

Calendar No. 644

116TH CONGRESS
2D SESSION

S. 5085

To amend the Internal Revenue Code of 1986 to increase the additional 2020 recovery rebates, to repeal section 230 of the Communications Act of 1934, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 29, 2020

Mr. McCONNELL introduced the following bill; which was read the first time

DECEMBER 30, 2020

Read the second time and placed on the calendar

A BILL

To amend the Internal Revenue Code of 1986 to increase the additional 2020 recovery rebates, to repeal section 230 of the Communications Act of 1934, 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. INCREASE IN 2020 RECOVERY REBATES.**

4 (a) IN GENERAL.—Section 6428A of the Internal
5 Revenue Code of 1986 (as added by the COVID-related
6 Tax Relief Act of 2020) is amended—

1 (1) in subsection (a)(1), by striking “\$600
2 (\$1,200” and inserting “\$2,000 (\$4,000”,

3 (2) in subsection (g)(1), by striking “\$600”
4 and inserting “\$2,000”, and

5 (3) in subsection (g)(2)—

6 (A) by striking “\$1,200” in the matter
7 preceding subparagraph (A) and inserting
8 “\$4,000”, and

9 (B) by striking “\$600” in subparagraph
10 (A) and inserting “\$2,000”.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect as if included in section 272
13 of the COVID-related Tax Relief Act of 2020.

14 **SEC. 2. REPEAL OF SECTION 230.**

15 (a) IN GENERAL.—Section 230 of the Communica-
16 tions Act of 1934 (47 U.S.C. 230) is repealed.

17 (b) CONFORMING AMENDMENTS.—

18 (1) COMMUNICATIONS ACT OF 1934.—The Com-
19 munications Act of 1934 (47 U.S.C. 151 et seq.) is
20 amended—

21 (A) in section 223(h) (47 U.S.C. 223(h)),
22 by striking paragraph (2) and inserting the fol-
23 lowing:

24 “(2) The term ‘interactive computer service’
25 means any information service, system, or access

1 software provider that provides or enables computer
 2 access by multiple users to a computer server, in-
 3 cluding specifically a service or system that provides
 4 access to the Internet and such systems operated or
 5 services offered by libraries or educational institu-
 6 tions.”; and

7 (B) in section 231(b)(4) (47 U.S.C.
 8 231(b)(4)), by striking “or section 230”.

9 (2) TRADEMARK ACT OF 1946.—Section 45 of
 10 the Act entitled “An Act to provide for the registra-
 11 tion and protection of trademarks used in commerce,
 12 to carry out the provisions of certain international
 13 conventions, and for other purposes”, approved July
 14 5, 1946 (commonly known as the “Trademark Act
 15 of 1946”) (15 U.S.C. 1127) is amended by striking
 16 the definition relating to the term “Internet” and in-
 17 serting the following:

18 “The term ‘Internet’ means the international com-
 19 puter network of both Federal and non-Federal interoper-
 20 able packet switched data networks.”.

21 (3) TITLE 17, UNITED STATES CODE.—Section
 22 1401 of title 17, United States Code, is amended by
 23 striking subsection (g).

24 (4) TITLE 18, UNITED STATES CODE.—Part I of
 25 title 18, United States Code, is amended—

(A) in section 2257(h)(2)(B)(v), by striking “, except that deletion of a particular communication or material made by another person in a manner consistent with section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)) shall not constitute such selection or alteration of the content of the communication”; and

(B) in section 2421A—

(i) in subsection (a), by striking “(as such term is defined in defined in section 230(f) the Communications Act of 1934 (47 U.S.C. 230(f)))” and inserting “(as that term is defined in section 223 of the Communications Act of 1934 (47 U.S.C. 223))”; and

(ii) in subsection (b), by striking “(as such term is defined in defined in section 230(f) the Communications Act of 1934 (47 U.S.C. 230(f)))” and inserting “(as that term is defined in section 223 of the Communications Act of 1934 (47 U.S.C. 223))”.

