

107TH CONGRESS
1ST SESSION

H. R. 355

To amend the Internal Revenue Code of 1986 with respect to nonprofit organizations.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2001

Mr. JONES of North Carolina (for himself and Mr. HOSTETTLER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 with respect to nonprofit organizations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nonprofit Political
5 Speech Protection Act”.

6 **SEC. 2. TAX-EXEMPT ORGANIZATIONS PERMITTED TO EN-**
7 **GAGE IN POLITICAL CAMPAIGNS, ETC.**

8 (a) IN GENERAL.—Paragraph (3) of section 501(c)
9 of the Internal Revenue Code of 1986 is amended by strik-
10 ing “which does not participate in, or intervene in” and

1 all that follows and inserting “no substantial part of the
 2 activities of which is participating in, or intervening in (in-
 3 cluding the publishing or distributing of statements), any
 4 political campaign on behalf of (or in opposition to) any
 5 candidate for public office (except as otherwise provided
 6 in subsection (h)).”.

7 (b) EXPANSION OF ELECTION UNDER SECTION
 8 501(h).—

9 (1) IN GENERAL.—So much of subsection (h) of
 10 section 501 of such Code as precedes paragraph (2)
 11 is amended to read as follows:

12 “(h) EXPENDITURES BY PUBLIC CHARITIES TO IN-
 13 FLUENCE LEGISLATION OR FOR POLITICAL CAM-
 14 PAIGNS.—

15 “(1) GENERAL RULES.—

16 “(A) EXPENDITURES TO INFLUENCE LEG-
 17 ISLATION.—In the case of an organization to
 18 which this subsection applies, exemption from
 19 taxation under subsection (a) shall be denied
 20 because a substantial part of the activities of
 21 such organization consists of carrying on propa-
 22 ganda, or otherwise attempting, to influence
 23 legislation, but only if such organization
 24 normally—

1 “(i) makes lobbying expenditures in
2 excess of the lobbying ceiling amount for
3 such organization for each taxable year, or
4 “(ii) makes grass roots expenditures
5 in excess of the grass roots ceiling amount
6 for such organization for each taxable
7 year.

8 “(B) EXPENDITURES FOR POLITICAL CAM-
9 PAIGNS.—In the case of an organization to
10 which this subsection applies, exemption from
11 taxation under subsection (a) shall be denied
12 because a substantial part of the activities of
13 such organization consists of participating in,
14 or intervening in (including the publishing or
15 distributing of statements), any political cam-
16 paign on behalf of (or in opposition to) any can-
17 didate for public office, but only if such organi-
18 zation normally makes political expenditures (as
19 defined in section 4911(e)) in excess of the po-
20 litical campaign ceiling amount for such organi-
21 zation for each taxable year.”

22 (2) POLITICAL CAMPAIGN CEILING AMOUNT.—
23 Paragraph (2) of section 501(h) of such Code is
24 amended by adding at the end the following new
25 subparagraphs:

1 “(E) POLITICAL CAMPAIGN CEILING
 2 AMOUNT.—The political campaign ceiling
 3 amount for any organization is 150 percent of
 4 the political campaign nontaxable amount, de-
 5 termined under section 4911(e).”

6 (3) CONFORMING AMENDMENT.—Paragraph (7)
 7 of section 501(h) of such Code is amended by strik-
 8 ing “the interpretation” and all that follows and in-
 9 serting “the interpretation under subsection (c)(3)
 10 of the material following ‘private shareholder or indi-
 11 vidual’.”

12 (c) COMPARABLE TEST FOR CHARITABLE CONTRIBU-
 13 TION DEDUCTION.—Subparagraph (D) of section
 14 170(c)(2) of such Code is amended by striking “and which
 15 does not participate in, or intervene in” and inserting “or
 16 by reason of participating in, or intervening in”.

17 (d) REVISION OF EXCISE TAXES.—

18 (1) So much of chapter 41 of such Code as pre-
 19 cedes subsection (c) of section 4911 is amended to
 20 read as follows:

21 **“CHAPTER 41—PUBLIC CHARITIES**

 “Sec. 4911. Tax on excess lobbying and political expenditures.

 “Sec. 4912. Tax on disqualifying lobbying and political expendi-
 tures of certain organizations.

