

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4617
OFFERED BY MS. LOFGREN OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Stopping Harmful Interference in Elections for a Lasting
4 Democracy Act” or the “SHIELD Act”.

5 (b) **TABLE OF CONTENTS.**—The table of contents of
6 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ENHANCED REPORTING REQUIREMENTS

Subtitle A—Establishing Duty to Report Foreign Election Interference

Sec. 101. Federal campaign reporting of foreign contacts.

Sec. 102. Federal campaign foreign contact reporting compliance system.

Sec. 103. Criminal penalties.

Sec. 104. Rule of construction.

Subtitle B—Strengthening Oversight of Online Political Advertising

Sec. 111. Short title.

Sec. 112. Purpose.

Sec. 113. Expansion of definition of public communication.

Sec. 114. Expansion of definition of electioneering communication.

Sec. 115. Application of disclaimer statements to online communications.

Sec. 116. Political record requirements for online platforms.

Sec. 117. Preventing contributions, expenditures, independent expenditures,
and disbursements for electioneering communications by foreign
nationals in the form of online advertising.

**TITLE II—CLOSING LOOPHOLES ALLOWING SPENDING BY
FOREIGN NATIONALS IN ELECTIONS**

- Sec. 201. Clarification of prohibition on participation by foreign nationals in election-related activities.
- Sec. 202. Clarification of application of foreign money ban to certain disbursements and activities.
- Sec. 203. Audit and report on illicit foreign money in Federal elections.
- Sec. 204. Prohibition on contributions and donations by foreign nationals in connections with ballot initiatives and referenda.
- Sec. 205. Expansion of limitations on foreign nationals participating in political advertising.

TITLE III—DETECTING FOREIGN INTERFERENCE IN ELECTIONS

Subtitle A—Deterrence Under Federal Election Campaign Act of 1971

- Sec. 301. Restrictions on exchange of campaign information between candidates and foreign powers.
- Sec. 302. Clarification of standard for determining existence of coordination between campaigns and outside interests.

Subtitle B—[Reserved]

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Effective dates of provisions.
- Sec. 402. Severability.

1 **TITLE I—ENHANCED**
2 **REPORTING REQUIREMENTS**
3 **Subtitle A—Establishing Duty to**
4 **Report Foreign Election Inter-**
5 **ference**

6 **SEC. 101. FEDERAL CAMPAIGN REPORTING OF FOREIGN**
7 **CONTACTS.**

8 (a) INITIAL NOTICE.—

9 (1) IN GENERAL.—Section 304 of the Federal
10 Election Campaign Act of 1971 (52 U.S.C. 30104)
11 is amended by adding at the end the following new
12 subsection:

13 “(j) DISCLOSURE OF REPORTABLE FOREIGN CON-
14 TACTS.—

1 “(1) COMMITTEE OBLIGATION TO NOTIFY.—
2 Not later than 1 week after a reportable foreign con-
3 tact, each political committee shall notify the Fed-
4 eral Bureau of Investigation and the Commission of
5 the reportable foreign contact and provide a sum-
6 mary of the circumstances with respect to such re-
7 portable foreign contact.

8 “(2) INDIVIDUAL OBLIGATION TO NOTIFY.—
9 Not later than 3 days after a reportable foreign con-
10 tact—

11 “(A) each candidate shall notify the treas-
12 urer or other designated official of the principal
13 campaign committee of such candidate of the
14 reportable foreign contact and provide a sum-
15 mary of the circumstances with respect to such
16 reportable foreign contact; and

17 “(B) each official, employee, or agent of a
18 political committee shall notify the treasurer or
19 other designated official of the committee of the
20 reportable foreign contact and provide a sum-
21 mary of the circumstances with respect to such
22 reportable foreign contact.

23 “(3) REPORTABLE FOREIGN CONTACT.—In this
24 subsection:

1 “(A) IN GENERAL.—The term ‘reportable
2 foreign contact’ means any direct or indirect
3 contact or communication that—

4 “(i) is between—

5 “(I) a candidate, a political com-
6 mittee, or any official, employee, or
7 agent of such committee; and

8 “(II) an individual that the per-
9 son described in subclause (I) knows,
10 has reason to know, or reasonably be-
11 lieves is a covered foreign national;
12 and

13 “(ii) the person described in clause
14 (i)(I) knows, has reason to know, or rea-
15 sonably believes involves—

16 “(I) an offer or other proposal
17 for a contribution, donation, expendi-
18 ture, disbursement, or solicitation de-
19 scribed in section 319; or

20 “(II) coordination or collabora-
21 tion with, an offer or provision of in-
22 formation or services to or from, or
23 persistent and repeated contact with,
24 a covered foreign national in connec-
25 tion with an election.

1 “(B) EXCEPTION.—The term ‘reportable
2 foreign contact’ shall not include any contact or
3 communication with a covered foreign national
4 by an elected official or an employee of an elect-
5 ed official solely in an official capacity as such
6 an official or employee. For purposes of the
7 previous sentence, a contact or communication
8 by an elected official or an employee of an elect-
9 ed official shall not be considered to be made
10 solely in an official capacity if the contact or
11 communication involves a contribution, dona-
12 tion, expenditure, disbursement, or solicitation
13 described in section 319.

