

117TH CONGRESS
1ST SESSION

S. 394

To amend the Federal Election Campaign Act of 1971 to require reporting to the Federal Election Commission and the Federal Bureau of Investigation of offers by foreign nationals to make prohibited contributions, donations, expenditures, or disbursements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 23, 2021

Mr. BLUMENTHAL (for himself, Mr. WHITEHOUSE, Mr. HEINRICH, Mr. BOOKER, Mr. MARKEY, Mr. LEAHY, Mrs. MURRAY, Mr. MURPHY, Mr. SANDERS, Ms. SMITH, Mr. WYDEN, Mr. CASEY, Ms. HIRONO, Mrs. GILLIBRAND, Ms. KLOBUCHAR, Mr. MERKLEY, Ms. WARREN, Mr. MENENDEZ, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To amend the Federal Election Campaign Act of 1971 to require reporting to the Federal Election Commission and the Federal Bureau of Investigation of offers by foreign nationals to make prohibited contributions, donations, expenditures, or disbursements, 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; FINDINGS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Duty To Report Act”.

4 (b) FINDINGS.—Congress makes the following find-
5 ings:

6 (1) Political contributions and express-advocacy
7 expenditures are an integral aspect of the process by
8 which Americans elect officials to Federal, State,
9 and local government offices.

10 (2) It is fundamental to the definition of a na-
11 tional political community that foreign citizens do
12 not have a constitutional right to participate in, and
13 thus may be excluded from, activities of democratic
14 self-governance.

15 (3) The United States has a compelling interest
16 in limiting the participation of foreign citizens in ac-
17 tivities of democratic self-government, and in there-
18 by preventing foreign influence over the United
19 States political process.

20 (4) Foreign donations and expenditures have a
21 corrupting influence on the campaign process and
22 limiting the activities of foreign citizens in our elec-
23 tions is necessary to preserve the basic conception of
24 a political community and democratic self-govern-
25 ance.

1 **SEC. 2. REPORTING TO THE FEC.**

2 (a) REPORTING OFFERS OF PROHIBITED CONTRIBU-
 3 TIONS, DONATIONS, EXPENDITURES, OR DISBURSEMENTS
 4 BY FOREIGN NATIONALS.—Section 304 of the Federal
 5 Election Campaign Act of 1971 (52 U.S.C. 30104) is
 6 amended by adding at the end the following new sub-
 7 section:

8 “(j) DISCLOSURE OF OFFERS OF PROHIBITED CON-
 9 TRIBUTIONS, DONATIONS, EXPENDITURES, OR DISBURSE-
 10 MENTS BY FOREIGN NATIONALS.—If a political com-
 11 mittee, an agent of the committee, or in the case of an
 12 authorized committee of a candidate for Federal office, a
 13 candidate, receives an offer (orally, in writing, or other-
 14 wise) of a prohibited contribution, donation, expenditure,
 15 or disbursement (as defined in section 3(c) of the Duty
 16 To Report Act), the committee shall, within 24 hours of
 17 receiving the offer, report to the Commission—

18 “(1) to the extent known, the name, address,
 19 and nationality of the foreign national (as defined in
 20 section 319(b)) making the offer; and

21 “(2) the amount and type of contribution, dona-
 22 tion, expenditure, or disbursement offered.”.

23 (b) REPORTING MEETINGS WITH FOREIGN GOVERN-
 24 MENTS OR THEIR AGENTS.—Section 304 of the Federal
 25 Election Campaign Act of 1971 (52 U.S.C. 30104), as

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

3 “(k) DISCLOSURE OF MEETINGS WITH FOREIGN
 4 GOVERNMENTS OR THEIR AGENTS.—

5 “(1) IN GENERAL.—Except as provided in para-
 6 graph (2), if a political committee, an agent of the
 7 committee, or in the case of an authorized com-
 8 mittee of a candidate for Federal office, a candidate,
 9 meets with a foreign government or an agent of a
 10 foreign principal, as defined in section 1 of the For-
 11 eign Agents Registration Act of 1938 (22 U.S.C.
 12 611), the committee shall, within 24 hours of meet-
 13 ing, report to the Commission—

14 “(A) to the extent known, the identity of
 15 each individual at the meeting and the foreign
 16 government involved; and

17 “(B) the purpose of the meeting.

18 “(2) EXCEPTION FOR MEETINGS IN OFFICIAL
 19 CAPACITY.—Paragraph (1) shall not apply with re-
 20 spect to a meeting with a foreign government or an
 21 agent of a foreign principal by an elected official or
 22 as an employee of an elected official in their official
 23 capacity as such an official or employee.”.

