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MARKUP OF H.R. 4617, THE STOPPING HARMFUL INTERFERENCE IN ELECTIONS FOR A LASTING DEMOCRACY ACT

HEARING

BEFORE THE

COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

OCTOBER 16, 2019

Printed for the use of the Committee on House Administration

Available on the Internet:
http://www.govinfo.gov/committee/house-administration

U.S. GOVERNMENT PUBLISHING OFFICE
39–768 WASHINGTON : 2020

COMMITTEE ON HOUSE ADMINISTRATION

116TH CONGRESS

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MARK WALKER, North Carolina
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MARKUP OF H.R. 4617, THE STOPPING HARMFUL INTERFERENCE IN ELECTIONS FOR A LASTING DEMOCRACY ACT

WEDNESDAY, OCTOBER 16, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Committee met, pursuant to call, at 2:56 p.m., in Room 1310, Longworth House Office Building, Hon. Zoe Lofgren [Chairperson of the Committee] presiding.

Present: Representatives Lofgren, Raskin, Davis of California, Butterfield, Fudge, Aguilar, Davis of Illinois, Walker, and Loudermilk.

Staff Present: Sean Jones, Legislative Clerk; Lisa Sherman, Chief of Staff for Mrs. Davis of California; David Tucker, Parliamentarian; Eddie Flaherty, Chief Clerk; Mariam Malik, Staff Assistant; Hannah Carr, Staff Assistant; Khalil Abboud, Deputy Staff Director; Evan Dorner, Legislative Assistant for Mr. Aguilar; Lauren Doney, Deputy Chief of Staff for Mr. Raskin; Stephen Spaulding, Counsel—Elections; Tim Monahan, Minority Deputy Staff Director; Jesse Roberts, Minority Counsel; Cole Felder, Minority General Counsel; Courtney Parella, Minority Communications Director; and Jennifer Daulby, Minority Staff Director.

The CHAIRPERSON. A quorum being present, the Committee will come to order.

Without objection, the Chair is authorized to declare a recess at any time. Pursuant to Committee Rule 4 and clause 2(h)(4) of House Rule XI, the Chair announces that she may postpone further proceedings today when a recorded vote is ordered on the question of approving a measure or matter or on adopting an amendment.

We are expecting additional Members, but while we are waiting, we will proceed with our opening statements.

This afternoon, we will consider H.R. 4617, the Stopping Harmful Interference in Elections for a Lasting Democracy, or SHIELD, Act. This comprehensive legislation will strengthen the resilience of our democracy and protect against foreign interference in elections, including by foreign governments.

The 2020 Federal elections are fast approaching. Public confidence and trust in our elections is of the utmost importance. But foreign adversaries are working to undermine that trust. They use disinformation and discord as weapons to divide us and to attack our values of equality and freedom. They hope that our institutions

will collapse under the pressure of the division, decay, and distrust that they sow.

The need to act is urgent. Foreign adversaries, including Russia, are interfering in our elections right now. Former Special Counsel Mueller, back in July, testified that they are, quote, "doing it as we sit here."

We have been warned repeatedly about this. The former Director of National Intelligence, Dan Coats, wrote earlier this year in his "Worldwide Threat Assessment" that, as the 2020 elections advance, our, quote, "adversaries and strategic competitors almost certainly will use online influence operations to try to weaken democratic institutions, undermine U.S. alliances and partnerships, and shape policy outcomes in the United States and elsewhere."

He also wrote that their tactics will include spreading disinformation, conducting hack and leak operations, or manipulating data in a more targeted fashion to influence U.S. policy actions on elections.

Just last week, the Senate Select Committee on Intelligence released a report showing how the Kremlin's information warfare campaign was broad in scope and entailed objectives beyond the results of the 2016 election. This included using content to push Americans farther away from one another and to foment distrust in government institutions.

The Senate report also found that no single group of Americans was targeted by Internet Research Agency (IRA) information operatives more than African Americans.

Among the bipartisan Senate report's recommendations are for Congress to examine legislative approaches to ensure Americans know the sources of online political advertisements and to harmonize the rules that apply online with television, radio, and satellite communications.

This Committee and this House have acted at least twice this year to shore up confidence in our elections. The House passed H.R. 1, the For the People Act, which included strong standards for ballot box election security as well as provisions to shut down loopholes that allow foreign money, including from foreign governments, to influence elections.

The House passed 2722, the SAFE Act, which originated in this Committee and had some of its roots in Title III of H.R. 1. It would set strong cybersecurity standards for election infrastructure and provide resources to States to replace paperless and other outdated systems with voter-verified paper ballot systems.

Now we are turning to another element of election security. The SHIELD Act closes gaps in the law that allow foreign nationals and foreign governments to launder money into our elections. It promotes full transparency of the sources behind online advertising campaigns. It codifies a basic norm, that political committees should report offers of illicit campaign assistance from foreign governments to the FBI and to the FEC, rather than welcome interference from foreign governments.

We should all be able to agree that we need to protect our democracy and with a sense of urgency. This should not be a partisan opinion. Nothing less than our national security is at stake.

The Ranking Member has discussed his views on partisanship and democracy at previous markups, and I must stress for the record that many key elements of the SHIELD Act, including its incorporation of the Honest Ads Act, have strong Republican support.

A July Quinnipiac poll found that, by an 87-to-7-percent margin, including 80 percent to 11 percent among Republicans, voters support requiring political campaigns to report any information they received from foreign governments to the FBI, a key component of Title I of the SHIELD Act. And voters say, 78 to 13 percent, it is never acceptable for a Presidential campaign to obtain information on a political opponent from a hostile foreign power.

The SHIELD Act also incorporates other elements of H.R. 1 that Republicans supported unanimously during the amendment process, including expanded prohibitions on paid political advertising by foreign governments.

The SHIELD Act has garnered support since its introduction from the NAACP, Public Citizen, Common Cause, the Brennan Center for Justice, Democracy 21 Network, and the End Citizens United Action Fund, as well as a letter received just this morning from the nuns, which is of particular meaning to me.

So, with that, I will say that free and fair elections are the core of what it means to live in a democracy like ours. Free and fair elections are at the heart of what it means to be a citizen of the United States, and it is our solemn duty to defend them.

I would now yield to the Ranking Member, Mr. Davis, for any opening comments he would like to make.

[The statement of the Chairperson follows:]

ZOE LOFGREN, CALIFORNIA
CHAIRPERSON

JAMIE RASKIN, MARYLAND
VICE CHAIRPERSON

SUSAN DAVIS, CALIFORNIA
G.K. BUTTERFIELD, NORTH CAROLINA
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JAMIE FLEET, STAFF DIRECTOR

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ONE HUNDRED SIXTEENTH CONGRESS

JEN DAULBY, MINORITY STAFF DIRECTOR

Chairperson Zoe Lofgren
Markup of H.R. 4617
Opening Statement

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But foreign adversaries are working to undermine that trust. They use disinformation and discord as weapons to divide us and attack our values of equality and freedom. They hope that our institutions will collapse under the pressure of the division, decay, and distrust that they sow. The need to act is urgent.

Foreign adversaries, including Russia, are interfering in our elections right now. Former Special Counsel Robert Mueller, back in July, testified that they are 'doing it as we sit here.' We have been warned repeatedly about this. The former Director of National Intelligence, Dan Coats, wrote earlier this year in his 'Worldwide Threat Assessment' that as the 2020 elections advance, our 'adversaries and strategic competitors almost certainly will use online influence operations to try to weaken democratic institutions, undermine U.S. alliances and partnerships, and shape policy outcomes in the United States and elsewhere. He also wrote that their tactics will including 'spreading disinformation, conducting hack-and-leak operations, or manipulating data in a more targeted fashion to influence U.S. policy, actions, and elections.

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strong standards for ballot box election security as well as provisions to shut down loopholes that allow foreign money, including from foreign governments, to influence elections.

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We should all be able to agree that we need to protect our democracy, and with a sense of urgency. This should not be a partisan opinion. Nothing less than our national security is at stake. The Ranking Member has discussed his views of partisanship and democracy at previous markups. And I must stress for the record that many key elements of the SHIELD Act—including its incorporation of the Honest Ads Act—have strong Republican support. A July Quinnipiac poll found that by an 87-7 percent margin, including 80-11 percent among Republicans, voters support requiring political campaigns to report any information they receive from foreign governments to the FBI—a key component of Title I of the SHIELD Act. And voters say 78-13 percent it is never acceptable for a presidential campaign to obtain information on a political opponent from a hostile foreign power. The SHIELD Act also incorporates other elements of H.R. 1 that Republicans supported unanimously during the amendment process, including expanded prohibitions on paid political advertising by foreign governments.

The SHIELD Act has garnered support since its introduction from the NAACP, Public Citizen, Common Cause, the Brennan Center for Justice, Democracy 21, NETWORK, and the End Citizens United Action Fund, as well as a letter received just this morning from the nuns, which is of particular meaning to me.

So with that, I will say that free and fair elections are at the core of what it means to live in a democracy like ours. Free and fair elections are at the heart of what it means to be a citizen of the United States. It is our solemn duty to defend them.

Mr. DAVIS of Illinois. Thank you, Madam Chairperson, and thanks to the Committee.

As the Chairperson noted, I have said time and time again, the biggest threat to our elections and the integrity of those elections is actually partisanship. As the Majority has pointed out, there are legitimate election security concerns that H.R. 4617 aims to address that I know my Democratic colleagues and I agree on, which leads me to wonder: If the Majority knows we support large portions of this bill, why would they not work with us to find a bipartisan solution to our collective concerns?

Once again, the Majority has chosen to continue this pattern we have seen all Congress where they rush legislation without any hearings or public discussion of the issues and insert poison pills into a bill that they know we will not support—all in an effort to prop up their impeachment efforts against the President.

That is why we are here today: not to make real legislative progress on preventing foreign interference in our elections, but to push partisan politics for the Democratic agenda.

We have marked up three comprehensive election security bills in this Committee in this Congress, and the partisan approach to every problem always ends with expanding the powers of the Federal Government, the highlight of this bill being that we are vastly expanding the powers of the Attorney General and—my personal favorite—defining legitimate news.

What we aren't going to hear about today is the work done last Congress and earlier this Congress to provide funding for election infrastructure and to create unprecedented cooperation among the States and Federal stakeholders aimed at better securing our elections.

What we aren't going to hear about today is how many of the private companies and online platforms mentioned in this bill are already taking important steps to help prevent election interference through social media.

What we are not going to hear about today is how we are marking up this bill without a hearing so the American public can see who is paying for and supporting the ads they see in their social media feeds and won't actually stop the sort of interference that we saw from Russia in the 2016 election.

Don't get me wrong; as the Chairperson said, there are provisions in this legislation that make sense. I like prohibiting foreign nationals from participating in ballot initiatives and requiring the Federal Election Commission to annually audit and report any foreign money in U.S. elections. I am also supportive of disclosing on online political ads.

However, there are also provisions in this bill, like broadly defined requirements for who has to disclose ads, as well as applying aging TV regulations to internet advertising, that I cannot support because of the threat they pose to our First Amendment.

I believe the SHIELD Act will have many unintended but severe consequences on the American people and a chilling effect on free speech—a fundamental right we in Congress have a responsibility to defend.

H.R. 4617, in my opinion, is unfixable in its current form. The amendments we put forth today will only showcase the hypocrisy

and flaws within this legislation. If we truly want to prevent the type of election interference that we saw in 2016, we must put forth the strongest legislation possible that actually stands a chance at becoming law.

We may never be able to prevent criminal activity, whether that is in our elections or in our day-to-day lives, but we can provide our law enforcement with the best tools and resources available.

A better approach to concerns mentioned today would be to update the Foreign Agents Registration Act, which this legislation completely ignores. It is disappointing for the American people, who deserve a bipartisan bill that allows them to trust in their election system that actually stands a chance of becoming law.

I look forward to debating my amendments that will make improvements to this partisan bill. Let us forget the partisan politics today and, instead, put the needs of the American people first.

And thank you, Madam Chairperson, and I yield back the balance of my time.

[The statement of Mr. Davis of Illinois follows:]

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JEN DAULBY, MINORITY STAFF DIRECTOR

Ranking Member Rodney Davis

Markup of H.R. 4617

Opening Statement

Thank you, Chairperson Lofgren. I have said time and time again as Ranking Member on this Committee that the biggest threat to the integrity of our elections is partisanship. As the majority has pointed out, there are legitimate election security concerns that H.R. 4617 aims to address that I know my Democratic colleagues and I agree upon.

Which leads me to wonder, if the majority knows we support large portions of this bill, why would they not work with us to find a bipartisan solution to our collective concerns? Once again, the majority has chosen to continue this pattern we've seen all Congress where they rush legislation, without any hearings or public discussion of the issues, and insert poison pills into a bill that they know we will not support, all in an effort to prop-up their unfounded impeachment efforts against the President.

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What we aren't going to hear about today is the work done last Congress and earlier this Congress to provide funding for election infrastructure and to create unprecedented cooperation among the states and federal stakeholders aimed at better securing our elections. What we aren't going to hear about today is how many of the private companies and online platforms mentioned in this bill are already taking important steps to help prevent election interference through social media. What we aren't going to hear about today is how we're marking up this bill without a hearing, so the America public can see who is paying for and supporting the ads they see in their social media feeds and won't actually stop the sort of interference we saw from Russia in the 2016 election.

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We may never be able to prevent criminal activity, whether that's in our elections or in our day-to-day lives, but we can provide our law enforcement with

the best tools and resources available. A better approach to the concerns mentioned today would be to update the Foreign Agent Registration Act, which this legislation completely ignores.

It's disappointing for the American people who deserve a bipartisan bill, that allows them to trust in their election system, that actually stands a chance of becoming law. I look forward to debating my amendments that will make improvements to this partisan bill. Let us forget the partisan politics today and instead put the needs of the American people first. Thank you, and I yield back the balance of my time.

The CHAIRPERSON. The gentleman yields back.

Without objection, the opening statements of all other Members will be included in the record.

The CHAIRPERSON. I now call up H.R. 4617, and the clerk shall report the title of the legislation.

The CLERK. H.R. 4617. Short Title. This Act may be cited as the Stopping Harmful——

The CHAIRPERSON. Without objection, the first reading of the bill is dispensed with. And, without objection, the bill is considered as read and open for amendment at any point.

[The bill follows:]

I

116TH CONGRESS
1ST SESSION

H. R. 4617

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

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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,*

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—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.
Sec. 302. Clarification of standard for determining existence of coordination between campaigns and outside interests.

Subtitle B—Prohibiting Deceptive Practices and Preventing Voter Intimidation

Sec. 311. Short title.
Sec. 312. Prohibition on deceptive practices in Federal elections.
Sec. 313. Corrective action.
Sec. 314. Reports to Congress.

