

112TH CONGRESS
1ST SESSION

S. 1903

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 17, 2011

Mrs. GILLIBRAND (for herself, Mr. TESTER, Ms. STABENOW, Mr. DURBIN, Mrs. McCASKILL, Ms. KLOBUCHAR, Mr. RUBIO, and Mr. BLUMENTHAL) 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)(i) the information was obtained by
21 reason of the person being a Member or em-
22 ployee of Congress; or

23 “(ii)(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; and

3 “(B) the person acted with the intent to
4 assist another person, directly or indirectly, to
5 use the information to enter into, or offer to
6 buy or sell the securities of such publicly traded
7 company based on such information.

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

16 “(A)(i) the information was obtained by
17 reason of the person being an employee of an
18 agency; or

19 “(ii)(I) the information was obtained from
20 an employee of an agency; and

21 “(II) the person knows that the informa-
22 tion was so obtained; and

23 “(B) the person acted with the intent to
24 assist another person, directly or indirectly, to
25 use the information to enter into, or offer to

1 buy or sell the securities of such publicly traded
2 company based on such information.”.

3 (b) SECURITIES TRANSACTIONS.—

4 (1) DEFINITIONS.—As used in this sub-
5 section—

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

9 (B) the term “Commission” means the Se-
10 curities and Exchange Commission; and

11 (C) the term “material nonpublic informa-
12 tion”—

13 (i) has the meaning given that term
14 by rule of the Commission; and

15 (ii) includes any information that a
16 member or employee of Congress or an em-
17 ployee of an agency, as applicable, gains by
18 reason of such position or employment,
19 and that such member or employee knows
20 or should know has not been made avail-
21 able to the general public, including infor-
22 mation that—

23 (I) is routinely exempt from dis-
24 closure under section 552 of title 5,
25 United States Code, or otherwise pro-

1 tected from disclosure by statute, Ex-
2 ecutive Order, or regulation;

3 (II) is designated as confidential
4 by an agency; or

5 (III) has not actually been dis-
6 seminated to the general public and is
7 not authorized to be made available to
8 the public on request.

9 (2) NONPUBLIC INFORMATION RELATING TO
10 CONGRESS.—Not later than 270 days after the date
11 of enactment of this Act, the Commission shall, by
12 rule, prohibit any person from buying or selling the
13 securities or security-based swaps of any issuer while
14 such person is in possession of material nonpublic
15 information relating to any pending or prospective
16 legislative action relating to such issuer, if—

17 (A)(i) such information was obtained by
18 reason of such person being a Member or em-
19 ployee of Congress; or

20 (ii) such information was obtained from a
21 Member or employee of Congress, and such per-
22 son knows that the information was so ob-
23 tained;

24 (B) the person acted with the intent to as-
25 sist another person, directly or indirectly, to use

1 the information to enter into, or offer to buy or
2 sell the securities of such publicly traded com-
3 pany based on such information.

4 (3) NONPUBLIC INFORMATION RELATING TO
5 OTHER FEDERAL EMPLOYEES.—Not later than 270
6 days after the date of enactment of this subsection,
7 the Commission shall, by rule, prohibit any person
8 from buying or selling the securities or security-
9 based swaps of any issuer while such person is in
10 possession of material nonpublic information derived
11 from Federal employment and relating to such
12 issuer, if—

13 (A)(i) such information was obtained by
14 reason of such person being an employee of an
15 agency; or

16 (ii) such information was obtained from
17 such an employee, and such person knows that
18 the information was so obtained; and

19 (B) the person acted with the intent to as-
20 sist another person, directly or indirectly, to use
21 the information to enter into, or offer to buy or
22 sell the securities of such publicly traded com-
23 pany based on such information.

