116TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 116–246
Part 1

STOPPING HARMFUL INTERFERENCE IN ELECTIONS FOR A LASTING DEMOCRACY ACT

OCTOBER 21, 2019.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. LOFGREN, from the Committee on House Administration, submitted the following

R E P O R T

together with

SUPPLEMENTAL VIEWS

[To accompany H.R. 4617]

The Committee on House Administration, to whom was referred the bill (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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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99–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stopping Harmful Interference in Elections for a Lasting Democracy Act" or the "SHIELD Act".

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

TITLE I—ENHANCED REPORTING REQUIREMENTS

Subtitle A—Establishing Duty to Report Foreign Election Interference

SEC. 101. FEDERAL CAMPAIGN REPORTING OF FOREIGN CONTACTS.

(a) INITIAL NOTICE.—

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

"(j) DISCLOSURE OF REPORTABLE FOREIGN CONTACTS.—

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

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

"(A) each candidate shall notify the treasurer or other designated official of the principal campaign committee of such candidate of the reportable for-

eign contact and provide a summary of the circumstances with respect to such reportable foreign contact; and

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

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

"(A) IN GENERAL.—The term 'reportable foreign contact' means any direct or indirect contact or communication that—

"(i) is between—

"(I) a candidate, a political committee, or any official, employee, or agent of such committee; and

"(II) an individual that the person described in subclause (I) knows, has reason to know, or reasonably believes is a covered foreign national; and

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

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

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

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

"(C) COVERED FOREIGN NATIONAL DEFINED.—

"(i) IN GENERAL.—In this paragraph, the term 'covered foreign national' means—

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

"(II) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal described in subclause (I) or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal described in subclause (I); or

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

"(ii) CLARIFICATION REGARDING APPLICATION TO CITIZENS OF THE UNITED STATES.—In the case of a citizen of the United States, subclause (II) of clause (i) applies only to the extent that the person involved acts within the scope of that person's status as the agent of a foreign principal described in subclause (I) of clause (i).".

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

(b) INFORMATION INCLUDED ON REPORT.—

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

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

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

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

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

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

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

"(C) the identity of individuals involved; and

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

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

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

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

"(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE POLICY.—

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

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

"(3) CERTIFICATION.—

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

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

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

"(iii) not later than 1 week after the beginning of any formal or informal affiliation with the committee, all officials, employees, and agents of such committee will—

"(I) receive notice of such policies;

"(II) be informed of the prohibitions 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)).

SEC. 103. CRIMINAL PENALTIES.

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

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

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

SEC. 104. RULE OF CONSTRUCTION.

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

(1) to impede legitimate journalistic activities; or

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

(A) resides in the United States;

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

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

Subtitle B—Strengthening Oversight of Online Political Advertising

SEC. 111. SHORT TITLE.

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

SEC. 112. PURPOSE.

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

SEC. 113. EXPANSION OF DEFINITION OF PUBLIC COMMUNICATION.

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

(b) TREATMENT OF CONTRIBUTIONS AND EXPENDITURES.—Section 301 of such Act (52 U.S.C. 30101) is amended—

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

(2) in paragraph (9)(B)—

(A) by amending clause (i) to read as follows:

"(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station or any print, online, or digital newspaper, magazine, blog, publication, or periodical, unless such broadcasting, print, online, or digital facilities are owned or controlled by any political party, political committee, or candidate;"; and

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

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

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

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

SEC. 114. EXPANSION OF DEFINITION OF ELECTIONEERING COMMUNICATION.

(a) EXPANSION TO ONLINE COMMUNICATIONS.—

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

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

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

"(D) QUALIFIED INTERNET OR DIGITAL COMMUNICATION.—The term 'qualified internet or digital communication' means any communication which is placed or promoted for a fee on an online platform (as defined in subsection (k)(3)).".

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

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

"(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station or

any online or digital newspaper, magazine, blog, publication, or periodical, unless such broadcasting, online, or digital facilities are owned or controlled by any political party, political committee, or candidate;".

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

SEC. 115. APPLICATION OF DISCLAIMER STATEMENTS TO ONLINE COMMUNICATIONS.

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

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

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

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

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

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

"(1) SPECIAL RULES WITH RESPECT TO STATEMENTS.—In the case of any communication to which this section applies which is a qualified internet or digital communication (as defined in section 304(f)(3)(D)) which is disseminated through a medium in which the provision of all of the information specified in this section is not possible, the communication shall, in a clear and conspicuous manner—

"(A) state the name of the person who paid for the communication; and

"(B) provide a means for the recipient of the communication to obtain the remainder of the information required under this section with minimal effort and without receiving or viewing any additional material other than such required information.

"(2) SAFE HARBOR FOR DETERMINING CLEAR AND CONSPICUOUS MANNER.—A statement in a qualified internet or digital communication (as defined in section 304(f)(3)(D)) shall be considered to be made in a clear and conspicuous manner as provided in subsection (a) if the communication meets the following requirements:

"(A) TEXT OR GRAPHIC COMMUNICATIONS.—In the case of a text or graphic communication, the statement—

"(i) appears in letters at least as large as the majority of the text in the communication; and

"(ii) meets the requirements of paragraphs (2) and (3) of subsection (c).

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

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

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

"(ii) is made both in—

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

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

"(D) OTHER COMMUNICATIONS.—In the case of any other type of communication, the statement is at least as clear and conspicuous as the statement specified in subparagraph (A), (B), or (C).".

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

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

(1) in paragraph (1)(A)—

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

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

(2) in paragraph (1)(B)—

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

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

(3) in paragraph (2)—

(A) by striking "transmitted through radio or television" and inserting "made in audio or video format"; and

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

SEC. 116. POLITICAL RECORD REQUIREMENTS FOR ONLINE PLATFORMS.

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

"(k) DISCLOSURE OF CERTAIN ONLINE ADVERTISEMENTS.—

"(1) IN GENERAL.—

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

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

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

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

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

"(C) information regarding—

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

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

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

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

"(3) ONLINE PLATFORM.—For purposes of this subsection, the term 'online platform' means any public-facing website, web application, or digital application (including a social network, ad network, or search engine) which—

"(A) sells qualified political advertisements; and

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

"(4) QUALIFIED POLITICAL ADVERTISEMENT.—For purposes of this subsection, the term 'qualified political advertisement' means any advertisement (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that—

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

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

"(i) a candidate;

"(ii) any election to Federal office; or

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

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

"(6) SAFE HARBOR FOR PLATFORMS MAKING BEST EFFORTS TO IDENTIFY REQUESTS WHICH ARE SUBJECT TO RECORD MAINTENANCE REQUIREMENTS.—In accordance with rules established by the Commission, if an online platform shows that the platform used best efforts to determine whether or not a request to

purchase a qualified political advertisement was subject to the requirements of this subsection, the online platform shall not be considered to be in violation of such requirements.

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

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

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

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

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

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

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

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

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

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

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

"(c) RESPONSIBILITIES OF BROADCAST STATIONS, PROVIDERS OF CABLE AND SATELLITE TELEVISION, AND ONLINE PLATFORMS.—

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

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

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

"(B) the billing address associated with such credit card is located in the United States or, in the case of a purchase made by an individual who is a United States citizen living outside of the United States, the individual provides 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 political organization) with regard to such person's Federal or non-Federal election-related activity, including any decision concerning the making of contributions, donations, expenditures, or disbursements in connection with an election for any Federal, State, or local office or any decision concerning the administration of a political committee.".

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

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

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

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

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

(b) CONDITIONS UNDER WHICH CORPORATE PACS MAY MAKE CONTRIBUTIONS AND EXPENDITURES.—Section 316(b) of such Act (52 U.S.C. 30118(b)) is amended by adding at the end the following new paragraph:

"(8) A separate segregated fund established by a corporation may not make a contribution or expenditure during a year unless the fund has certified to the Commission the following during the year:

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

"(B) No foreign national under section 319 participates in any way in the decisionmaking processes of the fund with regard to contributions or expenditures under this Act.

"(C) The fund does not solicit or accept recommendations from any foreign national under section 319 with respect to the contributions or expenditures made by the fund.

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

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

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

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

"(a) AUDIT.—

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

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

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

"(1) results of the audit required by subsection (a)(1); and

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

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

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

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

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

SEC. 204. PROHIBITION ON CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS IN 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.

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

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

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

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

"(C) an expenditure;

"(D) an independent expenditure;

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

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

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

"(H) a disbursement for a broadcast, cable, or satellite communication, or for any communication which is placed or promoted for a fee on an online platform (as defined in section 304(k)(3)), that discusses a national legislative issue of public importance in a year in which a regularly scheduled general election for Federal office is held, but only if the disbursement is made by a covered foreign national described in section 304(j)(3)(C); or

"(I) a disbursement by a covered foreign national described in section 304(j)(3)(C) to compensate any person for internet activity that promotes, supports, attacks or opposes the election of a clearly identified candidate for Federal, State, or local office (regardless of whether the activity communication contains express advocacy or the functional equivalent of express advocacy);".

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

TITLE III—DETERRING FOREIGN INTERFERENCE IN ELECTIONS

Subtitle A—Deterrence Under Federal Election Campaign Act of 1971

SEC. 301. RESTRICTIONS ON EXCHANGE OF CAMPAIGN INFORMATION BETWEEN CANDIDATES AND FOREIGN POWERS.

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

"(e) RESTRICTIONS ON EXCHANGE OF INFORMATION BETWEEN CANDIDATES AND FOREIGN POWERS.—

"(1) TREATMENT OF OFFER TO SHARE NONPUBLIC CAMPAIGN MATERIAL AS SOLICITATION OF CONTRIBUTION FROM FOREIGN NATIONAL.—If a candidate or an individual affiliated with the campaign of a candidate, or if a political committee or an individual affiliated with a political committee, provides or offers to provide nonpublic campaign material to a covered foreign national or to another person whom the candidate, committee, or individual knows or has reason to know will provide the material to a covered foreign national, the candidate, committee, or individual (as the case may be) shall be considered for purposes of this section to have solicited a contribution or donation described in subsection (a)(1)(A) from a foreign national.

"(2) DEFINITIONS.—In this subsection, the following definitions apply:

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

"(B) The term 'covered foreign national' has the meaning given such term in section 304(j)(3)(C).

"(C) The term 'individual affiliated with a campaign' means, with respect to a candidate, an employee of any organization legally authorized under Federal, State, or local law to support the candidate's campaign for nomination for, or election to, any Federal, State, or local public office, as well as any independent contractor of such an organization and any individual who performs services on behalf of the organization, whether paid or unpaid.

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

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

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

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

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

Subtitle B—[Reserved]

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECTIVE DATES OF PROVISIONS.

Each provision of this Act and each amendment made by a provision of this Act shall take effect on the effective date provided under this Act for such provision or such amendment without regard to whether or not the Federal Election Commis-

sion, the Attorney General, or any other person has promulgated regulations to carry out such provision or such amendment.

SEC. 402. SEVERABILITY.

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

PURPOSE AND SUMMARY

H.R. 4617, the "Stopping Harmful Interference in Elections for a Lasting Democracy" or the "SHIELD Act," as amended, is comprehensive legislation to strengthen the resilience of our democracy and protect against foreign interference in elections, including by foreign governments.

The SHIELD Act requires political committees to report foreign contacts that involve offers of unlawful campaign assistance to the Federal Bureau of Investigation (FBI) and Federal Election Commission (FEC). The bill modernizes campaign finance law to uphold Americans' right to know who is behind election-related advertising and disinformation, including better disclosure of the sources of online political advertisements. It also closes gaps in the law that foreign nationals (including foreign governments) can exploit to influence elections.

BACKGROUND AND NEED FOR LEGISLATION

The 2020 Federal elections are fast approaching. Public confidence and trust in our elections is of utmost importance. The SHIELD Act responds to vulnerabilities in the rules that govern our democracy. The need for action is urgent.

Top intelligence and law enforcement officials have warned repeatedly about the need to bolster the security of our elections. This includes guarding against interference from foreign powers using online influence operations and tactics.

Special Counsel Robert Mueller concluded in his March 2019 report on the investigation into Russian election interference that the "Russian government interfered in the 2016 presidential election in sweeping and systematic fashion." [1] The report detailed how Russian operatives used social media and cyberattacks to influence the 2016 presidential election. As to future involvement in American elections, Mueller testified at a hearing before the House Permanent Select Committee on Intelligence that "[t]hey're doing it as we sit here." [2]

In January 2017, the Office of the Director of National Intelligence published key judgments in its assessment of Russian activities and intentions in the 2016 presidential election.[3] Among the key judgments, Russian actions to influence the 2016 election represented "Moscow's longstanding desire to undermine the US-led liberal democratic order. . . . Moscow's influence campaign fol-

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[1] Special Counsel Robert S. Mueller, III, *Report on the Investigation Into Russian Interference in the 2016 Presidential Election,* Volume I, pg. 1, https://www.justice.gov/storage/report.pdf.

[2] Transcript of the Hearing: "Former Special Counsel Robert S. Mueller III on the Investigation Into Russian Interference in the 2016 Presidential Election," July 24, 2019, U.S. House of Representatives, Permanent Select Committee on Intelligence, at 66.

