To amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

A BILL

To amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, 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.

This Act may be cited as the “Democracy Is Strengthened by Casting Light On Spending in Elections Act of 2012” or the “DISCLOSE Act of 2012”.

SEC. 2. CAMPAIGN DISBURSEMENT REPORTING.

(a) INFORMATION REQUIRED TO BE REPORTED.—

(1) TREATMENT OF FUNCTIONAL EQUIVALENT OF EXPRESS ADVOCACY AS INDEPENDENT EXPENDITURE.—Subparagraph (A) of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended to read as follows:

“(A) that expressly advocates the election or defeat of a clearly identified candidate, or is the functional equivalent of express advocacy because, when taken as a whole, it can be interpreted by a reasonable person only as advocating the election or defeat of a candidate, taking into account whether the communication involved mentions a candidacy, a political party, or a challenger to a candidate, or takes a position on a candidate’s character, qualifications, or fitness for office; and”.

(A) by redesignating subclause (III) as subclause (IV); and

(B) by striking subclause (II) and inserting the following:

“(II) in the case of a communication which refers to a candidate for an office other than the President or Vice President, is made during the period beginning on January 1 of the calendar year in which a general or runoff election is held and ending on the date of the general or runoff election (or in the case of a special election, during the period beginning on the date on which the announcement with respect to such election is made and ending on the date of the special election);

“(III) in the case of a communication which refers to a candidate for the office of President or Vice President, is made in any State during the period beginning 120 days before the first primary election, caucus, or preference election held for the se-
lection of delegates to a national
nominating convention of a political
party is held in any State (or, if no
such election or caucus is held in any
State, the first convention or caucus
of a political party which has the au-
thority to nominate a candidate for
the office of President or Vice Presi-
dent) and ending on the date of the
general election; and”.

(3) Effective date; transition for elec-
tioneering communications made prior to en-
actment.—The amendment made by paragraph (2)
shall apply with respect to communications made on
or after July 1, 2012, except that no communication
which is made prior to such date shall be treated as
an electioneering communication under subclause
(II) or (III) of section 304(f)(3)(A)(i) of the Federal
Election Campaign Act of 1971 (as amended by
paragraph (2)) unless the communication would be
treated as an electioneering communication under
such section if the amendment made by paragraph
(2) did not apply.
(b) Disclosure Requirements for Corporations, Labor Organizations, and Certain Other Entities.—

(1) In general.—Section 324 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441k) is amended to read as follows:

“SEC. 324. DISCLOSURE OF CAMPAIGN-RELATED DISBURSEMENTS BY COVERED ORGANIZATIONS.

“(a) Disclosure Statement.—

“(1) In general.—Any covered organization that makes campaign-related disbursements aggregating more than $10,000 in an election reporting cycle shall, not later than 24 hours after each disclosure date, file a statement with the Commission made under penalty of perjury that contains the information described in paragraph (2)—

“(A) in the case of the first statement filed under this subsection, for the period beginning on the first day of the election reporting cycle and ending on the first such disclosure date; and

“(B) in the case of any subsequent statement filed under this subsection, for the period beginning on the previous disclosure date and ending on such disclosure date.
“(2) INFORMATION DESCRIBED.—The information described in this paragraph is as follows:

“(A) The name of the covered organization and the principal place of business of such organization.

“(B) The amount of each campaign-related disbursement made by such organization during the period covered by the statement of more than $1,000, and the name and address of the person to whom the disbursement was made.

“(C) In the case of a campaign-related disbursement that is not a covered transfer, the election to which the campaign-related disbursement pertains and if the disbursement is made for a public communication, the name of any candidate identified in such communication and whether such communication is in support of or in opposition to a candidate.

“(D) A certification by the chief executive officer or person who is the head of the covered organization that the campaign-related disbursement is not made in cooperation, consultation, or concert with or at the request or suggestion of a candidate, authorized committee, or
agent of a candidate, political party, or agent of
a political party.

