

116TH CONGRESS  
2D SESSION

# S. 4183

To amend the Federal Election Campaign Act of 1971 to require organizations that spend more than \$50,000 on Federal judicial nomination communications to file statements disclosing donors and certain other information with the Federal Election Commission.

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## IN THE SENATE OF THE UNITED STATES

JULY 2, 2020

Mrs. FEINSTEIN (for herself, Mr. WHITEHOUSE, Mr. LEAHY, Mr. DURBIN, Ms. KLOBUCHAR, Mr. COONS, Mr. BLUMENTHAL, Ms. HIRONO, Mr. MENENDEZ, Mr. MERKLEY, Mrs. GILLIBRAND, Mr. KING, Mr. MARKEY, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Federal Election Campaign Act of 1971 to require organizations that spend more than \$50,000 on Federal judicial nomination communications to file statements disclosing donors and certain other information with the Federal Election Commission.

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 “Judicial Ads Act”.

1 **SEC. 2. STATEMENTS OF SPENDING ON FEDERAL JUDICIAL**  
2 **NOMINATION COMMUNICATIONS.**

3 (a) IN GENERAL.—Title III of the Federal Election  
4 Campaign Act of 1971 (52 U.S.C. 30101) is amended by  
5 adding at the end the following new subtitle:

6 **“Subtitle B—Federal Judicial**  
7 **Nomination Communications**

8 **“SEC. 351. STATEMENTS OF SPENDING ON FEDERAL JUDI-**  
9 **CIAL NOMINATION COMMUNICATIONS.**

10 “(a) IN GENERAL.—

11 “(1) STATEMENT REQUIRED.—Any covered or-  
12 ganization that spends or contracts to spend a total  
13 of more than \$50,000 on Federal judicial nomina-  
14 tion communications during any calendar year shall  
15 file a statement with the Commission at the times  
16 described in paragraph (2) and containing the infor-  
17 mation described in paragraph (3).

18 “(2) TIME FOR FILING STATEMENT.—A state-  
19 ment shall be required to be filed under this sub-  
20 section not later than 48 hours after each of the fol-  
21 lowing:

22 “(A) The first date during any calendar  
23 year by which the covered organization has  
24 spent or contracted to spend a total of more  
25 than \$50,000 on Federal judicial nomination  
26 communications.

1           “(B) Any date during such calendar year  
2           after the date described in subparagraph (A) by  
3           which the covered organization has spent or  
4           contracted to spend a total of more than  
5           \$50,000 on Federal judicial nomination commu-  
6           nications since the most recent date on which a  
7           statement was required to be filed under this  
8           subsection for such calendar year.

9           “(C) The last day of any calendar year in  
10          which a covered organization has filed a state-  
11          ment under subparagraph (A).

12          “(3) CONTENTS OF STATEMENT.—Each state-  
13          ment required to be filed under this subsection shall  
14          be made under penalty of perjury and shall contain  
15          the following information:

16               “(A) The name of the covered organiza-  
17               tion.

18               “(B) The principal place of business of the  
19               covered organization.

20               “(C) If the covered organization is a cor-  
21               poration (other than a business concern that is  
22               an issuer of a class of securities registered  
23               under section 12 of the Securities Exchange  
24               Act of 1934 (15 U.S.C. 78l) or that is required  
25               to file reports under section 15(d) of that Act

1 (15 U.S.C. 78o(d)) or an entity described in  
2 subsection (d)(2)(B), a list of the beneficial  
3 owners of the covered organization that in-  
4 cludes, for each beneficial owner—

5 “(i) the name;

6 “(ii) the current residential or busi-  
7 ness street address; and

8 “(iii) if the beneficial owner exercises  
9 control over the covered organization  
10 through another legal entity, such as a cor-  
11 poration, partnership, limited liability com-  
12 pany, or trust, for the other legal entity—

13 “(I) the name;

14 “(II) the current residential or  
15 business street address; and

16 “(III) each beneficial owner who  
17 is authorized to use that other legal  
18 entity to exercise control over the cov-  
19 ered organization.

20 “(D)(i) If the covered organization makes  
21 disbursements for Federal judicial nomination  
22 communications using exclusively funds in a  
23 segregated bank account consisting of funds  
24 paid directly to such account by persons other

1 than the covered organization that controls the  
2 account—

3 “(I) the names and addresses of all  
4 persons who donated an aggregate amount  
5 of \$5,000 or more to that account during  
6 the period beginning on the first day of the  
7 preceding calendar year and ending on the  
8 date described in paragraph (2) with re-  
9 spect to such statement; and

10 “(II) the information described in  
11 subparagraph (C) with respect to each  
12 beneficial owner of any donor described in  
13 subclause (I) that is not an individual.

