

.....
(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To establish Election Security Enhancement Units in the Cybersecurity and Infrastructure Agency of the Department of Homeland Security, to direct the Election Assistance Commission to make a grant to each State which certifies that it has implemented certain steps to ensure the integrity of voter registration, the casting of ballots, and the tabulation of ballots in elections for Federal office in the State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. MCCAUL introduced the following bill; which was referred to the
Committee on _____

A BILL

To establish Election Security Enhancement Units in the Cybersecurity and Infrastructure Agency of the Department of Homeland Security, to direct the Election Assistance Commission to make a grant to each State which certifies that it has implemented certain steps to ensure the integrity of voter registration, the casting of ballots, and the tabulation of ballots in elections for Federal office in the State, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Election Protection
3 Act of 2021”.

4 **SEC. 2. STRENGTHENING ELECTION SECURITY MEASURES.**

5 (a) ESTABLISHMENT OF ELECTION SECURITY EN-
6 HANCEMENT UNITS IN CYBERSECURITY AND INFRA-
7 STRUCTURE AGENCY.—

8 (1) IN GENERAL.—Subtitle A of title XXII of
9 the Homeland Security Act of 2002 (6 U.S.C. 651
10 et seq.) is amended by adding at the end the fol-
11 lowing new section:

12 **“SEC. 2218. ELECTION SECURITY ENHANCEMENT UNITS.**

13 “(a) ESTABLISHMENT.—There are established in the
14 Agency units to be known as Election Security Enhance-
15 ment Units (hereafter in this section referred to as
16 ‘Units’).

17 “(b) DUTIES.—The Units shall provide State and
18 local election officials in various geographic regions of the
19 United States access to risk-management, resiliency, and
20 technical support services provided by election administra-
21 tion and cybersecurity experts who shall be based in such
22 regions and who may provide such services in person, by
23 telephone, or online.”.

24 (2) CLERICAL AMENDMENT.—The table of con-
25 tents in section 1(b) of the Homeland Security Act

1 of 2002 is amended by inserting after the item relat-
2 ing to section 2217 the following new item:

“Sec. 2218. Election Security Enhancement Units.”.

3 (b) DUTY OF SECRETARY OF HOMELAND SECURITY
4 TO NOTIFY STATE AND LOCAL OFFICIALS OF THREATS
5 TO SECURITY OF ELECTIONS.—

6 (1) DUTY TO SHARE INFORMATION WITH DE-
7 PARTMENT OF HOMELAND SECURITY.—If a Federal
8 entity receives information about an incident which
9 threatens the security of a Federal election, the Fed-
10 eral entity shall promptly share that information
11 with the Department of Homeland Security, unless
12 the head of the entity (or a Senate-confirmed official
13 designated by the head) makes a specific determina-
14 tion in writing that there is good cause to withhold
15 the particular information.

16 (2) RESPONSE TO RECEIPT OF INFORMATION
17 BY SECRETARY OF HOMELAND SECURITY.—

18 (A) IN GENERAL.—Upon receiving infor-
19 mation about an incident under paragraph (1),
20 the Secretary, in consultation with the Attorney
21 General, the Director of the Federal Bureau of
22 Investigation, and the Director of National In-
23 telligence, shall promptly (but in no case later
24 than 96 hours after receiving the information)

1 review the information and make a determina-
2 tion whether each of the following apply:

3 (i) There is credible evidence that the
4 incident occurred.

5 (ii) There is a basis to believe that the
6 incident resulted, could have resulted, or
7 could result in the alteration of the results
8 of the election.

9 (B) DUTY TO NOTIFY STATE AND LOCAL
10 OFFICIALS.—

11 (i) DUTY DESCRIBED.—If the Sec-
12 retary makes a determination under sub-
13 paragraph (A) that clauses (i) and (ii) of
14 such subparagraph apply with respect to
15 an incident, not later than 96 hours after
16 making the determination, the Secretary
17 shall provide a notification of the incident
18 to each of the following:

19 (I) The chief executive of the
20 State involved.

21 (II) The State election official of
22 the State involved.

23 (III) The local election official of
24 the election agency involved.

