

115TH CONGRESS
2D SESSION

S. 3150

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

JUNE 27, 2018

Mr. WHITEHOUSE (for himself, Mr. WYDEN, Mr. SCHUMER, Mr. UDALL, Mr. VAN HOLLEN, Ms. HARRIS, Mr. MARKEY, Mr. CARPER, Mr. BLUMENTHAL, Mrs. GILLIBRAND, Mr. REED, Ms. HASSAN, Ms. KLOBUCHAR, Mr. KING, Mr. HEINRICH, Mr. MURPHY, Mr. SANDERS, Mr. LEAHY, Ms. SMITH, Mr. MENENDEZ, Mr. CARDIN, Ms. WARREN, Mrs. McCASKILL, Mr. MERKLEY, Ms. CORTEZ MASTO, Mr. KAINE, Ms. HIRONO, Mr. BENNET, Mrs. SHAHEEN, Mr. NELSON, Ms. BALDWIN, Ms. HEITKAMP, Mr. JONES, Mr. CASEY, Mrs. FEINSTEIN, Mr. DURBIN, Mr. BOOKER, Mr. TESTER, Mrs. MURRAY, Mr. SCHATZ, Ms. DUCKWORTH, Mr. BROWN, Mr. MANCHIN, Ms. STABENOW, Ms. CANTWELL, Mr. PETERS, Mr. WARNER, Mr. COONS, and Mr. DONNELLY) 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 2018” or the “DISCLOSE Act
 5 of 2018”.

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—REGULATION OF CERTAIN POLITICAL SPENDING

Sec. 101. Application of ban on contributions and expenditures by foreign na-
 tionals to domestic corporations that are foreign-controlled, for-
 eign-influenced, and foreign-owned.

Sec. 102. Clarification of application of foreign money ban to certain disburse-
 ments and activities.

TITLE II—CAMPAIGN DISBURSEMENT REPORTING

Sec. 201. Campaign disbursement reporting.

Sec. 202. Effective date.

TITLE III—STAND BY YOUR AD

Sec. 301. Stand By Your Ad.

TITLE IV—USE OF FUNDS

Sec. 401. Repeal of restrictions on use of certain funds.

TITLE V—OTHER PROVISIONS

Sec. 501. Severability.

1 **TITLE I—REGULATION OF**
 2 **CERTAIN POLITICAL SPENDING**

3 **SEC. 101. APPLICATION OF BAN ON CONTRIBUTIONS AND**
 4 **EXPENDITURES BY FOREIGN NATIONALS TO**
 5 **DOMESTIC CORPORATIONS THAT ARE FOR-**
 6 **EIGN-CONTROLLED, FOREIGN-INFLUENCED,**
 7 **AND FOREIGN-OWNED.**

8 (a) APPLICATION OF BAN.—Section 319(b) of the
 9 Federal Election Campaign Act of 1971 (52 U.S.C.
 10 30121(b)) is amended—

11 (1) by striking “or” at the end of paragraph
 12 (1);

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

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

17 “(3) any corporation which is not a foreign na-
 18 tional described in paragraph (1) and—

19 “(A) in which a foreign national described
 20 in paragraph (1) or (2) directly or indirectly
 21 owns or controls—

22 “(i) 5 percent or more of the voting
 23 shares, if the foreign national is a foreign
 24 country, a foreign government official, or a
 25 corporation principally owned or controlled

1 by a foreign country or foreign government
2 official; or

3 “(ii) 20 percent or more of the voting
4 shares, if the foreign national is not de-
5 scribed in clause (i);

6 “(B) in which two or more foreign nation-
7 als described in paragraph (1) or (2), each of
8 whom owns or controls at least 5 percent of the
9 voting shares, directly or indirectly own or con-
10 trol 50 percent or more of the voting shares;

11 “(C) over which one or more foreign na-
12 tionals described in paragraph (1) or (2) has
13 the power to direct, dictate, or control the deci-
14 sionmaking process of the corporation with re-
15 spect to its interests in the United States; or

16 “(D) over which one or more foreign na-
17 tionals described in paragraph (1) or (2) has
18 the power to direct, dictate, or control the deci-
19 sionmaking process of the corporation with re-
20 spect to activities in connection with a Federal,
21 State, or local election, including—

22 “(i) the making of a contribution, do-
23 nation, expenditure, independent expendi-
24 ture, or disbursement for an electioneering

1 communication (within the meaning of sec-
2 tion 304(f)(3)); or

3 “(ii) the administration of a political
4 committee established or maintained by the
5 corporation.”.