24 (c) PROMULGATION OF REGULATIONS.—Not later
 25 than one year after the date of enactment of this Act, the

1 Federal Election Commission shall promulgate regulations
2 providing additional indicators beyond the pertinent facts
3 described in section 110.20(a)(5) of title 11, Code of Fed-
4 eral Regulations (as in effect on the date of enactment
5 of this Act) that may lead a reasonable person to conclude
6 that there is a substantial probability that the source of
7 the funds solicited, accepted, or received is a foreign na-
8 tional, as defined in section 319(b) of the Federal Election
9 Act of 1971 (52 U.S.C. 30121(b)), or to inquire whether
10 the source of the funds solicited, accepted, or received is
11 a foreign national, as so defined. Regulations promulgated
12 under the proceeding sentence shall also provide guidance
13 to political committees and campaigns to not engage in
14 racial or ethnic profiling in making such a conclusion or
15 inquiry.

16 **SEC. 3. REPORTING OFFERS OF PROHIBITED CONTRIBU-**
17 **TIONS, DONATIONS, EXPENDITURES, OR DIS-**
18 **BURSEMENTS BY FOREIGN NATIONALS TO**
19 **THE FBI.**

20 (a) IN GENERAL.—If a political committee or an ap-
21 plicable individual (as defined in subsection (c)) receives
22 an offer (orally, in writing, or otherwise) of a prohibited
23 contribution, donation, expenditure, or disbursement, the
24 committee or applicable individual shall, within 24 hours

1 of receiving the offer, report to the Federal Bureau of In-
 2 vestigation—

3 (1) to the extent known, the name, address, and
 4 nationality of the foreign national making the offer;
 5 and

6 (2) the amount and type of contribution, dona-
 7 tion, expenditure, or disbursement offered.

8 (b) OFFENSE.—

9 (1) IN GENERAL.—It shall be unlawful to know-
 10 ingly and willfully fail to comply with subsection (a).

11 (2) PENALTY.—Any person who violates para-
 12 graph (1) shall be fined under title 18, United
 13 States Code, imprisoned not more than 2 years, or
 14 both.

15 (c) DEFINITIONS.—In this section:

16 (1) APPLICABLE INDIVIDUAL.—

17 (A) IN GENERAL.—The term “applicable
 18 individual” means—

19 (i) an agent of a political committee;

20 (ii) a candidate;

21 (iii) an individual who is an imme-
 22 diate family member of a candidate; or

23 (iv) any individual affiliated with a
 24 campaign of a candidate.

(B) IMMEDIATE FAMILY MEMBER; INDIVIDUAL AFFILIATED WITH A CAMPAIGN.—For purposes of subparagraph (A)—

(i) the term “immediate family member” means, with respect to a candidate, a parent, parent in law, spouse, adult child, or sibling; and

(ii) the term “individual affiliated with a campaign” means, with respect to a candidate, an employee of any organization legally authorized under Federal, State, or local law to support the candidate’s campaign for nomination for, or election to, any Federal, State, or local public office, as well as any independent contractor of such an organization and any individual who performs services for the organization on an unpaid basis (including an intern or volunteer).

(2) FOREIGN NATIONAL.—The term “foreign national” has the meaning given that term in section 319(b) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(b)).

(3) KNOWINGLY.—The term “knowingly” has the meaning given that term in section 110.20(a)(4)

of title 11, Code of Federal Regulations (or any successor regulations).

(4) PROHIBITED CONTRIBUTION, DONATION, EXPENDITURE, OR DISBURSEMENT.—

(A) IN GENERAL.—The term “prohibited contribution, donation, expenditure, or disbursement” means a contribution, donation, expenditure, or disbursement prohibited under section 319(a) of the Federal Election Campaign Act of 1971 (52 U.S.C. 30121(a)).

(B) CLARIFICATION.—Such term includes, with respect to a candidate or election, any information—

(i) regarding any of the other candidates for election for that office;

(ii) that is not in the public domain;

and

(iii) which could be used to the advantage of the campaign of the candidate.

(5) OTHER TERMS.—Any term used in this section which is defined in section 301 of the Federal Election Campaign Act of 1971 (52 U.S.C. 30101) and which is not otherwise defined in this section shall have the meaning given such term under such section 301.

1 **SEC. 4. CLARIFICATION REGARDING USE OF INFORMATION**
2 **REPORTED.**

3 Information reported under subsection (j) or (k) of
4 section 304 of the Federal Election Campaign Act of 1971
5 (52 U.S.C. 30104), as added by section 2, or under section
6 3(a), may not be used to enforce the provisions under
7 chapter 4 of title II of the Immigration and Nationality
8 Act (8 U.S.C. 1221 et seq.) relating to the removal of un-
9 documented aliens.

○