

112TH CONGRESS
1ST SESSION

S. 1871

To prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 15, 2011

Mr. BROWN of Massachusetts introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, 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 “Stop Trading on Con-
5 gressional Knowledge Act”.

1 **SEC. 2. NONPUBLIC INFORMATION RELATING TO CON-**
2 **GRESS AND OTHER FEDERAL EMPLOYEES.**

3 (a) **COMMODITIES TRANSACTIONS.**—Section 4c of the
4 Commodity Exchange Act (7 U.S.C. 6c) is amended by
5 adding at the end the following:

6 “(h) **NONPUBLIC INFORMATION.**—

7 “(1) **DEFINITIONS.**—In this subsection:

8 “(A) **AGENCY.**—The term ‘agency’ has the
9 meaning given the term in section 551 of title
10 5, United States Code.

11 “(B) **MATERIAL NONPUBLIC INFORMA-**
12 **TION.**—The term ‘material nonpublic informa-

13 tion’—
14 “(i) has the meaning given the term
15 by the Commission by rule;

16 “(ii) includes any information that—

17 “(I) a member or employee of
18 Congress, or an employee of an agen-
19 cy, as applicable, gains by reason of
20 that position or employment; and

21 “(II) the member or employee
22 knows or should know has not been
23 made available to the general public;
24 and

25 “(iii) includes information that—

1 “(I) is routinely exempt from dis-
2 closure under section 552 of title 5,
3 United States Code, or otherwise pro-
4 tected from disclosure by law (includ-
5 ing Executive orders and regulations);

6 “(II) is designated as confidential
7 by an agency; or

8 “(III) has not actually been dis-
9 seminated to the general public and is
10 not authorized to be made available to
11 the public on request.

12 “(2) NONPUBLIC INFORMATION RELATING TO
13 CONGRESS.—Not later than 270 days after the date
14 of enactment of this subsection, the Commission
15 shall by rule prohibit any person from buying or sell-
16 ing any commodity for future delivery or swap while
17 the person is in possession of material nonpublic in-
18 formation relating to any pending or prospective leg-
19 islative action relating to the commodity if—

20 “(A) the information was obtained by rea-
21 son of the person being a Member or employee
22 of Congress; or

23 “(B)(i) the information was obtained from
24 a Member or employee of Congress; and

1 “(ii) the person knows that the informa-
2 tion was so obtained.

3 “(3) NONPUBLIC INFORMATION RELATING TO
4 OTHER FEDERAL EMPLOYEES.—Not later than 270
5 days after the date of enactment of this subsection,
6 the Commission shall by rule prohibit any person
7 from buying or selling any commodity for future de-
8 livery or swap while the person is in possession of
9 material nonpublic information derived from Federal
10 employment and relating to the commodity if—

11 “(A) the information was obtained by rea-
12 son of the person being an employee of an
13 agency; or

14 “(B)(i) the information was obtained from
15 an employee of an agency; and

16 “(ii) the person knows that the informa-
17 tion was so obtained.”.

18 (b) SECURITIES TRANSACTIONS.—

19 (1) DEFINITIONS.—As used in this sub-
20 section—

21 (A) the term “agency” has the same mean-
22 ing as in section 551(1) of title 5, United
23 States Code;

24 (B) the term “Commission” means the Se-
25 curities and Exchange Commission; and

1 (C) the term “material nonpublic informa-
2 tion”—

3 (i) has the meaning given that term
4 by rule of the Commission; and

5 (ii) includes any information that a
6 member or employee of Congress or an em-
7 ployee of an agency, as applicable, gains by
8 reason of such position or employment,
9 and that such member or employee knows
10 or should know has not been made avail-
11 able to the general public, including infor-
12 mation that—

13 (I) is routinely exempt from dis-
14 closure under section 552 of title 5,
15 United States Code, or otherwise pro-
16 tected from disclosure by statute, Ex-
17 ecutive Order, or regulation;

18 (II) is designated as confidential
19 by an agency; or

20 (III) has not actually been dis-
21 seminated to the general public and is
22 not authorized to be made available to
23 the public on request.