“(E) If the covered organization makes
campaign-related disbursements using exclu-
sively funds in a segregated bank account con-
sisting of funds that were paid directly to such
account by persons other than the covered orga-
nization that controls the account, for each
such payment to the account—

“(i) the name and address of each
person who made such payment during the
period covered by the statement;

“(ii) the date and amount of such
payment; and

“(iii) the aggregate amount of all such
payments made by the person during the
period beginning on the first day of the
election reporting cycle and ending on the
disclosure date;

but only if such payment was made by a person
who made payments to the account in an aggreg-
gate amount of $10,000 or more during the pe-
riod beginning on the first day of the election
reporting cycle and ending on the disclosure
date.
“(F) If the covered organization makes campaign-related disbursements using funds other than funds in a segregated bank account described in subparagraph (E), for each payment to the covered organization—

“(i) the name and address of each person who made such payment during the period covered by the statement;

“(ii) the date and amount of such payment; and

“(iii) the aggregate amount of all such payments made by the person during the period beginning on the first day of the election reporting cycle and ending on the disclosure date;

but only if such payment was made by a person who made payments to the covered organization in an aggregate amount of $10,000 or more during the period beginning on the first day of the election reporting cycle and ending on the disclosure date.

“(G) Such other information as required in rules established by the Commission to promote the purposes of this section.

“(3) EXCEPTIONS.—
“(A) AMOUNTS RECEIVED IN ORDINARY COURSE OF BUSINESS.—The requirement to include in a statement filed under paragraph (1) the information described in paragraph (2) shall not apply to amounts received by the covered organization in commercial transactions in the ordinary course of any trade or business conducted by the covered organization or in the form of investments (other than investments by the principal shareholder in a limited liability corporation) in the covered organization.

“(B) DONOR RESTRICTION ON USE OF FUNDS.—The requirement to include in a statement submitted under paragraph (1) the information described in subparagraph (F) of paragraph (2) shall not apply if—

“(i) the person described in such subparagraph prohibited, in writing, the use of the payment made by such person for campaign-related disbursements; and

“(ii) the covered organization agreed to follow the prohibition and deposited the payment in an account which is segregated from any account used to make campaign-related disbursements.
“(C) Amounts received from affiliates.—The requirement to include in a statement submitted under paragraph (1) the information described in subparagraph (F) of paragraph (2) shall not apply to any amount which is described in subsection (f)(3)(A)(i).

“(4) Other definitions.—For purposes of this section:

“(A) Disclosure date.—The term ‘disclosure date’ means—

“(i) the first date during any election reporting cycle by which a person has made campaign-related disbursements aggregating more than $10,000; and

“(ii) any other date during such election reporting cycle by which a person has made campaign-related disbursements aggregating more than $10,000 since the most recent disclosure date for such election reporting cycle.

“(B) Election reporting cycle.—The term ‘election reporting cycle’ means the 2-year period beginning on the date of the most recent general election for Federal office.
“(C) PAYMENT.—The term ‘payment’ includes any contribution, donation, transfer, payment of dues, or other payment.

“(b) COORDINATION WITH OTHER PROVISIONS.—

“(1) OTHER REPORTS FILED WITH THE COMMISSION.—Information included in a statement filed under this section may be excluded from statements and reports filed under section 304.

“(2) TREATMENT AS SEPARATE SEGREGATED FUND.—A segregated bank account referred to in subsection (a)(2)(E) may be treated as a separate segregated fund for purposes of section 527(f)(3) of the Internal Revenue Code of 1986.

“(c) FILING.—Statements required to be filed under subsection (a) shall be subject to the requirements of section 304(d) to the same extent and in the same manner as if such reports had been required under subsection (c) or (g) of section 304.

“(d) CAMPAIGN-RELATED DISBURSEMENT DEFINED.—In this section, the term ‘campaign-related disbursement’ means a disbursement by a covered organization for any of the following:

“(1) An independent expenditure consisting of a public communication.
“(2) An electioneering communication, as defined in section 304(f)(3).

“(3) A covered transfer.

