

117TH CONGRESS  
1ST SESSION

# S. 443

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.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2021

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, and Mr. WARNOCK) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

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## A BILL

To amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

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

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

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Democracy Is Strengthened by Casting Light On Spend-  
 4 ing in Elections Act of 2021” or the “DISCLOSE Act  
 5 of 2021”.

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

Sec. 1. Short title; table of contents.

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

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

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

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

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

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

Sec. 106. Prohibiting establishment of corporation to conceal election contribu-  
 tions and donations by foreign nationals.

**TITLE II—REPORTING OF CAMPAIGN-RELATED DISBURSEMENTS**

Sec. 201. Reporting of campaign-related disbursements.

Sec. 202. Application of foreign money ban to disbursements for campaign-re-  
 lated disbursements consisting of covered transfers.

Sec. 203. Effective date.

**TITLE III—STAND BY EVERY AD**

Sec. 301. Short title.

Sec. 302. Stand By Every Ad.

Sec. 303. Disclaimer requirements for communications made through  
 prerecorded telephone calls.

Sec. 304. No expansion of persons subject to disclaimer requirements on inter-  
 net communications.

Sec. 305. Effective date.

**TITLE IV—OTHER ADMINISTRATIVE REFORMS**

Sec. 401. Petition for certiorari.

Sec. 402. Judicial review of actions related to campaign finance laws.

**TITLE V—OTHER PROVISIONS**

Sec. 501. Severability.

1 **TITLE I—CLOSING LOOPHOLES**  
2 **ALLOWING SPENDING BY**  
3 **FOREIGN NATIONALS IN**  
4 **ELECTIONS**

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

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

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

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

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

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

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

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

6 “(c) CERTIFICATION OF COMPLIANCE REQUIRED  
7 PRIOR TO CARRYING OUT ACTIVITY.—Prior to the mak-  
8 ing in connection with an election for Federal office of any  
9 contribution, donation, expenditure, independent expendi-  
10 ture, or disbursement for an electioneering communication  
11 by a corporation, labor organization (as defined in section  
12 316(b)), limited liability corporation, or partnership dur-  
13 ing a year, the chief executive officer of the corporation,  
14 labor organization, limited liability corporation, or part-  
15 nership (or, if the corporation, labor organization, limited  
16 liability corporation, or partnership does not have a chief  
17 executive officer, the highest ranking official of the cor-  
18 poration, labor organization, limited liability corporation,  
19 or partnership), shall file a certification with the Commis-  
20 sion, under penalty of perjury, that a foreign national did  
21 not direct, dictate, control, or directly or indirectly partici-  
22 pate in the decision making process relating to such activ-  
23 ity in violation of subsection (a)(3), unless the chief execu-  
24 tive officer has previously filed such a certification during  
25 that calendar year.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect upon the expiration of the  
3 180-day period which begins on the date of the enactment  
4 of this Act, and shall take effect without regard to whether  
5 or not the Federal Election Commission has promulgated  
6 regulations to carry out such amendments.

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

10 (a) APPLICATION TO DISBURSEMENTS TO SUPER  
11 PACS AND OTHER PERSONS.—Section 319(b) of the Fed-  
12 eral Election Campaign Act of 1971 (52 U.S.C. 30121(b))  
13 is amended—

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

17 (2) by striking “As used in this section” and in-  
18 serting the following: “DEFINITIONS.—For purposes  
19 of this section—

20 “(1) FOREIGN NATIONAL.—The term”; and

21 (3) by adding at the end the following new  
22 paragraph:

23 “(2) CONTRIBUTION AND DONATION.—For pur-  
24 poses of paragraphs (1) and (2) of subsection (a),  
25 the term ‘contribution or donation’ includes any dis-

1       bursement to a political committee which accepts do-  
2       nations or contributions that do not comply with any  
3       of the limitations, prohibitions, and reporting re-  
4       quirements of this Act (or any disbursement to or on  
5       behalf of any account of a political committee which  
6       is established for the purpose of accepting such do-  
7       nations or contributions), or to any other person for  
8       the purpose of funding an expenditure, independent  
9       expenditure, or electioneering communication (as de-  
10      fined in section 304(f)(3)).”.

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

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

19           “(A) Each individual who manages the fund,  
20           and who is responsible for exercising decisionmaking  
21           authority for the fund, is a citizen of the United  
22           States or is lawfully admitted for permanent resi-  
23           dence in the United States.

24           “(B) No foreign national under section 319  
25           participates in any way in the decisionmaking proc-

1       esses of the fund with regard to contributions or ex-  
2       penditures under this Act.

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

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

11 **SEC. 103. AUDIT AND REPORT ON ILLICIT FOREIGN MONEY**  
12                                   **IN FEDERAL ELECTIONS.**

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

17 **“SEC. 319A. AUDIT AND REPORT ON DISBURSEMENTS BY**  
18                                   **FOREIGN NATIONALS.**

19       “(a) AUDIT.—

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

24               “(2) PROCEDURES.—In carrying out paragraph  
25       (1), the Commission shall conduct random audits of

1 any disbursements required to be reported under  
2 this Act, in accordance with procedures established  
3 by the Commission.

