

115TH CONGRESS  
2D SESSION

# S. 2966

To amend the Federal Election Campaign Act of 1971 to require donor disclosure for certain organizations accepting donations from foreign nationals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 24, 2018

Mr. WHITEHOUSE (for himself, Mr. DURBIN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Federal Election Campaign Act of 1971 to require donor disclosure for certain organizations accepting donations from foreign nationals, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stop Secret Foreign  
5 Interference in Elections Act”.

1 **SEC. 2. DONOR DISCLOSURE FOR CERTAIN ORGANIZA-**  
 2 **TIONS ACCEPTING DONATIONS FROM FOR-**  
 3 **EIGN NATIONALS.**

4 (a) IN GENERAL.—Section 324 of the Federal Elec-  
 5 tion Campaign Act of 1971 (52 U.S.C. 30126) is amended  
 6 to read as follows:

7 **“SEC. 324. DONOR DISCLOSURE FOR CERTAIN ORGANIZA-**  
 8 **TIONS ACCEPTING DONATIONS FROM FOR-**  
 9 **EIGN NATIONALS.**

10 “(a) DEFINITIONS.—In this section:

11 “(1) CAMPAIGN-RELATED DISBURSEMENT.—

12 “(A) IN GENERAL.—The term ‘campaign-  
 13 related disbursement’ means a disbursement by  
 14 a covered 501(c) organization for any of the fol-  
 15 lowing:

16 “(i) An independent expenditure con-  
 17 sisting of a public communication.

18 “(ii) An electioneering communication,  
 19 as defined in section 304(f)(3).

20 “(iii) A covered transfer.

21 “(B) INTENT NOT REQUIRED.—A dis-  
 22 bursement for an item described in clause (i),  
 23 (ii), or (iii) of subparagraph (A) shall be treat-  
 24 ed as a campaign-related disbursement regard-  
 25 less of the intent of the person making the dis-  
 26 bursement.

1           “(2) COVERED 501(c) ORGANIZATION.—The  
2 term ‘covered 501(c) organization’ means any orga-  
3 nization that—

4           “(A) is described in section 501(c) of the  
5 Internal Revenue Code of 1986 and exempt  
6 from taxation under section 501(a) of such  
7 Code (other than an organization described in  
8 section 501(c)(3) of such Code); and

9           “(B) has received contributions or dona-  
10 tions in excess of \$2,000 during the election re-  
11 porting cycle from a foreign national.

12           “(3) COVERED TRANSFER.—The term ‘covered  
13 transfer’ means a transfer described in subsection  
14 (e).

15           “(4) DISCLOSURE DATE.—The term ‘disclosure  
16 date’ means—

17           “(A) the first date during any election re-  
18 porting cycle by which a person—

19           “(i) has received contributions or do-  
20 nations in excess of \$2,000 from a foreign  
21 national; and

22           “(ii) has made campaign-related dis-  
23 bursements aggregating more than  
24 \$10,000; and

1           “(B) any other date during such election  
2           reporting cycle by which a covered 501(c) orga-  
3           nization has made campaign-related disburse-  
4           ments aggregating more than \$10,000 since the  
5           most recent disclosure date for such election re-  
6           porting cycle.

7           “(5) ELECTION REPORTING CYCLE.—The term  
8           ‘election reporting cycle’ means the 2-year period be-  
9           ginning on the date of the most recent general elec-  
10          tion for Federal office.

11          “(6) FOREIGN NATIONAL.—The term ‘foreign  
12          national’ has the meaning given such term under  
13          section 319.

14          “(7) PAYMENT.—The term ‘payment’ includes  
15          any contribution, donation, transfer, payment of  
16          dues, or other payment.

17          “(b) DISCLOSURE STATEMENT.—

18          “(1) IN GENERAL.—Any covered 501(c) organi-  
19          zation that makes campaign-related disbursements  
20          aggregating more than \$10,000 in an election re-  
21          porting cycle shall, not later than 24 hours after  
22          each disclosure date, file a statement with the Com-  
23          mission made under penalty of perjury that contains  
24          the information described in paragraph (2)—

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

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

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

12           “(A) The name of the covered 501(c) orga-  
13 nization.