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

9 “(c) CERTIFICATION OF COMPLIANCE REQUIRED
10 PRIOR TO CARRYING OUT ACTIVITY.—Prior to the mak-
11 ing in connection with an election for Federal office of any
12 contribution, donation, expenditure, independent expendi-
13 ture, or disbursement for an electioneering communication
14 by a corporation during a year, the chief executive officer
15 of the corporation (or, if the corporation does not have
16 a chief executive officer, the highest ranking official of the
17 corporation), shall file a certification with the Commission,
18 under penalty of perjury, that the corporation is not pro-
19 hibited from carrying out such activity under subsection
20 (b)(3), unless the chief executive officer has previously
21 filed such a certification during that calendar year.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect upon the expiration of the
24 180-day period which begins on the date of the enactment
25 of this Act, and shall take effect without regard to whether

1 or not the Federal Election Commission has promulgated
2 regulations to carry out such amendments.

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

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

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

21 “(8) A separate segregated fund established by a cor-
22 poration may not make a contribution or expenditure dur-
23 ing a year unless the fund has certified to the Commission
24 the following during the year:

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

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

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

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

18 **TITLE II—CAMPAIGN**
19 **DISBURSEMENT REPORTING**

20 **SEC. 201. CAMPAIGN DISBURSEMENT REPORTING.**

21 (a) INFORMATION REQUIRED TO BE REPORTED.—

22 (1) TREATMENT OF FUNCTIONAL EQUIVALENT
23 OF EXPRESS ADVOCACY AS INDEPENDENT EXPENDI-
24 TURE.—Subparagraph (A) of section 301(17) of the

1 Federal Election Campaign Act of 1971 (52 U.S.C.
2 30101(17)) is amended to read as follows:

3 “(A) that expressly advocates the election
4 or defeat of a clearly identified candidate, or is
5 the functional equivalent of express advocacy
6 because, when taken as a whole, it can be inter-
7 preted by a reasonable person only as advo-
8 cating the election or defeat of a candidate, tak-
9 ing into account whether the communication in-
10 volved mentions a candidacy, a political party,
11 or a challenger to a candidate, or takes a posi-
12 tion on a candidate’s character, qualifications,
13 or fitness for office; and”.

14 (2) EXPANSION OF PERIOD DURING WHICH
15 COMMUNICATIONS ARE TREATED AS ELECTION-
16 EERING COMMUNICATIONS.—Section 304(f)(3)(A)(i)
17 of such Act (52 U.S.C. 30104(f)(3)(A)(i)) is amend-
18 ed—

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

21 (B) by striking subclause (II) and insert-
22 ing the following:

23 “(II) in the case of a communica-
24 tion which refers to a candidate for an
25 office other than the President or Vice

1 President, is made during the period
2 beginning on January 1 of the cal-
3 endar year in which a general or run-
4 off election is held and ending on the
5 date of the general or runoff election
6 (or in the case of a special election,
7 during the period beginning on the
8 date on which the announcement with
9 respect to such election is made and
10 ending on the date of the special elec-
11 tion);

12 “(III) in the case of a commu-
13 nication which refers to a candidate
14 for the office of President or Vice
15 President, is made in any State dur-
16 ing the period beginning 120 days be-
17 fore the first primary election, caucus,
18 or preference election held for the se-
19 lection of delegates to a national
20 nominating convention of a political
21 party is held in any State (or, if no
22 such election or caucus is held in any
23 State, the first convention or caucus
24 of a political party which has the au-
25 thority to nominate a candidate for

1 the office of President or Vice Presi-
 2 dent) and ending on the date of the
 3 general election; and”.