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 sum-

1 mary of the circumstances with respect to such re-
2 portable foreign contact.
3 "(2) INDIVIDUAL OBLIGATION TO NOTIFY.—
4 Not later than 3 days after a reportable foreign con-
5 tact—
6 "(A) each candidate shall notify the treas-
7 urer or other designated official of the principal
8 campaign committee of such candidate of the
9 reportable foreign contact and provide a sum-
10 mary of the circumstances with respect to such
11 reportable foreign contact; and
12 "(B) each official, employee, or agent of a
13 political committee shall notify the treasurer or
14 other designated official of the committee of the
15 reportable foreign contact and provide a sum-
16 mary of the circumstances with respect to such
17 reportable foreign contact.
18 "(3) REPORTABLE FOREIGN CONTACT.—In this
19 subsection:
20 "(A) IN GENERAL.—The term 'reportable
21 foreign contact' means any direct or indirect
22 contact or communication that—
23 "(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 elect-

1 ed official solely in an official capacity as such
2 an official or employee. For purposes of the
3 previous sentence, a contact or communication
4 by an elected official or an employee of an elect-
5 ed official shall not be considered to be made
6 solely in an official capacity if the contact or
7 communication involves a contribution, dona-
8 tion, expenditure, disbursement, or solicitation
9 described in section 319.
10 "(C) COVERED FOREIGN NATIONAL DE-
11 FINED.—
12 "(i) IN GENERAL.—In this paragraph,
13 the term 'covered foreign national'
14 means—
15 "(I) a foreign principal (as de-
16 fined in section 1(b) of the Foreign
17 Agents Registration Act of 1938 (22
18 U.S.C. 611(b)) that is a government
19 of a foreign country or a foreign polit-
20 ical party;
21 "(II) any person who acts as an
22 agent, representative, employee, or
23 servant, or any person who acts in
24 any other capacity at the order, re-
25 quest, or under the direction or con-

1 trol, of a foreign principal described in
2 subclause (I) or of a person any of
3 whose activities are directly or indi-
4 rectly supervised, directed, controlled,
5 financed, or subsidized in whole or in
6 major part by a foreign principal de-
7 scribed in subclause (I); or
8 "(III) any person included in the
9 list of specially designated nationals
10 and blocked persons maintained by
11 the Office of Foreign Assets Control
12 of the Department of the Treasury
13 pursuant to authorities relating to the
14 imposition of sanctions relating to the
15 conduct of a foreign principal de-
16 scribed in subclause (I).
17 "(ii) CLARIFICATION REGARDING AP-
18 PLICATION TO CITIZENS OF THE UNITED
19 STATES.—In the case of a citizen of the
20 United States, subclause (II) of clause (i)
21 applies only to the extent that the person
22 involved acts within the scope of that per-
23 son's status as the agent of a foreign prin-
24 cipal described in subclause (I) of clause
25 (i).".

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall apply with respect to report-
3 able foreign contacts which occur on or after the
4 date of the enactment of this Act.
5 (b) INFORMATION INCLUDED ON REPORT.—
6 (1) IN GENERAL.—Section 304(b) of such Act
7 (52 U.S.C. 30104(b)) is amended—
8 (A) by striking "and" at the end of para-
9 graph (7);
10 (B) by striking the period at the end of
11 paragraph (8) and inserting "; and"; and
12 (C) by adding at the end the following new
13 paragraph:
14 "(9) for any reportable foreign contact (as de-
15 fined in subsection (j)(3))—
16 "(A) the date, time, and location of the
17 contact;
18 "(B) the date and time of when a des-
19 ignated official of the committee was notified of
20 the contact;
21 "(C) the identity of individuals involved;
22 and
23 "(D) a description of the contact, including
24 the nature of any contribution, donation, ex-
25 penditure, disbursement, or solicitation involved

1 and the nature of any activity described in sub-
2 section (j)(3)(A)(ii)(II) involved.".
3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall apply with respect to reports
5 filed on or after the expiration of the 60-day period
6 which begins on the date of the enactment of this
7 Act.

8 **SEC. 102. FEDERAL CAMPAIGN FOREIGN CONTACT RE-**
9 **PORTING COMPLIANCE SYSTEM.**

10 (a) IN GENERAL.—Section 302 of the Federal Elec-
11 tion Campaign Act of 1971 (52 U.S.C. 30102) is amended
12 by adding at the end the following new subsection:
13 "(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE
14 POLICY.—
15 "(1) REPORTING.—Each political committee
16 shall establish a policy that requires all officials, em-
17 ployees, and agents of such committee to notify the
18 treasurer or other appropriate designated official of
19 the committee of any reportable foreign contact (as
20 defined in section 304(j)) not later than 3 days after
21 such contact was made.
22 "(2) RETENTION AND PRESERVATION OF
23 RECORDS.—Each political committee shall establish
24 a policy that provides for the retention and preserva-
25 tion of records and information related to reportable

1 foreign contacts (as so defined) for a period of not
2 less than 3 years.
3 "(3) CERTIFICATION.—
4 "(A) IN GENERAL.—Upon filing its state-
5 ment of organization under section 303(a), and
6 with each report filed under section 304(a), the
7 treasurer of each political committee (other
8 than an authorized committee) shall certify
9 that—
10 "(i) the committee has in place poli-
11 cies that meet the requirements of para-
12 graphs (1) and (2);
13 "(ii) the committee has designated an
14 official to monitor compliance with such
15 policies; and
16 "(iii) not later than 1 week after the
17 beginning of any formal or informal affili-
18 ation with the committee, all officials, em-
19 ployees, and agents of such committee
20 will—
21 "(I) receive notice of such poli-
22 cies;
23 "(II) be informed of the prohibi-
24 tions under section 319; and

"(III) sign a certification affirming their understanding of such policies and prohibitions.

"(B) AUTHORIZED COMMITTEES.—With respect to an authorized committee, the candidate shall make the certification required under subparagraph (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)).

1 **SEC. 103. CRIMINAL PENALTIES.**

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

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

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

14 **SEC. 104. RULE OF CONSTRUCTION.**

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

17 (1) to impede legitimate journalistic activities;
18 or

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

22 (A) resides in the United States;

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

1 (C) is not lawfully admitted for permanent
2 residence, as defined by section 101(a)(20) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1101(a)(20)).

5 Subtitle B—Strengthening Over-
6 sight of Online Political Adver-
7 tising

8 **SEC. 111. SHORT TITLE.**

9 This subtitle may be cited as the "Honest Ads Act".

10 **SEC. 112. PURPOSE.**

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

17 **SEC. 113. EXPANSION OF DEFINITION OF PUBLIC COMMU-**
18 **NICATION.**

19 (a) IN GENERAL.—Paragraph (22) of section 301 of
20 the Federal Election Campaign Act of 1971 (52 U.S.C.
21 30101(22)) is amended by striking "or satellite commu-
22 nication" and inserting "satellite, paid internet, or paid
23 digital communication".

1 (b) TREATMENT OF CONTRIBUTIONS AND EXPENDI-
2 TURES.—Section 301 of such Act (52 U.S.C. 30101) is
3 amended—
4 (1) in paragraph (8)(B)(v), by striking "on
5 broadcasting stations, or in newspapers, magazines,
6 or similar types of general public political adver-
7 tising" and inserting "in any public communica-
8 tion"; and
9 (2) in paragraph (9)(B)—
10 (A) by amending clause (i) to read as fol-
11 lows:
12 "(i) any news story, commentary, or
13 editorial distributed through the facilities
14 of any broadcasting station or any print,
15 online, or digital newspaper, magazine,
16 blog, publication, or periodical, unless such
17 broadcasting, print, online, or digital facili-
18 ties are owned or controlled by any polit-
19 ical party, political committee, or can-
20 didate;"; and
21 (B) in clause (iv), by striking "on broad-
22 casting stations, or in newspapers, magazines,
23 or similar types of general public political ad-
24 vertising" and inserting "in any public commu-
25 nication".

1 (c) DISCLOSURE AND DISCLAIMER STATEMENTS.—
2 Subsection (a) of section 318 of such Act (52 U.S.C.
3 30120) is amended—
4 (1) by striking "financing any communication
5 through any broadcasting station, newspaper, maga-
6 zine, outdoor advertising facility, mailing, or any
7 other type of general public political advertising"
8 and inserting "financing any public communication";
9 and
10 (2) by striking "solicits any contribution
11 through any broadcasting station, newspaper, maga-
12 zine, outdoor advertising facility, mailing, or any
13 other type of general public political advertising"
14 and inserting "solicits any contribution through any
15 public communication".

16 **SEC. 114. EXPANSION OF DEFINITION OF ELECTIONEERING**
17 **COMMUNICATION.**

18 (a) EXPANSION TO ONLINE COMMUNICATIONS.—
19 (1) APPLICATION TO QUALIFIED INTERNET AND
20 DIGITAL COMMUNICATIONS.—
21 (A) IN GENERAL.—Subparagraph (A) of
22 section 304(f)(3) of the Federal Election Cam-
23 paign Act of 1971 (52 U.S.C. 30104(f)(3)(A))
24 is amended by striking "or satellite communica-
25 tion" each place it appears in clauses (i) and

1 (ii) and inserting "satellite, or qualified internet
2 or digital communication".
3 (B) QUALIFIED INTERNET OR DIGITAL
4 COMMUNICATION.—Paragraph (3) of section
5 304(f) of such Act (52 U.S.C. 30104(f)) is
6 amended by adding at the end the following
7 new subparagraph:
8 "(D) QUALIFIED INTERNET OR DIGITAL
9 COMMUNICATION.—The term 'qualified internet
10 or digital communication' means any commu-
11 nication which is placed or promoted for a fee
12 on an online platform (as defined in subsection
13 (k)(3)).".
14 (2) NONAPPLICATION OF RELEVANT ELEC-
15 TORATE TO ONLINE COMMUNICATIONS.—Section
16 304(f)(3)(A)(i)(III) of such Act (52 U.S.C.
17 30104(f)(3)(A)(i)(III)) is amended by inserting "any
18 broadcast, cable, or satellite" before "communica-
19 tion".
20 (3) NEWS EXEMPTION.—Section
21 304(f)(3)(B)(i) of such Act (52 U.S.C.
22 30104(f)(3)(B)(i)) is amended to read as follows:
23 "(i) a communication appearing in a
24 news story, commentary, or editorial dis-
25 tributed through the facilities of any

1 broadcasting station or any online or dig-
2 ital newspaper, magazine, blog, publica-
3 tion, or periodical, unless such broad-
4 casting, online, or digital facilities are
5 owned or controlled by any political party,
6 political committee, or candidate;".

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to communications
9 made on or after January 1, 2020.

10 **SEC. 115. APPLICATION OF DISCLAIMER STATEMENTS TO**
11 **ONLINE COMMUNICATIONS.**

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

16 (1) by striking "shall clearly state" each place
17 it appears in paragraphs (1), (2), and (3) and in-
18 serting "shall state in a clear and conspicuous man-
19 ner"; and

20 (2) by adding at the end the following flush
21 sentence: "For purposes of this section, a commu-
22 nication does not make a statement in a clear and
23 conspicuous manner if it is difficult to read or hear
24 or if the placement is easily overlooked.".

1 (b) SPECIAL RULES FOR QUALIFIED INTERNET OR
2 DIGITAL COMMUNICATIONS.—
3 (1) IN GENERAL.—Section 318 of such Act (52
4 U.S.C. 30120) is amended by adding at the end the
5 following new subsection:
6 "(e) SPECIAL RULES FOR QUALIFIED INTERNET OR
7 DIGITAL COMMUNICATIONS.—
8 "(1) SPECIAL RULES WITH RESPECT TO STATE-
9 MENTS.—In the case of any communication to which
10 this section applies which is a qualified internet or
11 digital communication (as defined in section
12 304(f)(3)(D)) which is disseminated through a me-
13 dium in which the provision of all of the information
14 specified in this section is not possible, the commu-
15 nication shall, in a clear and conspicuous manner—
16 "(A) state the name of the person who
17 paid for the communication; and
18 "(B) provide a means for the recipient of
19 the communication to obtain the remainder of
20 the information required under this section with
21 minimal effort and without receiving or viewing
22 any additional material other than such re-
23 quired information.
24 "(2) SAFE HARBOR FOR DETERMINING CLEAR
25 AND CONSPICUOUS MANNER.—A statement in a

1 qualified internet or digital communication (as de-
2 fined in section 304(f)(3)(D)) shall be considered to
3 be made in a clear and conspicuous manner as pro-
4 vided in subsection (a) if the communication meets
5 the following requirements:

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

9 "(i) appears in letters at least as large
10 as the majority of the text in the commu-
11 nication; and

12 "(ii) meets the requirements of para-
13 graphs (2) and (3) of subsection (c).

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

19 "(C) VIDEO COMMUNICATIONS.—In the
20 case of a video communication which also in-
21 cludes audio, the statement—

22 "(i) is included at either the beginning
23 or the end of the communication; and

24 "(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)—

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-

vides the television or radio broadcast station, provider of cable or satellite television, or online platform with the United States mailing address the individual uses for voter registration purposes.".

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.

(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 paragraph (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

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 decision-mak-
9 ing 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 decision-making 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) 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 CONNECTIONS 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 following: "election, including a State or local ballot initiative or referendum".

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

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
2 election of a clearly identified candidate for
3 Federal, State, or local office (regardless of
4 whether the activity communication contains ex-
5 press advocacy or the functional equivalent of
6 express 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—DETERRING 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 licited 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

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—Prohibiting Deceptive Practices and Preventing Voter Intimidation

SEC. 311. SHORT TITLE.

This subtitle may be cited as the "Deceptive Practices and Voter Intimidation Prevention Act of 2019".

SEC. 312. PROHIBITION ON DECEPTIVE PRACTICES IN FEDERAL ELECTIONS.

(a) PROHIBITION.—Subsection (b) of section 2004 of the Revised Statutes (52 U.S.C. 10101(b)) is amended—

1 (1) by striking "No person" and inserting the
2 following:
3 "(1) IN GENERAL.—No person"; and
4 (2) by inserting at the end the following new
5 paragraphs:
6 "(2) FALSE STATEMENTS REGARDING FEDERAL
7 ELECTIONS.—
8 "(A) PROHIBITION.—No person, whether
9 acting under color of law or otherwise, shall,
10 within 60 days before an election described in
11 paragraph (5), by any means, including by
12 means of written, electronic, or telephonic com-
13 munications, communicate or cause to be com-
14 municated information described in subpara-
15 graph (B), or produce information described in
16 subparagraph (B) with the intent that such in-
17 formation be communicated, if such person—
18 "(i) knows such information to be ma-
19 terially false; and
20 "(ii) has the intent to impede or pre-
21 vent another person from exercising the
22 right to vote in an election described in
23 paragraph (5).

