H. R. 4789

To review the use of election security grants in the 2020 Presidential election and to prohibit future election security grants to States with unconstitutional election procedures.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2021

Ms. TENNEY (for herself, Mr. KUSTOFF, and Mr. BANKS) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To review the use of election security grants in the 2020 Presidential election and to prohibit future election security grants to States with unconstitutional election procedures.

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 “Protecting the Right to Organized, Transparent Elections through a Constitutionally Trustworthy Electoral College Act (PROTECT Electoral College Act)”. 
SEC. 2. REPORT ON 2020 GENERAL ELECTION.

(a) DEFINITIONS.—For purposes of this section:


(3) APPLICABLE ELECTION SECURITY FUNDS.—The term “applicable election security funds” means the amount of grant funding provided to the State by the Election Assistance Commission—

(A) from amounts appropriated under the heading “Election Assistance Commission, Election Security Grants” in the Financial Services and General Government Appropriations Act, 2020 (Public Law 116–93); or

(B) from amounts appropriated under the heading “Election Assistance Commission, Election Security Grants” in the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116–136).

(4) STATE.—The term “State” has the meaning given such term under section 901 of the Help America Vote Act of 2002 (52 U.S.C. 21141), ex-
cept that such term shall include the Commonwealth of the Northern Mariana Islands.

(5) UNSOLICITED MAIL-IN BALLOT.—The term “unsolicited mail-in ballot” means any ballot sent to a voter by mail if—

(A) such ballot was not specifically requested by the voter; or

(B) the ballot request by the voter was initiated by the mailing of a ballot application not specifically requested by the voter.

(6) UNSOLICITED MAIL-IN BALLOT PERCENTAGE.—The term “unsolicited mail-in ballot percentage” means the number of unsolicited mail-in ballots distributed in the State as a percentage of the number of total ballots provided to voters in the State.

(b) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress and make publicly available a report on the 2020 Presidential election.

(2) MATTERS INCLUDED.—The report submitted under paragraph (1) shall include the following with respect to each State: that received applicable election security funds:
(A) Unsolicited mail-in ballot percentage.—

(i) In general.—An analysis of whether the unsolicited mail-in ballot percentage for State for the 2020 Presidential election was greater than the unsolicited mail-in ballot percentage for the State for the 2016 Presidential election.

(ii) Relevant authority for any increase.—If the Comptroller General determines that the unsolicited mail-in ballot percentage for the State for the 2020 Presidential election was greater than the unsolicited mail-in ballot percentage for the State for the 2016 Presidential election, the Comptroller General shall provide a description of any change in authority (including any statutory change relating to the distribution of unsolicited mail-in ballots), action, or directive concerning unsolicited mail-in ballots occurring between the 2016 Presidential election and 2020 Presidential election that may have led to such result.
(B) Mail-in voter verification procedures.—

(i) In general.—An analysis of whether there were changes in the State’s methods and processes used to verify the identification of voters who vote using mail-in ballots, including signature verification requirements, that applied with respect to the 2020 Presidential election but did not apply to the 2016 Presidential election.

(ii) Relevant authority for changes.—If the Comptroller General determines that there were changes in the State’s mail-in voter verification procedures described in clause (i), the Comptroller General shall provide a description of any authority (including any statutory authority), action, or directive that led to such change.

(C) Other election procedures.—

(i) In general.—An analysis of whether the State materially altered or changed its election procedures for the 2020 Presidential election (other than pro-
cedures described in subparagraph (B))
from the procedures in effect for the 2016
Presidential election.

(ii) RELEVANT AUTHORITY FOR
CHANGES.—If the Comptroller General de-
determines that there were changes in the
election procedures described in clause (i),
the Comptroller General shall provide a de-
scription of any authority (including any
statutory authority), action, or directive
that led to such change.

(D) MAIL-IN BALLOT COLLECTION.—

(i) IN GENERAL.—An analysis of
whether there were specific, documented
allegations of a person other than a voter
or a voter’s family member or caregiver
collecting or returning the voter’s com-
pleted ballot in the 2020 Presidential elec-
tion.

(ii) RELEVANT AUTHORITY FOR COL-
LECTION.—If the Comptroller General de-
determines that there were specific, docu-
mented allegations described in clause (i),
the Comptroller General shall provide a de-
scription of any authority (including any
statutory authority), action, or directive permitting such collection or return.

(E) Observation of Ballot Counting.—An analysis of whether the State has a statute providing for third-party observation of ballot counting, and if so, whether there were specific, documented instances in connection with the 2020 Presidential election in which the State is alleged to have failed to comply with such statute.