(5) CONTROLLED SUBSTANCES ACT.—Section 401(h)(3)(A)(iii)(II) of the Controlled Substances

1 Act (21 U.S.C. 841(h)(3)(A)(iii)(II)) is amended by
 2 striking “, except that deletion of a particular com-
 3 munication or material made by another person in
 4 a manner consistent with section 230(c) of the Com-
 5 munications Act of 1934 shall not constitute such
 6 selection or alteration of the content of the commu-
 7 nication”.

8 (6) WEBB-KENYON ACT.—Section 3(b)(1) of
 9 the Act entitled “An Act divesting intoxicating liq-
 10 uors of their interstate character in certain cases”,
 11 approved March 1, 1913 (commonly known as the
 12 “Webb-Kenyon Act”) (27 U.S.C. 122b(b)(1)) is
 13 amended by striking “(as defined in section 230(f)
 14 of the Communications Act of 1934 (47 U.S.C.
 15 230(f))” and inserting “(as defined in section 223 of
 16 the Communications Act of 1934 (47 U.S.C. 223))”.

17 (7) TITLE 28, UNITED STATES CODE.—Section
 18 4102 of title 28, United States Code, is amended—

19 (A) by striking subsection (c); and

20 (B) in subsection (e)—

21 (i) by striking “construed to” and all
 22 that follows through “affect” and inserting
 23 “construed to affect”; and

1 (ii) by striking “defamation; or” and
 2 all that follows and inserting “defama-
 3 tion.”.

4 (8) TITLE 31, UNITED STATES CODE.—Section
 5 5362(6) of title 31, United States Code, is amended
 6 by striking “section 230(f) of the Communications
 7 Act of 1934 (47 U.S.C. 230(f))” and inserting “sec-
 8 tion 223 of the Communications Act of 1934 (47
 9 U.S.C. 223)”.

10 (9) NATIONAL TELECOMMUNICATIONS AND IN-
 11 FORMATION ADMINISTRATION ORGANIZATION ACT.—
 12 Section 157 of the National Telecommunications
 13 and Information Administration Organization Act
 14 (47 U.S.C. 941) is amended—

15 (A) by striking subsection (e); and

16 (B) by redesignating subsections (f)
 17 through (j) as subsections (e) through (i), re-
 18 spectively.

19 **SEC. 3. 2020 BIPARTISAN ADVISORY COMMITTEE.**

20 (a) ESTABLISHMENT.—There is established within
 21 the Election Assistance Commission the 2020 Bipartisan
 22 Advisory Committee (referred to in this section as the
 23 “Advisory Committee”).

24 (b) MEMBERSHIP.—

1 (1) COMPOSITION.—The Advisory Committee
2 shall be composed of 18 members of whom—

3 (A) nine shall be appointed by the leader
4 of the Republican caucus in the Senate (in con-
5 sultation with the minority leader of the House
6 of Representatives), one of which shall be ap-
7 pointed as a Co-Chairperson of the Advisory
8 Committee; and

9 (B) nine shall be appointed by the Speaker
10 of the House of Representatives (in consultation
11 with the leader of the Democratic caucus in the
12 Senate), one of which shall be appointed as a
13 Co-Chairperson of the Advisory Committee.

14 (2) REPRESENTATION.—Individuals appointed
15 to the Advisory Committee under paragraph (1)
16 shall be geographically balanced and shall include
17 representatives of Federal, State, and local govern-
18 ments and of the legal, cybersecurity, and election
19 administration and technology communities.

20 (3) DATE.—The appointments of the members
21 of the Advisory Committee shall be made not later
22 than 90 days after the date of enactment of this
23 Act.

24 (c) PERIOD OF APPOINTMENT; VACANCIES.—

1 (1) IN GENERAL.—Except as provided in para-
 2 graph (2), a member of the Advisory shall be ap-
 3 pointed for the duration of the Advisory Committee.

