INDIVIDUALS AFFECTED BY**
3 **UNAUTHORIZED INTRUSIONS INTO ELECTION**
4 **SYSTEMS.**

5 “(a) RESPONSIBILITIES DESCRIBED.—If a State or
6 unit of local government receives a notification from the
7 Secretary of Homeland Security under section 4 of the
8 Achieving Lasting Electoral Reforms on Transparency
9 and Security Act of an unauthorized intrusion described
10 in such section, the State election official and the appro-
11 priate local election official shall provide notification of the
12 intrusion to the individuals who were affected, could have
13 been affected, or may be affected by the intrusion.

14 “(b) CONTENTS AND MANNER OF NOTIFICATION.—
15 The notification provided under this section shall be in
16 such form and manner as the State election official may
17 establish, except that—

18 “(1) the notification shall not reveal classified
19 information about the nature of the intrusion or the
20 persons suspected of making the intrusion;

21 “(2) the notification shall be provided in a man-
22 ner that does not discourage any individual from
23 voting or registering to vote; and

24 “(3) nothing in this section shall be construed
25 to require an election official to provide a separate
26 notification to each affected individual.

1 “(c) DEADLINE.—The State election official or the
 2 appropriate election official shall provide the notification
 3 required under this section as soon as practicable after
 4 the official receives the notification from the Secretary of
 5 Homeland Security under section 4 of the Achieving Last-
 6 ing Electoral Reforms on Transparency and Security Act,
 7 but in no event later than—

8 “(1) 48 hours before the date of the next elec-
 9 tion for public office held in the State or unit of
 10 local government involved; or

11 “(2) 30 days after receiving the notification,
 12 whichever is earlier.

13 “(d) DEFINITIONS.—In this section, the terms ‘State’
 14 and ‘State election official’ each have the meaning given
 15 such term in the Achieving Lasting Electoral Reforms on
 16 Transparency and Security Act.”.

17 (b) CONFORMING AMENDMENT RELATING TO EN-
 18 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
 19 is amended by striking “sections 301, 302, and 303” and
 20 inserting “subtitle A of title III”.

21 (c) CLERICAL AMENDMENT.—The table of contents
 22 of such Act is amended by inserting after the item relating
 23 to section 303 the following new item:

“303A. Responsibilities of State and local officials to notify individuals affected
 by unauthorized intrusions into election systems.”.

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