H. R. 4

To amend the Federal Election Campaign Act of 1971 to apply the restrictions on the use of campaign funds for personal use to the funds of leadership PACs and other political committees, to clarify the treatment of certain coordinated expenditures as contributions to candidates, to require the sponsors of certain political advertisements to identify the source of funds used for the advertisements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Miss Rice of New York introduced the following bill; which was referred to the Committee on

A BILL

To amend the Federal Election Campaign Act of 1971 to apply the restrictions on the use of campaign funds for personal use to the funds of leadership PACs and other political committees, to clarify the treatment of certain coordinated expenditures as contributions to candidates, to require the sponsors of certain political advertisements to identify the source of funds used for the advertisements, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Political Accountability and Transparency Act”.

SEC. 2. APPLYING PERSONAL USE RESTRICTIONS TO LEADERSHIP PACS AND OTHER POLITICAL COMMITTEES.

(a) APPLYING RESTRICTIONS.—Section 313(b) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30114(b)) is amended—

(1) in paragraph (1), by inserting “or a receipt of any other political committee” after “subsection (a)”;

(2) in paragraph (2), by striking “contribution or donation” and inserting “contribution, donation, or receipt”; and

(3) in paragraph (2), by striking “campaign or individual’s duties as a holder of Federal office” and inserting “campaign, the individual’s duties as a holder of Federal office, or the political committee’s political activities.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions and donations received on or after the date of the enactment of this Act.
SEC. 3. CLARIFICATION OF TREATMENT OF COORDINATED EXPENDITURES AS CONTRIBUTIONS.

(a) TREATMENT AS CONTRIBUTION.—Section 301(8)(A) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101(8)(A)) is amended—

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

(2) by striking the period at the end of clause (ii) and inserting “; or”; and

(3) by adding at the end the following new clause:

“(iii) any payment made by any person for a coordinated expenditure (as such term is defined in section 324) which is not otherwise treated as a contribution under clause (i) or clause (ii).”.

(b) DEFINITIONS.—Section 324 of such Act (52 U.S.C. 30126) is amended to read as follows:

“SEC. 324. PAYMENTS FOR COORDINATED EXPENDITURES.

“(a) COORDINATED EXPENDITURES.—

“(1) IN GENERAL.—For purposes of section 301(8)(A)(iii), the term ‘coordinated expenditure’ means, with respect to a candidate, authorized committee, or political party—

“(A) any payment for any communication which republishes, disseminates, or distributes, in whole or in substantial part, any video,
audio, written, graphic, or other form of campaign material created or prepared by the candidate, an authorized committee of a candidate, or a committee of a political party, but does not include—

“(i) any payment made by the candidate, the authorized committee, or the political party which created or prepared the material involved; or

“(ii) any payment for the republication, dissemination, or distribution of the material involved for purposes of opposing the candidate, authorized committee, or political party which created or prepared the material involved; or

“(B) any payment for a covered expenditure described in subsection (c) which is made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, an authorized committee of a candidate, or a political committee of a political party, as defined in subsection (b).

“(2) CLARIFICATION OF INDIVIDUALS TREATED AS CANDIDATES.—For purposes of this section, an individual shall be treated as a candidate if the indi-
individual is a candidate at the time of a coordinated expenditure, without regard to whether the individual was a candidate at the time the coordination occurred, as described in subsection (b).

“(3) TREATMENT OF EMPLOYEES, INDEPENDENT CONTRACTORS, AND AGENTS.—For purposes of this section, any reference to a candidate, committee, officeholder, or political party includes—

“(A) an employee or independent contractor of the candidate, committee, officeholder, or party, if such employee or contractor has executive or managerial authority (or acts under the direction or control of an employee or contractor who has such executive or managerial authority) for the candidate, committee, officeholder, or political party at any time during the election cycle in which the expenditure is made (in the case of a candidate or committee for an election for the office of President) or during the 2-year period ending on the date the expenditure is made (in the case of a candidate or committee for an election for any other Federal office or any political party); or

“(B) an agent (including an authorized fundraiser), whether paid or unpaid, of the can-
didate, committee, officeholder, or party at any
time during the election cycle in which the ex-
penditure is made (in the case of a candidate
or committee for an election for the office of
President) or during the 2-year period ending
on the date the expenditure is made (in the
case of a candidate or committee for an election
for any other Federal office or any political
party), without regard to whether the individual
was such an agent at the time any of the co-
ordination described in subsection (b) occurred.

