To amend title 18, United States Code, to increase penalties for crimes against Federally protected activities relating to voting and the conduct of elections, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Ms. Collins (for herself, Mr. Manchin, Mr. Portman, Ms. Sinema, Mr. Romney, Mrs. Shaheen, Ms. Murkowski, Mr. Warner, Mr. Tillis, Mr. Murphy, Mr. Cardin, and Mr. Coons) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend title 18, United States Code, to increase penalties for crimes against Federally protected activities relating to voting and the conduct of 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 “Enhanced Election Security and Protection Act”.
6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:
TITLE I—ENHANCED PENALTIES TO PROTECT OUR ELECTIONS ACT

Sec. 1. Short title; table of contents.

TITLE I—ENHANCED PENALTIES TO PROTECT OUR ELECTIONS ACT

Sec. 101. Short title.
Sec. 102. Enhanced penalties for crimes against Federally protected activities relating to voting and the conduct of elections.

TITLE II—POSTAL SERVICE ELECTION IMPROVEMENT ACT

Sec. 201. Short title.
Sec. 203. Best practices guidance for Federal election mail.
Sec. 204. Election mail services from the Postal Service.
Sec. 205. Creation of standardized Federal ballot mail parameters and features.
Sec. 206. Ballot search and certification.
Sec. 207. Federal election mail processing.
Sec. 208. Postmark required on all Federal ballots.
Sec. 209. No cause of action.

TITLE III—REAUTHORIZATION OF ELECTION ASSISTANCE COMMISSION

Sec. 301. Reauthorization of Election Assistance Commission.
Sec. 302. Requiring penetration testing as part of the testing and certification of voting systems.

TITLE IV—PROTECTIONS FOR ELECTION RECORDS, PAPERS, AND VOTING SYSTEMS

Sec. 401. Short title.
Sec. 402. Protection for election records, papers, and voting systems.

1 TITLE I—ENHANCED PENALTIES TO PROTECT OUR ELECTIONS ACT

4 SEC. 101. SHORT TITLE.

5 This title may be cited as the "Enhanced Penalties to Protect Our Elections Act".
SEC. 102. ENHANCED PENALTIES FOR CRIMES AGAINST FEDERALLY PROTECTED ACTIVITIES RELATING TO VOTING AND THE CONDUCT OF ELECTIONS.

Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting "(or, in the case of a violation of paragraph (1)(A), two years)" after "one year".

TITLE II—POSTAL SERVICE ELECTION IMPROVEMENT ACT

SEC. 201. SHORT TITLE.

This title may be cited as the “Postal Service Election Improvement Act”.

SEC. 202. DEFINITIONS.

In this title:

(1) COVERED ELECTION.—The term "covered election" means an election for Federal office.

(2) ELECTION MAIL ADVISOR.—The term "Election Mail Advisor" means an individual designated under section 204(b).

(3) ELECTION OFFICIAL.—The term "election official" means an individual responsible for overseeing voting in a covered election in a State, locality, or Tribal territory.

(4) FEDERAL ELECTION MAIL.—The term "Federal election mail"—
(A) means any item mailed to or from an authorized election official that enables citizens to participate in the voting process with respect to a covered election; and

(B) includes a ballot, voter registration card, absentee voting application, and polling place notification.

(5) FEDERAL OFFICE.—The term “Federal office” has the meaning given that term in section 301 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101).

(6) POSTAL SERVICE.—The term “Postal Service” means the United States Postal Service.

(7) STATE.—The term “State” has the meaning given that term in section 901 of the Help America Vote Act of 2002 (52 U.S.C. 21141).

SEC. 203. BEST PRACTICES GUIDANCE FOR FEDERAL ELECTION MAIL.

(a) IN GENERAL.—Not later than September 30 of each odd-numbered year, the Postal Service shall issue best practices for State, local, and Tribal governments, in light of the capabilities of the Postal Service, regarding—

(1) optimal timing for voters to request and return absentee or mail-in ballots through the mail for
covered elections, based on the established service standards of the Postal Service;
(2) the design, physical standards, and format of the envelopes containing physical voting materials for covered elections that may be processed through the mail, such as ballot envelopes;
(3) the use of identifying information to designate Federal election mail for more efficient processing; and
(4) other topics the Postal Service may identify to improve the efficiency of Federal election mail.