1 "(B) INFORMATION DESCRIBED.—Infor-
2 mation is described in this subparagraph if such
3 information is regarding—
4 "(i) the time, place, or manner of
5 holding any election described in para-
6 graph (5); or
7 "(ii) the qualifications for or restric-
8 tions on voter eligibility for any such elec-
9 tion, including—
10 "(I) any criminal penalties asso-
11 ciated with voting in any such elec-
12 tion; or
13 "(II) information regarding a
14 voter's registration status or eligi-
15 bility.
16 "(3) FALSE STATEMENTS REGARDING PUBLIC
17 ENDORSEMENTS.—
18 "(A) PROHIBITION.—No person, whether
19 acting under color of law or otherwise, shall,
20 within 60 days before an election described in
21 paragraph (5), by any means, including by
22 means of written, electronic, or telephonic com-
23 munications, communicate, or cause to be com-
24 municated, a materially false statement about
25 an endorsement, if such person—

1 "(i) knows such statement to be false;
2 and
3 "(ii) has the intent to impede or pre-
4 vent another person from exercising the
5 right to vote in an election described in
6 paragraph (5).
7 "(B) DEFINITION OF 'MATERIALLY
8 FALSE'.—For purposes of subparagraph (A), a
9 statement about an endorsement is 'materially
10 false' if, with respect to an upcoming election
11 described in paragraph (5)—
12 "(i) the statement states that a spe-
13 cifically named person, political party, or
14 organization has endorsed the election of a
15 specific candidate for a Federal office de-
16 scribed in such paragraph; and
17 "(ii) such person, political party, or
18 organization has not endorsed the election
19 of such candidate.
20 "(4) HINDERING, INTERFERING WITH, OR PRE-
21 VENTING VOTING OR REGISTERING TO VOTE.—No
22 person, whether acting under color of law or other-
23 wise, shall intentionally hinder, interfere with, or
24 prevent another person from voting, registering to

1 vote, or aiding another person to vote or register to
2 vote in an election described in paragraph (5).
3 "(5) ELECTION DESCRIBED.—An election de-
4 scribed in this paragraph is any general, primary,
5 run-off, or special election held solely or in part for
6 the purpose of nominating or electing a candidate
7 for the office of President, Vice President, presi-
8 dential elector, Member of the Senate, Member of
9 the House of Representatives, or Delegate or Com-
10 missioner from a Territory or possession.".
11 (b) PRIVATE RIGHT OF ACTION.—
12 (1) IN GENERAL.—Subsection (c) of section
13 2004 of the Revised Statutes (52 U.S.C. 10101(c))
14 is amended—
15 (A) by striking "Whenever any person"
16 and inserting the following:
17 "(1) Whenever any person"; and
18 (B) by adding at the end the following new
19 paragraph:
20 "(2) Any person aggrieved by a violation of
21 subsection (b)(2), (b)(3), or (b)(4) may institute a
22 civil action for preventive relief, including an appli-
23 cation in a United States district court for a perma-
24 nent or temporary injunction, restraining order, or
25 other order. In any such action, the court, in its dis-

1 cretion, may allow the prevailing party a reasonable
2 attorney's fee as part of the costs.".
3 (2) CONFORMING AMENDMENTS.—
4 (A) Subsection (e) of section 2004 of the
5 Revised Statutes (52 U.S.C. 10101(e)) is
6 amended by striking "subsection (c)" and in-
7 serting "subsection (c)(1)".
8 (B) Subsection (g) of section 2004 of the
9 Revised Statutes (52 U.S.C. 10101(g)) is
10 amended by striking "subsection (c)" and in-
11 serting "subsection (c)(1)".
12 (c) CRIMINAL PENALTIES.—
13 (1) DECEPTIVE ACTS.—Section 594 of title 18,
14 United States Code, is amended—
15 (A) by striking "Whoever" and inserting
16 the following:
17 "(a) INTIMIDATION.—Whoever";
18 (B) in subsection (a), as inserted by sub-
19 paragraph (A), by striking "at any election"
20 and inserting "at any general, primary, run-off,
21 or special election"; and
22 (C) by adding at the end the following new
23 subsections:
24 "(b) DECEPTIVE ACTS.—

1 "(1) FALSE STATEMENTS REGARDING FEDERAL
2 ELECTIONS.—
3 "(A) PROHIBITION.—It shall be unlawful
4 for any person, whether acting under color of
5 law or otherwise, within 60 days before an elec-
6 tion described in subsection (e), by any means,
7 including by means of written, electronic, or tel-
8 ephonic communications, to communicate or
9 cause to be communicated information de-
10 scribed in subparagraph (B), or produce infor-
11 mation described in subparagraph (B) with the
12 intent that such information be communicated,
13 if such person—
14 "(i) knows such information to be ma-
15 terially false; and
16 "(ii) has the intent to mislead voters,
17 or the intent to impede or prevent another
18 person from exercising the right to vote in
19 an election described in subsection (e).
20 "(B) INFORMATION DESCRIBED.—Infor-
21 mation is described in this subparagraph if such
22 information is regarding—
23 "(i) the time or place of holding any
24 election described in subsection (e); or

1 "(ii) the qualifications for or restric-
2 tions on voter eligibility for any such elec-
3 tion, including—
4 "(I) any criminal penalties asso-
5 ciated with voting in any such elec-
6 tion; or
7 "(II) information regarding a
8 voter's registration status or eligi-
9 bility.
10 "(2) PENALTY.—Any person who violates para-
11 graph (1) shall be fined not more than $100,000,
12 imprisoned for not more than 5 years, or both.
13 "(c) HINDERING, INTERFERING WITH, OR PRE-
14 VENTING VOTING OR REGISTERING TO VOTE.—
15 "(1) PROHIBITION.—It shall be unlawful for
16 any person, whether acting under color of law or
17 otherwise, to intentionally hinder, interfere with, or
18 prevent another person from voting, registering to
19 vote, or aiding another person to vote or register to
20 vote in an election described in subsection (e).
21 "(2) PENALTY.—Any person who violates para-
22 graph (1) shall be fined not more than $100,000,
23 imprisoned for not more than 5 years, or both.
24 "(d) ATTEMPT.—Any person who attempts to commit
25 any offense described in subsection (a), (b)(1), or (c)(1)

1 shall be subject to the same penalties as those prescribed
2 for the offense that the person attempted to commit.
3 "(e) ELECTION DESCRIBED.—An election described
4 in this subsection is any general, primary, run-off, or spe-
5 cial election held solely or in part for the purpose of nomi-
6 nating or electing a candidate for the office of President,
7 Vice President, presidential elector, Member of the Senate,
8 Member of the House of Representatives, or Delegate or
9 Commissioner from a Territory or possession.".
10 (2) MODIFICATION OF PENALTY FOR VOTER IN-
11 TIMIDATION.—Section 594(a) of title 18, United
12 States Code, as amended by paragraph (1), is
13 amended by striking "fined under this title or im-
14 prisoned not more than one year" and inserting
15 "fined not more than $100,000, imprisoned for not
16 more than 5 years".
17 (3) SENTENCING GUIDELINES.—
18 (A) REVIEW AND AMENDMENT.—Not later
19 than 180 days after the date of enactment of
20 this Act, the United States Sentencing Commis-
21 sion, pursuant to its authority under section
22 994 of title 28, United States Code, and in ac-
23 cordance with this section, shall review and, if
24 appropriate, amend the Federal sentencing
25 guidelines and policy statements applicable to

1 persons convicted of any offense under section
2 594 of title 18, United States Code, as amend-
3 ed by this section.
4 (B) AUTHORIZATION.—The United States
5 Sentencing Commission may amend the Federal
6 Sentencing Guidelines in accordance with the
7 procedures set forth in section 21(a) of the Sen-
8 tencing Act of 1987 (28 U.S.C. 994 note) as
9 though the authority under that section had not
10 expired.
11 (4) PAYMENTS FOR REFRAINING FROM VOT-
12 ING.—Subsection (c) of section 11 of the Voting
13 Rights Act of 1965 (52 U.S.C. 10307) is amended
14 by striking "either for registration to vote or for vot-
15 ing" and inserting "for registration to vote, for vot-
16 ing, or for not voting".
17 **SEC. 313. CORRECTIVE ACTION.**
18 (a) CORRECTIVE ACTION.—
19 (1) IN GENERAL.—If the Attorney General re-
20 ceives a credible report that materially false informa-
21 tion has been or is being communicated in violation
22 of paragraphs (2) and (3) of section 2004(b) of the
23 Revised Statutes (52 U.S.C. 10101(b)), as added by
24 section 312(a), and if the Attorney General deter-
25 mines that State and local election officials have not

1 taken adequate steps to promptly communicate accu-
2 rate information to correct the materially false infor-
3 mation, the Attorney General shall, pursuant to the
4 written procedures and standards under subsection
5 (b), communicate to the public, by any means, in-
6 cluding by means of written, electronic, or telephonic
7 communications, accurate information designed to
8 correct the materially false information.
9 (2) COMMUNICATION OF CORRECTIVE INFORMA-
10 TION.—Any information communicated by the Attor-
11 ney General under paragraph (1)—
12 (A) shall—
13 (i) be accurate and objective;
14 (ii) consist of only the information
15 necessary to correct the materially false in-
16 formation that has been or is being com-
17 municated; and
18 (iii) to the extent practicable, be by a
19 means that the Attorney General deter-
20 mines will reach the persons to whom the
21 materially false information has been or is
22 being communicated; and
23 (B) shall not be designed to favor or dis-
24 favor any particular candidate, organization, or
25 political party.

1 (b) WRITTEN PROCEDURES AND STANDARDS FOR
2 TAKING CORRECTIVE ACTION.—
3 (1) IN GENERAL.—Not later than 180 days
4 after the date of enactment of this Act, the Attorney
5 General shall publish written procedures and stand-
6 ards for determining when and how corrective action
7 will be taken under this section.
8 (2) INCLUSION OF APPROPRIATE DEADLINES.—
9 The procedures and standards under paragraph (1)
10 shall include appropriate deadlines, based in part on
11 the number of days remaining before the upcoming
12 election.
13 (3) CONSULTATION.—In developing the proce-
14 dures and standards under paragraph (1), the Attor-
15 ney General shall consult with the Election Assist-
16 ance Commission, State and local election officials,
17 civil rights organizations, voting rights groups, voter
18 protection groups, and other interested community
19 organizations.
20 (c) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Attorney General
22 such sums as may be necessary to carry out this subtitle.
23 **SEC. 314. REPORTS TO CONGRESS.**
24 (a) IN GENERAL.—Not later than 180 days after
25 each general election for Federal office, the Attorney Gen-

1 eral shall submit to Congress a report compiling all allega-
2 tions received by the Attorney General of deceptive prac-
3 tices described in paragraphs (2), (3), and (4) of section
4 2004(b) of the Revised Statutes (52 U.S.C. 10101(b)), as
5 added by section 312(a), relating to the general election
6 for Federal office and any primary, run-off, or a special
7 election for Federal office held in the 2 years preceding
8 the general election.

9 (b) CONTENTS.—

10 (1) IN GENERAL.—Each report submitted
11 under subsection (a) shall include—

12 (A) a description of each allegation of a
13 deceptive practice described in subsection (a),
14 including the geographic location, racial and
15 ethnic composition, and language minority-
16 group membership of the persons toward whom
17 the alleged deceptive practice was directed;

18 (B) the status of the investigation of each
19 allegation described in subparagraph (A);

20 (C) a description of each corrective action
21 taken by the Attorney General under section
22 4(a) in response to an allegation described in
23 subparagraph (A);

1 (D) a description of each referral of an al-
2 legation described in subparagraph (A) to other
3 Federal, State, or local agencies;
4 (E) to the extent information is available,
5 a description of any civil action instituted under
6 section 2004(c)(2) of the Revised Statutes (52
7 U.S.C. 10101(c)(2)), as added by section
8 312(b), in connection with an allegation de-
9 scribed in subparagraph (A); and
10 (F) a description of any criminal prosecu-
11 tion instituted under section 594 of title 18,
12 United States Code, as amended by section
13 3(c), in connection with the receipt of an allega-
14 tion described in subparagraph (A) by the At-
15 torney General.
16 (2) EXCLUSION OF CERTAIN INFORMATION.—
17 (A) IN GENERAL.—The Attorney General
18 shall not include in a report submitted under
19 subsection (a) any information protected from
20 disclosure by rule 6(e) of the Federal Rules of
21 Criminal Procedure or any Federal criminal
22 statute.
23 (B) EXCLUSION OF CERTAIN OTHER IN-
24 FORMATION.—The Attorney General may deter-
25 mine that the following information shall not be

included in a report submitted under subsection (a):

(i) Any information that is privileged.

(ii) Any information concerning an ongoing investigation.

(iii) Any information concerning a criminal or civil proceeding conducted under seal.

(iv) Any other nonpublic information that the Attorney General determines the disclosure of which could reasonably be expected to infringe on the rights of any individual or adversely affect the integrity of a pending or future criminal investigation.

(c) REPORT MADE PUBLIC.—On the date that the Attorney General submits the report under subsection (a), the Attorney General shall also make the report publicly available through the internet and other appropriate means.

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

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 pro-
4 vision 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
10 of this Act, and the application of the provisions to any
11 person or circumstance, shall not be affected by the hold-
12 ing.

○

The CHAIRPERSON. The Chair recognizes herself to offer an amendment in the nature of a substitute. The amendment has been made available in advance to all Members and is in front of each Member.

The clerk shall designate the amendment.

The CLERK. The Amendment in the Nature of a Substitute to H.R. 4617 Offered by Ms. Lofgren of California. Strike all after the——

The CHAIRPERSON. Without objection, the amendment will be considered as read and be considered as original text for purposes of amendment and shall be open for amendment at any point.

[The amendment of the Chairperson follows:]

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—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.
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 "(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 vides 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 "(1) The term 'Federal election cycle' means
2 the period which begins on the day after the date of
3 a regularly scheduled general election for Federal of-
4 fice and which ends on the date of the first regularly
5 scheduled general election for Federal office held
6 after such date.
7 "(2) The term 'illicit foreign money' means any
8 disbursement by a foreign national (as defined in
9 section 319(b)) prohibited under such section.".
10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply with respect to the Federal elec-
12 tion cycle that began during November 2018, and each
13 succeeding Federal election cycle.

14 **SEC. 204. PROHIBITION ON CONTRIBUTIONS AND DONA-**
15 **TIONS BY FOREIGN NATIONALS IN CONNEC-**
16 **TIONS WITH BALLOT INITIATIVES AND**
17 **REFERENDA.**

18 (a) IN GENERAL.—Section 319(a)(1)(A) of the Fed-
19 eral Election Campaign Act of 1971 (52 U.S.C.
20 30121(a)(1)(A)) is amended by striking "election" and in-
21 serting the following: "election, including a State or local
22 ballot initiative or referendum".
23 (b) EFFECTIVE DATE.—The amendment made by
24 this section shall apply with respect to elections held in
25 2020 or any succeeding year.

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—DETERRING 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 licited 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.

The CHAIRPERSON. Now I would like to explain what is in the amendment.

The amendment differs from the text of the SHIELD Act as introduced only in that it reserves Subtitle B of Title III, the Deceptive Practices and Voter Intimidation Prevention Act, because it is within the jurisdiction of the House Judiciary Committee, not the House Administration Committee. We consulted with the House Parliamentarian on this issue, and that was the advice that we received.

Otherwise, the amendment in the nature of a substitute is the same as the bill as introduced and is organized by four titles.