(F) Failure to Enforce.—An analysis of whether there were specific, documented instances in connection with the 2020 Presidential election in which the State allegedly failed to enforce one or more of its election statutes (other than a statute described in subparagraph (E)).

(G) Use of Applicable Election Security Funds.—In the case of a State that received applicable election security funds, an analysis of—

(i) whether such funds were used to make expenditures with respect to the 2020 Presidential election;
(ii) whether such funds were used in connection with any activity carried out pursuant to an authority, action, or directive described in subparagraph (A)(ii), (B)(ii), (C)(ii), or (D)(ii); and

(iii) whether the State complied with all statutory and other conditions imposed in connection with the receipt of such funds.

(H) Subsequent state actions.—A description of any of the following actions taken by the State legislature:

(i) The passage of a resolution expressing an opinion on, or the submission to Congress or the Comptroller General of a communication relating to, the items described in subparagraphs (A) through (G).

(ii) The enactment, after the completion of the 2020 Presidential election, of legislation regarding any authority, action, or directive described in subparagraph (A)(ii), (B)(ii), (C)(ii), or (D)(ii) or any failure described in subparagraph (E) or (F).
SEC. 3. TEMPORARY SUSPENSION OF, AND REQUIREMENTS FOR, FUTURE ELECTION ASSISTANCE GRANTS.

(a) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (52 U.S.C. 20901 et seq.) is amended by adding at the end the following new part:

“PART 7—REQUIREMENTS FOR ELECTION ASSISTANCE

“SEC. 297. SUSPENSION OF ELECTION ASSISTANCE.

“(a) IN GENERAL.—Notwithstanding any other provision of law, no grant may be awarded under this Act before July 1, 2022.

“(b) SUSPENSION OF PREVIOUS GRANTS.—No State may expend Federal funds provided under this Act before the date of the enactment of this section before July 1, 2022.

“SEC. 298. REQUIREMENTS FOR FUTURE ELECTION ASSISTANCE.

“(a) IN GENERAL.—Notwithstanding any other provision of law, no State may receive any grant awarded under this Act after the date of the enactment of this section unless the State has certified by resolution adopted by the State legislature, as a condition of receiving the grant, that it is in compliance with the requirements of subsection (b).

“(b) REQUIREMENTS.—
“(1) IN GENERAL.—A State satisfies the requirements of this section if, in connection with any election for Federal office—

“(A) the methods and processes used by the State to verify the identification of voters who vote using mail-in ballots are specifically set forth in statute;

“(B) except as specifically provided by statute—

“(i) the State does not use unsolicited mail-in balloting; and

“(ii) the State does not permit persons other than the voter or the voter’s family members or caregivers to return a voter’s completed ballot;

“(C) for any election after the last day that the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to COVID–19, is in effect, the State uses all voting procedures in place as of January 1, 2020 (except as modified by State statutes applying to elections after such date);
“(D) in the case of State that has a law providing for third-party observation of ballot counting, such ballot observation law is strictly followed in all instances;

“(E) the State complies with all requirements under title III; and

“(F) the State has taken documented, affirmative measures to address—

“(i) any prior failure to satisfy the requirements of subparagraphs (A) through (E) that is identified by the State legislature in a resolution (or other similar communication submitted to Congress and the Comptroller General); or

“(ii) any prior specific, documented instance in which the State—

“(I) failed to enforce one or more of its election statutes; or

“(II) materially altered or changed its election procedures without a corresponding state statutory enactment.

“(2) UNSOLICITED MAIL-IN BALLOTING.—For purposes of paragraph (1)(B), the term ‘unsolicited
mail-in balloting’ means the process of sending ballots to a voter by mail if—

“(A) such ballot was not specifically requested by the voter; or

“(B) the ballot request by the voter was initiated by the mailing of a ballot application not specifically requested by the voter.

“PART 8—PROHIBITION ON USE OF FUNDS

“SEC. 299. PROHIBITION ON USE OF FUNDS.

“Notwithstanding any other provision of law, any amounts provided under this Act shall not be used in furtherance of any election procedure that is not expressly set forth in a statute enacted by the State legislature.”.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Help America Vote Act of 2002 is amended by inserting after the item relating to section 296 the following:

“PART 7—REQUIREMENTS FOR ELECTION ASSISTANCE

“Sec. 297. Suspension of election assistance.
“Sec. 298. Requirements for future election assistance.

“PART 8—PROHIBITION ON USE OF FUNDS

“Sec. 299. Prohibition on use of funds.”.