SENATE BILL No. 179

DIGEST OF SB 179 (Updated January 23, 2020 6:52 pm - DI 104)

Citations Affected: IC 3-5; IC 3-11; IC 3-12.

Synopsis: Election cybersecurity. Requires counties to enter into an agreement with the secretary of state to use a threat intelligence and enterprise security company designated by the secretary of state for specified security purposes. Requires applicants for certification of voting systems and electronic poll books to include information regarding: (1) the batteries used in the voting system or electronic poll book, and any peripherals; (2) a planned replacement schedule for the batteries, and (3) plans to test batteries; and (4) plans for emergency replacement of batteries that fail on election day or during the 30 days before election day. Provides that the number of voting systems to be examined in a public test is based on the number of voting system units scheduled by the county election board to be used in the upcoming election. Requires a single list instead of two lists for testing by counties before elections and sets forth selection requirements for testing. Provides that if a county uploads unofficial precinct election results to the statewide voter registration system before certification of

(Continued next page)

Effective: Upon passage; July 1, 2020.

Walker

January 6, 2020, read first time and referred to Committee on Elections.
January 27, 2020, amended, reported favorably — Do Pass.

Digest Continued

the final results, the county must use a universal serial bus (USB) drive that contains anti-malware protection features or other approved data storage transfer methods. Provides that: (1) if a direct record electronic voting system contains a voter verifiable paper audit trail, the precinct election board is not required to print out the paper audit trail in preparing the certificates setting forth the number of votes cast for a candidate or on a public question in the precinct; and (2) the certificates set forth the official votes cast by the voters of the precinct. Provides that in a recount or contest proceeding, the information set forth on the voter verifiable paper audit trail may be used as evidence for a recount commission or a court to determine the votes cast for a candidate or on a public question in the precinct. Permits the secretary of state to issue orders (rather than adopting administrative rules) to: (1) designate elections to be subject to a risk-limiting audit or procedure audits conducted after the election; and (2) to administer risk-limiting audits.

Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.
   Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.
   Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

SENATE BILL No. 179

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

```
1      SECTION 1. IC 3-5-4-12 IS ADDED TO THE INDIANA CODE
2   AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
3   UPON PASSAGE]: Sec. 12. (a) Not later than July 1, 2020, each
4   county shall enter into an agreement with the secretary of state to
5   use a threat intelligence and enterprise security company
6   designated by the secretary of state to provide hardware, software,
7   and services to:
8         (1) investigate cybersecurity attacks;
9         (2) protect against malicious software; and
10        (3) analyze information technology security risks.
11      (b) The agreement to provide services to a county under this
12   section:
13        (1) has no effect on any threat intelligence and enterprise
14        security service provided to the county by any other
15        agreement with a provider or by any county employee or
16        contractor; and
17        (2) must be designed to complement any existing service
```

1   **agreement or service used by the county;**
2 **when the county enters into the agreement.**
3   SECTION 2. IC 3-11-8-10.3, AS AMENDED BY P.L.71-2019,
4 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2020]: Sec. 10.3. (a) A reference to an electronic poll list in
6 a vote center plan adopted under IC 3-11-18.1 before July 1, 2014, is
7 considered to be a reference to an electronic poll book (as defined by
8 IC 3-5-2-20.5), unless otherwise expressly provided in the vote center
9 plan.
10   (b) An electronic poll book must satisfy all of the following:
11   (1) An electronic poll book must be programmed so that the
12   coordinated action of two (2) election officers who are not
13   members of the same political party is necessary to access the
14   electronic poll book.
15   (2) An electronic poll book may not be connected to a voting
16   system. However, the electronic poll book may be used in
17   conjunction with a voting system if both of the following apply:
18   (A) The electronic poll book contains a device that must be
19   physically removed from the electronic poll book by a person
20   and the device is inserted into the voting system, with no
21   hardware or software connection existing between the
22   electronic poll book and the voting system.
23   (B) All data on the device is erased when the device is
24   removed from the voting system and before the device is
25   reinserted into an electronic poll book.
26   (3) An electronic poll book may not permit access to voter
27   information other than:
28   (A) information provided on the certified list of voters
29   prepared under IC 3-7-29-1; or
30   (B) information concerning any of the following received or
31   issued after the electronic poll list has been downloaded by the
32   county election board under IC 3-7-29-6:
33   (i) The county's receipt of an absentee ballot from the voter.
34   (ii) The county's receipt of additional documentation
35   provided by the voter to the county voter registration office.
36   (iii) The county's issuance of a certificate of error.
37   (4) The information contained on an electronic poll book must
38   be secure and placed on a dedicated, private server to secure
39   connectivity between a precinct polling place or satellite absentee
40   office and the county election board. The electronic poll book
41   must have the capability of:
42   (A) storing (in external or internal memory) the current local