“(e) COVERED ORGANIZATION DEFINED.—In this section, the term ‘covered organization’ means any of the following:

“(1) A corporation (other than an organization described in section 501(c)(3) of the Internal Revenue Code of 1986).

“(2) An organization described in section 501(e) of such Code and exempt from taxation under section 501(a) of such Code (other than an organization described in section 501(e)(3) of such Code).

“(3) A labor organization (as defined in section 316(b)).

“(4) Any political organization under section 527 of the Internal Revenue Code of 1986, other than a political committee under this Act.

“(f) COVERED TRANSFER DEFINED.—

“(1) IN GENERAL.—In this section, the term ‘covered transfer’ means any transfer or payment of funds by a covered organization to another person if the covered organization—
“(A) designates, requests, or suggests that the amounts be used for—

“(i) campaign-related disbursements (other than covered transfers); or

“(ii) making a transfer to another person for the purpose of making or paying for such campaign-related disbursements;

“(B) made such transfer or payment in response to a solicitation or other request for a donation or payment for—

“(i) the making of or paying for campaign-related disbursements (other than covered transfers); or

“(ii) making a transfer to another person for the purpose of making or paying for such campaign-related disbursements;

“(C) engaged in discussions with the recipient of the transfer or payment regarding—

“(i) the making of or paying for campaign-related disbursements (other than covered transfers); or

“(ii) donating or transferring any amount of such transfer or payment to an-
other person for the purpose of making or paying for such campaign-related disbursements;

“(D) made campaign-related disbursements (other than a covered transfer) in an aggregate amount of $50,000 or more during the 2-year period ending on the date of the transfer or payment, or knew or had reason to know that the person receiving the transfer or payment made such disbursements in such an aggregate amount during that 2-year period; or

“(E) knew or had reason to know that the person receiving the transfer or payment would make campaign-related disbursements in an aggregate amount of $50,000 or more during the 2-year period beginning on the date of the transfer or payment.

“(2) EXCLUSIONS.—The term ‘covered transfer’ does not include any of the following:

“(A) A disbursement made by a covered organization in a commercial transaction in the ordinary course of any trade or business conducted by the covered organization or in the form of investments made by the covered organization.
“(B) A disbursement made by a covered organization if—

“(i) the covered organization prohibited, in writing, the use of such disbursement for campaign-related disbursements; and

“(ii) the recipient of the disbursement agreed to follow the prohibition and deposited the disbursement in an account which is segregated from any account used to make campaign-related disbursements.

“(3) **Exception for certain transfers among affiliates.**—

“(A) **Exception for certain transfers among affiliates.**—

“(i) In general.—The term ‘covered transfer’ does not include an amount transferred by one covered organization to another covered organization if such transfer—

“(I) is not made directly into a separate segregated bank account described in subsection (a)(2)(E), and
“(II) is treated as a transfer between affiliates under subparagraph (B).

“(ii) SPECIAL RULE.—If the aggregate amount of transfers described in clause (i) exceeds $50,000 in any election reporting cycle—

“(I) the covered organization which makes such transfers shall provide to the covered organization receiving such transfers the information required under subsection (a)(2)(F) (applied by substituting ‘the period beginning on the first day of the election reporting cycle and ending on the date of the most recent transfer described in subsection (f)(3)(A)(i)’ for ‘the period covered by the statement’ in clause (i) thereof); and

“(II) the covered organization receiving such transfers shall report the information described in subclause (I) on any statement filed under subsection (a)(1) as if any contribution, donation, or transfer to which such
information relates was made directly
to the covered organization receiving
the transfer.

“(B) Description of transfers be-
tween affiliates.—A transfer of amounts
from one covered organization to another cov-
ered organization shall be treated as a transfer
between affiliates if—

“(i) one of the organizations is an af-
iliate of the other organization; or

“(ii) each of the organizations is an
affiliate of the same organization;

except that the transfer shall not be treated as
a transfer between affiliates if one of the orga-
nizations is established for the purpose of mak-
ing campaign-related disbursements.

