

Calendar No. 484

117TH CONGRESS
2D SESSION

S. 4822

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

SEPTEMBER 12, 2022

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, 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. CORTEZ MASTO, Ms. SMITH, Ms. ROSEN, Mr. LUJÁN, Mr. HICKENLOOPER, Mr. PADILLA, Mr. OSSOFF, Mr. WARNOCK, Mr. MANCHIN, Mr. KELLY, and Ms. SINEMA) introduced the following bill; which was read the first time

SEPTEMBER 13, 2022

Read the second time and placed on the calendar

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.

(a) **SHORT TITLE.**—This Act may be cited as the “Democracy Is Strengthened by Casting Light On Spending in Elections Act of 2022” or the “DISCLOSE Act of 2022”.

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

TITLE I—CLOSING LOOPHOLES ALLOWING SPENDING BY
FOREIGN NATIONALS IN ELECTIONS

Sec. 101. Clarification of application of foreign money ban to certain disbursements and activities.

Sec. 102. Study and report on illicit foreign money in Federal elections.

Sec. 103. Prohibition on contributions and donations by foreign nationals in connection with ballot initiatives and referenda.

Sec. 104. Disbursements and activities subject to foreign money ban.

Sec. 105. Prohibiting establishment of corporation to conceal election contributions and donations by foreign nationals.

Sec. 201. Reporting of campaign-related disbursements.

Sec. 202. Reporting of Federal judicial nomination disbursements.

Sec. 203. Coordination with FinCEN.

Sec. 204. Application of foreign money ban to disbursements for campaign-related disbursements consisting of covered transfers.

Sec. 205. Effective date.

Sec. 301. Petition for certiorari.
Sec. 302. Judicial review of actions related to campaign finance laws.
Sec. 303. Effective date.

Sec. 401. Short title.

Sec. 402. Stand by every ad.

Sec. 403. Disclaimer requirements for communications made through prerecorded telephone calls.

Sec. 404. No expansion of persons subject to disclaimer requirements on internet communications.

Sec. 405. Effective date.

TITLE V—SEVERABILITY

Sec. 501. Severability.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Campaign finance disclosure is a narrowly
 4 tailored and minimally restrictive means to advance
 5 substantial government interests, including fostering
 6 an informed electorate capable of engaging in self-
 7 government and holding their elected officials ac-
 8 countable, detecting and deterring quid pro quo cor-
 9 ruption, and identifying information necessary to en-
 10 force other campaign finance laws, including cam-
 11 paign contribution limits and the prohibition on for-
 12 eign money in U.S. campaigns. To further these
 13 substantial interests, campaign finance disclosure
 14 must be timely and complete, and must disclose the
 15 true and original source of money given, transferred,
 16 and spent to influence Federal elections. Current law
 17 does not meet this objective because corporations
 18 and other entities that the Supreme Court has per-
 19 mitted to spend money to influence Federal elections
 20 are subject to few if any transparency requirements.

21 (2) As the Supreme Court recognized in its per-
 22 curiam opinion in *Buckley v. Valeo*, 424 U.S. 1,

1 (1976), “disclosure requirements certainly in most
2 applications appear to be the least restrictive means
3 of curbing the evils of campaign ignorance and cor-
4 ruption that Congress found to exist.” *Buckley*, 424
5 U.S. at 68. In *Citizens United v. FEC*, the Court re-
6 iterated that “disclosure is a less restrictive alter-
7 native to more comprehensive regulations of speech.”
8 558 U.S. 310, 369 (2010).

9 (3) No subsequent decision has called these
10 holdings into question, including the Court’s decision
11 in *Americans for Prosperity Foundation v. Bonta*,
12 141 S. Ct. 2373 (2021). That case did not involve
13 campaign finance disclosure, and the Court did not
14 overturn its longstanding recognition of the substan-
15 tial interests furthered by such disclosure.

16 (4) Campaign finance disclosure is also essen-
17 tial to enforce the Federal Election Campaign Act’s
18 prohibition on contributions by and solicitations of
19 foreign nationals. *See* section 319 of the Federal
20 Election Campaign Act of 1971 (52 U.S.C. 30121).

21 (5) Congress should close loopholes allowing
22 spending by foreign nationals in domestic elections.
23 For example, in 2021, the Federal Election Commis-
24 sion, the independent Federal agency charged with
25 protecting the integrity of the Federal campaign fi-

1 nance process, found reason to believe and concil-
 2 iated a matter where an experienced political con-
 3 sultant knowingly and willfully violated Federal law
 4 by soliciting a contribution from a foreign national
 5 by offering to transmit a \$2,000,000 contribution to
 6 a super PAC through his company and two
 7 501(c)(4) organizations, to conceal the origin of the
 8 funds. This scheme was only unveiled after appear-
 9 ing in a The Telegraph UK article and video cap-
 10 turing the solicitation. *See* Conciliation Agreement,
 11 MURs 7165 & 7196 (Great America PAC, et al.),
 12 date June 28, 2021; Factual and Legal Analysis,
 13 MURs 7165 & 7196 (Jesse Benton), dated Mar. 2,
 14 2021.

15 **TITLE I—CLOSING LOOPHOLES**
 16 **ALLOWING SPENDING BY**
 17 **FOREIGN NATIONALS IN**
 18 **ELECTIONS**

19 **SEC. 101. CLARIFICATION OF APPLICATION OF FOREIGN**
 20 **MONEY BAN TO CERTAIN DISBURSEMENTS**
 21 **AND ACTIVITIES.**

22 Section 319(b) of the Federal Election Campaign Act
 23 of 1971 (52 U.S.C. 30121(b)) is amended—

1 (1) by redesignating paragraphs (1) and (2) as
 2 subparagraphs (A) and (B), respectively, and by
 3 moving such subparagraphs 2 ems to the right;

4 (2) by striking “As used in this section, the
 5 term” and inserting the following: “DEFINITIONS.—
 6 For purposes of this section—

7 “(1) FOREIGN NATIONAL.—The term”;

8 (3) by moving paragraphs (1) and (2) two ems
 9 to the right and redesignating them as subpara-
 10 graphs (A) and (B), respectively; and

11 (4) by adding at the end the following new
 12 paragraph:

13 “(2) CONTRIBUTION AND DONATION.—For pur-
 14 poses of paragraphs (1) and (2) of subsection (a),
 15 the term ‘contribution or donation’ includes any dis-
 16 bursement to a political committee which accepts do-
 17 nations or contributions that do not comply with any
 18 of the limitations, prohibitions, and reporting re-
 19 quirements of this Act (or any disbursement to or on
 20 behalf of any account of a political committee which
 21 is established for the purpose of accepting such do-
 22 nations or contributions), or to any other person for
 23 the purpose of funding an expenditure, independent
 24 expenditure, or electioneering communication (as de-
 25 fined in section 304(f)(3)).”.

