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. SARBAKES, Mr. RASKIN, Mrs. DAVIS of California, Mr. BUTTERFIELD, Ms. FUDGE, Mr. AGUILAR, Mr. NADLER, Mrs. MURPHY of Florida, Mr. MCEACHIN, Mr. MALINOWSKI, and Mr. KILMERO) 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.
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Stopping Harmful Interference in Elections for a Lasting Democracy Act” or the “SHIELD Act”.

(b) Table of Contents.—The table of contents of 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 LOOPOHLES 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—DETTERING 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.

TITLE I—ENHANCED REPORTING REQUIREMENTS

Subtitle A—Establishing Duty to Report Foreign Election Interference

SEC. 101. FEDERAL CAMPAIGN REPORTING OF FOREIGN CONTACTS.

(a) INITIAL NOTICE.—

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

“(j) DISCLOSURE OF REPORTABLE FOREIGN CONTACTS.—

“(1) COMMITTEE OBLIGATION TO NOTIFY.—Not later than 1 week after a reportable foreign contact, each political committee shall notify the Federal Bureau of Investigation and the Commission of the reportable foreign contact and provide a summary of
the circumstances with respect to such reportable foreign contact.

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

“(A) each candidate shall notify the treasurer or other designated official of the principal campaign committee of such candidate of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact; and

“(B) each official, employee, or agent of a political committee shall notify the treasurer or other designated official of the committee of the reportable foreign contact and provide a summary of the circumstances with respect to such reportable foreign contact.

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

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

“(i) is between—

“(I) a candidate, a political committee, or any official, employee, or agent of such committee; and
“(II) an individual that the person described in subclause (I) knows, has reason to know, or reasonably believes is a covered foreign national; and

“(ii) the person described in clause (i)(I) knows, has reason to know, or reasonably believes involves—

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

“(II) coordination or collaboration with, an offer or provision of information or services to or from, or persistent and repeated contact with, a covered foreign national in connection with an election.

“(B) EXCEPTION.—The term ‘reportable foreign contact’ shall not include any contact or communication with a covered foreign national by an elected official or an employee of an elected official solely in an official capacity as such an official or employee. For purposes of the previous sentence, a contact or communication by
an elected official or an employee of an elected
official shall not be considered to be made solely
in an official capacity if the contact or commu-
nication involves a contribution, donation, ex-
penditure, disbursement, or solicitation described
in section 319.

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

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

“(I) a foreign principal (as de-
defined in section 1(b) of the Foreign
Agents Registration Act of 1938 (22
U.S.C. 611(b)) that is a government of
a foreign country or a foreign political
party;

“(II) any person who acts as an
agent, representative, employee, or
servant, or any person who acts in any
other capacity at the order, request, or
under the direction or control, of a for-

eign principal described in subclause
(I) or of a person any of whose activi-
ties are directly or indirectly super-
vised, directed, controlled, financed, or
subsidized in whole or in major part
by a foreign principal described in
subclause (I); or

“(III) any person included in the
list of specially designated nationals
and blocked persons maintained by the
Office of Foreign Assets Control of the
Department of the Treasury pursuant
to authorities relating to the imposi-
tion of sanctions relating to the con-
duct of a foreign principal described in
subclause (I).

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

(2) EFFECTIVE DATE.—The amendment made by
paragraph (1) shall apply with respect to reportable
foreign contacts which occur on or after the date of
the enactment of this Act.
(b) INFORMATION INCLUDED ON REPORT.—

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

(A) by striking “and” at the end of paragraph (7);

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

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

“(9) for any reportable foreign contact (as defined in subsection (j)(3))—

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

“(B) the date and time of when a designated official of the committee was notified of the contact;

“(C) the identity of individuals involved;

and

“(D) a description of the contact, including the nature of any contribution, donation, expenditure, disbursement, or solicitation involved and the nature of any activity described in subsection (j)(3)(A)(ii)(II) involved.”.

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

SEC. 102. FEDERAL CAMPAIGN FOREIGN CONTACT REPORTING COMPLIANCE SYSTEM.

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

“(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE POLICY.—

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

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

“(3) CERTIFICATION.—

“(A) IN GENERAL.—Upon filing its statement of organization under section 303(a), and
with each report filed under section 304(a), the
treasurer of each political committee (other than
an authorized committee) shall certify that—

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

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

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

“(I) receive notice of such policies;

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

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

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

(b) EFFECTIVE DATE.—
(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to political committees which file a statement of organization under section 303(a) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30103(a)) on or after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING COMMITTEES.—Not later than 30 days after the date of the enactment of this Act, each political committee under the Federal Election Campaign Act of 1971 shall file a certification with the Federal Election Commission that the committee is in compliance with the requirements of section 302(j) of such Act (as added by subsection (a)).