1   version of the electronic poll list; and
2   (B) producing a list of audit records that reflect all of the
3   idiosyncrasies of the system, including in-process audit
4   records that set forth all transactions.
5   (5) The electronic poll book must permit a poll clerk to enter
6   information regarding an individual who has appeared to vote to
7   verify whether the individual is eligible to vote, and if so, whether
8   the voter has:
9   (A) already received a ballot at the election;
10   (B) returned an absentee ballot; or
11   (C) submitted any additional documentation required under
12   IC 3-7-33-4.5.
13   (6) After the voter has been provided with a ballot, the electronic
14   poll book must permit a poll clerk to enter information indicating
15   that the voter has received a ballot.
16   (7) The electronic poll book must transmit the information in
17   subdivision (6) to the county server so that:
18   (A) the server may transmit the information immediately to
19   every other polling place or satellite absentee office in the
20   county; or
21   (B) the server makes the information immediately available to
22   every other polling place or satellite office in the county.
23   (8) The electronic poll book must permit reports to be:
24   (A) generated by a county election board for a watcher
25   appointed under IC 3-6-8 at any time during election day; and
26   (B) electronically transmitted by the county election board to
27   a political party or independent candidate who has appointed
28   a watcher under IC 3-6-8.
29   (9) On each day after absentee ballots are cast before an absentee
30   voter board in the circuit court clerk's office, a satellite office, or
31   a vote center, and after election day, the electronic poll book must
32   permit voter history to be quickly and accurately uploaded into
33   the computerized list (as defined in IC 3-7-26.3-2).
34   (10) The electronic poll book must be able to display an electronic
35   image of the signature of a voter taken from:
36   (A) the voter's registration application; or
37   (B) a more recent signature of a voter from an absentee
38   application, poll list, electronic poll book, or registration
39   document.
40   (11) The electronic poll book must be used with a signature pad,
41   tablet, or other signature capturing device that permits the voter
42   to make an electronic signature for comparison with the signature

1   displayed under subdivision (10). An image of the electronic
2   signature made by the voter on the signature pad, tablet, or other
3   signature capturing device must be retained and identified as the
4   signature of the voter for the period required for retention under
5   IC 3-10-1-31.1.
6   (12) The electronic poll book must include a bar code capturing
7   device that:
8   (A) permits a voter who presents an Indiana driver's license or
9   a state identification card issued under IC 9-24-16 to scan the
10   license or card through the bar code reader or tablet; and
11   (B) has the capability to display the voter's registration record
12   upon processing the information contained within the bar code
13   on the license or card.
14   (13) A printer separate from the electronic poll book used in a
15   vote center county may be programmed to print on the back of a
16   ballot card, immediately before the ballot card is delivered to the
17   voter, the printed initials of the poll clerks captured through the
18   electronic signature pad or tablet at the time the poll clerks log
19   into the electronic poll book system.
20   (14) The electronic poll book must be compatible with:
21   (A) any hardware attached to the electronic poll book, such as
22   signature capturing devices, bar code capturing devices, and
23   network cards;
24   (B) the statewide voter registration system; and
25   (C) any software system used to prepare voter information to
26   be included on the electronic poll book.
27   (15) The electronic poll book must have the ability to be used in
28   conformity with this title for:
29   (A) any type of election conducted in Indiana; or
30   (B) any combination of elections held concurrently with a
31   general election, municipal election, primary election, or
32   special election.
33   (16) The procedures for setting up, using, and shutting down an
34   electronic poll book must be reasonably easy for a precinct
35   election officer to learn, understand, and perform. A vendor shall
36   provide sufficient training to election officials and poll workers
37   to completely familiarize them with the operations essential for
38   carrying out election activities. A vendor shall provide an
39   assessment of learning goals achieved by the training in
40   consultation with VSTOP (as described in IC 3-11-18.1-12).
41   (17) The electronic poll book must enable a precinct election
42   officer to verify that the electronic poll book:

  (A) has been set up correctly;

  (B) is working correctly so as to verify the eligibility of the voter;

  (C) is correctly recording that a voter received a ballot; and

  (D) has been shut down correctly.