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

19           “(C) In the case of a campaign-related dis-  
20 bursement that is not a covered transfer, the  
21 election to which the campaign-related disburse-  
22 ment pertains and if the disbursement is made  
23 for a public communication, the name of any  
24 candidate identified in such communication and

1           whether such communication is in support of or  
2           in opposition to a candidate.

3           “(D) For each payment to the covered  
4           501(c) organization by a foreign national—

5                   “(i) the name and address of the for-  
6                   eign national who made such payment dur-  
7                   ing the period covered by the statement;

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

10                   “(iii) the aggregate amount of all such  
11                   payments made by the foreign national  
12                   during the period beginning on the first  
13                   day of the election reporting cycle and end-  
14                   ing on the disclosure date,

15           but only if such payment was made by a foreign  
16           national who made payments to the covered  
17           501(c) organization in an aggregate amount of  
18           \$2,000 or more during the period beginning on  
19           the first day of the election reporting cycle and  
20           ending on the disclosure date.

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

24           “(3) EXCEPTIONS FOR AMOUNTS RECEIVED  
25           FROM AFFILIATES.—The requirement to include in a

1 statement submitted under paragraph (1) the infor-  
2 mation described in subparagraph (D) of paragraph  
3 (2) shall not apply to any amount which is described  
4 in subsection (e)(2)(A)(i).

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

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

14 “(e) 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 501(c) organization to another  
18 person if the covered 501(c) 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) EXCEPTION FOR CERTAIN TRANSFERS  
13 AMONG AFFILIATES.—

14 “(A) EXCEPTION FOR CERTAIN TRANS-  
15 FERS AMONG AFFILIATES.—

16 “(i) IN GENERAL.—The term ‘covered  
17 transfer’ does not include an amount  
18 transferred by one covered 501(c) organi-  
19 zation to another covered 501(c) organiza-  
20 tion if such transfer is treated as a trans-  
21 fer between affiliates under subparagraph  
22 (B).

23 “(ii) SPECIAL RULE.—If the aggre-  
24 gate amount of transfers described in

1 clause (i) exceeds \$50,000 in any election  
2 reporting cycle—

3 “(I) the covered 501(c) organiza-  
4 tion which makes such transfers shall  
5 provide to the covered 501(c) organi-  
6 zation receiving such transfers the in-  
7 formation required under subsection  
8 (b)(2)(D) (applied by substituting ‘the  
9 period beginning on the first day of  
10 the election reporting cycle and ending  
11 on the date of the most recent trans-  
12 fer described in subsection  
13 (e)(2)(A)(i)’ for ‘the period covered by  
14 the statement’ in clause (i) thereof);  
15 and

16 “(II) the covered 501(c) organi-  
17 zation receiving such transfers shall  
18 report the information described in  
19 subclause (I) on any statement filed  
20 under subsection (a)(1) as if any con-  
21 tribution, donation, or transfer to  
22 which such information relates was  
23 made directly to the covered 501(c)  
24 organization receiving the transfer.

1           “(B) DESCRIPTION OF TRANSFERS BE-  
2           TWEEN AFFILIATES.—A transfer of amounts  
3           from one covered 501(c) organization to an-  
4           other covered 501(c) organization shall be  
5           treated as a transfer between affiliates if—

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

8                   “(ii) each of the organizations is an  
9                   affiliate of the same organization,  
10           except that the transfer shall not be treated as  
11           a transfer between affiliates if one of the orga-  
12           nizations is established for the purpose of mak-  
13           ing campaign-related disbursements.

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

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

22                   “(ii) A national or international labor  
23                   organization and its State or local unions,  
24                   or an organization of national or inter-

1 national unions and its State and local en-  
2 tities.