1 **SEC. 102. STUDY AND REPORT ON ILLICIT FOREIGN MONEY**
2 **IN FEDERAL ELECTIONS.**

3 (a) STUDY.—For each 4-year election cycle (begin-
4 ning with the 4-year election cycle ending in 2020), the
5 Comptroller General shall conduct a study on the inci-
6 dence of illicit foreign money in all elections for Federal
7 office held during the preceding 4-year election cycle, in-
8 cluding what information is known about the presence of
9 such money in elections for Federal office.

10 (b) REPORT.—

11 (1) IN GENERAL.—Not later than the applicable
12 date with respect to any 4-year election cycle, the
13 Comptroller General shall submit to the appropriate
14 congressional committees a report on the study con-
15 ducted under subsection (a).

16 (2) MATTERS INCLUDED.—The report sub-
17 mitted under paragraph (1) shall include a descrip-
18 tion of the extent to which illicit foreign money was
19 used to target particular groups, including rural
20 communities, African-American and other minority
21 communities, and military and veteran communities,
22 based on such targeting information as is available
23 and accessible to the Comptroller General.

24 (3) APPLICABLE DATE.—For purposes of para-
25 graph (1), the term “applicable date” means—

1 (A) in the case of the 4-year election cycle
 2 ending in 2020, the date that is 1 year after
 3 the date of the enactment of this Act; and

4 (B) in the case of any other 4-year election
 5 cycle, the date that is 1 year after the date on
 6 which such 4-year election cycle ends.

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

8 (1) 4-YEAR ELECTION CYCLE.—The term “4-
 9 year election cycle” means the 4-year period ending
 10 on the date of the general election for the offices of
 11 President and Vice President.

12 (2) ILLICIT FOREIGN MONEY.—The term “illicit
 13 foreign money” means any contribution, donation,
 14 expenditure, or disbursement by a foreign national
 15 (as defined in section 319(b) of the Federal Election
 16 Campaign Act of 1971 (52 U.S.C.30121(b))) prohib-
 17 ited under such section.

18 (3) ELECTION; FEDERAL OFFICE.—The terms
 19 “election” and “Federal office” have the meanings
 20 given such terms under section 301 of the Federal
 21 Election Campaign Act of 1971 (53 U.S.C. 30101).

22 (4) APPROPRIATE CONGRESSIONAL COMMIT-
 23 TEES.—The term “appropriate congressional com-
 24 mittees” means—

1 (A) the Committee on House Administra-
 2 tion of the House of Representatives;

3 (B) the Committee on Rules and Adminis-
 4 tration of the Senate;

5 (C) the Committee on the Judiciary of the
 6 House of Representatives; and

7 (D) the Committee on the Judiciary of the
 8 Senate.

9 (d) SUNSET.—This section shall not apply to any 4-
 10 year election cycle beginning after the election for the of-
 11 fices of President and Vice President in 2032.

12 **SEC. 103. PROHIBITION ON CONTRIBUTIONS AND DONA-**
 13 **TIONS BY FOREIGN NATIONALS IN CONNEC-**
 14 **TION WITH BALLOT INITIATIVES AND**
 15 **REFERENDA.**

16 (a) IN GENERAL.—Section 319(b) of the Federal
 17 Election Campaign Act of 1971 (52 U.S.C. 30121(b)), as
 18 amended by section 101, is amended by adding at the end
 19 the following new paragraphs:

20 “(3) FEDERAL, STATE, OR LOCAL ELECTION.—
 21 The term ‘Federal, State, or local election’ includes
 22 a State or local ballot initiative or referendum, but
 23 only in the case of—

24 “(A) a covered foreign national as defined
 25 in paragraph (4); or

1 “(B) a foreign principal described in sec-
2 tion 1(b)(2) or 1(b)(3) of the Foreign Agent
3 Registration Act of 1938, as amended (22
4 U.S.C. 611(b)(2) or (b)(3)) or an agent of such
5 a foreign principal under such Act.

6 “(4) COVERED FOREIGN NATIONAL.—

7 “(A) IN GENERAL.—The term ‘covered for-
8 eign national’ means—

9 “(i) a foreign principal (as defined in
10 section 1(b) of the Foreign Agents Reg-
11 istration Act of 1938 (22 U.S.C. 611(b))
12 that is a government of a foreign country
13 or a foreign political party;

14 “(ii) any person who acts as an agent,
15 representative, employee, or servant, or
16 any person who acts in any other capacity
17 at the order, request, or under the direc-
18 tion or control, of a foreign principal de-
19 scribed in clause (i) or of a person any of
20 whose activities are directly or indirectly
21 supervised, directed, controlled, financed,
22 or subsidized in whole or in major part by
23 a foreign principal described in clause (i);
24 or

“(iii) any person included in the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury pursuant to authorities relating to the imposition of sanctions relating to the conduct of a foreign principal described in clause (i).

“(B) CLARIFICATION REGARDING APPLICATION TO CITIZENS OF THE UNITED STATES.—

In the case of a citizen of the United States, clause (ii) of subparagraph (A) applies only to the extent that the person involved acts within the scope of that person’s status as the agent of a foreign principal described in clause (i) of subparagraph (A).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to elections held in 2023 or any succeeding year.

SEC. 104. DISBURSEMENTS AND ACTIVITIES SUBJECT TO FOREIGN MONEY BAN.

(a) DISBURSEMENTS DESCRIBED.—Section 319(a)(1) of the Federal Election Campaign Act of 1971 (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 communication
11 which is placed or promoted for a fee on a
12 website, web application, or digital application
13 that refers to a clearly identified candidate for
14 election for Federal office and is disseminated
15 within 60 days before a general, special or run-
16 off election for the office sought by the can-
17 didate or 30 days before a primary or pref-
18 erence election, or a convention or caucus of a
19 political party that has authority to nominate a
20 candidate for the office sought by the can-
21 didate;

22 “(G) a disbursement by a covered foreign
23 national (as defined in subsection (b)(4)) for a
24 broadcast, cable or satellite communication, or
25 for a communication which is placed or pro-

1 moted for a fee on a website, web application,
2 or digital application, that promotes, supports,
3 attacks or opposes the election of a clearly identified
4 candidate for Federal, State, or local office
5 (regardless of whether the communication
6 contains express advocacy or the functional
7 equivalent of express advocacy);

8 “(H) a disbursement for a broadcast,
9 cable, or satellite communication, or for any
10 communication which is placed or promoted for
11 a fee on an online platform (as defined in subsection
12 (b)(5)), that discusses a national legislative
13 issue of public importance in a year in
14 which a regularly scheduled general election for
15 Federal office is held, but only if the disbursement
16 is made by a covered foreign national (as
17 defined in subsection (b)(4));

18 “(I) a disbursement by a covered foreign
19 national (as defined in subsection (b)(4)) to
20 compensate any person for internet activity that
21 promotes, supports, attacks or opposes the election
22 of a clearly identified candidate for Federal,
23 State, or local office (regardless of whether
24 the activity contains express advocacy or the
25 functional equivalent of express advocacy); or

1 “(J) a disbursement by a covered foreign
2 national (as defined in subsection (b)(4)) for a
3 Federal judicial nomination communication (as
4 defined in section 324(g)(2));”.