14 Nothing in this clause is to be construed as a  
15 prohibition on the use of funds in such a seg-  
16 regated account for a purpose other than Fed-  
17 eral judicial nomination communications.

18 “(ii) If the covered organization makes dis-  
19 bursements for Federal judicial nomination  
20 communications using funds other than funds  
21 in a segregated bank account described in  
22 clause (i)—

23 “(I) the names and addresses of all  
24 persons who donated an aggregate amount  
25 of \$5,000 or more to the covered organiza-

1           tion making the disbursement during the  
2           period beginning on the first day of the  
3           preceding calendar year and ending on the  
4           date described in paragraph (2) with re-  
5           spect to such statement; and

6           “(II) the information described in  
7           subparagraph (C) with respect to each  
8           beneficial owner of any donor described in  
9           subclause (I) that is not an individual.

10          “(E) For each Federal judicial nomination  
11          communication during the reporting period—

12               “(i) the name of the nominee;

13               “(ii) the date of the communication;

14               “(iii) the amount spent or contracted  
15               to be spent;

16               “(iv) the name and address of the  
17               person receiving payment for the commu-  
18               nication; and

19               “(v) the platform through which the  
20               Federal judicial nomination communication  
21               was made.

22          “(F) A certification signed by the covered  
23          organization’s chief executive officer under pen-  
24          alty of perjury, avowing that—

1                   “(i) the covered organization is not a  
2                   foreign national or foreign-influenced cor-  
3                   poration; and

4                   “(ii) after due inquiry, no amounts  
5                   spent on a Federal judicial nomination  
6                   communication were from an account that  
7                   includes funds received from a foreign na-  
8                   tional or a foreign-influenced corporation.

9                   “(b) 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 statements had been required under subsection  
13                  (c) or (g) of section 304.

14                  “(c) ANTI-EVASION RULE.—For purposes of section  
15                  309, it shall be a violation of this section to structure or  
16                  attempt to structure any solicitation, donation, contribu-  
17                  tion, expenditure, disbursement, transfer, or other trans-  
18                  action in a manner intended to evade the reporting re-  
19                  quirements of this section.

20                  **“SEC. 352. DISCLAIMERS RELATING TO FEDERAL JUDICIAL**  
21                  **NOMINATION COMMUNICATIONS.**

22                  “(a) IN GENERAL.—Whenever any person makes a  
23                  disbursement for the purpose of financing a Federal judi-  
24                  cial nomination communication, such communication shall

1 clearly state the name and permanent street address, tele-  
2 phone number, or World Wide Web address of the person.

3 “(b) SPECIFICATIONS.—Except as provided in regu-  
4 lations, any Federal judicial nomination communication  
5 described in subsection (a) shall be subject to the same  
6 specifications and additional requirements that apply to  
7 communications described in section 318(a)(3).

8 **“SEC. 353. PROHIBITIONS WITH RESPECT TO FOREIGN NA-**  
9 **TIONALS AND FOREIGN-INFLUENCED COR-**  
10 **PORATIONS.**

11 “It shall be unlawful for—

12 “(1) a foreign national or foreign-influenced  
13 corporation, directly or indirectly, to spend or make  
14 an express or implied promise to spend money or  
15 other thing of value in connection with a Federal ju-  
16 dicial nomination communication; or

17 “(2) a person to solicit, accept, or receive  
18 money or any other thing of value from a foreign na-  
19 tional or a foreign-influenced corporation in connec-  
20 tion with a Federal judicial nomination communica-  
21 tion.

22 **“SEC. 354. DEFINITIONS.**

23 “When used in this subtitle:

24 “(1) FEDERAL JUDICIAL NOMINATION COMMUN-  
25 NICATION.—



1           “(A) IN GENERAL.—The term ‘Federal ju-  
2           dicial nomination communication’ means any  
3           communication—

4                   “(i) that is by means of any broad-  
5                   cast, cable, or satellite, paid internet, or  
6                   paid digital communication, paid pro-  
7                   motion, newspaper, magazine, outdoor ad-  
8                   vertising facility, mass mailing, telephone  
9                   bank, telephone messaging effort of more  
10                  than 500 substantially similar calls or elec-  
11                  tronic messages within a 30-day period, or  
12                  any other form of general public political  
13                  advertising; and

14                   “(ii) that is susceptible to no reason-  
15                   able interpretation other than promoting,  
16                   supporting, attacking, or opposing the  
17                   nomination or Senate confirmation of an  
18                   individual as a Federal judge or justice.

