

116TH CONGRESS
1ST SESSION

S. 1147

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

IN THE SENATE OF THE UNITED STATES

APRIL 11, 2019

Mr. WHITEHOUSE (for himself, Mr. WYDEN, Mr. SCHUMER, Mr. VAN HOLLEN, Mr. LEAHY, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. DURBIN, Mr. REED, Mr. CARPER, Ms. STABENOW, Ms. CANTWELL, Mr. MENENDEZ, Mr. CARDIN, Mr. SANDERS, Mr. BROWN, Mr. CASEY, Ms. KLOBUCHAR, Mr. TESTER, Mr. UDALL, Mrs. SHAHEEN, Mr. WARNER, Mr. MERKLEY, Mr. BENNET, Mrs. GILLIBRAND, Mr. COONS, Mr. BLUMENTHAL, Mr. SCHATZ, Ms. BALDWIN, Mr. MURPHY, Ms. HIRONO, Mr. HEINRICH, Mr. KING, Mr. KAINE, Ms. WARREN, Mr. MARKEY, Mr. BOOKER, Mr. PETERS, Ms. DUCKWORTH, Ms. HASSAN, Ms. HARRIS, Ms. CORTEZ MASTO, Ms. SMITH, Mr. JONES, and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
 3 “Democracy Is Strengthened by Casting Light On Spend-
 4 ing in Elections Act of 2019” or the “DISCLOSE Act
 5 of 2019”.

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

Sec. 1. Short title; table of contents.

TITLE I—DISCLOSE ACT

Subtitle A—Regulation of Certain Political Spending

Sec. 101. Clarification of prohibition on participation by foreign nationals in election-related activities.

Sec. 102. Clarification of application of foreign money ban to certain disbursements and activities.

Sec. 103. Audit and report on illicit foreign money in Federal elections.

Sec. 104. Prohibition on contributions and donations by foreign nationals in connections with ballot initiatives and referenda.

Sec. 105. Disbursements and activities subject to foreign money ban.

Subtitle B—Reporting of Campaign-Related Disbursements

Sec. 111. Reporting of campaign-related disbursements.

Sec. 112. Application of foreign money ban to disbursements for campaign-related disbursements consisting of covered transfers.

Sec. 113. Effective date.

TITLE II—STAND BY EVERY AD ACT

Sec. 201. Short title.

Sec. 202. Stand By Every Ad.

Sec. 203. Disclaimer requirements for communications made through prerecorded telephone calls.

Sec. 204. No expansion of persons subject to disclaimer requirements on Internet communications.

Sec. 205. Effective date.

TITLE III—OTHER PROVISIONS

Sec. 301. Severability.

1 **TITLE I—DISCLOSE ACT**
2 **Subtitle A—Regulation of Certain**
3 **Political Spending**

4 **SEC. 101. CLARIFICATION OF PROHIBITION ON PARTICIPA-**
5 **TION BY FOREIGN NATIONALS IN ELECTION-**
6 **RELATED ACTIVITIES.**

7 (a) CLARIFICATION OF PROHIBITION.—Section
8 319(a) of the Federal Election Campaign Act of 1971 (52
9 U.S.C. 30121(a)) is amended—

10 (1) by striking “or” at the end of paragraph
11 (1);

12 (2) by striking the period at the end of para-
13 graph (2) and inserting “; or”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(3) a foreign national to direct, dictate, con-
17 trol, or directly or indirectly participate in the deci-
18 sion making process of any person (including a cor-
19 poration, labor organization, political committee, or
20 political organization) with regard to such person’s
21 Federal or non-Federal election-related activity, in-
22 cluding any decision concerning the making of con-
23 tributions, donations, expenditures, or disbursements
24 in connection with an election for any Federal,

1 State, or local office or any decision concerning the
2 administration of a political committee.”.

3 (b) CERTIFICATION OF COMPLIANCE.—Section 319
4 of such Act (52 U.S.C. 30121) is amended by adding at
5 the end the following new subsection:

6 “(c) CERTIFICATION OF COMPLIANCE REQUIRED
7 PRIOR TO CARRYING OUT ACTIVITY.—Prior to the mak-
8 ing in connection with an election for Federal office of any
9 contribution, donation, expenditure, independent expendi-
10 ture, or disbursement for an electioneering communication
11 by a corporation, limited liability corporation, or partner-
12 ship during a year, the chief executive officer of the cor-
13 poration, limited liability corporation, or partnership (or,
14 if the corporation, limited liability corporation, or partner-
15 ship does not have a chief executive officer, the highest
16 ranking official of the corporation, limited liability cor-
17 poration, or partnership), shall file a certification with the
18 Commission, under penalty of perjury, that a foreign na-
19 tional did not direct, dictate, control, or directly or indi-
20 rectly participate in the decision making process relating
21 to such activity in violation of subsection (a)(3), unless
22 the chief executive officer has previously filed such a cer-
23 tification during that calendar year.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect upon the expiration of the

1 180-day period which begins on the date of the enactment
 2 of this Act, and shall take effect without regard to whether
 3 or not the Federal Election Commission has promulgated
 4 regulations to carry out such amendments.

5 **SEC. 102. CLARIFICATION OF APPLICATION OF FOREIGN**
 6 **MONEY BAN TO CERTAIN DISBURSEMENTS**
 7 **AND ACTIVITIES.**

8 (a) APPLICATION TO DISBURSEMENTS TO SUPER
 9 PACS.—Section 319(a)(1)(A) of the Federal Election
 10 Campaign Act of 1971 (52 U.S.C. 30121(a)(1)(A)) is
 11 amended by striking the semicolon and inserting the fol-
 12 lowing: “, including any disbursement to a political com-
 13 mittee which accepts donations or contributions that do
 14 not comply with the limitations, prohibitions, and report-
 15 ing requirements of this Act (or any disbursement to or
 16 on behalf of any account of a political committee which
 17 is established for the purpose of accepting such donations
 18 or contributions);”.