5 (b) DEFINITION OF ONLINE PLATFORM.—Section
6 319(b) of such Act (52 U.S.C. 30121(b)), as amended by
7 sections 101 and 103, is amended by adding at the end
8 the following new paragraph:

9 “(5) ONLINE PLATFORM.—

10 “(A) IN GENERAL.—For purposes of this
11 section, subject to subparagraph (B), the term
12 ‘online platform’ means any public-facing
13 website, web application, or digital application
14 (including a social network, ad network, or
15 search engine) which—

16 “(i)(I) sells qualified political adver-
17 tisements; and

18 “(II) has 50,000,000 or more unique
19 monthly United States visitors or users for
20 a majority of months during the preceding
21 12 months; or

22 “(ii) is a third-party advertising ven-
23 dor that has 50,000,000 or more unique
24 monthly United States visitors in the ag-
25 gregate on any advertisement space that it

1 has sold or bought for a majority of
2 months during the preceding 12 months,
3 as measured by an independent digital rat-
4 ings service accredited by the Media Rat-
5 ings Council (or its successor).

6 “(B) EXEMPTION.—Such term shall not
7 include any online platform that is a distribu-
8 tion facility of any broadcasting station or
9 newspaper, magazine, blog, publication, or peri-
10 odical.

11 “(C) THIRD-PARTY ADVERTISING VENDOR
12 DEFINED.—For purposes of this subsection, the
13 term ‘third-party advertising vendor’ includes,
14 but is not limited to, any third-party adver-
15 tising vendor network, advertising agency, ad-
16 vertiser, or third-party advertisement serving
17 company that buys and sells advertisement
18 space on behalf of unaffiliated third-party
19 websites, search engines, digital applications, or
20 social media sites.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to disbursements
23 made on or after the date of the enactment of this Act.

1 **SEC. 105. PROHIBITING ESTABLISHMENT OF CORPORATION**
 2 **TO CONCEAL ELECTION CONTRIBUTIONS**
 3 **AND DONATIONS BY FOREIGN NATIONALS.**

4 (a) PROHIBITION.—Chapter 29 of title 18, United
 5 States Code is amended by adding at the end the fol-
 6 lowing:

7 **“§ 612. Establishment of corporation to conceal elec-**
 8 **tion contributions and donations by for-**
 9 **oreign nationals**

10 “(a) OFFENSE.—It shall be unlawful for an owner,
 11 officer, attorney, or incorporation agent of a corporation,
 12 company, or other entity to establish or use the corpora-
 13 tion, company, or other entity with the intent to conceal
 14 an activity of a foreign national (as defined in section 319
 15 of the Federal Election Campaign Act of 1971 (52 U.S.C.
 16 30121)) prohibited under such section 319.

17 “(b) PENALTY.—Any person who violates subsection
 18 (a) shall be imprisoned for not more than 5 years, fined
 19 under this title, or both.”.

20 (b) TABLE OF SECTIONS.—The table of sections for
 21 chapter 29 of title 18, United States Code is amended by
 22 adding at the end the following new item:

“612. Establishment of corporation to conceal election contributions and dona-
 tions by foreign nationals.”.

1 **TITLE II—REPORTING OF CAM-**
 2 **PAIGN-RELATED DISBURSE-**
 3 **MENTS**

4 **SEC. 201. REPORTING OF CAMPAIGN-RELATED DISBURSE-**
 5 **MENTS.**

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

9 **“SEC. 324. DISCLOSURE OF CAMPAIGN-RELATED DISBURSE-**
 10 **MENTS BY COVERED ORGANIZATIONS.**

11 **“(a) DISCLOSURE STATEMENT.—**

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

19 **“(A) in the case of the first statement filed**
 20 **under this subsection, for the period beginning**
 21 **on the first day of the election reporting cycle**
 22 **(or, if earlier, the period beginning one year be-**
 23 **fore the first such disclosure date) and ending**
 24 **on the first such disclosure date; and**

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

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

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

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

22 “(ii) if any beneficial owner exercises
23 control over the entity through another
24 legal entity, such as a corporation, partner-
25 ship, limited liability company, or trust,

1 identifies each such other legal entity and
2 each such beneficial owner who will use
3 that other entity to exercise control over
4 the entity.

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

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

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

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

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

11 “(II) the date and amount of such
12 payment; and

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

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

ning one year before the disclosure date) and
ending on the disclosure date.

“(ii) In any calendar year after 2023, section 315(c)(1)(B) shall apply to the amount described in clause (i) in the same manner as such section applies to the limitations established under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h) of such section, except that for purposes of applying such section to the amounts described in subsection (b), the ‘base period’ shall be calendar year 2023.

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

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

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

“(III) the aggregate amount of all such payments made by the person during the period beginning on the first day of the election reporting cycle (or, if earlier, the

1 period beginning one year before the dis-
 2 closure date) and ending on the disclosure
 3 date,

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

11 “(ii) In any calendar year after 2023, sec-
 12 tion 315(c)(1)(B) shall apply to the amount de-
 13 scribed in clause (i) in the same manner as
 14 such section applies to the limitations estab-
 15 lished under subsections (a)(1)(A), (a)(1)(B),
 16 (a)(3), and (h) of such section, except that for
 17 purposes of applying such section to the
 18 amounts described in subsection (b), the ‘base
 19 period’ shall be calendar year 2023.

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

23 “(3) EXCEPTIONS.—

24 “(A) AMOUNTS RECEIVED IN ORDINARY
 25 COURSE OF BUSINESS.—The requirement to in-

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

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

22 “(i) the person described in such sub-
 23 paragraph prohibited, in writing, the use of
 24 the payment made by such person for cam-
 25 paign-related disbursements; and

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

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

14 “(4) OTHER DEFINITIONS.—For purposes of
 15 this section:

16 “(A) BENEFICIAL OWNER DEFINED.—

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

22 “(I) exercises substantial control
 23 over an entity through ownership, vot-
 24 ing rights, agreement, or otherwise; or

1 “(II) has a substantial interest in
2 or receives substantial economic bene-
3 fits from the assets of an entity.

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

6 “(I) a minor child;

7 “(II) a person acting as a nomi-
8 nee, intermediary, custodian, or agent
9 on behalf of another person;

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

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

20 “(V) a creditor of an entity, un-
21 less the creditor also meets the re-
22 quirements of clause (i).