(18) The electronic poll book must include the following documentation:

  (A) Plainly worded, complete, and detailed instructions sufficient for a precinct election officer to set up, use, and shut down the electronic poll book.

  (B) Training materials that:

    (i) may be in written or video form; and

    (ii) must be in a format suitable for use at a polling place, such as simple "how to" guides.

  (C) Failsafe data recovery procedures for information included in the electronic poll book.

  (D) Usability tests:

    (i) that are conducted by the manufacturer of the electronic poll book or an independent testing facility using individuals who are representative of the general public;

    (ii) that include the setting up, using, and shutting down of the electronic poll book; and

    (iii) that report their results using industry standard reporting formats.

  (E) A clear model of the electronic poll book system architecture and the following documentation:

    (i) End user documentation.

    (ii) System-level and administrator level documentation.

    (iii) Developer documentation.

  (F) Detailed information concerning:

    (i) electronic poll book consumables; and

    (ii) the vendor's supply chain for those consumables.

  (G) Vendor internal quality assurance procedures and any internal or external test data and reports available to the vendor concerning the electronic poll book.

  (H) Repair and maintenance policies for the electronic poll book.

  (I) As of the date of the vendor's application for approval of the electronic poll book by the secretary of state as required by IC 3-11-18.1-12, the following:

    (i) A list of customers who are using or have previously used the vendor's electronic poll book.

   (ii) A description of any known anomalies involving the functioning of the electronic poll book, including how those anomalies were resolved.

   (J) Information concerning batteries used in the electronic poll book, including the following:

    (i) A list of all batteries to be used in the electronic poll book and any peripherals.

    (ii) The expected life span of each battery.

    (iii) A log documenting when each battery was installed or subsequently replaced.

    (iv) A schedule for the replacement of each battery not later than thirty (30) days before the end of the expected life span of each battery.

    (v) Plans to test batteries before each election.

    (vi) Plans for the emergency replacement of batteries that fail on election day or during the thirty (30) days before election day.

(19) The electronic poll book and any hardware attached to the electronic poll book must be designed to prevent injury or damage to any individual or the hardware, including fire and electrical hazards.

(20) The electronic poll book must demonstrate that it correctly processes all activity regarding each voter registration record, including the use, alteration, storage, receipt, and transmittal of information that is part of the record. Compliance with this subdivision requires the mapping of the data life cycle of the voter registration record as processed by the electronic poll book.

(21) The electronic poll book must successfully perform in accordance with all representations concerning functionality, usability, security, accessibility, and sustainability made in the vendor's application for approval of the electronic poll book by the secretary of state as required by IC 3-11-18.1-12.

(22) The electronic poll book must have the capacity to transmit all information generated by the voter or poll clerk as part of the process of casting a ballot, including the time and date stamp indicating when the voter signed the electronic poll book, and the electronic signature of the voter, for retention on the dedicated private server approved by the county election board for the period required by Indiana and federal law.

(23) The electronic poll book must:

   (A) permit a voter to check in and sign the electronic poll book even when there is a temporary interruption in connectivity to

1   the Internet; and

2   (B) provide for the uploading of each signature so that the

3   signature may be assigned to the voter's registration record.

4   (c) The county election board is responsible for the care and custody

5 of all electronic poll books while not in use.

6   (d) The county election board is responsible for ensuring that all

7 electronic poll books are dedicated devices to be used only for their

8 intended purpose and for no other activity. Software that is not needed

9 for the essential purpose of running the electronic poll book may not be

10 installed on an electronic poll book.

11   SECTION 3. IC 3-11-13-22, AS AMENDED BY P.L.278-2019,

12 SECTION 106, IS AMENDED TO READ AS FOLLOWS

13 [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) This section applies to:

14   (1) a ballot card voting system; and

15   (2) a voting system that includes features of a ballot card voting

16   system and a direct record electronic voting system.

17   (b) Not later than seventy-four (74) days before election day, for

18 each county planning to use automatic tabulating machines at the next

19 election, VSTOP shall provide each county election board with ~~two (2)~~

20 ~~lists~~ **a randomly sorted list** of unique identification numbers for the

21 **inventory of** machines ~~to be tested by the county. The number of~~

22 ~~machines selected in each list must be:~~ **in the county maintained**

23 **under IC 3-11-16-4. Starting at the top of the list, the county**

24 **election board shall select machines in the list in the order listed so**

25 **that:**

26   **(1) if a machine to be selected in the list is not scheduled to be**

27   **used in the upcoming election, the selection process will move**

28   **to the next machine in the order listed;**

29   **(2) each selected machine is scheduled to be used in the**

30   **upcoming election; and**

31   **(3) the number of machines selected is not less than five**

32   **percent (5%) of the machines in the county scheduled by the**

33   **county election board to be used in the upcoming election.**

34   ~~(1) approved by the division; and~~

35   ~~(2) not less than five percent (5%) of the machines in the county.~~

36   (c) The county election board shall test the machines ~~in the first list~~

37 **as** described in subsection (b) to ascertain that the machines will

38 correctly count the votes cast for straight party tickets, for all

39 candidates (including write-in candidates), and on all public questions.

