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

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

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”.

SEC. 2. LIMITATION ON COVERED POLITICAL EXPENDITURES BY SOCIAL WELFARE ORGANIZATIONS.

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

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

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

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

(b) EXPANSION OF POLITICAL ORGANIZATION DEFINITION.—Section 527(e)(1) of such Code is amended by striking “organized and operated primarily for the pur-
pose of” and inserting “, unless such organization is not
established under this section,”.

(c) **Political Intervention Added to Exempt Function Definition.**—Section 527(e) of such Code is amended—

(1) in paragraph (2)—

(A) by striking “includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a).” and inserting “includes—

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

“(B) political intervention.”, and

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

“(6) **Political Intervention.**—The term ‘political intervention’ has the meaning given to such term by section 4956.”.
(d) **Effective Date.**—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2020.

**Sec. 3. Political Intervention.**

(a) **Disclosure Requirement.**—Section 6104(d)(3) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

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“(C) Certain 501(c)(4) organizations must disclose certain donors.—In the case of an organization described in section 501(c)(4) that spends funds on political intervention (as defined in section 4956), such organization shall be required to disclose the name and address of any contributor donating $5,000 or more to such organization, and such information shall be made open to public inspection in the manner described in subsection (a)(1)(A).”.
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(b) **Political Intervention Defined.**—Subchapter C of chapter 42 of subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:
“SEC. 4956. POLITICAL INTERVENTION.

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

“(1) express advocation—

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

“(B) for the election or defeat of candidates affiliated with a specific political party,

“(C) that voters select candidates for support or opposition based on one or more criteria that clearly distinguish certain candidates from other candidates, or

“(D) the making of contributions to a candidate’s campaign, a political party, or (unless the contribution is restricted so that it must not be used to support political intervention) any other political organization within the meaning of section 527(e)(1),

“(2) communication to any part of the electorate, other than an express advocacy communication within the meaning of clause (i), if the communication—
“(A) refers to a political candidate, and
“(B) reflects a view on such candidate, and
“(3) political use of resources.
“(b) EXCEPTIONS.—A communication described in
subsection (a) shall not constitute political intervention
if—
“(1) it does not consist of paid mass media ad-
vertising, and
“(2) it falls under one of the following excep-
tions:
“(A) COMMUNICATIONS TO INFLUENCE
OFFICIAL ACTION.—Commentary on a public of-
official that has a direct, limited, and reasonable
relationship to specific actions the official may
yet perform within his or her current term of
office without mention of any election or voting
in an election, or of the official’s candidacy or
opponent.
“(B) VOTER EDUCATION.—Voter education
activities or the dissemination of materials that
compare two or more candidates for an office,
including materials disclosing the views of the
organization on political issues, if the commu-
ication consists solely of content in which the
time, text, or space is offered in equal shares to
each of the participating candidates, and the organization’s share of content is no greater than the share available to any of the participating candidates. The opportunity to participate, including a full description of the opportunity and of the organization’s share of the content, if any, must be given to all candidates meeting an objective threshold of viability for nomination or election to the office at least 72 hours in advance of the final preparation of the communication.

“(C) Self-defense Communications.—A response by the organization to a public or publicly-reported statement by a candidate or candidates that either (i) attacks the organization itself, or (ii) comments upon a specific public policy position that the organization has taken publicly in furtherance of its exempt purpose within the prior year, or (iii) results in press inquiries to the organization that were not solicited subsequent to the candidate’s statement by the organization. The response by the organization must be educational, limited topically to addressing the candidate’s statement, and as to (i) or (ii), disseminated in a
manner commensurate in medium and scale, and proximate in time, to the publicity of the candidate’s statement, and as to (iii), limited to dissemination to the requesting press organization.

“(D) PERSONAL, ORAL REMARKS AT OFFICIAL MEETINGS.—Oral remarks made by anyone other than a candidate who is present in person at an official meeting of an organization held in a single room or location, so long as—

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

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

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

“(e) DEFINITIONS.—For purposes of this section—

“(1) CANDIDATE.—The term ‘candidate’ means a person who offers himself or herself for election to
public office or whose election the person conducting
the activity or making the expenditure in question
expressly proposes, supports, or opposes.

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

“(3) PAID MASS MEDIA ADVERTISING.—

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

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

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

“(ii) of more than 500 pieces of mail
matter of an identical or substantially
similar nature within any 30-day period,

and

“(iii) that is not voter education materials.

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

“(A) means—

“(i) the provision any of an organization’s resources, tangible or intangible, including monetary or in-kind, goods, services, or facilities, by gift, loan, sale, rental, or any other method of transfer to another person or entity, if—

“(I) the transferee uses such resources to support or oppose any candidate’s election to public office,

“(II) such use is reasonably foreseeable, and

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

“(ii) any other transfer that is a reportable contribution related to one or more candidates for elective public office, to a political party, or (unless the transfer
is restricted so that it must not be used to support political intervention) to any other political organization within the meaning of section 527(e)(1), and

“(iii) any other use of an organization’s resources in support of or opposition to a candidate, if not specifically allowed under a Revenue Ruling or other Federal tax authority, and

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

“(i) made in a transaction in which the fair market value of goods or services provided by the organization does not exceed the value of the consideration received in exchange,

“(ii) similar to other transactions conducted by the organization, and

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

“(d) REGULATIONS.—The Secretary shall prescribe such regulations and other guidance as may be appropriate or necessary to carry out the purposes of this section.”.

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

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

“Sec. 4956. Political Intervention.”.

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2020.