23 “(iii) ANTI-ABUSE RULE.—The excep-
24 tions under clause (ii) shall not apply if
25 used for the purpose of evading, circum-

1 venting, or abusing the provisions of clause
2 (i) or paragraph (2)(A).

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

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

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

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

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

22 “(b) COORDINATION WITH OTHER PROVISIONS.—

23 “(1) OTHER REPORTS FILED WITH THE COM-
24 MISSION.—Information included in a statement filed

1 under this section may be excluded from statements
2 and reports filed under section 304.

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

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

13 “(d) CAMPAIGN-RELATED DISBURSEMENT DE-
14 FINED.—

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

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

only as advocating the election or defeat of a candidate for election for Federal office.

“(B) An applicable public communication.

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

“(D) A covered transfer.

“(2) APPLICABLE PUBLIC COMMUNICATIONS.—

“(A) IN GENERAL.—The term ‘applicable public communication’ means any public communication that refers to a clearly identified candidate for election for Federal office and which promotes or supports the election of a candidate for that office, or attacks or opposes the election of a candidate for that office, without regard to whether the communication expressly advocates a vote for or against a candidate for that office.

“(B) EXCEPTION.—Such term shall not include any news story, commentary, or editorial distributed through the facilities of any broadcasting station or any print, online, or digital newspaper, magazine, publication, or periodical, unless such facilities are owned or controlled by any political party, political committee, or candidate.

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

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

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

12 “(2) A limited liability corporation that is not
13 otherwise treated as a corporation for purposes of
14 this Act (other than an organization described in
15 section 501(c)(3) of the Internal Revenue Code of
16 1986).

17 “(3) An organization described in section
18 501(c) of such Code and exempt from taxation
19 under section 501(a) of such Code (other than an
20 organization described in section 501(c)(3) of such
21 Code).

22 “(4) A labor organization (as defined in section
23 316(b)).

24 “(5) Any political organization under section
25 527 of the Internal Revenue Code of 1986, other

1 than a political committee under this Act (except as
2 provided in paragraph (6)).

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

8 “(f) COVERED TRANSFER DEFINED.—

9 “(1) IN GENERAL.—In this section, the term
10 ‘covered transfer’ means any transfer or payment of
11 funds by a covered organization to another person if
12 the covered organization—

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

15 “(i) campaign-related disbursements
16 (other than 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 “(B) made such transfer or payment in re-
22 sponse to a solicitation or other request for a
23 donation or payment for—

1 “(i) the making of or paying for cam-
2 paign-related disbursements (other than
3 covered transfers); or

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

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

10 “(i) the making of or paying for cam-
11 paign-related disbursements (other than
12 covered transfers); or

13 “(ii) donating or transferring any
14 amount of such transfer or payment to an-
15 other person for the purpose of making or
16 paying for such campaign-related disburse-
17 ments; or

18 “(D) knew or had reason to know that the
19 person receiving the transfer or payment would
20 make campaign-related disbursements in an ag-
21 gregate amount of \$50,000 or more during the
22 2-year period beginning on the date of the
23 transfer or payment.

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

1 “(A) A disbursement made by a covered
 2 organization in a commercial transaction in the
 3 ordinary course of any trade or business con-
 4 ducted by the covered organization or in the
 5 form of investments made by the covered orga-
 6 nization.

7 “(B) A disbursement made by a covered
 8 organization if—

9 “(i) the covered organization prohib-
 10 ited, in writing, the use of such disburse-
 11 ment for campaign-related disbursements;
 12 and

13 “(ii) the recipient of the disbursement
 14 agreed to follow the prohibition and depos-
 15 ited the disbursement in an account which
 16 is segregated from any account used to
 17 make campaign-related disbursements.

18 “(3) SPECIAL RULE REGARDING TRANSFERS
 19 AMONG AFFILIATES.—

20 “(A) SPECIAL RULE.—A transfer of an
 21 amount by one covered organization to another
 22 covered organization which is treated as a
 23 transfer between affiliates under subparagraph
 24 (C) shall be considered a covered transfer by
 25 the covered organization which transfers the

amount only if the aggregate amount transferred during the year by such covered organization to that same covered organization is equal to or greater than \$50,000.

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

“(C) DESCRIPTION OF TRANSFERS BETWEEN AFFILIATES.—A transfer of amounts from one covered organization to another covered organization shall be treated as a transfer between affiliates if—

“(i) one of the organizations is an affiliate of the other organization; or

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

except that the transfer shall not be treated as a transfer between affiliates if one of the organizations is established for the purpose of making 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 re-

1 spect to an amount transferred by a covered or-
 2 ganization to an organization described in para-
 3 graph (3) of section 501(c) of the Internal Rev-
 4 enue Code of 1986 and exempt from tax under
 5 section 501(a) of such Code in the same man-
 6 ner as this paragraph applies to an amount
 7 transferred by a covered organization to an-
 8 other covered organization.

9 “(g) NO EFFECT ON OTHER REPORTING REQUIRE-
 10 MENTS.—Except as provided in subsection (b)(1), nothing
 11 in this section shall be construed to waive or otherwise
 12 affect any other requirement of this Act which relates to
 13 the reporting of campaign-related disbursements.”.

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

18 (c) REGULATIONS.—Not later than 6 months after
 19 the date of the enactment of this Act, the Federal Election
 20 Commission shall promulgate regulations relating the ap-
 21 plication of the exemption under section 324(a)(3)(C) of
 22 the Federal Election Campaign Act of 1971 (as added by
 23 subsection (a)). Such regulations—

24 (1) shall require that the legal burden of estab-
 25 lishing eligibility for such exemption is upon the or-

1 ganization required to make the report required
 2 under section 324(a)(1) of such Act (as added by
 3 subsection (a)), and

4 (2) shall be consistent with the principles ap-
 5 plied in *Citizens United v. Federal Election Commis-*
 6 *sion*, 558 U.S. 310 (2010).

7 **SEC. 202. REPORTING OF FEDERAL JUDICIAL NOMINATION**
 8 **DISBURSEMENTS.**

9 (a) FINDINGS.—Congress makes the following find-
 10 ings:

11 (1) A fair and impartial judiciary is critical for
 12 our democracy and crucial to maintain the faith of
 13 the people of the United States in the justice sys-
 14 tem. As the Supreme Court held in *Caperton v.*
 15 *Massey*, “there is a serious risk of actual bias—
 16 based on objective and reasonable perceptions—
 17 when a person with a personal stake in a particular
 18 case had a significant and disproportionate influence
 19 in placing the judge on the case.” (*Caperton v. A.*
 20 *T. Massey Coal Co.*, 556 U.S. 868, 884 (2009)).

21 (2) Public trust in government is at a historic
 22 low. According to polling, most Americans believe
 23 that corporations have too much power and influence
 24 in politics and the courts.