4 (2) REMOVAL.—A member may be removed
 5 from the Advisory Committee at any time at the
 6 upon concurrence of both of the Co-Chairpersons of
 7 the Advisory Committee.

8 (3) VACANCIES.—A vacancy in the Advisory
 9 Committee—

10 (A) shall not affect the powers of the Com-
 11 mission; and

12 (B) shall be filled in the same manner as
 13 the original appointment.

14 (d) DUTIES.—

15 (1) STUDY.—

16 (A) IN GENERAL.—The Advisory Com-
 17 mittee shall, consistent with applicable law,
 18 study the integrity and administration of the
 19 general election for Federal office held in No-
 20 vember 2020 and make recommendations to
 21 Congress to improve the security, integrity, and
 22 administration of Federal elections.

23 (B) MATTERS STUDIED.—The matters
 24 studied by the Advisory Committee shall in-
 25 clude—

1 (i) the effects of the COVID–19 pan-
2 demic on the administration of the general
3 election for Federal office held in Novem-
4 ber 2020;

5 (ii) the election practices adopted by
6 Federal, State, and local governments in
7 response to the COVID–19 pandemic, in-
8 cluding—

9 (I) practices that undermined the
10 security and integrity of the election;
11 and

12 (II) practices that strengthened
13 the security and integrity of the elec-
14 tion;

15 (iii) the laws, rules, policies, activities,
16 strategies, and practices regarding mail-in
17 ballots, absentee ballots, and vote-by-mail
18 procedures, including—

19 (I) measures that undermined
20 the security and integrity of the elec-
21 tion; and

22 (II) measures that strengthened
23 the security and integrity of the elec-
24 tion;

(iv) any laws, rules, policies, activities, strategies, and practices that would have allowed improper or fraudulent votes to be cast in such election and the scope of any improper and fraudulent votes that were cast in the election; and

(v) any laws, rules, policies, activities, strategies, and practices that would have allowed improper or fraudulent voter registration and the scope of any improper or fraudulent voter registration.

(2) REPORTS.—

(A) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Advisory Committee shall submit to the Election Assistance Commission and the appropriate Congressional committees a report on the matter studied under paragraph (1). Such report shall include—

(i) precinct-by-precinct data highlighting the number and incidence of any improper and fraudulent votes that were cast in the election; and

(ii) precinct-by-precinct data highlighting the number and incidence of any

1 improper and fraudulent voter registra-
2 tions.

3 (B) RECOMMENDATIONS.—

4 (i) IN GENERAL.—Not later than 360
5 days after the date of the enactment of
6 this Act, the Advisory Committee shall
7 submit to the Election Assistance Commis-
8 sion and the appropriate Congressional
9 committees recommendations on the fol-
10 lowing:

11 (I) The best practices that should
12 be adopted by at each level of local,
13 State, and Federal Government for
14 administering elections for Federal of-
15 fice—

16 (aa) during the COVID–19
17 pandemic; and

18 (bb) during other national
19 emergencies.

20 (II) The best practices that
21 should be adopted at each level of
22 local, State, and Federal Government
23 to mitigate fraud and increase the in-
24 tegrity and security of mail-in ballots,

1 absentee ballots, and vote-by-mail pro-
2 cedures.

3 (III) The best practices that
4 should be adopted at each level of
5 local, State, and Federal Government
6 to prevent improper or fraudulent
7 votes from being cast.

8 (IV) The best practices that
9 should be adopted at each level of
10 local, State, and Federal Government
11 to prevent improper voters from being
12 registered.

13 (ii) MINORITY VIEWS.—In the case of
14 any recommendation with respect to which
15 one-third or more of the Committee does
16 not concur, the report shall include a jus-
17 tification for why such members do not
18 concur.