24 (2) NONPUBLIC INFORMATION RELATING TO
25 CONGRESS.—Not later than 270 days after the date

1 of enactment of this Act, the Commission shall, by
2 rule, prohibit any person from buying or selling the
3 securities or security-based swaps of any issuer while
4 such person is in possession of material nonpublic
5 information relating to any pending or prospective
6 legislative action relating to such issuer, if—

7 (A) such information was obtained by rea-
8 son of such person being a Member or employee
9 of Congress; or

10 (B) such information was obtained from a
11 Member or employee of Congress, and such per-
12 son knows that the information was so ob-
13 tained.

14 (3) NONPUBLIC INFORMATION RELATING TO
15 OTHER FEDERAL EMPLOYEES.—Not later than 270
16 days after the date of enactment of this subsection,
17 the Commission shall, by rule, prohibit any person
18 from buying or selling the securities or security-
19 based swaps of any issuer while such person is in
20 possession of material nonpublic information derived
21 from Federal employment and relating to such
22 issuer, if—

23 (A) such information was obtained by rea-
24 son of such person being an employee of an
25 agency; or

1 (B) such information was obtained from
2 such an employee, and such person knows that
3 the information was so obtained.

4 **SEC. 3. COMMITTEE HEARINGS ON IMPLEMENTATION.**

5 (a) IN GENERAL.—The Committee on Agriculture of
6 the House of Representatives shall hold a hearing on the
7 implementation by the Commodity Futures Trading Com-
8 mission of subsections (h) and (i) of section 4e of the Com-
9modity Exchange Act (as added by section 2(b) of this
10 Act), and the Committee on Financial Services of the
11 House of Representatives shall hold a hearing on the im-
12 plementation by the Securities Exchange Commission of
13 subsections (d) and (e) of section 10 of the Securities Ex-
14 change Act of 1934 (as added by section 2(a) of this Act).

15 (b) EXERCISE OF RULEMAKING AUTHORITY.—Sub-
16 section (a) is enacted—

17 (1) as an exercise of the rulemaking power of
18 the House of Representatives and, as such, shall be
19 considered as part of the rules of the House, and
20 such rules shall supersede any other rule of the
21 House only to the extent that rule is inconsistent
22 therewith; and

23 (2) with full recognition of the constitutional
24 right of the House to change such rules (so far as
25 relating to the procedure in the House) at any time,

1 in the same manner, and to the same extent as in
2 the case of any other rule of the House.

3 **SEC. 4. TIMELY REPORTING OF FINANCIAL TRANSACTIONS.**

4 (a) REPORTING REQUIREMENT.—Section 103 of the
5 Ethics in Government Act of 1978 is amended by adding
6 at the end the following subsection:

7 “(1) Within 90 days after the purchase, sale, or ex-
8 change of any stocks, bonds, commodities futures, or other
9 forms of securities that are otherwise required to be re-
10 ported under this Act and the transaction of which in-
11 volves at least \$1,000 by any Member of Congress or offi-
12 cer or employee of the legislative branch required to so
13 file, that Member, officer, or employee shall file a report
14 of that transaction with the Clerk of the House of Rep-
15 resentatives in the case of a Representative in Congress,
16 a Delegate to Congress, or the Resident Commissioner
17 from Puerto Rico, or with the Secretary of the Senate in
18 the case of a Senator.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall apply to transactions occurring on or
21 after the date that is 90 days after the date of the enact-
22 ment of this Act.

1 **SEC. 5. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVI-**
2 **TIES UNDER LOBBYING DISCLOSURE ACT.**

3 (a) DEFINITIONS.—Section 3 of the Lobbying Disclo-
4 sure Act of 1995 (2 U.S.C. 1602) is amended—

5 (1) in paragraph (2)—

6 (A) by inserting after “lobbying activities”
7 each place that term appears the following: “or
8 political intelligence activities”; and

9 (B) by inserting after “lobbyists” the fol-
10 lowing: “or political intelligence consultants”;
11 and

12 (2) by adding at the end the following new
13 paragraphs:

14 “(17) POLITICAL INTELLIGENCE ACTIVITIES.—
15 The term ‘political intelligence activities’ means po-
16 litical intelligence contacts and efforts in support of
17 such contacts, including preparation and planning
18 activities, research, and other background work that
19 is intended, at the time it is performed, for use in
20 contacts, and coordination with such contacts and
21 efforts of others.