40 If an individual attending the public test requests that additional

41 automatic tabulating machines be tested, then the county election board

42 shall **select and** test **additional** machines from the ~~second~~ list **in the**

1   **manner** described in subsection (b).

2   (d) If VSTOP does not provide the lists under subsection (b) not
3 later than sixty (60) days before the election, the county election board
4 shall establish and implement a procedure for random selection of not
5 less than five percent (5%) of the machines in the county **to be used in**
6 **the upcoming election.** The county election board shall then test the
7 machines selected as described in subsection (c).

8   (e) Not later than seven (7) days after conducting the test under
9 subsection (c), the county election board shall certify to the election
10 division that the test has been conducted in conformity with subsection
11 (c). The testing under subsection (c) must begin before absentee voting
12 begins in the office of the circuit court clerk under IC 3-11-10-26.

13   (f) Public notice of the time and place shall be given at least
14 forty-eight (48) hours before the test. The notice shall be published
15 once in accordance with IC 5-3-1-4.

16   (g) If a county election board determines that:
17   (1) a ballot:
18   (A) must be reprinted or corrected as provided by
19   IC 3-11-2-16 because of the omission of a candidate, political
20   party, or public question from the ballot; or
21   (B) is an absentee ballot that a voter is entitled to recast under
22   IC 3-11.5-4-2 because the absentee ballot includes a candidate
23   for election to office who:
24   (i) ceased to be a candidate; and
25   (ii) has been succeeded by a candidate selected under
26   IC 3-13-1 or IC 3-13-2; and
27   (2) ballots used in the test conducted under this section were not
28   reprinted or corrected to remove the omission of a candidate,
29   political party, or public question, or indicate the name of the
30   successor candidate;
31 the county election board shall conduct an additional public test
32 described in subsection (c) using the reprinted or corrected ballots.
33 Notice of the time and place of the additional test shall be given in
34 accordance with IC 5-14-1.5, but publication of the notice in
35 accordance with IC 5-3-1-4 is not required.

36   SECTION 4. IC 3-11-14.5-1, AS AMENDED BY P.L.278-2019,
37 SECTION 113, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Not later than
39 seventy-four (74) days before election day, for each county planning to
40 use an electronic voting system at the next election, VSTOP shall
41 provide each county election board with ~~two (2) lists~~ **a randomly**
42 **sorted list** of unique identification numbers for the **inventory of**

9

machines ~~to be tested by the county. The number of machines selected~~
~~in each list must be:~~ **in the county maintained under IC 3-11-16-4.**
Starting at the top of the list, the county election board shall select
machines in the list in the order listed so that:
> **(1) if a machine to be selected in the list is not scheduled to be**
> **used in the upcoming election, the selection process will move**
> **to the next machine in the order listed;**
> **(2) each selected machine is scheduled to be used in the**
> **upcoming election; and**
> **(3) the number of machines selected is not less than five**
> **percent (5%) of the machines in the county scheduled by the**
> **county election board to be used in the upcoming election.**
> ~~(1) approved by the division; and~~
> ~~(2) not less than five percent (5%) of the machines in the county.~~

(b) The county election board shall test the machines ~~in the first list~~
as described in subsection (a) to ascertain that the machines will
correctly count the votes cast for straight party tickets, for all
candidates (including write-in candidates), and on all public questions.
If an individual attending the public test requests that additional
electronic voting systems be tested, then the county election board shall
select and test **additional** machines from the ~~second~~ list **in the**
manner described in subsection (a).

(c) If VSTOP does not provide the lists under subsection (a) not
later than sixty (60) days before the election, the county election board
shall establish and implement a procedure for random selection of not
less than five percent (5%) of the machines in the county. The county
election board shall then test the machines selected **to be used in the**
upcoming election as described in subsection (b).

(d) The testing under subsection (b) must begin before absentee
voting starts in the office of the circuit court clerk under IC 3-11-10-26.

