

H.R. 3529, Achieving Lasting Electoral Reforms on Transparency and Security Act
(ALERTS Act)

- The premise of the bill is that the primary victim of an attack on an election system in the U.S. is the voting public and, except in rare cases, the voting public should be promptly informed if federal officials have (1) credible evidence of an unauthorized intrusion into an election system and (2) a basis to believe that such intrusion could have resulted in voter information systems or voter tabulation systems being altered or otherwise affected.
- Notification will enable potentially affected voters to take affirmative steps to confirm that their individual registration data is accurate and to hold state and local election officials accountable for their actions or inactions.
- Under the bill, if any federal agency receives information about an election cybersecurity incident, the agency must share that information with the Department of Homeland Security, with narrow exceptions.
- Upon receiving this information, DHS, in consultation with the Attorney General, the Director of the FBI, and the Director of National Intelligence, must make a determination within 96 hours whether:
 1. There is credible evidence that an unauthorized intrusion into an election system occurred; and
 2. There is a basis to believe that the unauthorized intrusion resulted, could have resulted, or could result in voter information systems or voter tabulation systems being altered or otherwise affected.
- If DHS determines these two criteria have been met, it triggers two parallel duties to notify.
- First, DHS is required within 48 hours to notify the governor of the state involved, the chief state election official of the state involved, and the chief local election official of the county or other political subdivision involved. The only narrow exception to this requirement is if DHS determines that notification would compromise intelligence sources and methods or cause harm to an ongoing investigation. If DHS determines this narrow exception is met, DHS must conduct periodic 30-day reviews of this determination to ensure it remains valid.
- Second, DHS is separately required within 48 hours to notify appropriate Members of Congress, including House and Senate leadership, leaders of relevant committees, and senators and representatives from the affected jurisdiction at the proper classification level. There is no exception to this requirement.
- Once state and local officials have been notified of the unauthorized intrusion, they have a duty to provide notification of the intrusion to individuals who were affected or potentially affected by the intrusion. Notification must be made as soon as practicable. The form and content of the notification is left to the reasonable discretion of the state and local officials in light of all the factual circumstances, but shall not reveal classified information and shall be provided in a manner designed not to discourage individuals from voting or registering to vote.