“(C) Determination of affiliate sta-
tus.—For purposes of this paragraph, the fol-
lowing organizations shall be considered to be
affiliated with each other:

“(i) A membership organization, in-
cluding a trade or professional association,
and the related State and local entities of
that organization.
“(ii) A national or international labor organization and its State or local unions, or an organization of national or international unions and its State and local entities.

“(iii) A corporation and its wholly owned subsidiaries.

“(D) Coverage of transfers to affiliated section 501(c)(3) organizations.—This paragraph shall apply with respect to an amount transferred by a covered organization to an organization described in paragraph (3) of section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code in the same manner as this paragraph applies to an amount transferred by a covered organization to another covered organization.”.

(2) Conforming Amendment.—Section 304(f)(6) of such Act (2 U.S.C. 434) is amended by striking “Any requirement” and inserting “Except as provided in section 324(b), any requirement”.

SEC. 3. STAND BY YOUR AD.

(a) Disclaimer Requirements To Include Functional Equivalent of Express Advocacy.—
Section 318(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d(a)) is amended by striking “for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate” and inserting “for the purpose of financing public communications which are described in section 301(17)(A)’’.

(b) Stand by Your Ad Requirements.—

(1) Maintenance of requirements for political parties and certain political committees.—Section 318(d)(2) of such Act (2 U.S.C. 441d(d)(2)) is amended—

(A) in the heading, by striking “OTHERS” and inserting “CERTAIN POLITICAL COMMITTEES”;

(B) by inserting “which (except to the extent provided in the last sentence of this paragraph) is paid for by a political committee (including a political committee of a political party) and” after “subsection (a)”;

(C) by striking “or other person” each place it appears; and

(D) by adding at the end the following:

“This paragraph does not apply to a communication paid for in whole or in part with a payment which is treated as a campaign-related
disbursement under section 324 and with re-
spect to which a covered organization is re-
quired to file a statement under such section.”.

(2) Special disclaimer requirements for
certain communications.—Section 318 of such
Act (2 U.S.C. 441d) is amended by adding at the
end the following new subsection:

“(e) Communications by Others.—

“(1) In General.—Any communication de-
scribed in paragraph (3) of subsection (a) which is
transmitted through radio or television (other than
a communication to which subsection (d)(2) applies)
shall include, in addition to the requirements of such
paragraph, the following:

“(A) The individual disclosure statement
described in paragraph (2)(A) (if the person
paying for the communication is an individual)
or the organizational disclosure statement de-
scribed in paragraph (2)(B) (if the person pay-
ing for the communication is not an individual).

“(B) If the communication is transmitted
through television and is paid for in whole or in
part with a payment which is treated as a cam-
paign-related disbursement under section 324,
the Top Five Funders list (if applicable).
“(C) If the communication is transmitted through radio and is paid for in whole or in part with a payment which is treated as a campaign-related disbursement under section 324, the Top Two Funders list (if applicable), unless, on the basis of criteria established in regulations issued by the Commission, the communication is of such short duration that including the Top Two Funders list in the communication would constitute a hardship to the person paying for the communication by requiring a disproportionate amount of the content of the communication to consist of the Top Two Funders list.

“(2) Disclosure statements described.—

“(A) Individual disclosure statements.—The individual disclosure statement described in this subparagraph is the following: ‘I am ______________, and I approve this message.’, with the blank filled in with the name of the applicable individual.

“(B) Organizational disclosure statements.—The organizational disclosure statement described in this subparagraph is the following: ‘I am ______________, the
of _______________, and
approves this message.’,
with—

“(i) the first blank to be filled in with
  the name of the applicable individual;

“(ii) the second blank to be filled in
  with the title of the applicable individual;
  and

“(iii) the third and fourth blank each
to be filled in with the name of the organi-
  zation or other person paying for the com-
  munication.

“(3) METHOD OF CONVEYANCE OF STATE-
MENT.—

“(A) COMMUNICATIONS TRANSMITTED
  THROUGH RADIO.—In the case of a communi-
  cation to which this subsection applies which is
  transmitted through radio, the disclosure state-
  ments required under paragraph (1) shall be
  made by audio by the applicable individual in a
  clearly spoken manner.