22 “(18) POLITICAL INTELLIGENCE CONTACT.—

23 “(A) DEFINITION.—The term ‘political in-
24 telligence contact’ means any oral or written
25 communication (including an electronic commu-
26 nication) to or from a covered executive branch

1 official or a covered legislative branch official,
2 the information derived from which is intended
3 for use in analyzing securities or commodities
4 markets, or in informing investment decisions,
5 and which is made on behalf of a client with re-
6 gard to—

7 “(i) the formulation, modification, or
8 adoption of Federal legislation (including
9 legislative proposals);

10 “(ii) the formulation, modification, or
11 adoption of a Federal rule, regulation, Ex-
12 ecutive order, or any other program, policy,
13 or position of the United States Govern-
14 ment; or

15 “(iii) the administration or execution
16 of a Federal program or policy (including
17 the negotiation, award, or administration
18 of a Federal contract, grant, loan, permit,
19 or license).

20 “(B) EXCEPTION.—The term ‘political in-
21 telligence contact’ does not include a commu-
22 nication that is made by or to a representative
23 of the media if the purpose of the communica-
24 tion is gathering and disseminating news and
25 information to the public.

1 “(19) POLITICAL INTELLIGENCE FIRM.—The
2 term ‘political intelligence firm’ means a person or
3 entity that has 1 or more employees who are polit-
4 ical intelligence consultants to a client other than
5 that person or entity.

6 “(20) POLITICAL INTELLIGENCE CONSULT-
7 ANT.—The term ‘political intelligence consultant’
8 means any individual who is employed or retained by
9 a client for financial or other compensation for serv-
10 ices that include one or more political intelligence
11 contacts.”.

12 (b) REGISTRATION REQUIREMENT.—Section 4 of the
13 Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is
14 amended—

15 (1) in subsection (a)—

16 (A) in paragraph (1)—

17 (i) by inserting after “whichever is
18 earlier,” the following: “or a political intel-
19 ligence consultant first makes a political
20 intelligence contact,”; and

21 (ii) by inserting after “such lobbyist”
22 each place that term appears the following:
23 “or consultant”;

24 (B) in paragraph (2), by inserting after
25 “lobbyists” each place that term appears the

1 following: “or political intelligence consultants”;
2 and

3 (C) in paragraph (3)(A)—

4 (i) by inserting after “lobbying activi-
5 ties” each place that term appears the fol-
6 lowing: “and political intelligence activi-
7 ties”; and

8 (ii) in clause (i), by inserting after
9 “lobbying firm” the following: “or political
10 intelligence firm”;

11 (2) in subsection (b)—

12 (A) in paragraph (3), by inserting after
13 “lobbying activities” each place that term ap-
14 pears the following: “or political intelligence ac-
15 tivities”;

16 (B) in paragraph (4)—

17 (i) in the matter preceding subpara-
18 graph (A), by inserting after “lobbying ac-
19 tivities” the following: “or political intel-
20 ligence activities”; and

21 (ii) in subparagraph (C), by inserting
22 after “lobbying activity” the following: “or
23 political intelligence activity”;

24 (C) in paragraph (5), by inserting after
25 “lobbying activities” each place that term ap-

1 pears the following: “or political intelligence ac-
2 tivities”;

3 (D) in paragraph (6), by inserting after
4 “lobbyist” each place that term appears the fol-
5 lowing: “or political intelligence consultant”;
6 and

7 (E) in the matter following paragraph (6),
8 by inserting “or political intelligence activities”
9 after “such lobbying activities”;

10 (3) in subsection (c)—

11 (A) in paragraph (1), by inserting after
12 “lobbying contacts” the following: “or political
13 intelligence contacts”; and

14 (B) in paragraph (2)—

15 (i) by inserting after “lobbying con-
16 tact” the following: “or political intel-
17 ligence contact”; and

18 (ii) by inserting after “lobbying con-
19 tacts” the following: “and political intel-
20 ligence contacts”; and

21 (4) in subsection (d), by inserting after “lob-
22 bying activities” each place that term appears the
23 following: “or political intelligence activities”.