3 “(D) COVERAGE OF TRANSFERS TO AF-  
4 FILIATED SECTION 501(c)(3) ORGANIZA-  
5 TIONS.—This paragraph shall apply with re-  
6 spect to an amount transferred by a covered  
7 501(c) organization to an organization de-  
8 scribed in paragraph (3) of section 501(c) of  
9 the Internal Revenue Code of 1986 and exempt  
10 from tax under section 501(a) of such Code in  
11 the same manner as this paragraph applies to  
12 an amount transferred by a covered 501(c) or-  
13 ganization to another covered 501(c) organiza-  
14 tion.”.

15 (b) CONFORMING AMENDMENT.—Section 304(f)(6)  
16 of such Act (52 U.S.C. 30104) is amended by striking  
17 “Any requirement” and inserting “Except as provided in  
18 section 324(c), any requirement”.

19 (c) COORDINATION WITH FINCEN.—

20 (1) IN GENERAL.—The Director of the Finan-  
21 cial Crimes Enforcement Network of the Depart-  
22 ment of the Treasury shall provide the Federal Elec-  
23 tion Commission with such information as necessary  
24 to assist in administering and enforcing section 324

1 of the Federal Election Campaign Act of 1971, as  
2 added by this subsection.

3 (2) REPORT.—Not later than 6 months after  
4 the date of the enactment of this Act, the Chairman  
5 of the Federal Election Commission, in consultation  
6 with the Director of the Financial Crimes Enforce-  
7 ment Network of the Department of the Treasury,  
8 shall submit to Congress a report with recommenda-  
9 tions for providing further legislative authority to as-  
10 sist in the administration and enforcement of such  
11 section 324.

12 (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply with respect to disbursements  
14 made on or after January 1, 2019, and shall take effect  
15 without regard to whether or not the Federal Election  
16 Commission has promulgated regulations to carry out  
17 such amendments.

18 **SEC. 3. DUE DILIGENCE REQUIREMENTS.**

19 (a) CERTIFICATION.—

20 (1) IN GENERAL.—Title III of the Federal  
21 Election Campaign Act of 1971 (52 U.S.C. 30101 et  
22 seq.) is amended by adding at the end the following  
23 new section:

24 **“SEC. 325. CERTIFICATIONS.**

25 **“(a) REQUIREMENT TO FILE CERTIFICATION.—**

1           “(1) IN GENERAL.—Each covered organization  
2 that makes a report under section 304 with respect  
3 to an independent expenditure or a disbursement for  
4 the direct costs of producing an electioneering com-  
5 munication shall include with such report a certifi-  
6 cation described in subsection (b).

7           “(2) COVERED 501(c) ORGANIZATIONS.—Each  
8 covered 501(c) organization (within the meaning of  
9 section 324) that makes a report under section 324  
10 with respect to a campaign-related disbursement  
11 shall include with such report a certification de-  
12 scribed in subsection (b).

13           “(b) CERTIFICATION.—

14           “(1) IN GENERAL.—A certification is described  
15 in this subsection if the certification is made by the  
16 principal executive officer or officers and the prin-  
17 cipal financial officer or officers of such covered or-  
18 ganization, or persons performing similar functions,  
19 stating that—

20                   “(A) the signing officer has reviewed the  
21 report;

22                   “(B) the organization has met the due dili-  
23 gence requirements under paragraph (2); and

24                   “(C) based on the officer’s knowledge,  
25 none of the funds used to make any expenditure

1 or disbursement described in the report or  
2 statement were provided by a foreign national  
3 (as defined in section 319).

4 “(2) DUE DILIGENCE REQUIREMENT.—

5 “(A) IN GENERAL.—The due diligence re-  
6 quirement under this paragraph shall be met if  
7 the organization affirmatively verifies that each  
8 contribution or donation received by the organi-  
9 zation during the 2-year period ending on the  
10 date of the expenditure or disbursement de-  
11 scribed in subsection (a) was not a contribution  
12 or donation that was made, directly or indi-  
13 rectly, by a foreign national (within the mean-  
14 ing of section 319).