Title I enhances reporting requirements. First, it establishes a duty upon political committees to report to the FBI and the FEC illicit offers of campaign assistance from foreign governments, foreign political parties, their agents, and those on the sanctions list. It also includes the Honest Ads Act, bipartisan legislation that advances an important step in bringing rules of transparency to online political advertising.

Title II closes loopholes and gaps in the law that could permit foreign nationals and foreign governments to influence elections. It codifies existing FEC regulations prohibiting foreign nationals from influencing decisions about campaign spending. It would require the FEC to conduct an audit of illicit money in elections and report its recommendations to Congress after every election cycle.

It prohibits foreign spending in connection with ballot initiatives and referenda. It prohibits foreign spending in political advertising that promotes, attacks, supports, or opposes the election of candidates or, in the case of foreign governments, political advertising during an election year about national legislative issues of public importance.

Title III deters foreign interference in elections. For example, it restricts campaigns from sharing nonpublic campaign material, like internal opposition research and internal polling data, with foreign governments and their agents or those on the sanctions list, which can include oligarchs.

It also makes clear that the standard of determining the existence of coordination between campaigns and outside interests does not require an express agreement. This is in keeping with longstanding laws and regulations.

The remaining provisions of Title III remain reserved.

Title IV is the severability clause and provides guidance about effective dates.

Does any Member seek recognition?

Mr. Raskin.

Mr. RASKIN. Thank you very much.

The CHAIRPERSON. For what purpose does the Member seek recognition?

Mr. RASKIN. I move to strike the last word.

I want to rise in support of the SHIELD Act. I am very enthusiastic about this legislation, and I want to thank the Chair for her leadership in bringing it forward.

This is the third major piece of legislation that I hope we will be able to pass in the House of Representatives to address the serious deficiencies and deficits in American electoral democracy.

We passed H.R. 1, which would eliminate gerrymandering in America by mandating the use of independent redistricting commissions in every State. It would also institute automatic voter registration. It has the "Shareholders United" provisions that would prevent corporations from spending the money of the shareholders without their consent. And there are a number of other very positive features in H.R. 1. Alas, we are still waiting for any movement in the Senate on it.

We also passed the SAFE Act to guarantee the integrity of the machinery of American democracy and to assure that the mechanics will certify the authentic public will.

And now we have the SHIELD Act to try to repel and reject foreign interference in our campaigns. I am especially delighted that we are doing this because I was on the Committee in the last Congress, and for two years we saw no legislation that would successfully repel foreign interference in our campaigns.

In fact, I don't think that we seriously addressed the issue at all of what took place in 2016, so I think that we need to start there. As a member of the Judiciary Committee as well as the House Administration Committee and the Oversight and Reform Committee, I want to give everybody my best sense of what took place in 2016.

Special Counsel Mueller, in his report, said there was a campaign for sweeping and systematic interference in the U.S. election by Russia, by the GRU. That campaign included an attempt to poison the political culture of the United States of America with racist propaganda and various provocations to create and exacerbate preexisting racial, ethnic, religious, and social conflict in the country.

There was also direct cyber espionage and sabotage that took place with respect to the DNC, the DCCC, Hillary Clinton's offices, all of which were hacked into by Russian operators. And then, finally, there were direct efforts to hack into the computer systems of all 50 State election systems.

So that is a basic outline of what Vladimir Putin undertook to do to distort and thwart and predetermine election outcomes in our country. That is intolerable from a democratic perspective, and I think it is something that should unify all of us as Americans.

I have colleagues in Congress whose politics I disagree with vehemently, but I will defend with my life their right to be involved in our politics. That is not true of Russian saboteurs and Ukrainian prosecutors and investigators and Chinese spies and others who appear to have been invited to come into our electoral process. And we need to build very strong safeguards in our election laws to prevent this interference and tampering with American political democracy.

The first three words of our Constitution are "We the people." This is up to the people of America. We don't even allow our own government to get involved in our election, to spend money trying to elect this candidate or defeat that candidate. That is completely against our laws, to spend government money in that way. Why would we allow other people's governments to get involved in our elections to try to thwart the popular will and to try to bend our government to their will?

The Founders of the United States understood that this would be a constant threat because we are a free, open, and democratic soci-

ety. They understood that other governments would try to come and use our openness in order to gain sway over us. We have to pass fair, open, and transparent laws to say America's elections are for the American people.

I am very proud to support the SHIELD Act. I hope we will have a good markup today and we will pass it on to the Floor.

I yield back.

The CHAIRPERSON. The gentleman yields back.

Does any other Member wish to be recognized?

Does the Ranking Member seek to be recognized to offer an amendment?

Mr. DAVIS of Illinois. I have an amendment at the desk.

The CHAIRPERSON. The Ranking Member is recognized for the purpose of offering an amendment and for five minutes.

Mrs. DAVIS of California. I reserve a point of order.

The CHAIRPERSON. The gentlelady reserves a point of order.

The clerk will report the amendment.

The CLERK. Amendment to the Amendment in the Nature of a Substitute to H.R. 4617 Offered by Mr. Davis of Illinois. In section 104(1), strike "legitimate."

Mr. DAVIS of Illinois. Madam Chairperson, I ask unanimous consent to waive the reading.

The CHAIRPERSON. Pardon me?

Mr. DAVIS of Illinois. I would like to make a motion we waive the reading of the amendment, although it is over.

The CHAIRPERSON. It was over. It was so quick that we couldn't even get the words out in time.

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

In section 104(1), strike "legitimate".

☒

Mr. DAVIS of Illinois. That is a good amendment. That is called governing. Look at that quick reading.

Am I recognized, Madam Chairperson?

The CHAIRPERSON. You are recognized for five minutes——

Mr. DAVIS of Illinois. I thank you.

The CHAIRPERSON [continuing]. In support of your amendment.

Mr. DAVIS of Illinois. This amendment——

The CHAIRPERSON. And I assume the gentlelady withdraws her point of order.

Mr. DAVIS of Illinois. Thank you to the gentlelady from California for withdrawing the point of order.

This amendment simply would strike the term "legitimate" in Section 104 of this bill. The word "legitimate" in this section is vague and overbroad, which would eventually lead to the courts determining which journalistic activities are legitimate and which ones are not.

It is reckless to have this provision in this bill, considering our highly polarized political climate, where each side believes they are the ones correctly reporting the news. Interpretations of the word "legitimate" would undoubtedly be politically motivated and, if this legislation passes the House without this amendment adopted, would undoubtedly weaken public confidence in election security legislation.

I urge a "yes" vote on this very short, simple amendment that I think makes tremendous sense.

And I will reserve.

The CHAIRPERSON. The gentleman can't reserve, the gentleman yields back.

Mr. DAVIS of Illinois. I yield back.

The CHAIRPERSON. I oppose the amendment, and I will tell you why.

Section 104, the rule of construction, of the SHIELD Act duty-to-report provisions is just an expression of congressional intent that the duty to report should not be construed to otherwise limit the existing rights of foreign nationals, as defined by the Federal Election Campaign Act, or journalists.

It closely tracks the rule of construction that is included in a Senate duty-to-report bill that has Republican support, by the way. It also tracks something that the FEC has long required when applying the press exemption, to consider, among other things, whether an outlet or journalist is acting in their, quote, "legitimate press function."

In keeping with the Federal court case *Reader's Digest Association* v. *FEC*, it applies a two-part test when analyzing the press exemption: first, whether an entity is a press entity; and, second, whether that press entity is acting in its, quote, "legitimate press function."

Here is how the FEC describes its analysis of legitimacy. And this is from an advisory opinion in 2016 that had the unanimous vote of the FEC, including all three FEC Republicans.

And I quote: "The Commission applies a two-step analysis to determine whether this media exemption, also known as the press exemption, applies. First, the Commission asks whether the entity engaging in the activity is a press entity within the meaning of the

act and Commission regulations. Second, in determining the scope of the exemption, the Commission considers, one, whether the press entity is owned or controlled by a political party, political committee, or candidate, and, two, whether the press entity is acting as a press entity in conducting the activity at issue"—in other words, whether the press entity is acting in its, quote, "legitimate press function."

And they refer to the *Reader's Digest Association* v. *FEC*, found at 509 F. Supp. 1210 and 1215, as well as the *FEC* v. *Phillips Publishing*, as well as several advisory opinions. "In applying this analysis"—and I go on to quote them—"the Commission considers whether the entity's materials are available to the general public, whether they are comparable in form to those ordinarily issued by the entity, and"—the point I am making is that this rule of construction is what is being referred to as a legitimate journalistic activity. There is a long body of law defining what it means. We will incorporate and assume that that body of law will continue to be in effect when we utilize this phrase that has been defined in these cases and opinions.

And, therefore the amendment should be opposed and, I think, is ill-advised.

I yield back the balance of my time.

Are there further comments on the amendment?

Mr. Raskin is recognized to strike the last word.

Mr. RASKIN. Yes, I move to strike the last word. Thank you, Madam Chairperson.

Thanks for that explanation. And also thanks for the amendment, which I think does raise an interesting problem.

I wondered if the Chairperson would be willing to give us some more concrete hypotheticals to help us understand this problem. Because, as stated, at this level of abstraction, I am not quite sure I understand.

What is the general function of having this provision at all? As I understand it, if someone comes to my campaign representing a foreign government and seeks to engage in certain kinds of communications and interactions with me, that is a reportable event, even if they represent a state news service. Isn't that right?

The CHAIRPERSON. Well, no. See, this would exempt that.

Let's say Oligarch No. 1 comes to your campaign. You have a duty to report. But if it is a legitimate reporter, as defined by the legitimate press function and a whole body of law——

Mr. RASKIN. Yes.

The CHAIRPERSON [continuing]. That requirement to report would not exist, because it is a press inquiry. It is not a foreign interference.

Mr. RASKIN. And thank you for that explication. I guess that raises an issue with me, because, you know, I don't know what Vladimir Putin is calling Pravda these days, but if he sends state news to get involved with someone's campaign, it doesn't give me any comfort that that person is acting as a journalist for a foreign state actor.

And so I guess I am looking for a broader defense of why we even have——

The CHAIRPERSON. Well——

Mr. RASKIN. Do we feel this is a constitutionally necessary——

The CHAIRPERSON. I do. And whether there is further work that could be done to prevent what is perceived as a government propaganda arm is something we could discuss between here and the Floor.

But there are many organizations that are legitimate news organizations, meeting the test in *Reader's Digest Association,* that are clearly not propaganda associations. For example, the BBC is funded by the British Government. I don't think anyone would say they are a propaganda source. They are a news source.

We might feel differently about Pravda, but how we make that distinction I don't know at this moment. If you have additional suggestions between now and the Floor, we could all discuss them and——

Mr. RASKIN. Okay. And then let me——

Mr. DAVIS of Illinois. Will the gentleman yield?

Mr. RASKIN. Yes, I am happy to yield.

Mr. DAVIS of Illinois. Look, I think some of the questions you bring up are some of the concerns that we had.

You know, we mentioned that the FEC has clearly defined what they believe legitimate news sources are. I mean, would like to be able to work together to—let's define it. Let's not make this as broad.

That is my main concern about bringing this up; this is so broad. Who is going to make this judgment? And are we sure that they are going to follow the same process and procedures and the definition that the FEC follows?

Mr. RASKIN. Okay. And just reclaiming my time here, I would be delighted to work with both of you in thinking through the problem further.

Unfortunately, your amendment, which I understand is well-intentioned, would make it broader. By removing "legitimate," it opens the door broader to anybody who claims to be a news organization from a state. And so I guess, given the——

The CHAIRPERSON. You are thinking, if I may, if the gentleman will yield——

Mr. RASKIN. Yes.

The CHAIRPERSON [continuing]. You actually want to narrow the——

Mr. RASKIN. Yes, I would either abolish it or narrow it. But, certainly, I want to keep the legitimacy of the news entity front and center, because there are lots of people who are really acting as political emissaries for various states out there who are happy to pose as reporters.

Mr. DAVIS of Illinois. Will the gentleman yield?

Mr. RASKIN. I yield.

Mr. DAVIS of Illinois. I agree, there are entities. But what I think this legislation does, which is why we wanted to bring it to the Majority's attention, is that it gives a blanket protection to anyone who may be considered by some agency in the Federal Government as legitimate when, at some time, they may be considered not legitimate in the future. They may be that entity.

So the broadness of where we are right now with this definition, it shows why we have some concerns about this bill. I would love

to work with you. I would like to immediately put the—I would work further right now if we could offer an amendment to put the FEC's definition of legitimate news sources into an amendment now and pass it today.

Mr. RASKIN. Well, reclaiming my time, thank you, and I appreciate that.

And, again, I am very happy to work with both of you on brainstorming the best way to deal with the problem. But I don't think a good way to deal with it is to abolish the legitimacy criterion and thereby allow both legitimate and illegitimate news entities to come into the gate.

So I yield back to you.

The CHAIRPERSON. The gentleman yields back.

Does any other Member wish to be heard on the amendment?

If not, then the decision is on the amendment.

All those who are in favor of the amendment will say aye.

All those who are opposed will say no.

In the opinion of the Chair, the noes have it. The noes have it and——

Mr. DAVIS of Illinois. I need a roll call vote, because I didn't ask for a roll call vote for H.R. 1 and now it is being viewed as unanimous.

The CHAIRPERSON. Okay.

The clerk will call the roll.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. No.

The CLERK. Chairperson Lofgren votes no.

Mr. Raskin?

Mr. RASKIN. No.

The CLERK. Mr. Raskin votes no.

Mrs. Davis of California?

Mrs. DAVIS of California. No.

The CLERK. Mrs. Davis of California votes no.

Mr. Butterfield?

Mr. BUTTERFIELD. No.

The CLERK. Mr. Butterfield votes no.

Ms. Fudge?

[No response.]

The CLERK. Mr. Aguilar?

Mr. AGUILAR. No.

The CLERK. Mr. Aguilar votes no.

Mr. Davis of Illinois?

Mr. DAVIS of Illinois. Yes.

The CLERK. Mr. Davis of Illinois votes yes.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CHAIRPERSON. The clerk will report.

The CLERK. Madam Chairperson, on this vote, five Members vote no and one Member is yes.

The CHAIRPERSON. And the amendment is not agreed to.

Are there additional amendments that Members wish to offer?

Mr. DAVIS of Illinois. Yes.

The CHAIRPERSON. The Ranking Member is recognized for the purpose of offering an amendment.

The clerk will report the amendment.

The CLERK. Amendment to the Amendment in the Nature of a Substitute to H.R. 4617 Offered by Mr. Davis of Illinois. Strike Subtitle B of Title I (and redesignate the previous subtitle accordingly). Page 37, line 19, strike "Section 117 and." Page 37, line 22, strike "(e)" and insert "(d)."

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Strike subtitle B of title I (and redesignate the previous subtitle accordingly).

Page 37, line 19, strike "section 117 and".

Page 37, line 22, strike "(c)" and insert "(d)".

☒

The CHAIRPERSON. Thank you.

Mrs. DAVIS of California. I reserve a point of order.

The CHAIRPERSON. The gentlelady reserves a point of order.

The gentleman is recognized for five minutes in support of his amendment.