19           “(B) EXCEPTION.—Such term shall not in-  
20           clude any news story, commentary, or editorial  
21           distributed through the facilities of any broad-  
22           casting station or any print, online, or digital  
23           newspaper, magazine, publication, or periodical,  
24           unless such facilities are owned or controlled by

1 any political party, political committee, or can-  
2 didate.

3 “(2) COVERED ORGANIZATION.—The term ‘cov-  
4 ered organization’ means any of the following:

5 “(A) A corporation.

6 “(B) A partnership.

7 “(C) An organization described in section  
8 501(c) of such Code and exempt from taxation  
9 under section 501(a) of such Code.

10 “(D) A labor organization (as defined in  
11 section 316(b)).

12 “(E) A political organization (as defined in  
13 section 527(e)(1) of the Internal Revenue Code  
14 of 1986).

15 “(F) A political committee under this Act.

16 “(3) BENEFICIAL OWNER.—Except as provided  
17 in subparagraph (B), the term ‘beneficial owner’  
18 means, with respect to any entity, a natural person  
19 who, directly or indirectly through any contract, ar-  
20 rangement, understanding, relationship, or other-  
21 wise—

22 “(A) exercises substantial control over an  
23 entity;

24 “(B) owns 25 percent or more of an entity;

25 or

1           “(C) receives substantial economic benefits  
2           from the assets of an entity.

3           “(4) FOREIGN NATIONAL.—The term ‘foreign  
4           national’ has the meaning given such term under  
5           section 319(b).

6           “(5) FOREIGN-INFLUENCED CORPORATION.—

7           “(A) IN GENERAL.—The term ‘foreign-in-  
8           fluenced corporation’ means a corporation for  
9           which at least one of the following conditions is  
10          met:

11           “(i) Any single foreign owner holds,  
12           owns, controls, or otherwise has direct or  
13           indirect beneficial ownership of 5 percent  
14           or more of the total equity, outstanding  
15           voting shares, membership units, or other  
16           applicable ownership interests of the cor-  
17           poration.

18           “(ii) Foreign owners, in aggregate,  
19           hold, own, control, or otherwise have direct  
20           or indirect beneficial ownership of 20 per-  
21           cent or more of the total equity, out-  
22           standing voting shares, membership units,  
23           or other applicable ownership interests of  
24           the corporation.

1           “(iii) A foreign owner participates di-  
2           rectly or indirectly in the corporation’s de-  
3           cision-making process with respect to the  
4           corporation’s activities related to Federal  
5           judicial nomination communications.

6           “(B) FOREIGN OWNER.—

7           “(i) IN GENERAL.—The term ‘foreign  
8           owner’ means—

9                   “(I) a foreign investor; or

10                   “(II) a corporation wherein a for-  
11                   eign investor holds, owns, controls, or  
12                   otherwise has directly or indirectly ac-  
13                   quired beneficial ownership of equity  
14                   or voting shares in an amount that is  
15                   equal to or greater than 50 percent of  
16                   the total equity or outstanding voting  
17                   shares.

18           “(ii) FOREIGN INVESTOR.—The term  
19           ‘foreign investor’ means a person that—

20                   “(I) holds, owns, controls, or oth-  
21                   erwise has direct or indirect beneficial  
22                   ownership of equity, outstanding vot-  
23                   ing shares, membership units, or  
24                   other applicable ownership interests of  
25                   a corporation; and

1 “(II) is—

2 “(aa) a government of a for-  
3 eign country;

4 “(bb) a foreign political  
5 party;

6 “(cc) a partnership, associa-  
7 tion, corporation, organization, or  
8 other combination of persons or-  
9 ganized under the laws of or hav-  
10 ing its principal place of business  
11 in a foreign country; or

12 “(dd) an individual who is  
13 not a citizen of the United States  
14 or a national of the United  
15 States and who is not lawfully  
16 admitted for permanent resi-  
17 dence.”.

18 (b) CONFORMING AMENDMENT.—Such title is fur-  
19 ther amended by inserting before section 301 the fol-  
20 lowing:

21 **“Subtitle A—Federal Campaign**  
22 **Funds”.**

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