4 (3) EFFECTIVE DATE; TRANSITION FOR ELEC-
 5 TIONEERING COMMUNICATIONS MADE PRIOR TO EN-
 6 ACTMENT.—The amendment made by paragraph (2)
 7 shall apply with respect to communications made on
 8 or after January 1, 2019, except that no commu-
 9 nication which is made prior to such date shall be
 10 treated as an electioneering communication under
 11 subclause (II) or (III) of section 304(f)(3)(A)(i) of
 12 the Federal Election Campaign Act of 1971 (as
 13 amended by paragraph (2)) unless the communica-
 14 tion would be treated as an electioneering commu-
 15 nication under such section if the amendment made
 16 by paragraph (2) did not apply.

17 (b) DISCLOSURE REQUIREMENTS FOR CORPORA-
 18 TIONS, LABOR ORGANIZATIONS, AND CERTAIN OTHER
 19 ENTITIES.—

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

23 **“SEC. 324. DISCLOSURE OF CAMPAIGN-RELATED DISBURSE-**
 24 **MENTS BY COVERED ORGANIZATIONS.**

25 **“(a) DISCLOSURE STATEMENT.—**

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

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

13 “(B) in the case of any subsequent statement filed under this subsection, for the period
14 beginning on the previous disclosure date and
15 ending on such disclosure date.
16

17 “(2) INFORMATION DESCRIBED.—The information described in this paragraph is as follows:

19 “(A) The name of the covered organization
20 and the principal place of business of such organization and, in the case of a covered organization
21 that is a corporation (other than a business concern that is an issuer of a class of securities
22 registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or
23
24
25

1 that is required to file reports under section
2 15(d) of that Act (15 U.S.C. 78o(d)) or an en-
3 tity described in subsection (e)(2), a list of the
4 beneficial owners (as defined in paragraph
5 (4)(A)) of the entity that—

6 “(i) identifies each beneficial owner by
7 name and current residential or business
8 street address; and

9 “(ii) if any beneficial owner exercises
10 control over the entity through another
11 legal entity, such as a corporation, partner-
12 ship, limited liability company, or trust,
13 identifies each such other legal entity and
14 each such beneficial owner who will use
15 that other entity to exercise control over
16 the entity.

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

22 “(C) In the case of a campaign-related dis-
23 bursement that is not a covered transfer, the
24 election to which the campaign-related disburse-
25 ment pertains and if the disbursement is made

1 for a public communication, the name of any
2 candidate identified in such communication and
3 whether such communication is in support of or
4 in opposition to a candidate.

5 “(D) A certification by the chief executive
6 officer or person who is the head of the covered
7 organization that the campaign-related dis-
8 bursement is not made in cooperation, consulta-
9 tion, or concert with or at the request or sug-
10 gession of a candidate, authorized committee, or
11 agent of a candidate, political party, or agent of
12 a political party.

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

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

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

1 “(iii) the aggregate amount of all such
2 payments made by the person during the
3 period beginning on the first day of the
4 election reporting cycle and ending on the
5 disclosure date,
6 but only if such payment was made by a person
7 who made payments to the account in an aggregate
8 amount of \$10,000 or more during the period
9 beginning on the first day of the election
10 reporting cycle and ending on the disclosure
11 date.

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

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

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

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

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

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

12 “(3) EXCEPTIONS.—

13 “(A) AMOUNTS RECEIVED IN ORDINARY
14 COURSE OF BUSINESS.—The requirement to in-
15 clude in a statement filed under paragraph (1)
16 the information described in paragraph (2)
17 shall not apply to amounts received by the cov-
18 ered organization in commercial transactions in
19 the ordinary course of any trade or business
20 conducted by the covered organization or in the
21 form of investments (other than investments by
22 the principal shareholder in a limited liability
23 corporation) in the covered organization.

