

117TH CONGRESS  
1ST SESSION

# H. R. 4359

To amend the Federal Election Campaign Act of 1971 to require corporations to disclose to their shareholders the amounts disbursed for certain political activity, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 6, 2021

Mr. CARTWRIGHT (for himself, Ms. KAPTUR, and Mr. SCHIFF) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Federal Election Campaign Act of 1971 to require corporations to disclose to their shareholders the amounts disbursed for certain political activity, 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 “Openness in Political  
5 Expenditures Now Act” or the “OPEN Act”.

1 **SEC. 2. DISCLOSURE BY CORPORATIONS TO SHARE-**  
2 **HOLDERS OF DISBURSEMENTS FOR POLIT-**  
3 **ICAL ACTIVITY.**

4 (a) DISCLOSURE REQUIRED.—Title III of the Fed-  
5 eral Election Campaign Act of 1971 (52 U.S.C. 30101  
6 et seq.) is amended by adding at the end the following  
7 new section:

8 **“SEC. 325. DISCLOSURES BY CORPORATIONS TO SHARE-**  
9 **HOLDERS OF INFORMATION ON DISBURSE-**  
10 **MENTS FOR CERTAIN POLITICAL ACTIVITY.**

11 “(a) INCLUDING INFORMATION IN REGULAR PERI-  
12 ODIC REPORTS.—

13 “(1) IN GENERAL.—A corporation which sub-  
14 mits regular, periodic reports to its shareholders  
15 shall include in each such report, in a clear and con-  
16 spicuous manner, the information described in para-  
17 graph (2) with respect to the disbursements made by  
18 the corporation for covered political activity during  
19 the period covered by the report, but only if the  
20 amount of the disbursement made for such activity  
21 during the period covered by the report equals or ex-  
22 ceeds the applicable threshold for the activity de-  
23 scribed in paragraph (3).

24 “(2) INFORMATION DESCRIBED.—The informa-  
25 tion described in this paragraph is, for each dis-  
26 bursement for covered political activity—

1 “(A) the date of the disbursement;

2 “(B) the amount of the disbursement;

3 “(C) in the case of a disbursement con-  
4 sisting of an independent expenditure or an  
5 electioneering communication, or in the case of  
6 a covered political activity described in sub-  
7 section (c)(3), the name of the candidate identi-  
8 fied in the independent expenditure or election-  
9 eering communication involved, the Commission  
10 ID assigned to the candidate, and the office  
11 sought by the candidate; and

12 “(D) in the case of a covered political ac-  
13 tivity described in subsection (c)(4), the identi-  
14 fication of the association or organization to  
15 whom the disbursement was made, and the  
16 Commission ID (if any) assigned to the associa-  
17 tion or organization.

18 “(3) APPLICABLE THRESHOLD FOR DISCLO-  
19 SURE.—For purposes of paragraph (1), the ‘applica-  
20 ble threshold’ with respect to a disbursement for  
21 covered political activity during a period covered by  
22 a report is as follows:

23 “(A) In the case of covered political activ-  
24 ity consisting of an independent expenditure,  
25 \$250.

1           “(B) In the case of covered political activ-  
 2           ity consisting of an electioneering communica-  
 3           tion or a communication described in subsection  
 4           (c)(3), \$10,000.

5           “(C) In the case of covered political activ-  
 6           ity consisting of a payment described in sub-  
 7           section (c)(4), the amount of the limitation on  
 8           contributions which is in effect under section  
 9           315(a)(1)(C) as of the last day of the period.

10          “(b) SUBMISSION OF STATEMENT TO COMMISSION.—

11           “(1) SUBMISSION OF STATEMENT.—If a cor-  
 12           poration includes information in a report pursuant  
 13           to this section, at the time the corporation submits  
 14           the report to its shareholders, the corporation shall  
 15           file a statement with the Commission consisting of  
 16           the information included in the report pursuant to  
 17           this section.

18           “(2) HYPERLINK TO INFORMATION.—

19           “(A)       REQUIRING       POSTING       OF  
 20           HYPERLINK.—If a corporation maintains an  
 21           internet site, the corporation shall post on such  
 22           internet site a hyperlink from its homepage to  
 23           the location on the internet site of the Commis-  
 24           sion which contains the statement filed by the  
 25           corporation under paragraph (1).

