

116TH CONGRESS
1ST SESSION

H. R. 4617

[Report No. 116-]

To amend the Federal Election Campaign Act of 1971 to clarify the obligation to report acts of foreign election influence and require implementation of compliance and reporting systems by Federal campaigns to detect and report such acts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2019

Ms. LOFGREN (for herself, Mr. SARBANES, Mr. RASKIN, Mrs. DAVIS of California, Mr. BUTTERFIELD, Ms. FUDGE, Mr. AGUILAR, Mr. NADLER, Mrs. MURPHY of Florida, Mr. MCEACHIN, Mr. MALINOWSKI, and Mr. KILMER) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on the Judiciary, 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

OCTOBER --, 2019

Reported from the Committee on House Administration with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on October 8, 2019]

A BILL

To amend the Federal Election Campaign Act of 1971 to clarify the obligation to report acts of foreign election influence and require implementation of compliance and reporting systems by Federal campaigns to detect and report such acts, 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; TABLE OF CONTENTS.**

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

7 (b) *TABLE OF CONTENTS.*—*The table of contents of this*
 8 *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 REPORTING***
 2 ***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) is*
 11 *amended by adding at the end the following new sub-*
 12 *section:*

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

15 *“(1) COMMITTEE OBLIGATION TO NOTIFY.—Not*
 16 *later than 1 week after a reportable foreign contact,*
 17 *each political committee shall notify the Federal Bu-*
 18 *reau of Investigation and the Commission of the re-*
 19 *portable foreign contact and provide a summary of*

1 *the circumstances with respect to such reportable for-*
2 *ign contact.*

3 “(2) *INDIVIDUAL OBLIGATION TO NOTIFY.*—*Not*
4 *later than 3 days after a reportable foreign contact—*

5 “(A) *each candidate shall notify the treas-*
6 *urer or other designated official of the principal*
7 *campaign committee of such candidate of the re-*
8 *portable foreign contact and provide a summary*
9 *of the circumstances with respect to such report-*
10 *able foreign contact; and*

11 “(B) *each official, employee, or agent of a*
12 *political committee shall notify the treasurer or*
13 *other designated official of the committee of the*
14 *reportable foreign contact and provide a sum-*
15 *mary of the circumstances with respect to such*
16 *reportable foreign contact.*

17 “(3) *REPORTABLE FOREIGN CONTACT.*—*In this*
18 *subsection:*

19 “(A) *IN GENERAL.*—*The term ‘reportable*
20 *foreign contact’ means any direct or indirect*
21 *contact or communication that—*

22 “(i) *is between—*

23 “(I) *a candidate, a political com-*
24 *mittee, or any official, employee, or*
25 *agent of such committee; and*

1 “(II) an individual that the per-
2 son described in subclause (I) knows,
3 has reason to know, or reasonably be-
4 lieves is a covered foreign national;
5 and

6 “(ii) the person described in clause
7 (i)(I) knows, has reason to know, or reason-
8 ably believes involves—

9 “(I) an offer or other proposal for
10 a contribution, donation, expenditure,
11 disbursement, or solicitation described
12 in section 319; or

13 “(II) coordination or collabora-
14 tion with, an offer or provision of in-
15 formation or services to or from, or
16 persistent and repeated contact with, a
17 covered foreign national in connection
18 with an election.

19 “(B) EXCEPTION.—The term ‘reportable for-
20 eign contact’ shall not include any contact or
21 communication with a covered foreign national
22 by an elected official or an employee of an elect-
23 ed official solely in an official capacity as such
24 an official or employee. For purposes of the pre-
25 vious sentence, a contact or communication by

1 *an elected official or an employee of an elected*
2 *official shall not be considered to be made solely*
3 *in an official capacity if the contact or commu-*
4 *nication involves a contribution, donation, ex-*
5 *penditure, disbursement, or solicitation described*
6 *in section 319.*

7 “(C) *COVERED FOREIGN NATIONAL DE-*
8 *FINED.—*

9 “(i) *IN GENERAL.—In this paragraph,*
10 *the term ‘covered foreign national’ means—*

11 “(I) *a foreign principal (as de-*
12 *finied in section 1(b) of the Foreign*
13 *Agents Registration Act of 1938 (22*
14 *U.S.C. 611(b)) that is a government of*
15 *a foreign country or a foreign political*
16 *party;*

17 “(II) *any person who acts as an*
18 *agent, representative, employee, or*
19 *servant, or any person who acts in any*
20 *other capacity at the order, request, or*
21 *under the direction or control, of a for-*
22 *ign principal described in subclause*
23 *(I) or of a person any of whose activi-*
24 *ties are directly or indirectly super-*
25 *vised, directed, controlled, financed, or*

1 *subsidized in whole or in major part*
2 *by a foreign principal described in*
3 *subclause (I); or*

4 “*(III) any person included in the*
5 *list of specially designated nationals*
6 *and blocked persons maintained by the*
7 *Office of Foreign Assets Control of the*
8 *Department of the Treasury pursuant*
9 *to authorities relating to the imposi-*
10 *tion of sanctions relating to the con-*
11 *duct of a foreign principal described in*
12 *subclause (I).*”

13 “*(ii) CLARIFICATION REGARDING AP-*
14 *PLICATION TO CITIZENS OF THE UNITED*
15 *STATES.—In the case of a citizen of the*
16 *United States, subclause (II) of clause (i)*
17 *applies only to the extent that the person*
18 *involved acts within the scope of that per-*
19 *son’s status as the agent of a foreign prin-*
20 *cipal described in subclause (I) of clause*
21 *(i).*”.