(b) POSTAL SERVICE AUTHORITY.—Nothing in subsection (a) shall prevent the Postal Service from updating the best practices issued under that subsection as appropriate following the date of issuance.

(c) RECIPIENTS.—The Postal Service shall make publicly available the best practices issued under subsection (a), and shall provide specific notice of the best practices to—
(1) State, local, and Tribal election officials;
(2) the chief executive officer of each State; and
(3) majority and minority leadership of each State legislature.
SEC. 204. ELECTION MAIL SERVICES FROM THE POSTAL SERVICE.

(a) In General.—The Postal Service shall coordinate Federal election mail services to include the following:

(1) Designation of employees to coordinate with relevant processing plants, post offices, retail units, delivery units, managers, supervisors, and other postal employees to—

(A) ensure all Federal election mail is handled in an appropriate manner;

(B) develop metrics and internal reporting requirements, as necessary, to ensure Federal election mail processing and handling comply with applicable regulations and guidelines of the Postal Service; and

(C) ensure any extraordinary measures to process Federal election mail are appropriately carried out according to the regulations and guidelines of the Postal Service.

(2) Assistance of election officials by Election Mail Advisors from the appropriate geographic offices of the Postal Service with facilitating Federal election mail.

(3) Advice for election officials by mailpiece design analysts, in coordination with the relevant Election Mail Advisor, on—
(A) how to improve the tracking and visibility of mail-in ballots for covered elections; and

(B) verification that ballot mail envelope designs are consistent with the standardized parameters and features created under section 205.

(b) ELECTION MAIL ADVISORS.—

(1) NUMBER OF ELECTION MAIL ADVISORS.—

(A) MINIMUM NUMBER OF ELECTION MAIL ADVISORS PER STATE.—The Postal Service shall designate not less than 1 dedicated Election Mail Advisor for each State.

(B) DETERMINATION OF NUMBER OF ELECTION MAIL ADVISORS PER STATE.—In determining the number of Election Mail Advisors to designate for a State, the Postal Service shall take into account the population and the organization of the election administration of the State to ensure that a sufficient number of Election Mail Advisors are designated.

(2) DUTIES OF ELECTION MAIL ADVISOR.—An Election Mail Advisor shall provide information, guidance, and coordination to assist election officials
in managing the use of Federal election mail in the applicable jurisdiction, including—

(A) providing the election officials with detailed information on—

(i) service standards and other relevant service-related information for the region relating to the processing of Federal election mail that would assist election officials in managing covered elections;

(ii) best practices issued under section 203; and

(iii) Postal Service regulations, guidelines, and processes for handling Federal election mail; and

(B) performing any other duties assigned by the Postal Service to improve the ability of election officials to manage covered elections in their respective jurisdictions.

SEC. 205. CREATION OF STANDARDIZED FEDERAL BALLOT MAIL PARAMETERS AND FEATURES.

(a) IN GENERAL.—The Postal Service shall create standardized ballot envelope design parameters and features for blank outbound ballots and for returning inbound ballots that a State may choose to use in covered elections.
(b) **Tracking for Standardized Ballot Envelope.**—The standardized ballot envelope design parameters under subsection (a) shall include the ability to incorporate tracking technology.

SEC. 206. BALLOT SEARCH AND CERTIFICATION.

(a) **Ballot Identification.**—During the period beginning not later than 14 days before the date of a covered election and ending not earlier than 7 days after the last date on which the State accepts ballots cast in that covered election, the Postal Service shall conduct daily inspections for ballots in each Postal Service facility that processes Federal election mail in any Postal Service district in which the covered election is being held to ensure that each ballot scheduled to depart the facility that day has departed the facility.