14 “(C) COVERED FOREIGN NATIONAL DE-
15 FINED.—

16 “(i) IN GENERAL.—In this paragraph,
17 the term ‘covered foreign national’
18 means—

19 “(I) a foreign principal (as de-
20 fined in section 1(b) of the Foreign
21 Agents Registration Act of 1938 (22
22 U.S.C. 611(b)) that is a government
23 of a foreign country or a foreign polit-
24 ical party;

1 “(II) any person who acts as an
2 agent, representative, employee, or
3 servant, or any person who acts in
4 any other capacity at the order, re-
5 quest, or under the direction or con-
6 trol, of a foreign principal described in
7 subclause (I) or of a person any of
8 whose activities are directly or indi-
9 rectly supervised, directed, controlled,
10 financed, or subsidized in whole or in
11 major part by a foreign principal de-
12 scribed in subclause (I); or

13 “(III) any person included in the
14 list of specially designated nationals
15 and blocked persons maintained by
16 the Office of Foreign Assets Control
17 of the Department of the Treasury
18 pursuant to authorities relating to the
19 imposition of sanctions relating to the
20 conduct of a foreign principal de-
21 scribed in subclause (I).

22 “(ii) CLARIFICATION REGARDING AP-
23 PLICATION TO CITIZENS OF THE UNITED
24 STATES.—In the case of a citizen of the
25 United States, subclause (II) of clause (i)

1 applies only to the extent that the person
2 involved acts within the scope of that per-
3 son's status as the agent of a foreign prin-
4 cipal described in subclause (I) of clause
5 (i).”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by paragraph (1) shall apply with respect to report-
8 able foreign contacts which occur on or after the
9 date of the enactment of this Act.

10 (b) INFORMATION INCLUDED ON REPORT.—

11 (1) IN GENERAL.—Section 304(b) of such Act
12 (52 U.S.C. 30104(b)) is amended—

13 (A) by striking “and” at the end of para-
14 graph (7);

15 (B) by striking the period at the end of
16 paragraph (8) and inserting “; and”; and

17 (C) by adding at the end the following new
18 paragraph:

19 “(9) for any reportable foreign contact (as de-
20 fined in subsection (j)(3))—

21 “(A) the date, time, and location of the
22 contact;

23 “(B) the date and time of when a des-
24 ignated official of the committee was notified of
25 the contact;

1 “(C) the identity of individuals involved;
2 and

3 “(D) a description of the contact, including
4 the nature of any contribution, donation, ex-
5 penditure, disbursement, or solicitation involved
6 and the nature of any activity described in sub-
7 section (j)(3)(A)(ii)(II) involved.”.

8 (2) **EFFECTIVE DATE.**—The amendment made
9 by paragraph (1) shall apply with respect to reports
10 filed on or after the expiration of the 60-day period
11 which begins on the date of the enactment of this
12 Act.

13 **SEC. 102. FEDERAL CAMPAIGN FOREIGN CONTACT RE-**
14 **PORTING COMPLIANCE SYSTEM.**

15 (a) **IN GENERAL.**—Section 302 of the Federal Elec-
16 tion Campaign Act of 1971 (52 U.S.C. 30102) is amended
17 by adding at the end the following new subsection:

18 “(j) **REPORTABLE FOREIGN CONTACTS COMPLIANCE**
19 **POLICY.**—

20 “(1) **REPORTING.**—Each political committee
21 shall establish a policy that requires all officials, em-
22 ployees, and agents of such committee to notify the
23 treasurer or other appropriate designated official of
24 the committee of any reportable foreign contact (as

1 defined in section 304(j)) not later than 3 days after
2 such contact was made.

3 “(2) RETENTION AND PRESERVATION OF
4 RECORDS.—Each political committee shall establish
5 a policy that provides for the retention and preserva-
6 tion of records and information related to reportable
7 foreign contacts (as so defined) for a period of not
8 less than 3 years.

9 “(3) CERTIFICATION.—

10 “(A) IN GENERAL.—Upon filing its state-
11 ment of organization under section 303(a), and
12 with each report filed under section 304(a), the
13 treasurer of each political committee (other
14 than an authorized committee) shall certify
15 that—

16 “(i) the committee has in place poli-
17 cies that meet the requirements of para-
18 graphs (1) and (2);

19 “(ii) the committee has designated an
20 official to monitor compliance with such
21 policies; and

22 “(iii) not later than 1 week after the
23 beginning of any formal or informal affili-
24 ation with the committee, all officials, em-

1 ployees, and agents of such committee
2 will—

3 “(I) receive notice of such poli-
4 cies;

5 “(II) be informed of the prohibi-
6 tions under section 319; and

7 “(III) sign a certification affirm-
8 ing their understanding of such poli-
9 cies and prohibitions.

10 “(B) AUTHORIZED COMMITTEES.—With
11 respect to an authorized committee, the can-
12 didate shall make the certification required
13 under subparagraph (A).”.

14 (b) EFFECTIVE DATE.—

15 (1) IN GENERAL.—The amendment made by
16 subsection (a) shall apply with respect to political
17 committees which file a statement of organization
18 under section 303(a) of the Federal Election Cam-
19 paign Act of 1971 (52 U.S.C. 30103(a)) on or after
20 the date of the enactment of this Act.

