

[DRAFT]

DECEMBER 3, 2018

116TH CONGRESS
1ST SESSION**H. R.** _____

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.

IN THE HOUSE OF REPRESENTATIVES

Mr. RASKIN introduced the following bill; which was referred to the Committee on _____

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 support 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.