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

7 “(1) results of the audit required by subsection  
8 (a)(1);

9 “(2) an analysis of the extent to which illicit  
10 foreign money was used to carry out disinformation  
11 and propaganda campaigns focused on depressing  
12 turnout among rural communities and the success or  
13 failure of these efforts, together with recommenda-  
14 tions to address these efforts in future elections;

15 “(3) an analysis of the extent to which illicit  
16 foreign money was used to carry out disinformation  
17 and propaganda campaigns focused on depressing  
18 turnout among African-American and other minority  
19 communities and the success or failure of these ef-  
20 forts, together with recommendations to address  
21 these efforts in future elections;

22 “(4) an analysis of the extent to which illicit  
23 foreign money was used to carry out disinformation  
24 and propaganda campaigns focused on influencing  
25 military and veteran communities and the success or



1 failure of these efforts, together with recommenda-  
 2 tions to address these efforts in future elections; and

3 “(5) recommendations to address the presence  
 4 of illicit foreign money in elections, as appropriate.

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

6 “(1) The term ‘Federal election cycle’ means  
 7 the period which begins on the day after the date of  
 8 a regularly scheduled general election for Federal of-  
 9 fice and which ends on the date of the first regularly  
 10 scheduled general election for Federal office held  
 11 after such date.

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

15 (b) EFFECTIVE DATE.—The amendment made by  
 16 subsection (a) shall apply with respect to the Federal elec-  
 17 tion cycle that began during November 2020, and each  
 18 succeeding Federal election cycle.

19 **SEC. 104. PROHIBITION ON CONTRIBUTIONS AND DONA-**  
 20 **TIONS BY FOREIGN NATIONALS IN CONNEX-**  
 21 **TIONS WITH BALLOT INITIATIVES AND**  
 22 **REFERENDA.**

23 (a) IN GENERAL.—Section 319(b) of the Federal  
 24 Election Campaign Act of 1971 (52 U.S.C. 30121(b)), as

1 amended by section 102(a), is amended by adding at the  
2 end the following new paragraph:

3 “(3) FEDERAL, STATE, OR LOCAL ELECTION.—

4 The term ‘Federal, State, or local election’ includes  
5 a State or local ballot initiative or referendum.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
7 this section shall apply with respect to elections held in  
8 2022 or any succeeding year.

9 **SEC. 105. DISBURSEMENTS AND ACTIVITIES SUBJECT TO**  
10 **FOREIGN MONEY BAN.**

11 (a) DISBURSEMENTS DESCRIBED.—Section  
12 319(a)(1) of the Federal Election Campaign Act of 1971  
13 (52 U.S.C. 30121(a)(1)) is amended—

14 (1) by striking “or” at the end of subparagraph

15 (B); and

16 (2) by striking subparagraph (C) and inserting  
17 the following:

18 “(C) an expenditure;

19 “(D) an independent expenditure;

20 “(E) a disbursement for an electioneering  
21 communication (within the meaning of section  
22 304(f)(3));

23 “(F) a disbursement for a communication  
24 which is placed or promoted for a fee on a  
25 website, web application, or digital application

1 that refers to a clearly identified candidate for  
2 election for Federal office and is disseminated  
3 within 60 days before a general, special or run-  
4 off election for the office sought by the can-  
5 didate or 30 days before a primary or pref-  
6 erence election, or a convention or caucus of a  
7 political party that has authority to nominate a  
8 candidate for the office sought by the can-  
9 didate;

10 “(G) a disbursement for a broadcast, cable  
11 or satellite communication, or for a communica-  
12 tion which is placed or promoted for a fee on  
13 a website, web application, or digital applica-  
14 tion, that promotes, supports, attacks or op-  
15 poses the election of a clearly identified can-  
16 didate for Federal, State, or local office (re-  
17 gardless of whether the communication contains  
18 express advocacy or the functional equivalent of  
19 express advocacy);

20 “(H) a disbursement for a broadcast,  
21 cable, or satellite communication, or for any  
22 communication which is placed or promoted for  
23 a fee on an online platform, that discusses a  
24 national legislative issue of public importance in  
25 a year in which a regularly scheduled general

1 election for Federal office is held, but only if  
2 the disbursement is made by a foreign principal  
3 who is a government of a foreign country or a  
4 foreign political party or an agent of such a for-  
5 eign principal under the Foreign Agents Reg-  
6 istration Act of 1938, as amended;

7 “(I) a disbursement by a foreign principal  
8 who is a government of a foreign country or a  
9 foreign political party, or an agent of such a  
10 foreign principal under the Foreign Agents  
11 Registration Act of 1938, as amended, to com-  
12 pensate any person for internet activity that  
13 promotes, supports, attacks or opposes the elec-  
14 tion of a clearly identified candidate for Fed-  
15 eral, State, or local office (regardless of whether  
16 the activity contains express advocacy or the  
17 functional equivalent of express advocacy); and

18 “(J) a disbursement for a Federal judicial  
19 nomination communication (as defined in sec-  
20 tion 324(d)(3)).”.