[3] Office of the Director of National Intelligence, "Intelligence Community Assessment: Assessing Russian Activities and Intentions in Recent US Elections," Jan. 6, 2017, https://www.dni.gov/files/documents/ICA_2017_01.pdf.

lowed a Russian messaging strategy that blends covert intelligence operations—such as cyber activity—with overt efforts by Russian Government agencies, state-funded media, third-party intermediaries, and paid social media users or 'trolls.'"[4]

Interference is not limited to the Russian government. Other adversaries, including nonstate actors, could also exploit vulnerabilities in the rules that govern American elections. In January 2019, then-Director of National Intelligence ("DNI") Daniel R. Coats issued a stern warning about likely foreign interference in the upcoming 2020 elections:

> Our adversaries and strategic competitors probably already are looking to the 2020 US elections as an opportunity to advance their interests. More broadly, US adversaries and strategic competitors almost certainly will use online influence operations to try to weaken democratic institutions, undermine US alliances and partnerships, and shape policy outcomes in the United States and elsewhere. We expect our adversaries and strategic competitors to refine their capabilities and add new tactics as they learn from each other's experiences, suggesting the threat landscape could look very different in 2020 and future elections. . . . Moscow may employ additional influence toolkits—such as spreading disinformation, conducting hack-and-leak operations, or manipulating data—in a more targeted fashion to influence US policy, actions, and elections.[5]

These views are shared by other law enforcement officials. In July 2019, FBI Director Christopher Wray testified in a Senate Judiciary Committee hearing that "[t]he Russians are absolutely intent on trying to interfere with our elections."[6] He said that his "view is until they stop, they haven't been deterred enough."[7] In April 2019, Director Wray spoke to an audience at the Council on Foreign Relations, where he said that "malign foreign influence . . . [describes] the fairly aggressive campaign that we saw in 2016 and that's described in the Special Counsel's report, and that has continued pretty much unabated. . . . The use of social media, fake news, propaganda, false personas, et cetera, to spin us up, pit us against each other, sow divisiveness and discord, undermine Americans' faith in democracy. That is not just an election-cycle threat; it's pretty much a 365-days-a-year threat. And that has absolutely continued."[8] He said that he viewed "2018 as just kind of a dress rehearsal for the big show in 2020."[9]

Recent investigations have exposed other vulnerabilities to foreign interference in American elections that extend beyond cyberthreats and disinformation. Special Counsel Mueller wrote,

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[4] *Id.* at ii.

[5] Daniel R. Coats, *Statement for the Record: Worldwide Threat Assessment of the U.S. Intelligence Community,* Jan. 29, 2019, pg. 7, https://www.dni.gov/files/ODNI/documents/2019-ATA-SFR---SSCI.pdf.

[6] Doina Chiacu, "FBI Director Wray: Russia Intent on Interfering with U.S. Elections," July 23, 2019, https://www.reuters.com/article/us-usa-election-security/fbi-director-wray-russia-intent-on-interfering-with-us-elections-idUSKCN1UI1XW.

[7] *Id.*

[8] Council on Foreign Relations, "A Conversation with Christopher Wray," April 26, 2019, https://www.cfr.org/event/conversation-christopher-wray-0/.

[9] *Id.*

for example, that the "social media campaign and the GRU hacking operations coincided with a series of contacts between Trump Campaign officials and individuals with ties to the Russian government." [10] Contacts between high level campaign officials and agents of foreign governments in connection with an election, coupled with offers of their assistance and valuable information, undermine long-established principles of democratic sovereignty.

The ease through which foreign entities interfered in the 2016 presidential election emboldens future adversaries to interfere in elections to come. Recent events demonstrate that there are steps Congress must take to shore up laws governing the integrity of our democracy.

Enhanced reporting requirements

Disclosure curbs corruption and the appearance of corruption. It is also an important tool to ensure compliance with the law and advance the public's right to information.

Special Counsel Mueller's report details how a major aspect of the Russian influence campaign was repeated outreach to members of the Trump campaign.[11] The Special Counsel wrote that "the investigation established that the Russian government perceived it would benefit from a Trump presidency and worked to secure that outcome, and that the Campaign expected it would benefit electorally from information stolen and released through Russian efforts." [12]

Analysis of Special Counsel Mueller's investigation and public reporting established that then-candidate "Donald J. Trump and 18 of his associates had at least 140 contacts with Russian nationals and WikiLeaks, or their intermediaries, during the 2016 campaign and presidential transition." [13]

For example, George Papadopoulos, a foreign policy advisor to the Trump campaign, "suggested to a representative of a foreign government that the Trump campaign had received indications from the Russian government that it could assist the campaign through the anonymous release of information damaging to candidate Clinton. Throughout this period of time and for several months thereafter, Papadopoulos worked with [Joseph] Mifsud and two Russian nationals to arrange a meeting between the Campaign and the Russian government," although no meeting took place.[14]

In another example, Special Counsel Mueller wrote that in June 2016, "senior representatives of the Trump campaign met in Trump Tower with a Russian attorney expecting to receive derogatory information about Hillary Clinton from the Russian Government." [15] The meeting came about after Donald Trump Jr., the presidential candidate's son, received an email from a publicist, Rob Goldstone, about the "Crown prosecutor of Russia" [sic] and an offer "to provide the Trump campaign with some official documents and information that would incriminate Hillary [Clinton] and her dealings

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[10] Mueller, *supra* note 1, at 5.
[11] Mueller, *supra* note 1, at 5–7.
[12] Mueller, *supra* note 1, at 5.
[13] Karen Yourish and Larry Buchanan, "Mueller Report Shows Depth of Connections Between Trump Campaign and Russians," N.Y. Times, April 19, 2019, https://www.nytimes.com/interactive/2019/01/26/us/politics/trump-contacts-russians-wikileaks.html.
[14] Mueller, *supra* note 1, at 5–6.
[15] *Id*. at 110.

with Russia and would be very useful to your father. This is obviously very high level and sensitive information but is part of Russia and its government's support for Mr. Trump." [16] Donald Trump Jr., responded in an email that "if it's what you say I love it." The Trump Tower meeting took place less than a week later.

The campaign did not report these repeated contacts to law enforcement.

It is unlawful for any person to solicit from a foreign national, including a foreign government, a contribution or donation of money or other thing of value in connection with an election. [17] Moreover, a contribution is defined as "any gift or anything of value made by any person for the purpose of influencing any election for Federal office." [18] A "thing of value" can include opposition research on a political opponent. According to the Chair of the FEC, "[i]information can qualify as a thing of value political campaigns pay millions of dollars to acquire polling data, contact lists, and opposition research services." [19]

At a hearing before the United States House of Representatives Permanent Select Committee on Intelligence, in response to a question about whether it should be the responsibility of political campaigns to inform the FBI if they receive information from a foreign government, Special Counsel Mueller testified that he "would think that that's something they would and should do," because knowingly accepting foreign assistance during a presidential campaign is "a crime in certain circumstances." [20]

FEC Chair Weintraub echoed this sentiment in a statement:

> Let me make something 100% clear to the American public and anyone running for public office: It is illegal for any person to solicit, accept, or receive anything of value from a foreign national in connection with a U.S. election. This is not a novel concept. Electoral intervention from foreign governments has been considered unacceptable since the beginnings of our nation. Our Founding Fathers sounded the alarm about "foreign Interference, Intrigue, and Influence." They knew that when foreign governments seek to influence American politics, it is always to advance their own interests, not America's. Anyone who solicits or accepts foreign assistance risks being on the wrong end of a federal investigation. Any political campaign that receives an offer of a prohibited donation from a foreign source should report that offer to the Federal Bureau of Investigation.[21]

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[16] *Id*. at 113.

[17] 52 U.S.C. § 30121(a)(1)–(2).

[18] 52 U.S.C. § 30108(8).

[19] Letter from FEC Chair Ellen L. Weintraub to Senator Lindsey Graham and Senator Dianne Feinstein, June 18, 2019, https://www.fec.gov/resources/cms-content/documents/2019-06-18_Letter_to_Senate_Judiciary_on_Illegal_Foreign_Contributions.pdf.

[20] Transcript of the Hearing: "Former Special Counsel Robert S. Mueller III on the Investigation Into Russian Interference in the 2016 Presidential Election," July 24, 2019, U.S. House of Representatives, Permanent Select Committee on Intelligence, at 30 and 88.

[21] Chair Ellen L. Weintraub, Chair, FEC, "Statement Regarding Illegal Contributions from Foreign Governments," June 13, 2019, https://www.fec.gov/resources/cms-content/documents/Chair_Weintraub_on_Illegal_Foreign_Contributions.pdf.

Establishing a Duty to Report Foreign Election Interference

The SHIELD Act establishes a duty to report foreign election interference.

The bill designates a reportable foreign contact as any direct or indirect contact or communication between a candidate, a political committee, or any official, employee, or agent of a committee, and an individual that such a person knows or has reason to know is a "covered foreign national." Moreover, the contact or communication must involve an offer or other proposal for an unlawful contribution, donation, expenditure, disbursement, or solicitation, or coordination or collaboration in connection with an election.

A "covered foreign national" is defined as a foreign government; foreign political party; any of their agents; and anyone included in the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (referred elsewhere in this report as the "sanctions list").

The SHIELD Act also requires political committees to establish compliance systems, including policies to provide for retention and preservation of records.

Strengthened Disclosure Rules Governing Online Political Advertising—Honest Ads Act

The SHIELD Act establishes disclosure rules for online political advertising and guards against foreign interference via digital platforms. Digital political advertising continues to skyrocket. According to the Center for Responsive Politics, spending on digital ads in the 2018 midterms was expected to cost $1.9 billion, or approximately 22 percent of overall political advertising.[22] Digital advertising is a relatively inexpensive and effective medium to spread a message quickly and efficiently.[23]

The failure of campaign finance laws to keep pace with technology, especially with the emergence of social media, has opened up our system to vulnerabilities.[24]

Russia's efforts to sow division and distrust in democracy during the 2016 election included "overt efforts by Russian Government agencies, state-funded media, third-party intermediaries, and paid social media users or 'trolls.'"[25] Facebook disclosed that it "identified more than $100,000 worth of divisive ads on hot-button issues purchased by a shadowy Russian company linked to the Kremlin."[26] The Washington Post reported that "two teams of independent researchers found that the Russians exploited American-

[22] Megan Janetsky, "Low Transparency, Low Regulation Online Political Ads Skyrocket," Center for Responsive Politics, Mar. 7, 2018, https://www.opensecrets.org/news/2018/03/low-transparency-low-regulation-online-political-ads-skyrocket/.

[23] Written Testimony of Wendy R. Weiser, Director, Democracy Program at the Brennan Center for Justice at NYU School of Law, Hearing: "For the People: Our American Democracy," Feb. 14, 2019, at 23.

[24] *See generally* Hamsini Sridharan and Ann M. Ravel, "Illuminating Dark Digital Politics: Campaign Finance Disclosure for the 21st Century," October 2017 (finding that the "lack of a 21st century disclosure system is all the more stark when considering the pace with which communication is moving online.").

[25] Office of the Director of National Intelligence, "Assessing Russian Activities and Intentions in Recent US Elections," Jan. 6, 2017, at ii, https://www.dni.gov/files/documents/ICA_2017_01.pdf.

[26] Scott Shane and Vindu Goel, "Fake Russian Facebook Accounts Bought $100,000 in Political Ads," N.Y. Times, Sept. 6, 2017, https://www.nytimes.com/2017/09/06/technology/facebook-russian-political-ads.html.

made technology platforms to attack U.S. democracy at a particularly vulnerable moment . . . as part of a broadly effective strategy of sowing distrust in U.S. democracy and its leaders."[27]

According to Special Counsel Mueller, the Internet Research Agency (IRA), based in St. Petersburg, Russia, "used social media accounts and interest groups to sow discord in the U.S. political system through what it termed 'information warfare.'"[28] He also wrote that to "reach larger U.S. audiences, the IRA purchased advertisements from Facebook that promoted the IRA groups on the newsfeeds of U.S. audience members. . . . [M]any IRA-purchased advertisements explicitly supported or opposed as presidential candidate or promoted U.S. rallies organized by the IRA. . . . As early as March 2016, the IRA purchased advertisements that overtly opposed the Clinton Campaign. . . . IRA-purchased advertisements referencing candidate Trump largely supported his campaign. . . . Collectively, the IRA's social media accounts reached tens of millions of U.S. persons."[29]

The SHIELD Act incorporates provisions from the Honest Ads Act (H.R. 2592), which updates the rules that apply to online political advertising by incorporating disclosure and disclaimer requirements that apply to traditional media, while providing regulatory flexibility for new forms of digital advertising. This will help ensure that voters make informed decisions at the ballot box and know who is spending money on digital political advertisements.

It also expands the definition of public communication to include paid internet or paid digital communications and amends the definition of electioneering communication to include certain digital or internet communications placed or promoted for a fee online.

In addition, the bill requires that large online platforms (defined to include those with 50 million or more unique monthly United States visitors or users) maintain public databases of political ad purchases. This is a concept that already applies to broadcasters, who must maintain public files of political advertisements. The online databases maintained by the platforms will provide the public with information about the purchasers of online political ads, including how the audience is targeted. Political advertisements are defined to include those that communicate messages relating to political matters of national importance, including about candidates, elections, and national legislative issues of public importance.

The SHIELD Act, by incorporating the Honest Ads Act, requires broadcasters, providers of cable or satellite television, and online platforms to make reasonable efforts to ensure that political advertising is not purchased by foreign nationals, directly or indirectly.