1 (ii) TREATMENT OF CLASSIFIED IN-
2 FORMATION.—

3 (I) EFFORTS TO AVOID INCLU-
4 SION OF CLASSIFIED INFORMATION.—

5 In preparing a notification provided
6 under this paragraph to an individual
7 described in subclause (I), (II), or
8 (III) of clause (i), the Secretary shall
9 attempt to avoid the inclusion of clas-
10 sified information.

11 (II) PROVIDING GUIDANCE TO
12 STATE AND LOCAL OFFICIALS.—To
13 the extent that a notification provided
14 under this paragraph to an individual
15 described in subclause (I), (II), or
16 (III) of clause (i) includes classified
17 information, the Secretary (in con-
18 sultation with the Attorney General
19 and the Director of National Intel-
20 ligence) shall indicate in the notifica-
21 tion which information is classified.

22 (C) EXCEPTION.—

23 (i) IN GENERAL.—If the Secretary, in
24 consultation with the Attorney General and
25 the Director of National Intelligence,

1 makes a determination that it is not pos-
2 sible to provide a notification under sub-
3 paragraph (A) with respect to an incident
4 without compromising intelligence methods
5 or sources or interfering with an ongoing
6 investigation, the Secretary shall not pro-
7 vide the notification under such paragraph.

8 (ii) ONGOING REVIEW.—Not later
9 than 30 days after making a determination
10 under clause (i) and every 30 days there-
11 after, the Secretary shall review the deter-
12 mination. If, after reviewing the deter-
13 mination, the Secretary makes a revised
14 determination that it is possible to provide
15 a notification under subparagraph (B)
16 without compromising intelligence methods
17 or sources or interfering with an ongoing
18 investigation, the Secretary shall provide
19 the notification under subparagraph (B)
20 not later than 96 hours after making such
21 revised determination.

22 (3) DEFINITIONS.—In this subsection, the fol-
23 lowing definitions apply:

24 (A) ELECTION AGENCY.—The term “elec-
25 tion agency” means any component of a State,

1 or any component of a unit of local government
2 in a State, which is responsible for the adminis-
3 tration of elections for Federal office in the
4 State.

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

12 (C) FEDERAL ENTITY.—The term “Fed-
13 eral entity” means any agency (as defined in
14 section 551 of title 5, United States Code).

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

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

22 (F) STATE.—The term “State” means
23 each of the several States, the District of Co-
24 lumbia, the Commonwealth of Puerto Rico,
25 Guam, American Samoa, the Commonwealth of

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

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

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

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

15 (4) EFFECTIVE DATE.—This subsection shall
16 apply with respect to information about an incident
17 which threatens the security of a Federal election
18 which is received on or after the date of the enact-
19 ment of this Act.

20 **SEC. 3. GRANTS TO STATES CERTIFYING INTEGRITY OF**
21 **ELECTIONS.**

22 (a) GRANTS.—The Election Assistance Commission
23 (hereafter referred to as the “Commission”) shall make
24 a grant to each eligible State.

1 (b) USE OF FUNDS.—A State shall use the funds
2 provided by a grant made under this section to carry out
3 the administration of elections for Federal office in the
4 State.

5 (c) ELIGIBILITY.—A State is eligible to receive a
6 grant under this section if the State submits to the Com-
7 mission, at such time and in such form as the Commission
8 may require, an application containing—

9 (1) each of the certifications described in para-
10 graphs (1), (2), and (3) of subsection (e); and

11 (2) such other information and assurances as
12 the Commission may require.

13 (d) AMOUNT OF GRANT.—

14 (1) IN GENERAL.—The amount of the grant
15 made to an eligible State under this section shall be
16 the minimum payment amount described in para-
17 graph (2) plus the voting age population proportion
18 amount described in paragraph (3).

19 (2) MINIMUM PAYMENT AMOUNT.—The min-
20 imum payment amount described in this paragraph
21 is—

22 (A) in the case of any of the several States
23 or the District of Columbia, one-half of 1 per-
24 cent of the aggregate amount made available
25 for payments under this section; and

1 (B) in the case of the Commonwealth of
2 Puerto Rico, Guam, American Samoa, the
3 United States Virgin Islands, or the Common-
4 wealth of the Northern Mariana Islands, one-
5 tenth of 1 percent of such aggregate amount.