15 “(B) USE OF SEGREGATED ACCOUNT.—In  
16 the case of an organization with a separate seg-  
17 regated account from which the expenditure or  
18 disbursement described in subsection (a) was  
19 made, subparagraph (A) shall be applied only  
20 with respect to contributions and donations  
21 made to such account.

22 “(c) COVERED ORGANIZATION DEFINED.—In this  
23 subsection, the term ‘covered organization’ means any of  
24 the following:

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

4           “(2) A limited liability corporation that is not  
5 otherwise treated as a corporation for purposes of  
6 this Act (other than an organization described in  
7 section 501(c)(3) of the Internal Revenue Code of  
8 1986).

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

14           “(4) A labor organization (as defined in section  
15 316(b)).

16           “(5) Any political organization under section  
17 527 of the Internal Revenue Code of 1986, other  
18 than a political committee under this Act (except as  
19 provided in paragraph (6)).

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



1           (2) EFFECTIVE DATE.—The amendment made  
2 by subsection (a) shall apply to reports required to  
3 be filed after the date of the enactment of this Act.

4           (b) REPORTING OF SUSPICIOUS DONATIONS.—

5           (1) COVERED 501(c) ORGANIZATIONS.—

6           (A) IN GENERAL.—Section 501 of the In-  
7 ternal Revenue Code of 1986 is amended by  
8 adding at the end the following new subsection:

9           “(s) REQUIREMENT TO REPORT CERTAIN CON-  
10 TRIBUTIONS.—

11           “(1) IN GENERAL.—No organization described  
12 in subsection (c) (other than an organization de-  
13 scribed in paragraph (3) thereof) shall be exempt  
14 from tax under subsection (a) unless such organiza-  
15 tion reports any disqualified foreign contribution,  
16 not later than 15 days after receiving such contribu-  
17 tion, to the entities listed in paragraph (3).

18           “(2) DISQUALIFIED FOREIGN CONTRIBUTION.—

19 For purposes of this subsection, the term ‘disquali-  
20 fied foreign contribution’ means any donation or  
21 contribution received from foreign national (within  
22 the meaning of section 319 of the Federal Election  
23 Campaign Act of 1971) and which is made or re-  
24 ceived for a purpose described in section 319(a) of  
25 such Act.

1           “(3) ENTITIES.—The entities described in this  
2 paragraph are the following:

3           “(A) The Internal Revenue Service.

4           “(B) The Federal Election Commission.

5           “(C) The Financial Crimes Enforcement  
6 Network of the Department of Treasury.

7           “(D) The Department of Justice.”.

8           (B) EFFECTIVE DATE.—The amendment  
9 made by this paragraph shall apply to contribu-  
10 tions made after the date of the enactment of  
11 this Act.

12           (2) CORPORATE ENTITIES.—

13           (A) IN GENERAL.—Each corporation and  
14 each limited liability corporation that is not oth-  
15 erwise treated as a corporation under the Fed-  
16 eral Election Campaign Act of 1971 shall re-  
17 port any disqualified foreign contribution (as  
18 defined in section 501(s) of the Internal Rev-  
19 enue Code of 1986), not later than 15 days  
20 after receiving such contribution, to the fol-  
21 lowing entities:

22           (i) The Federal Election Commission.

23           (ii) The Financial Crimes Enforce-  
24 ment Network of the Department of  
25 Treasury.

1 (iii) The Department of Justice.

2 (B) EXCEPTION.—Subparagraph (A) shall  
3 not apply to any entity that is an organization  
4 described in section 501(c)(3) of the Internal  
5 Revenue Code of 1986.

6 (C) CRIMINAL PENALTY.—Any person who  
7 fails to make a report under subparagraph (A)  
8 shall be guilty of a misdemeanor and, upon con-  
9 viction thereof, shall be fined not more than  
10 \$100,000, or imprisoned not more than 1 year,  
11 or both, together with the costs of prosecution.

○