(e) If a county election board determines that:
> (1) a ballot provided by an electronic voting system:
> > (A) must be corrected as provided by IC 3-11-2-16 because of
> > the omission of a candidate, political party, or public question
> > from the ballot; or
> > (B) is an absentee ballot that a voter is entitled to recast under
> > IC 3-11.5-4-2 because the absentee ballot includes a candidate
> > for election to office who:
> > > (i) ceased to be a candidate; and
> > > (ii) has been succeeded by a candidate selected under
> > > IC 3-13-1 or IC 3-13-2; and
> (2) machines used in the test conducted under this section did not

SB 179—LS 6611/DI 131

1   contain a ballot that was reprinted or corrected to remove the
2   omission of a candidate, political party, or public question, or
3   indicate the name of the successor candidate;
4 the county election board shall conduct an additional public test
5 described in subsection (b) using the machines previously tested and
6 containing the reprinted or corrected ballots.
7   SECTION 5. IC 3-11-15-7, AS AMENDED BY P.L.71-2019,
8 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2020]: Sec. 7. (a) Each application must be in writing, sworn
10 to or affirmed by the applicant, under the penalties of perjury, on a
11 form prescribed by the election division, and must satisfy the following
12 requirements:
13   (1) Provide the name and address of the vendor submitting the
14   application.
15   (2) Provide the telephone number of the vendor.
16   (3) Provide the name, address, and telephone number of the
17   individual representing the vendor regarding the application.
18   (4) Provide the model name and number of the submitted voting
19   system, stating the hardware, firmware, and software version
20   numbers of the system.
21   (5) State whether the voting system is a direct record electronic
22   voting system or an optical scan ballot card voting system.
23   (6) Provide a description of the voting system and its capabilities,
24   including the following:
25   (A) Photographs.
26   (B) Engineering drawings.
27   (C) Technical documentation.
28   (D) Fail-safe and emergency backup information.
29   (E) Environmental requirements for storage, transportation,
30   and operation.
31   (7) Include an agreement to pay for the total costs of the
32   examination.
33   (8) Provide documentation of the escrow of the voting system's
34   software, firmware, source codes, and executable images with an
35   escrow agent approved by the election division.
36   (9) Provide a functional description of any software components.
37   (10) Provide schematics or flowcharts identifying software and
38   data file relationships.
39   (11) Describe the type of maintenance offered by the vendor.
40   **(12) Provide information concerning batteries used in the**
41   **voting system, including the following:**
42   **(A) A list of all batteries to be used in the voting system**

1   **and any peripherals.**
2   **(B) The expected life span of each battery.**
3   **(C) A log documenting when each battery was installed or**
4   **subsequently replaced.**
5   **(D) A schedule for the replacement of each battery not**
6   **later than thirty (30) days before the end of the expected**
7   **life span of each battery.**
8   **(E) Plans to test batteries before each election.**
9   **(F) Plans for the emergency replacement of batteries that**
10   **fail on election day or during the thirty (30) days before**
11   **election day.**
12   ~~(12)~~ **(13)** Provide the names, addresses, and telephone numbers
13   of the vendor's maintenance providers.
14   ~~(13)~~ **(14)** Provide a description of the training courses offered by
15   the vendor for the voting system.
16   ~~(14)~~ **(15)** Provide user manuals, operator and system manuals, and
17   problem solving manuals.
18   ~~(15)~~ **(16)** Provide a statement of the current and future
19   interchangeability of all subcomponents of the voting system.
20   ~~(16)~~ **(17)** Provide documentation from all independent testing
21   authorities that have examined the system.
22   ~~(17)~~ **(18)** Provide documentation from all election jurisdictions
23   that have previously approved the system.
24   ~~(18)~~ **(19)** State that the vendor has complied with, and will
25   continue to comply with, ~~IC 3-11-15-45(b)~~ **section 45(b) of this**
26   **chapter** following certification of the system.
27   ~~(19)~~ **(20)** Pay the application fee required under section 4 of this
28   chapter.
29   (b) If an application does not include any of the applicable
30 requirements listed in subsection (a), those requirements must be filed
31 with the election division before the application may be considered by
32 the commission.
33   SECTION 6. IC 3-11-18.1-12, AS AMENDED BY P.L.278-2019,
34 SECTION 118, IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Notwithstanding section
36 1 of this chapter, this section applies to an electronic poll book to be
37 used in:
38   (1) a precinct polling place, office of the circuit court clerk, or a
39   satellite office in accordance with IC 3-7-29-6; or
40   (2) a vote center under this chapter.
41   (b) Notwithstanding any other law, the electronic poll book used
42 must satisfy all of the following:

1   (1) The electronic poll book must comply with IC 3-11-8-10.3.