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

23 “(8) A separate segregated fund established by a cor-
 24 poration may not make a contribution or expenditure dur-

1 ing a year unless the fund has certified to the Commission
 2 the following during the year:

3 “(A) Each individual who manages the fund,
 4 and who is responsible for exercising decisionmaking
 5 authority for the fund, is a citizen of the United
 6 States or is lawfully admitted for permanent resi-
 7 dence in the United States.

8 “(B) No foreign national under section 319
 9 participates in any way in the decisionmaking proc-
 10 esses of the fund with regard to contributions or ex-
 11 penditures under this Act.

12 “(C) The fund does not solicit or accept rec-
 13 ommendations from any foreign national under sec-
 14 tion 319 with respect to the contributions or expend-
 15 itures made by the fund.

16 “(D) Any member of the board of directors of
 17 the corporation who is a foreign national under sec-
 18 tion 319 abstains from voting on matters concerning
 19 the fund or its activities.”.

20 **SEC. 103. AUDIT AND REPORT ON ILLICIT FOREIGN MONEY**
 21 **IN FEDERAL ELECTIONS.**

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

1 **“SEC. 319A. AUDIT AND REPORT ON DISBURSEMENTS BY**
2 **FOREIGN NATIONALS.**

3 “(a) AUDIT.—

4 “(1) IN GENERAL.—The Commission shall con-
5 duct an audit after each Federal election cycle to de-
6 termine the incidence of illicit foreign money in such
7 Federal election cycle.

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

13 “(b) REPORT.—Not later than 180 days after the end
14 of each Federal election cycle, the Commission shall sub-
15 mit to Congress a report containing—

16 “(1) results of the audit required by subsection
17 (a)(1); and

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

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

21 “(1) The term ‘Federal election cycle’ means
22 the period which begins on the day after the date of
23 a regularly scheduled general election for Federal of-
24 fice and which ends on the date of the first regularly
25 scheduled general election for Federal office held
26 after such date.

1 “(2) The term ‘illicit foreign money’ means any
 2 disbursement by a foreign national (as defined in
 3 section 319(b)) prohibited under such section.”.

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

8 **SEC. 104. PROHIBITION ON CONTRIBUTIONS AND DONA-**
 9 **TIONS BY FOREIGN NATIONALS IN CONNEC-**
 10 **TIONS WITH BALLOT INITIATIVES AND**
 11 **REFERENDA.**

12 (a) IN GENERAL.—Section 319(a)(1)(A) of the Fed-
 13 eral Election Campaign Act of 1971 (52 U.S.C.
 14 30121(a)(1)(A)) is amended by striking “election;” and
 15 inserting the following: “election, including a State or local
 16 ballot initiative or referendum;”.

17 (b) EFFECTIVE DATE.—The amendment made by
 18 this section shall apply with respect to elections held in
 19 2020 or any succeeding year.

20 **SEC. 105. DISBURSEMENTS AND ACTIVITIES SUBJECT TO**
 21 **FOREIGN MONEY BAN.**

22 (a) DISBURSEMENTS DESCRIBED.—Section
 23 319(a)(1) of the Federal Election Campaign Act of 1971
 24 (52 U.S.C. 30121(a)(1)) is amended—

1 (1) by striking “or” at the end of subparagraph
2 (B); and

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

5 “(C) an expenditure;

6 “(D) an independent expenditure;

7 “(E) a disbursement for an electioneering
8 communication (within the meaning of section
9 304(f)(3));

10 “(F) a disbursement for a paid internet or
11 paid digital communication that refers to a
12 clearly identified candidate for election for Fed-
13 eral office and is disseminated within 60 days
14 before a general, special, or runoff election for
15 the office sought by the candidate or 30 days
16 before a primary or preference election, or a
17 convention or caucus of a political party that
18 has authority to nominate a candidate for the
19 office sought by the candidate;

20 “(G) a disbursement for a broadcast,
21 cable, or satellite communication, or for a paid
22 internet or paid digital communication, that
23 promotes, supports, attacks or opposes the elec-
24 tion of a clearly identified candidate for Fed-
25 eral, State, or local office (regardless of whether

1 the communication contains express advocacy or
2 the functional equivalent of express advocacy)
3 and is for the purpose of influencing an elec-
4 tion; or

5 “(H) a disbursement for a broadcast,
6 cable, or satellite communication, or for any
7 communication which is placed or promoted for
8 a fee on an online platform, that discusses a
9 national legislative issue of public importance in
10 a year in which a regularly scheduled general
11 election for Federal office is held, but only if
12 the disbursement is made by a foreign principal
13 who is a government of a foreign country or a
14 foreign political party or an agent of such a for-
15 eign principal under the Foreign Agents Reg-
16 istration Act of 1938, as amended.”.