Closing Loopholes Allowing Spending by Foreign Nationals in Elections

Citizens United v. Federal Election Commission unleashed new modes of dark money spending through artificial entities, including

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[27] Craig Timberg, "Russian Propaganda Effort Helped Spread 'Fake News' During Election, Experts Say," Wash. Post, Nov. 24, 2016, https://www.washingtonpost.com/business/economy/russian-propaganda-effort-helped-spread-fake-news-during-election-experts-say/2016/11/24/793903b6-a40-4ca9-b712-716af66098fe_story.html?utm_term=.24841509a330.

[28] Mueller, supra note 1, at 4.

[29] *Id.* at 25–26.

Super PACs, corporations, and certain nonprofit organizations.[30] The SHIELD Act takes steps to close loopholes that could permit foreign nationals, including foreign governments, to spend money to influence and interfere in United States elections in contravention of the existing prohibition on campaign spending by foreign nationals.[31]

Clarifying the Prohibition on Foreign Nationals in Decision-Making Concerning Campaign Spending

The SHIELD Act codifies existing FEC regulations that prohibit foreign nationals from directing, dictating, controlling, or participating in decision-making concerning campaign spending. Moreover, it makes explicit that foreign nationals may not make contributions to independent expenditure-only committees (Super PACs) and enacts strong compliance rules.

Auditing and Reporting on Illicit Foreign Money in Federal Elections

The SHIELD Act would require the FEC to determine the incidence of illicit foreign money in each Federal Election Cycle and provide a report to Congress after each Federal election cycle with the results of the audit as well as recommendations to address the presence of any illicit foreign money.

Prohibition on Contributions and Donations by Foreign Nationals in Connection with Ballot Initiatives and Referenda

The SHIELD Act would extend the existing foreign money prohibition to include ballot initiatives and referenda, which are currently not explicitly considered Federal, State or local elections for purposes of the existing foreign money prohibition.[32]

Expansion on Campaign-Related Spending Prohibitions

As described earlier, Special Counsel Mueller's report detailed how the St. Petersburg, Russia-based Internet Research Agency (IRA) used social media to influence the election, including by purchasing digital political advertisements that explicitly named candidates and major political issues at stake in the election. Moreover, the United States Senate Select Committee on Intelligence issued a report finding that "no single group of Americans was targeted by IRA information operatives more than African-Americans. By far, race and related issues were the preferred target of the information warfare designed to divide the country in 2016."[33]

The SHIELD Act clarifies and expands the scope of the prohibition on spending by foreign nationals, including foreign governments. It extends the foreign national spending prohibition to digital and online campaign advertisements that refer to a clearly identified candidate within 60 days of a general, special or runoff election or 30 days before a primary or preference election, conven-

[30] *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).
[31] 52 U.S.C. § 30121.
[32] *Id.*
[33] Report of the United States Select Committee on Intelligence on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Volume 2, pg. 4, https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume2.pdf.

tion or caucus. This foreign national spending prohibition already applies to broadcast, cable, or satellite communications. [34]

The SHIELD Act also applies the foreign spending prohibition to campaign advertisements that promote, support, attack, or oppose ["PASO"] the election of candidates, irrespective of whether the advertisement explicitly calls for the election or defeat of a candidate. In upholding this "PASO" test against a constitutional challenge, the Supreme Court stated in *McConnell* v. *FEC* that the "words provide explicit standards for those who apply them." [35] This provision of the SHIELD Act would address the Russian campaign advertisements that mentioned specific candidates, but fell short of explicitly calling for a candidate's election or defeat.

The SHIELD Act also prohibits foreign governments, foreign political parties, their agents, and those on the aforementioned sanctions list from spending money on advertisements that discuss national legislative issues of public importance during a year in which a regularly-scheduled general election for Federal office is held. Such advertisements, promoted during an election year, could affect how Americans vote. According to Special Counsel Mueller's report, the IRA created a number of "Facebook groups active during the 2016 campaign cover[ing] a range of political issues and included purported conservative groups (with names such as "Being Patriotic," "Stop All Immigrants," "Secured Borders," and "Tea Party News,)," purported Black social justice groups ("Black Matters," "Blacktivist," and "Don't Shoot Us"), LGBTQ groups ("LGBT United"), and religious groups ("United Muslims of America"). . . . To reach larger U.S. audiences, the IRA purchased advertisements from Facebook that promoted the IRA groups on the newsfeeds of U.S. audience members." [36] As described earlier, IRA accounts then began publishing "an increasing number of materials supporting the Trump Campaign and opposing the Clinton Campaign." [37]

The SHIELD Act would prohibit many of the foreign government-sponsored advertisements with divisive social content intended to affect the outcome of an election during an election year, and that were used to recruit unwitting Americans to social media groups that later received content concerning the election.

Still, a significant amount of the information warfare did not include paid advertisements. In addition to using advertising and viral content to recruit members of various Facebook groups, the Mueller report details how employees of the IRA created false personas on certain online platforms and then "claimed (falsely) to be affiliated with U.S. political and grassroots organizations." [38] The purpose of these false accounts was "to attempt to influence U.S. audiences on the election." [39] The "IRA-controlled social media accounts criticized Clinton's record as Secretary of State and promoted various critiques of her candidacy." [40] The social media ac-

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[34] *Id.* at § 30121 (a)(1)(C).
[35] *McConnell* v. *FEC*, 540 U.S. 93, 170 note 64 (2003).
[36] Mueller, supra note 1, at 25.
[37] *Id.*
[38] *Id.* at 22.
[39] *Id.* at 27.
[40] *Id.* at 23, note 49.

counts "reached tens of millions of U.S. persons."[41] Some of these fake social media persons (on both Facebook and Twitter) announced and promoted political rallies and events.[42] According to Special Counsel Mueller, "almost all of the U.S. rallies organized by the IRA focused on the U.S. election, often promoting the Trump campaign and opposing the Clinton campaign."[43]

The aforementioned report by the United States Senate Select Committee on Intelligence also found that paid advertisements were not the IRA's sole tactic, finding that "more than 61,500 Facebook posts, 116,000 Instagram posts, and 10.4 million Tweets were the original creations of IRA influence operatives, disseminated under the guise of authentic user activity."[44] It also found that "Kremlin-backed entities have spent years professionalizing a cadre of paid trolls, investing in large-scale, industrialized 'troll farms,' in order to obscure Moscow's hand and advance the aims of Russia's information operations both domestically and abroad."[45]

The SHIELD Act would render unlawful this sort of campaign-related activity that is intended to affect the outcome of an election. It prohibits foreign governments, foreign political parties, their agents, and those on the aforementioned sanctions list from compensating any person for internet activity that promotes, supports, attacks, or opposes the election of clearly identified candidates for Federal, State, or local office.

Deterring Foreign Interference in Elections

Restrictions on Exchanges of Campaign Information Between Candidates and Foreign Powers

Special Counsel Mueller reported multiple contacts that the Trump campaign chairman Paul Manafort had with a longtime associate Konstantin Kilimnik, an individual with "ties to Russian intelligence."[46] For example, Manafort "instructed Rick Gates, his deputy on the Campaign and a longtime employee, to provide Kilimnik with updates on the Trump Campaign—including internal polling data. . . . Manafort expected Kilimnik to share that information with others in Ukraine and with [Russian oligarch Oleg] Deripaska [who is "closely aligned with Vladimir Putin"].[47] Gates periodically sent such polling data to Kilimnik during the campaign."[48] According to the report, "Manafort [REDACTED] did not see a downside to sharing campaign information."[49]

Moreover, Kilimnik and Manafort met in person, where Manafort "conveyed campaign information," including a meeting that Kilimnik requested to deliver a message from a former Ukranian President who was living in Russia "about a peace plan for Ukraine that Manafort has since acknowledged was a 'backdoor' means for Russia to control eastern Ukraine."[50] According to Special Counsel

[41] *Id.* at 26.
[42] *Id.* at 29.
[43] *Id.* at 31.
[44] Report of the United States Select Committee on Intelligence on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election, Volume 2, pg. 7, https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume2.pdf.
[45] *Id.* at 18.
[46] *Id.* at 6.
[47] *Id.* at 129; 131.
[48] *Id.* at 129.
[49] *Id.* at 130.
[50] *Id.* at 130.

Mueller, they "also discussed the status of the Trump Campaign and Manafort's strategy for winning Democratic votes in Midwestern states."[51] Manafort's campaign strategy briefing "encompassed the Campaign's messaging and its internal polling data. According to Gates, it also included discussion of 'battleground' states, which Manafort identified as Michigan, Wisconsin, Pennsylvania, and Minnesota."[52]

Existing law prohibits a person from soliciting, accepting, or receiving a contribution or donation of money or other thing of value from a foreign national, including foreign government.[53] But the law does not explicitly prohibit sharing nonpublic, internal polling data with a foreign power, even when sharing such information would violate campaign finance coordination rules if, for example, the materials were shared with a Super PAC.[54]

The SHIELD Act closes this gap in the law and further protects American elections from interference by a foreign power. It does so by treating an offer to share nonpublic campaign materials with a covered foreign national (including a foreign government, foreign political party, their agent, or an individual on the sanctions list) as a prohibited solicitation from a covered foreign national.

Specifically, if a candidate or an individual affiliated with the campaign of a candidate (or a political committee) provides or offers to provide nonpublic campaign material to such a covered foreign national, or to another person whom the candidate, committee, or individual knows or has reason to know will provide that material to a covered foreign national, such an action will be deemed a prohibited solicitation. Nonpublic campaign material includes polling and focus group data and opposition research.

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

Special Counsel Robert Mueller wrote that he "understood coordination to require an agreement—tacit or express—between the Trump Campaign and the Russian government on election interference. That requires more than the two parties taking actions that were informed by or responsive to the other's actions or interests."[55]

However, in amending the FECA, Congress made clear that any new coordination communication regulations issued by the FEC "shall not require agreement or formal collaboration to establish coordination."[56] This is in keeping with Supreme Court precedent that campaign spending made "after a 'wink or nod' often will be 'as useful to the candidates as cash.'"[57]

The SHIELD Act clarifies and makes explicit that agreement or formal collaboration is not necessary to find coordination, but in fact, coordination can occur absent a formal agreement.

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[51] *Id.* at 6–7.
[52] *Id.* at 140.
[53] 52 U.S.C. § 30121(a)(1)–(2).
[54] See *Id.* § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20.
[55] Mueller, *supra* note 1, at 2.
[56] Note to 52 U.S.C. § 30116(a)(7).
[57] *McConnell v. FEC*, 540 U.S. 93, 221 (2003) (quoting *FEC v. Colorado Republican Federal Campaign Comm.*, 533 U.S. 431, 442, 446 (2001).

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress the following hearings were used to develop or consider H.R. 2722:

(1) On Wednesday, May 8, 2019 the Committee held a hearing titled "Election Security." The following witnesses testified: Mr. Larry Norden, Brennan Center for Justice; Ms. Marian Schneider, Verified Voting; Mr. Joseph Lorenzo Hall, Center for Democracy and Technology; The Honorable Jocelyn Benson, Secretary of State, State of Michigan; and The Honorable John Merrill, Secretary of State, State of Alabama.

(2) On Tuesday, May 21, 2019, the Committee held a hearing titled "Oversight of the Election Assistance Commission." The following witnesses testified: The Honorable Christy McCormick, Commissioner and Chairwoman, Election Assistance Commission, accompanied by The Honorable Benjamin Hovland, Commissioner and Vice Chair, Election Assistance Commission; The Honorable Don Palmer, Commissioner, Election Assistance Commission; and The Honorable Thomas Hicks, Commissioner, Election Assistance Commission.

(3) On Thursday, February 14, 2019, the Committee held a hearing titled "For the People: Our American Democracy." The following witnesses testified: Mr. Chiraag Bains, Director of Legal Strategies, Demos; Ms. Wendy Weiser, Director, Democracy Program, Brennan Center for Justice at NYU School of Law; Mr. Fred Wertheimer, President, Democracy 21; The Honorable Kim Wyman, Secretary of State, State of Washington; Mr. Alejandro Rangel-Lopez, Senior at Dodge City High School, Dodge City Kansas, and plaintiff in LULAC & Rangel-Lopez v. Cox; Mr. Peter Earle, Wisconsin Civil Rights Trial Lawyer; Mr. Brandon A. Jessup, Data Science and Information Systems Professional; Executive Director, Michigan Forward; and David Keating, President, Institute for Free Speech.