21 (b) ONLINE PLATFORM.—Section 319(b) of such Act  
22 (51 U.S.C. 30121(b)), as amended by sections 102(a) and  
23 104, is amended by adding at the end the following new  
24 paragraph:

25 “(4) ONLINE PLATFORM.—

1           “(A) IN GENERAL.—The term ‘online plat-  
2 form’ means any public-facing website, web ap-  
3 plication, or digital application (including a so-  
4 cial network, ad network, or search engine)  
5 which—

6                   “(i) sells qualified political advertise-  
7 ments; and

8                   “(ii) has 50,000,000 or more unique  
9 monthly United States visitors or users for  
10 a majority of months during the preceding  
11 12 months.

12           “(B) QUALIFIED POLITICAL ADVERTISE-  
13 MENT.—The term ‘qualified political advertise-  
14 ment’ means any advertisement (including  
15 search engine marketing, display advertise-  
16 ments, video advertisements, native advertise-  
17 ments, and sponsorships) that—

18                   “(i) is made by or on behalf of a can-  
19 didate; or

20                   “(ii) communicates a message relating  
21 to any political matter of national impor-  
22 tance, including—

23                           “(I) a candidate;

24                           “(II) any election to Federal of-  
25 fice; or

1                   “(III) a national legislative issue  
2                   of public importance.”.

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

6 **SEC. 106. PROHIBITING ESTABLISHMENT OF CORPORATION**  
7                   **TO CONCEAL ELECTION CONTRIBUTIONS**  
8                   **AND DONATIONS BY FOREIGN NATIONALS.**

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

12 **“§ 612. Establishment of corporation to conceal elec-**  
13                   **tion contributions and donations by for-**  
14                   **ign nationals**

15           “(a) OFFENSE.—It shall be unlawful for an owner,  
16 officer, attorney, or incorporation agent of a corporation,  
17 company, or other entity to establish or use the corpora-  
18 tion, company, or other entity with the intent to conceal  
19 an activity of a foreign national (as defined in section 319  
20 of the Federal Election Campaign Act of 1971 (52 U.S.C.  
21 30121)) prohibited under such section 319.

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

1 (b) TABLE OF SECTIONS.—The table of sections for  
 2 chapter 29 of title 18, United States Code, is amended  
 3 by inserting after the item relating to section 611 the fol-  
 4 lowing:

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

5 **TITLE II—REPORTING OF CAM-**  
 6 **PAIGN-RELATED DISBURSE-**  
 7 **MENTS**

8 **SEC. 201. REPORTING OF CAMPAIGN-RELATED DISBURSE-**  
 9 **MENTS.**

10 (a) DISCLOSURE REQUIREMENTS FOR CORPORA-  
 11 TIONS, LABOR ORGANIZATIONS, AND CERTAIN OTHER  
 12 ENTITIES.—

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

16 **“SEC. 324. DISCLOSURE OF CAMPAIGN-RELATED DISBURSE-**  
 17 **MENTS BY COVERED ORGANIZATIONS.**

18 “(a) DISCLOSURE STATEMENT.—

19 “(1) IN GENERAL.—Any covered organization  
 20 that makes campaign-related disbursements aggregating more than \$10,000 in an election reporting  
 21 cycle shall, not later than 24 hours after each disclosure  
 22 cycle shall, not later than 24 hours after each disclosure  
 23 date, file a statement with the Commission

1 made under penalty of perjury that contains the in-  
2 formation described in paragraph (2)—

3 “(A) in the case of the first statement filed  
4 under this subsection, for the period beginning  
5 on the first day of the election reporting cycle  
6 (or, if earlier, the period beginning one year be-  
7 fore the first such disclosure date) and ending  
8 on the first such disclosure date; and

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

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

15 “(A) The name of the covered organization  
16 and the principal place of business of such or-  
17 ganization and, in the case of a covered organi-  
18 zation that is a corporation (other than a busi-  
19 ness concern that is an issuer of a class of secu-  
20 rities registered under section 12 of the Securi-  
21 ties Exchange Act of 1934 (15 U.S.C. 78l) or  
22 that is required to file reports under section  
23 15(d) of that Act (15 U.S.C. 78o(d))) or an en-  
24 tity described in subsection (e)(2), a list of the



1           beneficial owners (as defined in paragraph  
2           (4)(A)) of the entity that—

3                   “(i) identifies each beneficial owner by  
4                   name and current residential or business  
5                   street address; and

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

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

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

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

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

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

1 election reporting cycle (or, if earlier, the  
2 period beginning one year before the dis-  
3 closure date) and ending on the disclosure  
4 date,  
5 but only if such payment was made by a person  
6 who made payments to the account in an aggre-  
7 gate amount of \$10,000 or more during the pe-  
8 riod beginning on the first day of the election  
9 reporting cycle (or, if earlier, the period begin-  
10 ning one year before the disclosure date) and  
11 ending on the disclosure date.

12 “(ii) In any calendar year after 2022, sec-  
13 tion 315(e)(1)(B) shall apply to the amount de-  
14 scribed in clause (i) in the same manner as  
15 such section applies to the limitations estab-  
16 lished under subsections (a)(1)(A), (a)(1)(B),  
17 (a)(3), and (h) of such section, except that for  
18 purposes of applying such section to the  
19 amounts described in subsection (b), the ‘base  
20 period’ shall be calendar year 2022.