SEC. 103. CRIMINAL PENALTIES.

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

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

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

SEC. 104. RULE OF CONSTRUCTION.

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

(1) to impede legitimate journalistic activities;

or

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

(A) resides in the United States;

(B) is not a citizen of the United States or a national of the United States, as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

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

Subtitle B—Strengthening Oversight of Online Political Advertising

SEC. 111. SHORT TITLE.

This subtitle may be cited as the “Honest Ads Act”.
SEC. 112. PURPOSE.

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

SEC. 113. EXPANSION OF DEFINITION OF PUBLIC COMMUNICATION.

(a) In General.—Paragraph (22) of section 301 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101(22)) is amended by striking “or satellite communication” and inserting “satellite, paid internet, or paid digital communication”.

(b) Treatment of Contributions and Expenditures.—Section 301 of such Act (52 U.S.C. 30101) is amended—

(1) in paragraph (8)(B)(v), by striking “on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising” and inserting “in any public communication”; and

(2) in paragraph (9)(B)—

(A) by amending clause (i) to read as follows:
“(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station or any print, online, or digital newspaper, magazine, blog, publication, or periodical, unless such broadcasting, print, online, or digital facilities are owned or controlled by any political party, political committee, or candidate;”;

and

(B) in clause (iv), by striking “on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising” and inserting “in any public communication”.

(c) DISCLOSURE AND DISCLAIMER STATEMENTS.—

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

(1) by striking “financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising” and inserting “financing any public communication”; and

(2) by striking “solicits any contribution through any broadcasting station, newspaper, magazine, out-
door advertising facility, mailing, or any other type of general public political advertising” and inserting “solicits any contribution through any public communication”.

SEC. 114. EXPANSION OF DEFINITION OF ELECTIONEERING COMMUNICATION.

(a) Expansion to Online Communications.—

(1) Application to Qualified Internet and Digital Communications.—

(A) In General.—Subparagraph (A) of section 304(f)(3) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30104(f)(3)(A)) is amended by striking “or satellite communication” each place it appears in clauses (i) and (ii) and inserting “satellite, or qualified internet or digital communication”.

(B) Qualified Internet or Digital Communication.—Paragraph (3) of section 304(f) of such Act (52 U.S.C. 30104(f)) is amended by adding at the end the following new subparagraph:

“(D) Qualified Internet or Digital Communication.—The term ‘qualified internet or digital communication’ means any communication which is placed or promoted for a fee on
an online platform (as defined in subsection (k)(3)).”.

(2) Nonapplication of relevant electorate to online communications.—Section 304(f)(3)(A)(i)(III) of such Act (52 U.S.C. 30104(f)(3)(A)(i)(III)) is amended by inserting “any broadcast, cable, or satellite” before “communication”.

(3) News exemption.—Section 304(f)(3)(B)(i) of such Act (52 U.S.C. 30104(f)(3)(B)(i)) is amended to read as follows:

“(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station or any online or digital newspaper, magazine, blog, publication, or periodical, unless such broadcasting, online, or digital facilities are owned or controlled by any political party, political committee, or candidate;”.

(b) Effective date.—The amendments made by this section shall apply with respect to communications made on or after January 1, 2020.
SEC. 115. APPLICATION OF DISCLAIMER STATEMENTS TO ONLINE COMMUNICATIONS.

(a) CLEAR AND CONSPICUOUS MANNER REQUIREMENT.—Subsection (a) of section 318 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30120(a)) is amended—

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

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

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

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

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

“(1) SPECIAL RULES WITH RESPECT TO STATEMENTS.—In the case of any communication to which this section applies which is a qualified internet or digital communication (as defined in section 304(f)(3)(D)) which is disseminated through a me-
dium in which the provision of all of the information
specified in this section is not possible, the commu-
nication shall, in a clear and conspicuous manner—
“(A) state the name of the person who paid
for the communication; and
“(B) provide a means for the recipient of
the communication to obtain the remainder of
the information required under this section with
minimal effort and without receiving or viewing
any additional material other than such re-
quired information.
“(2) SAFE HARBOR FOR DETERMINING CLEAR
AND CONSPICUOUS MANNER.—A statement in a quali-
fied internet or digital communication (as defined in
section 304(f)(3)(D)) shall be considered to be made
in a clear and conspicuous manner as provided in
subsection (a) if the communication meets the fol-
lowing requirements:
“(A) TEXT OR GRAPHIC COMMUNICA-
tions.—In the case of a text or graphic commu-
nication, the statement—
“(i) appears in letters at least as large
as the majority of the text in the commu-
nication; and
“(ii) meets the requirements of paragraphs (2) and (3) of subsection (c).