1 (3) The prevalence and pervasiveness of dark
2 money drives public concern about corruption in pol-
3 itics and the courts. Dark money is funding for or-
4 ganizations and political activities that cannot be
5 traced to actual donors. It is made possible by loop-
6 holes in our tax laws and regulations, weak oversight
7 by the Internal Revenue Service, and donor-friendly
8 court decisions.

9 (4) Under current law, “social welfare” organi-
10 zations and business leagues can use funds to influ-
11 ence elections so long as political activity is not their
12 “primary” activity. Super PACs can accept and
13 spend unlimited contributions from any non-foreign
14 source. These groups can spend tens of millions of
15 dollars on political activities. Such dark money
16 groups spent an estimated \$1,050,000,000 in the
17 2020 election cycle.

18 (5) Dark money is used to shape judicial deci-
19 sion-making. This can take many forms, akin to
20 agency capture: influencing judicial selection by con-
21 trolling who gets nominated and funding candidate
22 advertisements; creating public relations campaigns
23 aimed at mobilizing the judiciary around particular
24 issues; and drafting law review articles, amicus
25 briefs, and other products which tell judges how to

1 decide a given case and provide ready-made argu-
2 ments for willing judges to adopt.

3 (6) Over the past decade, nonprofit organiza-
4 tions that do not disclose their donors have spent
5 hundreds of millions of dollars to influence the nomi-
6 nation and confirmation process for Federal judges.
7 One organization alone has spent nearly
8 \$40,000,000 on advertisements supporting or oppos-
9 ing Supreme Court nominees since 2016.

10 (7) Anonymous money spent on judicial nomi-
11 nations is not subject to any disclosure require-
12 ments. Federal election laws only regulate contribu-
13 tions and expenditures relating to electoral politics;
14 thus, expenditures, contributions, and advocacy ef-
15 forts for Federal judgeships are not covered under
16 the Federal Election Campaign Act of 1971. With-
17 out more disclosure, the public has no way of know-
18 ing whether the people spending money supporting
19 or opposing judicial nominations have business be-
20 fore the courts.

21 (8) Congress and the American people have a
22 compelling interest in knowing who is funding these
23 campaigns to select and confirm judges to lifetime
24 appointments on the Federal bench.

1 (b) REPORTING.—Section 324 of the Federal Elec-
 2 tion Campaign Act of 1971 (52 U.S.C. 30126), as amend-
 3 ed by section 201, is amended by redesignating subsection
 4 (g) as subsection (h) and by inserting after subsection (f)
 5 the following new subsection:

6 “(g) APPLICATION TO FEDERAL JUDICIAL NOMINA-
 7 TIONS.—

8 “(1) IN GENERAL.—For purposes of this sec-
 9 tion—

10 “(A) a disbursement by a covered organi-
 11 zation for a Federal judicial nomination com-
 12 munication shall be treated as a campaign-re-
 13 lated disbursement; and

14 “(B) in the case of campaign-related dis-
 15 bursements which are for Federal judicial nomi-
 16 nation communications—

17 “(i) the dollar amounts in paragraphs
 18 (1) and (2) of subsection (a) shall be ap-
 19 plied separately with respect to such dis-
 20 bursements and other campaign-related
 21 disbursements;

22 “(ii) the election reporting cycle shall
 23 be the calendar year in which the disburse-
 24 ment for the Federal judicial nomination
 25 communication is made;

1 “(iii) references to a candidate in sub-
 2 sections (a)(2)(C), (a)(2)(D), and
 3 (a)(3)(C) shall be treated as references to
 4 a nominee for a Federal judge or justice;

5 “(iv) the reference to an election in
 6 subsection (a)(2)(C) shall be treated as a
 7 reference to the nomination of such nomi-
 8 nee.

9 “(2) FEDERAL JUDICIAL NOMINATION COMMU-
 10 NICATION.—

11 “(A) IN GENERAL.—The term ‘Federal ju-
 12 dicial nomination communication’ means any
 13 communication—

14 “(i) that is by means of any broad-
 15 cast, cable, or satellite, paid internet, or
 16 paid digital communication, paid pro-
 17 motion, newspaper, magazine, outdoor ad-
 18 vertising facility, mass mailing, telephone
 19 bank, telephone messaging effort of more
 20 than 500 substantially similar calls or elec-
 21 tronic messages within a 30-day period, or
 22 any other form of general public political
 23 advertising; and

24 “(ii) which promotes, supports, at-
 25 tacks, or opposes the nomination or Senate

1 confirmation of an individual as a Federal
 2 judge or justice.

3 “(B) EXCEPTION.—Such term shall not in-
 4 clude any news story, commentary, or editorial
 5 distributed through the facilities of any broad-
 6 casting station or any print, online, or digital
 7 newspaper, magazine, publication, or periodical,
 8 unless such facilities are owned or controlled by
 9 any political party, political committee, or can-
 10 didate.

11 “(C) INTENT NOT REQUIRED.—A disburse-
 12 ment for an item described in subparagraph (A)
 13 shall be treated as a disbursement for a Federal
 14 judicial nomination communication regardless
 15 of the intent of the person making the disburse-
 16 ment.”.

17 **SEC. 203. COORDINATION WITH FINCEN.**

18 (a) IN GENERAL.—The Director of the Financial
 19 Crimes Enforcement Network of the Department of the
 20 Treasury shall provide the Federal Election Commission
 21 with such information as necessary to assist in admin-
 22 istering and enforcing section 324 of the Federal Election
 23 Campaign Act of 1971, as amended by this title.

24 (b) REPORT.—Not later than 6 months after the date
 25 of the enactment of this Act, the Chairman of the Federal

1 Election Commission, in consultation with the Director of
 2 the Financial Crimes Enforcement Network of the De-
 3 partment of the Treasury, shall submit to Congress a re-
 4 port with recommendations for providing further legisla-
 5 tive authority to assist in the administration and enforce-
 6 ment of such section 324.

7 **SEC. 204. APPLICATION OF FOREIGN MONEY BAN TO DIS-**
 8 **BURSEMENTS FOR CAMPAIGN-RELATED DIS-**
 9 **BURSEMENTS CONSISTING OF COVERED**
 10 **TRANSFERS.**

11 Section 319(b)(2) of the Federal Election Campaign
 12 Act of 1971 (52 U.S.C. 30121(a)(1)(A)), as amended by
 13 section 101, is amended—

14 (1) by striking “includes any disbursement”
 15 and inserting “includes—

16 “(A) any disbursement”;

17 (2) by striking the period at the end and insert-
 18 ing “; and”, and

19 (3) by adding at the end the following new sub-
 20 paragraph:

21 “(B) any disbursement, other than a dis-
 22 bursement described in section 324(a)(3)(A), to
 23 another person who made a campaign-related
 24 disbursement consisting of a covered transfer
 25 (as described in section 324) during the 2-year

1 period ending on the date of the disburse-
2 ment.”.

