

115TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. WHITEHOUSE introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

10 “(a) DEFINITIONS.—In this section:

11 “(1) CAMPAIGN-RELATED DISBURSEMENT.—

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

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

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

20 “(iii) A covered transfer.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 “(b) DISCLOSURE STATEMENT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 “(e) COVERED TRANSFER DEFINED.—

15 “(1) IN GENERAL.—In this section, the term
16 ‘covered transfer’ means any transfer or payment of
17 funds by a covered 501(c) organization to another
18 person if the covered 501(c) organization—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (c) COORDINATION WITH FINCEN.—

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

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

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

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

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

19 (a) CERTIFICATION.—

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

24 **“SEC. 325. CERTIFICATIONS.**

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

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

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

13 “(b) CERTIFICATION.—

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

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

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

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

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

4 “(2) DUE DILIGENCE REQUIREMENT.—

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

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

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

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

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

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

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

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

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

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

4 (b) REPORTING OF SUSPICIOUS DONATIONS.—

5 (1) COVERED 501(C) ORGANIZATIONS.—

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

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

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

18 “(2) DISQUALIFIED FOREIGN CONTRIBUTION.—

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

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

3 “(A) The Internal Revenue Service.

4 “(B) The Federal Election Commission.

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

7 “(D) The Department of Justice.”.

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

12 (2) CORPORATE ENTITIES.—

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

22 (i) The Federal Election Commission.

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

1 (iii) The Department of Justice.

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

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