22 **“SEC. 4911. TAX ON EXCESS LOBBYING AND POLITICAL EX-**
 23 **PENDITURES.**

24 “(a) TAX IMPOSED.—

1 “(1) IN GENERAL.—There is hereby imposed on
2 the excess lobbying and political expenditures of any
3 organization to which this section applies a tax equal
4 to 25 percent of the amount of the excess lobbying
5 and political expenditures for the taxable year.

6 “(2) ORGANIZATIONS TO WHICH THIS SECTION
7 APPLIES.—This section applies to any organization
8 with respect to which an election under section
9 501(h) (relating to lobbying and political expendi-
10 tures by public charities) is in effect for the taxable
11 year.

12 “(b) EXCESS LOBBYING AND POLITICAL EXPENDI-
13 TURES.—For purposes of this section, the term ‘excess
14 lobbying and political expenditures’ means, for a taxable
15 year, the sum of—

16 “(1) the greater of—

17 “(A) the amount by which the lobbying ex-
18 penditures made by the organization during the
19 taxable year exceed the lobbying nontaxable
20 amount for such organization for such taxable
21 year, or

22 “(B) the amount by which the grass roots
23 expenditures made by the organization during
24 the taxable year exceed the grass roots non-

1 taxable amount for such organization for such
 2 taxable year, plus

3 “(2) the amount by which the political expendi-
 4 tures made by the organization during the taxable
 5 year exceed the political campaign nontaxable
 6 amount for such organization for such taxable year.”

7 (2) Section 4911 of such Code is amended by
 8 redesignating subsections (e) and (f) as subsections
 9 (f) and (g) and by inserting after subsection (d) the
 10 following new subsection:

11 “(e) DEFINITIONS RELATING TO POLITICAL EX-
 12 PENDITURES.—For purposes of this section—

13 “(1) POLITICAL EXPENDITURES.—

14 “(A) IN GENERAL.—The term ‘political ex-
 15 penditure’ means any amount paid or incurred
 16 by a section 501(c)(3) organization in any par-
 17 ticipation in, or intervention in (including the
 18 publication or distribution of statements), any
 19 political campaign on behalf of (or in opposition
 20 to) any candidate for public office.

21 “(B) CERTAIN OTHER EXPENDITURES IN-
 22 CLUDED.—In the case of an organization which
 23 is formed primarily for purposes of promoting
 24 the candidacy (or prospective candidacy) of an
 25 individual for public office (or which is effec-

tively controlled by a candidate or prospective candidate and which is availed of primarily for such purposes), the term ‘political expenditure’ includes any of the following amounts paid or incurred by the organization:

“(i) Amounts paid or incurred to such individual for speeches or other services.

“(ii) Travel expenses of such individual.

“(iii) Expenses of conducting polls, surveys, or other studies, or preparing papers or other materials, for use by such individual.

“(iv) Expenses of advertising, publicity, and fundraising for such individual.

“(v) Any other expense which has the primary effect of promoting public recognition, or otherwise primarily accruing to the benefit, of such individual.

“(2) POLITICAL CAMPAIGN NONTAXABLE AMOUNT.—

“(A) IN GENERAL.—The lobbying nontaxable amount for any organization for any taxable year is the lesser of (i) \$1,000,000 or

1 (ii) the amount determined under the following
 2 table:

“If the exempt purpose ex- penditures are—	The lobbying nontaxable amount is—
Not over \$500,000	20 percent of the exempt purpose ex- penditures.
Over \$500,000 but not over \$1,000,000.	\$100,000 plus 15 percent of the ex- cess of the exempt purpose expend- itures over \$500,000.
Over \$1,000,000 but not over \$1,500,000.	\$175,000 plus 10 percent of the ex- cess of the exempt purpose expend- itures over \$1,000,000.
Over \$1,500,000	\$225,000 plus 5 percent of the excess of the exempt purpose expenditures over \$1,500,000.

3 “(B) EXEMPT PURPOSE EXPENDITURES.—

4 “(i) IN GENERAL.—The term ‘exempt
 5 purpose expenditures’ means, with respect
 6 to any organization for any taxable year,
 7 the total of the amounts paid or incurred
 8 by such organization to accomplish pur-
 9 poses described in section 170(c)(2)(B)
 10 (relating to religious, charitable, edu-
 11 cational, etc., purposes).