22 (2) *EFFECTIVE DATE.—The amendment made by*
23 *paragraph (1) shall apply with respect to reportable*
24 *foreign contacts which occur on or after the date of*
25 *the enactment of this Act.*

1 **(b) INFORMATION INCLUDED ON REPORT.—**

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

4 **(A)** *by striking “and” at the end of para-*
5 *graph (7);*

6 **(B)** *by striking the period at the end of*
7 *paragraph (8) and inserting “; and”; and*

8 **(C)** *by adding at the end the following new*
9 *paragraph:*

10 *“(9) for any reportable foreign contact (as de-*
11 *finied in subsection (j)(3))—*

12 *“(A) the date, time, and location of the con-*
13 *tact;*

14 *“(B) the date and time of when a des-*
15 *ignated official of the committee was notified of*
16 *the contact;*

17 *“(C) the identity of individuals involved;*
18 *and*

19 *“(D) a description of the contact, including*
20 *the nature of any contribution, donation, ex-*
21 *penditure, disbursement, or solicitation involved*
22 *and the nature of any activity described in sub-*
23 *section (j)(3)(A)(ii)(II) involved.”.*

24 **(2) EFFECTIVE DATE.—***The amendment made by*
25 *paragraph (1) shall apply with respect to reports*

1 *filed on or after the expiration of the 60-day period*
2 *which begins on the date of the enactment of this Act.*

3 **SEC. 102. FEDERAL CAMPAIGN FOREIGN CONTACT REPORT-**
4 **ING COMPLIANCE SYSTEM.**

5 *(a) IN GENERAL.—Section 302 of the Federal Election*
6 *Campaign Act of 1971 (52 U.S.C. 30102) is amended by*
7 *adding at the end the following new subsection:*

8 “(j) *REPORTABLE FOREIGN CONTACTS COMPLIANCE*
9 *POLICY.—*

10 “(1) *REPORTING.—Each political committee*
11 *shall establish a policy that requires all officials, em-*
12 *ployees, and agents of such committee to notify the*
13 *treasurer or other appropriate designated official of*
14 *the committee of any reportable foreign contact (as*
15 *defined in section 304(j)) not later than 3 days after*
16 *such contact was made.*

17 “(2) *RETENTION AND PRESERVATION OF*
18 *RECORDS.—Each political committee shall establish a*
19 *policy that provides for the retention and preserva-*
20 *tion of records and information related to reportable*
21 *foreign contacts (as so defined) for a period of not less*
22 *than 3 years.*

23 “(3) *CERTIFICATION.—*

24 “(A) *IN GENERAL.—Upon filing its state-*
25 *ment of organization under section 303(a), and*

1 with each report filed under section 304(a), the
2 treasurer of each political committee (other than
3 an authorized committee) shall certify that—

4 “(i) the committee has in place policies
5 that meet the requirements of paragraphs
6 (1) and (2);

7 “(ii) the committee has designated an
8 official to monitor compliance with such
9 policies; and

10 “(iii) not later than 1 week after the
11 beginning of any formal or informal affili-
12 ation with the committee, all officials, em-
13 ployees, and agents of such committee
14 will—

15 “(I) receive notice of such policies;

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

18 “(III) sign a certification affirm-
19 ing their understanding of such poli-
20 cies and prohibitions.

21 “(B) *AUTHORIZED COMMITTEES.*—With re-
22 spect to an authorized committee, the candidate
23 shall make the certification required under sub-
24 paragraph (A).”.

25 (b) *EFFECTIVE DATE.*—

1 (1) *IN GENERAL.*—*The amendment made by sub-*
2 *section (a) shall apply with respect to political com-*
3 *mittees which file a statement of organization under*
4 *section 303(a) of the Federal Election Campaign Act*
5 *of 1971 (52 U.S.C. 30103(a)) on or after the date of*
6 *the enactment of this Act.*

7 (2) *TRANSITION RULE FOR EXISTING COMMIT-*
8 *TEES.*—*Not later than 30 days after the date of the*
9 *enactment of this Act, each political committee under*
10 *the Federal Election Campaign Act of 1971 shall file*
11 *a certification with the Federal Election Commission*
12 *that the committee is in compliance with the require-*
13 *ments of section 302(j) of such Act (as added by sub-*
14 *section (a)).*

15 **SEC. 103. CRIMINAL PENALTIES.**

16 *Section 309(d)(1) of the Federal Election Campaign*
17 *Act of 1971 (52 U.S.C. 30109(d)(1)) is amended by adding*
18 *at the end the following new subparagraphs:*