“(4) EXCEPTIONS.—A payment shall not be
treated as a coordinated expenditure under this sec-
tion if—

“(A) the payment is for a communication
which appears in a news story, commentary, or
editorial distributed through the facilities of any
broadcasting station, newspaper, magazine, or
other periodical publication, unless such facili-
ties are owned or controlled by any political
party, political committee, or candidate; or

“(B) the payment is for a candidate debate
or forum conducted pursuant to regulations
adopted by the Commission pursuant to section
304(f)(3)(B)(iii), or is for a communication
which solely promotes such a debate or forum
and is made by or on behalf of the person spon-
soring the debate or forum.

“(b) COORDINATION DESCRIBED.—For purposes of
this section, a covered expenditure is made ‘in cooperation,
consultation, or concert with, or at the request or sugges-
tion of,’ a candidate, an authorized committee of a can-
didate, or a political committee of a political party if any
of the following apply:

“(1) The covered expenditure is not made to-
tally independently of the candidate, committee, or
political party. For purposes of the previous sen-
tence, a covered expenditure not made totally inde-
pendently of the candidate or committee includes
any expenditure made pursuant to any express or
implied agreement with, or any general or particular
understanding with, or pursuant to any request by
or communication with, the candidate, committee, or
political party about the expenditure.

“(2) During the 2-year period ending on the
date the covered expenditure is made (in the case of
a candidate or committee for an election for any
other Federal office or any political party) or during
the election cycle in which the covered expenditure
is made (in the case of a candidate or committee for
an election for the office of President), the person
making the covered expenditure was directly or indi-
directly established, maintained, controlled, or prin-
cipally funded by the candidate, an immediate family
member of the candidate, the committee, or party.
For purposes of the previous sentence, an ‘imme-
diate family member’ means, with respect to a can-
didate, a father, mother, son, daughter, brother, sis-
ter, spouse, domestic partner, father-in-law, or
mother-in-law.

“(3) During the 2-year period ending on the
date the covered expenditure is made (in the case of
a candidate or committee for an election for any
other Federal office or any political party) or during
the election cycle in which the covered expenditure
is made (in the case of a candidate or committee for
an election for the office of President), the can-
didate, the committee, or political party solicited
funds for, provided nonpublic fundraising informa-
tion or strategy to, appeared as a speaker or fea-
tured guest at a fundraiser for, or gave permission
to be featured in fundraising efforts for, the person
making the covered expenditure. The previous sen-
tence does not apply if the person making the cov-
ered expenditure is an organization described in sec-
tion 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

“(4) The covered expenditure is made on the basis of non-public information about the candidate’s, committee’s, or political party’s campaign needs or plans that the candidate, committee, or political party provided directly or indirectly to the person making the covered expenditure, including information about campaign messaging, strategy, fundraising, planned expenditures, or polling data. The previous sentence does not apply to communications between the person making the covered expenditure and the candidate, committee, or political party solely for the purpose of either engaging in discussions regarding the person’s position on a policy matter or regarding whether the person will endorse the candidate or party, so long as such communications do not include any nonpublic information about the candidate’s, committee’s, or party’s campaign needs or plans.

“(5)(A) During the 2-year period ending on the date the covered expenditure is made (in the case of a candidate or committee for an election for any other Federal office or any political party) or during
the election cycle in which the covered expenditure
is made (in the case of a candidate or committee for
an election for the office of President), the person
making the covered expenditure employed or other-
wise retained the services (other than accounting or
legal services) of a person who, at any point during
that cycle or two-year period—

“(i) had executive or managerial authority
for the candidate, committee, or party, whether
paid or unpaid;

“(ii) was authorized to raise or expend
funds for the candidate, committee, or party
and had nonpublic information from the can-
didate, committee, or party about the can-
didate’s, committee’s or party’s campaign’s
needs or plans; or

“(iii) provided the candidate, committee, or
party with professional services (other than ac-
counting or legal services) related to campaign
or fundraising strategy.