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

1 **Subtitle B—Reporting of**
2 **Campaign-Related Disbursements**

3 **SEC. 111. REPORTING OF CAMPAIGN-RELATED DISBURSE-**
4 **MENTS.**

5 (a) DISCLOSURE REQUIREMENTS FOR CORPORA-
6 TIONS, LABOR ORGANIZATIONS, AND CERTAIN OTHER
7 ENTITIES.—

8 (1) IN GENERAL.—Section 324 of the Federal
9 Election Campaign Act of 1971 (52 U.S.C. 30126)
10 is amended to read as follows:

11 **“SEC. 324. DISCLOSURE OF CAMPAIGN-RELATED DISBURSE-**
12 **MENTS BY COVERED ORGANIZATIONS.**

13 “(a) DISCLOSURE STATEMENT.—

14 “(1) IN GENERAL.—Any covered organization
15 that makes campaign-related disbursements aggre-
16 gating more than \$10,000 in an election reporting
17 cycle shall, not later than 24 hours after each disclo-
18 sure date, file a statement with the Commission
19 made under penalty of perjury that contains the in-
20 formation described in paragraph (2)—

21 “(A) in the case of the first statement filed
22 under this subsection, for the period beginning
23 on the first day of the election reporting cycle
24 (or, if earlier, the period beginning one year be-

1 fore the first such disclosure date) and ending
2 on the first such disclosure date; and

3 “(B) in the case of any subsequent state-
4 ment filed under this subsection, for the period
5 beginning on the previous disclosure date and
6 ending on such disclosure date.

7 “(2) INFORMATION DESCRIBED.—The informa-
8 tion described in this paragraph is as follows:

9 “(A) The name of the covered organization
10 and the principal place of business of such or-
11 ganization and, in the case of a covered organi-
12 zation that is a corporation (other than a busi-
13 ness concern that is an issuer of a class of secu-
14 rities registered under section 12 of the Securi-
15 ties Exchange Act of 1934 (15 U.S.C. 78l) or
16 that is required to file reports under section
17 15(d) of that Act (15 U.S.C. 78o(d))) or an en-
18 tity described in subsection (e)(2), a list of the
19 beneficial owners (as defined in paragraph
20 (4)(A)) of the entity that—

21 “(i) identifies each beneficial owner by
22 name and current residential or business
23 street address; and

24 “(ii) if any beneficial owner exercises
25 control over the entity through another

1 legal entity, such as a corporation, partner-
2 ship, limited liability company, or trust,
3 identifies each such other legal entity and
4 each such beneficial owner who will use
5 that other entity to exercise control over
6 the entity.

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

12 “(C) In the case of a campaign-related dis-
13 bursement that is not a covered transfer, the
14 election to which the campaign-related disburse-
15 ment pertains and if the disbursement is made
16 for a public communication, the name of any
17 candidate identified in such communication and
18 whether such communication is in support of or
19 in opposition to a candidate.

20 “(D) A certification by the chief executive
21 officer or person who is the head of the covered
22 organization that the campaign-related dis-
23 bursement is not made in cooperation, consulta-
24 tion, or concert with or at the request or sug-
25 gestion of a candidate, authorized committee, or

1 agent of a candidate, political party, or agent of
2 a political party.

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

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

13 “(II) the date and amount of such
14 payment; and

15 “(III) the aggregate amount of all
16 such payments made by the person during
17 the period beginning on the first day of the
18 election reporting cycle (or, if earlier, the
19 period beginning one year before the dis-
20 closure date) and ending on the disclosure
21 date,

22 but only if such payment was made by a person
23 who made payments to the account in an aggre-
24 gate amount of \$10,000 or more during the pe-
25 riod beginning on the first day of the election

1 reporting cycle (or, if earlier, the period begin-
2 ning one year before the disclosure date) and
3 ending on the disclosure date.

4 “(ii) In any calendar year after 2020, sec-
5 tion 315(c)(1)(B) shall apply to the amount de-
6 scribed in clause (i) in the same manner as
7 such section applies to the limitations estab-
8 lished under subsections (a)(1)(A), (a)(1)(B),
9 (a)(3), and (h) of such section, except that for
10 purposes of applying such section to the
11 amounts described in subsection (b), the ‘base
12 period’ shall be 2020.

13 “(F)(i) If the covered organization makes
14 campaign-related disbursements using funds
15 other than funds in a segregated bank account
16 described in subparagraph (E), for each pay-
17 ment to the covered organization—

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

21 “(II) the date and amount of such
22 payment; and

23 “(III) the aggregate amount of all
24 such payments made by the person during
25 the period beginning on the first day of the

1 election reporting cycle (or, if earlier, the
2 period beginning one year before the dis-
3 closure date) and ending on the disclosure
4 date,

5 but only if such payment was made by a person
6 who made payments to the covered organization
7 in an aggregate amount of \$10,000 or more
8 during the period beginning on the first day of
9 the election reporting cycle (or, if earlier, the
10 period beginning one year before the disclosure
11 date) and ending on the disclosure date.

12 “(ii) In any calendar year after 2020, sec-
13 tion 315(c)(1)(B) shall apply to the amount de-
14 scribed in clause (i) in the same manner as
15 such section applies to the limitations estab-
16 lished under subsections (a)(1)(A), (a)(1)(B),
17 (a)(3), and (h) of such section, except that for
18 purposes of applying such section to the
19 amounts described in subsection (b), the ‘base
20 period’ shall be 2020.

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

24 “(3) EXCEPTIONS.—

1 “(A) AMOUNTS RECEIVED IN ORDINARY
2 COURSE OF BUSINESS.—The requirement to in-
3 clude in a statement filed under paragraph (1)
4 the information described in paragraph (2)
5 shall not apply to amounts received by the cov-
6 ered organization in commercial transactions in
7 the ordinary course of any trade or business
8 conducted by the covered organization or in the
9 form of investments (other than investments by
10 the principal shareholder in a limited liability
11 corporation) in the covered organization. For
12 purposes of this subparagraph, amounts re-
13 ceived by a covered organization as remittances
14 from an employee to the employee’s collective
15 bargaining representative shall be treated as
16 amounts received in commercial transactions in
17 the ordinary course of the business conducted
18 by the covered organization.