21 (2) TRANSITION RULE FOR EXISTING COMMIT-
22 TEES.—Not later than 30 days after the date of the
23 enactment of this Act, each political committee
24 under the Federal Election Campaign Act of 1971
25 shall file a certification with the Federal Election

1 Commission that the committee is in compliance
2 with the requirements of section 302(j) of such Act
3 (as added by subsection (a)).

4 **SEC. 103. CRIMINAL PENALTIES.**

5 Section 309(d)(1) of the Federal Election Campaign
6 Act of 1971 (52 U.S.C. 30109(d)(1)) is amended by add-
7 ing at the end the following new subparagraphs:

8 “(E) Any person who knowingly and willfully com-
9 mits a violation of subsection (j) or (b)(9) of section 304
10 or section 302(j) shall be fined not more than \$500,000,
11 imprisoned not more than 5 years, or both.

12 “(F) Any person who knowingly and willfully conceals
13 or destroys any materials relating to a reportable foreign
14 contact (as defined in section 304(j)) shall be fined not
15 more than \$1,000,000, imprisoned not more than 5 years,
16 or both.”.

17 **SEC. 104. RULE OF CONSTRUCTION.**

18 Nothing in this subtitle or the amendments made by
19 this subtitle shall be construed—

20 (1) to impede legitimate journalistic activities;

21 or

22 (2) to impose any additional limitation on the
23 right to express political views or to participate in
24 public discourse of any individual who—

25 (A) resides in the United States;

1 (B) is not a citizen of the United States or
2 a national of the United States, as defined in
3 section 101(a)(22) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1101(a)(22)); and

5 (C) is not lawfully admitted for permanent
6 residence, as defined by section 101(a)(20) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1101(a)(20)).

9 **Subtitle B—Strengthening Over-**
10 **sight of Online Political Adver-**
11 **tising**

12 **SEC. 111. SHORT TITLE.**

13 This subtitle may be cited as the “Honest Ads Act”.

14 **SEC. 112. PURPOSE.**

15 The purpose of this subtitle is to enhance the integ-
16 rity of American democracy and national security by im-
17 proving disclosure requirements for online political adver-
18 tisements in order to uphold the Supreme Court’s well-
19 established standard that the electorate bears the right to
20 be fully informed.

21 **SEC. 113. EXPANSION OF DEFINITION OF PUBLIC COMMU-**
22 **NICATION.**

23 (a) IN GENERAL.—Paragraph (22) of section 301 of
24 the Federal Election Campaign Act of 1971 (52 U.S.C.
25 30101(22)) is amended by striking “or satellite commu-

1 nication” and inserting “satellite, paid internet, or paid
2 digital communication”.

3 (b) TREATMENT OF CONTRIBUTIONS AND EXPENDI-
4 TURES.—Section 301 of such Act (52 U.S.C. 30101) is
5 amended—

6 (1) in paragraph (8)(B)(v), by striking “on
7 broadcasting stations, or in newspapers, magazines,
8 or similar types of general public political adver-
9 tising” and inserting “in any public communica-
10 tion”; and

11 (2) in paragraph (9)(B)—

12 (A) by amending clause (i) to read as fol-
13 lows:

14 “(i) any news story, commentary, or
15 editorial distributed through the facilities
16 of any broadcasting station or any print,
17 online, or digital newspaper, magazine,
18 blog, publication, or periodical, unless such
19 broadcasting, print, online, or digital facili-
20 ties are owned or controlled by any polit-
21 ical party, political committee, or can-
22 didate;” and

23 (B) in clause (iv), by striking “on broad-
24 casting stations, or in newspapers, magazines,
25 or similar types of general public political ad-

1 vertising” and inserting “in any public commu-
2 nication”.

3 (c) DISCLOSURE AND DISCLAIMER STATEMENTS.—

4 Subsection (a) of section 318 of such Act (52 U.S.C.
5 30120) is amended—

6 (1) by striking “financing any communication
7 through any broadcasting station, newspaper, maga-
8 zine, outdoor advertising facility, mailing, or any
9 other type of general public political advertising”
10 and inserting “financing any public communication”;
11 and

12 (2) by striking “solicits any contribution
13 through any broadcasting station, newspaper, maga-
14 zine, outdoor advertising facility, mailing, or any
15 other type of general public political advertising”
16 and inserting “solicits any contribution through any
17 public communication”.

18 **SEC. 114. EXPANSION OF DEFINITION OF ELECTIONEERING**

19 **COMMUNICATION.**

20 (a) EXPANSION TO ONLINE COMMUNICATIONS.—

21 (1) APPLICATION TO QUALIFIED INTERNET AND
22 DIGITAL COMMUNICATIONS.—

23 (A) IN GENERAL.—Subparagraph (A) of
24 section 304(f)(3) of the Federal Election Cam-
25 paign Act of 1971 (52 U.S.C. 30104(f)(3)(A))

1 is amended by striking “or satellite communica-
2 tion” each place it appears in clauses (i) and
3 (ii) and inserting “satellite, or qualified internet
4 or digital communication”.

5 (B) QUALIFIED INTERNET OR DIGITAL
6 COMMUNICATION.—Paragraph (3) of section
7 304(f) of such Act (52 U.S.C. 30104(f)) is
8 amended by adding at the end the following
9 new subparagraph:

10 “(D) QUALIFIED INTERNET OR DIGITAL
11 COMMUNICATION.—The term ‘qualified internet
12 or digital communication’ means any commu-
13 nication which is placed or promoted for a fee
14 on an online platform (as defined in subsection
15 (k)(3)).”.