19 (C) APPROPRIATE CONGRESSIONAL COM-
20 MITTEES.—For purposes of this paragraph, the
21 term “appropriate Congressional Committees”
22 means—

23 (i) the Committee on Rules and Ad-
24 ministration of the Senate;

1 (ii) the Committee on the Judiciary of
2 the Senate;

3 (iii) the Committee on House Admin-
4 istration of the House of Representatives;
5 and

6 (iv) the Committee on the Judiciary of
7 the House of Representatives.

8 (e) COMMISSION PERSONNEL MATTERS.—

9 (1) PROHIBITION ON COMPENSATION OF MEM-
10 BERS.—The members of the Advisory Committee
11 may not receive pay or benefits from the United
12 States Government by reason of their service on the
13 Advisory Committee.

14 (2) STAFF.—

15 (A) IN GENERAL.—Each Co-Chairperson
16 of the Advisory Committee may appoint not
17 more than 5 subject matter experts to serve as
18 staff to the Advisory Committee.

19 (B) COMPENSATION.—The Co-Chair-
20 persons of the Advisory Committee may fix the
21 compensation of the staff of the Advisor Com-
22 mittee without regard to chapter 51 and sub-
23 chapter III of chapter 53 of title 5, United
24 States Code, relating to classification of posi-
25 tions and General Schedule pay rates, except

1 that the rate of pay for the staff may not ex-
 2 ceed the rate payable for level V of the Execu-
 3 tive Schedule under section 5316 of that title.

4 (f) TERMINATION.—The Advisory Committee shall
 5 terminate 90 days after the date on which the Advisory
 6 Committee submits the report required under subsection
 7 (d).

8 (g) NONAPPLICABILITY OF FACA.—The Federal Ad-
 9 visory Committee Act (5 U.S.C. App.) shall not apply to
 10 the Advisory Committee.

11 **SEC. 4. DISCLOSURE OF ACCESS TO ELECTION INFRA-**
 12 **STRUCTURE BY FOREIGN NATIONALS.**

13 (a) IN GENERAL.—Title III of the Help America
 14 Vote Act of 2002 (52 U.S.C. 21081 et seq.) is amended
 15 by inserting after section 303 the following new section:

16 **“SEC. 303A. DISCLOSURE OF ACCESS TO ELECTION INFRA-**
 17 **STRUCTURE BY FOREIGN NATIONALS.**

18 “(a) IN GENERAL.—Each chief State election official
 19 shall disclose to the Commission the identity of any foreign
 20 national known by the chief State election official—

21 “(1) to have physically handled—

22 “(A) ballots used in an election for Federal
 23 office; or

24 “(B) voting machines; or

25 “(2) to have had unmonitored access to—

1 “(A) a storage facility or centralized vote
2 tabulation location used to support the adminis-
3 tration of an election for public office; or

4 “(B) election-related information or com-
5 munications technology, including voter reg-
6 istration databases, voting machines, electronic
7 mail and other communications systems (includ-
8 ing electronic mail and other systems of vendors
9 who have entered into contracts with election
10 agencies to support the administration of elec-
11 tions, manage the election process, and report
12 and display election results), and other systems
13 used to manage the election process and to re-
14 port and display election results on behalf of an
15 election agency.

16 “(b) TIMING.—The chief State election official shall
17 make the disclosure under subsection (a) not later than
18 30 days after the date on which such official becomes
19 aware of an activity described in such subsection.

20 “(c) FOREIGN NATIONAL DEFINED.—The term ‘for-
21 eign national’ has the meaning given that term in section
22 319 of the Federal Election Campaign Act of 1971 (52
23 U.S.C. 30121).”.

24 (b) CONFORMING AMENDMENT RELATING TO EN-
25 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)

1 is amended by striking “sections 301, 302, and 303” and
2 inserting “subtitle A of title III”.

3 (c) CLERICAL AMENDMENT.—The table of contents
4 of such Act is amended by inserting after the item relating
5 to section 303 the following new item:

“Sec. 303A. Disclosure of access to election infrastructure by foreign nation-
als.”.

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