19 “(B) DONOR RESTRICTION ON USE OF
20 FUNDS.—The requirement to include in a state-
21 ment submitted under paragraph (1) the infor-
22 mation described in subparagraph (F) of para-
23 graph (2) shall not apply if—

24 “(i) the person described in such sub-
25 paragraph prohibited, in writing, the use of

1 the payment made by such person for cam-
 2 paign-related disbursements; and

3 “(ii) the covered organization agreed
 4 to follow the prohibition and deposited the
 5 payment in an account which is segregated
 6 from any account used to make campaign-
 7 related disbursements.

8 “(C) THREAT OF HARASSMENT OR RE-
 9 PRISAL.—The requirement to include any infor-
 10 mation relating to the name or address of any
 11 person (other than a candidate) in a statement
 12 submitted under paragraph (1) shall not apply
 13 if the inclusion of the information would subject
 14 the person to serious threats, harassment, or
 15 reprisals.

16 “(4) OTHER DEFINITIONS.—For purposes of
 17 this section:

18 “(A) BENEFICIAL OWNER DEFINED.—

19 “(i) IN GENERAL.—Except as pro-
 20 vided in clause (ii), the term ‘beneficial
 21 owner’ means, with respect to any entity,
 22 a natural person who, directly or indi-
 23 rectly—

1 “(I) exercises substantial control
2 over an entity through ownership, vot-
3 ing rights, agreement, or otherwise; or

4 “(II) has a substantial interest in
5 or receives substantial economic bene-
6 fits from the assets of an entity.

7 “(ii) EXCEPTIONS.—The term ‘bene-
8 ficial owner’ shall not include—

9 “(I) a minor child;

10 “(II) a person acting as a nomi-
11 nee, intermediary, custodian, or agent
12 on behalf of another person;

13 “(III) a person acting solely as
14 an employee of an entity and whose
15 control over or economic benefits from
16 the entity derives solely from the em-
17 ployment status of the person;

18 “(IV) a person whose only inter-
19 est in an entity is through a right of
20 inheritance, unless the person also
21 meets the requirements of clause (i);
22 or

23 “(V) a creditor of an entity, un-
24 less the creditor also meets the re-
25 quirements of clause (i).

1 “(iii) ANTI-ABUSE RULE.—The excep-
 2 tions under clause (ii) shall not apply if
 3 used for the purpose of evading, circum-
 4 venting, or abusing the provisions of clause
 5 (i) or paragraph (2)(A).

6 “(B) DISCLOSURE DATE.—The term ‘dis-
 7 closure date’ means—

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

12 “(ii) any other date during such elec-
 13 tion reporting cycle by which a person has
 14 made campaign-related disbursements ag-
 15 gregating more than \$10,000 since the
 16 most recent disclosure date for such elec-
 17 tion reporting cycle.

18 “(C) ELECTION REPORTING CYCLE.—The
 19 term ‘election reporting cycle’ means the 2-year
 20 period beginning on the date of the most recent
 21 general election for Federal office.

22 “(D) PAYMENT.—The term ‘payment’ in-
 23 cludes any contribution, donation, transfer, pay-
 24 ment of dues, or other payment.

25 “(b) COORDINATION WITH OTHER PROVISIONS.—

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

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

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

15 “(d) CAMPAIGN-RELATED DISBURSEMENT DE-
 16 FINED.—

17 “(1) IN GENERAL.—In this section, the term
 18 ‘campaign-related disbursement’ means a disburse-
 19 ment by a covered organization for any of the fol-
 20 lowing:

21 “(A) An independent expenditure which ex-
 22 pressly advocates the election or defeat of a
 23 clearly identified candidate for election for Fed-
 24 eral office, or is the functional equivalent of ex-
 25 press advocacy because, when taken as a whole,

1 it can be interpreted by a reasonable person
2 only as advocating the election or defeat of a
3 candidate for election for Federal office.

4 “(B) Any public communication which re-
5 fers to a clearly identified candidate for election
6 for Federal office and which promotes or sup-
7 ports the election of a candidate for that office,
8 or attacks or opposes the election of a candidate
9 for that office, without regard to whether the
10 communication expressly advocates a vote for or
11 against a candidate for that office.

12 “(C) An electioneering communication, as
13 defined in section 304(f)(3).

14 “(D) A covered transfer.

15 “(2) INTENT NOT REQUIRED.—A disbursement
16 for an item described in subparagraph (A), (B), (C),
17 or (D) of paragraph (1) shall be treated as a cam-
18 paign-related disbursement regardless of the intent
19 of the person making the disbursement.

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

23 “(1) A corporation (other than an organization
24 described in section 501(c)(3) of the Internal Rev-
25 enue Code of 1986).

1 “(2) A limited liability corporation that is not
2 otherwise treated as a corporation for purposes of
3 this Act (other than an organization described in
4 section 501(c)(3) of the Internal Revenue Code of
5 1986).

6 “(3) An organization described in section
7 501(c) of such Code and exempt from taxation
8 under section 501(a) of such Code (other than an
9 organization described in section 501(c)(3) of such
10 Code).

11 “(4) A labor organization (as defined in section
12 316(b)).

13 “(5) Any political organization under section
14 527 of the Internal Revenue Code of 1986, other
15 than a political committee under this Act (except as
16 provided in paragraph (6)).

17 “(6) A political committee with an account that
18 accepts donations or contributions that do not com-
19 ply with the contribution limits or source prohibi-
20 tions under this Act, but only with respect to such
21 accounts.