“(B) Subparagraph (A) does not apply with re-
spect to a person employed or otherwise retained by
a person making a covered expenditure if, at the
time the person who was so employed or retained ex-
ergised the authority or provided the services de-
scribed in clauses (i) through (iii) of such subpara-
graph, the person making the covered expenditure
had in effect a firewall policy which meets the re-
quirements of subsection (d).

“(c) COVERED EXPENDITURES.—

“(1) CANDIDATES AND AUTHORIZED COMMIT-
TEES.—For purposes of this section, the term ‘cov-
ered expenditure’ means, with respect to a candidate
or an authorized committee of a candidate, any of
the following:

“(A) An expenditure for a public commu-
nication (as defined in section 301(22))
which—

“(i) expressly advocates for the nomi-
nation or election of the candidate or for
the defeat of an opponent of the candidate
(or contains the functional equivalent of
express advocacy);

“(ii) promotes or supports the can-
didate, or attacks or opposes an opponent
of the candidate (regardless of whether the
communication expressly advocates the
election or defeat of a candidate or con-
tains the functional equivalent of express
advocacy); or
“(iii) refers to the candidate or an opponent of the candidate but is not described in clause (i) or clause (ii), but only if, during the period which begins 120 days before the date of the primary election for the office involved and ends on the date of the general election for such office (or, if necessary, the date of a runoff election following such general election), the communication is disseminated in the jurisdiction of the office the candidate is seeking.

“(B) An expenditure to pay for partisan voter activity (such as partisan voter registration, get-out-the-vote activity, phone banking, or generic campaign activity) in the jurisdiction of the office the candidate is seeking.

“(C) An expenditure to pay for research, design or production costs, polling expenses, data analytics, creating or purchasing mailing or social media lists, or other activities related to the expenditures described in subparagraphs (A) or (B).

“(2) POLITICAL PARTIES.—For purposes of this section, the term ‘covered expenditure’ means, with respect to a political party, any of the following:
“(A) An expenditure for a public communication (as defined in section 301(22)) which—

“(i) expressly advocates for the nomination or election of a candidate of the party or for the defeat of an opponent of a candidate of the party, including a communication which expressly advocates generically for the election of candidates of the party or for the defeat of opponents of candidates of the party (or contains the functional equivalent of express advocacy);

“(ii) promotes or supports a candidate of the party, or attacks or opposes an opponent of a candidate of the party (regardless of whether the communication expressly advocates the election or defeat of a candidate or contains the functional equivalent of express advocacy); or

“(iii) refers to a candidate of the party or an opponent of a candidate of the party but is not described in clause (i) or clause (ii), but only if, during the period which begins 120 days before the date of the primary election for the office involved
and ends on the date of the general election for such office (or, if necessary, the date of a runoff election following such general election), the communication is disseminated in the jurisdiction of the office the candidate is seeking.

“(B) An expenditure to pay for partisan voter activity (such as partisan voter registration, get-out-the-vote activity, phone banking, or generic campaign activity) in the jurisdiction of the office a candidate of the party is seeking.

“(C) An expenditure to pay for research, design or production costs, polling expenses, data analytics, creating or purchasing mailing or social media lists, or other activities related to the expenditures described in subparagraphs (A) or (B).

“(d) FIREWALL POLICY REQUIREMENTS.—For purposes of paragraph (5) of subsection (b), a firewall policy of a person making a covered expenditure meets the requirements of this subsection if all of the following apply:

“(1) The policy separates the specific staff of such person who provide services related to the making of the covered expenditure from the distinct, specific staff who have engaged or will engage in any
of the authorities or services described in clauses (i) through (iii) of subparagraph (B) of paragraph (5) of subsection (b) with the candidate, authorized committee, or political party supported by the covered expenditure.