21 “(F)(i) If the covered organization makes  
22 campaign-related disbursements using funds  
23 other than funds in a segregated bank account  
24 described in subparagraph (E), for each pay-  
25 ment to the covered organization—

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

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

6           “(III) the aggregate amount of all  
7           such payments made by the person during  
8           the period beginning on the first day of the  
9           election reporting cycle (or, if earlier, the  
10          period beginning one year before the dis-  
11          closure date) and ending on the disclosure  
12          date,

13          but only if such payment was made by a person  
14          who made payments to the covered organization  
15          in an aggregate amount of \$10,000 or more  
16          during the period beginning on the first day of  
17          the election reporting cycle (or, if earlier, the  
18          period beginning one year before the disclosure  
19          date) and ending on the disclosure date.

20          “(ii) In any calendar year after 2022, sec-  
21          tion 315(c)(1)(B) shall apply to the amount de-  
22          scribed in clause (i) in the same manner as  
23          such section applies to the limitations estab-  
24          lished under subsections (a)(1)(A), (a)(1)(B),  
25          (a)(3), and (h) of such section, except that for

1 purposes of applying such section to the  
2 amounts described in subsection (b), the ‘base  
3 period’ shall be calendar year 2022.

4 “(G) Such other information as required in  
5 rules established by the Commission to promote  
6 the purposes of this section.

7 “(3) EXCEPTIONS.—

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

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

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

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

15           “(C) THREAT OF HARASSMENT OR RE-  
16 PRISAL.—The requirement to include any infor-  
17 mation relating to the name or address of any  
18 person (other than a candidate) in a statement  
19 submitted under paragraph (1) shall not apply  
20 if the inclusion of the information would subject  
21 the person to serious threats, harassment, or  
22 reprisals.

23           “(4) OTHER DEFINITIONS.—For purposes of  
24 this section:

25                   “(A) BENEFICIAL OWNER DEFINED.—

1           “(i) IN GENERAL.—Except as pro-  
2           vided in clause (ii), the term ‘beneficial  
3           owner’ means, with respect to any entity,  
4           a natural person who, directly or indi-  
5           rectly—

6                   “(I) exercises substantial control  
7                   over an entity through ownership, vot-  
8                   ing rights, agreement, or otherwise; or

9                   “(II) has a substantial interest in  
10                  or receives substantial economic bene-  
11                  fits from the assets of an entity.

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

14                   “(I) a minor child;

15                   “(II) a person acting as a nomi-  
16                   nee, intermediary, custodian, or agent  
17                   on behalf of another person;

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

23                   “(IV) a person whose only inter-  
24                   est in an entity is through a right of  
25                   inheritance, unless the person also

1                   meets the requirements of clause (i);  
2                   or

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

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

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

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

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

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



1           general election for Federal office, except that  
2           in the case of a campaign-related disbursement  
3           for a Federal judicial nomination communica-  
4           tion, such term means any calendar year in  
5           which the campaign-related disbursement is  
6           made.

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

10          “(b) COORDINATION WITH OTHER PROVISIONS.—

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

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

20          “(c) FILING.—Statements required to be filed under  
21          subsection (a) shall be subject to the requirements of sec-  
22          tion 304(d) to the same extent and in the same manner  
23          as if such reports had been required under subsection (c)  
24          or (g) of section 304.

1       “(d) CAMPAIGN-RELATED DISBURSEMENT DE-  
2 FINED.—

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

7           “(A) An independent expenditure which ex-  
8 pressly advocates the election or defeat of a  
9 clearly identified candidate for election for Fed-  
10 eral office, or is the functional equivalent of ex-  
11 press advocacy because, when taken as a whole,  
12 it can be interpreted by a reasonable person  
13 only as advocating the election or defeat of a  
14 candidate for election for Federal office.

15           “(B) An applicable public communication.

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

18           “(D) A Federal judicial nomination com-  
19 munication.

20           “(E) A covered transfer.

21       “(2) APPLICABLE PUBLIC COMMUNICATIONS.—

22           “(A) IN GENERAL.—The term ‘applicable  
23 public communication’ means any public com-  
24 munication that refers to a clearly identified  
25 candidate for election for Federal office and

1           which promotes or supports the election of a  
2           candidate for that office, or attacks or opposes  
3           the election of a candidate for that office, with-  
4           out regard to whether the communication ex-  
5           pressly advocates a vote for or against a can-  
6           didate for that office.

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

15          “(3) FEDERAL JUDICIAL NOMINATION COMMU-  
16          NICATION.—

17                 “(A) IN GENERAL.—The term ‘Federal ju-  
18                 dicial nomination communication’ means any  
19                 communication—

20                         “(i) that is by means of any paid  
21                         broadcast, cable, or satellite, paid internet,  
22                         or paid digital communication, paid pro-  
23                         motion, newspaper, magazine, outdoor ad-  
24                         vertising facility, mass mailing, telephone  
25                         bank, telephone messaging effort of more

1 than 500 substantially similar calls or elec-  
2 tronic messages within a 30-day period, or  
3 any other form of general public political  
4 advertising; and

5 “(ii) that is susceptible to no reason-  
6 able interpretation other than promoting,  
7 supporting, attacking, or opposing the  
8 nomination or Senate confirmation of an  
9 individual as a Federal judge or justice.