16 (2) NONAPPLICATION OF RELEVANT ELEC-
17 TORATE TO ONLINE COMMUNICATIONS.—Section
18 304(f)(3)(A)(i)(III) of such Act (52 U.S.C.
19 30104(f)(3)(A)(i)(III)) is amended by inserting “any
20 broadcast, cable, or satellite” before “communica-
21 tion”.

22 (3) NEWS EXEMPTION.—Section
23 304(f)(3)(B)(i) of such Act (52 U.S.C.
24 30104(f)(3)(B)(i)) is amended to read as follows:

1 “(i) a communication appearing in a
2 news story, commentary, or editorial dis-
3 tributed through the facilities of any
4 broadcasting station or any online or dig-
5 ital newspaper, magazine, blog, publica-
6 tion, or periodical, unless such broad-
7 casting, online, or digital facilities are
8 owned or controlled by any political party,
9 political committee, or candidate;”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply with respect to communications
12 made on or after January 1, 2020.

13 **SEC. 115. APPLICATION OF DISCLAIMER STATEMENTS TO**
14 **ONLINE COMMUNICATIONS.**

15 (a) **CLEAR AND CONSPICUOUS MANNER REQUIRE-**
16 **MENT.**—Subsection (a) of section 318 of the Federal Elec-
17 tion Campaign Act of 1971 (52 U.S.C. 30120(a)) is
18 amended—

19 (1) by striking “shall clearly state” each place
20 it appears in paragraphs (1), (2), and (3) and in-
21 serting “shall state in a clear and conspicuous man-
22 ner”; and

23 (2) by adding at the end the following flush
24 sentence: “For purposes of this section, a commu-
25 nication does not make a statement in a clear and

1 conspicuous manner if it is difficult to read or hear
2 or if the placement is easily overlooked.”.

3 (b) SPECIAL RULES FOR QUALIFIED INTERNET OR
4 DIGITAL COMMUNICATIONS.—

5 (1) IN GENERAL.—Section 318 of such Act (52
6 U.S.C. 30120) is amended by adding at the end the
7 following new subsection:

8 “(e) SPECIAL RULES FOR QUALIFIED INTERNET OR
9 DIGITAL COMMUNICATIONS.—

10 “(1) SPECIAL RULES WITH RESPECT TO STATE-
11 MENTS.—In the case of any communication to which
12 this section applies which is a qualified internet or
13 digital communication (as defined in section
14 304(f)(3)(D)) which is disseminated through a me-
15 dium in which the provision of all of the information
16 specified in this section is not possible, the commu-
17 nication shall, in a clear and conspicuous manner—

18 “(A) state the name of the person who
19 paid for the communication; and

20 “(B) provide a means for the recipient of
21 the communication to obtain the remainder of
22 the information required under this section with
23 minimal effort and without receiving or viewing
24 any additional material other than such re-
25 quired information.

1 “(2) SAFE HARBOR FOR DETERMINING CLEAR
2 AND CONSPICUOUS MANNER.—A statement in a
3 qualified internet or digital communication (as de-
4 fined in section 304(f)(3)(D)) shall be considered to
5 be made in a clear and conspicuous manner as pro-
6 vided in subsection (a) if the communication meets
7 the following requirements:

8 “(A) TEXT OR GRAPHIC COMMUNICA-
9 TIONS.—In the case of a text or graphic com-
10 munication, the statement—

11 “(i) appears in letters at least as large
12 as the majority of the text in the commu-
13 nication; and

14 “(ii) meets the requirements of para-
15 graphs (2) and (3) of subsection (c).

16 “(B) AUDIO COMMUNICATIONS.—In the
17 case of an audio communication, the statement
18 is spoken in a clearly audible and intelligible
19 manner at the beginning or end of the commu-
20 nication and lasts at least 3 seconds.

21 “(C) VIDEO COMMUNICATIONS.—In the
22 case of a video communication which also in-
23 cludes audio, the statement—

24 “(i) is included at either the beginning
25 or the end of the communication; and

1 “(ii) is made both in—

2 “(I) a written format that meets
3 the requirements of subparagraph (A)
4 and appears for at least 4 seconds;
5 and

6 “(II) an audible format that
7 meets the requirements of subpara-
8 graph (B).

9 “(D) OTHER COMMUNICATIONS.—In the
10 case of any other type of communication, the
11 statement is at least as clear and conspicuous
12 as the statement specified in subparagraph (A),
13 (B), or (C).”.

14 (2) NONAPPLICATION OF CERTAIN EXCEP-
15 TIONS.—The exceptions provided in section
16 110.11(f)(1)(i) and (ii) of title 11, Code of Federal
17 Regulations, or any successor to such rules, shall
18 have no application to qualified internet or digital
19 communications (as defined in section 304(f)(3)(D)
20 of the Federal Election Campaign Act of 1971, as
21 added by this Act).