22 “(f) COVERED TRANSFER DEFINED.—

23 “(1) IN GENERAL.—In this section, the term
24 ‘covered transfer’ means any transfer or payment of

1 funds by a covered organization to another person if
2 the covered organization—

3 “(A) designates, requests, or suggests that
4 the amounts be used for—

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

7 “(ii) making a transfer to another
8 person for the purpose of making or pay-
9 ing for such campaign-related disburse-
10 ments;

11 “(B) made such transfer or payment in re-
12 sponse to a solicitation or other request for a
13 donation or payment for—

14 “(i) the making of or paying for cam-
15 paign-related disbursements (other than
16 covered transfers); or

17 “(ii) making a transfer to another
18 person for the purpose of making or pay-
19 ing for such campaign-related disburse-
20 ments;

21 “(C) engaged in discussions with the re-
22 cipient of the transfer or payment regarding—

23 “(i) the making of or paying for cam-
24 paign-related disbursements (other than
25 covered transfers); or

1 “(ii) donating or transferring any
2 amount of such transfer or payment to an-
3 other person for the purpose of making or
4 paying for such campaign-related disburse-
5 ments;

6 “(D) made campaign-related disburse-
7 ments (other than a covered transfer) in an ag-
8 gregate amount of \$50,000 or more during the
9 2-year period ending on the date of the transfer
10 or payment, or knew or had reason to know
11 that the person receiving the transfer or pay-
12 ment made such disbursements in such an ag-
13 gregate amount during that 2-year period; or

14 “(E) knew or had reason to know that the
15 person receiving the transfer or payment would
16 make campaign-related disbursements in an ag-
17 gregate amount of \$50,000 or more during the
18 2-year period beginning on the date of the
19 transfer or payment.

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

22 “(A) A disbursement made by a covered
23 organization in a commercial transaction in the
24 ordinary course of any trade or business con-
25 ducted by the covered organization or in the

1 form of investments made by the covered orga-
 2 nization.

3 “(B) A disbursement made by a covered
 4 organization if—

5 “(i) the covered organization prohib-
 6 ited, in writing, the use of such disburse-
 7 ment for campaign-related disbursements;
 8 and

9 “(ii) the recipient of the disbursement
 10 agreed to follow the prohibition and depos-
 11 ited the disbursement in an account which
 12 is segregated from any account used to
 13 make campaign-related disbursements.

14 “(3) SPECIAL RULE REGARDING TRANSFERS
 15 AMONG AFFILIATES.—

16 “(A) SPECIAL RULE.—A transfer of an
 17 amount by one covered organization to another
 18 covered organization which is treated as a
 19 transfer between affiliates under subparagraph
 20 (C) shall be considered a covered transfer by
 21 the covered organization which transfers the
 22 amount only if the aggregate amount trans-
 23 ferred during the year by such covered organi-
 24 zation to that same covered organization is
 25 equal to or greater than \$50,000.

1 “(B) DETERMINATION OF AMOUNT OF
 2 CERTAIN PAYMENTS AMONG AFFILIATES.—In
 3 determining the amount of a transfer between
 4 affiliates for purposes of subparagraph (A), to
 5 the extent that the transfer consists of funds
 6 attributable to dues, fees, or assessments which
 7 are paid by individuals on a regular, periodic
 8 basis in accordance with a per-individual cal-
 9 culation which is made on a regular basis, the
 10 transfer shall be attributed to the individuals
 11 paying the dues, fees, or assessments and shall
 12 not be attributed to the covered organization.

13 “(C) DESCRIPTION OF TRANSFERS BE-
 14 TWEEN AFFILIATES.—A transfer of amounts
 15 from one covered organization to another cov-
 16 ered organization shall be treated as a transfer
 17 between affiliates if—

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

20 “(ii) each of the organizations is an
 21 affiliate of the same organization,

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

“(D) DETERMINATION OF AFFILIATE STATUS.—For purposes of subparagraph (C), a covered organization is an affiliate of another covered organization if—

“(i) the governing instrument of the organization requires it to be bound by decisions of the other organization;

“(ii) the governing board of the organization includes persons who are specifically designated representatives of the other organization or are members of the governing board, officers, or paid executive staff members of the other organization, or whose service on the governing board is contingent upon the approval of the other organization; or

“(iii) the organization is chartered by the other organization.

“(E) 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

1 section 501(a) of such Code in the same man-
2 ner as this paragraph applies to an amount
3 transferred by a covered organization to an-
4 other covered organization.

5 “(g) NO EFFECT ON OTHER REPORTING REQUIRE-
6 MENTS.—Nothing in this section shall be construed to
7 waive or otherwise affect any other requirement of this
8 Act which relates to the reporting of campaign-related dis-
9 bursements.”.

10 (2) CONFORMING AMENDMENT.—Section
11 304(f)(6) of such Act (52 U.S.C. 30104) is amended
12 by striking “Any requirement” and inserting “Ex-
13 cept as provided in section 324(b), any require-
14 ment”.

15 (b) COORDINATION WITH FINCEN.—

16 (1) IN GENERAL.—The Director of the Finan-
17 cial Crimes Enforcement Network of the Depart-
18 ment of the Treasury shall provide the Federal Elec-
19 tion Commission with such information as necessary
20 to assist in administering and enforcing section 324
21 of the Federal Election Campaign Act of 1971, as
22 added by this section.

23 (2) REPORT.—Not later than 6 months after
24 the date of the enactment of this Act, the Chairman
25 of the Federal Election Commission, in consultation

1 with the Director of the Financial Crimes Enforce-
 2 ment Network of the Department of the Treasury,
 3 shall submit to Congress a report with recommenda-
 4 tions for providing further legislative authority to as-
 5 sist in the administration and enforcement of such
 6 section 324.

