

116TH CONGRESS
2D SESSION

H. R. 6673

To amend the Help America Vote Act of 2002 to direct the Secretary of Homeland Security to establish guidelines for failsafe plans for the administration of elections for Federal office in the event that the ability of a State to administer the election is adversely affected by a terrorist attack, a cybersecurity incident, or a public health emergency, to require States to establish and administer failsafe plans in accordance with such guidelines and to provide funds to assist State and local election officials in the establishment and administration of such plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2020

Ms. JACKSON LEE introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Help America Vote Act of 2002 to direct the Secretary of Homeland Security to establish guidelines for failsafe plans for the administration of elections for Federal office in the event that the ability of a State to administer the election is adversely affected by a terrorist attack, a cybersecurity incident, or a public health emergency, to require States to establish and administer failsafe plans in accordance with such guidelines and to provide funds to assist State and local election

officials in the establishment and administration of such plans, and for other purposes.

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 “Federal Election
 5 Failsafe Act”.

6 **SEC. 2. REQUIRING STATES TO ESTABLISH FAILSAFE**
 7 **PLANS FOR ADMINISTRATION OF ELECTIONS**
 8 **IN EVENT OF TERRORIST ATTACK, CYBERSE-**
 9 **CURITY INCIDENT, OR PUBLIC HEALTH**
 10 **EMERGENCY.**

11 (a) REQUIREMENT FOR FAILSAFE PLANS.—Title III
 12 of the Help America Vote Act of 2002 (52 U.S.C. 21081
 13 et seq.) is amended by adding at the end the following
 14 new subtitle:

15 **“Subtitle C—Failsafe Plans for**
 16 **Administration of Elections**

17 **“SEC. 321. REQUIRING ESTABLISHMENT AND IMPLEMENTA-**
 18 **TION OF FAILSAFE PLANS IN EVENT OF TER-**
 19 **RORIST ATTACKS, CYBERSECURITY INCI-**
 20 **DENTS, OR PUBLIC HEALTH EMERGENCIES.**

21 “(a) ESTABLISHMENT OF GUIDELINES BY SEC-
 22 RETARY OF HOMELAND SECURITY.—The Secretary of
 23 Homeland Security shall establish guidelines for the con-
 24 tinuing administration of elections for Federal office by

1 States in the event that a State’s ability to carry out the
2 administration of such elections is adversely affected by
3 a terrorist attack, an election cybersecurity incident, or a
4 public health emergency.

5 “(b) REQUIRING STATES TO ESTABLISH AND IMPLE-
6 MENT PLANS MEETING GUIDELINES.—

7 “(1) REQUIREMENT.—Each State shall estab-
8 lish and implement failsafe plans to provide for the
9 continuing administration of elections for Federal of-
10 fice in the State in the event of a terrorist attack,
11 an election cybersecurity incident, or a public health
12 emergency which meet the guidelines established by
13 the Secretary of Homeland Security under this sub-
14 title.

15 “(2) SIMULATION EXERCISES.—As part of the
16 implementation of failsafe plans under this section,
17 State and local election officials shall carry out ‘ta-
18 bletop’ exercises under which such officials shall re-
19 spond to a simulated terrorist attack, election cyber-
20 security incident, and public health emergency and,
21 based on the response, address the specific risks to
22 the successful administration of election which are
23 identified by such exercises. The Secretary shall as-
24 sist such officials with the preparation for and im-
25 plementation of such exercises.

1 **“SEC. 322. PURPOSES AND ELEMENTS OF GUIDELINES.**

2 “(a) IN GENERAL.—The guidelines the Secretary es-
3 tablished under this subtitle shall include—

4 “(1) guidelines for ensuring that voting systems
5 are resilient against election cybersecurity incidents,
6 including terrorist or state-sponsored cyber attacks,
7 so that the systems operate as intended and accu-
8 rately capture each vote as cast by voters, retain
9 these votes, and accurately report these votes for
10 purposes of tabulating and reporting official tallies
11 in such elections;

12 “(2) guidelines for failsafe plans to continue the
13 administration of elections in case an election system
14 fails in part or in whole as the result of a terrorist
15 attack or an election cybersecurity incident on the
16 date of the election or during an early voting period,
17 including plans for addressing polling location needs,
18 based on the Secretary’s assessment of which ele-
19 ments of voting systems are most critical to ensuring
20 the continuing performance of essential election
21 functions; and

22 “(3) guidelines for failsafe plans to continue the
23 administration of elections through remote voting,
24 including voting by mail, in the event that in-person
25 voting will jeopardize the health and safety of voters

1 and election officials because of a public health
2 emergency.