22 (c) MODIFICATION OF ADDITIONAL REQUIREMENTS
23 FOR CERTAIN COMMUNICATIONS.—Section 318(d) of such
24 Act (52 U.S.C. 30120(d)) is amended—

25 (1) in paragraph (1)(A)—

1 (A) by striking “which is transmitted
2 through radio” and inserting “which is in an
3 audio format”; and

4 (B) by striking “BY RADIO” in the heading
5 and inserting “AUDIO FORMAT”;

6 (2) in paragraph (1)(B)—

7 (A) by striking “which is transmitted
8 through television” and inserting “which is in
9 video format”; and

10 (B) by striking “BY TELEVISION” in the
11 heading and inserting “VIDEO FORMAT”; and

12 (3) in paragraph (2)—

13 (A) by striking “transmitted through radio
14 or television” and inserting “made in audio or
15 video format”; and

16 (B) by striking “through television” in the
17 second sentence and inserting “in video for-
18 mat”.

19 **SEC. 116. POLITICAL RECORD REQUIREMENTS FOR ONLINE**
20 **PLATFORMS.**

21 (a) IN GENERAL.—Section 304 of the Federal Elec-
22 tion Campaign Act of 1971 (52 U.S.C. 30104), as amend-
23 ed by section 101(a), is further amended by adding at the
24 end the following new subsection:

1 “(k) DISCLOSURE OF CERTAIN ONLINE ADVERTISE-
2 MENTS.—

3 “(1) IN GENERAL.—

4 “(A) REQUIREMENTS FOR ONLINE PLAT-
5 FORMS.—An online platform shall maintain,
6 and make available for online public inspection
7 in machine readable format, a complete record
8 of any request to purchase on such online plat-
9 form a qualified political advertisement which is
10 made by a person whose aggregate requests to
11 purchase qualified political advertisements on
12 such online platform during the calendar year
13 exceeds \$500.

14 “(B) REQUIREMENTS FOR ADVER-
15 TISERS.—Any person who requests to purchase
16 a qualified political advertisement on an online
17 platform shall provide the online platform with
18 such information as is necessary for the online
19 platform to comply with the requirements of
20 subparagraph (A).

21 “(2) CONTENTS OF RECORD.—A record main-
22 tained under paragraph (1)(A) shall contain—

23 “(A) a digital copy of the qualified political
24 advertisement;

1 “(B) a description of the audience targeted
2 by the advertisement, the number of views gen-
3 erated from the advertisement, and the date
4 and time that the advertisement is first dis-
5 played and last displayed; and

6 “(C) information regarding—

7 “(i) the average rate charged for the
8 advertisement;

9 “(ii) the name of the candidate to
10 which the advertisement refers and the of-
11 fice to which the candidate is seeking elec-
12 tion, the election to which the advertise-
13 ment refers, or the national legislative
14 issue to which the advertisement refers (as
15 applicable);

16 “(iii) in the case of a request made
17 by, or on behalf of, a candidate, the name
18 of the candidate, the authorized committee
19 of the candidate, and the treasurer of such
20 committee; and

21 “(iv) in the case of any request not
22 described in clause (iii), the name of the
23 person purchasing the advertisement, the
24 name and address of a contact person for
25 such person, and a list of the chief execu-

1 tive officers or members of the executive
2 committee or of the board of directors of
3 such person.

4 “(3) ONLINE PLATFORM.—For purposes of this
5 subsection, the term ‘online platform’ means any
6 public-facing website, web application, or digital ap-
7 plication (including a social network, ad network, or
8 search engine) which—

9 “(A) sells qualified political advertise-
10 ments; and

11 “(B) has 50,000,000 or more unique
12 monthly United States visitors or users for a
13 majority of months during the preceding 12
14 months.

15 “(4) QUALIFIED POLITICAL ADVERTISEMENT.—
16 For purposes of this subsection, the term ‘qualified
17 political advertisement’ means any advertisement
18 (including search engine marketing, display adver-
19 tisements, video advertisements, native advertise-
20 ments, and sponsorships) that—

21 “(A) is made by or on behalf of a can-
22 didate; or

23 “(B) communicates a message relating to
24 any political matter of national importance, in-
25 cluding—

- 1 “(i) a candidate;
- 2 “(ii) any election to Federal office; or
- 3 “(iii) a national legislative issue of
- 4 public importance.

5 “(5) TIME TO MAINTAIN FILE.—The informa-

6 tion required under this subsection shall be made

7 available as soon as possible and shall be retained by

8 the online platform for a period of not less than 4

9 years.

10 “(6) SAFE HARBOR FOR PLATFORMS MAKING

11 BEST EFFORTS TO IDENTIFY REQUESTS WHICH ARE

12 SUBJECT TO RECORD MAINTENANCE REQUIRE-

13 MENTS.—In accordance with rules established by the

14 Commission, if an online platform shows that the

15 platform used best efforts to determine whether or

16 not a request to purchase a qualified political adver-

17 tisement was subject to the requirements of this sub-

18 section, the online platform shall not be considered

19 to be in violation of such requirements.

20 “(7) PENALTIES.—For penalties for failure by

21 online platforms, and persons requesting to purchase

22 a qualified political advertisement on online plat-

23 forms, to comply with the requirements of this sub-

24 section, see section 309.”.

1 (b) RULEMAKING.—Not later than 120 days after the
2 date of the enactment of this Act, the Federal Election
3 Commission shall establish rules—

4 (1) requiring common data formats for the
5 record required to be maintained under section
6 304(k) of the Federal Election Campaign Act of
7 1971 (as added by subsection (a)) so that all online
8 platforms submit and maintain data online in a com-
9 mon, machine-readable and publicly accessible for-
10 mat;

11 (2) establishing search interface requirements
12 relating to such record, including searches by can-
13 didate name, issue, purchaser, and date; and

14 (3) establishing the criteria for the safe harbor
15 exception provided under paragraph (6) of section
16 304(k) of such Act (as added by subsection (a)).