7 **SEC. 112. APPLICATION OF FOREIGN MONEY BAN TO DIS-**
 8 **BURSEMENTS FOR CAMPAIGN-RELATED DIS-**
 9 **BURSEMENTS CONSISTING OF COVERED**
 10 **TRANSFERS.**

11 Section 319(a)(1)(A) of the Federal Election Cam-
 12 paign Act of 1971 (52 U.S.C. 30121(a)(1)(A)), as amend-
 13 ed by section 102, is amended by striking the semicolon
 14 and inserting the following: “, and any disbursement,
 15 other than a disbursement described in section
 16 324(a)(3)(A), to another person who made a campaign-
 17 related disbursement consisting of a covered transfer (as
 18 described in section 324) during the 2-year period ending
 19 on the date of the disbursement;”.

20 **SEC. 113. EFFECTIVE DATE.**

21 The amendments made by this subtitle shall apply
 22 with respect to disbursements made on or after January
 23 1, 2020, and shall take effect without regard to whether
 24 or not the Federal Election Commission has promulgated
 25 regulations to carry out such amendments.

1 **TITLE II—STAND BY EVERY AD**
 2 **ACT**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Stand By Every Ad
 5 Act”.

6 **SEC. 202. STAND BY EVERY AD.**

7 (a) EXPANDED DISCLAIMER REQUIREMENTS FOR
 8 CERTAIN COMMUNICATIONS.—Section 318 of the Federal
 9 Election Campaign Act of 1971 (52 U.S.C. 30120) is
 10 amended by adding at the end the following new sub-
 11 section:

12 “(e) EXPANDED DISCLAIMER REQUIREMENTS FOR
 13 COMMUNICATIONS NOT AUTHORIZED BY CANDIDATES OR
 14 COMMITTEES.—

15 “(1) IN GENERAL.—Except as provided in para-
 16 graph (6), any communication described in para-
 17 graph (3) of subsection (a) which is transmitted in
 18 an audio or video format (including an Internet or
 19 digital communication), or which is an Internet or
 20 digital communication transmitted in a text or
 21 graphic format, shall include, in addition to the re-
 22 quirements of paragraph (3) of subsection (a), the
 23 following:

24 “(A) The individual disclosure statement
 25 described in paragraph (2)(A) (if the person

1 paying for the communication is an individual)
2 or the organizational disclosure statement de-
3 scribed in paragraph (2)(B) (if the person pay-
4 ing for the communication is not an individual).

5 “(B) If the communication is transmitted
6 in a video format, or is an Internet or digital
7 communication which is transmitted in a text or
8 graphic format, and is paid for in whole or in
9 part with a payment which is treated as a cam-
10 paign-related disbursement under section 324—

11 “(i) the Top Five Funders list (if ap-
12 plicable); or

13 “(ii) in the case of a communication
14 which, as determined on the basis of cri-
15 teria established in regulations issued by
16 the Commission, is of such short duration
17 that including the Top Five Funders list in
18 the communication would constitute a
19 hardship to the person paying for the com-
20 munication by requiring a disproportionate
21 amount of the content of the communica-
22 tion to consist of the Top Five Funders
23 list, the name of a website which contains
24 the Top Five Funders list (if applicable)
25 or, in the case of an Internet or digital

1 communication, a hyperlink to such
2 website.

3 “(C) If the communication is transmitted
4 in an audio format and is paid for in whole or
5 in part with a payment which is treated as a
6 campaign-related disbursement under section
7 324—

8 “(i) the Top Two Funders list (if ap-
9 plicable); or

10 “(ii) in the case of a communication
11 which, as determined on the basis of cri-
12 teria established in regulations issued by
13 the Commission, is of such short duration
14 that including the Top Two Funders list in
15 the communication would constitute a
16 hardship to the person paying for the com-
17 munication by requiring a disproportionate
18 amount of the content of the communica-
19 tion to consist of the Top Two Funders
20 list, the name of a website which contains
21 the Top Two Funders list (if applicable).

22 “(2) DISCLOSURE STATEMENTS DESCRIBED.—

23 “(A) INDIVIDUAL DISCLOSURE STATE-
24 MENTS.—The individual disclosure statement
25 described in this subparagraph is the following:

1 ‘I am _____, and I approve this
2 message.’, with the blank filled in with the
3 name of the applicable individual.

4 “(B) ORGANIZATIONAL DISCLOSURE
5 STATEMENTS.—The organizational disclosure
6 statement described in this subparagraph is the
7 following: ‘I am _____, the
8 _____ of _____, and
9 _____ approves this message.’,
10 with—

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

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

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

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

22 “(A) COMMUNICATIONS IN TEXT OR
23 GRAPHIC FORMAT.—In the case of a commu-
24 nication to which this subsection applies which
25 is transmitted in a text or graphic format, the

1 disclosure statements required under paragraph
2 (1) shall appear in letters at least as large as
3 the majority of the text in the communication.

4 “(B) COMMUNICATIONS TRANSMITTED IN
5 AUDIO FORMAT.—In the case of a communica-
6 tion to which this subsection applies which is
7 transmitted in an audio format, the disclosure
8 statements required under paragraph (1) shall
9 be made by audio by the applicable individual
10 in a clear and conspicuous manner.