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

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

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

“(ii) is made both in—

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

“(II) an audible format that meets the requirements of subparagraph (B).

“(D) OTHER COMMUNICATIONS.—In the case of any other type of communication, the statement is at least as clear and conspicuous as the statement specified in subparagraph (A), (B), or (C).”.
(2) NONAPPLICATION OF CERTAIN EXCEPTIONS.—The exceptions provided in section 110.11(f)(1)(i) and (ii) of title 11, Code of Federal Regulations, or any successor to such rules, shall have no application to qualified internet or digital communications (as defined in section 304(f)(3)(D) of the Federal Election Campaign Act of 1971, as added by this Act).

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

(1) in paragraph (1)(A)—

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

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

(2) in paragraph (1)(B)—

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

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

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

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

SEC. 116. POLITICAL RECORD REQUIREMENTS FOR ONLINE PLATFORMS.

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

“(k) DISCLOSURE OF CERTAIN ONLINE ADVERTISEMENTS.—

“(1) IN GENERAL.—

“(A) REQUIREMENTS FOR ONLINE PLATFORMS.—An online platform shall maintain, and make available for online public inspection in machine readable format, a complete record of any request to purchase on such online platform a qualified political advertisement which is made by a person whose aggregate requests to purchase qualified political advertisements on such online platform during the calendar year exceeds $500.
“(B) REQUIREMENTS FOR ADVERTISERS.—

Any person who requests to purchase a qualified political advertisement on an online platform shall provide the online platform with such information as is necessary for the online platform to comply with the requirements of subparagraph (A).

“(2) CONTENTS OF RECORD.—A record maintained under paragraph (1)(A) shall contain—

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

“(B) a description of the audience targeted by the advertisement, the number of views generated from the advertisement, and the date and time that the advertisement is first displayed and last displayed; and

“(C) information regarding—

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

“(ii) the name of the candidate to which the advertisement refers and the office to which the candidate is seeking election, the election to which the advertisement refers, or the national legislative issue to
which the advertisement refers (as applicable);

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

“(iv) in the case of any request not described in clause (iii), the name of the person purchasing the advertisement, the name and address of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

“(3) Online Platform.—For purposes of this subsection, the term ‘online platform’ means any public-facing website, web application, or digital application (including a social network, ad network, or search engine) which—

“(A) sells qualified political advertisements; and

“(B) has 50,000,000 or more unique monthly United States visitors or users for a majority of months during the preceding 12 months.
“(4) QUALIFIED POLITICAL ADVERTISEMENT.—

For purposes of this subsection, the term ‘qualified political advertisement’ means any advertisement (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that—

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

“(B) communicates a message relating to any political matter of national importance, including—

“(i) a candidate; 

“(ii) any election to Federal office; or

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

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

“(6) SAFE HARBOR FOR PLATFORMS MAKING BEST EFFORTS TO IDENTIFY REQUESTS WHICH ARE SUBJECT TO RECORD MAINTENANCE REQUIREMENTS.—In accordance with rules established by the Commission, if an online platform shows that the platform used best efforts to determine whether or not
a request to purchase a qualified political advertisement was subject to the requirements of this subsection, the online platform shall not be considered to be in violation of such requirements.

“(7) PENALTIES.—For penalties for failure by online platforms, and persons requesting to purchase a qualified political advertisement on online platforms, to comply with the requirements of this subsection, see section 309.”

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

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

(2) establishing search interface requirements relating to such record, including searches by candidate name, issue, purchaser, and date; and

(3) establishing the criteria for the safe harbor exception provided under paragraph (6) of section 304(k) of such Act (as added by subsection (a)).
(c) REPORTING.—Not later than 2 years after the date of the enactment of this Act, and biannually thereafter, the Chairman of the Federal Election Commission shall submit a report to Congress on—

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

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

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

SEC. 117. PREVENTING CONTRIBUTIONS, EXPENDITURES, INDEPENDENT EXPENDITURES, AND DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS BY FOREIGN NATIONALS IN THE FORM OF ONLINE ADVERTISING.