(b) **Certification.**—Each day during a period described in subsection (a), the manager or supervisor in charge of a Postal Service facility described in that subsection shall certify in a record maintained by the Postal Service that each ballot scheduled to depart the facility that day has departed the facility.

SEC. 207. FEDERAL ELECTION MAIL PROCESSING.

(a) **Processing Preceding Elections for Federal Office.**—During the 90-day period preceding a
1 general election for Federal office, the Postal Service may
2 not—
3 (1) implement any service standard changes
4 that would slow the delivery of Federal election mail;
5 (2) take any steps that would meaningfully
6 interfere with the ability of the Postal Service to
7 achieve its service standards; or
8 (3) engage in activity that would meaningfully
9 interfere with the ability of the Postal Service to
10 prioritize monitoring and timely delivery of Federal
11 election mail.
12 (b) SUNDAY PROCESSING.—The Postal Service shall
13 collect and process the mail in a Postal Service district
14 on the Sunday before a general election is held in that
15 district.
16 (c) EXTENDED HOURS.—The Postal Service shall co-
17 ordinate with election officials and may operate on ex-
18 tended hours, as necessary, to process Federal election
19 mail in advance of a covered election.
20 SEC. 208. POSTMARK REQUIRED ON ALL FEDERAL BAL-
21 LOTS.
22 The Postal Service shall implement procedures de-
23 signed to apply a physical postmark or other physical indi-
24 cia bearing a legible date to each identifiable envelope con-
Sec. 209. No cause of action.

No provision of this title shall—

(1) be binding on any State, local, or Tribal government; or

(2) be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, the Postal Service, or a State, local, or Tribal government, a department, agency, entity, officer, employee, or agent thereof, or any other person.

Title III—Reauthorization of Election Assistance Commission

Sec. 301. Reauthorization of Election Assistance Commission.

Section 210 of the Help America Vote Act of 2002 (52 U.S.C. 20930) is amended—

(1) by inserting “, and for each of the fiscal years 2023 through 2027,” after “2005”; and

(2) by striking “(but not to exceed $10,000,000 for each such year)”.

SEC. 302. REQUIRING PENETRATION TESTING AS PART OF THE TESTING AND CERTIFICATION OF VOTING SYSTEMS.

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

"(3) REQUIRED PENETRATION TESTING.—The Commission shall provide for the conduct of penetration testing as part of the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories under this section."

TITLE IV—PROTECTIONS FOR ELECTION RECORDS, PAPERS, AND VOTING SYSTEMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Election Records Protection Act".

SEC. 402. PROTECTION FOR ELECTION RECORDS, PAPERS, AND VOTING SYSTEMS.

(a) IN GENERAL.—

(1) IN GENERAL.—Title III of the Civil Rights Act of 1960 (52 U.S.C. 20701 et seq.) is amended by adding at the end the following new section:
"SEC. 307. RECORDS.

"As used in this title, the term ‘record’ includes any electronic record."

(2) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Attorney General, in consultation with Director of the Cybersecurity and Infrastructure Security Agency of the Department of Homeland Security, shall issue informal guidance regarding compliance with section 301 of the Civil Rights Act of 1960 (52 U.S.C. 20701), including recommendations for retaining and preserving records (including electronic records) and papers.

(b) INCREASED PENALTY FOR WILLFUL FAILURE TO RETAIN AND PRESERVE ELECTION RECORDS.—Section 302 of the Civil Rights Act of 1960 (52 U.S.C. 20702) is amended—

(1) by striking "$1,000" and inserting "$10,000"; and

(2) by striking "one year" and inserting "two years".

(c) PENALTY FOR THEFT, DESTRUCTION, CONCEALMENT, MUTILATION, OR ALTERATION OF VOTING SYSTEMS.—Section 12(2) of the National Voter Registration Act of 1993 (52 U.S.C. 20511) is amended—
(1) by striking "or" at the end of subparagraph (A);
(2) by striking the comma at the end of subparagraph (B) and inserting "; or"; and
(3) by adding at the end the following new subparagraph:
"(C) the theft, destruction, concealment, mutilation, or alteration of voting systems;".