11 “(C) COMMUNICATIONS TRANSMITTED IN
12 VIDEO FORMAT.—In the case of a communica-
13 tion to which this subsection applies which is
14 transmitted in a video format, the information
15 required under paragraph (1)—

16 “(i) shall appear in writing at the end
17 of the communication or in a crawl along
18 the bottom of the communication in a clear
19 and conspicuous manner, with a reasonable
20 degree of color contrast between the back-
21 ground and the printed statement, for a
22 period of at least 6 seconds; and

23 “(ii) shall also be conveyed by an
24 unobscured, full-screen view of the applica-
25 ble individual or by the applicable indi-

1 vidual making the statement in voice-over
 2 accompanied by a clearly identifiable pho-
 3 tograph or similar image of the individual,
 4 except in the case of a Top Five Funders
 5 list.

6 “(4) APPLICABLE INDIVIDUAL DEFINED.—The
 7 term ‘applicable individual’ means, with respect to a
 8 communication to which this subsection applies—

9 “(A) if the communication is paid for by
 10 an individual, the individual involved;

11 “(B) if the communication is paid for by a
 12 corporation, the chief executive officer of the
 13 corporation (or, if the corporation does not have
 14 a chief executive officer, the highest ranking of-
 15 ficial of the corporation);

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

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

22 “(5) TOP FIVE FUNDERS LIST AND TOP TWO
 23 FUNDERS LIST DEFINED.—

24 “(A) TOP FIVE FUNDERS LIST.—The term
 25 ‘Top Five Funders list’ means, with respect to

1 a communication which is paid for in whole or
2 in part with a campaign-related disbursement
3 (as defined in section 324), a list of the five
4 persons who, during the 12-month period end-
5 ing on the date of the disbursement, provided
6 the largest payments of any type in an aggre-
7 gate amount equal to or exceeding \$10,000 to
8 the person who is paying for the communication
9 and the amount of the payments each such per-
10 son provided. If two or more people provided
11 the fifth largest of such payments, the person
12 paying for the communication shall select one of
13 those persons to be included on the Top Five
14 Funders list.

15 “(B) TOP TWO FUNDERS LIST.—The term
16 ‘Top Two Funders list’ means, with respect to
17 a communication which is paid for in whole or
18 in part with a campaign-related disbursement
19 (as defined in section 324), a list of the persons
20 who, during the 12-month period ending on the
21 date of the disbursement, provided the largest
22 and the second largest payments of any type in
23 an aggregate amount equal to or exceeding
24 \$10,000 to the person who is paying for the
25 communication and the amount of the pay-

1 ments each such person provided. If two or
2 more persons provided the second largest of
3 such payments, the person paying for the com-
4 munication shall select one of those persons to
5 be included on the Top Two Funders list.

6 “(C) EXCLUSION OF CERTAIN PAY-
7 MENTS.—For purposes of subparagraphs (A)
8 and (B), in determining the amount of pay-
9 ments made by a person to a person paying for
10 a communication, there shall be excluded the
11 following:

12 “(i) Any amounts provided in the or-
13 dinary course of any trade or business con-
14 ducted by the person paying for the com-
15 munication or in the form of investments
16 in the person paying for the communica-
17 tion.

18 “(ii) Any payment which the person
19 prohibited, in writing, from being used for
20 campaign-related disbursements, but only
21 if the person paying for the communication
22 agreed to follow the prohibition and depos-
23 ited the payment in an account which is
24 segregated from any account used to make
25 campaign-related disbursements.

1 “(6) SPECIAL RULES FOR CERTAIN COMMU-
2 NICATIONS.—

3 “(A) EXCEPTION FOR COMMUNICATIONS
4 PAID FOR BY POLITICAL PARTIES AND CERTAIN
5 POLITICAL COMMITTEES.—This subsection does
6 not apply to any communication to which sub-
7 section (d)(2) applies.

8 “(B) TREATMENT OF VIDEO COMMUNICA-
9 TIONS LASTING 10 SECONDS OR LESS.—In the
10 case of a communication to which this sub-
11 section applies which is transmitted in a video
12 format, or is an Internet or digital communica-
13 tion which is transmitted in a text or graphic
14 format, the communication shall meet the fol-
15 lowing requirements:

16 “(i) The communication shall include
17 the individual disclosure statement de-
18 scribed in paragraph (2)(A) (if the person
19 paying for the communication is an indi-
20 vidual) or the organizational disclosure
21 statement described in paragraph (2)(B)
22 (if the person paying for the communica-
23 tion is not an individual).

24 “(ii) The statement described in
25 clause (i) shall appear in writing at the

1 end of the communication, or in a crawl
 2 along the bottom of the communication, in
 3 a clear and conspicuous manner, with a
 4 reasonable degree of color contrast between
 5 the background and the printed statement,
 6 for a period of at least 4 seconds.

7 “(iii) The communication shall in-
 8 clude, in a clear and conspicuous manner,
 9 a website address with a landing page
 10 which will provide all of the information
 11 described in paragraph (1) with respect to
 12 the communication. Such address shall ap-
 13 pear for the full duration of the commu-
 14 nication.

15 “(iv) To the extent that the format in
 16 which the communication is made permits
 17 the use of a hyperlink, the communication
 18 shall include a hyperlink to the website ad-
 19 dress described in clause (iii).”.

20 (b) APPLICATION OF EXPANDED REQUIREMENTS TO
 21 PUBLIC COMMUNICATIONS CONSISTING OF CAMPAIGN-
 22 RELATED DISBURSEMENTS.—Section 318(a) of such Act
 23 (52 U.S.C. 30120(a)) is amended by striking “for the pur-
 24 pose of financing communications expressly advocating the
 25 election or defeat of a clearly identified candidate” and

1 inserting “for a campaign-related disbursement, as de-
 2 fined in section 324, consisting of a public communica-
 3 tion”.