3 **SEC. 205. EFFECTIVE DATE.**

4 The amendments made by this title shall apply with
5 respect to disbursements made on or after January 1,
6 2023, and shall take effect without regard to whether or
7 not the Federal Election Commission has promulgated
8 regulations to carry out such amendments.

9 **TITLE III—OTHER**
10 **ADMINISTRATIVE REFORMS**

11 **SEC. 301. PETITION FOR CERTIORARI.**

12 Section 307(a)(6) of the Federal Election Campaign
13 Act of 1971 (52 U.S.C. 30107(a)(6)) is amended by in-
14 serting “(including a proceeding before the Supreme
15 Court on certiorari)” after “appeal”.

16 **SEC. 302. JUDICIAL REVIEW OF ACTIONS RELATED TO CAM-**
17 **PAIGN FINANCE LAWS.**

18 (a) IN GENERAL.—Title IV of the Federal Election
19 Campaign Act of 1971 (52 U.S.C. 30141 et seq.) is
20 amended by inserting after section 406 the following new
21 section:

22 **“SEC. 407. JUDICIAL REVIEW.**

23 “(a) IN GENERAL.—If any action is brought for de-
24 claratory or injunctive relief to challenge, whether facially
25 or as-applied, the constitutionality or lawfulness of any

1 provision of this Act, including title V, or of chapter 95
2 or 96 of the Internal Revenue Code of 1986, or is brought
3 to with respect to any action of the Commission under
4 chapter 95 or 96 of the Internal Revenue Code of 1986,
5 the following rules shall apply:

6 “(1) The action shall be filed in the United
7 States District Court for the District of Columbia
8 and an appeal from the decision of the district court
9 may be taken to the Court of Appeals for the Dis-
10 trict of Columbia Circuit.

11 “(2) In the case of an action relating to declar-
12 atory or injunctive relief to challenge the constitu-
13 tionality of a provision, the party filing the action
14 shall concurrently deliver a copy of the complaint to
15 the Clerk of the House of Representatives and the
16 Secretary of the Senate.

17 “(3) It shall be the duty of the United States
18 District Court for the District of Columbia and the
19 Court of Appeals for the District of Columbia Cir-
20 cuit to advance on the docket and to expedite to the
21 greatest possible extent the disposition of the action
22 and appeal.

23 “(b) CLARIFYING SCOPE OF JURISDICTION.—If an
24 action at the time of its commencement is not subject to
25 subsection (a), but an amendment, counterclaim, cross-

1 claim, affirmative defense, or any other pleading or motion
 2 is filed challenging, whether facially or as-applied, the con-
 3 stitutionality or lawfulness of this Act or of chapter 95
 4 or 96 of the Internal Revenue Code of 1986, or is brought
 5 to with respect to any action of the Commission under
 6 chapter 95 or 96 of the Internal Revenue Code of 1986,
 7 the district court shall transfer the action to the District
 8 Court for the District of Columbia, and the action shall
 9 thereafter be conducted pursuant to subsection (a).

10 “(c) INTERVENTION BY MEMBERS OF CONGRESS.—

11 In any action described in subsection (a) relating to de-
 12 claratory or injunctive relief to challenge the constitu-
 13 tionality of a provision, any Member of the House of Rep-
 14 resentatives (including a Delegate or Resident Commis-
 15 sioner to the Congress) or Senate shall have the right to
 16 intervene either in support of or opposition to the position
 17 of a party to the case regarding the constitutionality of
 18 the provision. To avoid duplication of efforts and reduce
 19 the burdens placed on the parties to the action, the court
 20 in any such action may make such orders as it considers
 21 necessary, including orders to require interveners taking
 22 similar positions to file joint papers or to be represented
 23 by a single attorney at oral argument.

24 “(d) CHALLENGE BY MEMBERS OF CONGRESS.—Any

25 Member of Congress may bring an action, subject to the

1 special rules described in subsection (a), for declaratory
 2 or injunctive relief to challenge, whether facially or as-ap-
 3 plied, the constitutionality of any provision of this Act or
 4 chapter 95 or 96 of the Internal Revenue Code of 1986.”.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 9011 of the Internal Revenue Code
 7 of 1986 is amended to read as follows:

8 **“SEC. 9011. JUDICIAL REVIEW.**

9 “For provisions relating to judicial review of certifi-
 10 cations, determinations, and actions by the Commission
 11 under this chapter, see section 407 of the Federal Election
 12 Campaign Act of 1971.”.

13 (2) Section 9041 of the Internal Revenue Code
 14 of 1986 is amended to read as follows:

15 **“SEC. 9041. JUDICIAL REVIEW.**

16 “For provisions relating to judicial review of actions
 17 by the Commission under this chapter, see section 407 of
 18 the Federal Election Campaign Act of 1971.”.

19 (3) Section 310 of the Federal Election Cam-
 20 paign Act of 1971 (52 U.S.C. 30110) is repealed.

21 (4) Section 403 of the Bipartisan Campaign
 22 Reform Act of 2002 (52 U.S.C. 30110 note) is re-
 23 pealed.

1 **SEC. 303. EFFECTIVE DATE.**

2 The amendments made by this title shall take effect
3 and apply on the date of the enactment of this Act, with-
4 out regard to whether or not the Federal Election Com-
5 mission has promulgated regulations to carry out this title
6 and the amendments made by this title.

7 **TITLE IV—STAND BY EVERY AD**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Stand By Every Ad
10 Act”.

11 **SEC. 402. STAND BY EVERY AD.**

12 (a) EXPANDED DISCLAIMER REQUIREMENTS FOR
13 CERTAIN COMMUNICATIONS.—Section 318 of the Federal
14 Election Campaign Act of 1971 (52 U.S.C. 30120) is
15 amended by adding at the end the following new sub-
16 section:

17 “(e) EXPANDED DISCLAIMER REQUIREMENTS FOR
18 COMMUNICATIONS NOT AUTHORIZED BY CANDIDATES OR
19 COMMITTEES.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (6), any communication described in para-
22 graph (3) of subsection (a) which is transmitted in
23 an audio or video format (including an internet or
24 digital communication), or which is an internet or
25 digital communication transmitted in a text or
26 graphic format, shall include, in addition to the re-

1 requirements of paragraph (3) of subsection (a), the
2 following:

3 “(A) The individual disclosure statement
4 described in paragraph (2)(A) (if the person
5 paying for the communication is an individual)
6 or the organizational disclosure statement de-
7 scribed in paragraph (2)(B) (if the person pay-
8 ing for the communication is not an individual).