6 (3) VOTING AGE POPULATION PROPORTION
7 AMOUNT.—The voting age population proportion
8 amount described in this paragraph is the product
9 of—

10 (A) the aggregate amount made available
11 for payments under this section minus the total
12 of all of the minimum payment amounts deter-
13 mined under paragraph (2); and

14 (B) the voting age population proportion
15 for the State (as defined in paragraph (4)).

16 (4) VOTING AGE POPULATION PROPORTION DE-
17 FINED.—The term “voting age population propor-
18 tion” means, with respect to a State, the amount
19 equal to the quotient of—

20 (A) the voting age population of the State
21 (as reported in the most recent decennial cen-
22 sus); and

23 (B) the total voting age population of all
24 States (as reported in the most recent decennial
25 census).

1 (e) CERTIFICATIONS DESCRIBED.—

2 (1) CERTIFICATION OF COMPLIANCE WITH
3 VOTER REGISTRATION LIST MAINTENANCE REQUIRE-
4 MENTS.—The certification described in this para-
5 graph is a certification that the State completed a
6 program to systematically remove the names of ineli-
7 gible voters from the official lists of eligible voters
8 with respect to the most recent regularly scheduled
9 general election for Federal office held in the State,
10 as required under section 8(c)(2) of the National
11 Voter Registration Act of 1993 (52 U.S.C.
12 20507(c)(2)).

13 (2) CERTIFICATIONS RELATING TO INTEGRITY
14 IN CASTING OF BALLOTS.—The certifications de-
15 scribed in this paragraph are as follows:

16 (A) REQUIRING PROVISION OF IDENTIFICA-
17 TION AS CONDITION OF VOTING.—

18 (i) INDIVIDUALS VOTING IN PER-
19 SON.—A certification that, notwithstanding
20 any other provision of law, the appropriate
21 State or local election official does not pro-
22 vide a ballot for an election for Federal of-
23 fice to an individual who desires to vote in
24 person unless the individual presents to the
25 official a current and valid identification.

1 (ii) INDIVIDUALS VOTING OTHER
2 THAN IN PERSON.—A certification that,
3 notwithstanding any other provision of law,
4 the appropriate State or local election offi-
5 cial does not accept any ballot for an elec-
6 tion for Federal office provided by an indi-
7 vidual who votes other than in person un-
8 less the individual submits with the ballot
9 a copy of a current and valid identification.

10 (iii) CURRENT AND VALID IDENTI-
11 FICATION DEFINED.—In this subpara-
12 graph, a “current and valid identification”
13 means a current and valid version of any
14 of the following:

15 (I) An identification issued by a
16 State or a unit of local government in
17 a State.

18 (II) A United States passport.

19 (III) A military identification
20 card.

21 (IV) An identification issued by a
22 tribal government.

23 (B) PROHIBITING DELIVERY OF BALLOTS
24 BY MAIL UNLESS REQUESTED.—A certification
25 that the State does not deliver a ballot in an

1 election for Federal office to an individual by
2 mail unless the individual requests that the
3 State deliver the ballot to the individual by
4 mail.

5 (C) RESTRICTIONS ON DELIVERY OF
6 VOTED BALLOTS BY THIRD PARTIES.—

7 (i) RESTRICTIONS.—A certification
8 that the State does not accept a voted ab-
9 sentee ballot in an election for Federal of-
10 fice which is delivered in person to an elec-
11 tion official by any individual other than
12 the voter to whom the ballot was trans-
13 mitted, other than an individual described
14 as follows:

15 (I) An election official while en-
16 gaged in official duties as authorized
17 by law.

18 (II) An employee of the United
19 States Postal Service while engaged in
20 official duties as authorized by law.

21 (III) Any other individual who is
22 allowed by law to collect and transmit
23 United States mail, while engaged in
24 official duties as authorized by law.

1 (IV) A family member of the
2 voter to whom the ballot was trans-
3 mitted.

4 (ii) FAMILY MEMBER DEFINED.—In
5 clause (i), the term “family member”
6 means, with respect to a voter to whom a
7 ballot is transmitted, an individual who is
8 related to the voter by blood, marriage,
9 adoption, or legal guardianship.