19 “(E) *Any person who knowingly and willfully commits*
20 *a violation of subsection (j) or (b)(9) of section 304 or sec-*
21 *tion 302(j) shall be fined not more than \$500,000, impris-*
22 *oned not more than 5 years, or both.*

23 “(F) *Any person who knowingly and willfully conceals*
24 *or destroys any materials relating to a reportable foreign*
25 *contact (as defined in section 304(j)) shall be fined not more*

1 *than \$1,000,000, imprisoned not more than 5 years, or*
2 *both.”.*

3 **SEC. 104. RULE OF CONSTRUCTION.**

4 *Nothing in this subtitle or the amendments made by*
5 *this subtitle shall be construed—*

6 *(1) to impede legitimate journalistic activities;*

7 *or*

8 *(2) to impose any additional limitation on the*
9 *right to express political views or to participate in*
10 *public discourse of any individual who—*

11 *(A) resides in the United States;*

12 *(B) is not a citizen of the United States or*
13 *a national of the United States, as defined in*
14 *section 101(a)(22) of the Immigration and Na-*
15 *tionality Act (8 U.S.C. 1101(a)(22)); and*

16 *(C) is not lawfully admitted for permanent*
17 *residence, as defined by section 101(a)(20) of the*
18 *Immigration and Nationality Act (8 U.S.C.*
19 *1101(a)(20)).*

20 ***Subtitle B—Strengthening Over-***
21 ***sight of Online Political Adver-***
22 ***tising***

23 **SEC. 111. SHORT TITLE.**

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

1 **SEC. 112. PURPOSE.**

2 *The purpose of this subtitle is to enhance the integrity*
3 *of American democracy and national security by improving*
4 *disclosure requirements for online political advertisements*
5 *in order to uphold the Supreme Court’s well-established*
6 *standard that the electorate bears the right to be fully in-*
7 *formed.*

8 **SEC. 113. EXPANSION OF DEFINITION OF PUBLIC COMMU-**
9 **NICATION.**

10 *(a) IN GENERAL.—Paragraph (22) of section 301 of*
11 *the Federal Election Campaign Act of 1971 (52 U.S.C.*
12 *30101(22)) is amended by striking “or satellite communica-*
13 *tion” and inserting “satellite, paid internet, or paid digital*
14 *communication”.*

15 *(b) TREATMENT OF CONTRIBUTIONS AND EXPENDI-*
16 *TURES.—Section 301 of such Act (52 U.S.C. 30101) is*
17 *amended—*

18 *(1) in paragraph (8)(B)(v), by striking “on*
19 *broadcasting stations, or in newspapers, magazines,*
20 *or similar types of general public political adver-*
21 *tising” and inserting “in any public communica-*
22 *tion”; and*

23 *(2) in paragraph (9)(B)—*

24 *(A) by amending clause (i) to read as fol-*
25 *lows:*

1 “(i) any news story, commentary, or
2 editorial distributed through the facilities of
3 any broadcasting station or any print, on-
4 line, or digital newspaper, magazine, blog,
5 publication, or periodical, unless such
6 broadcasting, print, online, or digital facili-
7 ties are owned or controlled by any political
8 party, political committee, or candidate;”;
9 and

10 (B) in clause (iv), by striking “on broad-
11 casting stations, or in newspapers, magazines, or
12 similar types of general public political adver-
13 tising” and inserting “in any public commu-
14 nication”.

15 (c) *DISCLOSURE AND DISCLAIMER STATEMENTS.*—
16 Subsection (a) of section 318 of such Act (52 U.S.C. 30120)
17 is amended—

18 (1) by striking “financing any communication
19 through any broadcasting station, newspaper, maga-
20 zine, outdoor advertising facility, mailing, or any
21 other type of general public political advertising” and
22 inserting “financing any public communication”;
23 and

24 (2) by striking “solicits any contribution through
25 any broadcasting station, newspaper, magazine, out-

1 *an online platform (as defined in subsection*
2 *(k)(3)).”.*

3 (2) *NONAPPLICATION OF RELEVANT ELECTORATE*
4 *TO ONLINE COMMUNICATIONS.—Section*
5 *304(f)(3)(A)(i)(III) of such Act (52 U.S.C.*
6 *30104(f)(3)(A)(i)(III)) is amended by inserting “any*
7 *broadcast, cable, or satellite” before “communication”.*

8 (3) *NEWS EXEMPTION.—Section 304(f)(3)(B)(i)*
9 *of such Act (52 U.S.C. 30104(f)(3)(B)(i)) is amended*
10 *to read as follows:*

11 *“(i) a communication appearing in a*
12 *news story, commentary, or editorial dis-*
13 *tributed through the facilities of any broad-*
14 *casting station or any online or digital*
15 *newspaper, magazine, blog, publication, or*
16 *periodical, unless such broadcasting, online,*
17 *or digital facilities are owned or controlled*
18 *by any political party, political committee,*
19 *or candidate;”.*