10 “(B) EXCEPTION.—Such term shall not in-  
11 clude any news story, commentary, or editorial  
12 distributed through the facilities of any broad-  
13 casting station or any print, online, or digital  
14 newspaper, magazine, publication, or periodical,  
15 unless such facilities are owned or controlled by  
16 any political party, political committee, or can-  
17 didate.

18 “(4) INTENT NOT REQUIRED.—A disbursement  
19 for an item described in subparagraph (A), (B), (C),  
20 (D), or (E) of paragraph (1) shall be treated as a  
21 campaign-related disbursement regardless of the in-  
22 tent of the person making the disbursement.

23 “(e) COVERED ORGANIZATION DEFINED.—In this  
24 section, the term ‘covered organization’ means any of the  
25 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.

25           “(f) COVERED TRANSFER DEFINED.—

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

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

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

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

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

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

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

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

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

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

23          “(2) EXCLUSIONS.—The term ‘covered transfer’  
24          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



1 amount only if the aggregate amount trans-  
2 ferred during the year by such covered organi-  
3 zation to that same covered organization is  
4 equal to or greater than \$50,000.

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

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

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

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

1           except that the transfer shall not be treated as  
2           a transfer between affiliates if one of the orga-  
3           nizations is established for the purpose of mak-  
4           ing campaign-related disbursements.

5           “(D) DETERMINATION OF AFFILIATE STA-  
6           TUS.—For purposes of subparagraph (C), a  
7           covered organization is an affiliate of another  
8           covered organization if—

9                   “(i) the governing instrument of the  
10                   organization requires it to be bound by de-  
11                   cisions of the other organization;

12                   “(ii) the governing board of the orga-  
13                   nization includes persons who are specifi-  
14                   cally designated representatives of the  
15                   other organization or are members of the  
16                   governing board, officers, or paid executive  
17                   staff members of the other organization, or  
18                   whose service on the governing board is  
19                   contingent upon the approval of the other  
20                   organization; or

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

23           “(E) COVERAGE OF TRANSFERS TO AF-  
24           FILATED SECTION 501(c)(3) ORGANIZA-  
25           TIONS.—This paragraph shall apply with re-

1           spect to an amount transferred by a covered or-  
2           organization 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.—Nothing in this section shall be construed to  
11          waive or otherwise affect any other requirement of this  
12          Act which relates to the reporting of campaign-related dis-  
13          bursements.”.

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

19                 (b) 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 amended by this section.

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 **SEC. 202. APPLICATION OF FOREIGN MONEY BAN TO DIS-**  
13 **BURSEMENTS FOR CAMPAIGN-RELATED DIS-**  
14 **BURSEMENTS CONSISTING OF COVERED**  
15 **TRANSFERS.**

16 Section 319(b)(2) of the Federal Election Campaign  
17 Act of 1971 (52 U.S.C. 30121(a)(1)(A)), as amended by  
18 section 102, is amended—

19 (1) by striking “includes any disbursement”  
20 and inserting “includes—

21 “(A) any disbursement”;

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

24 (3) by adding at the end the following new sub-  
25 paragraph:

1           “(B) any disbursement, other than a dis-  
2           bursement described in section 324(a)(3)(A), to  
3           another person who made a campaign-related  
4           disbursement consisting of a covered transfer  
5           (as described in section 324) during the 2-year  
6           period ending on the date of the disburse-  
7           ment.”.

8 **SEC. 203. EFFECTIVE DATE.**

9           The amendments made by this title shall apply with  
10          respect to disbursements made on or after January 1,  
11          2022, and shall take effect without regard to whether or  
12          not the Federal Election Commission has promulgated  
13          regulations to carry out such amendments.

14 **TITLE III—STAND BY EVERY AD**

15 **SEC. 301. SHORT TITLE.**

16          This title may be cited as the “Stand By Every Ad  
17          Act”.

18 **SEC. 302. STAND BY EVERY AD.**

19          (a) **EXPANDED DISCLAIMER REQUIREMENTS FOR**  
20 **CERTAIN COMMUNICATIONS.**—Section 318 of the Federal  
21 Election Campaign Act of 1971 (52 U.S.C. 30120) is  
22 amended by adding at the end the the following new sub-  
23 section:

1       “(e) EXPANDED DISCLAIMER REQUIREMENTS FOR  
2 COMMUNICATIONS NOT AUTHORIZED BY CANDIDATES OR  
3 COMMITTEES.—

4           “(1) IN GENERAL.—Except as provided in para-  
5 graph (6), any communication described in para-  
6 graph (3) of subsection (a) which is transmitted in  
7 an audio or video format (including an internet or  
8 digital communication), or which is an internet or  
9 digital communication transmitted in a text or  
10 graphic format, shall include, in addition to the re-  
11 quirements of paragraph (3) of subsection (a), the  
12 following:

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

19           “(B) If the communication is transmitted  
20 in a video format, or is an internet or digital  
21 communication which is transmitted in a text or  
22 graphic format, and is paid for in whole or in  
23 part with a payment which is treated as a cam-  
24 paign-related disbursement under section 324—

1           “(i) the Top Five Funders list (if ap-  
2           plicable); or

3           “(ii) in the case of a communication  
4           which, as determined on the basis of cri-  
5           teria established in regulations issued by  
6           the Commission, is of such short duration  
7           that including the Top Five Funders list in  
8           the communication would constitute a  
9           hardship to the person paying for the com-  
10          munication by requiring a disproportionate  
11          amount of the content of the communica-  
12          tion to consist of the Top Five Funders  
13          list, the name of a website which contains  
14          the Top Five Funders list (if applicable)  
15          or, in the case of an internet or digital  
16          communication, a hyperlink to such  
17          website.

