

AMENDMENT TO
RULES COMMITTEE PRINT 116-35
OFFERED BY MR. VAN DREW OF NEW JERSEY

Page 54, insert after line 14 the following:

1 **Subtitle C—Ensuring Domestic**
2 **Ownership and Control of Elec-**
3 **tion Systems**

4 **SEC. 321. SHORT TITLE.**

5 This subtitle may be cited as the “Protect our Elec-
6 tions Act”.

7 **SEC. 322. ENSURING DOMESTIC OWNERSHIP AND CONTROL**
8 **OF ELECTION SYSTEMS.**

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

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

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

15 **“SEC. 304. ENSURING DOMESTIC OWNERSHIP AND CON-**
16 **TROL OF ELECTION SYSTEMS.**

17 “(a) REQUIRING ELECTION SERVICE PROVIDERS TO
18 BE QUALIFIED.—Each State, unit of local government, or
19 component of a State or unit of local government which

1 is responsible for the administration of an election for
2 Federal office shall ensure that each election service pro-
3 vider who provides, supports, or maintains any component
4 of an election system used in the administration of the
5 election is a qualified election service provider.

6 “(b) ANNUAL EVALUATION TO ENSURE COMPLI-
7 ANCE.—Each State, unit of local government, or compo-
8 nent of a State or unit of local government which is re-
9 sponsible for the administration of an election for Federal
10 office shall, not less frequently than once each calendar
11 year, evaluate each election service provider to ensure that
12 the election service provider is a qualified election service
13 provider.

14 “(c) CYBERSECURITY BEST PRACTICES.—Not later
15 than 90 days after the date of the enactment of this sec-
16 tion, the Chair of the Commission and the Secretary of
17 Homeland Security shall establish and publish cybersecu-
18 rity best practices for election service providers who pro-
19 vide, support, or maintain election systems, and shall es-
20 tablish and publish updates to such best practices at such
21 times as the Chair and the Secretary consider appropriate.

22 “(d) GUIDANCE AND TECHNICAL ASSISTANCE.—

23 “(1) IN GENERAL.—The Chair of the Commis-
24 sion and the Secretary of Homeland Security may
25 provide such guidance and technical assistance as

1 may be appropriate to assist each State, unit of local
2 government, or component of a State or unit of local
3 government which is responsible for the administra-
4 tion of an election for Federal office with its obliga-
5 tions under this section.

6 “(2) DATABASE OF QUALIFIED ELECTION SERV-
7 ICE PROVIDERS.—As part of providing guidance and
8 technical assistance under this subsection, the Com-
9 mission shall establish and maintain a database in
10 which each State, unit of local government, or com-
11 ponent of a State or unit of local government which
12 is responsible for the administration of an election
13 for Federal office can verify whether an election
14 service provider is a qualified election service pro-
15 vider.

16 “(e) ELECTION SERVICE PROVIDER AND QUALIFIED
17 ELECTION SERVICE PROVIDER DEFINED.—

18 “(1) ELECTION SERVICE PROVIDER.—In this
19 section, the term ‘election service provider’ means
20 any person providing, supporting, or maintaining an
21 election system on behalf of an election agency, such
22 as a contractor or vendor.

23 “(2) QUALIFIED ELECTION SERVICE PRO-
24 VIDER.—

1 “(A) IN GENERAL.—In this section, the
2 term ‘qualified election service provider’ means
3 an election service provider who meets each of
4 the following criteria, as established and pub-
5 lished by the Chair of the Commission in co-
6 ordination with the Secretary of Homeland Se-
7 curity:

8 “(i) Except as provided in subpara-
9 graph (C), the election service provider is
10 solely owned and controlled by United
11 States persons or persons described in sub-
12 paragraph (B).

13 “(ii) The election service provider sub-
14 mits in accordance with section 3(a) of the
15 Protect our Elections Act—

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

19 “(II) any other information re-
20 quired to be reported under that sec-
21 tion.

22 “(iii) The election service provider
23 agrees to ensure that the election systems
24 will be developed and maintained in a man-
25 ner that is consistent with the cybersecu-

1 rity best practices established under sub-
2 section (c).