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

1 **SEC. 115. APPLICATION OF DISCLAIMER STATEMENTS TO**
2 **ONLINE COMMUNICATIONS.**

3 (a) *CLEAR AND CONSPICUOUS MANNER REQUIRE-*
4 *MENT.—Subsection (a) of section 318 of the Federal Elec-*
5 *tion Campaign Act of 1971 (52 U.S.C. 30120(a)) is amend-*
6 *ed—*

7 (1) *by striking “shall clearly state” each place it*
8 *appears in paragraphs (1), (2), and (3) and inserting*
9 *“shall state in a clear and conspicuous manner”; and*

10 (2) *by adding at the end the following flush sen-*
11 *tence: “For purposes of this section, a communication*
12 *does not make a statement in a clear and conspicuous*
13 *manner if it is difficult to read or hear or if the*
14 *placement is easily overlooked.”.*

15 (b) *SPECIAL RULES FOR QUALIFIED INTERNET OR*
16 *DIGITAL COMMUNICATIONS.—*

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

20 “(e) *SPECIAL RULES FOR QUALIFIED INTERNET OR*
21 *DIGITAL COMMUNICATIONS.—*

22 “(1) *SPECIAL RULES WITH RESPECT TO STATE-*
23 *MENTS.—In the case of any communication to which*
24 *this section applies which is a qualified internet or*
25 *digital communication (as defined in section*
26 *304(f)(3)(D)) which is disseminated through a me-*

1 *dium in which the provision of all of the information*
2 *specified in this section is not possible, the commu-*
3 *nication shall, in a clear and conspicuous manner—*

4 *“(A) state the name of the person who paid*
5 *for the communication; and*

6 *“(B) provide a means for the recipient of*
7 *the communication to obtain the remainder of*
8 *the information required under this section with*
9 *minimal effort and without receiving or viewing*
10 *any additional material other than such re-*
11 *quired information.*

12 *“(2) SAFE HARBOR FOR DETERMINING CLEAR*
13 *AND CONSPICUOUS MANNER.—A statement in a quali-*
14 *fied internet or digital communication (as defined in*
15 *section 304(f)(3)(D)) shall be considered to be made*
16 *in a clear and conspicuous manner as provided in*
17 *subsection (a) if the communication meets the fol-*
18 *lowing requirements:*

19 *“(A) TEXT OR GRAPHIC COMMUNICA-*
20 *TIONS.—In the case of a text or graphic commu-*
21 *nication, the statement—*

22 *“(i) appears in letters at least as large*
23 *as the majority of the text in the commu-*
24 *nication; and*

1 “(i) meets the requirements of para-
2 graphs (2) and (3) of subsection (c).

3 “(B) AUDIO COMMUNICATIONS.—In the case
4 of an audio communication, the statement is
5 spoken in a clearly audible and intelligible man-
6 ner at the beginning or end of the communica-
7 tion and lasts at least 3 seconds.

8 “(C) VIDEO COMMUNICATIONS.—In the case
9 of a video communication which also includes
10 audio, the statement—

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

13 “(ii) is made both in—

14 “(I) a written format that meets
15 the requirements of subparagraph (A)
16 and appears for at least 4 seconds; and

17 “(II) an audible format that
18 meets the requirements of subpara-
19 graph (B).

20 “(D) OTHER COMMUNICATIONS.—In the
21 case of any other type of communication, the
22 statement is at least as clear and conspicuous as
23 the statement specified in subparagraph (A), (B),
24 or (C).”.

1 (2) *NONAPPLICATION OF CERTAIN EXCEP-*
2 *TIONS.—The exceptions provided in section*
3 *110.11(f)(1)(i) and (ii) of title 11, Code of Federal*
4 *Regulations, or any successor to such rules, shall have*
5 *no application to qualified internet or digital commu-*
6 *nications (as defined in section 304(f)(3)(D) of the*
7 *Federal Election Campaign Act of 1971, as added by*
8 *this Act).*

9 (c) *MODIFICATION OF ADDITIONAL REQUIREMENTS*
10 *FOR CERTAIN COMMUNICATIONS.—Section 318(d) of such*
11 *Act (52 U.S.C. 30120(d)) is amended—*

12 (1) *in paragraph (1)(A)—*

13 (A) *by striking “which is transmitted*
14 *through radio” and inserting “which is in an*
15 *audio format”; and*

16 (B) *by striking “BY RADIO” in the heading*
17 *and inserting “AUDIO FORMAT”;*

18 (2) *in paragraph (1)(B)—*

19 (A) *by striking “which is transmitted*
20 *through television” and inserting “which is in*
21 *video format”; and*

22 (B) *by striking “BY TELEVISION” in the*
23 *heading and inserting “VIDEO FORMAT”; and*

24 (3) *in paragraph (2)—*

1 (A) by striking “transmitted through radio
2 or television” and inserting “made in audio or
3 video format”; and

4 (B) by striking “through television” in the
5 second sentence and inserting “in video format”.