3 “(b) SPECIFIC ELEMENTS TO BE ADDRESSED.—The
4 Secretary of Homeland Security shall address each of the
5 following elements in the guidelines the Secretary estab-
6 lishes under this subtitle:

7 “(1) In the event that, as the result of an elec-
8 tion cybersecurity incident, election poll books fail or
9 that their operation does not meet the demands
10 posed by voters presenting themselves to vote during
11 an early voting or on the date of the election, the
12 State shall ensure that a paper backup of all reg-
13 istered voters for the assigned polling location is
14 available for immediate use by poll workers.

15 “(2) In the event that, as the result of an elec-
16 tion cybersecurity incident, ballot marking tech-
17 nology fails, the Secretary shall provide paper ballots
18 to the appropriate election officials in each congres-
19 sional district in sufficient quantities to permit vot-
20 ing to continue. Each such ballot shall include each
21 candidate for election for Federal office in such dis-
22 trict. The appropriate State election officials shall
23 provide the Secretary, at such times as the Secretary
24 may require, with the information necessary to en-
25 able the Secretary to provide such ballots.

1 “(3) The need for conducting audits of Federal
2 election results based upon random samples of phys-
3 ical ballots and electronic voting system technology
4 to authenticate the accuracy of the data reported by
5 polling locations, including results from local juris-
6 dictions and statewide totals. If these random sam-
7 ples raise questions regarding the accuracy or reli-
8 ability of the reported totals for the election, the
9 guidelines shall provide that the Secretary shall co-
10 ordinate with the appropriate election officials and
11 make available to them security personnel to secure
12 vote tabulation facilities and ballots, and otherwise
13 support the efforts of such officials in ensuring the
14 integrity of the ballots and the accuracy of the infor-
15 mation reported.

16 “(4) The State shall have in place measures to
17 ensure the physical security of election officials, and
18 to ensure the safety and health of election officials
19 in the event of a public health emergency. The Sec-
20 retary shall develop and make available to the States
21 special training programs for security personnel who
22 are assigned to protect election officials, with a spe-
23 cial emphasis on protecting election officials at the
24 polling place in a manner which does not intimidate

1 voters and which promotes an open, fair, and free
2 voting process.

3 “(c) CONSULTATION.—In establishing guidelines
4 under this section, the Secretary shall consult with the
5 Election Assistance Commission, the National Association
6 of Secretaries of State, and the National Association of
7 State Election Directors.

8 **“SEC. 323. FUNDING.**

9 “(a) GRANTS TO ELECTION OFFICIALS.—The Com-
10 mission shall provide grants to eligible State and local
11 election officials to assist such officials in meeting the re-
12 quirements of this subtitle.

13 “(b) ELIGIBILITY.—A State or local election official
14 is eligible to receive a grant under this section if the offi-
15 cial submits to the Commission, at such time and in such
16 form as the Commission may require, an application con-
17 taining such information and assurances as the Commis-
18 sion may require.

19 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated \$550,000,000 for grants
21 under this section for fiscal year 2020 and each succeeding
22 fiscal year, of which—

23 “(1) \$400,000,000 shall be used for grants to
24 State election officials; and

1 “(2) \$150,000,000 shall be used for grants to
2 local election officials whose jurisdictions include an
3 urban area.

4 **“SEC. 324. DEFINITIONS.**

5 “‘In this subtitle, the following definitions apply:

6 “(1) The term ‘election agency’ means any com-
7 ponent of a State, or any component of a unit of
8 local government in a State, which is responsible for
9 the administration of elections for Federal office in
10 the State.