COMMITTEE CONSIDERATION

On Wednesday, October 16, 2019, the Committee met in open session and ordered the bill H.R. 4617 favorably reported with an amendment to the House, by a roll call vote of 6 to 1, a quorum being present. During consideration of the bill an amendment (Amendment No. 5) was offered by Mr. Davis of Illinois and was agreed to by voice vote:

An amendment (No. 5) offered by Mr. Davis of Illinois to amend section 201(b) of the amendment in the nature of a substitute to insert "labor organization" after "a corporation" and after "the corporation" each place that it appears.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following

rollcall votes occurred during the Committee's consideration of H.R. 4617:

1. Motion to report H.R. 4617, as amended, favorably was agreed to by a rollcall vote of 6 to 1. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren	X			Mr. Davis (IL)		X	
Mr. Raskin	X			Mr. Walker			
Ms. Davis (CA)	X			Mr. Loudermilk			
Mr. Butterfield	X						
Ms. Fudge	X						
Mr. Aguilar	X						

2. An amendment (No. 1) offered by Mr. Davis of Illinois to strike "legitimate" in section 104(l) was defeated by a rollcall vote of 1 to 5. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren		X		Mr. Davis (IL)	X		
Mr. Raskin		X		Mr. Walker			
Ms. Davis (CA)		X		Mr. Loudermilk			
Mr. Butterfield		X					
Ms. Fudge							
Mr. Aguilar		X					

3. An amendment (No. 2) offered by Mr. Davis of Illinois to strike subtitle B if title I by a rollcall vote of 1 to 3. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren		X		Mr. Davis (IL)	X		
Mr. Raskin				Mr. Walker			
Ms. Davis (CA)		X		Mr. Loudermilk			
Mr. Butterfield							
Ms. Fudge							
Mr. Aguilar		X					

4. An amendment (No. 3) offered by Mr. Davis of Illinois to strike section 115 was defeated by a rollcall vote of 1 to 5. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren		X		Mr. Davis (IL)	X		
Mr. Raskin				Mr. Walker			
Ms. Davis (CA)		X		Mr. Loudermilk			
Mr. Butterfield		X					
Ms. Fudge		X					
Mr. Aguilar		X					

5. An amendment (No. 4) offered by Mr. Davis of Illinois to strike section 116 was defeated by a rollcall vote of 1 to 5. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren		X		Mr. Davis (IL)	X		
Mr. Raskin				Mr. Walker			
Ms. Davis (CA)		X		Mr. Loudermilk			
Mr. Butterfield		X					
Ms. Fudge		X					
Mr. Aguilar		X					

6. An amendment (No. 6) offered by Mr. Davis of Illinois to insert a new title IV prohibiting ballot harvesting was defeated by a rollcall vote of 1 to 6. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren		X		Mr. Davis (IL)	X		
Mr. Raskin		X		Mr. Walker			
Ms. Davis (CA)		X		Mr. Loudermilk			
Mr. Butterfield		X					
Ms. Fudge		X					
Mr. Aguilar		X					

7. An amendment (No. 8) offered by Mr. Davis of Illinois to insert a new section 303 to amend section 319(a) of FECA to prohibit direct or indirect disbursement of funds to foreign nationals by political committees by a rollcall vote of 1 to 6. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren		X		Mr. Davis (IL)	X		
Mr. Raskin		X		Mr. Walker			
Ms. Davis (CA)		X		Mr. Loudermilk			
Mr. Butterfield		X					
Ms. Fudge		X					
Mr. Aguilar		X					

8. A motion to table an appeal to the ruling of the Chair offered by Mr. Raskin was agreed to by a rollcall vote of 6 to 1. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Ms. Lofgren	X			Mr. Davis (IL)		X	
Mr. Raskin	X			Mr. Walker			
Ms. Davis (CA)	X			Mr. Loudermilk			
Mr. Butterfield	X						
Ms. Fudge	X						
Mr. Aguilar	X						

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goals and objectives of this legislation is to protect elections from foreign influence and interference.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee will adopt as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARKS AND TAX AND TARIFF BENEFITS

H.R. 4617, as amended, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House rule XXI.

COMMITTEE COST ESTIMATE

The Committee will adopt as its own the cost estimate on H.R. 4617, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate for H.R. 4617, as amended, provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available when the Committee filed this report.

FEDERAL MANDATES STATEMENT

The Committee will adopt as its own the estimate of Federal mandates regarding H.R. 4617, as amended, prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of House rule XIII, the Committee states that no provision of this establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

ADVISORY COMMITTEE STATEMENT

H.R. 4617, as amended, does not establish or authorize any new advisory committees.

APPLICABILITY TO LEGISLATIVE BRANCH

H.R. 4617, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; table of contents

Subsection (a) of this section would provide the short title of H.R. 4617, as amended, as the "Stopping Harmful Interference in Elections for a Lasting Democracy Act" or the "SHIELD Act." Subsection (b) would provide the 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

This section would amend section 304 of the Federal Election Campaign Act of 1971 (FECA) to add a new subsection to require disclosing reportable foreign contacts. It would create an obligation for each political committee to notify the Federal Bureau of Investigation (FBI) and the Federal Election Commission (FEC) of the contact and provide a summary of the circumstances of such contact not later than one week after said contact. It would also create an individual obligation for each candidate to notify the treasurer or other designated official of the principal campaign committee of the reportable foreign contact and to provide a summary of the circumstances of the contact not later than three days after said contact. It would require each official, employee, or agent of a political committee to notify the treasurer or other designated official of the committee of a contact and provide a summary of the circumstances of the contact, not later than three days after said contact.

This section would define "reportable foreign contact" to mean any direct or indirect contact or communication between a candidate, political committee, or any official, employee, or agent of such committee, and an individual that any of the aforementioned individuals knows, or has reason to know, or reasonably believes, is a "covered foreign national"; where any of the aforementioned individuals further knows, has reason to know, or reasonably believes the contact or communication involves an offer or other proposal for a contribution, donation, expenditure, disbursement, or solicitation forbidden in Section 319 of FECA, or involves a coordination or collaboration with, an offer or provision of information or services to or from, or persistent and repeated contact in connection with an election with a covered foreign national. It would create an exception such that "reportable foreign contact" does not include contact or communication between a covered foreign national and an elected official or such official's employee solely in their official capacity as an official or employee. This section would also preclude contact or communication that involves a contribution, donation, expenditure, disbursement or solicitation as defined in Section 319 of the FECA Act from being considered exempt.

This section would define a "covered foreign national" as a foreign principal that is a government of a foreign country or a foreign political party, an agent of such a foreign government or foreign political party, and persons on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury subject to sanctions related to the conduct of a foreign government or foreign political party. The agent definition would apply to United States citizens only to the extent that person involved acts within the scope of that person's status as the agent of a foreign government or foreign political party. It would make this section applicable with respect to reportable foreign contacts occurring on or after the date of enactment.

Finally, this section would provide that required reports for any reportable foreign contact shall include the date, time, and location of the contact, the date and time a designated committee official was notified of the contact, the identity of the individuals involved, and a description of the contact, including the nature of any contribution, donation, expenditure, disbursement, or solicitation involved or any prohibited activities discussed above. This section would be applicable to reports filed on or after the expiration of a 60-day period beginning on the date of enactment.

Sec. 102. Federal campaign foreign contact reporting compliance system

This section would establish a Federal campaign foreign contact reporting compliance system, whereby each political committee must establish a policy requiring all officials, employees and agents of such committee to notify the treasurer or other designated official of the committee of any reportable foreign contact not later than three days following the contact. It would require each political committee to establish a policy that provides for retention and preservation of records and information related to reportable foreign contacts for no fewer than three years. When filing a statement of organization or certain reports, it would require the treasurer of each political committee (except for an authorized committee) to certify that the committee has the aforementioned required policies in place, has designated an official to monitor compliance with such policies, and that not later than a week after the beginning of a formal or informal affiliation with the committee, all officials, employees, and agents of said committee will receive notice of such policies, be informed of contact restrictions, and sign a certification affirming their understanding of these policies and prohibitions. For authorized committees, the candidate would be required to make the required certification.

Subsection (b) would provide an effective date of on or after the date of enactment and would allow existing political committees to file the aforementioned certification not later than 30 days after enactment.

Sec. 103. Criminal penalties

Amends FECA to include penalties such that anyone who knowingly and willfully commits a violation these provisions shall be fined not more than $500,000, imprisoned not more than five years, or both. Further provides that anyone who knowingly and willfully conceals or destroys materials relating to a reportable foreign contact is to be fined not more than $1,000,000, imprisoned not more than five years, or both.

Sec. 104. Rule of construction

This section would establish a rule of construction such that nothing in the title or amendments made by the title shall be construed to impede legitimate journalistic activities or to impose any additional limitation on the right to express political views or engage in public discourse for any individual who resides in the United States, is not a citizen or national, and is not lawfully admitted for permanent residence.

Subtitle B—Strengthening Oversight of Online Political Advertising

Sec. 111. Short title

This section would provide the short title of this subtitle as the "Honest Ads Act."

Sec. 112. Purpose

This section would provide that the purpose of this subtitle is to improve disclosure requirements for online political advertisements to enhance the integrity of American democracy and national security, in order uphold the Supreme Court's well-established standard that the electorate bears the right to be fully informed.

Sec. 113. Expansion of definition of public communication

This section would add "paid internet or paid digital communication" to the definition of public communication and amend the press exception to the definition of expenditure to account for online or digital outlets, including blogs and digital newspapers, unless such online or digital facilities are owned or controlled by any political party, political committee, or candidate.

Sec. 114. Expansion of definition of electioneering communication

This section would add "qualified internet or digital communication" to the definition of electioneering communication and define "qualified internet or digital communication" to mean any communication which is placed or promoted for a fee on an online platform. It would not require electioneering communications by means of online communications to be targeted to the relevant electorate. It would amend the news exemption to the definition of electioneering communication to include communications appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station or any online or digital newspaper, magazine, blog, publication, or periodical, unless such broadcasting, online, or digital facilities are owned or controlled by any political party, political committee, or candidate. Finally, it would provide that these amendments would apply with respect to communications made on or after January 1, 2020.

Sec. 115. Application of disclaimer statements to online communications

This section would substitute "shall state in a clear and conspicuous manner" for "shall clearly state" when describing disclaimer requirements. It would clarify that communications are not made in a clear and conspicuous manner if it is difficult to read or hear or if the placement is easily overlooked. It would also provide special rules for disclaimers that apply to qualified internet or digital communications if the communication is disseminated through a medium in which providing all of the information is not possible. Specifically, it would require the communication to include in a clear and conspicuous manner the name of the person who paid for the communication, and provide a means for the recipient of the communication to obtain the remainder of the information with minimal effort. It would also include a safe harbor for clear and conspicuous statements for text, audio, and video communications.

For text or graphic communications, letters would be required to appear at least as large as the majority of the text in the communication, contained in a printed box, and printed with a reasonable degree of color contrast between the background and the printed statement. Audio statements would be required to be clearly audible and intelligible at the beginning or end of a communication and last at least 3 seconds. Video with audio would be required to include the statement at the beginning or end of the communication, and be both in a written format that appears for 4 seconds and with audio that is clearly audible and intelligible for at least 3 seconds. All other types of communications would be required to be at least as clear and conspicuous as what is otherwise required for text, video, and audio. The "small items" regulatory exception for bumper stickers, pins, buttons, pens, and similar small items upon which disclaimers cannot be conveniently printed would not apply to qualified internet or digital communications, nor would the impracticability regulatory exception (for skywriting, water towers, wearing apparel) (specifically, 11 CFR 110.11(f)(1)(i) and (ii), or any successor to these rules). Finally, it would modify "stand by your ad" requirements for candidates or authorized persons by substituting "audio format" for "radio," and "video format" for "television."

Sec. 116. Political record requirements for online platforms

This section would require online platforms to maintain and make public in machine-readable format a complete record of any request to purchase qualified political advertisements made by a person whose aggregate requests on the online platform during the calendar year exceeds $500. It would require advertisers to provide the online platform with the necessary information for the online platform to comply. It would require the contents of the record to include a digital copy of the political advertisement, a description of the audience targeted, the number of views generated and the date and timing that the advertisement was first and last displayed, the average rate charged for the advertisement, the name of the candidate to which the advertisement refers (and the office sought) or the national legislative issue to which the advertisement refers. If a candidate is the advertiser, the record would be required to include the name of the candidate, the committee of the candidate, and the treasurer of the candidate. All other records would be required to include the name of the person purchasing the advertisement, the name and address of a contact person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

Further, this section would define online platforms as any public-facing website, web application, or digital application (including a social network, ad network, or search engine) which sells qualified political advertisements and has 50,000,000 or more unique monthly United States visitors or users for a majority of the months during the preceding 12 months. Qualified political advertisements would be defined to mean any advertisements (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that are made by or on behalf of a candidate, or communicate a message relating to any political matter of national importance, including (i) a candidate; (ii)

any election to Federal office, or (iii) a national legislative issue of public importance. Online platforms would be required to make the record public as soon as possible and retain the record for a period of not less than 4 years. It would provide a safe harbor from enforcement for online platforms making their best efforts to identify requests which would be subject to record maintenance requirements. The FEC would be responsible for crafting these best efforts rules. Provides penalties for failure to otherwise comply.

Finally, this section would require the FEC to establish rules, no later than 120 days after enactment, requiring common data formats for the online platform records so that they are machine-readable and publicly accessible, and establishing search interface requirements relating to such record, including searches by candidate name, issue, purchaser, and date. In addition, it would require the FEC to report biannually to Congress on matters relating to compliance, recommendations for modifications, and identifying other ways to bring transparency to online political advertisements distributed for free.

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

This section would require broadcasters, providers of cable or satellite television and online platforms to make reasonable efforts to ensure that foreign nationals, either directly or indirectly, would not purchase political advertising. A reasonable effort would require that the station, provider, or online platform directly inquires from the individual or entity making the purchase whether the purchase is to be made by a foreign national, directly or indirectly. It would establish special rules constituting reasonable efforts for disbursements paid with credit card if, at the time of purchase, the purchaser had to disclose the credit verification value of the card, and the billing address associated with the card is in the United States, or, for United States citizens living abroad, the United States address used for voter registration purposes is provided.

