

117TH CONGRESS
1ST SESSION

H. R. 5997

To amend the Internal Revenue Code of 1986 to prohibit 501(c)(4) entities from using more than 10 percent of total expenditures on certain political expenditures, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2021

Mr. GOLDEN (for himself, Mrs. DEMINGS, Ms. NORTON, and Mr. DESAULNIER) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to prohibit 501(c)(4) entities from using more than 10 percent of total expenditures on certain political expenditures, 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 “Crack Down on Dark
5 Money Act”.

1 **SEC. 2. LIMITATION ON COVERED POLITICAL EXPENDI-**
2 **TURES BY SOCIAL WELFARE ORGANIZA-**
3 **TIONS.**

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

7 “(C)(i) Subparagraph (A) shall not apply
8 to an entity for a taxable year if more than 10
9 percent of the total expenditures for the taxable
10 year are covered political expenditures.

11 “(ii) For purposes of this subparagraph,
12 the term ‘covered political expenditures’ means
13 direct or indirect expenditures for an exempt
14 function described in section 527(e)(2).

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

23 (b) **EXPANSION OF POLITICAL ORGANIZATION DEFINI-**
24 **TION.**—Section 527(e)(1) of such Code is amended by
25 striking “organized and operated primarily for the pur-

1 pose of” and inserting “, unless such organization is not
2 established under this section,”.

3 (c) POLITICAL INTERVENTION ADDED TO EXEMPT
4 FUNCTION DEFINITION.—Section 527(e) of such Code is
5 amended—

6 (1) in paragraph (2)—

7 (A) by striking “includes the making of ex-
8 penditures relating to an office described in the
9 preceding sentence which, if incurred by the in-
10 dividual, would be allowable as a deduction
11 under section 162(a).” and inserting “in-
12 cludes—

13 “(A) the making of expenditures relating
14 to an office described in the preceding sentence
15 which, if incurred by the individual, would be
16 allowable as a deduction under section 162(a),
17 and

18 “(B) political intervention.”, and

19 (B) by adding at the end the following new
20 paragraph:

21 “(6) POLITICAL INTERVENTION.—The term
22 ‘political intervention’ has the meaning given to such
23 term by section 4956.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made in taxable
3 years beginning after December 31, 2021.

4 **SEC. 3. POLITICAL INTERVENTION.**

5 (a) DISCLOSURE REQUIREMENT.—Section
6 6104(d)(3) of the Internal Revenue Code of 1986 is
7 amended by adding at the end the following new subpara-
8 graph:

9 “(C) CERTAIN 501(c)(4) ORGANIZATIONS
10 MUST DISCLOSE CERTAIN DONORS.—In the case
11 of an organization described in section
12 501(c)(4) that spends funds on political inter-
13 vention (as defined in section 4956), such orga-
14 nization shall be required to disclose the name
15 and address of any contributor donating \$5,000
16 or more to such organization, and such infor-
17 mation shall be made open to public inspection
18 in the manner described in subsection
19 (a)(1)(A).”.

20 (b) POLITICAL INTERVENTION DEFINED.—Sub-
21 chapter C of chapter 42 of subtitle D of the Internal Rev-
22 enue Code of 1986 is amended by adding at the end the
23 following new section:

1 **“SEC. 4956. POLITICAL INTERVENTION.**

2 “(a) POLITICAL INTERVENTION DEFINED.—For pur-
3 poses of this section, the term ‘political intervention’
4 means (except as provided in subsection (b)), with respect
5 to activities conducted by an organization in relation to
6 Federal, state, local, and foreign election campaigns of
7 candidates for public office—

8 “(1) express advocacy—

9 “(A) for the election, defeat, nomination,
10 or recall of a political candidate,

11 “(B) for the election or defeat of can-
12 didates affiliated with a specific political party,

13 “(C) that voters select candidates for sup-
14 port or opposition based on one or more criteria
15 that clearly distinguish certain candidates from
16 other candidates, or

17 “(D) the making of contributions to a can-
18 didate’s campaign, a political party, or (unless
19 the contribution is restricted so that it must not
20 be used to support political intervention) any
21 other political organization within the meaning
22 of section 527(e)(1),

23 “(2) communication to any part of the elec-
24 torate, other than an express advocacy communica-
25 tion within the meaning of clause (i), if the commu-
26 nication—

1 “(A) refers to a political candidate, and

2 “(B) reflects a view on such candidate, and

3 “(3) political use of resources.

4 “(b) EXCEPTIONS.—A communication described in
5 subsection (a) shall not constitute political intervention
6 if—

7 “(1) it does not consist of paid mass media ad-
8 vertising, and

9 “(2) it falls under one of the following excep-
10 tions:

11 “(A) COMMUNICATIONS TO INFLUENCE
12 OFFICIAL ACTION.—Commentary on a public of-
13 ficial that has a direct, limited, and reasonable
14 relationship to specific actions the official may
15 yet perform within his or her current term of
16 office without mention of any election or voting
17 in an election, or of the official’s candidacy or
18 opponent.

19 “(B) VOTER EDUCATION.—Voter education
20 activities or the dissemination of materials that
21 compare two or more candidates for an office,
22 including materials disclosing the views of the
23 organization on political issues, if the commu-
24 nication consists solely of content in which the
25 time, text, or space is offered in equal shares to

1 each of the participating candidates, and the or-
2 ganization's share of content is no greater than
3 the share available to any of the participating
4 candidates. The opportunity to participate, in-
5 cluding a full description of the opportunity and
6 of the organization's share of the content, if
7 any, must be given to all candidates meeting an
8 objective threshold of viability for nomination or
9 election to the office at least 72 hours in ad-
10 vance of the final preparation of the commu-
11 nication.

