

117TH CONGRESS  
1ST SESSION

# 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.

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## 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

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## 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  
5 to Organized, Transparent Elections through a Constitu-  
6 tionally Trustworthy Electoral College Act (PROTECT  
7 Electoral College Act)”.

1 **SEC. 2. REPORT ON 2020 GENERAL ELECTION.**

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

3 (1) 2016 PRESIDENTIAL ELECTION.—The term  
4 “2016 Presidential election” means the general elec-  
5 tion for Federal office occurring in 2016.

6 (2) 2020 PRESIDENTIAL ELECTION.—The term  
7 “2020 Presidential election” means the general elec-  
8 tion for Federal office occurring in 2020.

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

13 (A) from amounts appropriated under the  
14 heading “Election Assistance Commission, Elec-  
15 tion Security Grants” in the Financial Services  
16 and General Government Appropriations Act,  
17 2020 (Public Law 116–93); or

18 (B) from amounts appropriated under the  
19 heading “Election Assistance Commission, Elec-  
20 tion Security Grants” in the Coronavirus Aid,  
21 Relief, and Economic Security Act (Public Law  
22 116–136).

23 (4) STATE.—The term “State” has the mean-  
24 ing given such term under section 901 of the Help  
25 America Vote Act of 2002 (52 U.S.C. 21141), ex-

1       cept that such term shall include the Commonwealth  
2       of the Northern Mariana Islands.

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

6                       (A) such ballot was not specifically re-  
7                       quested by the voter; or

8                       (B) the ballot request by the voter was ini-  
9                       tiated by the mailing of a ballot application not  
10                      specifically requested by the voter.

11               (6) UNSOLICITED MAIL-IN BALLOT PERCENT-  
12       AGE.—The term “unsolicited mail-in ballot percent-  
13       age” means the number of unsolicited mail-in ballots  
14       distributed in the State as a percentage of the num-  
15       ber of total ballots provided to voters in the State.

16       (b) REPORT.—

17               (1) IN GENERAL.—Not later than 180 days  
18       after the date of the enactment of this Act, the  
19       Comptroller General shall submit to Congress and  
20       make publicly available a report on the 2020 Presi-  
21       dential election.

22               (2) MATTERS INCLUDED.—The report sub-  
23       mitted under paragraph (1) shall include the fol-  
24       lowing with respect to each State: that received ap-  
25       plicable election security funds:

1 (A) UNSOLICITED MAIL-IN BALLOT PER-  
2 CENTAGE.—

3 (i) IN GENERAL.—An analysis of  
4 whether the unsolicited mail-in ballot per-  
5 centage for State for the 2020 Presidential  
6 election was greater than the unsolicited  
7 mail-in ballot percentage for the State for  
8 the 2016 Presidential election.

9 (ii) RELEVANT AUTHORITY FOR ANY  
10 INCREASE.—If the Comptroller General de-  
11 termines that the unsolicited mail-in ballot  
12 percentage for the State for the 2020  
13 Presidential election was greater than the  
14 unsolicited mail-in ballot percentage for  
15 the State for the 2016 Presidential elec-  
16 tion, the Comptroller General shall provide  
17 a description of any change in authority  
18 (including any statutory change relating to  
19 the distribution of unsolicited mail-in bal-  
20 lots), action, or directive concerning unso-  
21 licited mail-in ballots occurring between  
22 the 2016 Presidential election and 2020  
23 Presidential election that may have led to  
24 such result.

1 (B) MAIL-IN VOTER VERIFICATION PROCE-  
2 DURES.—

3 (i) IN GENERAL.—An analysis of  
4 whether there were changes in the State’s  
5 methods and processes used to verify the  
6 identification of voters who vote using  
7 mail-in ballots, including signature  
8 verification requirements, that applied with  
9 respect to the 2020 Presidential election  
10 but did not apply to the 2016 Presidential  
11 election.

12 (ii) RELEVANT AUTHORITY FOR  
13 CHANGES.—If the Comptroller General de-  
14 termines that there were changes in the  
15 State’s mail-in voter verification proce-  
16 dures described in clause (i), the Comp-  
17 troller General shall provide a description  
18 of any authority (including any statutory  
19 authority), action, or directive that led to  
20 such change.

21 (C) OTHER ELECTION PROCEDURES.—

22 (i) IN GENERAL.—An analysis of  
23 whether the State materially altered or  
24 changed its election procedures for the  
25 2020 Presidential election (other than pro-

1           cedures described in subparagraph (B))  
2           from the procedures in effect for the 2016  
3           Presidential election.

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

12          (D) MAIL-IN BALLOT COLLECTION.—

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

20          (ii) RELEVANT AUTHORITY FOR COL-  
21          LECTION.—If the Comptroller General de-  
22          termines that there were specific, docu-  
23          mented allegations described in clause (i),  
24          the Comptroller General shall provide a de-  
25          scription of any authority (including any

1           statutory authority), action, or directive  
2           permitting such collection or return.