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

This section would amend FECA's ban on foreign nationals making contributions and expenditures in connection with elections by codifying language from an FEC regulation rendering it unlawful for a foreign national to direct, dictate, control, or directly or indirectly participate in the decision making process of any person (including a corporation, labor organization, political committee, or political organization) with regard to such person's election activity, including any decision making concerning the making of contributions, donations, expenditures, or disbursements in connection with elections; under certain circumstances, requires annual certification of compliance with ban on foreign national spending by chief executive officer or highest ranking official before any corporation or labor organization makes any contribution, donation or expenditure in connection with an election

Sec. 202. Clarification of application of foreign money ban to certain disbursements and activities

This section would prohibit foreign national contributions to Super PACs and prohibit any foreign national from participating in decision making by any corporate PAC. It would require annual certification of compliance before any contribution or expenditure.

Sec. 203. Audit and report on illicit foreign money in Federal elections

This section would require the FEC to conduct random audits to determine the incidence of illicit foreign money in each Federal election cycle. The FEC would submit a report to Congress no later than 180 days after the end of a Federal election cycle with the results of the audit as well as recommendations to address the presence of any illicit foreign money.

Sec. 204. Prohibition on contributions and donations by foreign nationals in connections with ballot initiatives and referenda

Currently, FECA prohibits the solicitation of a contribution or donation from a foreign national in connection with a Federal, state, or local election. This section would extend this prohibition to apply to state or local ballot initiatives or referenda.

Sec. 205. Expansion of limitations on foreign nationals participating in political advertising

Currently, FECA prohibits foreign nationals from making expenditures, independent expenditures, or disbursements for electioneering communications. This section would extend this prohibition to include: 1) disbursements for communications placed or promoted for a fee on a website, web application, or digital application that refer to a clearly identified candidate for Federal office and is disseminated within 60 days before a general, special, or runoff election, and within 30 days of a primary election or a convention or caucus of a political party to nominate a candidate; 2) disbursements for a broadcast, cable or satellite communication, or for communications placed or promoted for a fee on a website, web application, or digital application, that promotes, supports, attacks or opposes the election of a clearly identified candidate for Federal, State or local office; 3) a disbursement for a broadcast, cable, or satellite communication, or for any communication which is placed or promoted for a fee on an online platform that discusses an issue of national legislative importance (in an election year) but only if the disbursement is made by a covered foreign national as defined in section 101 of this measure (such as foreign governments or foreign political parties or their agents); and 4) a disbursement by a covered foreign national (as defined in Section 101) to compensate any person for internet activity that promotes, supports, attacks or opposes the election of a clearly identified candidate.

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

This section would amend FECA to clarify that if a candidate or political campaign (or their agent) or a political committee or individual affiliated with a political committee provides or offers to provide nonpublic campaign material to a covered foreign national, that act will be considered a solicitation for the purposes of the Act. Nonpublic campaign material would be defined to mean campaign material that is produced by the candidate or the committee or produced at the candidate or committee's expense or request which is not distributed or made available to the general public or otherwise in the public domain, including polling and focus group data and opposition research.

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

This section would amend FECA to clarify that an agreement or formal collaboration is not required in order to find "coordination" between a candidate and outside spender.

Subtitle B—Prohibiting deceptive practices and preventing voter intimidation

[RESERVED]

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effective dates of provisions

This section would provide that each provision of this Act shall take effective without regard to whether or not the FEC, the Attorney General, or any other person has promulgated regulations to carry out such provision or such amendment.

Sec. 402. Severability

This section would provide that if any provision of the Act is held to be unconstitutional, the remainder of the Act shall not be affected by the holding.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FEDERAL ELECTION CAMPAIGN ACT OF 1971

* * * * * * *

TITLE III—DISCLOSURE OF FEDERAL CAMPAIGN FUNDS

DEFINITIONS

SEC. 301. When used in this Act:

(1) The term "election" means—

(A) a general, special, primary, or runoff election;

(B) a convention or caucus of a political party which has authority to nominate a candidate;

(C) a primary election held for the selection of delegates to a national nominating convention of a political party; and

(D) a primary election held for the expression of a preference for the nomination of individuals for election to the office of President.

(2) The term "candidate" means an individual who seeks nomination for election, or election, to Federal office, and for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election—

(A) if such individual has received contributions aggregating in excess of $5,000 or has made expenditures aggregating in excess of $5,000; or

(B) if such individual has given his or her consent to another person to receive contributions or make expenditures on behalf of such individual and if such person has received such contributions aggregating in excess of $5,000 or has made such expenditures aggregating in excess of $5,000.

(3) The term "Federal office" means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress.

(4) The term "political committee" means—

(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of section 316(b); or

(C) any local committee of a political party which receives contributions aggregating in excess of $5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in section 301 (8) and (9) aggregating in excess of $5,000 during a calendar year, or makes contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year.

(5) The term "principal campaign committee" means a political committee designated and authorized by a candidate under section 302(e)(1).

(6) The term "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under section 302(e)(1) to receive contributions or make expenditures on behalf of such candidate.

(7) The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee.

(8)(A) The term "contribution" includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; or

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(v) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made [on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising] *in any public communication*;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 316(b), would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such services and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) by the committee receiving such services;

(ix) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(x) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures,

posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided,* That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xi) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;

(xii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access;

(xiii) any honorarium (within the meaning of section 323 of this Act); and

(xiv) any loan of money derived from an advance on a candidate's brokerage account, credit card, home equity line of credit, or other line of credit available to the candidate, if such loan is made in accordance with applicable law and under commercially reasonable terms and if the person making such loan makes loans derived from an advance on the candidate's brokerage account, credit card, home equity line of credit, or other line of credit in the normal course of the person's business.

(9)(A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

[(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;]

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

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed $2,000 for any election, be reported to the Commission in accordance with section 304(a)(4)(A)(i), and in accordance with section 304(a)(4)(A)(ii) with respect to any general election;

(iv) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made [on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising] *in any public communication*;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 316(b), would not constitute an expenditure by such corporation or labor organization;

(vi) any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 315(b), but all such costs shall be reported in accordance with section 304(b);

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible

for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization.

(17) INDEPENDENT EXPENDITURE.—The term "independent expenditure" means an expenditure by a person—

(A) expressly advocating the election or defeat of a clearly identified candidate; and

(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended.

(20) FEDERAL ELECTION ACTIVITY.—

(A) IN GENERAL.—The term "Federal election activity" means—

(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

(B) EXCLUDED ACTIVITY.—The term "Federal election activity" does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

(iii) the costs of a State, district, or local political convention; and

(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

(21) GENERIC CAMPAIGN ACTIVITY.—The term "generic campaign activity" means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

(22) PUBLIC COMMUNICATION.—The term "public communication" means a communication by means of any broadcast, cable, [or satellite communication] *satellite, paid internet, or paid digital communication*, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

(23) MASS MAILING.—The term "mass mailing" means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

(24) TELEPHONE BANK.—The term "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.

(25) ELECTION CYCLE.—For purposes of sections 315(i) and 315A and paragraph (26), the term "election cycle" means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

(26) PERSONAL FUNDS.—The term "personal funds" means an amount that is derived from—

(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

(i) legal and rightful title; or

(ii) an equitable interest;

(B) income received during the current election cycle of the candidate, including—

(i) a salary and other earned income from bona fide employment;

(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

(iii) bequests to the candidate;

(iv) income from trusts established before the beginning of the election cycle;

(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

(vii) proceeds from lotteries and similar legal games of chance; and

(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.

ORGANIZATION OF POLITICAL COMMITTEES

SEC. 302. (a) Every political committee shall have a treasurer. No contribution or expenditure shall be accepted or made by or on behalf of a political committee during any period in which the office of treasurer is vacant. No expenditures shall be made for or on behalf of a political committee without the authorization of the treasurer or his or her designated agent.

(b)(1) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receiving such contribution, forward to the treasurer such contribution, and if the amount of the contribution is in excess of $50 the name and address of the person making the contribution and the date of receipt.

(2) Every person who receives a contribution for a political committee which is not an authorized committee shall—

(A) if the amount of the contribution is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

(B) if the amount of the contribution is in excess of $50, forward to the treasurer such contribution, the name and address of the person making the contribution, and the date of receipt of the contribution, no later than 10 days after receiving the contribution.

(3) All funds of a political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

(c) The treasurer of a political committee shall keep an account of—

(1) all contributions received by or on behalf of such political committee;

(2) the name and address of any person who makes any contribution in excess of $50, together with the date and amount of such contribution by any person;

(3) the identification of any person who makes a contribution or contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

(4) the identification of any political committee which makes a contribution, together with the date and amount of any such contribution; and

(5) the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, and the name of the candidate and the office sought by the candidate, if any, for whom the disbursement was made, including a receipt, invoice, or canceled check for each disbursement in excess of $200.

(d) The treasurer shall preserve all records required to be kept by this section and copies of all reports required to be filed by this title for 3 years after the report is filed. For any report filed in electronic format under section 304(a)(11), the treasurer shall retain a machine-readable copy of the report as the copy preserved under the preceding sentence.

(e)(1) Each candidate for Federal office (other than the nominee for the office of Vice President) shall designate in writing a political committee in accordance with paragraph (3) to serve as the principal campaign committee of such candidate. Such designation shall be made no later than 15 days after becoming a candidate. A candidate may designate additional political committees in accordance with paragraph (3) to serve as authorized committees of such candidate. Such designation shall be in writing and filed with the principal campaign committee of such candidate in accordance with subsection (f)(1).

(2) Any candidate described in paragraph (1) who receives a contribution, or any loan for use in connection with the campaign of such candidate for election, or makes a disbursement in connection with such campaign, shall be considered, for purposes of this Act, as having received the contribution or loan, or as having made the disbursement, as the case may be, as an agent of the authorized committee or committees of such candidate.

(3)(A) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that—

(i) the candidate for the office of President nominated by a political party may designate the national committee of such political party as a principal campaign committee, but only if that national committee maintains separate books of account with respect to its function as a principal campaign committee; and

(ii) candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(B) As used in this section, the term "support" does not include a contribution by any authorized committee in amounts of $2,000 or less to an authorized committee of any other candidate.

(4) The name of each authorized committee shall include the name of the candidate who authorized such committee under paragraph (1). In the case of any political committee which is not an authorized committee, such political committee shall not include the name of any candidate in its name.

(5) The name of any separate segregated fund established pursuant to section 316(b) shall include the name of its connected organization.

(f)(1) Notwithstanding any other provision of this Act, each designation, statement, or report of receipts or disbursements made by an authorized committee of a candidate shall be filed with the candidate's principal campaign committee.

(2) Each principal campaign committee shall receive all designations, statements, and reports required to be filed with it under paragraph (1) and shall compile and file such designations, statements, and reports in accordance with this Act.

(g) FILING WITH THE COMMISSION.—All designations, statements, and reports required to be filed under this Act shall be filed with the Commission.

(h)(1) Each political committee shall designate one or more State banks, federally chartered depository institutions, or depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. Each political committee shall maintain at least one checking account and such other accounts as the committee determines at a depository designated by such committee. All receipts received by such committee shall be deposited in such accounts. No disbursements may be made (other than petty cash disbursements under paragraph (2)) by such committee except by check drawn on such accounts in accordance with this section.

(2) A political committee may maintain a petty cash fund for disbursements not in excess of $100 to any person in connection with a single purchase or transaction. A record of all petty cash disbursements shall be maintained in accordance with subsection (c)(5).

(i) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain, and submit the information required by this Act for the political committee, any report or any records of such committee shall be considered in compliance with this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(j) REPORTABLE FOREIGN CONTACTS COMPLIANCE POLICY.—

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

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

(3) CERTIFICATION.—

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

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

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

(iii) not later than 1 week after the beginning of any formal or informal affiliation with the committee, all officials, employees, and agents of such committee will—

(I) receive notice of such policies;

(II) be informed of the prohibitions 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).

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REPORTS

SEC. 304. (a)(1) Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

(2) If the political committee is the principal campaign committee of a candidate for the House of Representatives or for the Senate—

(A) in any calendar year during which there is regularly scheduled election for which such candidate is seeking election, or nomination for election, the treasurer shall file the following reports:

(i) a pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which such candidate is seeking election, or nomination for election, and which shall be complete as of the 20th day before such election;

(ii) a post-general election report, which shall be filed no later than the 30th day after any general election in which such candidate has sought election, and which shall be complete as of the 20th day after such general election; and

(iii) additional quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter: except that the report for the quarter ending December 31 shall be filed no later than January 31 of the following calendar year; and

(B) in any other calendar year the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.

(3) If the committee is the principal campaign committee of a candidate for the office of President—

(A) in any calendar year during which a general election is held to fill such office—

(i) the treasurer shall file monthly reports if such committee has on January 1 of such year, received contributions aggregating $100,000 or made expenditures aggregating $100,000 or anticipates receiving contributions aggregating $100,000 or more or making expenditures aggregating $100,000 or more during such year: such monthly reports shall be filed no later than the 20th day after the last day of each month and shall be complete as of the last day of the month, except that, in lieu of filing the report otherwise due in November and December, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year;

(ii) the treasurer of the other principal campaign committees of a candidate for the office of President shall file a pre-election report or reports in accordance with paragraph (2)(A)(i), a post-general election report in accordance with paragraph (2)(A)(ii), and quarterly reports in accordance with paragraph (2)(A)(iii); and

(iii) if at any time during the election year a committee filing under paragraph (3)(A)(ii) receives contributions in excess of $100,000 or makes expenditures in excess of $100,000, the treasurer shall begin filing monthly reports under paragraph (3)(A)(i) at the next reporting period; and

(B) in any other calendar year, the treasurer shall file either—

(i) monthly reports, which shall be filed no later than the 20th day after the last day of each month and shall be compete as of the last day of the month; or

(ii) quarterly reports, which shall be filed no later than the 15th day after the last day of each calendar quarter and which shall be complete as of the last day of each calendar quarter.