1 **SEC. 3. AMENDMENT TO THE RULES OF THE SENATE RE-**
2 **GARDING FINANCIAL TRADING BASED ON**
3 **NONPUBLIC INFORMATION.**

4 Rule XXXVII of the Standing Rules of the Senate
5 is amended by—

6 (1) redesignating paragraph 15 as paragraph
7 16; and

8 (2) inserting at the end the following:

9 “15. A Member, officer, or employee of the Senate
10 shall not—

11 “(1) disclose material nonpublic information re-
12 lating to any pending or prospective legislative ac-
13 tion relating to any publicly traded company if that
14 Member, officer, or employee acts with the intent to
15 assist another person, directly or indirectly, to use
16 the information to enter into, or offer to buy or sell
17 the securities of such publicly traded company based
18 on such information; or

19 “(2) disclose material nonpublic information re-
20 lating to any pending or prospective legislative ac-
21 tion relating to any commodity if that Member, offi-
22 cer, or employee acts with the intent to assist an-
23 other person, directly or indirectly, to use the infor-
24 mation to enter into, or offer to buy or sell the secu-
25 rities of such publicly traded company based on such
26 information.”.

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

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

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

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

21 **SEC. 5. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVI-**
22 **TIES UNDER LOBBYING DISCLOSURE ACT.**

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

25 (1) in paragraph (2)—

1 (A) by inserting after “lobbying activities”
2 each place that term appears the following: “or
3 political intelligence activities”; and

4 (B) by inserting after “lobbyists” the fol-
5 lowing: “or political intelligence consultants”;
6 and

7 (2) by adding at the end the following new
8 paragraphs:

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

17 “(18) POLITICAL INTELLIGENCE CONTACT.—

18 “(A) DEFINITION.—The term ‘political in-
19 telligence contact’ means any oral or written
20 communication (including an electronic commu-
21 nication) to or from a covered executive branch
22 official or a covered legislative branch official,
23 the information derived from which is intended
24 for use in analyzing securities or commodities
25 markets, or in informing investment decisions,

1 and which is made on behalf of a client with re-
2 gard to—

3 “(i) the formulation, modification, or
4 adoption of Federal legislation (including
5 legislative proposals);

6 “(ii) the formulation, modification, or
7 adoption of a Federal rule, regulation, Ex-
8 ecutive order, or any other program, policy,
9 or position of the United States Govern-
10 ment; or

11 “(iii) the administration or execution
12 of a Federal program or policy (including
13 the negotiation, award, or administration
14 of a Federal contract, grant, loan, permit,
15 or license).

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

22 “(19) POLITICAL INTELLIGENCE FIRM.—The
23 term ‘political intelligence firm’ means a person or
24 entity that has 1 or more employees who are polit-

1 ical intelligence consultants to a client other than
2 that person or entity.

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

9 (b) REGISTRATION REQUIREMENT.—Section 4 of the
10 Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is
11 amended—

12 (1) in subsection (a)—

13 (A) in paragraph (1)—

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

18 (ii) by inserting after “such lobbyist”
19 each place that term appears the following:
20 “or consultant”;

21 (B) in paragraph (2), by inserting after
22 “lobbyists” each place that term appears the
23 following: “or political intelligence consultants”;
24 and

25 (C) in paragraph (3)(A)—

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

5 (ii) in clause (i), by inserting after
6 “lobbying firm” the following: “or political
7 intelligence firm”;

8 (2) in subsection (b)—

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

13 (B) in paragraph (4)—

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

18 (ii) in subparagraph (C), by inserting
19 after “lobbying activity” the following: “or
20 political intelligence activity”;

21 (C) in paragraph (5), by inserting after
22 “lobbying activities” each place that term ap-
23 pears the following: “or political intelligence ac-
24 tivities”;

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

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

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

12 (B) in paragraph (2)—

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

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

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

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

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

4 (2) in subsection (b)—

5 (A) in paragraph (2)—

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

10 (ii) in subparagraph (A)—

11 (I) by inserting after “lobbyist”
12 the following: “or political intelligence
13 consultant”; and

14 (II) by inserting after “lobbying
15 activities” the following: “or political
16 intelligence activities”;

17 (iii) in subparagraph (B), by inserting
18 after “lobbyists” the following: “and polit-
19 ical intelligence consultants”; and

20 (iv) in subparagraph (C), by inserting
21 after “lobbyists” the following: “or political
22 intelligence consultants”;

23 (B) in paragraph (3)—

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

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

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

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

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

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

21 (2) in paragraph (7), by striking “or lobbying
22 firm” and inserting “lobbying firm, political intel-
23 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 5(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.

○