18          “(C) If the communication is transmitted  
19          in an audio format and is paid for in whole or  
20          in part with a payment which is treated as a  
21          campaign-related disbursement under section  
22          324—

23                 “(i) the Top Two Funders list (if ap-  
24                 plicable); or

1           “(ii) in the case of a communication  
 2           which, as determined on the basis of cri-  
 3           teria established in regulations issued by  
 4           the Commission, is of such short duration  
 5           that including the Top Two Funders list in  
 6           the communication would constitute a  
 7           hardship to the person paying for the com-  
 8           munication by requiring a disproportionate  
 9           amount of the content of the communica-  
 10          tion to consist of the Top Two Funders  
 11          list, the name of a website which contains  
 12          the Top Two Funders list (if applicable).

13          “(2) DISCLOSURE STATEMENTS DESCRIBED.—

14           “(A) INDIVIDUAL DISCLOSURE STATE-  
 15          MENTS.—The individual disclosure statement  
 16          described in this subparagraph is the following:  
 17          ‘I am \_\_\_\_\_, and I approve this  
 18          message.’, with the blank filled in with the  
 19          name of the applicable individual.

20           “(B) ORGANIZATIONAL DISCLOSURE  
 21          STATEMENTS.—The organizational disclosure  
 22          statement described in this subparagraph is the  
 23          following: ‘I am \_\_\_\_\_, the  
 24          \_\_\_\_\_ of \_\_\_\_\_, and



1 \_\_\_\_\_ approves this message.’,  
2 with—

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

5 “(ii) the second blank to be filled in  
6 with the title of the applicable individual;  
7 and

8 “(iii) the third and fourth blank each  
9 to be filled in with the name of the organi-  
10 zation or other person paying for the com-  
11 munication.

12 “(3) METHOD OF CONVEYANCE OF STATE-  
13 MENT.—

14 “(A) COMMUNICATIONS IN TEXT OR  
15 GRAPHIC FORMAT.—In the case of a commu-  
16 nication to which this subsection applies which  
17 is transmitted in a text or graphic format, the  
18 disclosure statements required under paragraph  
19 (1) shall appear in letters at least as large as  
20 the majority of the text in the communication.

21 “(B) COMMUNICATIONS TRANSMITTED IN  
22 AUDIO FORMAT.—In the case of a communica-  
23 tion to which this subsection applies which is  
24 transmitted in an audio format, the disclosure  
25 statements required under paragraph (1) shall

1 be made by audio by the applicable individual  
2 in a clear and conspicuous manner.

3 “(C) COMMUNICATIONS TRANSMITTED IN  
4 VIDEO FORMAT.—In the case of a communica-  
5 tion to which this subsection applies which is  
6 transmitted in a video format, the information  
7 required under paragraph (1)—

8 “(i) shall appear in writing at the end  
9 of the communication or in a crawl along  
10 the bottom of the communication in a clear  
11 and conspicuous manner, with a reasonable  
12 degree of color contrast between the back-  
13 ground and the printed statement, for a  
14 period of at least 6 seconds; and

15 “(ii) shall also be conveyed by an  
16 unobscured, full-screen view of the applica-  
17 ble individual or by the applicable indi-  
18 vidual making the statement in voice-over  
19 accompanied by a clearly identifiable pho-  
20 tograph or similar image of the individual,  
21 except in the case of a Top Five Funders  
22 list.

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

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

3           “(B) if the communication is paid for by a  
4 corporation, the chief executive officer of the  
5 corporation (or, if the corporation does not have  
6 a chief executive officer, the highest ranking of-  
7 ficial of the corporation);

8           “(C) if the communication is paid for by a  
9 labor organization, the highest ranking officer  
10 of the labor organization; and

11           “(D) if the communication is paid for by  
12 any other person, the highest ranking official of  
13 such person.

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

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

1 and the amount of the payments each such per-  
2 son provided. If two or more people provided  
3 the fifth largest of such payments, the person  
4 paying for the communication shall select one of  
5 those persons to be included on the Top Five  
6 Funders list.

7 “(B) TOP TWO FUNDERS LIST.—The term  
8 ‘Top Two Funders list’ means, with respect to  
9 a communication which is paid for in whole or  
10 in part with a campaign-related disbursement  
11 (as defined in section 324), a list of the persons  
12 who, during the 12-month period ending on the  
13 date of the disbursement, provided the largest  
14 and the second largest payments of any type in  
15 an aggregate amount equal to or exceeding  
16 \$10,000 to the person who is paying for the  
17 communication and the amount of the pay-  
18 ments each such person provided. If two or  
19 more persons provided the second largest of  
20 such payments, the person paying for the com-  
21 munication shall select one of those persons to  
22 be included on the Top Two Funders list.

