To amend the Federal Election Campaign Act of 1971 to require reporting to the Federal Election Commission and the Federal Bureau of Investigation of offers by foreign nationals to make prohibited contributions, donations, expenditures, or disbursements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Swalwell of California introduced the following bill; which was referred to the Committee on ________________

A BILL

To amend the Federal Election Campaign Act of 1971 to require reporting to the Federal Election Commission and the Federal Bureau of Investigation of offers by foreign nationals to make prohibited contributions, donations, expenditures, or disbursements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) Short Title.—This Act may be cited as the “Duty to Report Act”.

(Original Signature of Member)
(b) FINDINGS.—Congress makes the following findings:

(1) Political contributions and express-advocacy expenditures are an integral aspect of the process by which Americans elect officials to Federal, State, and local government offices.

(2) It is fundamental to the definition of a national political community that foreign citizens do not have a constitutional right to participate in, and thus may be excluded from, activities of democratic self-governance.

(3) The United States has a compelling interest in limiting the participation of foreign citizens in activities of democratic self-government, and in thereby preventing foreign influence over the United States political process.

(4) Foreign donations and expenditures have a corrupting influence on the campaign process and limiting the activities of foreign citizens in our elections is necessary to preserve the basic conception of a political community and democratic self-governance.

SEC. 2. REPORTING TO THE FEC.

(a) REPORTING OFFERS OF PROHIBITED CONTRIBUTIONS, DONATIONS, EXPENDITURES, OR DISBURSEMENTS
BY FOREIGN NATIONALS.—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 OFFERS OF PROHIBITED CONTRIBUTIONS, DONATIONS, EXPENDITURES, OR DISBURSEMENTS BY FOREIGN NATIONALS.—If a political committee, an agent of the committee, or in the case of an authorized committee of a candidate for Federal office, a candidate, receives an offer (orally, in writing, or otherwise) of a prohibited contribution, donation, expenditure, or disbursement (as defined in section 3(c) of the Duty to Report Act), the committee shall, within 24 hours of receiving the offer, report to the Commission—

“(1) to the extent known, the name, address, and nationality of the foreign national (as defined in section 319(b)) making the offer; and

“(2) the amount and type of contribution, donation, expenditure, or disbursement offered.”.

(b) REPORTING MEETINGS WITH FOREIGN GOVERNMENTS OR THEIR AGENTS.—Section 304 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30104), as amended by subsection (a), is amended by adding at the end the following new subsection:
“(k) DISCLOSURE OF MEETINGS WITH FOREIGN GOVERNMENTS OR THEIR AGENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), if a political committee, an agent of the committee, or in the case of an authorized committee of a candidate for Federal office, a candidate, meets with a foreign government or an agent of a foreign principal, as defined in section 1 of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611), the committee shall, within 24 hours of meeting, report to the Commission—

“(A) to the extent known, the identity of each individual at the meeting and the foreign government involved; and

“(B) the purpose of the meeting.

“(2) EXCEPTION FOR MEETINGS IN OFFICIAL CAPACITY.—Paragraph (1) shall not apply with respect to a meeting with a foreign government or an agent of a foreign principal by an elected official or as an employee of an elected official in their official capacity as such an official or employee.”.

(c) PROMULGATION OF REGULATIONS.—Not later than one year after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations providing additional indicators beyond the pertinent facts
described in section 110.20(a)(5) of title 11, Code of Federal Regulations (as in effect on the date of enactment of this Act) that may lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted, or received is a foreign national, as defined in section 319(b) of the Federal Election Act of 1971 (52 U.S.C. 30121(b)), or to inquire whether the source of the funds solicited, accepted, or received is a foreign national, as so defined. Regulations promulgated under the proceeding sentence shall also provide guidance to political committees and campaigns to not engage in racial or ethnic profiling in making such a conclusion or inquiry.

SEC. 3. REPORTING OFFERS OF PROHIBITED CONTRIBUTIONS, DONATIONS, EXPENDITURES, OR DISBURSEMENTS BY FOREIGN NATIONALS TO THE FBI.

(a) IN GENERAL.—If a political committee or an applicable individual (as defined in subsection (c)) receives an offer (orally, in writing, or otherwise) of a prohibited contribution, donation, expenditure, or disbursement, the committee or applicable individual shall, within 24 hours of receiving the offer, report to the Federal Bureau of Investigation—
(1) to the extent known, the name, address, and
nationality of the foreign national making the offer;
and
(2) the amount and type of contribution, dona-
tion, expenditure, or disbursement offered.

(b) Offense.—

(1) in General.—It shall be unlawful to know-
ingly and willfully fail to comply with subsection (a).

(2) Penalty.—Any person who violates para-
graph (1) shall be fined under title 18, United
States Code, imprisoned not more than 2 years, or
both.

(c) Definitions.—In this section:

(1) Applicable Individual.—

(A) in General.—The term “applicable
individual” means—

(i) an agent of a political committee;

(ii) a candidate;

(iii) an individual who is an imme-
diate family member of a candidate; or

(iv) any individual affiliated with a
campaign of a candidate.

(B) Immediate Family Member; Indi-
vidual Affiliated with a Campaign.—For
purposes of subparagraph (A)—
(i) the term “immediate family member” means, with respect to a candidate, a parent, parent in law, spouse, adult child, or sibling; and

(ii) 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 for the organization on an unpaid basis (including an intern or volunteer).

(2) FOREIGN NATIONAL.—The term “foreign national” has the meaning given that term in section 319(b) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(b)).

(3) KNOWINGLY.—The term “knowingly” has the meaning given that term in section 110.20(a)(4) of title 11, Code of Federal Regulations (or any successor regulations).
(4) Prohibited contribution, donation, expenditure, or disbursement.—

(A) In general.—The term “prohibited contribution, donation, expenditure, or disbursement” means a contribution, donation, expenditure, or disbursement prohibited under section 319(a) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(a)).

(B) Clarification.—Such term includes, with respect to a candidate or election, any information—

(i) regarding any of the other candidates for election for that office;

(ii) that is not in the public domain;

and

(iii) which could be used to the advantage of the campaign of the candidate.

(5) Other terms.—Any term used in this section which is defined in section 301 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101) and which is not otherwise defined in this section shall have the meaning given such term under such section 301.
SEC. 4. CLARIFICATION REGARDING USE OF INFORMATION REPORTED.

Information reported under subsection (j) or (k) of section 304 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30104), as added by section 2, or under section 3(a), may not be used to enforce the provisions under chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) relating to the removal of undocumented aliens.