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

15 “(i) the Top Five Funders list (if ap-
16 plicable); or

17 “(ii) in the case of a communication
18 which, as determined on the basis of cri-
19 teria established in regulations issued by
20 the Commission, is of such short duration
21 that including the Top Five Funders list in
22 the communication would constitute a
23 hardship to the person paying for the com-
24 munication by requiring a disproportionate
25 amount of the content of the communica-

tion to consist of the Top Five Funders list, the name of a website which contains the Top Five Funders list (if applicable) or, in the case of an internet or digital communication, a hyperlink to such website.

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

“(i) the Top Two Funders list (if applicable); or

“(ii) in the case of a communication which, as determined on the basis of criteria established in regulations issued by the Commission, is of such short duration that including the Top Two Funders list in the communication would constitute a hardship to the person paying for the communication by requiring a disproportionate amount of the content of the communication to consist of the Top Two Funders list, the name of a website which contains the Top Two Funders list (if applicable).

1 “(2) DISCLOSURE STATEMENTS DESCRIBED.—

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

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

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

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

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

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

1 “(A) COMMUNICATIONS IN TEXT OR
2 GRAPHIC FORMAT.—In the case of a commu-
3 nication to which this subsection applies which
4 is transmitted in a text or graphic format, the
5 disclosure statements required under paragraph
6 (1) shall appear in letters at least as large as
7 the majority of the text in the communication.

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

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

20 “(i) shall appear in writing at the end
21 of the communication or in a crawl along
22 the bottom of the communication in a clear
23 and conspicuous manner, with a reasonable
24 degree of color contrast between the back-

1 ground and the printed statement, for a
 2 period of at least 6 seconds; and

3 “(ii) shall also be conveyed by an
 4 unobscured, full-screen view of the applica-
 5 ble individual or by the applicable indi-
 6 vidual making the statement in voice-over
 7 accompanied by a clearly identifiable pho-
 8 tograph or similar image of the individual,
 9 except in the case of a Top Five Funders
 10 list.

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

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

16 “(B) if the communication is paid for by a
 17 corporation, the chief executive officer of the
 18 corporation (or, if the corporation does not have
 19 a chief executive officer, the highest ranking of-
 20 ficial of the corporation);

21 “(C) if the communication is paid for by a
 22 labor organization, the highest ranking officer
 23 of the labor organization; and

1 “(D) if the communication is paid for by
2 any other person, the highest ranking official of
3 such person.

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

6 “(A) TOP FIVE FUNDERS LIST.—The term
7 ‘Top Five Funders list’ means, with respect to
8 a communication which is paid for in whole or
9 in part with a campaign-related disbursement
10 (as defined in section 324), a list of the 5 per-
11 sons who, during the 12-month period ending
12 on the date of the disbursement, provided the
13 largest payments of any type in an aggregate
14 amount equal to or exceeding \$10,000 to the
15 person who is paying for the communication
16 and the amount of the payments each such per-
17 son provided. If 2 or more people provided the
18 fifth largest of such payments, the person pay-
19 ing for the communication shall select 1 of
20 those persons to be included on the Top Five
21 Funders list.

22 “(B) TOP TWO FUNDERS LIST.—The term
23 ‘Top Two Funders list’ means, with respect to
24 a communication which is paid for in whole or
25 in part with a campaign-related disbursement

(as defined in section 324), a list of the persons who, during the 12-month period ending on the date of the disbursement, provided the largest and the second largest payments of any type in an aggregate amount equal to or exceeding \$10,000 to the person who is paying for the communication and the amount of the payments each such person provided. If 2 or more persons provided the second largest of such payments, the person paying for the communication shall select 1 of those persons to be included on the Top Two Funders list.

“(C) EXCLUSION OF CERTAIN PAYMENTS.—For purposes of subparagraphs (A) and (B), in determining the amount of payments made by a person to a person paying for a communication, there shall be excluded the following:

“(i) Any amounts provided in the ordinary course of any trade or business conducted by the person paying for the communication or in the form of investments in the person paying for the communication.

1 “(ii) Any payment which the person
 2 prohibited, in writing, from being used for
 3 campaign-related disbursements, but only
 4 if the person paying for the communication
 5 agreed to follow the prohibition and depos-
 6 ited the payment in an account which is
 7 segregated from any account used to make
 8 campaign-related disbursements.

9 “(6) SPECIAL RULES FOR CERTAIN COMMU-
 10 NICATIONS.—

11 “(A) EXCEPTION FOR COMMUNICATIONS
 12 PAID FOR BY POLITICAL PARTIES AND CERTAIN
 13 POLITICAL COMMITTEES.—This subsection does
 14 not apply to any communication to which sub-
 15 section (d)(2) applies.

16 “(B) TREATMENT OF VIDEO COMMUNICA-
 17 TIONS LASTING 10 SECONDS OR LESS.—In the
 18 case of a communication to which this sub-
 19 section applies which is transmitted in a video
 20 format, or is an internet or digital communica-
 21 tion which is transmitted in a text or graphic
 22 format, the communication shall meet the fol-
 23 lowing requirements:

24 “(i) The communication shall include
 25 the individual disclosure statement de-

1 scribed in paragraph (2)(A) (if the person
2 paying for the communication is an indi-
3 vidual) or the organizational disclosure
4 statement described in paragraph (2)(B)
5 (if the person paying for the communica-
6 tion is not an individual).

7 “(ii) The statement described in
8 clause (i) shall appear in writing at the
9 end of the communication, or in a crawl
10 along the bottom of the communication, in
11 a clear and conspicuous manner, with a
12 reasonable degree of color contrast between
13 the background and the printed statement,
14 for a period of at least 4 seconds.

15 “(iii) The communication shall in-
16 clude, in a clear and conspicuous manner,
17 a website address with a landing page
18 which will provide all of the information
19 described in paragraph (1) with respect to
20 the communication. Such address shall ap-
21 pear for the full duration of the commu-
22 nication.

23 “(iv) To the extent that the format in
24 which the communication is made permits
25 the use of a hyperlink, the communication

1 shall include a hyperlink to the website ad-
 2 dress described in clause (iii).”.

3 (b) APPLICATION OF EXPANDED REQUIREMENTS TO
 4 PUBLIC COMMUNICATIONS CONSISTING OF CAMPAIGN-RE-
 5 LATED DISBURSEMENTS.—

6 (1) IN GENERAL.—Section 318(a) of such Act
 7 (52 U.S.C. 30120(a)) is amended by striking “for
 8 the purpose of financing communications expressly
 9 advocating the election or defeat of a clearly identi-
 10 fied candidate” and inserting “for a campaign-re-
 11 lated disbursement, as defined in section 324, con-
 12 sisting of a public communication”.