23 “(C) EXCLUSION OF CERTAIN PAY-  
24 MENTS.—For purposes of subparagraphs (A)  
25 and (B), in determining the amount of pay-

1           ments made by a person to a person paying for  
2           a communication, there shall be excluded the  
3           following:

4                   “(i) Any amounts provided in the or-  
5                   dinary course of any trade or business con-  
6                   ducted by the person paying for the com-  
7                   munication or in the form of investments  
8                   in the person paying for the communica-  
9                   tion.

10                   “(ii) Any payment which the person  
11                   prohibited, in writing, from being used for  
12                   campaign-related disbursements, but only  
13                   if the person paying for the communication  
14                   agreed to follow the prohibition and depos-  
15                   ited the payment in an account which is  
16                   segregated from any account used to make  
17                   campaign-related disbursements.

18                   “(6) SPECIAL RULES FOR CERTAIN COMMU-  
19                   NICATIONS.—

20                   “(A) EXCEPTION FOR COMMUNICATIONS  
21                   PAID FOR BY POLITICAL PARTIES AND CERTAIN  
22                   POLITICAL COMMITTEES.—This subsection does  
23                   not apply to any communication to which sub-  
24                   section (d)(2) applies.

1           “(B) TREATMENT OF VIDEO COMMUNICA-  
2 TIONS LASTING 10 SECONDS OR LESS.—In the  
3 case of a communication to which this sub-  
4 section applies which is transmitted in a video  
5 format, or is an internet or digital communica-  
6 tion which is transmitted in a text or graphic  
7 format, the communication shall meet the fol-  
8 lowing requirements:

9           “(i) The communication shall include  
10 the individual disclosure statement de-  
11 scribed in paragraph (2)(A) (if the person  
12 paying for the communication is an indi-  
13 vidual) or the organizational disclosure  
14 statement described in paragraph (2)(B)  
15 (if the person paying for the communica-  
16 tion is not an individual).

17           “(ii) The statement described in  
18 clause (i) shall appear in writing at the  
19 end of the communication, or in a crawl  
20 along the bottom of the communication, in  
21 a clear and conspicuous manner, with a  
22 reasonable degree of color contrast between  
23 the background and the printed statement,  
24 for a period of at least 4 seconds.

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

9           “(iv) To the extent that the format in  
10          which the communication is made permits  
11          the use of a hyperlink, the communication  
12          shall include a hyperlink to the website ad-  
13          dress described in clause (iii).”.

14          (b) APPLICATION OF EXPANDED REQUIREMENTS TO  
15 PUBLIC COMMUNICATIONS CONSISTING OF CAMPAIGN-  
16 RELATED DISBURSEMENTS.—

17           (1) IN GENERAL.—Section 318(a) of such Act  
18           (52 U.S.C. 30120(a)) is amended by striking “for  
19           the purpose of financing communications expressly  
20           advocating the election or defeat of a clearly identi-  
21           fied candidate” and inserting “for a campaign-re-  
22           lated disbursement, as defined in section 324, con-  
23           sisting of a public communication”.

24           (2) CLARIFICATION OF EXEMPTION FROM IN-  
25           CLUSION OF CANDIDATE DISCLAIMER STATEMENT IN

1 FEDERAL JUDICIAL NOMINATION COMMUNICA-  
2 TIONS.—Section 318(a)(3) of such Act (52 U.S.C.  
3 30120(a)(3)) is amended by striking “shall state”  
4 and inserting “shall (except in the case of a Federal  
5 judicial nomination communication, as defined in  
6 section 324(d)(3)) state”.

7 (c) EXCEPTION FOR COMMUNICATIONS PAID FOR BY  
8 POLITICAL PARTIES AND CERTAIN POLITICAL COMMIT-  
9 TEES.—Section 318(d)(2) of such Act (52 U.S.C.  
10 30120(d)(2)) is amended—

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

13 (2) by striking “Any communication” and in-  
14 serting “(A) Any communication”;

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

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

21 (5) by adding at the end the following new sub-  
22 paragraph:

23 “(B)(i) This paragraph does not apply to a  
24 communication paid for in whole or in part during  
25 a calendar year with a campaign-related disburse-



1 ment, but only if the covered organization making  
2 the campaign-related disbursement made campaign-  
3 related disbursements (as defined in section 324) ag-  
4 gregating more than \$10,000 during such calendar  
5 year.

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

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

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

24 (d) MODIFICATION OF ADDITIONAL REQUIREMENTS  
25 FOR CERTAIN COMMUNICATIONS.—Section 318(d) of the

1 Federal Election Campaign Act of 1971 (52 U.S.C.  
2 30120(d)) is amended—

3 (1) in paragraph (1)(A)—

4 (A) by striking “which is transmitted  
5 through radio” and inserting “which is in an  
6 audio format”; and

7 (B) by striking “By radio” in the heading  
8 and inserting “Audio format”;

9 (2) in paragraph (1)(B)—

10 (A) by striking “which is transmitted  
11 through television” and inserting “which is in  
12 video format”; and

13 (B) by striking “By television” in the  
14 heading and inserting “Video format”; and

15 (3) in paragraph (2)—

16 (A) by striking “transmitted through radio  
17 or television” and inserting “made in audio or  
18 video format”; and

19 (B) by striking “through television” in the  
20 second sentence and inserting “in video for-  
21 mat”.