17 (c) REPORTING.—Not later than 2 years after the
18 date of the enactment of this Act, and biannually there-
19 after, the Chairman of the Federal Election Commission
20 shall submit a report to Congress on—

21 (1) matters relating to compliance with and the
22 enforcement of the requirements of section 304(k) of
23 the Federal Election Campaign Act of 1971, as
24 added by subsection (a);

1 (2) recommendations for any modifications to
2 such section to assist in carrying out its purposes;
3 and

4 (3) identifying ways to bring transparency and
5 accountability to political advertisements distributed
6 online for free.

7 **SEC. 117. PREVENTING CONTRIBUTIONS, EXPENDITURES,**
8 **INDEPENDENT EXPENDITURES, AND DIS-**
9 **BURSEMENTS FOR ELECTIONEERING COM-**
10 **MUNICATIONS BY FOREIGN NATIONALS IN**
11 **THE FORM OF ONLINE ADVERTISING.**

12 Section 319 of the Federal Election Campaign Act
13 of 1971 (52 U.S.C. 30121) is amended by adding at the
14 end the following new subsection:

15 “(c) RESPONSIBILITIES OF BROADCAST STATIONS,
16 PROVIDERS OF CABLE AND SATELLITE TELEVISION, AND
17 ONLINE PLATFORMS.—

18 “(1) RESPONSIBILITIES DESCRIBED.—Each tel-
19 evision or radio broadcast station, provider of cable
20 or satellite television, or online platform (as defined
21 in section 304(k)(3)) shall make reasonable efforts
22 to ensure that communications described in section
23 318(a) and made available by such station, provider,
24 or platform are not purchased by a foreign national,
25 directly or indirectly. For purposes of the previous

1 sentence, a station, provider, or online platform shall
2 not be considered to have made reasonable efforts
3 under this paragraph in the case of the availability
4 of a communication unless the station, provider, or
5 online platform directly inquires from the individual
6 or entity making such purchase whether the pur-
7 chase is to be made by a foreign national, directly
8 or indirectly.

9 “(2) SPECIAL RULES FOR DISBURSEMENT PAID
10 WITH CREDIT CARD.—For purposes of paragraph
11 (1), a television or radio broadcast station, provider
12 of cable or satellite television, or online platform
13 shall be considered to have made reasonable efforts
14 under such paragraph in the case of a purchase of
15 the availability of a communication which is made
16 with a credit card if—

17 “(A) the individual or entity making such
18 purchase is required, at the time of making
19 such purchase, to disclose the credit verification
20 value of such credit card; and

21 “(B) the billing address associated with
22 such credit card is located in the United States
23 or, in the case of a purchase made by an indi-
24 vidual who is a United States citizen living out-
25 side of the United States, the individual pro-

1 provides the television or radio broadcast station,
2 provider of cable or satellite television, or online
3 platform with the United States mailing ad-
4 dress the individual uses for voter registration
5 purposes.”.

6 **TITLE II—CLOSING LOOPHOLES**
7 **ALLOWING SPENDING BY**
8 **FOREIGN NATIONALS IN**
9 **ELECTIONS**

10 **SEC. 201. CLARIFICATION OF PROHIBITION ON PARTICIPA-**
11 **TION BY FOREIGN NATIONALS IN ELECTION-**
12 **RELATED ACTIVITIES.**

13 (a) CLARIFICATION OF PROHIBITION.—Section
14 319(a) of the Federal Election Campaign Act of 1971 (52
15 U.S.C. 30121(a)) is amended—

16 (1) by striking “or” at the end of paragraph
17 (1);

18 (2) by striking the period at the end of para-
19 graph (2) and inserting “; or”; and

20 (3) by adding at the end the following new
21 paragraph:

22 “(3) a foreign national to direct, dictate, con-
23 trol, or directly or indirectly participate in the deci-
24 sion making process of any person (including a cor-
25 poration, labor organization, political committee, or

1 political organization) with regard to such person's
2 Federal or non-Federal election-related activity, in-
3 cluding any decision concerning the making of con-
4 tributions, donations, expenditures, or disbursements
5 in connection with an election for any Federal,
6 State, or local office or any decision concerning the
7 administration of a political committee.”.

8 (b) CERTIFICATION OF COMPLIANCE.—Section 319
9 of such Act (52 U.S.C. 30121), as amended by section
10 117, is further amended by adding at the end the following
11 new subsection:

12 “(d) CERTIFICATION OF COMPLIANCE REQUIRED
13 PRIOR TO CARRYING OUT ACTIVITY.—Prior to the mak-
14 ing in connection with an election for Federal office of any
15 contribution, donation, expenditure, independent expendi-
16 ture, or disbursement for an electioneering communication
17 by a corporation, limited liability corporation, or partner-
18 ship during a year, the chief executive officer of the cor-
19 poration, limited liability corporation, or partnership (or,
20 if the corporation, limited liability corporation, or partner-
21 ship does not have a chief executive officer, the highest
22 ranking official of the corporation, limited liability cor-
23 poration, or partnership), shall file a certification with the
24 Commission, under penalty of perjury, that a foreign na-
25 tional did not direct, dictate, control, or directly or indi-

1 rectly participate in the decision making process relating
2 to such activity in violation of subsection (a)(3), unless
3 the chief executive officer has previously filed such a cer-
4 tification during that calendar year.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect upon the expiration of the
7 180-day period which begins on the date of the enactment
8 of this Act.