12 “(ii) CERTAIN AMOUNTS INCLUDED.—
 13 The term ‘exempt purpose expenditures’
 14 includes—

15 “(I) administrative expenses paid
 16 or incurred for purposes described in
 17 section 170(c)(2)(B), and

18 “(II) political expenditures paid
 19 or incurred (whether or not for pur-

1 poses described in section
2 170(c)(2)(B)).

3 “(iii) CERTAIN AMOUNTS EX-
4 CLUDED.—The term ‘exempt purpose ex-
5 penditures’ does not include amounts paid
6 or incurred to or for—

7 “(I) a separate fundraising unit
8 of such organization, or

9 “(II) one or more other organiza-
10 tions, if such amounts are paid or in-
11 curred primarily for fundraising.”

12 (3) Subsection (g) of section 4911 of such
13 Code, as redesignated by paragraph (2), is amended
14 by striking “excess lobbying expenditures” each
15 place it appears and inserting “excess lobbying and
16 political expenditures”.

17 (4)(A) Section 4912 of such Code is amended—

18 (i) in the heading by striking “**LOBBYING**
19 **EXPENDITURES**” and inserting “**LOBBYING**
20 **AND POLITICAL EXPENDITURES**”, and

21 (ii) in the text by striking “lobbying ex-
22 penditures” and inserting “lobbying and polit-
23 ical expenditures”.

24 (B) Paragraph (2) of section 4912(d) of such
25 Code is amended to read as follows:

1 “(2) ORGANIZATION MANAGER.—The term ‘or-
2 organization manager’ means—

3 “(A) any officer, director, or trustee of the
4 organization (or individual having powers or re-
5 sponsibilities similar to those of officers, direc-
6 tors, or trustees of the organization), and

7 “(B) with respect to any expenditure, any
8 employee of the organization having authority
9 or responsibility with respect to such expendi-
10 ture.”

11 (e) OTHER CONFORMING AMENDMENTS.—

12 (1) Subchapter C of chapter 42 of such Code
13 is hereby repealed.

14 (2) Section 4962 of such Code is amended by
15 striking subsection (c).

16 (3) Sections 4963 and 7422(g) of such Code
17 are each amended by striking “4955,” each place it
18 appears.

19 (4) Paragraph (10) of section 6033(b) of such
20 Code is amended by adding “and” at the end of sub-
21 paragraph (A), by striking “and” at the end of sub-
22 paragraph (B), and by striking subparagraph (C).

23 (5) Section 6213(e) of such Code is amended by
24 striking “4955 (relating to taxes on political expend-
25 itures),”.

1 (6) The table of subchapters for chapter 42 of
2 such Code is amended by striking the item relating
3 to subchapter C.

4 (7) Section 6852 (relating to termination as-
5 sessments in case of flagrant political expenditures
6 of section 501(c)(3) organizations) is hereby re-
7 pealed.

8 (8) Clause (v) of section 6091(b)(1)(B) of such
9 Code is amended by striking “or 6852(a)”.

10 (9) Sections 6211(b)(1) and 6212(c)(1) of such
11 Code are each amended by striking “or 6852”.

12 (10) Sections 6213(a), 6234(e)(3), 6863, and
13 7429(g) of such Code are each amended by striking
14 “, 6852,” each place it appears.

15 (11) Section 7429(a)(1)(A) of such Code is
16 amended by striking “6852(a),”.

17 (12) Paragraph (3) of section 7611(i) of such
18 Code is amended by striking “, section 6852 (relat-
19 ing to termination assessments in case of flagrant
20 political expenditures of section 501(c)(3) organiza-
21 tions),”.

22 (13) The table of sections for part I of sub-
23 chapter A of chapter 70 of such Code is amended by
24 striking the item relating to section 6852.

1 (14) Subchapter A of chapter 76 of such Code
2 is amended by striking section 7409 and by redesign-
3 nating section 7410 as section 7409.

4 (15) The table of sections for such subchapter
5 A is amended by striking the last 2 items and insert-
6 ing the following new item:

 “Sec. 7409. Cross references.”.

7 (f) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to expenditures made after the
9 date of the enactment of this Act.

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