(4) All political committees other than authorized committees of a candidate shall file either—

(A)(i) quarterly reports, in a calendar year in which a regularly scheduled general election is held, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year.

(ii) a pre-election report, which shall be filed no later than the 12th day before (or posted by any of the following: registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, or delivered to an overnight delivery service with an on-line tracking system, if posted or delivered no later than the 15th day before) any election in which the committee makes a contribution to or expenditure on behalf of a candidate in such

election, and which shall be complete as of the 20th day before the election;

(iii) a post-general election report, which shall be filed no later than the 30th day after the general election and which shall be complete as of the 20th day after such general election; and

(iv) in any other calendar year, a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31 and a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year; or

(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with paragraph (2)(A)(i), a post-general election report shall be filed in accordance with paragraph (2)(A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.

Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).

(5) If a designation, report, or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii) or subsection (g)(1)) is sent by registered mail, certified mail, priority mail having a delivery confirmation, or express mail having a delivery confirmation, the United States postmark shall be considered the date of filing the designation, report or statement. If a designation, report or statement filed pursuant to this Act (other than under paragraph (2)(A)(i) or (4)(A)(ii), or subsection (g)(1)) is sent by an overnight delivery service with an on-line tracking system, the date on the proof of delivery to the delivery service shall be considered the date of filing of the designation, report, or statement.

(6)(A) The principal campaign committee of a candidate shall notify the Secretary or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution.

(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term "expenditure from personal funds" means—

(I) an expenditure made by a candidate using personal funds; and

(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with—

(I) the Commission; and

(II) each candidate in the same election.

(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

(I) the Commission; and

(II) each candidate in the same election.

(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with—

(I) the Commission; and

(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

(I) the name of the candidate and the office sought by the candidate;

(II) the date and amount of each expenditure; and

(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.

(E) The notification required under this paragraph shall be in addition to all other reporting requirements under this Act.

(7) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during such year, only the amount need be carried forward.

(8) The requirement for a political committee to file a quarterly report under paragraph (2)(A)(iii) or paragraph (4)(A)(i) shall be waived if such committee is required to file a pre-election report under paragraph (2)(A)(i), or paragraph (4)(A)(ii) during the period

beginning on the 5th day after the close of the calendar quarter and ending on the 15th day after the close of the calendar quarter.

(9) The Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and political committees filing under paragraph (4)(A) which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall require no more than one pre-election report for each election and one post-election report for the election which fills the vacancy. The Commission may waive any reporting obligation of committees required to file for special elections if any report required by paragraph (2) or (4) is required to be filed within 10 days of a report required under this subsection. The Commission shall establish the reporting dates within 5 days of the setting of such election and shall publish such dates and notify the principal campaign committees of all candidates in such election of the reporting dates.

(10) The treasurer of a committee supporting a candidate for the office of Vice President (other than the nominee of a political party) shall file reports in accordance with paragraph (3).

(11)(A) The Commission shall promulgate a regulation under which a person required to file a designation, statement, or report under this Act—

(i) is required to maintain and file a designation, statement, or report for any calendar year in electronic form accessible by computers if the person has, or has reason to expect to have, aggregate contributions or expenditures in excess of a threshold amount determined by the Commission; and

(ii) may maintain and file a designation, statement, or report in electronic form or an alternative form if not required to do so under the regulation promulgated under clause (i).

(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.

(C) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying designations, statements, and reports covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(D) As used in this paragraph, the term "report" means, with respect to the Commission, a report, designation, or statement required by this Act to be filed with the Commission.

(12) SOFTWARE FOR FILING OF REPORTS.—

(A) IN GENERAL.—The Commission shall—

(i) promulgate standards to be used by vendors to develop software that—

(I) permits candidates to easily record information concerning receipts and disbursements re-

quired to be reported under this Act at the time of the receipt or disbursement;

(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

(III) allows the Commission to post the information on the Internet immediately upon receipt; and

(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

(B) ADDITIONAL INFORMATION.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

(C) REQUIRED USE.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

(D) REQUIRED POSTING.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.

(b) Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of the Internal Revenue Code of 1954;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such receipt;

(4) for the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 315(d) of this Act; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 315(b);

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure;

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the name and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office), together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal

office) in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 315(d) in the Act, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office) from the reporting committee within the reporting period, together with the date, amount, and purpose of any such disbursement;

(7) the total sum of all contributions to such political committee, together with the total contributions less offsets to contributions and the total sum of all operating expenditures made by such political committee, together with total operating expenditures less offsets to operating expenditures, for both the reporting period and the calendar year (or election cycle, in the case of an authorized committee of a candidate for Federal office); **[**and**]**

(8) the amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor**[**.**]***; and*

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

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

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

(C) the identity of individuals involved; and

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

(c)(1) Every person (other than a political committee) who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year shall file a statement containing the information required under subsection (b)(3)(A) for all contributions received by such person.

(2) Statements required to be filed by this subsection shall be filed in accordance with subsection (a)(2), and shall include—

(A) the information required by subsection (b)(6)(B)(iii), indicating whether the independent expenditure is in support of, or in opposition to, the candidate involved;

(B) under penalty of perjury, a certification whether or not such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(C) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure.

(3) The Commission shall be responsible for expeditiously preparing indices which set forth, on a candidate-by-candidate basis, all independent expenditures separately, including those reported under subsection (b)(6)(B)(iii), made by or for each candidate, as reported under this subsection, and for periodically publishing such indices on a timely pre-election basis.

(d)(1) Any person who is required to file a statement under subsection (c) or (g) of this section, except statements required to be filed electronically pursuant to subsection (a)(11)(A)(i) may file the statement by facsimile device or electronic mail, in accordance with such regulations as the Commission may promulgate.

(2) The Commission shall make a document which is filed electronically with the Commission pursuant to this paragraph accessible to the public on the Internet not later than 24 hours after the document is received by the Commission.

(3) In promulgating a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying the documents covered by the regulation. Any document verified under any of the methods shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

(e) POLITICAL COMMITTEES.—

(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—

(A) IN GENERAL.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY.—Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section

301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).

(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.—

(1) STATEMENT REQUIRED.—Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

(B) The principal place of business of the person making the disbursement, if not an individual.

(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

(A) IN GENERAL.—(i) The term "electioneering communication" means any broadcast, cable, [or satellite communication] *satellite, or qualified internet or digital communication* which—

(I) refers to a clearly identified candidate for Federal office;

(II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a *any broadcast, cable, or satellite* communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term "electioneering communication" means any broadcast, cable, [or satellite communication] *satellite, or qualified internet or digital communication* which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

(B) EXCEPTIONS.—The term "electioneering communication" does not include—

[(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;]

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

(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

(C) TARGETING TO RELEVANT ELECTORATE.—For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is "targeted to the relevant electorate" if the communication can be received by 50,000 or more persons—

(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

(D) QUALIFIED INTERNET OR DIGITAL COMMUNICATION.—The term "qualified internet or digital communication" means any communication which is placed or promoted for a fee on an online platform (as defined in subsection (k)(3)).

(4) DISCLOSURE DATE.—For purposes of this subsection, the term "disclosure date" means—

(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

(7) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.

(g) TIME FOR REPORTING CERTAIN EXPENDITURES.—

(1) EXPENDITURES AGGREGATING $1,000.—

(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the 20th day, but more than 24 hours, before the date of an election

shall file a report describing the expenditures within 24 hours.

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

(2) EXPENDITURES AGGREGATING $10,000.—

(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

(A) shall be filed with the Commission; and

(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.

(4) TIME OF FILING FOR EXPENDITURES AGGREGATING $1,000.—Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.

(h) REPORTS FROM INAUGURAL COMMITTEES.—The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.

(i) DISCLOSURE OF BUNDLED CONTRIBUTIONS.—

(1) REQUIRED DISCLOSURE.—Each committee described in paragraph (6) shall include in the first report required to be filed under this section after each covered period (as defined in paragraph (2)) a separate schedule setting forth the name, address, and employer of each person reasonably known by the committee to be a person described in paragraph (7) who provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold (as defined in paragraph (3)) during the covered period, and the aggregate amount of the bundled contributions provided by each such person during the covered period.

(2) COVERED PERIOD.—In this subsection, a "covered period" means, with respect to a committee—

(A) the period beginning January 1 and ending June 30 of each year;

(B) the period beginning July 1 and ending December 31 of each year; and

(C) any reporting period applicable to the committee under this section during which any person described in paragraph (7) provided 2 or more bundled contributions to the committee in an aggregate amount greater than the applicable threshold.

(3) APPLICABLE THRESHOLD.—

(A) IN GENERAL.—In this subsection, the "applicable threshold" is $15,000, except that in determining whether the amount of bundled contributions provided to a committee by a person described in paragraph (7) exceeds the applicable threshold, there shall be excluded any contribution made to the committee by the person or the person's spouse.

(B) INDEXING.—In any calendar year after 2007, section 315(c)(1)(B) shall apply to the amount applicable under subparagraph (A) in the same manner as such section applies to the limitations established under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) of such section, except that for purposes of applying such section to the amount applicable under subparagraph (A), the "base period" shall be 2006.

(4) PUBLIC AVAILABILITY.—The Commission shall ensure that, to the greatest extent practicable—

(A) information required to be disclosed under this subsection is publicly available through the Commission website in a manner that is searchable, sortable, and downloadable; and

(B) the Commission's public database containing information disclosed under this subsection is linked electronically to the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995.

(5) REGULATIONS.—Not later than 6 months after the date of enactment of the Honest Leadership and Open Government Act of 2007, the Commission shall promulgate regulations to implement this subsection. Under such regulations, the Commission—

(A) may, notwithstanding paragraphs (1) and (2), provide for quarterly filing of the schedule described in paragraph (1) by a committee which files reports under this section more frequently than on a quarterly basis;

(B) shall provide guidance to committees with respect to whether a person is reasonably known by a committee to be a person described in paragraph (7), which shall include a requirement that committees consult the websites maintained by the Secretary of the Senate and the Clerk of the House of Representatives containing information filed pursuant to the Lobbying Disclosure Act of 1995;

(C) may not exempt the activity of a person described in paragraph (7) from disclosure under this subsection on the grounds that the person is authorized to engage in fund-

raising for the committee or any other similar grounds; and

(D) shall provide for the broadest possible disclosure of activities described in this subsection by persons described in paragraph (7) that is consistent with this subsection.

(6) COMMITTEES DESCRIBED.—A committee described in this paragraph is an authorized committee of a candidate, a leadership PAC, or a political party committee.

(7) PERSONS DESCRIBED.—A person described in this paragraph is any person, who, at the time a contribution is forwarded to a committee as described in paragraph (8)(A)(i) or is received by a committee as described in paragraph (8)(A)(ii), is—

(A) a current registrant under section 4(a) of the Lobbying Disclosure Act of 1995;

(B) an individual who is listed on a current registration filed under section 4(b)(6) of such Act or a current report under section 5(b)(2)(C) of such Act; or

(C) a political committee established or controlled by such a registrant or individual.

(8) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) BUNDLED CONTRIBUTION.—The term "bundled contribution" means, with respect to a committee described in paragraph (6) and a person described in paragraph (7), a contribution (subject to the applicable threshold) which is—

(i) forwarded from the contributor or contributors to the committee by the person; or

(ii) received by the committee from a contributor or contributors, but credited by the committee or candidate involved (or, in the case of a leadership PAC, by the individual referred to in subparagraph (B) involved) to the person through records, designations, or other means of recognizing that a certain amount of money has been raised by the person.

(B) LEADERSHIP PAC.—The term "leadership PAC" means, with respect to a candidate for election to Federal office or an individual holding Federal office, a political committee that is directly or indirectly established, financed, maintained or controlled by the candidate or the individual but which is not an authorized committee of the candidate or individual and which is not affiliated with an authorized committee of the candidate or individual, except that such term does not include a political committee of a political party.

(j) DISCLOSURE OF REPORTABLE FOREIGN CONTACTS.—

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

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

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

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

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

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

(i) is between—

(I) a candidate, a political committee, or any official, employee, or agent of such committee; and

(II) an individual that the person described in subclause (I) knows, has reason to know, or reasonably believes is a covered foreign national; and

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

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

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

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

(C) COVERED FOREIGN NATIONAL DEFINED.—

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

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

(II) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal described in subclause (I) or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal described in subclause (I); or

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

(ii) CLARIFICATION REGARDING APPLICATION TO CITIZENS OF THE UNITED STATES.—In the case of a citizen of the United States, subclause (II) of clause (i) applies only to the extent that the person involved acts within the scope of that person's status as the agent of a foreign principal described in subclause (I) of clause (i).

