

116TH CONGRESS  
1ST SESSION

# H. R. 936

To amend the Securities Exchange Act of 1934 and the Federal Election Campaign Act of 1971 to prohibit a corporation from making disbursements for a political purpose unless the corporation has assessed the preferences of its shareholders with respect to such disbursements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2019

Mr. RASKIN (for himself, Mr. ROUDA, Mr. JOHNSON of Georgia, Mr. CARBAJAL, Ms. NORTON, Ms. SCHAKOWSKY, Mr. SOTO, Mr. BLUMENAUER, and Mr. POCAN) introduced the following bill; which was referred to the Committee on Financial Services, 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 Securities Exchange Act of 1934 and the Federal Election Campaign Act of 1971 to prohibit a corporation from making disbursements for a political purpose unless the corporation has assessed the preferences of its shareholders with respect to such 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.**

2 This Act may be cited as the “Shareholders United  
3 Act of 2019”.

4 **SEC. 2. ASSESSMENT OF SHAREHOLDER PREFERENCES**  
5 **FOR DISBURSEMENTS FOR POLITICAL PUR-**  
6 **POSES.**

7 (a) **ASSESSMENT REQUIRED.**—The Securities Ex-  
8 change Act of 1934 (15 U.S.C. 78a et seq.) is amended  
9 by inserting after section 10D the following:

10 **“SEC. 10E. ASSESSMENT OF SHAREHOLDER PREFERENCES**  
11 **FOR DISBURSEMENTS FOR POLITICAL PUR-**  
12 **POSES.**

13 “(a) **ASSESSMENT REQUIRED BEFORE MAKING A**  
14 **DISBURSEMENT FOR A POLITICAL PURPOSE.**—

15 “(1) **REQUIREMENT.**—An issuer with an equity  
16 security listed on a national securities exchange may  
17 not make a disbursement for a political purpose un-  
18 less—

19 “(A) the issuer has in place procedures to  
20 assess the preferences of the shareholders of the  
21 issuer with respect to making such disburse-  
22 ments; and

23 “(B) such an assessment has been made  
24 within the 1-year period ending on the date of  
25 such disbursement.

1           “(2) TREATMENT OF ISSUERS WHOSE SHARE-  
2           HOLDERS ARE PROHIBITED FROM EXPRESSING  
3           PREFERENCES.—Notwithstanding paragraph (1), an  
4           issuer described under such paragraph with proce-  
5           dures in place to assess the preferences of its share-  
6           holders with respect to making disbursements for  
7           political purposes shall not be considered to meet the  
8           requirements of such paragraph if a majority of the  
9           number of the outstanding equity securities of the  
10          issuer are held by persons who are prohibited from  
11          expressing partisan or political preferences by law,  
12          contract, or the requirement to meet a fiduciary  
13          duty.

14          “(b) ASSESSMENT REQUIREMENTS.—The assess-  
15          ment described under subsection (a) shall assess—

16                 “(1) which types of disbursements for a polit-  
17                 ical purpose the shareholder believes the issuer  
18                 should make;

19                 “(2) whether the shareholder believes that such  
20                 disbursements should be made in support of, or in  
21                 opposition to, Republican, Democratic, Independent,  
22                 or other political party candidates and political com-  
23                 mittees;

1           “(3) whether the shareholder believes that such  
2 disbursements should be made with respect to elec-  
3 tions for Federal, State, or local office; and

4           “(4) such other information as the Commission  
5 may specify, by rule.

6           “(c) DISBURSEMENT FOR A POLITICAL PURPOSE DE-  
7 FINED.—

8           “(1) IN GENERAL.—For purposes of this sec-  
9 tion, the term ‘disbursement for a political purpose’  
10 means any of the following:

11           “(A) A disbursement for an independent  
12 expenditure, as defined in section 301(17) of  
13 the Federal Election Campaign Act of 1971 (52  
14 U.S.C. 30101(17)).

15           “(B) A disbursement for an electioneering  
16 communication, as defined in section 304(f) of  
17 the Federal Election Campaign Act of 1971 (52  
18 U.S.C. 30104(f)).

19           “(C) A disbursement for any public com-  
20 munication, as defined in section 301(22) of the  
21 Federal Election Campaign Act of 1971 (52  
22 U.S.C. 30101(22))—

23           “(i) which expressly advocates the  
24 election or defeat of a clearly identified  
25 candidate for election for Federal office, or

1 is the functional equivalent of express ad-  
2 vocacy because, when taken as a whole, it  
3 can be interpreted by a reasonable person  
4 only as advocating the election or defeat of  
5 a candidate for election for Federal office;  
6 or

7 “(ii) which refers to a clearly identi-  
8 fied candidate for election for Federal of-  
9 fice and which promotes or supports a can-  
10 didate for that office, or attacks or opposes  
11 a candidate for that office, without regard  
12 to whether the communication expressly  
13 advocates a vote for or against a candidate  
14 for that office.

15 “(D) Any other disbursement which is  
16 made for the purpose of influencing the out-  
17 come of an election for a public office.

18 “(E) Any transfer of funds to another per-  
19 son which is made with the intent that such  
20 person will use the funds to make a disburse-  
21 ment described in subparagraphs (A) through  
22 (D), or with the knowledge that the person will  
23 use the funds to make such a disbursement.

1           “(2) EXCEPTIONS.—The term ‘disbursement  
2           for a political purpose’ does not include any of the  
3           following:

4                   “(A) Any disbursement made from a sepa-  
5                   rate segregated fund of the corporation under  
6                   section 316 of the Federal Election Campaign  
7                   Act of 1971 (52 U.S.C. 30118).

8                   “(B) Any transfer of funds to another per-  
9                   son which is made in a commercial transaction  
10                  in the ordinary course of any trade or business  
11                  conducted by the corporation or in the form of  
12                  investments made by the corporation.

13                  “(C) Any transfer of funds to another per-  
14                  son which is subject to a written prohibition  
15                  against the use of the funds for a disbursement  
16                  for a political purpose.

17           “(d) OTHER DEFINITIONS.—In this section, each of  
18           the terms ‘candidate’, ‘election’, ‘political committee’, and  
19           ‘political party’ has the meaning given such term under  
20           section 301 of the Federal Election Campaign Act of 1971  
21           (52 U.S.C. 30101).”.

22           (b) CONFORMING AMENDMENT TO FEDERAL ELEC-  
23           TION CAMPAIGN ACT OF 1971 TO PROHIBIT DISBURSE-  
24           MENTS BY CORPORATIONS FAILING TO ASSESS PREF-  
25           ERENCES.—Section 316 of the Federal Election Campaign

1 Act of 1971 (52 U.S.C. 30118) is amended by adding at  
2 the end the following new subsection:

3 “(d) PROHIBITING DISBURSEMENTS BY CORPORA-  
4 TIONS FAILING TO ASSESS SHAREHOLDER PREF-  
5 ERENCES.—

6 “(1) PROHIBITION.—It shall be unlawful for a  
7 corporation to make a disbursement for a political  
8 purpose unless the corporation has in place proce-  
9 dures to assess the preferences of its shareholders  
10 with respect to making such disbursements, as pro-  
11 vided in section 10E of the Securities Exchange Act  
12 of 1934.

13 “(2) DEFINITION.—In this section, the term  
14 ‘disbursement for a political purpose’ has the mean-  
15 ing given such term in section 10E(c) of the Securi-  
16 ties Exchange Act of 1934.”.

17 (e) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply with respect to disbursements  
19 made on or after December 31, 2019.

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