12 “(C) SELF-DEFENSE COMMUNICATIONS.—
13 A response by the organization to a public or
14 publicly-reported statement by a candidate or
15 candidates that either (i) attacks the organiza-
16 tion itself, or (ii) comments upon a specific pub-
17 lic policy position that the organization has
18 taken publicly in furtherance of its exempt pur-
19 pose within the prior year, or (iii) results in
20 press inquiries to the organization that were
21 not solicited subsequent to the candidate's
22 statement by the organization. The response by
23 the organization must be educational, limited
24 topically to addressing the candidate's state-
25 ment, and as to (i) or (ii), disseminated in a

1 manner commensurate in medium and scale,
2 and proximate in time, to the publicity of the
3 candidate’s statement, and as to (iii), limited to
4 dissemination to the requesting press organiza-
5 tion.

6 “(D) PERSONAL, ORAL REMARKS AT OFFI-
7 CIAL MEETINGS.—Oral remarks made by any-
8 one other than a candidate who is present in
9 person at an official meeting of an organization
10 held in a single room or location, so long as—

11 “(i) no announcement of the meeting
12 refers to any candidate, party, election, or
13 voting, and

14 “(ii) a disclaimer is made to those in
15 attendance, stating that remarks are the
16 speaker’s personal opinion and are not
17 made on behalf of the organization.

18 This exception covers only oral remarks made
19 by and to persons in attendance, and not any
20 other form of communication or redistribution
21 of those remarks, whether written, electronic,
22 recorded, broadcast, or otherwise transmitted.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) CANDIDATE.—The term ‘candidate’ means
25 a person who offers himself or herself for election to

1 public office or whose election the person conducting
2 the activity or making the expenditure in question
3 expressly proposes, supports, or opposes.

4 “(2) ELECTION.—The term ‘election’ means a
5 process culminating in a vote by the public to deter-
6 mine whether a candidate will serve in a public of-
7 fice, including primary, general, special, and runoff
8 elections, nominations by caucus, convention, or
9 other means, and recall and confirmation votes.

10 “(3) PAID MASS MEDIA ADVERTISING.—

11 “(A) IN GENERAL.—The term ‘paid mass
12 media advertising’ means communication to the
13 general public placed for a fee on one of the fol-
14 lowing media operated by another person: a
15 broadcast, cable, or satellite facility, newspaper,
16 magazine, outdoor advertising facility, mass
17 mailing service, telephone bank, or another per-
18 son’s web site or internet communications serv-
19 ice.

20 “(B) MASS MAILING.—The term ‘mass
21 mailing’ means—

22 “(i) a mailing by United States mail
23 or facsimile,

24 “(ii) of more than 500 pieces of mail
25 matter of an identical or substantially

1 similar nature within any 30-day period,
2 and

3 “(iii) that is not voter education mate-
4 rials.

5 “(4) POLITICAL USE OF RESOURCES.—The
6 term ‘political use of resources’—

7 “(A) means—

8 “(i) the provision any of an organiza-
9 tion’s resources, tangible or intangible, in-
10 cluding monetary or in-kind, goods, serv-
11 ices, or facilities, by gift, loan, sale, rental,
12 or any other method of transfer to another
13 person or entity, if—

14 “(I) the transferee uses such re-
15 sources to support or oppose any can-
16 didate’s election to public office,

17 “(II) such use is reasonably fore-
18 seeable, and

19 “(III) if the transferor has not
20 taken reasonable steps to prevent such
21 use,

22 “(ii) any other transfer that is a re-
23 portable contribution related to one or
24 more candidates for elective public office,
25 to a political party, or (unless the transfer

1 is restricted so that it must not be used to
2 support political intervention) to any other
3 political organization within the meaning
4 of section 527(e)(1), and

5 “(iii) any other use of an organiza-
6 tion’s resources in support of or opposition
7 to a candidate, if not specifically allowed
8 under a Revenue Ruling or other Federal
9 tax authority, and

10 “(B) does not include a transfer that is—

11 “(i) made in a transaction in which
12 the fair market value of goods or services
13 provided by the organization does not ex-
14 ceed the value of the consideration received
15 in exchange,

16 “(ii) similar to other transactions con-
17 ducted by the organization, and

18 “(iii) without preference for or against
19 any candidate.

20 “(d) REGULATIONS.—The Secretary shall prescribe
21 such regulations and other guidance as may be appro-
22 priate or necessary to carry out the purposes of this sec-
23 tion.”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) The heading for subchapter C of chapter 42
2 of such Code is amended by adding at the end the
3 following: “; **Political Intervention**”.

4 (2) The table of sections for such subchapter C
5 is amended by adding at the end the following:

“Sec. 4956. Political intervention.”.

6 (3) The item in the table of subchapters of such
7 chapter 42 relating to subchapter C is amended to
8 read as follows:

“SUBCHAPTER C. POLITICAL EXPENDITURES OF SECTION 501(c)(3)
ORGANIZATIONS; POLITICAL INTERVENTION.”.

9 (d) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to contributions made in taxable
11 years beginning after December 31, 2021.

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