24 “(B) DONOR RESTRICTION ON USE OF
25 FUNDS.—The requirement to include in a state-

1 ment submitted under paragraph (1) the infor-
2 mation described in subparagraph (F) of para-
3 graph (2) shall not apply if—

4 “(i) the person described in such sub-
5 paragraph prohibited, in writing, the use of
6 the payment made by such person for cam-
7 paign-related disbursements; and

8 “(ii) the covered organization agreed
9 to follow the prohibition and deposited the
10 payment in an account which is segregated
11 from any account used to make campaign-
12 related disbursements.

13 “(C) AMOUNTS RECEIVED FROM AFFILI-
14 ATES.—The requirement to include in a state-
15 ment submitted under paragraph (1) the infor-
16 mation described in subparagraph (F) of para-
17 graph (2) shall not apply to any amount which
18 is described in subsection (f)(3)(A)(i).

19 “(4) OTHER DEFINITIONS.—For purposes of
20 this section:

21 “(A) BENEFICIAL OWNER DEFINED.—

22 “(i) IN GENERAL.—Except as pro-
23 vided in clause (ii), the term ‘beneficial
24 owner’ means, with respect to any entity,

1 a natural person who, directly or indi-
2 rectly—

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

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

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

11 “(I) a minor child;

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

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

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

1 “(V) a creditor of an entity, un-
2 less the creditor also meets the re-
3 quirements of clause (i).

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

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

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

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

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

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

4 “(b) COORDINATION WITH OTHER PROVISIONS.—

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

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

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

19 “(d) CAMPAIGN-RELATED DISBURSEMENT DE-
20 FINED.—

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

1 “(A) An independent expenditure con-
2 sisting of a public communication.

3 “(B) An electioneering communication, as
4 defined in section 304(f)(3).

5 “(C) A covered transfer.

6 “(2) INTENT NOT REQUIRED.—A disbursement
7 for an item described in subparagraph (A), (B), or
8 (C) of paragraph (1) shall be treated as a campaign-
9 related disbursement regardless of the intent of the
10 person making the disbursement.

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

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

17 “(2) A limited liability corporation that is not
18 otherwise treated as a corporation for purposes of
19 this Act (other than an organization described in
20 section 501(c)(3) of the Internal Revenue Code of
21 1986).

22 “(3) An organization described in section
23 501(c) of such Code and exempt from taxation
24 under section 501(a) of such Code (other than an

1 organization described in section 501(c)(3) of such
2 Code).

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

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

9 “(6) A political committee with an account that
10 accepts donations or contributions that do not com-
11 ply with the contribution limits or source prohibi-
12 tions under this Act, but only with respect to such
13 accounts.

14 “(f) COVERED TRANSFER DEFINED.—

15 “(1) IN GENERAL.—In this section, the term
16 ‘covered transfer’ means any transfer or payment of
17 funds by a covered organization to another person if
18 the covered organization—

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

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

23 “(ii) making a transfer to another
24 person for the purpose of making or pay-

1 ing for such campaign-related disburse-
2 ments;

3 “(B) made such transfer or payment in re-
4 sponse to a solicitation or other request for a
5 donation or payment for—

6 “(i) the making of or paying for cam-
7 paign-related disbursements (other than
8 covered transfers); or

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

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

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

18 “(ii) donating or transferring any
19 amount of such transfer or payment to an-
20 other person for the purpose of making or
21 paying for such campaign-related disburse-
22 ments;

23 “(D) made campaign-related disburse-
24 ments (other than a covered transfer) in an ag-
25 gregate amount of \$50,000 or more during the

1 2-year period ending on the date of the transfer
2 or payment, or knew or had reason to know
3 that the person receiving the transfer or pay-
4 ment made such disbursements in such an ag-
5 gregate amount during that 2-year period; or

6 “(E) knew or had reason to know that the
7 person receiving the transfer or payment would
8 make campaign-related disbursements in an ag-
9 gregate amount of \$50,000 or more during the
10 2-year period beginning on the date of the
11 transfer or payment.