6 **SEC. 116. POLITICAL RECORD REQUIREMENTS FOR ONLINE**
7 **PLATFORMS.**

8 (a) *IN GENERAL.*—Section 304 of the Federal Election
9 Campaign Act of 1971 (52 U.S.C. 30104), as amended by
10 section 101(a), is further amended by adding at the end
11 the following new subsection:

12 “(k) *DISCLOSURE OF CERTAIN ONLINE ADVERTISE-*
13 *MENTS.*—

14 “(1) *IN GENERAL.*—

15 “(A) *REQUIREMENTS FOR ONLINE PLAT-*
16 *FORMS.*—An online platform shall maintain,
17 and make available for online public inspection
18 in machine readable format, a complete record of
19 any request to purchase on such online platform
20 a qualified political advertisement which is
21 made by a person whose aggregate requests to
22 purchase qualified political advertisements on
23 such online platform during the calendar year
24 exceeds \$500.

1 “(B) *REQUIREMENTS FOR ADVERTISERS.*—
2 *Any person who requests to purchase a qualified*
3 *political advertisement on an online platform*
4 *shall provide the online platform with such in-*
5 *formation as is necessary for the online platform*
6 *to comply with the requirements of subparagraph*
7 *(A).*

8 “(2) *CONTENTS OF RECORD.*—*A record main-*
9 *tained under paragraph (1)(A) shall contain—*

10 “(A) *a digital copy of the qualified political*
11 *advertisement;*

12 “(B) *a description of the audience targeted*
13 *by the advertisement, the number of views gen-*
14 *erated from the advertisement, and the date and*
15 *time that the advertisement is first displayed*
16 *and last displayed; and*

17 “(C) *information regarding—*

18 “(i) *the average rate charged for the*
19 *advertisement;*

20 “(ii) *the name of the candidate to*
21 *which the advertisement refers and the office*
22 *to which the candidate is seeking election,*
23 *the election to which the advertisement re-*
24 *fers, or the national legislative issue to*

1 *which the advertisement refers (as applica-*
2 *ble);*

3 *“(iii) in the case of a request made by,*
4 *or on behalf of, a candidate, the name of the*
5 *candidate, the authorized committee of the*
6 *candidate, and the treasurer of such com-*
7 *mittee; and*

8 *“(iv) in the case of any request not de-*
9 *scribed in clause (iii), the name of the per-*
10 *son purchasing the advertisement, the name*
11 *and address of a contact person for such*
12 *person, and a list of the chief executive offi-*
13 *cers or members of the executive committee*
14 *or of the board of directors of such person.*

15 *“(3) ONLINE PLATFORM.—For purposes of this*
16 *subsection, the term ‘online platform’ means any pub-*
17 *lic-facing website, web application, or digital applica-*
18 *tion (including a social network, ad network, or*
19 *search engine) which—*

20 *“(A) sells qualified political advertisements;*
21 *and*

22 *“(B) has 50,000,000 or more unique month-*
23 *ly United States visitors or users for a majority*
24 *of months during the preceding 12 months.*

1 “(4) *QUALIFIED POLITICAL ADVERTISEMENT.*—
2 *For purposes of this subsection, the term ‘qualified*
3 *political advertisement’ means any advertisement (in-*
4 *cluding search engine marketing, display advertise-*
5 *ments, video advertisements, native advertisements,*
6 *and sponsorships) that—*

7 “(A) *is made by or on behalf of a candidate;*

8 *or*

9 “(B) *communicates a message relating to*
10 *any political matter of national importance, in-*
11 *cluding—*

12 “(i) *a candidate;*

13 “(ii) *any election to Federal office; or*

14 “(iii) *a national legislative issue of*
15 *public importance.*

16 “(5) *TIME TO MAINTAIN FILE.*—*The information*
17 *required under this subsection shall be made available*
18 *as soon as possible and shall be retained by the online*
19 *platform for a period of not less than 4 years.*

20 “(6) *SAFE HARBOR FOR PLATFORMS MAKING*
21 *BEST EFFORTS TO IDENTIFY REQUESTS WHICH ARE*
22 *SUBJECT TO RECORD MAINTENANCE REQUIRE-*
23 *MENTS.*—*In accordance with rules established by the*
24 *Commission, if an online platform shows that the*
25 *platform used best efforts to determine whether or not*

1 *a request to purchase a qualified political advertise-*
2 *ment was subject to the requirements of this sub-*
3 *section, the online platform shall not be considered to*
4 *be in violation of such requirements.*

5 *“(7) PENALTIES.—For penalties for failure by*
6 *online platforms, and persons requesting to purchase*
7 *a qualified political advertisement on online plat-*
8 *forms, to comply with the requirements of this sub-*
9 *section, see section 309.”.*

10 *(b) RULEMAKING.—Not later than 120 days after the*
11 *date of the enactment of this Act, the Federal Election Com-*
12 *mission shall establish rules—*

