Subtitle C—Ensuring Domestic Ownership and Control of Election Systems

SEC. 321. SHORT TITLE.

This subtitle may be cited as the “Protect our Elections Act”.

SEC. 322. ENSURING DOMESTIC OWNERSHIP AND CONTROL OF ELECTION SYSTEMS.

(a) IN GENERAL.—Title III of the Help America Vote Act of 2002 (52 U.S.C. 21083 et seq.) is amended—

(1) by redesignating sections 304 and 305 as sections 305 and 306; and

(2) by inserting after section 303 the following new section:

“SEC. 304. ENSURING DOMESTIC OWNERSHIP AND CONTROL OF ELECTION SYSTEMS.

“(a) REQUIRING ELECTION SERVICE PROVIDERS TO BE QUALIFIED.—Each State, unit of local government, or component of a State or unit of local government which
is responsible for the administration of an election for Federal office shall ensure that each election service provider who provides, supports, or maintains any component of an election system used in the administration of the election is a qualified election service provider.

“(b) Annual Evaluation To Ensure Compliance.—Each State, unit of local government, or component of a State or unit of local government which is responsible for the administration of an election for Federal office shall, not less frequently than once each calendar year, evaluate each election service provider to ensure that the election service provider is a qualified election service provider.

“(c) Cybersecurity Best Practices.—Not later than 90 days after the date of the enactment of this section, the Chair of the Commission and the Secretary of Homeland Security shall establish and publish cybersecurity best practices for election service providers who provide, support, or maintain election systems, and shall establish and publish updates to such best practices at such times as the Chair and the Secretary consider appropriate.

“(d) Guidance and Technical Assistance.—

“(1) In General.—The Chair of the Commission and the Secretary of Homeland Security may provide such guidance and technical assistance as
may be appropriate to assist each State, unit of local
government, or component of a State or unit of local
government which is responsible for the administra-
tion of an election for Federal office with its obliga-
tions under this section.

“(2) Database of Qualified Election Service Providers.—As part of providing guidance and
technical assistance under this subsection, the Com-
misson shall establish and maintain a database in
which each State, unit of local government, or com-
ponent of a State or unit of local government which
is responsible for the administration of an election
for Federal office can verify whether an election
service provider is a qualified election service pro-
vider.

“(e) Election Service Provider and Qualified
Election Service Provider Defined.—

“(1) Election Service Provider.—In this
section, the term ‘election service provider’ means
any person providing, supporting, or maintaining an
election system on behalf of an election agency, such
as a contractor or vendor.

“(2) Qualified Election Service Pro-
vider.—
“(A) IN GENERAL.—In this section, the term ‘qualified election service provider’ means an election service provider who meets each of the following criteria, as established and published by the Chair of the Commission in coordination with the Secretary of Homeland Security:

“(i) Except as provided in subparagraph (C), the election service provider is solely owned and controlled by United States persons or persons described in subparagraph (B).

“(ii) The election service provider submits in accordance with section 3(a) of the Protect our Elections Act—

“(I) notice of any material change in ownership or control of the election service provider; and

“(II) any other information required to be reported under that section.

“(iii) The election service provider agrees to ensure that the election systems will be developed and maintained in a manner that is consistent with the cybersecurity:
curity best practices established under sub-
section (e).

“(iv) The election service provider
agrees to maintain its information tech-
ology infrastructure in a manner that is
consistent with the cybersecurity best prac-
tices established under subsection (e).

“(v) The election service provider
shall report any known or suspected inci-
dents involving election systems to the
chief State election official of the State in-
volved or the official’s designee, the Chair,
and the Secretary.

“(B) PERSONS DESCRIBED.—For purposes
of subparagraph (A)(i), a person described in
this subparagraph is a corporation or business
entity that is created or organized under the
laws of a country that is party to the UK–USA
Agreement for joint cooperation in signals intel-
ligence, military intelligence, and human intel-
ligence, also known as the ‘Five Eyes alliance’.

“(C) PERMITTING WAIVER OF DOMESTIC
OWNERSHIP AND CONTROL REQUIREMENT FOR
CERTAIN SUBSIDIARIES.—The Secretary of
Homeland Security may waive the requirement
of clause (i) of subparagraph (A) with respect
to a person who is a United States subsidiary
of a parent company which has implemented a
foreign ownership or control mitigation plan
that has been approved by the Secretary. Such
plan shall ensure that the parent company cannot
control, influence, or direct the subsidiary
in any manner that would compromise or influence,
or give the appearance of compromising
or influencing, the independence and integrity
of an election.

“(D) INCIDENT DEFINED.—For purposes
of subparagraph (A)(v), the term ‘incident’ has
the meaning given that term in section
3552(b)(2) of title 44, United States Code.

“(f) ELECTION SYSTEM DEFINED.—In this section,
the term ‘election system’ means a voting system, an election
management system, a voter registration website or
database, an electronic pollbook, a system for tabulating
or reporting election results, an election agency commu-
nications system, or any other information system (as defined in section 3502 of title 44, United States Code) that
the Secretary of Homeland Security, in consultation with
the Commission, identifies as central to the management,
support, or administration of a Federal election.
“(g) OWNERSHIP AND CONTROL DEFINED.—The Commission, in consultation with the Secretary of the Treasury, shall issue regulations defining the terms ‘ownership’ and ‘control’ for purposes of this section.”.

(b) CONFORMING AMENDMENT RELATING TO ENFORCEMENT.—Section 401 of such Act (52 U.S.C. 21111) is amended by striking “and 303” and inserting “303, and 304”.

(c) CLERICAL AMENDMENTS.—The table of contents of such Act is amended—

(1) by redesignating the items relating to sections 304 and 305 as relating to sections 305 and 306; and

(2) by inserting after the item relating to section 303 the following new item:

“Sec. 304. Ensuring domestic ownership and control of election systems.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for Federal office held in 2020 or any succeeding year.

SEC. 323. INFORMATION SHARING WITH RESPECT TO OWNERSHIP OF ELECTION SERVICE PROVIDERS.

(a) IN GENERAL.—Each election service provider shall submit to the Secretary of Homeland Security, the Election Assistance Commission, and appropriate State or local governmental entities the following:
(1) Not later than the date that is 90 days after the later of the date of the enactment of this section or the date that a person first becomes an election service provider, a report listing the identity of any foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(b))) who directly or indirectly owns or controls such election service provider and the percentage of such ownership, and any other information necessary to determine whether the election service provider is a qualified election service provider.

(2) Not later than 90 days after the date of any material change in ownership or control of such election service provider, a notice of such change and an update of any information previously reported under paragraph (1).

(b) Civil Penalty for Failure to Report.—If an election service provider fails to submit a report required under subsection (a), the Attorney General may, after notice and opportunity for hearing, impose a civil fine of $20,000.

(e) Definitions.—In this section:

(1) Appropriate State or Local Governmental Entity.—The term “appropriate State or
local governmental entity” means, with respect to an
election service provider, any State or local govern-
mental entity that the election service provider seeks
to contract with, contracts with, or otherwise pro-
vides services to provide, support, or maintain an
election system.

(2) Election service provider; election
system; qualified election service pro-
vider.—The terms “election service provider”,
“election system”, and “qualified election service
provider” have the meaning given those terms in
section 304 of the Help America Vote Act of 2002,
as added by section 322.