“(2) The policy forbids owners of such person and executives, managers, and supervisors within such person’s organization, to simultaneously oversee the work of staff being separated by a firewall.

“(3) The policy imposes a prohibition on the flow of strategic nonpublic information, including by imposing physical and technological separations, between such person and the candidate, committee, or party supported by the covered expenditure, and between the specific staff who are being separated by the firewall.

“(4) The policy is memorialized in writing and distributed to all relevant staff (including consultants) before such staff provide any services relating to the making of the covered expenditure, and the written policy described both the general firewall policy and any specific firewall created pursuant to such policy, and the person making the covered expenditure provides such written policy upon request to the Commission.
“(e) **NO LIMITATION ON APPLICATION OF OTHER**

**COORDINATION RULES.**—Nothing in this section may be

construed to limit the application of section 315(a)(7) to

any contribution, expenditure, disbursement, or person.”.

(c) **EFFECTIVE DATE; EFFECT ON EXISTING REGULATIONS.**—

(1) **EFFECTIVE DATE.**—The amendments made

by this section shall apply with respect to payments

made on or after the expiration of the 60-day period

which begins on the date of the enactment of this

Act, without regard to whether or not the Federal

Election Commission has promulgated regulations in

accordance with paragraph (2)(B) as of the expira-

tion of such period.

(2) **REPEAL OF EXISTING REGULATIONS ON CO-**


**ORDINATION.**—Effective upon the expiration of the

60-day period which begins on the date of the enact-

ment of this Act—


(A) the regulations on coordinated commu-

nications adopted by the Federal Election Com-

mission which are in effect on the date of the

enactment of this Act (as set forth in 11 CFR

Part 109, Subpart C, under the heading “Co-

ordination”) are repealed; and
(B) the Federal Election Commission shall promulgate new regulations on coordinated communications which reflect the amendments made by this Act.

(3) **Termination of Validity of Advisory Opinions.**—To the extent that any advisory opinion issued by the Federal Election Commission prior to expiration of the period described in paragraph (2) was based on the regulations referred to in subparagraph (A) of paragraph (2), the validity of the opinion is hereby terminated, and no person may rely upon the opinion with respect to conduct occurring after the expiration of such period.

**SEC. 4. 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)—
(A) by striking “on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising” in clause (v) and inserting “in any public communication”;

(B) by striking “broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising” in clause (ix)(1) and inserting “public communication”; and

(C) by striking “but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising” in clause (x) and inserting “but not including use in any public communication”; and

(2) in paragraph (9)(B)—

(A) by striking clause (i) and inserting the following:

“(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 facili-
ties are owned or controlled by any political party, political committee, or candidate;”; and.

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

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”.
(d) **Effective Date.**—The amendments made by this section shall apply with respect to communications disseminated on or after January 1, 2019.

**SEC. 5. 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 any public-facing website, Web application,
or digital application (including a social network, ad network, or search engine).”.

(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 the date of the enactment of this Act.
SEC. 6. DISCLOSURE OF TRUE IDENTITY OF SOURCE OF FUNDING OF CAMPAIGN ADVERTISEMENTS.

(a) Requiring Best Efforts to Determine True Source of Funds Used to Pay for Campaign Advertisements.—Section 318 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30120) is amended by adding at the end the following new subsection:

“(e) Requiring Best Efforts to Determine True Source of Funds Used to Pay for Certain Advertisements.—

“(1) Best efforts required.—The person making a disbursement of funds for a communication described in paragraph (3) of subsection (a) shall make best efforts to determine the true source of the funds used for the disbursement to ensure that the names of the persons included in the statement required under such paragraph are the names of the persons who served as the true source of such funds. For purposes of this paragraph, such best efforts shall include the making of multiple requests (if necessary) to contributors to determine whether the funds provided by the contributors were transferred (either directly or indirectly) by other persons.