13 *(1) requiring common data formats for the*
14 *record required to be maintained under section 304(k)*
15 *of the Federal Election Campaign Act of 1971 (as*
16 *added by subsection (a)) so that all online platforms*
17 *submit and maintain data online in a common, ma-*
18 *chine-readable and publicly accessible format;*

19 *(2) establishing search interface requirements re-*
20 *lating to such record, including searches by candidate*
21 *name, issue, purchaser, and date; and*

22 *(3) establishing the criteria for the safe harbor*
23 *exception provided under paragraph (6) of section*
24 *304(k) of such Act (as added by subsection (a)).*

1 (c) *REPORTING.*—Not later than 2 years after the date
2 of the enactment of this Act, and biannually thereafter, the
3 Chairman of the Federal Election Commission shall submit
4 a report to Congress on—

5 (1) *matters relating to compliance with and the*
6 *enforcement of the requirements of section 304(k) of*
7 *the Federal Election Campaign Act of 1971, as added*
8 *by subsection (a);*

9 (2) *recommendations for any modifications to*
10 *such section to assist in carrying out its purposes;*
11 *and*

12 (3) *identifying ways to bring transparency and*
13 *accountability to political advertisements distributed*
14 *online for free.*

15 **SEC. 117. PREVENTING CONTRIBUTIONS, EXPENDITURES,**
16 **INDEPENDENT EXPENDITURES, AND DIS-**
17 **BURSEMENTS FOR ELECTIONEERING COMMU-**
18 **NICATIONS BY FOREIGN NATIONALS IN THE**
19 **FORM OF ONLINE ADVERTISING.**

20 *Section 319 of the Federal Election Campaign Act of*
21 *1971 (52 U.S.C. 30121) is amended by adding at the end*
22 *the following new subsection:*

23 “(c) *RESPONSIBILITIES OF BROADCAST STATIONS,*
24 *PROVIDERS OF CABLE AND SATELLITE TELEVISION, AND*
25 *ONLINE PLATFORMS.*—

1 “(1) *RESPONSIBILITIES DESCRIBED.*—*Each tele-*
2 *vision or radio broadcast station, provider of cable or*
3 *satellite television, or online platform (as defined in*
4 *section 304(k)(3)) shall make reasonable efforts to en-*
5 *sure that communications described in section 318(a)*
6 *and made available by such station, provider, or plat-*
7 *form are not purchased by a foreign national, directly*
8 *or indirectly. For purposes of the previous sentence,*
9 *a station, provider, or online platform shall not be*
10 *considered to have made reasonable efforts under this*
11 *paragraph in the case of the availability of a commu-*
12 *nication unless the station, provider, or online plat-*
13 *form directly inquires from the individual or entity*
14 *making such purchase whether the purchase is to be*
15 *made by a foreign national, directly or indirectly.*

16 “(2) *SPECIAL RULES FOR DISBURSEMENT PAID*
17 *WITH CREDIT CARD.*—*For purposes of paragraph (1),*
18 *a television or radio broadcast station, provider of*
19 *cable or satellite television, or online platform shall be*
20 *considered to have made reasonable efforts under such*
21 *paragraph in the case of a purchase of the avail-*
22 *ability of a communication which is made with a*
23 *credit card if—*

24 “(A) *the individual or entity making such*
25 *purchase is required, at the time of making such*

1 purchase, to disclose the credit verification value
2 of such credit card; and

3 “(B) the billing address associated with
4 such credit card is located in the United States
5 or, in the case of a purchase made by an indi-
6 vidual who is a United States citizen living out-
7 side of the United States, the individual provides
8 the television or radio broadcast station, pro-
9 vider of cable or satellite television, or online
10 platform with the United States mailing address
11 the individual uses for voter registration pur-
12 poses.”.

13 **TITLE II—CLOSING LOOPHOLES**
14 **ALLOWING SPENDING BY**
15 **FOREIGN NATIONALS IN**
16 **ELECTIONS**

17 **SEC. 201. CLARIFICATION OF PROHIBITION ON PARTICIPA-**
18 **TION BY FOREIGN NATIONALS IN ELECTION-**
19 **RELATED ACTIVITIES.**

20 (a) *CLARIFICATION OF PROHIBITION.*—Section 319(a)
21 of the Federal Election Campaign Act of 1971 (52 U.S.C.
22 30121(a)) is amended—

23 (1) by striking “or” at the end of paragraph (1);
24 (2) by striking the period at the end of para-
25 graph (2) and inserting “; or”; and

1 (3) *by adding at the end the following new para-*
2 *graph:*

3 “*(3) a foreign national to direct, dictate, control,*
4 *or directly or indirectly participate in the decision*
5 *making process of any person (including a corpora-*
6 *tion, labor organization, political committee, or polit-*
7 *ical organization) with regard to such person’s Fed-*
8 *eral or non-Federal election-related activity, includ-*
9 *ing any decision concerning the making of contribu-*
10 *tions, donations, expenditures, or disbursements in*
11 *connection with an election for any Federal, State, or*
12 *local office or any decision concerning the adminis-*
13 *tration of a political committee.”.*