Mr. DAVIS of Illinois. Thank you, Madam Chairperson.

This amendment strikes Subtitle B of Title I. This section would not accomplish its desired goal of eliminating foreign meddling in our elections. This section only applies to paid ads, but in 2016 most Russian propaganda was posted for free on social media platforms.

It would also apply only to the largest media platforms, such as Twitter, Facebook, and The New York Times, but ignores thousands of other platforms, viewed by hundreds of millions of Americans, open to foreign propaganda.

It also requires web platforms to play the role of law enforcement officials. But if they fail to detect foreigners disguised with American identities, they will be punished as criminals.

Our foreign adversaries will not be deterred by compliance with FEC filings. Do you think they care if they get hit with a civil penalty from an administrative board? The only people that will truly be penalized by this will be Americans who want to engage in public discourse.

This is a good amendment that provides a fix to this bill that I believe right now, in its current form, is unfixable. And I urge—therefore, I doubt I get my wish that the Majority would pass this amendment. I would like to see something come through in any of these election security bills that have been marked up in this Committee. I would like to see at least someone work with us on a bipartisan amendment. I am still waiting, and I hope it might be this one.

I yield back.

The CHAIRPERSON. The gentleman yields back.

The gentlelady withdraws her point of order.

And the Chair recognizes herself to explain why I oppose the amendment.

Essentially, the amendment would repeal the provisions of the SHIELD Act that basically reflect the Honest Ads Act. It is important that digital advertising be included in our efforts to reform in this space. Digital advertising can have far greater reach than broadcast advertising. They are relatively inexpensive to produce, can be disseminated instantly to huge audiences across vast distances.

And I will note, the Ranking Member complains about lack of bipartisanship. The Honest Ads Act incorporated in Title I of the SHIELD Act actually has 18 Republican cosponsors and 17 Democratic cosponsors. So that is a bipartisan approach.

Earlier this year, the Senate Select Committee on Intelligence, as I mentioned in my opening statement, released a report about Russian information warfare and specifically recommended, on page 80 of Volume II, that Congress should examine legislative approaches to ensuring Americans know the sources of online political advertisements.

I think it is time for our disclosure and disclaimer laws and regulations to be updated to reflect how campaigns are run in the 21st century. The Honest Ads Act takes steps to curb illegal foreign influence in our elections by requiring that media platforms make reasonable efforts to ensure that political advertisements are not purchased by foreign nationals.

Now, we know that during the 2016 Presidential elections Russian operatives took advantage of the absence of disclosure rules for online political ads. Facebook has disclosed that Russian entities spend $100,000 in political advertisements to amplify divisive social and political messages. And it is important to note that these ads were seen by a huge number of people.

Now, it is true that paid political advertisements are not the sole method by which foreign adversaries wage disinformation. But they are a key tactic to grow followers and gain exposure to millions of people.

According to page 44 of the bipartisan Senate report, 11.4 million people in the United States saw at least 1 of the 3,393 advertisements that were purchased by the IRA, the Russian influence agency. Moreover, they were targeted down to the State, city, and, in some instances, university level.

I will just note that when Citizens United was decided by the Supreme Court—a decision, to be honest, I disagreed with—one of the things that the Court said in making its ruling was, the answer to whatever harm would be done by money in the political arena would be disclosure. Justice Kennedy wrote that the First Amendment protects political speech, and disclosure permits citizens and shareholders to react to entities in a proper way.

We need to have complete disclosure so that people know what they are getting. And we need to make sure that we prohibit these foreign, really, enemies of the United States from trying to disrupt our democracy.

So, with that, I see my time is almost up, and I yield back.

Are there additional Members wishing to be heard?

If not, then the question is on the amendment.

All those in favor will say aye.

All opposed will say no.

In the opinion of the Chair—the noes have it.

Mr. DAVIS of Illinois. I clearly won that voice vote. I would like a roll call vote.

The CHAIRPERSON. The Ranking Member asks for a roll call vote.

The clerk will call the roll.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. No.

The CLERK. Chairperson Lofgren votes no.

Mr. Raskin?

[No response.]

The CLERK. Mrs. Davis of California?

Mrs. DAVIS of California. No.

The CLERK. Mrs. Davis of California votes no.

Mr. Butterfield?

[No response.]

The CLERK. Ms. Fudge?

[No response.]

The CLERK. Mr. Aguilar?

Mr. AGUILAR. No.

The CLERK. Mr. Aguilar votes no.

Mr. Davis of Illinois?

Mr. DAVIS of Illinois. Yes.

The CLERK. Mr. Davis of Illinois votes yes.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CHAIRPERSON. The clerk will report.

The CLERK. Madam Chairperson, on this vote, there are three Members voting no and one Member voting yes.

The CHAIRPERSON. And the amendment is not agreed to.

Are there additional amendments that Members wish to offer?

Mr. DAVIS of Illinois. Yes. I have an amendment at the desk.

The CHAIRPERSON. The Ranking Member is recognized to offer his amendment.

The gentlelady from California reserves a point of order.

The clerk will report the amendment.

The CLERK. The Amendment to the Amendment in the Nature of a Substitute to H.R. 4617 Offered by Mr. Davis of Illinois. Strike Section 115 (and redesignate the succeeding sections accordingly).

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Strike section 115 (and redesignate the succeeding sections accordingly).

☒

The CHAIRPERSON. The gentleman is recognized for five minutes in support of his amendment.

The gentlelady from California withdraws her point of order.

Mr. DAVIS of Illinois. Madam Chairperson, I want to comment on your comments. I don't have the ability to get any of my colleagues to yield me time when they are not here. You are welcome, to the rest of the Committee, for not having me have extra time, but that means I get to take some time now.

We are not against additional disclaimer and disclosure laws. We want to work with you all on this. But in its current form, this bill would regulate all political advertisement, of all Americans, for $100,000 in Russian ads out of $1.4 billion in online political ads purchased in the 2016 Presidential election.

Remember, the majority of the propaganda came on free portions of the platforms. We haven't even had a hearing in this Committee with the companies who are in charge of these platforms to ask them why. Why did they take a check from a foreign country and put those ads up? What are they doing to ensure that countries like Russia can't use free platforms to disseminate bad information? Why don't we get a chance to have them at that table right there and ask them that?

This bill has been rushed. That is the problem. That is the problem. We can throw $100,000 in Facebook ads in a Presidential election. My Lord, if you divided that by 435 and you put it in my race, you mean I only have to spend 1/435th of $100,000 and I am going to influence enough voters to make sure I come back here? That is what is going to make me win in my race? Seriously, come on. That is why this bill is bad.

Madam Chairperson, you mentioned the Senate report that said we should examine legislation on online ads. Exactly. Why haven't we had a hearing about that? Why are we pushing another one of these partisan bills through this Committee, this Committee that has become one of the most legislating legislative committees of Congress? I am okay with that. I like debating these issues. But let's get real here.

This amendment would correct a problem in this bill that applies television disclaimer rules to online advertising. I don't know about you, but, look, I have a race where I have to run television ads and I have to run online ads. There is a big freaking difference between an online advertisement and a TV advertisement.

We are going to go backwards. We are not looking at the 21st century. We are not looking at new platforms. We don't even know what the next generation of platforms is going to be, because we haven't seen anybody here from any of these platforms that are named in this bill.

That, to me, is not what I came to Congress for. I can talk bipartisanship all I want. How about information? Missed that. Don't get a chance.

Instead, we are going to go put some—we here in Congress and on this Committee are now going to implement rules that online platforms are going to have to follow without giving a chance for them to tell us what they already do.

Also, every time we debate an election security bill in this Committee, every single time, we forget to talk about what we have

done right. We forget to talk about the 2018 election. Historic midterm turnout. Trust me, I know. A lot longer night than I am used to. Historic midterm turnout.

What we don't talk about is where we have worked together in the last Congress in a bipartisan fashion, mind you, to provide millions of dollars to our States to work in conjunction with the Department of Homeland Security, who deserves a lot of kudos at a time where our Department of Homeland Security is attacked on a daily basis. They deserve a lot of credit for what they are doing, working with our local election officials to make sure no foreign country interferes in our elections. And you know what? You know what? It is working. Not one instance that I have seen reported of foreign interference in our 2018 election cycle. Not one.

And you would think, if the Russians had been so successful in determining an outcome in an election, that they certainly would want to influence Congress too, right? But we see nothing. Wow.

But let's go ahead and fix it. Let's go ahead and put antiquated rules for disclosure into law, because government knows best, without even asking these new platforms how they are going to implement them, without even pulling them in front of our Committee.

If we are going to legislate on a Committee like this, like we are being asked to, then let's damn well have some hearings so we can hear why it is important, we can hear from them what is going to work and what is not. That is what makes me mad.

And I don't have anybody here to yield me more time, and I am okay with that, but I am not going to sit here and look at this legislation and think that it is okay without standing up and putting up a fight. I know I am going to be alone on every one of these amendments. I know I am going to get drowned out by a unanimous vote except for me. And you know what? That is okay, because I am going to go to the Floor and say the same damn things.

I yield back.

The CHAIRPERSON. The gentleman yields back.

The gentlelady withdraws her point of order. I recognize myself in opposition to the amendment.

First, I just would like to note that we did have a hearing on February 14. We heard from eight witnesses at our hearing, "For the People: Our American Democracy." And—excuse me?

Mr. DAVIS of Illinois. Will the gentlelady yield?

The CHAIRPERSON. No. I am in the middle of explaining why I oppose this amendment.

We did have the Honest Ads Act discussed at that hearing.

This amendment would eliminate the Honest Ads Act improvements on disclaimer and disclosure rules that apply to paid digital advertising on major online platforms. It seems to me that Americans should have the right to know who is spending money to influence their views, including on online digital ads.

Transparency is key, as we have noted earlier and as the Supreme Court noted in the *Citizens United* case. The Honest Ads Act ensures that the same rules that apply to television and radio also would apply to digital advertisements but with regulatory flexibility to address ongoing changes in technology.

For example, the bill, starting on page 16, requires advertisements to include in a clear and conspicuous manner who paid for

the ad, but it provides for a special rule, on page 17, for qualified internet or digital communications in which a full paid-for-by disclaimer is not possible due to technological limitations.

And that special rule would provide that an ad, at a minimum, include the name of the person who paid for the communication and then provide a means for the recipient of the communication to obtain the remainder of the information, required under the section, with minimal effort and without receiving or viewing additional materials. In other words, a rollover or pop-up or landing page could supply the remainder of the "Stand By Your Ad" rules.

The three-second audio and four-second video requirement provides a safe harbor, as defined on page 18 of the bill, and it provides that the disclaimer information be presented in a clear and conspicuous manner.

I would like to note that, although much has been said about bipartisanship, this Honest Ads bill has bipartisan support.

On the House side, Representative Elise Stefanik of New York said this: "The Honest Ads Act will prevent foreign actors from influencing our elections by ensuring that online political advertising follows the same rules as television advertising and discloses the purchaser. There is no doubt that Russia has tried to interfere in our electoral process, and I am proud to cosponsor this bipartisan effort to ensure they or other foreign entities are not successful."

Senator Lindsey Graham, not known to be a liberal, made a similar statement of support of the Senate version of the Honest Ads Act.

So, while the Ranking Member may not agree, as is his right, to suggest that this does not have bipartisan support, I think, is incorrect.

I think the amendment, which would simply remove this, would be a mistake and would make this piece of legislation a far poorer piece of legislation, and I would ask that the Members vote against it.

And I yield back the balance of my time.

Do other Members wish to be heard?

The gentlelady from California——

Mrs. DAVIS of California. Thank you.

The CHAIRPERSON [continuing]. Is recognized for five minutes to strike the last word.

Mrs. DAVIS of California. Yes. Madam Chairperson, just very briefly, I think, in many ways, what we are asking in this is that there are enough obstacles in the way to suggest, on some levels, that we are watching all these other entities at the same time.

I think that is important, because what we are trying to do is, at the same time, sort of build resiliency in the population so people begin to ask those questions: Who is supporting this? How are they doing it? Where is the money coming from? Et cetera. And by removing all of that information we open up the gates and say "come on in."

I think we just have to put a few gates in the way to make it a far more difficult process for at least a certain amount of information that is meant to influence, on some levels—and, again, this is coming from foreign entities. And, you know, we don't want to

get out of their way. We actually want to get in their way, in this instance.

The CHAIRPERSON. Does the gentlelady yield back?

Mrs. DAVIS of California. I yield back.

The CHAIRPERSON. Are there other Members wishing to be heard on this amendment?

If not, then the question is on the amendment.

All those in favor will say aye.

All those opposed will say no.

In the opinion of the Chair, the noes have it.

Mr. DAVIS of Illinois. Can I have a roll call vote?

The CHAIRPERSON. The Ranking Member asked for a roll call vote.

The clerk will please call the roll.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. No.

The CLERK. Chairperson Lofgren votes no.

Mr. Raskin?

[No response.]

The CLERK. Mrs. Davis of California?

Mrs. DAVIS of California. No.

The CLERK. Mrs. Davis of California votes no.

Mr. Butterfield?

Mr. BUTTERFIELD. No.

The CLERK. Mr. Butterfield votes no.

Ms. Fudge?

Ms. FUDGE. No.

The CLERK. Ms. Fudge votes no.

Mr. Aguilar?

Mr. AGUILAR. No.

The CLERK. Mr. Aguilar votes no.

The CLERK. Mr. Davis of Illinois?

Mr. DAVIS of Illinois. Yes.

The CLERK. Mr. Davis of Illinois votes yes.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CLERK. Madam Chairperson, on this vote, there are five noes and one yes.

The CHAIRPERSON. And the amendment is not agreed to.

Does the Ranking Member have an additional amendment?

Mr. DAVIS of Illinois. I do. I have an amendment at the desk, No. 4.

The CHAIRPERSON. The gentleman is recognized to offer his amendment.

The gentlelady from California reserves a point of order.

The clerk will please report the amendment.

The CLERK. Amendment to the Amendment in the Nature of a Substitute to H.R. 4617 Offered by Mr. Davis of Illinois. Strike Section 116 (relating to political record requirements for online platforms).

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Strike section 116 (relating to political record requirements for online platforms).

☒

The CHAIRPERSON. The gentleman is recognized for five minutes in support of his amendment.

Mr. DAVIS of Illinois. Thank you, Madam Chairperson.

And, look, I enjoy working with every Member on this Committee. We have our differences of opinion when it comes to these election security issues. I want to vent my frustration once more on this Honest Ads Act portion.

Look, if the Honest Ads Act is what everybody wants, why aren't we just pushing that bill? Why are we following the same path that we have seen in other committees, where you take bipartisan legislation that could get marked up in a bipartisan way, we could make some fixes that even some of the cosponsors have come to talk to me about, we could make some fixes, and then we could pass it, and then we could all stand together. We could be like, yeah, we did it, we did something. Send it over to the Senate in a bipartisan fashion, and then the bogeyman, Senator Mitch McConnell, can't be blamed for stopping it, because we are going to push it over in a bipartisan fashion.