22 **SEC. 303. DISCLAIMER REQUIREMENTS FOR COMMUNICA-**  
23 **TIONS MADE THROUGH PRERECORDED TELE-**  
24 **PHONE CALLS.**

25 (a) APPLICATION OF REQUIREMENTS.—

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

7           (2) APPLICATION TO COMMUNICATIONS SUB-  
8           JECT TO EXPANDED DISCLAIMER REQUIREMENTS.—  
9           Section 318(e)(1) of such Act (52 U.S.C.  
10          30120(e)(1)), as added by section 302(a), is amend-  
11          ed in the matter preceding subparagraph (A) by  
12          striking “which is transmitted in an audio or video  
13          format” and inserting “which is transmitted in an  
14          audio or video format or which consists of a tele-  
15          phone call consisting in substantial part of a  
16          prerecorded audio message”.

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

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

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

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

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

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

1 **SEC. 304. NO EXPANSION OF PERSONS SUBJECT TO DIS-**  
 2 **CLAIMER REQUIREMENTS ON INTERNET**  
 3 **COMMUNICATIONS.**

4 Nothing in this title or the amendments made by this  
 5 title may be construed to require any person who is not  
 6 required under section 318 of the Federal Election Cam-  
 7 paign Act of 1971 to include a disclaimer on communica-  
 8 tions made by the person through the internet to include  
 9 any disclaimer on any such communications.

10 **SEC. 305. EFFECTIVE DATE.**

11 The amendments made by this title shall apply with  
 12 respect to communications made on or after January 1,  
 13 2022, and shall take effect without regard to whether or  
 14 not the Federal Election Commission has promulgated  
 15 regulations to carry out such amendments.

16 **TITLE IV—OTHER**  
 17 **ADMINISTRATIVE REFORMS**

18 **SEC. 401. PETITION FOR CERTIORARI.**

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

23 **SEC. 402. JUDICIAL REVIEW OF ACTIONS RELATED TO CAM-**  
 24 **PAIGN FINANCE LAWS.**

25 (a) IN GENERAL.—Title IV of the Federal Election  
 26 Campaign Act of 1971 (52 U.S.C. 30141 et seq.) is

1 amended by inserting after section 406 the following new  
2 section:

3 **“SEC. 407. JUDICIAL REVIEW.**

4       “(a) IN GENERAL.—Notwithstanding section 310, if  
5 any action is brought for declaratory or injunctive relief  
6 to challenge, whether facially or as-applied, the constitu-  
7 tionality of any provision of this Act or of chapter 95 or  
8 96 of the Internal Revenue Code of 1986, or is brought  
9 to with respect to any action of the Commission under  
10 chapter 95 or 96 of the Internal Revenue Code of 1986,  
11 the following rules shall apply:

12           “(1) The action shall be filed in the United  
13 States District Court for the District of Columbia  
14 and an appeal from the decision of the district court  
15 may be taken to the Court of Appeals for the Dis-  
16 trict of Columbia Circuit.

17           “(2) In the case of an action relating to declar-  
18 atory or injunctive relief to challenge the constitu-  
19 tionality of a provision, the party filing the action  
20 shall concurrently deliver a copy of the complaint to  
21 the Clerk of the House of Representatives and the  
22 Secretary of the Senate.

23           “(3) It shall be the duty of the United States  
24 District Court for the District of Columbia, the  
25 Court of Appeals for the District of Columbia Cir-

1       cuit, and the Supreme Court of the United States to  
2       advance on the docket and to expedite to the great-  
3       est possible extent the disposition of the action and  
4       appeal.

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

19      “(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any  
20      Member of Congress may bring an action, subject to the  
21      special rules described in subsection (a), for declaratory  
22      or injunctive relief to challenge, whether facially or as-ap-  
23      plied, the constitutionality of any provision of this Act or  
24      chapter 95 or 96 of the Internal Revenue Code of 1986.”.

25      (b) CONFORMING AMENDMENTS.—

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

3   **“SEC. 9011. JUDICIAL REVIEW.**

4           “For provisions relating to judicial review of certifi-  
5   cations, determinations, and actions by the Commission  
6   under this chapter, see section 407 of the Federal Election  
7   Campaign Act of 1971.”.

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

10   **“SEC. 9041. JUDICIAL REVIEW.**

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

14          (3) Section 403 of the Bipartisan Campaign  
15   Reform Act of 2002 (52 U.S.C. 30110 note) is re-  
16   pealed.

17          (c) EFFECTIVE DATE.—The amendments made by  
18   this section shall apply to actions brought on or after Jan-  
19   uary 1, 2021.

20   **TITLE V—OTHER PROVISIONS**

21   **SEC. 501. SEVERABILITY.**

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



1 by this Act, and the application of the provisions and  
2 amendment to any person or circumstance, shall not be  
3 affected by the holding.

○