14 ***(b) CERTIFICATION OF COMPLIANCE.—****Section 319 of*
15 *such Act (52 U.S.C. 30121), as amended by section 117,*
16 *is further amended by adding at the end the following new*
17 *subsection:*

18 “***(d) CERTIFICATION OF COMPLIANCE REQUIRED***
19 ***PRIOR TO CARRYING OUT ACTIVITY.—****Prior to the making*
20 *in connection with an election for Federal office of any con-*
21 *tribution, donation, expenditure, independent expenditure,*
22 *or disbursement for an electioneering communication by a*
23 *corporation, labor organization (as defined in section*
24 *316(b)), limited liability corporation, or partnership dur-*
25 *ing a year, the chief executive officer of the corporation,*

1 labor organization, limited liability corporation, or part-
2 nership (or, if the corporation, labor organization, limited
3 liability corporation, or partnership does not have a chief
4 executive officer, the highest ranking official of the corpora-
5 tion, labor organization, limited liability corporation, or
6 partnership), shall file a certification with the Commission,
7 under penalty of perjury, that a foreign national did not
8 direct, dictate, control, or directly or indirectly participate
9 in the decision making process relating to such activity in
10 violation of subsection (a)(3), unless the chief executive offi-
11 cer has previously filed such a certification during that cal-
12 endar year.”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this
14 section shall take effect upon the expiration of the 180-day
15 period which begins on the date of the enactment of this
16 Act.

17 **SEC. 202. CLARIFICATION OF APPLICATION OF FOREIGN**
18 **MONEY BAN TO CERTAIN DISBURSEMENTS**
19 **AND ACTIVITIES.**

20 (a) *APPLICATION TO DISBURSEMENTS TO SUPER*
21 *PACs.*—Section 319(a)(1)(A) of the Federal Election Cam-
22 paign Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is amended
23 by striking the semicolon and inserting the following: “, in-
24 cluding any disbursement to a political committee which
25 accepts donations or contributions that do not comply with

1 *the limitations, prohibitions, and reporting requirements of*
2 *this Act (or any disbursement to or on behalf of any account*
3 *of a political committee which is established for the purpose*
4 *of accepting such donations or contributions);”.*

5 *(b) CONDITIONS UNDER WHICH CORPORATE PACS*
6 *MAY MAKE CONTRIBUTIONS AND EXPENDITURES.—Section*
7 *316(b) of such Act (52 U.S.C. 30118(b)) is amended by add-*
8 *ing at the end the following new paragraph:*

9 *“(8) A separate segregated fund established by a cor-*
10 *poration may not make a contribution or expenditure dur-*
11 *ing a year unless the fund has certified to the Commission*
12 *the following during the year:*

13 *“(A) Each individual who manages the fund,*
14 *and who is responsible for exercising decisionmaking*
15 *authority for the fund, is a citizen of the United*
16 *States or is lawfully admitted for permanent resi-*
17 *dence in the United States.*

18 *“(B) No foreign national under section 319 par-*
19 *ticipates in any way in the decisionmaking processes*
20 *of the fund with regard to contributions or expendi-*
21 *tures under this Act.*

22 *“(C) The fund does not solicit or accept rec-*
23 *ommendations from any foreign national under sec-*
24 *tion 319 with respect to the contributions or expendi-*
25 *tures made by the fund.*

1 “(D) Any member of the board of directors of the
2 corporation who is a foreign national under section
3 319 abstains from voting on matters concerning the
4 fund or its activities.”.

5 **SEC. 203. AUDIT AND REPORT ON ILLICIT FOREIGN MONEY**
6 **IN FEDERAL ELECTIONS.**

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

10 **“SEC. 319A. AUDIT AND REPORT ON DISBURSEMENTS BY**
11 **FOREIGN NATIONALS.**

12 “(a) *AUDIT.*—

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

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

22 “(b) *REPORT.*—Not later than 180 days after the end
23 of each Federal election cycle, the Commission shall submit
24 to Congress a report containing—

1 *lowing: “election, including a State or local ballot initiative*
2 *or referendum”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by this*
4 *section shall apply with respect to elections held in 2020*
5 *or any succeeding year.*

6 **SEC. 205. EXPANSION OF LIMITATIONS ON FOREIGN NA-**
7 **TIONALS PARTICIPATING IN POLITICAL AD-**
8 **VERTISING.**

9 (a) *DISBURSEMENTS DESCRIBED.*—*Section 319(a)(1)*
10 *of the Federal Election Campaign Act of 1971 (52 U.S.C.*
11 *30121(a)(1)) is amended—*

12 (1) *by striking “or” at the end of subparagraph*
13 *(B); and*

14 (2) *by striking subparagraph (C) and inserting*
15 *the following:*

16 “(C) *an expenditure;*

17 “(D) *an independent expenditure;*

18 “(E) *a disbursement for an electioneering*
19 *communication (within the meaning of section*
20 *304(f)(3));*

21 “(F) *a disbursement for a communication*
22 *which is placed or promoted for a fee on a*
23 *website, web application, or digital application*
24 *that refers to a clearly identified candidate for*
25 *election for Federal office and is disseminated*