But, instead, instead, you take a portion that has some very good things in it and you mold it together, like I said in my opening statements, with some poison pills. Then you call it the SHIELD Act instead. Well, that is great. Great. But there is a chance for bipartisanship and unfortunately we are not getting it.

Which is why, as I said in my opening statement, I am throwing these amendments up, to send a message that maybe we should fix it, maybe we should do a little more, maybe we shouldn't rush this stuff. Because this is going to have a chilling effect on how all of us and how anybody who wants to participate in the political process actually is able to in the future.

So much so that, when you look at this provision—another reason why we have offered this amendment is that I have three former FEC chairs that wrote an article addressing what, Madam Chairperson, you said earlier. And it says: But the bill, the Honest Ads Act, which goes far beyond the Senate report's recommendation, wouldn't prevent foreign meddling, and it would harm First Amendment rights.

All I am doing is striking Section 116 because the bill, as written, would capture far more ads than what we have seen in the past and what I think the intention of the Majority is. Many issue-based groups say this would have a chilling effect on First Amendment rights.

Now, you talk about having a political notation and categorization. Well, I would like to submit this for the record. I have some examples of——

The CHAIRPERSON. Without objection, so ordered.

[The information follows:]

Examples of Advertisements that are not political but are categorized and treated as political advertisements.

Active
Started running on Sep 24, 2019
ID: 987157668295833

About social issues, elections or politics

Walmart
Sponsored - Paid for by Walmart
ID: 987157668295833

We're proud to employ over 11,000 associates in West Virginia. Learn how we're investing in opportunity for West Virginians today:

Investing in West Virginia
Learn how Walmart is investing in local communities in West Virginia
CORPORATE.WALMART.COM
Learn More

See Ad Details

Inactive
Oct 31, 2018 - Oct 31, 2018
ID: 497803142739869

About social issues, elections or politics

Pizza Crave
Sponsored - Paid for by Pizza Crave
ID: 497803142739869

Happy Halloween! Celebrate with $10 Pizza Pies at Pizza Crave & Order Online Now! www.PizzaCraveNJ.com

Pizza Crave
Shop Now

See Ad Details

Issue, Electoral or Political

Inactive
Started running on Mar 8, 2019
ID: 3852782813428308

This ad ran without a disclaimer.

HotDogCollars.com
Sponsored
ID: 3852782812428308

Shop thousands of styles of dog collars, cat collars, leashes, ID tags, and more! Get Free Shipping on orders $30+.

Free Shipping Over $30 | From $7.95

Affordable Pet Products
Shop Now

Animal Prints Collection
Shop Now

See Ad Details

Inactive
Mar 14, 2019 - Mar 31, 2019
ID: 2077498522357966

This ad ran without a disclaimer.

Walt Disney World
Sponsored
ID: 2077498522357966

May all your family reunions be this magical. #FamiliaFirst

Walt Disney World Resort | "Meet Up"
Learn More

Inactive
Aug 17, 2018 - Sep 15, 2018
ID: 2016274998023937

This ad ran without a disclaimer.

Target
Sponsored
ID: 2016274998023937

Get game day ready. Save on select Vizio TVs.

Save on select Vizio TVs

Game Day is Coming
Shop now & save
TARGET.COM
Shop Now

See Ad Details

Inactive
Sep 15, 2019 - Sep 21, 2019
ID: 911908619179315

About social issues, elections or politics

Mywmtgear
Sponsored - Paid for by MyWmtGear
ID: 911908619179315

MyWmtGear | Online Grocery #onlinegroceripickup #walmartpickup #mywalmart #teamwalmart #walmartlife #SparkKindness #walmartonlinegroceripickup #walmartcrew

Mywmtgear
Shop Now

See Ad Details

Mr. DAVIS of Illinois. Yeah, thank you. I have some examples of Facebook ads where they have been categorized "issue," "electoral," or "political."

Here is my favorite. I am a proud father of two small Yorkies. They run my house. I don't know how political they are, but the hotdogcollars.com-sponsored ad on Facebook was labeled "electoral" or "political." I mean, it is so political that you can shop thousands of styles of dog collars, cat collars, leashes, ID tags, and more. Get free shipping on orders over 30 bucks.

More than willing, Pete, if you want to buy me some dog collars, you get free shipping. All right. Thank you.

So that is a problem. That is why we ought to have Twitter and Facebook here, so we can hear from them what they are already doing, what is working, and what is not.

Recently, Federal courts have doubted the constitutionality of provisions such as this. A U.S. district court has preliminarily enjoined Maryland's implementation of the Maryland Online Electioneering Transparency and Actability Act, which in many ways was less burdensome than the Honest Ads Act section contained in this bill. The court held, "All compelled disclosure laws implicate the Free Speech Clause, but laws imposing those burdens on the media implicate a separate First Amendment right as well, the freedom of the press."

Lastly, Madam Chairperson, you mentioned a hearing that we had in preparation for H.R. 1, the one, with two panels. We had Secretaries of State here talking about election security issues. We had the Brennan Center talking about how they helped you guys write that 600-page bill. We had others come in talking about how they helped the Majority write the bill too.

Yes, we had a hearing. But, no, we had nobody sitting at a table in a subsequent hearing from companies and platforms that we and everyone who participates in the political process will use in every subsequent election. We didn't have any of them come here to tell us how best to fix the problem and answer the questions as to why they took money from foreign countries for ads.

I didn't get a chance to ask that. None of you got a chance to ask that. I think that is wrong. I think we could have had a very informational hearing with the companies that are going to be most affected by this very rushed legislation.

I yield back.

The CHAIRPERSON. The gentleman yields back.

The gentlelady withdraws her point of order. The Chair recognizes herself for an explanation of why I would ask that the amendment be opposed.

I did see the op-ed by the three former Republican members of the FEC opposing the Honest Ads Act, a bill that has been sponsored by Representative Kilmer, which currently has more Republican cosponsors than Democratic cosponsors.

I note that two other FEC members, former Chair Ann Ravel, has endorsed the Honest Ads Act, as well as the current FEC Chair, Ellen Weintraub. So that appears to be split.

The amendment would remove the recordkeeping requirements in the bill. Now, critics have said that it is, you know, somehow unfair for online platforms to maintain and make available for public

inspection a record of campaign advertising. To be clear, the recordkeeping requirements are very similar to those that apply to broadcasters that maintain political files. Here, the platforms would be required to maintain a digital copy of the ad, a description of the audience targeted, and information about the rate charts, the candidate it supports, or the national legislative issue to which it refers.

Moreover, the Honest Ads Act puts these transparency obligations on the largest platforms, those that sell ads and have 50 million or more monthly U.S. visitors.

Now, platforms like Facebook and Google, in particular, have taken some voluntary steps, partly, to keep these recordkeeping requirements, although their work has not been perfect. But we in Congress need to do our job. These have to be requirements, not voluntary agreements that can be changed at any time.

I would note also, I had not seen the dog collar ad mentioned and now put into our official record, but it is an example of why the "national legislative issues of public importance" provisions in the Honest Ads Act needs to be made law.

The term "national legislative issue of public importance," which is what triggers the qualified political advertisement for purpose of a platform's recording requirements, is borrowed from Section 315(e)(1)(B) of the Communications Act. This is not just made up here on the spot. It requires broadcasters to maintain and make available for public inspection a complete record of requests to purchase broadcast time going to a national legislative issue of public importance. We need to have an administrative standard, as we do in the context of broadcasters, and it is important we set that standard so it can be met.

Finally, just a note on whether or not this will chill speech. I think it is important that, even though, as I mentioned earlier, I disagreed with the court in their *Citizens United* decision, seven Justices joined Justice Kennedy in saying, quote, "The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages."

Disclosure does not silence or censor any speech. The Court affirmed in *Citizens United*, by an eight-to-one margin, that disclaimer and disclosure requirements impose no ceiling on campaign-related activities and do not prevent anyone from speaking.

So I think this amendment is ill-advised. I would urge that it be defeated. And I yield back the balance of my time.

Do additional Members wish to be recognized?

Seeing no one, then the question is on the amendment.

All those who are in favor of the amendment will signify by saying aye.

All opposed will say no.

In the opinion of the Chair, the noes have it.

Mr. DAVIS of Illinois. I request a roll call vote, please.

The CHAIRPERSON. The Ranking Member has asked for a roll call.

The roll call will be called by the clerk.

The CLERK. Chairperson Lofgren?
The CHAIRPERSON. No.
The CLERK. Chairperson Lofgren votes no.
Mr. Raskin?
[No response.]
The CLERK. Mrs. Davis of California?
Mrs. DAVIS of California. No.
The CLERK. Mrs. Davis of California votes no.
Mr. Butterfield?
Mr. BUTTERFIELD. No.
The CLERK. Mr. Butterfield votes no.
Ms. Fudge?
Ms. FUDGE. No.
The CLERK. Ms. Fudge votes no.
Mr. Aguilar?
Mr. AGUILAR. No.
The CLERK. Mr. Aguilar votes no.
Mr. Davis of Illinois?
Mr. DAVIS of Illinois. Yes.
The CLERK. Mr. Davis of Illinois votes yes.
Mr. Walker?
[No response.]
The CLERK. Mr. Loudermilk?
[No response.]
The CLERK. Madam Chairperson, on this vote, there are five noes and one yes.
The CHAIRPERSON. And the amendment is not agreed to.
Are there additional amendments?
Mr. DAVIS of Illinois. Madam Chairperson, I have an amendment at the desk, No. 5.
The CHAIRPERSON. The clerk will report the amendment.
The gentlelady from California reserves a point of order.
Mr. DAVIS of Illinois. I will waive the reading of the bill. I would like to——
The CLERK. Amendment to the Amendment in the Nature of a Substitute to H.R. 4617 Offered by Mr. Davis of Illinois. In Section 319(d)——
The CHAIRPERSON. Without objection, the amendment is considered as read.
[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

In section 319(d) of the Federal Election Campaign Act of 1971 (as proposed to be added by section 201(b) of the bill)—

(1) insert "labor organization (as defined in section 316(b))," after "a corporation,"; and

(2) insert "labor organization," after "the corporation," each place that it appears.

The CHAIRPERSON. The gentleman is recognized for five minutes in support of his amendment.

Mr. DAVIS of Illinois. Madam Chairperson, thank you.

This amendment would simply include "labor organizations" after each occurrence of "corporation." Unions have been treated in parity with corporations throughout the history of the Federal Election Campaign Act, and there is no reason to deviate from that here regarding certification of compliance.

There is, however, no reason for either to actually be targeted in this bill. Neither corporations nor unions have been accused of any election interference in any election. I mean, frankly, I don't think either one should be in this bill. But since you put one in, we have to kind of put the other in.

I am kind of waiting—it is interesting because, right now, under the Federal Election Campaign Act, nobody running for Federal office can take corporate dollars. Nobody. The only way that is going to happen is if H.R. 1 is ever signed into law.

The CHAIRPERSON. Would the gentleman yield? Because I think we are prepared to accept your amendment.

Mr. DAVIS of Illinois. Oh. Yes.

The CHAIRPERSON. I think it is covered anyhow pursuant to the FEC, but I have no objection to including labor organizations along with the other delineated entities in both sections of the bill. And I am prepared to accept the amendment, and I think other members are as well, if we can proceed.

Mr. DAVIS of Illinois. Well, I will reclaim my time. Thank you for the cooperation.

And, in this case, look, I am a pro-labor Republican. I am somebody who is proud to be endorsed in my campaigns by many labor organizations.

These are opportunities for us to be able to work together for commonsense solutions. The sheer fact that we are targeting labor or corporations in this bad bill is something that I think the entire Committee needs to be concerned about. And when we move forward and we can talk about bipartisanship, I hope it is in the sense that we have truth when it comes to advertising in the future.

Now, I am sitting here, and I can tell you, as somebody who had millions of dollars spent against him in online ads, TV ads, radio ads, where they said I took corporate money, I mean, I can't wait, if this bill is put into law, for the Attorney General and the DOJ to spend millions of your tax dollars actually setting the record straight on my behalf when we finally find out that none of us can take corporate money. That is what this bill does. We are going to address that later. It is going to be pretty fun.

But this is an opportunity for us to be able—I would rather this amendment strike "labor" and "corporate," but if you are going to put one in, you are going to have to put the other. And I don't think my friends in organized labor would have any problems coming up with the same certifications that everybody else is.

And, frankly, when we look ahead, I think it is incumbent upon them and anyone who wants to participate in the political process to do it. But let's not kid ourselves; this is another example—and I am glad you guys are offering bipartisanship. You kind of take one of my arguments away when we get to the floor, but I will

make an adjustment. But, in the end, if you guys want to target corporations that can't give to us anyway, instead of stripping this language out, if you want to add "labor" to it, on a bad bill—hey, I am trying to prove a point, how bad your bill is. If you want to make it worse, let's go.

I yield back.

The CHAIRPERSON. The gentlelady withdraws her point of order. The question is on the amendment.

All those in favor will say aye.

Opposed will say no.

In the opinion of the Chair, the ayes have it.

Does the gentleman wish a recorded vote?

Then the record will reflect that all Members have voted aye.

Are there additional amendments to be offered?

Mr. DAVIS of Illinois. Yes. Amendment No. 6. I have an amendment at the desk.

The CHAIRPERSON. The clerk will report, and the gentlelady reserves a point of order.

The CLERK. The amendment to the amendment in the nature of a substitute to H.R. 4617, offered by Mr. Davis of Illinois. Insert after Title III the following and conform the succeeding——

The CHAIRPERSON. The bill will be considered—the amendment will be considered as read.

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Insert after title III the following (and conform the succeeding title accordingly):

TITLE IV—PROHIBITING BALLOT HARVESTING

SEC. 401. PROHIBITION ON COLLECTION AND TRANSMISSION OF BALLOTS BY THIRD PARTIES.

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

"SEC. 303A. COLLECTION AND TRANSMISSION OF BALLOTS BY THIRD PARTIES.

"(a) IN GENERAL.—By not later than January 1, 2022, each State shall have in effect a law that prohibits an individual from the knowing collection and transmission of a ballot in an election for Federal office that was mailed to another person, other than an individual described as follows:

"(1) An election official while engaged in official duties as authorized by law.

1 "(2) An employee of the United States Postal
2 Service while engaged in official duties as authorized
3 by law.
4 "(3) Any other individual who is allowed by law
5 to collect and transmit United States mail, while en-
6 gaged in official duties as authorized by law.
7 "(4) A family member, household member, or
8 caregiver of the person to whom the ballot was
9 mailed.
10 "(b) DEFINITIONS.—For purposes of this section,
11 with respect to a person to whom the ballot was mailed:
12 "(1) The term 'caregiver' means an individual
13 who provides medical or health care assistance to
14 such person in a residence, nursing care institution,
15 hospice facility, assisted living center, assisted living
16 facility, assisted living home, residential care institu-
17 tion, adult day health care facility, or adult foster
18 care home.
19 "(2) The term 'family member' means an indi-
20 vidual who is related to such person by blood, mar-
21 riage, adoption or legal guardianship.
22 "(3) The term 'household member' means an
23 individual who resides at the same residence as such
24 person.".

