

113TH CONGRESS  
1ST SESSION

# H. R. 2670

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

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## IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2013

Mr. CARTWRIGHT (for himself, Mr. GRAYSON, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. SIRES, Mr. ENYART, Mr. YARMUTH, Mr. O'ROURKE, Ms. LORETTA SANCHEZ of California, Mr. ANDREWS, Mr. CLYBURN, Mr. VARGAS, Mr. ELLISON, Mr. DEFazio, Mr. COHEN, Mr. CICILLINE, Mr. ENGEL, Mr. GRIJALVA, Mr. TONKO, Mr. GENE GREEN of Texas, and Ms. LINDA T. SÁNCHEZ of California) 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 and labor organizations to disclose to their shareholders or members 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Openness in Political  
3 Expenditures Now Act” or the “OPEN Act”.

4 **SEC. 2. DISCLOSURE BY CORPORATIONS AND LABOR ORGA-**  
5 **NIZATIONS TO SHAREHOLDERS AND MEM-**  
6 **BERS OF DISBURSEMENTS FOR POLITICAL**  
7 **ACTIVITY.**

8 (a) DISCLOSURE REQUIRED.—Title III of the Fed-  
9 eral Election Campaign Act of 1971 (2 U.S.C. 431 et seq.)  
10 is amended by adding at the end the following new section:

11 **“SEC. 325. DISCLOSURES BY CORPORATIONS AND LABOR**  
12 **ORGANIZATIONS TO SHAREHOLDERS AND**  
13 **MEMBERS OF INFORMATION ON DISBURSE-**  
14 **MENTS FOR CERTAIN POLITICAL ACTIVITY.**

15 “(a) INCLUDING INFORMATION IN REGULAR PERI-  
16 ODIC REPORTS.—

17 “(1) IN GENERAL.—A corporation which sub-  
18 mits regular, periodic reports to its shareholders and  
19 a labor organization which submits regular, periodic  
20 reports to its members shall include in each such re-  
21 port, in a clear and conspicuous manner, the infor-  
22 mation described in paragraph (2) with respect to  
23 the disbursements made by the corporation or labor  
24 organization for covered political activity during the  
25 period covered by the report, but only if the amount  
26 of the disbursement made for such activity during

1 the period covered by the report equals or exceeds  
2 the applicable threshold for the activity described in  
3 paragraph (3).

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

7 “(A) the date of the disbursement;

8 “(B) the amount of the disbursement;

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

18 “(D) in the case of a covered political ac-  
19 tivity described in subsection (c)(4), the identi-  
20 fication of the association or organization to  
21 whom the disbursement was made, and the  
22 Commission ID (if any) assigned to the associa-  
23 tion or organization.

24 “(3) APPLICABLE THRESHOLD FOR DISCLO-  
25 SURE.—For purposes of paragraph (1), the ‘applica-

1 ble threshold' with respect to a disbursement for  
2 covered political activity during a period covered by  
3 a report is as follows:

4 “(A) In the case of covered political activ-  
5 ity consisting of an independent expenditure,  
6 \$250.

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

11 “(C) In the case of covered political activ-  
12 ity consisting of a payment described in sub-  
13 section (c)(4), the amount of the limitation on  
14 contributions which is in effect under section  
15 315(a)(1)(C) as of the last day of the period.

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

17 “(1) SUBMISSION OF STATEMENT.—If a cor-  
18 poration or labor organization includes information  
19 in a report pursuant to this section, at the time the  
20 corporation or labor organization submits the report  
21 to its shareholders or members, the corporation or  
22 labor organization shall file a statement with the  
23 Commission consisting of the information included  
24 in the report pursuant to this section.

25 “(2) HYPERLINK TO INFORMATION.—

1           “(A)       REQUIRING       POSTING       OF  
2       HYPERLINK.—If a corporation or labor organi-  
3       zation maintains an Internet site, the corpora-  
4       tion or labor organization shall post on such  
5       Internet site a hyperlink from its homepage to  
6       the location on the Internet site of the Commis-  
7       sion which contains the statement filed by the  
8       corporation or labor organization under para-  
9       graph (1).

10           “(B)   DEADLINE;   DURATION   OF   POST-  
11       ING.—The corporation or labor organization  
12       shall post the hyperlink described in subpara-  
13       graph (A) not later than 24 hours after the  
14       Commission posts the statement filed by the  
15       corporation or labor organization under para-  
16       graph (1) on the Internet site of the Commis-  
17       sion, and shall ensure that the hyperlink re-  
18       mains on the Internet site of the corporation or  
19       labor organization until the expiration of the 1-  
20       year period which begins on the date of the  
21       election with respect to which the disbursements  
22       included in the statement are made.

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

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

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

5           “(3) A communication which would be treated  
6 as an electioneering communication under section  
7 304(f)(3) if the communication had been a broad-  
8 cast, cable, or satellite communication.

9           “(4) The payment of dues or other amounts to  
10 a trade association or to a section 501(c)(4) organi-  
11 zation.

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

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

16           “(2) The term ‘labor organization’ has the  
17 meaning given such term in section 316.

18           “(3) The term ‘section 501(c)(4) organization’  
19 means any organization described in paragraph (4)  
20 of section 501(c) of the Internal Revenue Code of  
21 1986 and exempt from tax under section 501(a) of  
22 such Code.”.

23          (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply with respect to reports described  
25 in section 325(a)(1) of the Federal Election Campaign Act

1 of 1971 (as added by subsection (a)) which are filed after  
2 the expiration of the 90-day period which begins on the  
3 date of the enactment of this Act.

4 **SEC. 3. LIMITATION ON ENGAGING IN COVERED POLITICAL**  
5 **ACTIVITIES BY SOCIAL WELFARE ORGANIZA-**  
6 **TIONS.**

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

10 “(C)(i) Subparagraph (A) shall not apply  
11 to an entity for a taxable year if the total ex-  
12 penditures of such entity for the taxable year  
13 for covered political activity exceed the lesser  
14 of—

15 “(I) 10 percent of the total expendi-  
16 tures of such entity for the taxable year, or

17 “(II) \$10,000,000.

18 “(ii) Subparagraph (A) shall not apply to  
19 an entity for a taxable year unless its governing  
20 instrument includes provisions the effects of  
21 which are to prohibit the expenditures of the  
22 entity for a covered political activity from ex-  
23 ceeding the threshold specified in clause (i).

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

1           “(I) any activity described in para-  
2           graphs (1) through (3) of section 325(c) of  
3           the Federal Election Campaign Act of  
4           1971; and

5           “(II) any payment by the entity to  
6           any other entity described in this para-  
7           graph or to an organization described in  
8           paragraph (6) which the payor entity  
9           knows, or has reason to know, will be used  
10          directly or indirectly by the payee entity or  
11          organization for any activity referred to in  
12          subclause (I).

13          “(iv) Clause (i) shall not apply for a tax-  
14          able year for which the 10 percent threshold  
15          specified in clause (i)(I) is exceeded by not  
16          more than a de minimis amount if the Sec-  
17          retary determines that the reason for exceeding  
18          the threshold was not willful and is due to rea-  
19          sonable cause.

20          “(v) The Secretary shall prescribe such  
21          regulations as may be necessary or appropriate  
22          to prevent the avoidance of clause (i), including  
23          regulations relating to a direct or indirect  
24          transfer of all or part of the assets of an entity  
25          to an entity controlled (directly or indirectly) by



1           the same person or persons who control the  
2           transferor entity.”.

3           (b) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall apply to taxable years beginning after  
5 the date of the enactment of this Act.

6 **SEC. 4. SEVERABILITY.**

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

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