1 *within 60 days before a general, special or runoff*
2 *election for the office sought by the candidate or*
3 *30 days before a primary or preference election,*
4 *or a convention or caucus of a political party*
5 *that has authority to nominate a candidate for*
6 *the office sought by the candidate;*

7 *“(G) a disbursement for a broadcast, cable*
8 *or satellite communication, or for a communica-*
9 *tion which is placed or promoted for a fee on a*
10 *website, web application, or digital application,*
11 *that promotes, supports, attacks or opposes the*
12 *election of a clearly identified candidate for Fed-*
13 *eral, State, or local office (regardless of whether*
14 *the communication contains express advocacy or*
15 *the functional equivalent of express advocacy);*

16 *“(H) a disbursement for a broadcast, cable,*
17 *or satellite communication, or for any commu-*
18 *nication which is placed or promoted for a fee on*
19 *an online platform (as defined in section*
20 *304(k)(3)), that discusses a national legislative*
21 *issue of public importance in a year in which a*
22 *regularly scheduled general election for Federal*
23 *office is held, but only if the disbursement is*
24 *made by a covered foreign national described in*
25 *section 304(j)(3)(C); or*

1 “(e) *RESTRICTIONS ON EXCHANGE OF INFORMATION*
2 *BETWEEN CANDIDATES AND FOREIGN POWERS.*—

3 “(1) *TREATMENT OF OFFER TO SHARE NON-*
4 *PUBLIC CAMPAIGN MATERIAL AS SOLICITATION OF*
5 *CONTRIBUTION FROM FOREIGN NATIONAL.*—*If a can-*
6 *didate or an individual affiliated with the campaign*
7 *of a candidate, or if a political committee or an indi-*
8 *vidual affiliated with a political committee, provides*
9 *or offers to provide nonpublic campaign material to*
10 *a covered foreign national or to another person whom*
11 *the candidate, committee, or individual knows or has*
12 *reason to know will provide the material to a covered*
13 *foreign national, the candidate, committee, or indi-*
14 *vidual (as the case may be) shall be considered for*
15 *purposes of this section to have solicited a contribu-*
16 *tion or donation described in subsection (a)(1)(A)*
17 *from a foreign national.*

18 “(2) *DEFINITIONS.*—*In this subsection, the fol-*
19 *lowing definitions apply:*

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

23 “(B) *The term ‘covered foreign national’ has*
24 *the meaning given such term in section*
25 *304(j)(3)(C).*

1 “(C) *The term ‘individual affiliated with a*
2 *campaign’ means, with respect to a candidate,*
3 *an employee of any organization legally author-*
4 *ized under Federal, State, or local law to sup-*
5 *port the candidate’s campaign for nomination*
6 *for, or election to, any Federal, State, or local*
7 *public office, as well as any independent con-*
8 *tractor of such an organization and any indi-*
9 *vidual who performs services on behalf of the or-*
10 *ganization, whether paid or unpaid.*

11 “(D) *The term ‘individual affiliated with a*
12 *political committee’ means, with respect to a po-*
13 *litical committee, an employee of the committee*
14 *as well as any independent contractor of the*
15 *committee and any individual who performs*
16 *services on behalf of the committee, whether paid*
17 *or unpaid.*

18 “(E) *The term ‘nonpublic campaign mate-*
19 *rial’ means, with respect to a candidate or a po-*
20 *litical committee, campaign material that is pro-*
21 *duced by the candidate or the committee or pro-*
22 *duced at the candidate or committee’s expense or*
23 *request which is not distributed or made avail-*
24 *able to the general public or otherwise in the*
25 *public domain, including polling and focus*

1 *group data and opposition research, except that*
2 *such term does not include material produced for*
3 *purposes of consultations relating solely to the*
4 *candidate's or committee's position on a legisla-*
5 *tive or policy matter.”.*

6 **SEC. 302. CLARIFICATION OF STANDARD FOR DETER-**
7 **MINING EXISTENCE OF COORDINATION BE-**
8 **TWEEN CAMPAIGNS AND OUTSIDE INTER-**
9 **ESTS.**

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

13 “(10) *For purposes of paragraph (7), an expenditure*
14 *or disbursement may be considered to have been made in*
15 *cooperation, consultation, or concert with, or coordinated*
16 *with, a person without regard to whether or not the coopera-*
17 *tion, consultation, or coordination is carried out pursuant*
18 *to agreement or formal collaboration.”.*

19 ***Subtitle B—[Reserved]***
20 **TITLE IV—MISCELLANEOUS**
21 **PROVISIONS**

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

23 *Each provision of this Act and each amendment made*
24 *by a provision of this Act shall take effect on the effective*
25 *date provided under this Act for such provision or such*

1 *amendment without regard to whether or not the Federal*
2 *Election Commission, the Attorney General, or any other*
3 *person has promulgated regulations to carry out such provi-*
4 *sion or such amendment.*

5 **SEC. 402. SEVERABILITY.**

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