1 (b) CONFORMING AMENDMENT RELATING TO EN-
2 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
3 is amended by striking "and 303" and inserting "303, and
4 303A".

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

"Sec. 303A. Collection and transmission of ballots by third parties.".

The CHAIRPERSON. The gentleman is recognized for five minutes in support of this amendment.

Mr. DAVIS of Illinois. Thank you, Madam Chairperson.

This is one that I think we have heard before in this Committee. This amendment would simply prohibit ballot harvesting. We want to talk about making sure that we know that our election processes are fair. We have got to be concerned about the chain of custody when it comes to every ballot, and we are going to have now, if this bill passes, labor organizations certify when they participate in the political process to make sure they have no foreign nationals participating in the political process. We are going to have corporations that can't give to us under current law unless H.R. 1 passes, that are going to have to certify that they don't have foreign nationals participating in our election process?

How about we get to the ballot level? North Carolina just had a special election where a Republican operative is going to likely go to jail because of chain of custody questions in a ballot harvesting process that is illegal in North Carolina but legal in other States in our Nation. If we are going to have labor organizations now certify that they have no foreign interference in the election process, we ought to make sure that we outlaw processes ripe for political operatives to take advantage of. And if we have nefarious adversaries like Russia that have interfered in the 2016 election, we did a great job making sure they didn't interfere in the 2018 election, they are criminal. They want to continue to spew their propaganda here in our country. They want to interfere in our elections. Don't you think they are going to figure out how to use this ballot harvesting process that takes away any identity of chain of custody of where that ballot comes from and where it gets to and what happens in between? We are just going to trust people to do that? That is why that process is just ripe for criminal activity. And if it is criminal activity in North Carolina that required us to have a special election, where millions upon millions of dollars were spent again, we Republicans recognize that it was a problem, and we are glad that the State decided to not certify the first winner. And we are glad they had a special election, which the other side started with a tremendous advantage. It didn't work out for them, but you know what? We said right is wrong, and wrong is wrong. What was wrong in North Carolina can't be right in the other States.

If you want to address the entire security of our elections, you can't just start on online advertising, and it can't just start with election machines. It has got to end before that ballot gets to the ballot box to be counted. And until we address this ballot harvesting issue, we will not be sure that the entire election process is secure. States have decided to outlaw ballot harvesting, States like Arizona. If we are going to do a Federal approach, let's do it together. I think we ought to. We need much more security when it comes to the chain of custody of our ballots because we saw the activity that is criminal in North Carolina, and we stood together and said it is wrong. Let's stand together again now. I am going to keep offering this ballot harvesting stuff every single time we have an election security bill because it is a loophole that will continue to exist no matter what happens with any of these bills that are passed through here.

Until that loophole is closed, I don't know how Americans can ever be sure that we stop all foreign interference in the elections. It is that important, ladies and gentlemen. There are other areas we can work together to make sure that we preserve that chain of custody. Maybe we can put bar codes, have certifications from anybody who is ballot harvester. Why wouldn't we make sure that no foreign agent decides to be a ballot harvester in any State in our Nation? This is a good amendment. Let's work to make sure that it passes.

I yield back.

The CHAIRPERSON. I don't know if the gentlelady intends to insist on a point of order. I would note that this amendment is out outside of the scope of the bill, which does not deal with HAVA, but perhaps rather than getting down a rabbit hole on germaneness, I will just address the issue, and we will have a vote on the amendment if the gentlelady will withdraw her point of order as a courtesy, not because it is germane. The gentlelady withdraws her point of order.

I would urge that the amendment be defeated. Some States have laws that make voting accessible for homebound voters and others who have trouble physically getting to the polls. For instance, California's Elections Code 3017 provides that a vote-by-mail voter who is unable to return the ballot may designate any person to return the ballot to the elections official who issued the ballot, to the precinct board at a polling place or a vote center within the State, or to a vote-by-mail drop off location within the State. Now, allowing absentee voters to designate someone to drop off their marked ballot allows for greater participation in elections. Some people are homebound. They may not have family to delegate this role to. They should still have the right to vote, make their voice heard in our elections. They should not be disenfranchised for that reason.

Any method of illegal or fraudulent voting is by definition against the law, and it carries strict penalties.

You know, I am from California, and there were no credible reports of this ballot return practice resulting in any fraudulent or otherwise illegally cast ballots. And I will tell you: We had voter monitors from both parties at all the elections, and nobody filed a complaint because there was no fraud. By contrast, unfortunately, in North Carolina, which, frankly, has a much stricter absentee ballot drop-off law than California, they did come under scrutiny because there was fraud. There was a GOP operative who engaged in fraud, and I believe he is being prosecuted. In North Carolina, only a family member or a legal guardian can drop off a mail ballot. But the deception engaged in in North Carolina last year is the problem, not the drop-off law itself, because the drop-off law didn't prevent fraud. Fraud is fraud. So the strictness of the law really proved inconsequential to prevent election fraud.

The SHIELD Act actually doesn't have anything to do with this provision of the amendment, which is why it probably isn't germane. It closes instead the gap in the law that foreign governments and others could exploit to manipulate our democracy. But the idea that voter fraud is somehow related to voter turnout, the real fact is we need to have robust turnout among American citizens to have a robust democracy. The ability of people who are mobility-im-

paired to have their votes carried by a friend or neighbor or anyone they designate is a good thing for voter turnout. It has nothing to do with fraud. As I mentioned, the stricter methods in North Carolina certainly did not result in fraud from occurring there. So, with that, I would yield back the balance of my time to other members who wish to be heard on this amendment.

The gentleman from North Carolina is recognized to strike the last word.

Mr. BUTTERFIELD. I move to strike the last word.

Madam Chairperson, because of the experience that we had in North Carolina, I have grave concerns about ballot harvesting. We have not had that experience before in North Carolina. It has not been a widespread problem throughout the country, but what we saw in the Ninth Congressional District in North Carolina was unacceptable. But I am going to deem that to be an aberration and just not something that we will see repeatedly. There may come a time when I will vote for an amendment like this, but right now, I think the evidence is not there that will support it. Therefore, I will be voting against the amendment. Thank you.

The CHAIRPERSON. Thank you. Any other Members wishing to be heard? If not, the question is on the amendment.

All those in favor will say aye.

All those opposed will say no.

In the opinion of the Chair, the noes have it.

The gentleman asks for a recorded vote.

The clerk will call the roll.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. No.

The CLERK. Chairperson Lofgren votes no.

Mr. Raskin?

Mr. RASKIN. No.

The CLERK. Mr. Raskin votes no.

Mrs. Davis of California?

Mrs. DAVIS of California. No.

The CLERK. Mrs. Davis of California votes no.

Mr. Butterfield?

Mr. BUTTERFIELD. No.

The CLERK. Mr. Butterfield votes no.

Ms. Fudge?

Ms. FUDGE. No.

The CLERK. Ms. Fudge votes no.

Mr. Aguilar?

Mr. AGUILAR. No.

The CLERK. Mr. Aguilar votes no.

Mr. Davis of Illinois?

Mr. DAVIS of Illinois. Yes.

The CLERK. Mr. Davis of Illinois votes yes.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CHAIRPERSON. The clerk will report.

The CLERK. Madam Chairperson, on this vote, there are six noes and one yes.

The CHAIRPERSON. The amendment is not agreed to.

Are there further amendments?

Mr. Davis of Illinois. Madam Chairperson, I have an amendment at the desk. As we only have three more, I would urge to waive the reading, if possible.

The CHAIRPERSON. The clerk will report the amendment. The gentlelady reserves a point of order, and the reading of the amendment is dispensed with.

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Strike section 313 (and redesignate the succeeding sections accordingly).

☒

Mr. DAVIS of Illinois. Madam Chairperson, am I recognized?

The CHAIRPERSON. Yes, you are for five minutes in support of your amendment.

Mr. DAVIS of Illinois. Thank you, Madam Chairperson.

During the passage of H.R. 1 through this Committee, Chairperson Lofgren indicated that any provision of the bill that would be reserved would have an opportunity to be marked up in the respective committees that have jurisdiction over the reserved sections. Unfortunately, not only were large portions of H.R. 1 passed without a markup, but Chairperson Lofgren has not afforded a similar opportunity for the SHIELD Act, leaving the reserved a very important section, even though it has been indicated that bills marked up by the Committee would follow regular order. This section is a massive Federal overreach and is another example of not providing the Judiciary Committee with an opportunity to mark it up adequately. Section 313 also is poorly drafted, and it places an impossible onus on the Attorney General and the Department of Justice as what I mentioned earlier.

So, when I am accused by my opponent of taking corporate dollars which I can't do by law, when I am accused of doing that by law, if this bill passes, I would have the right to go to the DOJ to get them to spend your tax dollars to defend me, to say that that is not true. I just think this places an onerous burden on the Department of Justice. And are they going to put a political litmus test in place, depending on who is in power? Listen. I am a proud Republican, but I don't want any party at the Department of Justice having that power to determine how they are going to spend your tax dollars to defend something that is said about a Congressional candidate. It just—it scares me, and it is an overreach.

You know, I said it is poorly drafted. It places an impossible burden on the Attorney General and the Department of Justice under any administration. This bill states that the Attorney General shall communicate to the public by any means necessary the supposed materially false information he or she believes the State authorities have failed to monitor and sufficiently communicate. Okay. Any means? Are they going to spend a million bucks on TV in my district, in somebody else's? I would think long and hard about this provision in this bill. Are they going to do it by lifeguard signals, maybe? They won't spend as much money on others. Maybe some Morse code? What defines adequate steps? This phrase is too vague and would allow the AG to take whatever steps he or she deemed necessary. Imagine if a Republican Attorney General, such as the current Attorney General, Mr. Barr, imagine if he would have the power to intervene in the elections of Democrats. Under this section, under this section, he would have the power to do that.

I also want to submit for the record a letter from the Ranking Member of the Judiciary Committee, Doug Collins, that asked for a hearing in the Judiciary Committee about these provisions in the SHIELD Act of Chairman Nadler, so I would like to submit that for the record along with——

The CHAIRPERSON. Without objection, so ordered.

[The information follows:]

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

October 15, 2019

The Honorable Jerrold Nadler
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C., 20515

Dear Chairman Nadler,

I am writing regarding H.R. 4617, the Stopping Harmful Interference in Elections for a Lasting Democracy (SHIELD) Act, which has been referred to both the Committee on House Administration and the Committee on the Judiciary for consideration.

As you may know, the Committee on House Administration has scheduled a mark-up of H.R. 4617 for tomorrow, October 16th. There are several concerning provisions of H.R. 4617 that fall within the Rule X jurisdiction of the Committee on the Judiciary. Maintaining our Committee's jurisdiction is important to ensure Judiciary Committee Members have the opportunity to thoroughly consider and debate sections of the bill that fall within the Committee's jurisdiction prior to a vote of the full House. As such, I request that you do not waive the Committee's right to consider these provisions prior to consideration on the House floor.

Sincerely,

Doug Collins
Ranking Member

Mr. DAVIS of Illinois. Thank you. Along with, again, the Facebook ads.

The CHAIRPERSON. That has already been included as well.

Mr. DAVIS of Illinois. Since Mr. Aguilar won't buy my dogs collars, there is another one here that is deemed political. It is for the pizza crave. It is a $10 pizza special.

The CHAIRPERSON. I think the entire page has been included in the record.

Mr. DAVIS of Illinois. Thank you. I wanted to highlight that, though. I still have some time left.

I will go ahead and yield back.

The CHAIRPERSON. The gentleman yields back.

Does the gentlelady insist on a point of order?

Mrs. DAVIS of California. Yes. Madam Chairperson, I continue to make a point of order that the amendment violates Rule X of the Rules of the House as being outside the Committee's jurisdiction. The language of Subtitle B of Title 3 of H.R. 4617 as introduced, was removed from the measure being marked up today as being within the jurisdiction of the Judiciary Committee.

Mr. DAVIS of Illinois. Madam Chairperson, I will withdraw this amendment, but I think it is something that the Majority and every Member needs to think about before we rush this through without a hearing. You said during H.R. 1, we would have regular order. This is not going to happen unless they get a hearing at least in Judiciary on the parts that are reserved for them, and I yield back.

The CHAIRPERSON. Without objection the gentleman withdraws his amendment.

Are there additional amendments that the gentleman wishes to offer?

Mr. DAVIS of Illinois. Madam Chairperson, I have an amendment at the desk, No. 8.

The CHAIRPERSON. The clerk will report the amendment, and, by unanimous consent, the amendment will be considered as read.

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Insert after section 302 the following new section:

1 **SEC. 303. PROHIBITING DIRECT OR INDIRECT DISBURSE-**
2 **MENT OF FUNDS TO FOREIGN NATIONALS BY**
3 **POLITICAL COMMITTEES.**

4 (a) PROHIBITION.—Section 319(a) of the Federal
5 Election Campaign Act of 1971 (52 U.S.C. 30121(a)), as
6 amended by section 201(a), is further amended—

7 (1) by striking "or" at the end of paragraph
8 (2);

9 (2) by striking the period at the end of para-
10 graph (3) and inserting "; or"; and

11 (3) by adding at the end the following new
12 paragraph:

13 "(4) a political committee to disburse funds to
14 a foreign national, whether directly or indirectly by
15 contract, subcontract, or other arrangement, and
16 without regard to whether or not the funds reflect
17 the fair market value of goods or services provided
18 to or on behalf of the political committee.".

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect upon the expiration of the
3 180-day period which begins on the date of the enactment
4 of this Act.

☒

The CHAIRPERSON. And the gentlelady reserves a point of order.

Mr. DAVIS of Illinois. Madam Chairperson, thank you.

This amendment will prohibit political committees from directly or indirectly making disbursements to foreign nationals. Political campaigns should not be enlisting the aid of foreign nationals, either directly or indirectly, such as the Hillary for America campaign did in 2016 by hiring Fusion GPS through its law firm, Perkins Coie. The campaign then reported this covert transaction by filing an FEC statement looping in this activity with legal services provided by Perkins Coie. This amendment would ensure that this loophole would be closed. Political disbursements to foreign nationals only serve to weaken confidence in the impartiality of our elections. Banning disbursements to foreign nationals would limit the access that nefarious foreign actors would have to our country's political campaigns. I would urge a "yes" vote on this amendment, and I yield back.

The CHAIRPERSON. The gentleman yields back.

I recognize myself to urge opposition to this amendment. Does the gentlelady withdraw her point of order.

Mrs. DAVIS of California. Yes.

The CHAIRPERSON. I think there has been persistent effort on the other side of the aisle to try and use the Steele dossier, the so-called Steele dossier, as a smokescreen to obfuscate and to avoid doing things about interference from foreign adversaries in our elections, and I think it is really a classic example of false equivalencies. A campaign that hires an American opposition research firm, such as Fusion GPS, and that pays for any resulting research is very different from the President's repeated efforts to welcome interference from foreign governments in our elections, including by Russia, Ukraine, and China.