“(B) COMMUNICATIONS TRANSMITTED
  THROUGH TELEVISION.—In the case of a com-
  munication to which this subsection applies
which is transmitted through television, the in-
formation required under paragraph (1)—

“(i) shall appear in writing at the end
of the communication or in a crawl along
the bottom of the communication in a
clearly readable manner, with a reasonable
degree of color contrast between the back-
ground and the printed statement, for a
period of at least 6 seconds; and

“(ii) shall also be conveyed by an
unobscured, full-screen view of the applica-
ble individual or by the applicable indi-
vidual making the statement in voice-over
accompanied by a clearly identifiable pho-
tograph or similar image of the individual,
except in the case of a Top Five Funders
list.

“(4) DEFINITIONS.—In this subsection:

“(A) APPLICABLE INDIVIDUAL.—The term
‘applicable individual’ means, with respect to a
communication to which this subsection ap-
plies—

“(i) if the communication is paid for
by an individual, the individual involved;
“(ii) if the communication is paid for by a corporation, the chief executive officer of the corporation (or, if the corporation does not have a chief executive officer, the highest ranking official of the corporation);

“(iii) if the communication is paid for by a labor organization, the highest ranking officer of the labor organization; and

“(iv) if the communication is paid for by any other person, the highest ranking official of such person.

“(B) COVERED ORGANIZATION AND CAMPAIGN-RELATED DISBURSEMENT.—The terms ‘campaign-related disbursement’ and ‘covered organization’ have the meaning given such terms in section 324.

“(C) TOP FIVE FUNDERS LIST.—The term ‘Top Five Funders list’ means, with respect to a communication paid for in whole or in part with a payment which is treated as a campaign-related disbursement under section 324, a list of the 5 persons who provided the largest payments of any type which—

“(i) are in an aggregate amount equal to or exceeding $10,000 for the period be-
beginning on the first day of the election re-
porting cycle (as defined in section 324) 
and ending on the date of such commu-
nication, and

“(ii) are required to be included in the 
reports filed by a covered organization 
under section 324(a).

If 2 or more people provided the fifth largest of 
such payments, the covered organization in-
volved shall select one of those persons to be in-
cluded on the Top Five Funders list.

“(D) TOP TWO FUNDERS LIST.—The term 
‘Top Two Funders list’ means, with respect to 
a communication paid for in whole or in part 
with a payment which is treated as a campaign-
related disbursement under section 324, a list 
of the persons who provided the largest and the 
second largest payments of any type which—

“(i) are in an aggregate amount equal 
to or exceeding $10,000 for the period be-
beginning on the first day of the election re-
porting cycle (as defined in section 324) 
and ending on the date of such commu-
nication, and
“(ii) are required to be included in the reports filed by a covered organization under section 324(a).

If 2 or more persons provided the second largest of such payments, the covered organization involved shall select one of those persons to be included on the Top Two Funders list.”.

SEC. 4. APPLICATION OF DISCLOSURE AND DISCLAIMER RULES TO SUPER PACS.

(a) In General.—Subsection (e) of section 324 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441k), as amended by section 2, is amended by adding at the end the following new paragraph:

“(5) A political committee with an account established for the purpose of accepting donations or contributions that do not comply with the contribution limits or source prohibitions under this Act, but only with respect to the accounts established for such purpose.”.

(b) Conforming Amendment.—Paragraph (4) of section 324(e) of such Act (2 U.S.C. 441k), as amended by section 2, is amended by inserting “(except as provided in paragraph (5))” before the period at the end.
SEC. 5. SEVERABILITY.

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

SEC. 6. EFFECTIVE DATE.

Except as provided in section 2(a)(3), the amendments made by this Act shall apply with respects to disbursements made on or after July 1, 2012, and shall take effect without regard to whether or not the Federal Election Commission has promulgated regulations to carry out such amendments.