1                   “(B) DEADLINE; DURATION OF POST-  
2                   ING.—The corporation shall post the hyperlink  
3                   described in subparagraph (A) not later than  
4                   24 hours after the Commission posts the state-  
5                   ment filed by the corporation under paragraph  
6                   (1) on the internet site of the Commission, and  
7                   shall ensure that the hyperlink remains on the  
8                   internet site of the corporation until the expira-  
9                   tion of the 1-year period which begins on the  
10                  date of the election with respect to which the  
11                  disbursements included in the statement are  
12                  made.

13               “(c) COVERED POLITICAL ACTIVITY DEFINED.—In  
14               this section, the term ‘covered political activity’ means  
15               each of the following:

16               “(1) An independent expenditure (as defined in  
17               section 301(17)).

18               “(2) An electioneering communication (as de-  
19               fined in section 304(f)(3)).

20               “(3) A communication which would be treated  
21               as an electioneering communication under section  
22               304(f)(3) if the communication had been a broad-  
23               cast, cable, or satellite communication.

1           “(4) The payment of dues or other amounts to  
2           a trade association or to a section 501(c)(4) organi-  
3           zation.

4           “(d) OTHER DEFINITIONS.—In this section, the fol-  
5           lowing definitions apply:

6           “(1) The term ‘corporation’ means any corpora-  
7           tion which is subject to section 316(a).

8           “(2) The term ‘section 501(c)(4) organization’  
9           means any organization described in paragraph (4)  
10          of section 501(c) of the Internal Revenue Code of  
11          1986 and exempt from tax under section 501(a) of  
12          such Code.”.

13          (b) EFFECTIVE DATE.—The amendment made by  
14          subsection (a) shall apply with respect to reports described  
15          in section 325(a)(1) of the Federal Election Campaign Act  
16          of 1971 (as added by subsection (a)) which are filed after  
17          the expiration of the 90-day period which begins on the  
18          date of the enactment of this Act.

19       **SEC. 3. LIMITATION ON ENGAGING IN COVERED POLITICAL**  
20                       **ACTIVITIES BY SOCIAL WELFARE ORGANIZA-**  
21                       **TIONS.**

22          (a) IN GENERAL.—Section 501(c)(4) of the Internal  
23          Revenue Code of 1986 is amended by adding at the end  
24          the following:

“(C)(i) Subparagraph (A) shall not apply to an entity for a taxable year if the total expenditures of such entity for the taxable year for covered political activity exceed the lesser of—

“(I) 10 percent of the total expenditures of such entity for the taxable year, or

“(II) \$10,000,000.

“(ii) Subparagraph (A) shall not apply to an entity for a taxable year unless its governing instrument includes provisions the effects of which are to prohibit the expenditures of the entity for a covered political activity from exceeding the threshold specified in clause (i).

“(iii) For purposes of this subparagraph, the term ‘covered political activity’ means—

“(I) any activity described in paragraphs (1) through (3) of section 325(c) of the Federal Election Campaign Act of 1971, and

“(II) any payment by the entity to any other entity described in this paragraph or to an organization described in paragraph (6) which the payor entity knows, or has reason to know, will be used

1 directly or indirectly by the payee entity or  
2 organization for any activity referred to in  
3 subclause (I).

4 “(iv) Clause (i) shall not apply for a tax-  
5 able year for which the 10-percent threshold  
6 specified in clause (i)(I) is exceeded by not  
7 more than a de minimis amount if the Sec-  
8 retary determines that the reason for exceeding  
9 the threshold was not willful and is due to rea-  
10 sonable cause.

11 “(v) The Secretary shall prescribe such  
12 regulations as may be necessary or appropriate  
13 to prevent the avoidance of clause (i), including  
14 regulations relating to a direct or indirect  
15 transfer of all or part of the assets of an entity  
16 to an entity controlled (directly or indirectly) by  
17 the same person or persons who control the  
18 transferor entity.”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall apply to taxable years beginning after  
21 the date of the enactment of this Act.

22 **SEC. 4. SEVERABILITY.**

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



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

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