10 (D) PROHIBITING ACCEPTANCE OF ABSEN-
11 TEE BALLOTS RECEIVED AFTER DATE OF ELEC-
12 TION.—A certification that the State does not
13 accept a voted absentee ballot in an election for
14 Federal office which is not received by the ap-
15 propriate State or local election official prior to
16 the time at which the polls in the election close
17 on the date of the election.

18 (E) EXCEPTION FOR ABSENT MILITARY
19 AND OVERSEAS VOTERS.—A certification that
20 the certifications described in subparagraphs
21 (A) through (E) do not apply with respect to
22 any individual who is entitled to vote by absen-
23 tee ballot under the Uniformed and Overseas
24 Citizens Absentee Voting Act (52 U.S.C. 20301
25 et seq.).

1 (3) CERTIFICATIONS RELATING TO INTEGRITY
2 IN TABULATION OF BALLOTS.—The certifications de-
3 scribed in this paragraph are as follows:

4 (A) MINIMUM PRESENCE OF ELECTION OB-
5 SERVERS.—A certification that the appropriate
6 State or local election official permits at least 2
7 representatives of each candidate appearing on
8 the ballot in a general election for Federal of-
9 fice to observe the tabulation of the ballots in
10 the election.

11 (B) PERMITTING PROCESSING AND TAB-
12 ULATION OF BALLOTS UPON RECEIPT.—A cer-
13 tification that the State may process and tab-
14 ulate ballots received prior to the date of the
15 election upon receipt, except that nothing in
16 this subparagraph shall be construed to require
17 the State to certify that a State or local election
18 official is required to publish the results of any
19 tabulation of ballots in an election prior to the
20 time at which the polls in the election close on
21 the date of the election.

22 (C) POST-ELECTION AUDIT.—A certifi-
23 cation that, not later than 30 days after each
24 election for Federal office held in the State, the
25 State conducts and publishes an audit of the ef-

1 fectiveness and accuracy of the voting systems
2 used to carry out the election and the perform-
3 ance of the State and local election officials who
4 carried out the election.

5 (f) STATE DEFINED.—In this section, the term
6 “State” means each of the several States, the District of
7 Columbia, the Commonwealth of Puerto Rico, Guam,
8 American Samoa, the United States Virgin Islands, and
9 the Commonwealth of the Northern Mariana Islands.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—

11 (1) AUTHORIZATION.—There are authorized to
12 be appropriated such sums as may be necessary for
13 grants under this section.

14 (2) CONTINUING AVAILABILITY OF FUNDS.—
15 Funds appropriated pursuant to the authorization
16 under this subsection shall remain available until ex-
17 pended.

18 **SEC. 4. STUDY AND REPORT BY BIPARTISAN ELECTION AD-**
19 **VISORY COMMISSION.**

20 (a) ESTABLISHMENT.—There is established in the
21 legislative branch the Bipartisan Election Advisory Com-
22 mission (referred to in this section as the “Advisory Com-
23 mission”).

24 (b) MEMBERSHIP.—

1 (1) COMPOSITION.—The Advisory Commission
2 shall be composed of 12 members, of whom—

3 (A) 6 shall be appointed by the leader of
4 the Republican party in the House of Rep-
5 resentatives (in consultation with the leader of
6 the Republican caucus in the Senate), one of
7 which shall be appointed as a Co-Chairperson of
8 the Advisory Commission; and

9 (B) 6 shall be appointed by the leader of
10 the Democratic caucus in the Senate (in con-
11 sultation with the leader of the Democratic
12 party in the House of Representatives), one of
13 which shall be appointed as a Co-Chairperson of
14 the Advisory Commission.

15 (2) REPRESENTATION.—Individuals appointed
16 to the Advisory Commission under paragraph (1)
17 shall be geographically balanced and shall include
18 representatives of Federal, State, and local govern-
19 ments and of the legal, cybersecurity, and election
20 administration and technology communities, except
21 that no elected official may serve on the Advisory
22 Commission.

23 (3) POLITICAL PARTY AFFILIATION.—Not more
24 than 6 members of the Advisory Commission may be
25 members of the same political party.