2   (2) The electronic poll book must be approved by the secretary of
3   state in accordance with this section.

4   (3) Except with prior written authorization by the VSTOP, the
5   electronic poll book must have been delivered to the county
6   election board not less than sixty (60) days before an election at
7   which the electronic poll book is used.

8   (c) A person who wishes to market, sell, lease, or provide an
9   electronic poll book for use in an election in Indiana must first file an
10   application for certification with the election division on a form
11   prescribed by the secretary of state. Except as provided in subsection
12   (i), a person may not market, sell, lease, or provide an electronic poll
13   book for use in an election in Indiana until the secretary of state has
14   approved the application for certification under this section. The
15   application must state that the vendor has complied, and will continue
16   to comply, with subsection (d) following certification of the electronic
17   poll book. Each application for certification of an electronic poll book
18   must be accompanied by a fee of one thousand five hundred dollars
19   ($1,500). All fees collected under this section shall be deposited with
20   the treasurer of state in the voting system technical oversight program
21   account established by IC 3-11-17-6.

22   (d) The person seeking certification of an electronic poll book shall
23   conduct a background check at least once each year on each individual
24   employed or contracted by the vendor who has access to the electronic
25   poll book to determine if the individual has been convicted of a felony.
26   An individual described by this subsection who has been convicted of
27   a felony may not have access to an electronic poll book in the
28   individual's capacity as an employee or contractor of the vendor.

29   (e) The secretary of state shall refer the application to the person or
30   entity conducting the VSTOP.

31   (f) The VSTOP shall examine the electronic poll book with its
32   accompanying documentation and file a report with the secretary of
33   state indicating all of the following:

34   (1) Whether the electronic poll book would operate in compliance
35   with this title.

36   (2) Whether VSTOP has reviewed tests conducted by an approved
37   voting system testing laboratory.

38   (3) Whether VSTOP has conducted a field test.

39   (4) Whether the electronic poll book complies with additional
40   requirements for the electronic poll book application for
41   certification and acceptance testing, as described in the Indiana
42   Electronic Poll Book Certification Test Protocol approved by the

1   secretary of state (as in effect January 1, ~~2019).~~ **2020).**
2   (5) Any recommendations regarding the acquisition or use of the
3   electronic poll book.
4   (6) Whether documentation of the escrow of the electronic poll
5   book's software, firmware, source codes, and executable images
6   with an escrow agent approved by the election division has been
7   received by VSTOP.
8   (7) Whether VSTOP recommends that the secretary of state
9   approve the electronic poll book under this section, including any
10   recommended restrictions that should be placed on the secretary
11   of state's approval.
12   (g) After the report required by subsection (f) is filed, the secretary
13   of state may approve the application for certification permitting the
14   electronic poll book to be used in an election in Indiana.
15   (h) A certification under this section expires on December 31 of the
16   year following the date of its issuance, unless earlier revoked by the
17   secretary of state upon a written finding of good cause for the
18   revocation.
19   (i) A person may display or demonstrate an electronic poll book that
20   has not been certified under this section if the person complies with all
21   the following requirements:
22   (1) The display or demonstration occurs at a conference of
23   election officials sponsored by:
24   (A) a state agency; or
25   (B) an association of circuit court clerks or voter registration
26   officers.
27   (2) The person files a notice with the election division at least
28   seven (7) days before the scheduled starting date of a conference
29   referred to in subdivision (1) setting forth the following:
30   (A) The name of the person and each representative scheduled
31   to display or demonstrate the electronic poll book.
32   (B) The address and telephone number of the person.
33   (C) The model name of the electronic poll book.
34   (D) The name and manufacturer of the electronic poll book.
35   (E) The date and location of the display or demonstration of
36   the electronic poll book.
37   (3) The person displays the electronic poll book with a notice that:
38   (A) is at least 16 point type size;
39   (B) is posted on the surface of the electronic poll book; and
40   (C) states that the electronic poll book is "Not Approved for
41   Use in Indiana".
42   (4) The person ensures that each communication concerning the