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

“(c) RESPONSIBILITIES OF BROADCAST STATIONS, PROVIDERS OF CABLE AND SATELLITE TELEVISION, AND ONLINE PLATFORMS,—
“(1) Responsibilities described.—Each television or radio broadcast station, provider of cable or satellite television, or online platform (as defined in section 304(k)(3)) shall make reasonable efforts to ensure that communications described in section 318(a) and made available by such station, provider, or platform are not purchased by a foreign national, directly or indirectly. For purposes of the previous sentence, a station, provider, or online platform shall not be considered to have made reasonable efforts under this paragraph in the case of the availability of a communication unless the station, provider, or online platform directly inquires from the individual or entity making such purchase whether the purchase is to be made by a foreign national, directly or indirectly.

“(2) Special rules for disbursement paid with credit card.—For purposes of paragraph (1), a television or radio broadcast station, provider of cable or satellite television, or online platform shall be considered to have made reasonable efforts under such paragraph in the case of a purchase of the availability of a communication which is made with a credit card if—

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

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

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

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

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

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

(2) by striking the period at the end of para-
graph (2) and inserting “; or”; and
(3) by adding at the end the following new paragraph:

“(3) a foreign national to direct, dictate, control, or directly or indirectly participate in the decision making process of any person (including a corporation, labor organization, political committee, or political organization) with regard to such person’s Federal or non-Federal election-related activity, including any decision concerning the making of contributions, donations, expenditures, or disbursements in connection with an election for any Federal, State, or local office or any decision concerning the administration of a political committee.”.

(b) Certification of Compliance.—Section 319 of such Act (52 U.S.C. 30121), as amended by section 117, is further amended by adding at the end the following new subsection:

“(d) Certification of Compliance Required Prior to Carrying Out Activity.—Prior to the making in connection with an election for Federal office of any contribution, donation, expenditure, independent expenditure, or disbursement for an electioneering communication by a corporation, labor organization (as defined in section 316(b)), limited liability corporation, or partnership during a year, the chief executive officer of the corporation,
labor organization, limited liability corporation, or partnership (or, if the corporation, labor organization, limited liability corporation, or partnership does not have a chief executive officer, the highest ranking official of the corporation, labor organization, limited liability corporation, or partnership), shall file a certification with the Commission, under penalty of perjury, that a foreign national did not direct, dictate, control, or directly or indirectly participate in the decision making process relating to such activity in violation of subsection (a)(3), unless the chief executive officer has previously filed such a certification during that calendar year.”.

(c) Effective Date.—The amendments made by this section shall take effect upon the expiration of the 180-day period which begins on the date of the enactment of this Act.

SEC. 202. CLARIFICATION OF APPLICATION OF FOREIGN MONEY BAN TO CERTAIN DISBURSEMENTS AND ACTIVITIES.

(a) Application to Disbursements to Super PACs.—Section 319(a)(1)(A) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is amended by striking the semicolon and inserting the following: “, including any disbursement to a political committee which accepts donations or contributions that do not comply with
32 the limitations, prohibitions, and reporting requirements of
this Act (or any disbursement to or on behalf of any account
of a political committee which is established for the purpose
of accepting such donations or contributions);”.

(b) Conditions Under Which Corporate PACs
May Make Contributions and Expenditures.—Section
316(b) of such Act (52 U.S.C. 30118(b)) is amended by add-
ing at the end the following new paragraph:

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

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

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

“(C) The fund does not solicit or accept rec-
ommendations from any foreign national under sec-
tion 319 with respect to the contributions or expendi-
tures made by the fund.
“(D) Any member of the board of directors of the corporation who is a foreign national under section 319 abstains from voting on matters concerning the fund or its activities.”.

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

(a) In General.—Title III of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.) is amended by inserting after section 319 the following new section:

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

“(a) Audit.—

“(1) In General.—The Commission shall conduct an audit after each Federal election cycle to determine the incidence of illicit foreign money in such Federal election cycle.

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

“(b) Report.—Not later than 180 days after the end of each Federal election cycle, the Commission shall submit to Congress a report containing—
“(1) results of the audit required by subsection (a)(1); and

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

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

“(1) The term ‘Federal election cycle’ means the period which begins on the day after the date of a regularly scheduled general election for Federal office and which ends on the date of the first regularly scheduled general election for Federal office held after such date.

“(2) The term ‘illicit foreign money’ means any disbursement by a foreign national (as defined in section 319(b)) prohibited under such section.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the Federal election cycle that began during November 2018, and each succeeding Federal election cycle.