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

14 “(A) A disbursement made by a covered
15 organization in a commercial transaction in the
16 ordinary course of any trade or business con-
17 ducted by the covered organization or in the
18 form of investments made by the covered orga-
19 nization.

20 “(B) A disbursement made by a covered
21 organization if—

22 “(i) the covered organization prohib-
23 ited, in writing, the use of such disburse-
24 ment for campaign-related disbursements;
25 and

1 “(ii) the recipient of the disbursement
2 agreed to follow the prohibition and depos-
3 ited the disbursement in an account which
4 is segregated from any account used to
5 make campaign-related disbursements.

6 “(3) EXCEPTION FOR CERTAIN TRANSFERS
7 AMONG AFFILIATES.—

8 “(A) EXCEPTION FOR CERTAIN TRANS-
9 FERS AMONG AFFILIATES.—

10 “(i) IN GENERAL.—The term ‘covered
11 transfer’ does not include an amount
12 transferred by one covered organization to
13 another covered organization if such trans-
14 fer—

15 “(I) is not made directly into a
16 separate segregated bank account de-
17 scribed in subsection (a)(2)(E); and

18 “(II) is treated as a transfer be-
19 tween affiliates under subparagraph
20 (B).

21 “(ii) SPECIAL RULE.—If the aggre-
22 gate amount of transfers described in
23 clause (i) exceeds \$50,000 in any election
24 reporting cycle—

1 “(I) the covered organization
2 which makes such transfers shall pro-
3 vide to the covered organization re-
4 ceiving such transfers the information
5 required under subsection (a)(2)(F)
6 (applied by substituting ‘the period
7 beginning on the first day of the elec-
8 tion reporting cycle and ending on the
9 date of the most recent transfer de-
10 scribed in subsection (f)(3)(A)(i)’ for
11 ‘the period covered by the statement’
12 in clause (i) thereof); and

13 “(II) the covered organization re-
14 ceiving such transfers shall report the
15 information described in subclause (I)
16 on any statement filed under sub-
17 section (a)(1) as if any contribution,
18 donation, or transfer to which such
19 information relates was made directly
20 to the covered organization receiving
21 the transfer.

22 “(B) DESCRIPTION OF TRANSFERS BE-
23 TWEEN AFFILIATES.—A transfer of amounts
24 from one covered organization to another cov-

1 ered organization shall be treated as a transfer
2 between affiliates if—

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

5 “(ii) each of the organizations is an
6 affiliate of the same organization,

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

11 “(C) DETERMINATION OF AFFILIATE STA-
12 TUS.—For purposes of this paragraph, the fol-
13 lowing organizations shall be considered to be
14 affiliated with each other:

15 “(i) A membership organization, in-
16 cluding a trade or professional association,
17 and the related State and local entities of
18 that organization.

19 “(ii) A national or international labor
20 organization and its State or local unions,
21 or an organization of national or inter-
22 national unions and its State and local en-
23 tities.

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

1 “(D) COVERAGE OF TRANSFERS TO AF-
2 FILATED SECTION 501(c)(3) ORGANIZA-
3 TIONS.—This paragraph shall apply with re-
4 spect to an amount transferred by a covered or-
5 ganization to an organization described in para-
6 graph (3) of section 501(c) of the Internal Rev-
7 enue Code of 1986 and exempt from tax under
8 section 501(a) of such Code in the same man-
9 ner as this paragraph applies to an amount
10 transferred by a covered organization to an-
11 other covered organization.”.

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

17 (3) COORDINATION WITH FINCEN.—

18 (A) IN GENERAL.—The Director of the Fi-
19 nancial Crimes Enforcement Network of the
20 Department of the Treasury shall provide the
21 Federal Election Commission with such infor-
22 mation as necessary to assist in administering
23 and enforcing section 324 of the Federal Elec-
24 tion Campaign Act of 1971, as added by this
25 subsection.