1   electronic poll book that is available or made at a conference
2   referred to in subdivision (1) includes a statement that the
3   electronic poll book is "Not Approved for Use in Indiana". A
4   printed communication must include the statement in a type size
5   that is at least as large as the largest type size used in the
6   communication.
7   SECTION 7. IC 3-12-3-12.7 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: **Sec. 12.7. (a) This section applies to a county**
10 **that uploads unofficial precinct level results from a ballot card**
11 **voting system to the computerized list before the county certifies**
12 **the official results of the election under IC 3-12-5.**
13   **(b) The county shall use a universal serial bus (USB) drive that**
14 **contains anti-malware protection features approved by VSTOP or**
15 **another data storage transfer method approved by VSTOP.**
16   SECTION 8. IC 3-12-3.5-3, AS AMENDED BY P.L.230-2005,
17 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 UPON PASSAGE]: Sec. 3. (a) When paper vote total printouts have
19 been obtained, the precinct election board shall prepare certificates
20 stating the number of votes that each candidate received for each office
21 and the votes on each public question by attaching the paper vote total
22 printouts to certificate forms supplied by the county election board.
23   (b) Each member of the board shall be given a copy of the
24 certificate.
25   (c) If a precinct election board administers more than one (1)
26 precinct, the board shall keep the ballots cast in each precinct separate
27 from ballots cast in any other precinct, so that the votes cast for each
28 candidate and on each public question in each of the precincts
29 administered by the board may be determined.
30   **(d) If a precinct or vote center uses a direct record electronic**
31 **voting system that contains a voter verifiable paper audit trail, the**
32 **election board is not required to print out the paper audit trail in**
33 **preparing the certificates setting forth the number of votes**
34 **prepared under subsection (a).**
35   **(e) The certificates prepared under subsection (a) set forth the**
36 **official votes cast by the voters for a candidate or on a public**
37 **question by the voters of the precinct. However, in a recount or**
38 **contest proceeding under IC 3-12-6, IC 3-12-8, IC 3-12-11, or**
39 **IC 3-12-12, the information set forth on the voter verifiable paper**
40 **audit trail may be used as evidence for a recount commission or a**
41 **court to determine the votes cast for a candidate or on a public**
42 **question in the precinct.**

1   SECTION 9. IC 3-12-4-6.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 6.5. (a) This section applies to a county that**
4 **uploads unofficial precinct level results from a direct record**
5 **electronic voting system to the computerized list before the county**
6 **certifies the official results of the election under IC 3-12-5.**
7   **(b) The county must use a universal serial bus (USB) drive that**
8 **contains anti-malware protection features approved by VSTOP or**
9 **another data storage transfer method approved by VSTOP.**
10   SECTION 10. IC 3-12-13-5, AS ADDED BY P.L.34-2019,
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 UPON PASSAGE]: Sec. 5. (a) The secretary of state shall determine
13 ~~under rules adopted by the secretary of state under IC 4-22-2,~~ the
14 elections that are subject to a risk-limiting audit.
15   (b) All contested elections for an elected office and all public
16 questions are eligible for designation ~~by the rules~~ **under subsection (a)**
17 for a risk-limiting audit.
18   SECTION 11. IC 3-12-13-7, AS ADDED BY P.L.34-2019,
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 UPON PASSAGE]: Sec. 7. (a) The secretary of state shall ~~adopt rules~~
21 ~~under IC 4-22-2 necessary~~ **issue orders** to implement and administer
22 the requirements of this chapter.
23   (b) In ~~developing rules to be adopted~~ **issuing an order** under
24 subsection (a), the secretary of state shall:
25   (1) consult with recognized statistical experts, equipment vendors,
26   the election division, and county election officials; and
27   (2) consider best practices for conducting risk-limiting audits.
28   SECTION 12. IC 3-12-14-4, AS ADDED BY P.L.34-2019,
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 UPON PASSAGE]: Sec. 4. (a) The secretary of state shall ~~adopt rules~~
31 ~~under IC 4-22-2~~ **issue orders** to develop a procedure audit program
32 that details the documents to be inspected, the procedures to be
33 reviewed, and the process by which a procedure audit is conducted
34 under this chapter.
35   (b) The following factors may be evaluated by a procedure audit:
36   (1) Evaluation of voter registration procedures, including the
37   following:
38   (A) Proper use of voter registration forms.
39   (B) Entry of data into the statewide voter registration file.
40   (C) Proper use of forms.
41   (D) Ability of procedures to accurately determine eligibility of
42   registrants.