13 (2) CLARIFICATION OF EXEMPTION FROM IN-
 14 CLUSION OF CANDIDATE DISCLAIMER STATEMENT IN
 15 FEDERAL JUDICIAL NOMINATION COMMUNICA-
 16 TIONS.—Section 318(a)(3) of such Act (52 U.S.C.
 17 30120(a)(3)) is amended by striking “shall clearly
 18 state” and inserting “shall (except in the case of a
 19 Federal judicial nomination communication, as de-
 20 fined in section 324(d)(3)) clearly state”.

21 (c) EXCEPTION FOR COMMUNICATIONS PAID FOR BY
 22 POLITICAL PARTIES AND CERTAIN POLITICAL COMMIT-
 23 TEES.—Section 318(d)(2) of such Act (52 U.S.C.
 24 30120(d)(2)) is amended—

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

3 (2) by striking “Any communication” and in-
 4 serting “(A) Any communication”;

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

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

11 (5) by adding at the end the following new sub-
 12 paragraph:

13 “(B)(i) This paragraph does not apply to
 14 a communication paid for in whole or in part
 15 during a calendar year with a campaign-related
 16 disbursement, but only if the covered organiza-
 17 tion making the campaign-related disbursement
 18 made campaign-related disbursements (as de-
 19 fined in section 324) aggregating more than
 20 \$10,000 during such calendar year.

21 “(ii) For purposes of clause (i), in deter-
 22 mining the amount of campaign-related dis-
 23 bursements made by a covered organization
 24 during a year, there shall be excluded the fol-
 25 lowing:

1 “(I) Any amounts received by the cov-
 2 ered organization in the ordinary course of
 3 any trade or business conducted by the
 4 covered organization or in the form of in-
 5 vestments in the covered organization.

6 “(II) Any amounts received by the
 7 covered organization from a person who
 8 prohibited, in writing, the organization
 9 from using such amounts for campaign-re-
 10 lated disbursements, but only if the cov-
 11 ered organization agreed to follow the pro-
 12 hibition and deposited the amounts in an
 13 account which is segregated from any ac-
 14 count used to make campaign-related dis-
 15 bursements.”.

16 (d) MODIFICATION OF ADDITIONAL REQUIREMENTS
 17 FOR CERTAIN COMMUNICATIONS.—Section 318(d) of the
 18 Federal Election Campaign Act of 1971 (52 U.S.C.
 19 30120(d)) is amended—

20 (1) in paragraph (1)(A)—

21 (A) by striking “which is transmitted
 22 through radio” and inserting “which is in an
 23 audio format”; and

24 (B) by striking “BY RADIO” in the heading
 25 and inserting “AUDIO FORMAT”;

1 (2) in paragraph (1)(B)—

2 (A) by striking “which is transmitted
3 through television” and inserting “which is in
4 video format”; and

5 (B) by striking “BY TELEVISION” in the
6 heading and inserting “VIDEO FORMAT”; and

7 (3) in paragraph (2)—

8 (A) by striking “transmitted through radio
9 or television” and inserting “made in audio or
10 video format”; and

11 (B) by striking “through television” in the
12 second sentence and inserting “in video for-
13 mat”.

14 **SEC. 403. DISCLAIMER REQUIREMENTS FOR COMMUNICA-**
15 **TIONS MADE THROUGH PRERECORDED TELE-**
16 **PHONE CALLS.**

17 (a) APPLICATION OF REQUIREMENTS.—

18 (1) IN GENERAL.—Section 318(a) of the Fed-
19 eral Election Campaign Act of 1971 (52 U.S.C.
20 30120(a)) is amended by striking “mailing” each
21 place it appears and inserting “mailing, telephone
22 call consisting in substantial part of a prerecorded
23 audio message”.

24 (2) APPLICATION TO COMMUNICATIONS SUB-
25 JECT TO EXPANDED DISCLAIMER REQUIREMENTS.—

1 Section 318(e)(1) of such Act (52 U.S.C.
2 30120(e)(1)), as added by section 302(a), is amend-
3 ed in the matter preceding subparagraph (A) by
4 striking “which is transmitted in an audio or video
5 format” and inserting “which is transmitted in an
6 audio or video format or which consists of a tele-
7 phone call consisting in substantial part of a
8 prerecorded audio message”.

9 (b) TREATMENT AS COMMUNICATION TRANSMITTED
10 IN AUDIO FORMAT.—

11 (1) COMMUNICATIONS BY CANDIDATES OR AU-
12 THORIZED PERSONS.—Section 318(d) of such Act
13 (52 U.S.C. 30120(d)) is amended by adding at the
14 end the following new paragraph:

15 “(3) PRERECORDED TELEPHONE CALLS.—Any
16 communication described in paragraph (1), (2), or
17 (3) of subsection (a) (other than a communication
18 which is subject to subsection (e)) which is a tele-
19 phone call consisting in substantial part of a
20 prerecorded audio message shall include, in addition
21 to the requirements of such paragraph, the audio
22 statement required under subparagraph (A) of para-
23 graph (1) or the audio statement required under
24 paragraph (2) (whichever is applicable), except that

1 the statement shall be made at the beginning of the
2 telephone call.”.

3 (2) COMMUNICATIONS SUBJECT TO EXPANDED
4 DISCLAIMER REQUIREMENTS.—Section 318(e)(3) of
5 such Act (52 U.S.C. 30120(e)(3)), as added by sec-
6 tion 302(a), is amended by adding at the end the
7 following new subparagraph:

8 “(D) PRERECORDED TELEPHONE
9 CALLS.—In the case of a communication to
10 which this subsection applies which is a tele-
11 phone call consisting in substantial part of a
12 prerecorded audio message, the communication
13 shall be considered to be transmitted in an
14 audio format.”.

15 **SEC. 404. NO EXPANSION OF PERSONS SUBJECT TO DIS-**
16 **CLAIMER REQUIREMENTS ON INTERNET**
17 **COMMUNICATIONS.**

18 Nothing in this title or the amendments made by this
19 title may be construed to require any person who is not
20 required under section 318 of the Federal Election Cam-
21 paign Act of 1971 to include a disclaimer on communica-
22 tions made by the person through the internet to include
23 any disclaimer on any such communications.

1 **SEC. 405. EFFECTIVE DATE.**

2 The amendments made by this title shall apply with
3 respect to communications made on or after January 1,
4 2023, and shall take effect without regard to whether or
5 not the Federal Election Commission has promulgated
6 regulations to carry out such amendments.

7 **TITLE V—SEVERABILITY**

8 **SEC. 501. SEVERABILITY.**

9 If any provision of this Act or amendment made by
10 this Act, or the application of a provision or amendment
11 to any person or circumstance, is held to be unconstitu-
12 tional, the remainder of this Act and amendments made
13 by this Act, and the application of the provisions and
14 amendment to any person or circumstance, shall not be
15 affected by the holding.

Calendar No. 484

117TH CONGRESS
2D Session

S. 4822

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.

SEPTEMBER 13, 2022

Read the second time and placed on the calendar