1 (B) REPORT.—Not later than 6 months
2 after the date of the enactment of this Act, the
3 Chairman of the Federal Election Commission,
4 in consultation with the Director of the Finan-
5 cial Crimes Enforcement Network of the De-
6 partment of the Treasury, shall submit to Con-
7 gress a report with recommendations for pro-
8 viding further legislative authority to assist in
9 the administration and enforcement of such sec-
10 tion 324.

11 **SEC. 202. EFFECTIVE DATE.**

12 Except as provided in section 201(a)(3), the amend-
13 ments made by this title shall apply with respect to dis-
14 bursements made on or after January 1, 2019, and shall
15 take effect without regard to whether or not the Federal
16 Election Commission has promulgated regulations to carry
17 out such amendments.

18 **TITLE III—STAND BY YOUR AD**

19 **SEC. 301. STAND BY YOUR AD.**

20 (a) DISCLAIMER REQUIREMENTS FOR CAMPAIGN-RE-
21 LATED DISBURSEMENTS.—Section 318(a) of the Federal
22 Election Campaign Act of 1971 (52 U.S.C. 30120(a)) is
23 amended by striking “for the purpose of financing commu-
24 nications expressly advocating the election or defeat of a
25 clearly identified candidate” and inserting “for a cam-

1 paign-related disbursement, as defined in section 324, con-
2 sisting of a public communication”.

3 (b) STAND BY YOUR AD REQUIREMENTS.—

4 (1) MAINTENANCE OF REQUIREMENTS FOR PO-
5 LITICAL 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 (A) in the heading, by striking “OTHERS”
9 and inserting “CERTAIN POLITICAL COMMIT-
10 TEES”;

11 (B) by striking “Any communication” and
12 inserting “(A) Any communication”;

13 (C) by inserting “which (except to the ex-
14 tent provided in the last sentence of this para-
15 graph) is paid for by a political committee (in-
16 cluding a political committee of a political
17 party) and” after “subsection (a)”;

18 (D) by striking “or other person” each
19 place it appears; and

20 (E) by adding at the end the following new
21 subparagraph:

22 “(B) This paragraph does not apply to a com-
23 munication paid for in whole or in part with a pay-
24 ment which is treated as a campaign-related dis-
25 bursement under section 324 and with respect to

1 which a covered organization files a statement under
2 such section.”.

3 (2) MODIFICATION OF ADDITIONAL REQUIRE-
4 MENTS FOR CERTAIN COMMUNICATIONS.—Section
5 318(d) of the Federal Election Campaign Act of
6 1971 (52 U.S.C. 30120(d)) is amended—

7 (A) in paragraph (1)(A)—

8 (i) by striking “which is transmitted
9 through radio” and inserting “which is in
10 an audio format”; and

11 (ii) by striking “BY RADIO” in the
12 heading and inserting “AUDIO FORMAT”;

13 (B) in paragraph (1)(B)—

14 (i) by striking “which is transmitted
15 through television” and inserting “which is
16 in video format”; and

17 (ii) by striking “BY TELEVISION” in
18 the heading and inserting “VIDEO FOR-
19 MAT”; and

20 (C) in paragraph (2)—

21 (i) by striking “transmitted through
22 radio or television” and inserting “made in
23 audio or video format”; and

1 (ii) by striking “through television” in
2 the second sentence and inserting “in video
3 format”.

4 (3) SPECIAL DISCLAIMER REQUIREMENTS FOR
5 CERTAIN COMMUNICATIONS.—Section 318 of such
6 Act (52 U.S.C. 30120) is amended by adding at the
7 end the following new subsection:

8 “(e) COMMUNICATIONS BY OTHERS.—

9 “(1) IN GENERAL.—Any communication de-
10 scribed in paragraph (3) of subsection (a) which is
11 transmitted in audio or video format (other than a
12 communication to which subsection (d)(2) applies)
13 shall include, in addition to the requirements of such
14 paragraph, the following:

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

21 “(B) If the communication is transmitted
22 in video format and is paid for in whole or in
23 part with a payment which is treated as a cam-
24 paign-related disbursement under section 324,
25 the Top Five Funders list (if applicable), un-

1 less, on the basis of criteria established in regu-
2 lations issued by the Commission, the commu-
3 nication is of such short duration that including
4 the Top Five Funders list in the communication
5 would constitute a hardship to the person pay-
6 ing for the communication by requiring a dis-
7 proportionate amount of the content of the
8 communication to consist of the Top Five
9 Funders list.