4 (c) EXCEPTION FOR COMMUNICATIONS PAID FOR BY
 5 POLITICAL PARTIES AND CERTAIN POLITICAL COMMIT-
 6 TEES.—Section 318(d)(2) of such Act (52 U.S.C.
 7 30120(d)(2)) is amended—

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

10 (2) by striking “Any communication” and in-
 11 serting “(A) Any communication”;

12 (3) by inserting “which (except to the extent
 13 provided in subparagraph (B)) is paid for by a polit-
 14 ical committee (including a political committee of a
 15 political party) and” after “subsection (a)”;

16 (4) by striking “or other person” each place it
 17 appears; and

18 (5) by adding at the end the following new sub-
 19 paragraph:

20 “(B)(i) This paragraph does not apply to a
 21 communication paid for in whole or in part during
 22 a calendar year with a campaign-related disburse-
 23 ment, but only if the covered organization making
 24 the campaign-related disbursement made campaign-
 25 related disbursements (as defined in section 324) ag-

1 gregating more than \$10,000 during such calendar
2 year.

3 “(ii) For purposes of clause (i), in determining
4 the amount of campaign-related disbursements made
5 by a covered organization during a year, there shall
6 be excluded the following:

7 “(I) Any amounts received by the covered
8 organization in the ordinary course of any trade
9 or business conducted by the covered organiza-
10 tion or in the form of investments in the cov-
11 ered organization.

12 “(II) Any amounts received by the covered
13 organization from a person who prohibited, in
14 writing, the organization from using such
15 amounts for campaign-related disbursements,
16 but only if the covered organization agreed to
17 follow the prohibition and deposited the
18 amounts in an account which is segregated
19 from any account used to make campaign-re-
20 lated disbursements.”.

21 **SEC. 203. DISCLAIMER REQUIREMENTS FOR COMMUNICA-**
22 **TIONS MADE THROUGH PRERECORDED TELE-**
23 **PHONE CALLS.**

24 (a) APPLICATION OF REQUIREMENTS.—

1 (1) IN GENERAL.—Section 318(a) of the Fed-
 2 eral Election Campaign Act of 1971 (52 U.S.C.
 3 30120(a)) is amended by inserting after “mailing,”
 4 each place it appears the following: “telephone call
 5 which consists in substantial part of a prerecorded
 6 audio message,”.

7 (2) APPLICATION TO COMMUNICATIONS SUB-
 8 JECT TO EXPANDED DISCLAIMER REQUIREMENTS.—
 9 Section 318(e)(1) of such Act (52 U.S.C.
 10 30120(e)(1)), as added by section 202(a), is amend-
 11 ed in the matter preceding subparagraph (A) by
 12 striking “which is transmitted in an audio or video
 13 format” and inserting “which is transmitted in an
 14 audio or video format or which consists of a tele-
 15 phone call consisting in substantial part of a
 16 prerecorded audio message”.

17 (b) TREATMENT AS COMMUNICATION TRANSMITTED
 18 IN AUDIO FORMAT.—

19 (1) COMMUNICATIONS BY CANDIDATES OR AU-
 20 THORIZED PERSONS.—Section 318(d) of such Act
 21 (52 U.S.C. 30120(d)) is amended by adding at the
 22 end the following new paragraph:

23 “(3) PRERECORDED TELEPHONE CALLS.—Any
 24 communication described in paragraph (1), (2), or
 25 (3) of subsection (a) (other than a communication

1 which is subject to subsection (e)) which is a tele-
2 phone call consisting in substantial part of a
3 prerecorded audio message shall include, in addition
4 to the requirements of such paragraph, the audio
5 statement required under subparagraph (A) of para-
6 graph (1) or the audio statement required under
7 paragraph (2) (whichever is applicable), except that
8 the statement shall be made at the beginning of the
9 telephone call.”.

10 (2) COMMUNICATIONS SUBJECT TO EXPANDED
11 DISCLAIMER REQUIREMENTS.—Section 318(e)(3) of
12 such Act (52 U.S.C. 30120(e)(3)), as added by sec-
13 tion 202(a), is amended by adding at the end the
14 following new subparagraph:

15 “(D) PRERECORDED TELEPHONE
16 CALLS.—In the case of a communication to
17 which this subsection applies which is a tele-
18 phone call consisting in substantial part of a
19 prerecorded audio message, the communication
20 shall be considered to be transmitted in an
21 audio format.”.

1 **SEC. 204. NO EXPANSION OF PERSONS SUBJECT TO DIS-**
2 **CLAIMER REQUIREMENTS ON INTERNET**
3 **COMMUNICATIONS.**

4 Nothing in this title or the amendments made by this
5 title may be construed to require any person who is not
6 required under section 318 of the Federal Election Cam-
7 paign Act of 1971 (as provided under section 110.11 of
8 title 11 of the Code of Federal Regulations) to include
9 a disclaimer on communications made by the person
10 through the Internet to include any disclaimer on any such
11 communications.

12 **SEC. 205. EFFECTIVE DATE.**

13 The amendments made by this title shall apply with
14 respect to communications made on or after January 1,
15 2020, and shall take effect without regard to whether or
16 not the Federal Election Commission has promulgated
17 regulations to carry out such amendments.

18 **TITLE III—OTHER PROVISIONS**

19 **SEC. 301. SEVERABILITY.**

20 If any provision of this Act or amendment made by
21 this Act, or the application of a provision or amendment
22 to any person or circumstance, is held to be unconstitu-
23 tional, the remainder of this Act and amendments made
24 by this Act, and the application of the provisions and

- 1 amendment to any person or circumstance, shall not be
- 2 affected by the holding.

