

117TH CONGRESS
1ST SESSION

S. 519

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 SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Mr. HAGERTY (for himself, Mr. RUBIO, and Mr. CRAMER) introduced the following bill; which was read twice and referred to the Committee on Rules and 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
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-

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:

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-

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-
termines 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-
termines 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 COUNT-
 ING.—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 in-
 stances in connection with the 2020 Presi-
 dential election in which the State allegedly
 failed to enforce one or more of its election
 statutes (other than a statute described in sub-
 paragraph (E)).

(G) USE OF APPLICABLE ELECTION SECU-
 RITY FUNDS.—In the case of a State that re-
 ceived applicable election security funds, an
 analysis of—

(i) whether such funds were used to
 make expenditures with respect to the
 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 quirements 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.”.