9 **SEC. 202. CLARIFICATION OF APPLICATION OF FOREIGN**
10 **MONEY BAN TO CERTAIN DISBURSEMENTS**
11 **AND ACTIVITIES.**

12 (a) APPLICATION TO DISBURSEMENTS TO SUPER
13 PACS.—Section 319(a)(1)(A) of the Federal Election
14 Campaign Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is
15 amended by striking the semicolon and inserting the fol-
16 lowing: “, including any disbursement to a political com-
17 mittee which accepts donations or contributions that do
18 not comply with the limitations, prohibitions, and report-
19 ing requirements of this Act (or any disbursement to or
20 on behalf of any account of a political committee which
21 is established for the purpose of accepting such donations
22 or contributions);”.

23 (b) CONDITIONS UNDER WHICH CORPORATE PACS
24 MAY MAKE CONTRIBUTIONS AND EXPENDITURES.—Sec-

1 tion 316(b) of such Act (52 U.S.C. 30118(b)) is amended
2 by adding at the end the following new paragraph:

3 “(8) A separate segregated fund established by a cor-
4 poration may not make a contribution or expenditure dur-
5 ing a year unless the fund has certified to the Commission
6 the following during the year:

7 “(A) Each individual who manages the fund,
8 and who is responsible for exercising decisionmaking
9 authority for the fund, is a citizen of the United
10 States or is lawfully admitted for permanent resi-
11 dence in the United States.

12 “(B) No foreign national under section 319
13 participates in any way in the decisionmaking proc-
14 esses of the fund with regard to contributions or ex-
15 penditures under this Act.

16 “(C) The fund does not solicit or accept rec-
17 ommendations from any foreign national under sec-
18 tion 319 with respect to the contributions or expend-
19 itures made by the fund.

20 “(D) Any member of the board of directors of
21 the corporation who is a foreign national under sec-
22 tion 319 abstains from voting on matters concerning
23 the fund or its activities.”.

1 **SEC. 203. AUDIT AND REPORT ON ILLICIT FOREIGN MONEY**
2 **IN FEDERAL ELECTIONS.**

3 (a) IN GENERAL.—Title III of the Federal Election
4 Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is
5 amended by inserting after section 319 the following new
6 section:

7 **“SEC. 319A. AUDIT AND REPORT ON DISBURSEMENTS BY**
8 **FOREIGN NATIONALS.**

9 “(a) AUDIT.—

10 “(1) IN GENERAL.—The Commission shall con-
11 duct an audit after each Federal election cycle to de-
12 termine the incidence of illicit foreign money in such
13 Federal election cycle.

14 “(2) PROCEDURES.—In carrying out paragraph
15 (1), the Commission shall conduct random audits of
16 any disbursements required to be reported under
17 this Act, in accordance with procedures established
18 by the Commission.

19 “(b) REPORT.—Not later than 180 days after the end
20 of each Federal election cycle, the Commission shall sub-
21 mit to Congress a report containing—

22 “(1) results of the audit required by subsection
23 (a)(1); and

24 “(2) recommendations to address the presence
25 of illicit foreign money in elections, as appropriate.

26 “(c) DEFINITIONS.—As used in this section:

1 **SEC. 205. EXPANSION OF LIMITATIONS ON FOREIGN NA-**
2 **TIONALS PARTICIPATING IN POLITICAL AD-**
3 **VERTISING.**

4 (a) DISBURSEMENTS DESCRIBED.—Section
5 319(a)(1) of the Federal Election Campaign Act of 1971
6 (52 U.S.C. 30121(a)(1)) is amended—

7 (1) by striking “or” at the end of subparagraph
8 (B); and

9 (2) by striking subparagraph (C) and inserting
10 the following:

11 “(C) an expenditure;

12 “(D) an independent expenditure;

13 “(E) a disbursement for an electioneering
14 communication (within the meaning of section
15 304(f)(3));

16 “(F) a disbursement for a communication
17 which is placed or promoted for a fee on a
18 website, web application, or digital application
19 that refers to a clearly identified candidate for
20 election for Federal office and is disseminated
21 within 60 days before a general, special or run-
22 off election for the office sought by the can-
23 didate or 30 days before a primary or pref-
24 erence election, or a convention or caucus of a
25 political party that has authority to nominate a

1 candidate for the office sought by the can-
2 didate;

3 “(G) a disbursement for a broadcast, cable
4 or satellite communication, or for a communica-
5 tion which is placed or promoted for a fee on
6 a website, web application, or digital applica-
7 tion, that promotes, supports, attacks or op-
8 poses the election of a clearly identified can-
9 didate for Federal, State, or local office (re-
10 gardless of whether the communication contains
11 express advocacy or the functional equivalent of
12 express advocacy);

13 “(H) a disbursement for a broadcast,
14 cable, or satellite communication, or for any
15 communication which is placed or promoted for
16 a fee on an online platform (as defined in sec-
17 tion 304(k)(3)), that discusses a national legis-
18 lative issue of public importance in a year in
19 which a regularly scheduled general election for
20 Federal office is held, but only if the disburse-
21 ment is made by a covered foreign national de-
22 scribed in section 304(j)(3)(C); or

23 “(I) a disbursement by a covered foreign
24 national described in section 304(j)(3)(C) to
25 compensate any person for internet activity that

1 promotes, supports, attacks or opposes the elec-
2 tion of a clearly identified candidate for Fed-
3 eral, State, or local office (regardless of whether
4 the activity communication contains express ad-
5 vocacy or the functional equivalent of express
6 advocacy);”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to disbursements
9 made on or after the date of the enactment of this Act.