11 “(2) The term ‘election cybersecurity incident’
12 means an occurrence that actually or imminently
13 jeopardizes, without lawful authority, the integrity,
14 confidentiality, or availability of information on an
15 information system of election infrastructure, or ac-
16 tually or imminently jeopardizes, without lawful au-
17 thority, an information system of election infrastruc-
18 ture.

19 “(3) The term ‘election infrastructure’ means
20 storage facilities, polling places, and centralized vote
21 tabulation locations used to support the administra-
22 tion of elections for public office, as well as related
23 information and communications technology, includ-
24 ing voter registration databases, voting machines,
25 electronic mail and other communications systems

1 (including electronic mail and other systems of elec-
2 tion service providers who have entered into con-
3 tracts with election agencies to support the adminis-
4 tration of elections, manage the election process, and
5 report and display election results), and other sys-
6 tems used to manage the election process and to re-
7 port and display election results on behalf of an elec-
8 tion agency.

9 “(4) The term ‘election service provider’ means
10 any person providing, supporting, or maintaining
11 any information system which is part of an election
12 infrastructure, such as a contractor or vendor.

13 “(5) The term ‘information system’ means a
14 discrete set of information resources organized for
15 the collection, processing, maintenance, use, sharing,
16 dissemination, or disposition of information.

17 “(6) The term ‘urban area’ means an area
18 within a Metropolitan Statistical Area, as defined by
19 the Office of Management and Budget.

20 **“SEC. 325. EFFECTIVE DATE.**

21 “This subtitle shall apply with respect to the regu-
22 larly scheduled general elections for Federal office held in
23 November 2020 and each succeeding election for Federal
24 office.”.

1 (b) CONFORMING AMENDMENT RELATING TO EN-
 2 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
 3 is amended by striking the period at the end and inserting
 4 the following: “, and to enforce the requirements of sub-
 5 title C of title III.”.

6 (c) CLERICAL AMENDMENT.—The table of contents
 7 of such Act is amended by adding at the end of the items
 8 relating to title III the following:

“Subtitle C—Failsafe Plans for Administration of Elections

“Sec. 321. Requiring establishment and implementation of failsafe plans in
 event of terrorist attacks, cybersecurity incidents, or public
 health emergencies.

“Sec. 322. Purposes and elements of guidelines.

“Sec. 323. Funding.

“Sec. 324. Definitions.

“Sec. 325. Effective date.”.

9 **SEC. 3. REPORT ON IMPLEMENTATION BY SECRETARY OF**
 10 **HOMELAND SECURITY.**

11 Not later than 180 days after the date of the enact-
 12 ment of this Act, the Secretary of Homeland Security shall
 13 submit a report on the steps taken by the Secretary to
 14 carry out this Act and the amendments made by this Act
 15 to each of the following:

16 (1) The Committee on Homeland Security of
 17 the House of Representatives.

18 (2) The Committee on House Administration of
 19 the House of Representatives.

20 (3) The Permanent Select Committee on Intel-
 21 ligence of the House of Representatives.

1 (4) The Committee on Armed Services of the
2 House of Representatives.

3 (5) The Committee on Homeland Security and
4 Governmental Affairs of the Senate.

5 (6) The Committee on Rules and Administra-
6 tion of the Senate.

7 (7) The Select Committee on Intelligence of the
8 Senate.

9 (8) The Committee on Armed Services of the
10 Senate.

11 **SEC. 4. GAO STUDY AND REPORT ON RISKS OF RELIANCE**
12 **ON ELECTRONIC TECHNOLOGIES IN ELEC-**
13 **TION ADMINISTRATION.**

14 (a) STUDY.—The Comptroller General of the United
15 States shall conduct a study analyzing the risks and bene-
16 fits associated with the reliance upon electronic voting
17 technology in the administration of elections for Federal
18 office, including the potential consequences of a systemic
19 and comprehensive failure of such technology during early
20 voting periods or on the date of the election.

21 (b) REPORT.—Not later than 240 days after the date
22 of the enactment of this Act, the Comptroller General shall
23 submit to Congress a report on the study conducted under
24 subsection (a), and shall include in the report rec-
25 ommendations on how to mitigate the cybersecurity risks

- 1 posed by the adoption and use of electronic voting systems
- 2 technology in the administration of elections for Federal
- 3 office.