1   (2) Evaluation of proper use and operation of electronic poll
2   books and other electronic systems.
3   (3) Evaluation of voting systems.
4   (4) Evaluation of compliance with federal and state requirements.
5   (5) Evaluation of absentee voting requirements and procedures.
6   (6) Evaluation of provisional ballot voting requirements and
7   procedures.
8   (7) Evaluation of other factors as determined by the secretary of
9   state.
10   (c) The secretary of state may require use of sampling and other
11 statistically valid procedures for conducting a procedure audit.
12   SECTION 13. **An emergency is declared for this act.**

17

COMMITTEE REPORT

Madam President: The Senate Committee on Elections, to which was referred Senate Bill No. 179, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-4-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) Not later than July 1, 2020, each county shall enter into an agreement with the secretary of state to use a threat intelligence and enterprise security company designated by the secretary of state to provide hardware, software, and services to:**

(1) investigate cybersecurity attacks;
(2) protect against malicious software; and
(3) analyze information technology security risks.

(b) The agreement to provide services to a county under this section:

(1) has no effect on any threat intelligence and enterprise security service provided to the county by any other agreement with a provider or by any county employee or contractor; and
(2) must be designed to complement any existing service agreement or service used by the county;

when the county enters into the agreement.".

Page 5, line 30, delete "." and insert "**and any peripherals.**".

Page 5, line 37, after "(v)" insert "**Plans to test batteries before each election.**

(vi)".

Page 6, line 41, strike "two (2)".

Page 6, line 42, strike "lists" and insert "**a randomly sorted list**".

Page 6, line 42, after "the" insert "**inventory of**".

Page 6, line 42, strike "to be tested by".

Page 7, line 1, strike "the county. The number of machines selected in each list must be:" and insert "**in the county maintained under IC 3-11-16-4. Starting at the top of the list, the county election board shall select machines in the list in the order listed so that:**

(1) if a machine to be selected in the list is not scheduled to be used in the upcoming election, the selection process will move to the next machine in the order listed;
(2) each selected machine is scheduled to be used in the

SB 179—LS 6611/DI 131

upcoming election; and
(3) the number of machines selected is not less than five
percent (5%) of the machines in the county scheduled by the
county election board to be used in the upcoming election.".

Page 7, strike line 2.

Page 7, line 3 strike "(2) not less than five percent (5%) of the machines in the".

Page 7, line 3, delete "county" and insert "~~county.~~".

Page 7, delete lines 4 through 5.

Page 7, line 6, strike "in the first list" and insert "**as**".

Page 7, line 11, after "shall" insert "**select and**".

Page 7, line 11, after "test" insert "**additional**".

Page 7, line 12, strike "second".

Page 7, line 12, after "list" insert "**in the manner**".

Page 7, line 16, delete "." and insert "**to be used in the upcoming election.**".

Page 8, line 10, strike "two (2) lists" and insert "**a randomly sorted list**".

Page 8, line 11, after "for the" insert "**inventory of**".

Page 8, line 11, strike "to be tested by the county. The".

Page 8, line 12, strike "number of machines selected in each list must be:" and insert "**in the county maintained under IC 3-11-16-4. Starting at the top of the list, the county election board shall select machines in the list in the order listed so that:**
(1) if a machine to be selected in the list is not scheduled to be used in the upcoming election, the selection process will move to the next machine in the order listed;
(2) each selected machine is scheduled to be used in the upcoming election; and
(3) the number of machines selected is not less than five percent (5%) of the machines in the county scheduled by the county election board to be used in the upcoming election.".

Page 8, strike line 13.

Page 8, line 14, strike "(2) not less than (5%) of the machines in the".

Page 8, line 14, delete "county" and insert "~~county.~~".

Page 8, delete lines 15 through 16.

Page 8, line 17, strike "in the first list" and insert "**as**".

Page 8, line 22, after "shall" insert " insert "**select and**".

Page 8, line 22, after "test" insert "**additional**".

Page 8, line 23, strike "second".

Page 8, line 23, after "list" insert "**in the manner**".

SB 179—LS 6611/DI 131

Page 8, line 28, after "selected" insert "**to be used in the upcoming election**".

Page 10, line 1, delete "." and insert "**and any peripherals.**".

Page 10, line 8, after "(E)" insert "**Plans to test batteries before each election.**

　　　　(F)".

Page 13, line 13, delete "." and insert "**or another data storage transfer method approved by VSTOP.**".

Page 13, line 28, after "precinct" insert "**or vote center**".

Page 13, line 29, delete "precinct".

Page 14, line 6, delete "." and insert "**or another data storage transfer method approved by VSTOP.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 179 as introduced.)

WALKER, Chairperson

Committee Vote: Yeas 8, Nays 0.