10 **TITLE III—DETECTING FOREIGN**
11 **INTERFERENCE IN ELECTIONS**
12 **Subtitle A—Deterrence Under Fed-**
13 **eral Election Campaign Act of**
14 **1971**

15 **SEC. 301. RESTRICTIONS ON EXCHANGE OF CAMPAIGN IN-**
16 **FORMATION BETWEEN CANDIDATES AND**
17 **FOREIGN POWERS.**

18 Section 319 of the Federal Election Campaign Act
19 of 1971 (52 U.S.C. 30121), as amended by section 117
20 and section 201(b), is further amended by adding at the
21 end the following new subsection:

22 “(e) RESTRICTIONS ON EXCHANGE OF INFORMATION
23 BETWEEN CANDIDATES AND FOREIGN POWERS.—

24 “(1) TREATMENT OF OFFER TO SHARE NON-
25 PUBLIC CAMPAIGN MATERIAL AS SOLICITATION OF

1 CONTRIBUTION FROM FOREIGN NATIONAL.—If a
2 candidate or an individual affiliated with the cam-
3 paign of a candidate, or if a political committee or
4 an individual affiliated with a political committee,
5 provides or offers to provide nonpublic campaign
6 material to a covered foreign national or to another
7 person whom the candidate, committee, or individual
8 knows or has reason to know will provide the mate-
9 rial to a covered foreign national, the candidate,
10 committee, or individual (as the case may be) shall
11 be considered for purposes of this section to have so-
12 lited a contribution or donation described in sub-
13 section (a)(1)(A) from a foreign national.

14 “(2) DEFINITIONS.—In this subsection, the fol-
15 lowing definitions apply:

16 “(A) The term ‘candidate’ means an indi-
17 vidual who seeks nomination for, or election to,
18 any Federal, State, or local public office.

19 “(B) The term ‘covered foreign national’
20 has the meaning given such term in section
21 304(j)(3)(C).

22 “(C) The term ‘individual affiliated with a
23 campaign’ means, with respect to a candidate,
24 an employee of any organization legally author-
25 ized under Federal, State, or local law to sup-

1 port the candidate's campaign for nomination
2 for, or election to, any Federal, State, or local
3 public office, as well as any independent con-
4 tractor of such an organization and any indi-
5 vidual who performs services on behalf of the
6 organization, whether paid or unpaid.

7 “(D) The term ‘individual affiliated with a
8 political committee’ means, with respect to a
9 political committee, an employee of the com-
10 mittee as well as any independent contractor of
11 the committee and any individual who performs
12 services on behalf of the committee, whether
13 paid or unpaid.

14 “(E) The term ‘nonpublic campaign mate-
15 rial’ means, with respect to a candidate or a po-
16 litical committee, campaign material that is
17 produced by the candidate or the committee or
18 produced at the candidate or committee's ex-
19 pense or request which is not distributed or
20 made available to the general public or other-
21 wise in the public domain, including polling and
22 focus group data and opposition research, ex-
23 cept that such term does not include material
24 produced for purposes of consultations relating

1 solely to the candidate’s or committee’s position
2 on a legislative or policy matter.”.

3 **SEC. 302. CLARIFICATION OF STANDARD FOR DETER-**
4 **MINING EXISTENCE OF COORDINATION BE-**
5 **TWEEN CAMPAIGNS AND OUTSIDE INTER-**
6 **ESTS.**

7 Section 315(a) of the Federal Election Campaign Act
8 of 1971 (52 U.S.C. 30116(a)) is amended by adding at
9 the end the following new paragraph:

10 “(10) For purposes of paragraph (7), an expenditure
11 or disbursement may be considered to have been made in
12 cooperation, consultation, or concert with, or coordinated
13 with, a person without regard to whether or not the co-
14 operation, consultation, or coordination is carried out pur-
15 suant to agreement or formal collaboration.”.

16 **Subtitle B—[Reserved]**
17 **TITLE IV—MISCELLANEOUS**
18 **PROVISIONS**

19 **SEC. 401. EFFECTIVE DATES OF PROVISIONS.**

20 Each provision of this Act and each amendment made
21 by a provision of this Act shall take effect on the effective
22 date provided under this Act for such provision or such
23 amendment without regard to whether or not the Federal
24 Election Commission, the Attorney General, or any other

1 person has promulgated regulations to carry out such pro-
2 vision or such amendment.

3 **SEC. 402. SEVERABILITY.**

4 If any provision of this Act or any amendment made
5 by this Act, or the application of a provision of this Act
6 or an amendment made by this Act to any person or cir-
7 cumstance, is held to be unconstitutional, the remainder
8 of this Act, and the application of the provisions to any
9 person or circumstance, shall not be affected by the hold-
10 ing.