10 “(C) If the communication is transmitted
11 in audio format and is paid for in whole or in
12 part with a payment which is treated as a cam-
13 paign-related disbursement under section 324,
14 the Top Two Funders list (if applicable), un-
15 less, on the basis of criteria established in regu-
16 lations issued by the Commission, the commu-
17 nication is of such short duration that including
18 the Top Two Funders list in the communication
19 would constitute a hardship to the person pay-
20 ing for the communication by requiring a dis-
21 proportionate amount of the content of the
22 communication to consist of the Top Two
23 Funders list.

24 “(2) DISCLOSURE STATEMENTS DESCRIBED.—

1 “(A) INDIVIDUAL DISCLOSURE STATE-
 2 MENTS.—The individual disclosure statement
 3 described in this subparagraph is the following:
 4 ‘I am _____, and I approve this
 5 message.’, with the blank filled in with the
 6 name of the applicable individual.

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

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

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

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

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

1 “(A) COMMUNICATIONS IN AUDIO FOR-
2 MAT.—In the case of a communication to which
3 this subsection applies which is transmitted in
4 audio format, the disclosure statements re-
5 quired under paragraph (1) shall be made by
6 audio by the applicable individual in a clearly
7 spoken manner.

8 “(B) COMMUNICATIONS TRANSMITTED IN
9 VIDEO FORMAT.—In the case of a communica-
10 tion to which this subsection applies which is
11 transmitted in video format, the information re-
12 quired under paragraph (1)—

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

20 “(ii) shall also be conveyed by an
21 unobscured, full-screen view of the applica-
22 ble individual or by the applicable indi-
23 vidual making the statement in voice-over
24 accompanied by a clearly identifiable pho-
25 tograph or similar image of the individual,

1 except in the case of a Top Five Funders
2 list.

3 “(4) DEFINITIONS.—In this subsection:

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

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

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

16 “(iii) if the communication is paid for
17 by a labor organization, trade association,
18 or any other organization, the highest
19 ranking officer or official of the organiza-
20 tion.

21 “(B) COVERED ORGANIZATION AND CAM-
22 PAIGN-RELATED DISBURSEMENT.—The terms
23 ‘campaign-related disbursement’ and ‘covered
24 organization’ have the meaning given such
25 terms in section 324.

1 “(C) TOP FIVE FUNDERS LIST.—The term
2 ‘Top Five Funders list’ means, with respect to
3 a communication paid for in whole or in part
4 with a payment which is treated as a campaign-
5 related disbursement under section 324, a list
6 of the five persons who provided the largest
7 payments of any type in an aggregate amount
8 equal to or exceeding \$10,000 which are re-
9 quired under section 324(a) to be included in
10 the reports filed by a covered organization with
11 respect to such communication during the 12-
12 month period ending on the date of the dis-
13 bursement and the amount of the payments
14 each such person provided. If two or more peo-
15 ple provided the fifth largest of such payments,
16 the covered organization involved shall select
17 one of those persons to be included on the Top
18 Five Funders list.

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

1 aggregate amount equal to or exceeding \$10,000
2 which are required under section 324(a) to be
3 included in the reports filed by a covered orga-
4 nization with respect to such communication
5 during the 12-month period ending on the date
6 of the disbursement and the amount of the pay-
7 ments each such person provided. If two or
8 more persons provided the second largest of
9 such payments, the covered organization in-
10 volved shall select one of those persons to be in-
11 cluded on the Top Two Funders list.”.