(k) DISCLOSURE OF CERTAIN ONLINE ADVERTISEMENTS.—

(1) IN GENERAL.—

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

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

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

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

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

(C) information regarding—

(i) the average rate charged for the advertisement;

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

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

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

(3) ONLINE PLATFORM.—For purposes of this subsection, the term "online platform" means any public-facing website, web

application, or digital application (including a social network, ad network, or search engine) which—

(A) sells qualified political advertisements; and

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

(4) QUALIFIED POLITICAL ADVERTISEMENT.—For purposes of this subsection, the term "qualified political advertisement" means any advertisement (including search engine marketing, display advertisements, video advertisements, native advertisements, and sponsorships) that—

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

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

(i) a candidate;

(ii) any election to Federal office; or

(iii) a national legislative issue of public importance.

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

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

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

* * * * * * *

ENFORCEMENT

SEC. 309. (a)(1) Any person who believes a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has occurred, may file a complaint with the Commission. Such complaint shall be in writing, signed and sworn to by the person filing such complaint, shall be notarized, and shall be made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code. Within 5 days after receipt of a complaint, the Commission shall notify, in writing, any person alleged in the complaint to have committed such a violation. Before the Commission conducts any vote on the complaint, other than a vote to dismiss, any person so notified shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the complaint. The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Commission.

(2) If the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, determines, by an affirmative vote of 4 of its members, that it has reason to believe that a person has committed, or is about to commit, a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such notification shall set forth the factual basis for such alleged violation. The Commission shall make an investigation of such alleged violation, which may include a field investigation or audit, in accordance with the provisions of this section.

(3) The general counsel of the Commission shall notify the respondent of any recommendation to the Commission by the general counsel to proceed to a vote on probable cause pursuant to paragraph (4)(A)(i). With such notification, the general counsel shall include a brief stating the position of the general counsel on the legal and factual issues of the case. Within 15 days of receipt of such brief, respondent may submit a brief stating the position of such respondent on the legal and factual issues of the case, and replying to the brief of general counsel. Such briefs shall be filed with the Secretary of the Commission and shall be considered by the Commission before proceeding under paragraph (4).

(4)(A)(i) Except as provided in clauses (ii) and subparagraph (C), if the Commission determines, by an affirmative vote of 4 of its members, that there is probable cause to believe that any person has committed, or is about to commit, a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall attempt, for a period of at least 30 days, to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with any person involved. Such attempt by the Commission to correct or prevent such violation may continue for a period of not more than 90 days. The Commission may not enter into a conciliation agreement under this clause except pursuant to an affirmative vote of 4 of its members. A conciliation agreement, unless violated, is a complete bar to any further action by the Commission, including the bringing of a civil proceeding under paragraph (6)(A).

(ii) If any determination of the Commission under clause (i) occurs during the 45-day period immediately preceding any election, then the Commission shall attempt, for a period of at least 15 days, to correct or prevent the violation involved by the methods specified in clause (i).

(B)(i) No action by the Commission or any person, and no information derived, in connection with any conciliation attempt by the Commission under subparagraph (A) may be made public by the Commission without the written consent of the respondent and the Commission.

(ii) If a conciliation agreement is agreed upon by the Commission and the respondent, the Commission shall make public any conciliation agreement signed by both the Commission and the respondent. If the Commission makes a determination that a person has not violated this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the Commission shall make public such determination.

(C)(i) Notwithstanding subparagraph (A), in the case of a violation of a qualified disclosure requirement, the Commission may—

(I) find that a person committed such a violation on the basis of information obtained pursuant to the procedures described in paragraphs (1) and (2); and

(II) based on such finding, require the person to pay a civil money penalty in an amount determined, for violations of each qualified disclosure requirement, under a schedule of penalties which is established and published by the Commission and which takes into account the amount of the violation involved, the existence of previous violations by the person, and such other factors as the Commission considers appropriate.

(ii) The Commission may not make any determination adverse to a person under clause (i) until the person has been given written notice and an opportunity to be heard before the Commission.

(iii) Any person against whom an adverse determination is made under this subparagraph may obtain a review of such determination in the district court of the United States for the district in which the person resides, or transacts business, by filing in such court (prior to the expiration of the 30-day period which begins on the date the person receives notification of the determination) a written petition requesting that the determination be modified or set aside.

(iv) In this subparagraph, the term "qualified disclosure requirement" means any requirement of—

(I) subsections (a), (c), (e), (f), (g), or (i) of section 304; or

(II) section 305.

(v) This subparagraph shall apply with respect to violations that relate to reporting periods that begin on or after January 1, 2000, and that end on or before December 31, 2023.

(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation).

(C) If the Commission by an affirmative vote of 4 of its members, determined that there is probable cause to believe that a knowing and willful violation of this Act which is subject to subsection (d), or a knowing and willful violation of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, has occurred or is about to

occur, it may refer such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

(6)(A) If the Commission is unable to correct or prevent any violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, by the methods specified in paragraph (4), the Commission may, upon an affirmative vote of 4 of its members, institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order (including an order for a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation) in the district court of the United States for the district in which the person against whom such action is brought is found, resides, or transacts business.

(B) In any civil action instituted by the Commission under subparagraph (A), the court may grant a permanent or temporary injunction, restraining order, or other order, including a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954.

(C) In any civil action for relief instituted by the Commission under subparagraph (A), if the court determines that the Commission has established that the person involved in such civil action has committed a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation).

(7) In any action brought under paragraph (5) or (6), subpenas for witnesses who are required to attend a United States district court may run into any other district.

(8)(A) Any party aggrieved by an order to the Commission dismissing a complaint filed by such party under paragraph (1), or by a failure of the Commission to act on such complaint during the 120-day period beginning on the date the complaint is filed, may file a petition with the United States District Court for the District of Columbia.

(B) Any petition under subparagraph (A) shall be filed, in the case of a dismissal of a compliant by the Commission, within 60 days after the date of the dismissal.

(C) In any proceeding under this paragraph the court may declare that the dismissal of the complaint or the failure to act is contrary to law, and may direct the Commission to conform with such declaration within 30 days, failing which the complainant may bring, in the name of such complainant, a civil action to remedy the violation involved in the original complaint.

(9) Any judgment of a district court under this subsection may be appealed to the court of appeals, and the judgment of the court of appeals affirming or setting aside, in whole or in part, any such order of the district court shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(11) If the Commission determines after an investigation that any person has violated an order of the court entered in a proceeding brought under paragraph (6), it may petition the court for an order to hold such person in civil contempt, but if it believes the violation to be knowing and willful it may petition the court for an order to hold such person in criminal contempt.

(12)(A) Any notification or investigation made under this section shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

(B) Any member or employee of the Commission, or any other person, who violates the provisions of subparagraph (A) shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subparagraph (A) shall be fined not more than $5,000.

(b) Before taking any action under subsection (a) against any person who has failed to file a report required under section 304(a)(2)(A)(iii) for the calendar quarter immediately preceding the election involved, or in accordance with section 304(a)(2)(A)(i), the Commission shall notify the person of such failure to file the required reports. If a satisfactory response is not received within 4 business days after the date of notification, the Commission shall, pursuant to section 311(a)(7), publish before the election the name of the person and the report or reports such person has failed to file.

(c) Whenever the Commission refers an apparent violation to the Attorney General, the Attorney General shall report to the Commission any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Commission refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

(d)(1)(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.

(B) In the case of a knowing and willful violation of section 316(b)(3), the penalties set forth in this subsection shall apply to

a violation involving an amount aggregating $250 or more during a calendar year. Such violation of section 316(b)(3) may incorporate a violation of section 317(b), 320, or 321.

(C) In the case of a knowing and willful violation of section 322, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be—

(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of—

(I) $50,000; or

(II) 1,000 percent of the amount involved in the violation; or

(iii) both imprisoned under clause (i) and fined under clause (ii).

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

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

(2) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Commission under subsection (a)(4)(A) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

(3) In any criminal action brought for a violation of any provision of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1954, the court before which such action is brought shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Commission under subparagraph (a)(4)(A);

(B) the conciliation agreement is in effect; and

(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

* * * * * * *

LIMITATIONS ON CONTRIBUTIONS AND EXPENDITURES

SEC. 315. (a)(1) Except as provided in subsection (i) and section 315A, no person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $2,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $25,000, or, in the case of contributions made to any of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year;

(C) to any other political committee (other than a committee described in subparagraph (D)) in any calendar year which, in the aggregate, exceed $5,000; or

(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000, or, in the case of contributions made to any of the accounts described in paragraph (9), exceed 300 percent of the amount otherwise applicable under this subparagraph with respect to such calendar year; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than—

(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties.

(4) The limitations on contributions contained in paragraphs (1) and (2) do not apply to transfers between and among political committees which are national, State, district, or local committees (including any subordinate committee thereof) of the same political party. For purposes of paragraph (2), the term "multicandidate political committee" means a political committee which has been registered under section 303 for a period of not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(5) For purposes of the limitations provided by paragraph (1) and paragraph (2), all contributions made by political committees established or financed or maintained or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corpora-

tion, labor organization, or any other person, or by any group of such persons, shall be considered to have been made by a single political committee, except that (A) nothing in this sentence shall limit transfers between political committees of funds raised through joint fund raising efforts; (B) for purposes of the limitations provided by paragraph (1) and paragraph (2) all contributions made by a single political committee established or financed or maintained or controlled by a national committee of a political party and by a single political committee established or financed or maintained or controlled by the State committee of a political party shall not be considered to have been made by a single political committee; and (C) nothing in this section shall limit the transfer of funds between the principal campaign committee of a candidate seeking nomination or election to a Federal office and the principal campaign committee of that candidate for nomination or election to another Federal office if (i) such transfer is not made when the candidate is actively seeking nomination or election to both such offices; (ii) the limitations contained in this Act on contributions by persons are not exceeded by such transfer; and (iii) the candidate has not elected to receive any funds under chapter 95 or chapter 96 of the Internal Revenue Code of 1954. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single segregated fund for purposes of the limitations provided by paragraph (1) and paragraph (2).

(6) The limitations on contributions to a candidate imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(7) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(B)(i) expenditures made by any person in cooperation, consultation, or concert, with, or at the request or suggestion of, a candidate, his authorized political committees, or their agents shall be considered to be a contribution to such candidate;

(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and

(iii) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or

their authorized agents shall be considered to be an expenditure for purposes of this paragraph; and

(C) if—

(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and

(D) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(9) An account described in this paragraph is any of the following accounts:

(A) A separate, segregated account of a national committee of a political party (other than a national congressional campaign committee of a political party) which is used solely to defray expenses incurred with respect to a presidential nominating convention (including the payment of deposits) or to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds used to defray such expenses, except that the aggregate amount of expenditures the national committee of a political party may make from such account may not exceed $20,000,000 with respect to any single convention.

(B) A separate, segregated account of a national committee of a political party (including a national congressional campaign committee of a political party) which is used solely to defray expenses incurred with respect to the construction, purchase, renovation, operation, and furnishing of one or more headquarters buildings of the party or to repay loans the proceeds of which were used to defray such expenses, or otherwise to restore funds used to defray such expenses (including expenses for obligations incurred during the 2-year period which ends on the date of the enactment of this paragraph).

(C) A separate, segregated account of a national committee of a political party (including a national congressional campaign committee of a political party) which is used to defray

expenses incurred with respect to the preparation for and the conduct of election recounts and contests and other legal proceedings.

(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.

(b)(1) No candidate for the office of President of the United States who is eligible under section 9003 of the Internal Revenue Code of 1954 (relating to condition for eligibility for payments) or under section 9033 of the Internal Revenue Code of 1954 (relating to eligibility for payments) to receive payments from the Secretary of the Treasury may make expenditures in excess of—

(A) $10,000,000, in the case of a campaign for nomination for election to such office, except the aggregate of expenditures under this subparagraph in any one State shall not exceed the greater of 16 cents multiplied by the voting age population of the State (as certified under subsection (e)), or $200,000; or

(B) $20,000,000 in the case of a campaign for election to such office.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate to make the expenditures.

(c)(1)(A) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period.

(B) Except as provided in subparagraph (C), in any calendar year after 2002—

(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

(ii) each amount so increased shall remain in effect for the calendar year; and

(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last gen-

eral election in the year preceding the year in which the amount is increased and ending on the date of the next general election.

(2) For purposes of paragraph (1)—

(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means—

(i) for purposes of subsections (b) and (d), calendar year 1974; and

(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001.

(d)(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2), (3), and (4) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e)); or

(ii) $20,000; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, $10,000.

(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, no committee of the political party may make—

(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordi-

nated expenditure under this subsection with respect to the candidate during the election cycle.

(B) APPLICATION.—For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

(C) TRANSFERS.—A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.

(5) The limitations contained in paragraphs (2), (3), and (4) of this subsection shall not apply to expenditures made from any of the accounts described in subsection (a)(9).

(e) During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

(f) No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(g) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nominations for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

(h) Notwithstanding any other provision of this Act, amounts totaling not more than $35,000 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.—

(1) INCREASE.—

(A) IN GENERAL.—Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this sub-

section referred to as the "applicable limit") with respect to that candidate shall be the increased limit.

(B) THRESHOLD AMOUNT.—

(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA.—In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

(I) $150,000; and

(II) $0.04 multiplied by the voting age population.