SEC. 204. PROHIBITION ON CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS IN CONNECTION WITH BALLOT INITIATIVES AND REFERENDA.

(a) IN GENERAL.—Section 319(a)(1)(A) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is amended by striking “election” and inserting the fol-
section shall apply with respect to elections held in 2020 or any succeeding year.

SEC. 205. EXPANSION OF LIMITATIONS ON FOREIGN NATIONALS PARTICIPATING IN POLITICAL ADVERTISING.

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

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

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

“(C) an expenditure;

“(D) an independent expenditure;

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

“(F) a disbursement for a communication which is placed or promoted for a fee on a website, web application, or digital application that refers to a clearly identified candidate for election for Federal office and is disseminated
within 60 days before a general, special or runoff election for the office sought by the candidate or 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate for the office sought by the candidate;

“(G) a disbursement for a broadcast, cable or satellite communication, or for a communication which is placed or promoted for a fee on a website, web application, or digital application, that promotes, supports, attacks or opposes the election of a clearly identified candidate for Federal, State, or local office (regardless of whether the communication contains express advocacy or the functional equivalent of express advocacy);

“(H) a disbursement for a broadcast, cable, or satellite communication, or for any communication which is placed or promoted for a fee on an online platform (as defined in section 304(k)(3)), that discusses a national legislative issue of public importance in a year in which a regularly scheduled general election for Federal office is held, but only if the disbursement is made by a covered foreign national described in section 304(j)(3)(C); or
“(I) a disbursement by a covered foreign national described in section 304(j)(3)(C) to compensate any person for internet activity that promotes, supports, attacks or opposes the election of a clearly identified candidate for Federal, State, or local office (regardless of whether the activity communication contains express advocacy or the functional equivalent of express advocacy);”.

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

TITLE III—DETERRING 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.

Section 319 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121), as amended by section 117 and section 201(b), is further amended by adding at the end the following new subsection:
“(e) Restrictions on Exchange of Information Between Candidates and Foreign Powers.—

“(1) Treatment of Offer to Share Non-Public Campaign Material as Solicitation of Contribution from Foreign National.—If a candidate or an individual affiliated with the campaign of a candidate, or if a political committee or an individual affiliated with a political committee, provides or offers to provide nonpublic campaign material to a covered foreign national or to another person whom the candidate, committee, or individual knows or has reason to know will provide the material to a covered foreign national, the candidate, committee, or individual (as the case may be) shall be considered for purposes of this section to have solicited a contribution or donation described in subsection (a)(1)(A) from a foreign national.

“(2) Definitions.—In this subsection, the following definitions apply:

“(A) The term ‘candidate’ means an individual who seeks nomination for, or election to, any Federal, State, or local public office.

“(B) The term ‘covered foreign national’ has the meaning given such term in section 304(j)(3)(C).
“(C) The term ‘individual affiliated with a campaign’ means, with respect to a candidate, an employee of any organization legally authorized under Federal, State, or local law to support the candidate’s campaign for nomination for, or election to, any Federal, State, or local public office, as well as any independent contractor of such an organization and any individual who performs services on behalf of the organization, whether paid or unpaid.

“(D) The term ‘individual affiliated with a political committee’ means, with respect to a political committee, an employee of the committee as well as any independent contractor of the committee and any individual who performs services on behalf of the committee, whether paid or unpaid.

“(E) The term ‘nonpublic campaign material’ means, with respect to a candidate or a political committee, campaign material that is produced by the candidate or the committee or produced at the candidate or committee’s expense or request which is not distributed or made available to the general public or otherwise in the public domain, including polling and focus
group data and opposition research, except that such term does not include material produced for purposes of consultations relating solely to the candidate’s or committee’s position on a legislative or policy matter.”.

SEC. 302. CLARIFICATION OF STANDARD FOR DETERMINING EXISTENCE OF COORDINATION BETWEEN CAMPAIGNS AND OUTSIDE INTERESTS.

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

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

Subtitle B—[Reserved]

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECTIVE DATES OF PROVISIONS.

Each provision of this Act and each amendment made by a provision of this Act shall take effect on the effective date provided under this Act for such provision or such
amendment without regard to whether or not the Federal Election Commission, the Attorney General, or any other person has promulgated regulations to carry out such provision or such amendment.

SEC. 402. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of a provision of this Act or an amendment made by this Act to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions to any person or circumstance, shall not be affected by the holding.