Now, Fusion GPS was originally hired by a conservative outlet, the Washington Free Beacon, for its opposition research. Then it was retained by the Clinton campaign, which paid for the resulting work. It was not an illegal in-kind contribution from a foreign government. It was fee-for-service, and, by the way, it is fully reported under the FEC rules. The law allows campaigns to contract with foreign individuals to do bona fide campaign work that it pays for. And I will remind my colleagues that it was the Trump campaign that hired Cambridge Analytica, a British firm, to work in 2016.

I think that it is a mistake to blur the facts. Closing gaps in our laws should not be partisan. The SHIELD Act responds to vulnerabilities in our system and creates a duty to report illicit offers of campaign assistance from foreign governments and their agents. It helps to prevent foreign interference and deter disinformation by improving transparency of online political ads and closes loopholes that allow foreign nationals and foreign governments to spend money influencing our elections.

This amendment does not solve any problem at all. This amendment would make it hard to run a campaign. It would mean having to worry if the campaign signs you printed came from a foreign company or if the catering firm you hired had foreign workers, and that really has nothing to do with foreign influence on the campaign when you are paying for a service. If the campaign is paying someone for work or services, they are being compensated. Where

that doesn't happen and a campaign is accepting a contribution or a thing of value from a foreign government, the question is what is in it for them, and that is an entirely different matter. So I would urge this amendment's defeat, and I yield back the balance of my time and would ask if there are other additional Members wishing to be heard on the amendment.

If not, then the question is on the amendment.

Those that are in favor will say aye.

Those who are opposed will say no.

In the opinion of the Chair, the noes have it.

The Ranking Member asks for a roll call vote. The clerk will please call the roll.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. No.

The CLERK. Chairperson Lofgren votes no.

Mr. Raskin?

Mr. RASKIN. No.

The CLERK. Mr. Raskin votes no.

Mrs. Davis of California?

Mrs. DAVIS of California. No.

The CLERK. Mrs. Davis of California votes no.

Mr. Butterfield?

Mr. BUTTERFIELD. No.

The CLERK. Mr. Butterfield votes no.

Ms. Fudge?

Ms. FUDGE. No.

The CLERK. Ms. Fudge votes no.

Mr. Aguilar?

Mr. AGUILAR. No.

The CLERK. Mr. Aguilar votes no.

Mr. Davis of Illinois?

Mr. DAVIS of Illinois. Aye.

The CLERK. Mr. Davis of Illinois votes yes.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CHAIRPERSON. The clerk will report.

The CLERK. Madam Chairperson, on this vote, there are six noes and one yes.

The CHAIRPERSON. And the amendment is not agreed to.

Does the gentleman have an additional amendment?

Mr. DAVIS of Illinois. I do, Madam Chairperson.

I have an amendment at the desk, No. 9.

The CHAIRPERSON. The clerk will please report the amendment, and the gentlelady reserves a point of order.

The CLERK. The amendment to the amendment in the nature of a substitute to H.R. 4617, offered by Mr. Davis of——

The CHAIRPERSON. Without objection, the amendment is considered as read, and the gentleman is recognized for five minutes in support of this amendment.

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Insert after title III the following (and conform the succeeding title accordingly):

TITLE IV—PROHIBITING PAYMENT OF ELECTION ASSISTANCE FUNDS TO STATES ALLOWING VOTING BY NON-CITIZENS

SEC. 401. PROHIBITION ON PAYMENTS TO STATES ALLOWING VOTING BY NON-CITIZENS.

(a) IN GENERAL.—Subtitle D of title II of the Help America Vote Act of 2002 (52 U.S.C. 21001 et seq.) is amended by adding at the end the following new part:

"PART 7—PROHIBITION ON PAYMENTS TO STATES ALLOWING VOTING BY NON-CITIZENS

"SEC. 297. STATE ELIGIBILITY FOR PAYMENTS.

"A State is not eligible to receive funds under this Act if the State allows an individual who is not a citizen of the United States to vote in an election for public office.".

1 (b) CLERICAL AMENDMENT.—The table of contents
2 for such Act is amended by inserting after the item relat-
3 ing to section 296 the following new item:

"PART 7–PROHIBITION ON PAYMENTS TO STATES ALLOWING VOTING BY NON-CITIZENS

"SEC. 297. State eligibility for payments.".

Mr. DAVIS of Illinois. Thank you, Madam Chairperson.

I am disappointed we couldn't see bipartisanship in the last amendment. I believe my bill would simply be even more strict to any campaign, not just Hillary Clinton's or Donald Trump's, to make sure we have no foreign interference.

You know, you talked about—Madam Chairperson, you talked about how we don't want to have anybody blur the facts. You can't get much more blurry than the sheer fact that Hillary for America tried to hide the true source of the payments to Fusion GPS for an opposition research project that created a dossier that was investigated by a foreign national, Christopher Steele, and, in turn, was put together with direct connection to Russian operatives. I mean, you can't get much more foreign interference in opposition research than that. And then, when reporting it to the FEC, when reported to the FEC, Hillary for America described that as legal services—not opposition research, not Fusion GPS—legal services. That is a problem. That is a problem. I don't want any campaign doing something like that in the future. I don't care if they are Republican or Democrat. This shouldn't be a partisan issue. But this amendment would prohibit how the funds from going to States—millions of taxpayer dollars from going to States that allow noncitizens to vote in an election for public office, how the funds are meant for U.S. election infrastructure. And when the States allows millions of noncitizens to vote in their State and local elections, it degrades the security of that election infrastructure.

Additionally, much of the HAVA funds have been used to update State voter registration databases, such as my home State of Illinois. When you have millions of people improperly registered, it takes away resources that could be used for other areas of election infrastructure, such as newer, stronger, more secure election machines. I would urge a "yes" vote on this. Federal funds should not be expended on projects for States that don't follow Federal law. And when we are talking about any other investment of Federal dollars, be it transportation dollars, be it education dollars, cancer research dollars, Federal law has to be followed. So Federal dollars shouldn't be spent in areas in the States that implement portions that don't coincide with the Federal rules and regulations. So, with that, I yield back, and I urge a "yes" vote.

The CHAIRPERSON. The gentleman leads back.

The gentlelady, I assume, wishes to insist on her point of order because this amendment is beyond the scope of this bill. It seeks to amend the Help America Vote Act, which is not included within the SHIELD Act and, therefore, is beyond the scope of the bill.

I would note, however, that it is illegal for noncitizens to vote in Federal elections. It is illegal today. It will be illegal tomorrow. It will be illegal if this amendment were defeated. But it is not germane, so I would ask the gentleman if he would wish to withdraw it.

Mr. DAVIS of Illinois. Madam Chairperson, yes.

I would wish to withdraw the amendment at this time.

The CHAIRPERSON. By unanimous consent, the gentleman withdraws his amendment.

Are there additional amendments?

Mr. DAVIS of Illinois. There is. My final amendment, amendment No. 10.

The CHAIRPERSON. The clerk will report the amendment.

And, without objection, the reading of the amendment is waived, and the gentlelady from California reserves a point of order.

[The amendment of Mr. Davis of Illinois follows:]

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4617

OFFERED BY MR. DAVIS

Insert after title III the following (and conform the succeeding title accordingly):

TITLE IV—PROHIBITING FOREIGN NATIONAL ACCESS TO ELECTION INFRASTRUCTURE

SEC. 401. PROHIBITION ON ACCESS TO ELECTION INFRASTRUCTURE BY FOREIGN NATIONALS.

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

"SEC. 303A. PROHIBITION ON ACCESS TO ELECTION INFRASTRUCTURE BY FOREIGN NATIONALS.

"(a) IN GENERAL.—No person who is a foreign national shall—

"(1) physically handle—

"(A) ballots used in an election for Federal office; or

"(B) voting machines; or

"(2) have unmonitored access to—

1 "(A) a storage facility or centralized vote
2 tabulation location used to support the adminis-
3 tration of an election for public office; or
4 "(B) election-related information or com-
5 munications technology, including voter reg-
6 istration databases, voting machines, electronic
7 mail and other communications systems (includ-
8 ing electronic mail and other systems of vendors
9 who have entered into contracts with election
10 agencies to support the administration of elec-
11 tions, manage the election process, and report
12 and display election results), and other systems
13 used to manage the election process and to re-
14 port and display election results on behalf of an
15 election agency.
16 "(b) FOREIGN NATIONAL DEFINED.—The term 'for-
17 eign national' has the meaning given that term in section
18 319 of the Federal Election Campaign Act of 1971 (52
19 U.S.C. 30121).".
20 (b) CONFORMING AMENDMENT RELATING TO EN-
21 FORCEMENT.—Section 401 of such Act (52 U.S.C. 21111)
22 is amended by striking "and 303" and inserting "303, and
23 303A".

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

"Sec. 303A. Access to election infrastructure by foreign nationals.".

Mr. DAVIS of Illinois. Thank you, Madam Chairperson.

I would note that I don't think we will have any germaneness questions on this amendment. The idea that we would allow foreign nationals to administer our elections is ridiculous, but, right now, there is nothing specifically preventing that. This is another amendment that should pass with bipartisan support if we are truly trying to close every loophole and prevent foreign interference in our elections. I mean, we could, unless you pass my amendment, have Russians managing machine storage facilities. We could have Russians serving as IT professionals. And as we pointed out during debate on H.R. 2722, we could have Russians harvesting ballots. We could have Russians harvesting ballots unless this amendment passes.

Let's all agree that foreign nationals should not be in contact with our election infrastructure. Let's pass this amendment. Let's make this bill a step better than it is. I urge a "yes" vote, and I yield back the balance of my time.

The CHAIRPERSON. The gentleman yields back.

I assume the gentlelady would like to insist on a point of order since, once again, this amendment amends the Help America Vote Act, which is not before us in the SHIELD Act or the amendment in the nature of a substitute. I would note that, as Mr. Aguilar pointed out during the debate on H.R. 1, it is also unnecessary. Fraud is not legal anywhere. If an H–1B visa holder or your husband is a TPS recipient and takes the ballot to the poll for you, it is not a problem or fraud. But having said that, this amendment is beyond the scope of the bill, and I wonder if the member would like to ask unanimous consent to withdraw it.

Mr. DAVIS of Illinois. I am not going to ask. I am not going to offer withdrawal on this one.

The CHAIRPERSON. Then the question is on the ruling of the Chair which is that the point of order is in order. The amendment is beyond the scope of the bill and is, therefore, not germane.

Do you wish to be heard on the point of order?

Mr. RASKIN. Well, I was hoping to move to table.

The CHAIRPERSON. Well, let's allow the gentleman——

Mr. RASKIN. Okay.

The CHAIRPERSON. Let's hold off so that the gentleman can be heard to speak on the point of order. I don't want to cut that off.

Mr. DAVIS of Illinois. If we are serious in this institution about making sure that the entirety of our election process is secure, it is amendments like this that ought to garner as much bipartisan support as possible. With that being said, we in this Committee have had bills rushed through that deal with election security. We have been talking about election security issues. You can't get much more relevant and germane to what we are doing when we were trying to limit foreign interference in our elections than this amendment. So that is why I am not offering a unanimous consent request to withdraw the amendment and take the issue of germaneness without a fight. I think it is germane. I think it is something we should be concerned about. I know I am not going to win this fight looking at the numbers on the other side of the dais, but I think it is important for the American people to understand that there are people in this institution that are actually wanting to

stand up and ensure that the entirety of our election process is secure. I don't want Russians running storage facilities where our election machines are stored. I want to make sure they can't do that. That is what this amendment addresses. The bill does not address it. The underlying——

The CHAIRPERSON. Correct. That is the point. The underlying bill—the amendment is not germane.

Mr. DAVIS of Illinois. The underlying bill does not address the problem I just mentioned. I am not talking germaneness, Madam Chair. But if you want to talk germaneness, let's run the vote. I yield back.

The CHAIRPERSON. All right. The gentleman yields back.

The ruling of the Chair is that the amendment is not germane. We do follow the rules here in how we operate. Sometimes people don't like the rules, but we follow them. And this amendment is beyond the scope of the underlying bill. Therefore, it is not germane and will not be considered.

And Mr. Raskin makes a motion to table the appeal of the ruling of the Chair.

All those in favor of tabling the appeal of the ruling of the Chair will say aye.

All those opposed will say no.

In the opinion of the Chair, the ayes have it.

A roll call is requested.

The clerk will call the roll on tabling the appeal of the ruling by the Chair.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. Aye.

The CLERK. Chairperson Lofgren votes aye.

Mr. Raskin?

Mr. RASKIN. Aye.

The CLERK. Mr. Raskin votes aye.

Mrs. Davis of California?

Mrs. DAVIS of California. Aye.

The CLERK. Mrs. Davis of California votes aye.

Mr. Butterfield?

Mr. BUTTERFIELD. Aye.

The CLERK. Mr. Butterfield votes aye.

Ms. Fudge?

Ms. FUDGE. Aye.

The CLERK. Ms. Fudge votes aye.

Mr. Aguilar?

Mr. AGUILAR. Aye.

The CLERK. Mr. Aguilar votes aye.

Mr. Davis of Illinois?

Mr. DAVIS of Illinois. No.

The CLERK. Mr. Davis of Illinois votes no.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CHAIRPERSON. The clerk will report.

The CLERK. Madam Chairperson, on this vote, six ayes and one no.

The CHAIRPERSON. And the motion to table the appeal of the ruling of the Chair is agreed to.

Are there further amendments? If not, all those who are in favor of the amendment in the nature of a substitute will indicate by saying aye.

All those who are opposed will say no.

We will now move to the question of reporting H.R. 4617, as amended, favorably to the House.

All those in favor will say aye.

Opposed will say no.

In the opinion of the Chair, the ayes have it.

The Ranking Member requests a recorded vote. The clerk will call the roll, please.

The CLERK. Chairperson Lofgren?

The CHAIRPERSON. Aye.

The CLERK. Chairperson Lofgren votes aye.

Mr. Raskin?

Mr. RASKIN. Aye.

The CLERK. Mr. Raskin votes aye.

Mrs. Davis of California?

Mrs. DAVIS of California. Aye.

The CLERK. Mrs. Davis of California votes aye.

Mr. Butterfield?

Mr. BUTTERFIELD. Aye.

The CLERK. Mr. Butterfield votes aye.

Ms. Fudge?

Ms. FUDGE. Aye.

The CLERK. Ms. Fudge votes aye.

Mr. Aguilar?

Mr. AGUILAR. Aye.

The CLERK. Mr. Aguilar votes aye.

Mr. Davis of Illinois?

Mr. DAVIS of Illinois. No.

The CLERK. Mr. Davis of Illinois votes no.

Mr. Walker?

[No response.]

The CLERK. Mr. Loudermilk?

[No response.]

The CLERK. Madam Chairperson, on this vote there are six ayes and one no.

The CHAIRPERSON. And, therefore, H.R. 4617, as amended, is reported favorably to the House.

The motion to reconsider is laid on the table.

Without objection, the staff is authorized to make any technical and conforming changes, and I want to thank all of our Members for participating in today's markup.

There being no further business, without objection, the Committee stands adjourned.

[Whereupon, at 4:33 p.m., the Committee was adjourned.]

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