3           (E) OBSERVATION OF BALLOT COUNT-  
4           ING.—An analysis of whether the State has a  
5           statute providing for third-party observation of  
6           ballot counting, and if so, whether there were  
7           specific, documented instances in connection  
8           with the 2020 Presidential election in which the  
9           State is alleged to have failed to comply with  
10          such statute.

11          (F) FAILURE TO ENFORCE.—An analysis  
12          of whether there were specific, documented in-  
13          stances in connection with the 2020 Presi-  
14          dential election in which the State allegedly  
15          failed to enforce one or more of its election  
16          statutes (other than a statute described in sub-  
17          paragraph (E)).

18          (G) USE OF APPLICABLE ELECTION SECUR-  
19          ITY FUNDS.—In the case of a State that re-  
20          ceived applicable election security funds, an  
21          analysis of—

22                 (i) whether such funds were used to  
23                 make expenditures with respect to the  
24                 2020 Presidential election;

1 (ii) whether such funds were used in  
2 connection with any activity carried out  
3 pursuant to an authority, action, or direc-  
4 tive described in subparagraph (A)(ii),  
5 (B)(ii), (C)(ii), or (D)(ii); and

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

10 (H) SUBSEQUENT STATE ACTIONS.—A de-  
11 scription of any of the following actions taken  
12 by the State legislature:

13 (i) The passage of a resolution ex-  
14 pressing an opinion on, or the submission  
15 to Congress or the Comptroller General of  
16 a communication relating to, the items de-  
17 scribed in subparagraphs (A) through (G).

18 (ii) The enactment, after the comple-  
19 tion of the 2020 Presidential election, of  
20 legislation regarding any authority, action,  
21 or directive described in subparagraph  
22 (A)(ii), (B)(ii), (C)(ii), or (D)(ii) or any  
23 failure described in subparagraph (E) or  
24 (F).



1 **SEC. 3. TEMPORARY SUSPENSION OF, AND REQUIREMENTS**  
2 **FOR, FUTURE ELECTION ASSISTANCE**  
3 **GRANTS.**

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

7 **“PART 7—REQUIREMENTS FOR ELECTION**  
8 **ASSISTANCE**

9 **“SEC. 297. SUSPENSION OF ELECTION ASSISTANCE.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-  
11 vision of law, no grant may be awarded under this Act  
12 before July 1, 2022.

13 “(b) SUSPENSION OF PREVIOUS GRANTS.—No State  
14 may expend Federal funds provided under this Act before  
15 the date of the enactment of this section before July 1,  
16 2022.

17 **“SEC. 298. REQUIREMENTS FOR FUTURE ELECTION ASSIST-**  
18 **ANCE.**

19 “(a) IN GENERAL.—Notwithstanding any other pro-  
20 vision of law, no State may receive any grant awarded  
21 under this Act after the date of the enactment of this sec-  
22 tion unless the State has certified by resolution adopted  
23 by the State legislature, as a condition of receiving the  
24 grant, that it is in compliance with the requirements of  
25 subsection (b).

26 “(b) REQUIREMENTS.—

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

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

8                   “(B) except as specifically provided by  
9 statute—

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

12                           “(ii) the State does not permit per-  
13 sons other than the voter or the voter’s  
14 family members or caregivers to return a  
15 voter’s completed ballot;

16                   “(C) for any election after the last day  
17 that the public health emergency declared by  
18 the Secretary of Health and Human Services  
19 under section 319 of the Public Health Service  
20 Act (42 U.S.C. 247d) on January 31, 2020,  
21 with respect to COVID–19, is in effect, the  
22 State uses all voting procedures in place as of  
23 January 1, 2020 (except as modified by State  
24 statutes applying to elections after such date);

1           “(D) in the case of State that has a law  
2 providing for third-party observation of ballot  
3 counting, such ballot observation law is strictly  
4 followed in all instances;

5           “(E) the State complies with all require-  
6 ments under title III; and

7           “(F) the State has taken documented, af-  
8 firmative measures to address—

9           “(i) any prior failure to satisfy the re-  
10 quirements of subparagraphs (A) through  
11 (E) that is identified by the State legisla-  
12 ture in a resolution (or other similar com-  
13 munication submitted to Congress and the  
14 Comptroller General); or

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

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

19           “(II) materially altered or  
20 changed its election procedures with-  
21 out a corresponding state statutory  
22 enactment.

23           “(2) UNSOLICITED MAIL-IN BALLOTING.—For  
24 purposes of paragraph (1)(B), the term ‘unsolicited

1 mail-in balloting’ means the process of sending bal-  
 2 lots to a voter by mail if—

3 “(A) such ballot was not specifically re-  
 4 quested by the voter; or

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

8 **“PART 8—PROHIBITION ON USE OF FUNDS**

9 **“SEC. 299. PROHIBITION ON USE OF FUNDS.**

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

14 (b) CONFORMING AMENDMENT.—The table of con-  
 15 tents in section 1(b) of the Help America Vote Act of 2002  
 16 is amended by inserting after the item relating to section  
 17 296 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.”.