1 (4) DATE.—The appointments of the members
2 of the Advisory Commission shall be made not later
3 than 90 days after the date of enactment of this
4 Act.

5 (c) PERIOD OF APPOINTMENT; VACANCIES.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), a member of the Advisory Commission
8 shall be appointed for the duration of the Advisory
9 Commission.

10 (2) REMOVAL.—A member may be removed
11 from the Advisory Commission at any time at the
12 upon concurrence of both of the Co-Chairpersons of
13 the Advisory Commission.

14 (3) VACANCIES.—A vacancy in the Advisory
15 Commission—

16 (A) shall not affect the powers of the Com-
17 mission; and

18 (B) shall be filled in the same manner as
19 the original appointment.

20 (d) COMMISSION PERSONNEL MATTERS.—

21 (1) PROHIBITION ON COMPENSATION OF MEM-
22 BERS.—The members of the Advisory Commission
23 may not receive pay or benefits from the United
24 States Government by reason of their service on the
25 Advisory Commission, but may receive travel ex-

1 penses, including per diem in lieu of subsistence, in
2 accordance with applicable provisions under sub-
3 chapter I of chapter 57 of title 5, United States
4 Code.

5 (2) STAFF.—The Co-Chairpersons of the Advi-
6 sory Commission may appoint and fix the compensa-
7 tion of staff of the Advisor Committee without re-
8 gard to chapter 51 and subchapter III of chapter 53
9 of title 5, United States Code, relating to classifica-
10 tion of positions and General Schedule pay rates, ex-
11 cept that the rate of pay for the staff may not ex-
12 ceed the rate payable for level V of the Executive
13 Schedule under section 5316 of that title.

14 (e) POWERS.—

15 (1) HEARINGS AND SESSIONS.—The Advisory
16 Commission may, for the purpose of carrying out
17 this section, hold hearings, sit and act at times and
18 places, take testimony, and receive evidence as the
19 Commission considers appropriate. The Advisory
20 Commission may administer oaths or affirmations to
21 witnesses appearing before it.

22 (2) OBTAINING OFFICIAL DATA.—The Advisory
23 Commission may secure directly from any depart-
24 ment or agency of the United States information
25 necessary to enable it to carry out this section.

1 (3) ADMINISTRATIVE SUPPORT SERVICES.—

2 Upon the request of the Advisory Commission, the
3 Architect of the Capitol shall provide to the Commis-
4 sion, on a reimbursable basis, the administrative
5 support services necessary for the Commission to
6 carry out its responsibilities under this section.

7 (f) DUTIES.—

8 (1) STUDY.—The Advisory Commission shall
9 conduct a study of the following:

10 (A) The effects of COVID–19 on the ad-
11 ministration and security of elections.

12 (B) The impact of election administration
13 procedures implemented to address the effects
14 of COVID–19 on the effective administration
15 and security of elections.

16 (C) The extent of security shortfalls and
17 fraud during the 2020 general elections for
18 Federal office and during previous general elec-
19 tions for Federal office.

20 (D) The feasibility and desirability of im-
21 plementing uniform requirements for States to
22 carry out absentee ballot tracking programs.

23 (2) REPORT.—Not later than one year after the
24 date of the enactment of this Act, the Advisory
25 Commission shall submit a report to Congress on

1 the study conducted under paragraph (1), together
2 with recommendations for improving the administra-
3 tion of elections and enhancing the security of elec-
4 tions.

5 (g) TERMINATION.—The Advisory Commission shall
6 terminate 60 days after the date on which the Advisory
7 Commission submits the report required under subsection
8 (f).

9 **SEC. 5. SENSE OF CONGRESS ON CONFIDENCE IN ELEC-**
10 **TION PROCESS.**

11 It is the sense of Congress that—

12 (1) the United States is a beacon of hope that
13 sets the standard of democracy around the world;

14 (2) the people of the United States should have
15 full faith in their electoral process;

16 (3) the United States must ensure that elec-
17 tions are free, fair, and secure;

18 (4) transparency is at the core of the demo-
19 cratic process, and the 2020 election raised concerns
20 of election irregularities; and

21 (5) at the very least, Congress must provide the
22 American people with the confidence that their elec-
23 tions are secure.