3 “(iv) The election service provider
4 agrees to maintain its information tech-
5 nology infrastructure in a manner that is
6 consistent with the cybersecurity best prac-
7 tices established under subsection (c).

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

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

22 “(C) PERMITTING WAIVER OF DOMESTIC
23 OWNERSHIP AND CONTROL REQUIREMENT FOR
24 CERTAIN SUBSIDIARIES.—The Secretary of
25 Homeland Security may waive the requirement

1 of clause (i) of subparagraph (A) with respect
2 to a person who is a United States subsidiary
3 of a parent company which has implemented a
4 foreign ownership or control mitigation plan
5 that has been approved by the Secretary. Such
6 plan shall ensure that the parent company can-
7 not control, influence, or direct the subsidiary
8 in any manner that would compromise or influ-
9 ence, or give the appearance of compromising
10 or influencing, the independence and integrity
11 of an election.

12 “(D) INCIDENT DEFINED.—For purposes
13 of subparagraph (A)(v), the term ‘incident’ has
14 the meaning given that term in section
15 3552(b)(2) of title 44, United States Code.

16 “(f) ELECTION SYSTEM DEFINED.—In this section,
17 the term ‘election system’ means a voting system, an elec-
18 tion management system, a voter registration website or
19 database, an electronic pollbook, a system for tabulating
20 or reporting election results, an election agency commu-
21 nications system, or any other information system (as de-
22 fined in section 3502 of title 44, United States Code) that
23 the Secretary of Homeland Security, in consultation with
24 the Commission, identifies as central to the management,
25 support, or administration of a Federal election.

1 “(g) OWNERSHIP AND CONTROL DEFINED.—The
2 Commission, in consultation with the Secretary of the
3 Treasury, shall issue regulations defining the terms ‘own-
4 ership’ and ‘control’ for purposes of this section.”.

5 (b) CONFORMING AMENDMENT RELATING TO EN-
6 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
7 is amended by striking “and 303” and inserting “303, and
8 304”.

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

11 (1) by redesignating the items relating to sec-
12 tions 304 and 305 as relating to sections 305 and
13 306; and

14 (2) by inserting after the item relating to sec-
15 tion 303 the following new item:

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

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

19 **SEC. 323. INFORMATION SHARING WITH RESPECT TO OWN-**
20 **ERSHIP OF ELECTION SERVICE PROVIDERS.**

21 (a) IN GENERAL.—Each election service provider
22 shall submit to the Secretary of Homeland Security, the
23 Election Assistance Commission, and appropriate State or
24 local governmental entities the following:

1 (1) Not later than the date that is 90 days
2 after the later of the date of the enactment of this
3 section or the date that a person first becomes an
4 election service provider, a report listing the identity
5 of any foreign national (as defined in section 319(b)
6 of the Federal Election Campaign Act of 1971 (52
7 U.S.C. 30121(b))) who directly or indirectly owns or
8 controls such election service provider and the per-
9 centage of such ownership, and any other informa-
10 tion necessary to determine whether the election
11 service provider is a qualified election service pro-
12 vider.

13 (2) Not later than 90 days after the date of any
14 material change in ownership or control of such elec-
15 tion service provider, a notice of such change and an
16 update of any information previously reported under
17 paragraph (1).

18 (b) CIVIL PENALTY FOR FAILURE TO REPORT.—If
19 an election service provider fails to submit a report re-
20 quired under subsection (a), the Attorney General may,
21 after notice and opportunity for hearing, impose a civil
22 fine of \$20,000.

23 (c) DEFINITIONS.—In this section:

24 (1) APPROPRIATE STATE OR LOCAL GOVERN-
25 MENTAL ENTITY.—The term “appropriate State or

1 local governmental entity” means, with respect to an
2 election service provider, any State or local govern-
3 mental entity that the election service provider seeks
4 to contract with, contracts with, or otherwise pro-
5 vides services to provide, support, or maintain an
6 election system.

7 (2) ELECTION SERVICE PROVIDER; ELECTION
8 SYSTEM; QUALIFIED ELECTION SERVICE PRO-
9 VIDER.—The terms “election service provider”,
10 “election system”, and “qualified election service
11 provider” have the meaning given those terms in
12 section 304 of the Help America Vote Act of 2002,
13 as added by section 322.