(ii) VOTING AGE POPULATION.—In this subparagraph, the term "voting age population" means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

(C) INCREASED LIMIT.—Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

(i) 2 times the threshold amount, but not over 4 times that amount—

(I) the increased limit shall be 3 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

(ii) 4 times the threshold amount, but not over 10 times that amount—

(I) the increased limit shall be 6 times the applicable limit; and

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(iii) 10 times the threshold amount—

(I) the increased limit shall be 6 times the applicable limit;

(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

(D) OPPOSITION PERSONAL FUNDS AMOUNT.—The opposition personal funds amount is an amount equal to the excess (if any) of—

(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS.—

(i) IN GENERAL.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

(ii) GROSS RECEIPTS ADVANTAGE.—For purposes of clause (i), the term "gross receipts advantage" means the excess, if any, of—

(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

(3) DISPOSAL OF EXCESS CONTRIBUTIONS.—

(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

(B) RETURN TO CONTRIBUTORS.—A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.

* * * * * * *

CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS

SEC. 316. (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization, to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to, Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

(b)(1) For the purposes of this section the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(2) For purposes of this section and section 12(h) of the Public Utility Holding Company Act (15 U.S.C. 79l(h)), the term "contribution or expenditure" includes a contribution or expenditure, as those terms are defined in section 301, and also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course

of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section or for any applicable electioneering communication, but shall not include (A) communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject; (B) nonpartisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and executive or administrative personnel and their families, or by a labor organization aimed at its members and their families; and (C) the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation, labor organization, membership organization, cooperative, or corporation without capital stock.

(3) It shall be unlawful—

(A) for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other moneys required as a condition of membership in a labor organization or as a condition of employment, or by moneys obtained in any commercial transaction;

(B) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee of the political purposes of such fund at the time of such solicitation; and

(C) for any person soliciting an employee for a contribution to such a fund to fail to inform such employee, at the time of such solicitation, of his right to refuse to so contribute without any reprisal.

(4)(A) Except as provided in subparagraphs (B), (C), and (D), it shall be unlawful—

(i) for a corporation, or a separate segregated fund established by a corporation, to solicit contributions to such a fund from any person other than its stockholders and their families and its executive or administrative personnel and their families, and

(ii) for a labor organization, or a separate segregated fund established by a labor organization, to solicit contributions to such a fund from any person other than its members and their families.

(B) It shall not be unlawful under this section for a corporation, a labor organization, or a separate segregated fund established by such corporation or such labor organization, to make 2 written solicitations for contributions during the calendar year from any stockholder, executive or administrative personnel, or employee of a corporation or the families of such persons. A solicitation under this subparagraph may be made only by mail addressed to stockholders, executive or administrative personnel, or employees at their residence and shall be so designed that the corporation, labor organization, or separate segregated fund conducting such solicitation cannot determine who makes a contribution of $50 or less as a result of such solicitation and who does not make such a contribution.

(C) This paragraph shall not prevent a membership organization, cooperative, or corporation without capital stock, or a separate seg-

regated fund established by a membership organization, cooperative, or corporation without capital stock, from soliciting contributions to such a fund from members of such organizations, cooperative, or corporation without capital stock.

(D) This paragraph shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of such trade association and the families of such stockholders or personnel to the extent that such solicitation of such stockholders and personnel, and their families, has been separately and specifically approved by the member corporation involved, and such member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(5) Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

(6) Any corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates.

(7) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(8) A separate segregated fund established by a corporation may not make a contribution or expenditure during a year unless the fund has certified to the Commission the following during the year:

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

(B) No foreign national under section 319 participates in any way in the decisionmaking processes of the fund with regard to contributions or expenditures under this Act.

(C) The fund does not solicit or accept recommendations from any foreign national under section 319 with respect to the contributions or expenditures made by the fund.

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

(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term "applicable electioneering communication" means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other per-

son using funds donated by an entity described in subsection (a) of this section.

(2) EXCEPTION.—Notwithstanding paragraph (1), the term "applicable electioneering communication" does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the preceding sentence, the term "provided directly by individuals" does not include funds the source of which is an entity described in subsection (a) of this section.

(3) SPECIAL OPERATING RULES.—

(A) DEFINITION UNDER PARAGRAPH (1).—An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

(B) EXCEPTION UNDER PARAGRAPH (2).—A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 304(f)(2)(E).

(4) DEFINITIONS AND RULES.—For purposes of this subsection—

(A) the term "section 501(c)(4) organization" means—

(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

(5) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code.

(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS.—

(A) EXCEPTION DOES NOT APPLY.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

(B) TARGETED COMMUNICATION.—For purposes of subparagraph (A), the term "targeted communication" means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio

broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

(C) DEFINITION.—For purposes of this paragraph, a communication is "targeted to the relevant electorate" if it meets the requirements described in section 304(f)(3)(C).

* * * * * * *

PUBLICATION AND DISTRIBUTION OF STATEMENTS AND SOLICITATIONS

SEC. 318. (a) Whenever a political committee makes a disbursement for the purpose of [financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising] *financing any public communication*, or whenever any person makes a disbursement for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or [solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising] *solicits any contribution through any public communication* or makes a disbursement for an electioneering communication (as defined in section 304(f)(3)), such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, [shall clearly state] *shall state in a clear and conspicuous manner* that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, [shall clearly state] *shall state in a clear and conspicuous manner* that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, [shall clearly state] *shall state in a clear and conspicuous manner* the name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

For purposes of this section, a communication does not make a statement in a clear and conspicuous manner if it is difficult to read or hear or if the placement is easily overlooked.

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

(c) SPECIFICATION.—Any printed communication described in subsection (a) shall—

(1) be of sufficient type size to be clearly readable by the recipient of the communication;

(2) be contained in a printed box set apart from the other contents of the communication; and

(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

(d) ADDITIONAL REQUIREMENTS.—

(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS.—

(A) [BY RADIO] *AUDIO FORMAT*.—Any communication described in paragraph (1) or (2) of subsection (a) [which is transmitted through radio] *which is in an audio format* shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

(B) [BY TELEVISION] *VIDEO FORMAT*.—Any communication described in paragraph (1) or (2) of subsection (a) [which is transmitted through television] *which is in video format* shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement—

(i) shall be conveyed by—

(I) an unobscured, full-screen view of the candidate making the statement, or

(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

(2) COMMUNICATIONS BY OTHERS.—Any communication described in paragraph (3) of subsection (a) which is [transmitted through radio or television] *made in audio or video format* shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: "_____ is responsible for the content of this advertising." (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted [through television] *in video format*, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

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

(1) SPECIAL RULES WITH RESPECT TO STATEMENTS.—In the case of any communication to which this section applies which is a qualified internet or digital communication (as defined in section 304(f)(3)(D)) which is disseminated through a medium

in which the provision of all of the information specified in this section is not possible, the communication shall, in a clear and conspicuous manner—

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

(B) provide a means for the recipient of the communication to obtain the remainder of the information required under this section with minimal effort and without receiving or viewing any additional material other than such required information.

(2) SAFE HARBOR FOR DETERMINING CLEAR AND CONSPICUOUS MANNER.—A statement in a qualified internet or digital communication (as defined in section 304(f)(3)(D)) shall be considered to be made in a clear and conspicuous manner as provided in subsection (a) if the communication meets the following requirements:

(A) TEXT OR GRAPHIC COMMUNICATIONS.—In the case of a text or graphic communication, the statement—

(i) appears in letters at least as large as the majority of the text in the communication; and

(ii) meets the requirements of paragraphs (2) and (3) of subsection (c).

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

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

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

(ii) is made both in—

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

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

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

CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS

SEC. 319. (a) PROHIBITION.—It shall be unlawful for—

(1) a foreign national, directly or indirectly, to make—

(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local [election;] *election, including a State or local ballot initiative or referendum, including any disbursement to a political committee which accepts donations or contributions that do not comply with the limitations, prohibitions, and reporting requirements of this Act (or any disbursement to or on behalf of any account of a political committee which is established for the purpose of accepting such donations or contributions);*

(B) a contribution or donation to a committee of a political party; [or]

[(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or]

(C) an expenditure;

(D) an independent expenditure;

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

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

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

(H) a disbursement for a broadcast, cable, or satellite communication, or for any communication which is placed or promoted for a fee on an online platform (as defined in section 304(k)(3)), that discusses a national legislative issue of public importance in a year in which a regularly scheduled general election for Federal office is held, but only if the disbursement is made by a covered foreign national described in section 304(j)(3)(C); or

(I) a disbursement by a covered foreign national described in section 304(j)(3)(C) to compensate any person for internet activity that promotes, supports, attacks or opposes the election of a clearly identified candidate for Federal, State, or local office (regardless of whether the activity communication contains express advocacy or the functional equivalent of express advocacy);

(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national[.]*; or*

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

(b) As used in this section, the term "foreign national" means—

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act) and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).

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

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

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

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

(B) the billing address associated with such credit card is located in the United States or, in the case of a purchase made by an individual who is a United States citizen living outside of the United States, the individual provides 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.

(d) CERTIFICATION OF COMPLIANCE REQUIRED PRIOR TO CARRYING OUT ACTIVITY.—Prior to the making in connection with an election for Federal office of any contribution, donation, expenditure, independent expenditure, or disbursement for an electioneering communication by a corporation, labor organization (as defined in section 316(b)), limited liability corporation, or partnership during a year, the chief executive officer of the corporation, labor organization, limited liability corporation, or partnership (or, if the corporation, labor organization, limited liability corporation, or partnership does not have a chief executive officer, the highest ranking official of the corporation, labor organization, limited liability corporation, or partnership), shall file a certification with the Commission,

under penalty of perjury, that a foreign national did not direct, dictate, control, or directly or indirectly participate in the decision making process relating to such activity in violation of subsection (a)(3), unless the chief executive officer has previously filed such a certification during that calendar year.

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

(1) TREATMENT OF OFFER TO SHARE NONPUBLIC CAMPAIGN MATERIAL AS SOLICITATION OF CONTRIBUTION FROM FOREIGN NATIONAL.—If a candidate or an individual affiliated with the campaign of a candidate, or if a political committee or an individual affiliated with a political committee, provides or offers to provide nonpublic campaign material to a covered foreign national or to another person whom the candidate, committee, or individual knows or has reason to know will provide the material to a covered foreign national, the candidate, committee, or individual (as the case may be) shall be considered for purposes of this section to have solicited a contribution or donation described in subsection (a)(1)(A) from a foreign national.

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

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

(B) The term "covered foreign national" has the meaning given such term in section 304(j)(3)(C).

(C) The term "individual affiliated with a campaign" means, with respect to a candidate, an employee of any organization legally authorized under Federal, State, or local law to support the candidate's campaign for nomination for, or election to, any Federal, State, or local public office, as well as any independent contractor of such an organization and any individual who performs services on behalf of the organization, whether paid or unpaid.

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

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

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

(a) AUDIT.—

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

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

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

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

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

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

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

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

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SUPPLEMENTAL VIEW

The Republicans of the Committee on House Administration believe that a 21st century approach to political advertisement disclaimers is needed in order to address foreign meddling in our nation's elections. This bill, however, is not the solution. Russia conducted most of its election interference efforts in the form of non-paid posts on free social media sites, but this bill would only address paid ads on platforms with 50 million unique monthly visitors. This bill would be regulating the $1.4 billion in political advertisements purchased legally by U.S. citizens because of only $100,000 in ads purchased illegally by foreign actors. The Department of Justice (DOJ) is currently limited as to which global propagandists it can legally pursue, but this bill deputizes American media sites to enforce the law—and holds them criminally liable if they fail to detect lawbreakers. Once again, the Majority of the Committee on House Administration will rush a bill to the floor without holding a single hearing and only one markup.

This rushed process has also led to several significant flaws with the legislation as drafted, including: § 101—Duty to Report—which contains numerous vague terms and leaves unclear how political committees are to comply, and how the DOJ or Federal Election Commission (FEC) are supposed to enforce this law. § 104—Rules of Construction—this section introduces a new, undefined, term to the FEC, "legitimate journalistic activities," which could potentially make its way into other areas under the FEC's authority and be used to pursue journalists the FEC disagrees with. § 203—Audit and report on illicit foreign money in Federal elections—this section potentially weaponizes audits at the FEC under the guise of examining foreign money in elections. This section potentially provides value to the FEC, yet in its current underdefined form this section has too much potential for abuse. § 312 and § 313, Prohibition on deceptive practices in Federal elections and Corrective Action—these sections provide the Department of Justice wide-reaching authority to intercede in state and local elections with virtually no recourse for states or political committees. These sections continue the Majority's attempt to fully federalize elections.

Republicans introduced ten amendments in the committee markup, including striking § 313, a very concerning provision that would give the U.S. Attorney General unilateral power to intercede in state elections; striking sections 115 (Application of disclaimer statements to online communications) and 116 (political record requirements for online platforms), which would have removed the most free speech-chilling provisions of Title I, Subtitle B; prohibiting the practice of ballot harvesting; and prohibiting non-citizen voting. These commonsense amendments would have at least attempted to limit the assault on the 1st Amendment and truly targeted foreign inference. Shortly after the Committee concluded its

meeting on H.R. 4617, Ranking Member Davis introduced H.R. 4736, the Honest Elections Act, which would solve the problem the SHIELD Act purports to address—meddling by foreign adversaries in our elections—by targeting the foreign powers directly, not targeting the free speech rights of American citizens. Democrats adopted only one amendment—addressing a drafting error—and rejected the other nine amendments in the markup process.

RODNEY DAVIS,
Ranking Member.

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