1 (c) REPORTS BY REGISTERED POLITICAL INTEL-
2 LIGENCE CONSULTANTS.—Section 5 of the Lobbying Dis-
3 closure Act of 1995 (2 U.S.C. 1604) is amended—

4 (1) in subsection (a), by inserting after “lob-
5 bying activities” the following: “and political intel-
6 ligence activities”;

7 (2) in subsection (b)—

8 (A) in paragraph (2)—

9 (i) in the matter preceding subpara-
10 graph (A), by inserting after “lobbying ac-
11 tivities” the following: “or political intel-
12 ligence activities”;

13 (ii) in subparagraph (A)—

14 (I) by inserting after “lobbyist”
15 the following: “or political intelligence
16 consultant”; and

17 (II) by inserting after “lobbying
18 activities” the following: “or political
19 intelligence activities”;

20 (iii) in subparagraph (B), by inserting
21 after “lobbyists” the following: “and polit-
22 ical intelligence consultants”; and

23 (iv) in subparagraph (C), by inserting
24 after “lobbyists” the following: “or political
25 intelligence consultants”;

1 (B) in paragraph (3)—

2 (i) by inserting after “lobbying firm”
3 the following: “or political intelligence
4 firm”; and

5 (ii) by inserting after “lobbying activi-
6 ties” each place that term appears the fol-
7 lowing: “or political intelligence activities”;
8 and

9 (C) in paragraph (4), by inserting after
10 “lobbying activities” each place that term ap-
11 pears the following: “or political intelligence ac-
12 tivities”; and

13 (3) in subsection (d)(1), in the matter pre-
14 ceding subparagraph (A), by inserting “or a political
15 intelligence consultant” after “a lobbyist”.

16 (d) DISCLOSURE AND ENFORCEMENT.—Section 6(a)
17 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605)
18 is amended—

19 (1) in paragraph (3)(A), by inserting after “lob-
20 bying firms” the following: “, political intelligence
21 consultants, political intelligence firms,”;

22 (2) in paragraph (7), by striking “or lobbying
23 firm” and inserting “lobbying firm, political intel-
24 ligence consultant, or political intelligence firm”; and

1 (3) in paragraph (8), by striking “or lobbying
2 firm” and inserting “lobbying firm, political intel-
3 ligence consultant, or political intelligence firm”.

4 (e) RULES OF CONSTRUCTION.—Section 8(b) of the
5 Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is
6 amended by striking “or lobbying contacts” and inserting
7 “lobbying contacts, political intelligence activities, or polit-
8 ical intelligence contacts”.

9 (f) IDENTIFICATION OF CLIENTS AND COVERED OF-
10 FICIALS.—Section 14 of the Lobbying Disclosure Act of
11 1995 (2 U.S.C. 1609) is amended—

12 (1) in subsection (a)—

13 (A) in the heading, by inserting “OR PO-
14 LITICAL INTELLIGENCE” after “LOBBYING”;

15 (B) by inserting “or political intelligence
16 contact” after “lobbying contact” each place
17 that term appears; and

18 (C) in paragraph (2), by inserting “or po-
19 litical intelligence activity, as the case may be”
20 after “lobbying activity”;

21 (2) in subsection (b)—

22 (A) in the heading, by inserting “OR PO-
23 LITICAL INTELLIGENCE” after “LOBBYING”;

1 (B) by inserting “or political intelligence
2 contact” after “lobbying contact” each place
3 that term appears; and

4 (C) in paragraph (2), by inserting “or po-
5 litical intelligence activity, as the case may be”
6 after “lobbying activity”; and

7 (3) in subsection (c), by inserting “or political
8 intelligence contact” after “lobbying contact”.

9 (g) ANNUAL AUDITS AND REPORTS BY COMP-
10 TROLLER GENERAL.—Section 26 of the Lobbying Disclo-
11 sure Act of 1995 (2 U.S.C. 1614) is amended—

12 (1) in subsection (a)—

13 (A) by inserting “political intelligence
14 firms, political intelligence consultants,” after
15 “lobbying firms”; and

16 (B) by striking “lobbying registrations”
17 and inserting “registrations”;

18 (2) in subsection (b)(1)(A), by inserting “polit-
19 ical intelligence firms, political intelligence consult-
20 ants,” after “lobbying firms”; and

21 (3) in subsection (c), by inserting “or political
22 intelligence consultant” after “a lobbyist”.

23 **SEC. 6. EFFECTIVE DATE.**

24 Subject to section 4(b), this Act and the amendments
25 made by this Act shall take effect at the end of the 90-

1 day period beginning on the date of the enactment of this
2 Act.

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