“(2) Treatment of political committees.—For purposes of this subsection, a political committee shall not be considered a source of funds
used for a disbursement for a communication described in paragraph (3) of subsection (a), other than an account of a political committee established for the purpose of accepting donations or contributions that do not comply with the contribution limits or source prohibitions under this Act.”.

(b) INCLUSION IN ADVERTISEMENTS OF IDENTIFICATION OF TOP THREE FUNDERS.—Section 318 of such Act (52 U.S.C. 30120), as amended by subsection (a), is further amended by adding at the end the following new subsection:

“(f) Disclosure of Top Three Funders.—

“(1) Requiring disclosure in certain advertisements.—

“(A) Requirement.—Any communication described in paragraph (3) of subsection (a), shall, in addition to including the information required under such paragraph and under paragraph (2) of subsection (d), include the Top Three Funders list (if applicable).

“(B) Exclusion of communications paid for by political parties.—This subsection does not apply with respect to a communication paid for exclusively by a political committee of a political party.
“(2) Method of conveyance of statement through video format.—In the case of a communication to which this subsection applies which is transmitted through a video format (including through television or through the Internet or similar digital format if the transmission includes a video component), the information required under paragraph (1) shall 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.

“(3) Method of conveyance of statement through audio format.—In the case of a communication to which this subsection applies which is transmitted in audio format (including through radio or through the Internet or similar digital format if the transmission includes an audio component), the information required under paragraph (1) shall include, in a clearly spoken manner, the following audio statement: ‘Top funders include __________’, with the blank filled in with the names of the persons on the Top Three Funders list.

“(4) Method of conveyance of statement through text and images.—In the case of a
communication to which this subsection applies
which is a printed communication or which is trans-
mitted through the Internet or similar digital man-
ner and is not described in paragraphs (2) or para-
graph (3), the information required under paragraph
(1) shall appear in a clearly readable manner, with
a reasonable degree of color contrast between the
background and the printed statement.

“(5) TOP THREE FUNDERS LIST DEFINED.—

“(A) IN GENERAL.—The term ‘Top Three
Funders list’ means, with respect to a commu-
nication, a list of the three persons who, during
the 12-month period ending on the date of the
transmission of the communication or the date
on which funds were disbursed for the commu-
nication (whichever is earlier), provided the
largest payments of any type in an aggregate
amount exceeding the applicable threshold to
the person who is paying for the communication
and the amount of the payments each such per-
son provided. If two or more people provided
the third largest of such payments, the person
who provided the most recent of such payments
shall be included on the Top Three Funders
list.
“(B) EXCLUSION OF CERTAIN PAYMENTS.— For purposes of subparagraph (A), in determining the amount of payments made by a person to a person paying for a communication, there shall be excluded the following:

“(i) Any amounts provided in the ordinary course of any trade or business conducted by the person paying for the communication or in the form of investments in the person paying for the communication.

“(ii) Any payment which the person prohibited, in writing, from being used for communications under this section, but only if the person paying for the communication agreed to follow the prohibition and deposited the payment in an account which is segregated from any account used to make payments for such communications.

“(6) APPLICABLE THRESHOLD DEFINED.—

“(A) IN GENERAL.—For purposes of subparagraph (A), the ‘applicable threshold’ with respect to a communication is—
“(i) $10,000, if the funds used to pay for the costs of the communication were derived exclusively from a separate, segregated account which meets the requirements of subparagraph (B); or

“(ii) $50,000, if the funds used to pay for the costs of the communication were not derived exclusively from such an account.

“(B) REQUIREMENTS FOR ACCOUNTS.—An account meets the requirements of this subparagraph if—

“(i) the account is separate and segregated from the general fund of the person paying for the costs of communications which are subject to the requirements of this subsection; and

“(ii) the account does not include any funds transferred from the general treasury of the person paying for the costs of such communications unless the funds were transferred during the 12-month period ending on the date of the transmission of the communication or the date on which funds were disbursed for the communica-
tion (whichever is earlier) and the person who provided the funds to the general treasury gave written permission for the funds to be transferred to the account.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to communications made on or after January 1, 2019.