12 (4) CLARIFICATION RELATED TO INTERNET
13 COMMUNICATIONS.—Section 318 of such Act (52
14 U.S.C. 30120), as amended by paragraph (3), is
15 amended by adding at the end the following new
16 subsection:

17 “(f) AUDIO AND VIDEO FORMATS.—For purposes of
18 this section, any reference to a communication transmitted
19 in audio format or video format shall include a reference
20 to a communication transmitted over the Internet in such
21 format.”.

22 (c) DISCLOSURE REQUIREMENTS FOR CAMPAIGN
23 COMMUNICATIONS MADE THROUGH PRERECORDED
24 TELEPHONE CALLS.—

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

7 (2) TREATMENT AS AUDIO COMMUNICATION.—

8 (A) COMMUNICATIONS BY CANDIDATES OR
9 AUTHORIZED PERSONS.—Section 318(d)(1) of
10 such Act (52 U.S.C. 30120(d)(1)) is amended
11 by adding at the end the following new sub-
12 paragraph:

13 “(C) PRERECORDED TELEPHONE CALLS.—

14 Any communication described in paragraph (1)
15 or (2) of subsection (a) which is a telephone call
16 which consists in substantial part of a
17 prerecorded audio message shall meet the re-
18 quirements applicable under subparagraph (A)
19 to communications transmitted in an audio for-
20 mat, except that the statement required under
21 such subparagraph shall be made at the begin-
22 ning of the telephone call.”.

23 (B) COMMUNICATIONS BY OTHERS.—

24 (i) IN GENERAL.—Section 318(d)(2)
25 of such Act (52 U.S.C. 30120(d)(2)), as

1 amended by subsection (b)(1), is further
2 amended—

3 (I) by redesignating subpara-
4 graph (B) as subparagraph (C); and

5 (II) by inserting after subpara-
6 graph (A) the following new subpara-
7 graph:

8 “(B) Any communication described in
9 paragraph (3) of subsection (a) which is a tele-
10 phone call which consists in substantial part of
11 a prerecorded audio message shall meet the re-
12 quirements applicable under this paragraph to
13 communications transmitted in an audio for-
14 mat, except that the statement required shall be
15 made at the beginning of the telephone call.”.

16 (ii) APPLICATION OF SPECIAL PER-
17 SONAL DISCLOSURE RULES FOR CERTAIN
18 COMMUNICATIONS.—Section 318(e) of such
19 Act, as added by subsection (b)(3), is
20 amended—

21 (I) in paragraph (1) in the mat-
22 ter preceding subparagraph (A), by
23 striking “audio or video format” and
24 inserting “audio or video format, or
25 which is a telephone call which con-

1 sists in substantial part of a
2 prerecorded audio message,”; and

3 (II) in paragraph (3), by adding
4 at the end the following new subpara-
5 graph:

6 “(C) COMMUNICATIONS MADE THROUGH
7 PRERECORDED TELEPHONE CALLS.—Any com-
8 munication to which this paragraph applies
9 which is a telephone call which consists in sub-
10 stantial part of a prerecorded audio message
11 shall meet the requirements applicable under
12 this paragraph to communications transmitted
13 in audio format.”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to disbursements
16 made on or after January 1, 2019.

17 **TITLE IV—USE OF FUNDS**

18 **SEC. 401. REPEAL OF RESTRICTIONS ON USE OF CERTAIN** 19 **FUNDS.**

20 The following provisions of the Consolidated Appro-
21 priations Act, 2018 are repealed:

- 22 (1) Section 125 of Division E.
23 (2) Section 631 of Division E.
24 (3) Section 735 of Division E.

1 TITLE V—OTHER PROVISIONS**2 SEC. 501. SEVERABILITY.**

3 If any provision of this Act or amendment made by
4 this Act, or the application of a provision or amendment
5 to any person or circumstance, is held to be unconstitu-
6 tional, the remainder of this Act and amendments made
7 by this Act, and the application of the provisions and
8 amendment to any person or circumstance, shall not be
9 affected by the holding.

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