

[DRAFT]

MAY 21, 2019

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal Election Campaign Act of 1971 to treat the sharing of nonpublic campaign material by a candidate or political committee with a foreign power as the solicitation of a contribution or donation in support of the candidate or committee from a foreign national for purposes of the ban on such solicitations under such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Federal Election Campaign Act of 1971 to treat the sharing of nonpublic campaign material by a candidate or political committee with a foreign power as the solicitation of a contribution or donation in support of the candidate or committee from a foreign national for purposes of the ban on such solicitations under such Act, 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 “?? Act”. [*Do you want*
3 *a short title for the bill?*]

4 **SEC. 2. RESTRICTIONS ON EXCHANGE OF CAMPAIGN IN-**
5 **FORMATION BETWEEN CANDIDATES AND**
6 **FOREIGN POWERS.**

7 Section 319 of the Federal Election Campaign Act
8 of 1971 (52 U.S.C. 30121) is amended by adding at the
9 end the following new subsection:

10 “(c) RESTRICTIONS ON EXCHANGE OF INFORMATION
11 BETWEEN CANDIDATES AND FOREIGN POWERS.—

12 “(1) TREATMENT OF OFFER TO SHARE NON-
13 PUBLIC CAMPAIGN MATERIAL AS SOLICITATION OF
14 CONTRIBUTION FROM FOREIGN NATIONAL.—If a
15 candidate or an individual affiliated with the cam-
16 paign of a candidate, or if a political committee or
17 an individual affiliated with a political committee,
18 provides or offers to provide nonpublic campaign
19 material to a foreign power or an agent of a foreign
20 power or to another person whom the candidate,
21 committee, or individual knows or has reason to
22 know will provide the material to a foreign power or
23 an agent of a foreign power, the candidate, com-
24 mittee, or individual (as the case may be) shall be
25 considered for purposes of this section to have solie-

1 ited a contribution or donation described in sub-
2 section (a)(1)(A) from a foreign national.

3 “(2) SUSPICIOUS ACTIVITY REPORTS.—

4 “(A) DUTY TO FILE.—If a candidate or
5 any individual affiliated with a campaign of a
6 candidate, or if a political committee or an indi-
7 vidual affiliated with a political committee,
8 knowingly receives an offer of assistance with
9 respect to the campaign or the committee from
10 a person the candidate, committee, or individual
11 knows is a foreign power or an agent of a for-
12 eign power, not later than 72 hours after re-
13 ceiving the offer the candidate, committee, or
14 individual shall file a suspicious activity report
15 with the Attorney General (or such official as
16 may be designated by the Attorney General for
17 purposes of this paragraph) which describes the
18 offer, and shall include in the report (to the ex-
19 tent known) the name, address, and nationality
20 of the foreign power or agent making the offer.

21 “(B) REFERRAL.—Upon receiving a sus-
22 picious activity report under subparagraph (A),
23 the Attorney General shall refer the report to
24 the Secretary of State and the Commission.
25 The Commission may take such action in re-

1 response to the report as may be authorized
2 under section 309, without regard to whether or
3 not the Attorney General takes any action in
4 response to the report.

5 “(C) EFFECTIVE DATE.—This paragraph
6 shall take effect upon the expiration of the 120-
7 day period which begins on the date of the en-
8 actment of this paragraph.

9 “(3) DEFINITIONS.—In this subsection, the fol-
10 lowing definitions apply:

11 “(A) The term ‘agent of a foreign power’
12 means any person who acts as an agent, rep-
13 resentative, employee or servant, or any person
14 who acts in any other capacity at the order, re-
15 quest, or under the direction or control, of a
16 foreign power or of any person whose activities
17 are directly or indirectly supervised, directed,
18 controlled, financed, or subsidized in whole or
19 in major part by a foreign power.

20 “(B) The term ‘candidate’ means an indi-
21 vidual who seeks nomination for, or election to,
22 any Federal, State, or local public office.

23 “(C) The term ‘foreign power’ means—

24 “(i) a government of a foreign coun-
25 try, as defined in section 1(e) of the For-

1 foreign Agents Registration Act of 1938, as
2 Amended (22 U.S.C. 611(e);

3 “(ii) a foreign political party, as de-
4 fined in section in section 1(f) of the For-
5 eign Agents Registration Act of 1938, as
6 Amended (22 U.S.C. 611(f); or

7 “(iii) a partnership, association, cor-
8 poration, organization, or other combina-
9 tion of persons organized under the laws of
10 or having its principal place of business in
11 a foreign country.

12 “(D) The term ‘individual affiliated with a
13 campaign’ means, with respect to a candidate,
14 an employee of any organization legally author-
15 ized under Federal, State, or local law to sup-
16 port the candidate’s campaign for nomination
17 for, or election to, any Federal, State, or local
18 public office, as well as any independent con-
19 tractor of such an organization and any indi-
20 vidual who performs services on behalf of the
21 organization, whether paid or unpaid.

22 “(E) The term ‘individual affiliated with a
23 political committee’ means, with respect to a
24 political committee, an employee of the com-
25 mittee as well as any independent contractor of

1 the committee and any individual who performs
2 services on behalf of the committee, whether
3 paid or unpaid.

4 “(F) The term ‘nonpublic campaign mate-
5 rial’ means, with respect to a candidate or a po-
6 litical committee, campaign material that is
7 produced by the candidate or the committee or
8 produced at the candidate or committee’s ex-
9 pense or request which is not distributed or
10 made available to the general public or other-
11 wise in the public domain, including polling and
12 focus group data and opposition research, ex-
13 cept that such term does not include material
14 produced for purposes of consultations relating
15 solely to the candidate’s or committee’s position
16 on a legislative or policy matter.

17 “(G) The term ‘offer of assistance’ means,
18 with respect to a candidate or a political com-
19 mittee, an offer to provide direct assistance to
20 the candidate or committee with respect to ac-
21 tivities of the candidate or committee, including
22 an offer to provide polling information, opposi-
23 tion research, or similar information, including
24 information that would reasonably be expected
25 to have been obtained through illicit means, ex-

1 cept that such term does not include an offer
2 to engage in consultations relating solely to the
3 candidate’s or committee’s position on a legisla-
4 tive or policy matter or an offer to provide ma-
5 terial produced solely for purposes of such con-
6 sultations.”.

7 **SEC. 3. DUTY OF CANDIDATES AND COMMITTEES TO FILE**
8 **SUSPICIOUS ACTIVITY REPORTS AFTER RE-**
9 **CEIVING OFFER OF UNLAWFUL ASSISTANCE.**

10 Title III of the Federal Election Campaign Act of
11 1971 (52 U.S.C. 30101 et seq.) is amended by adding at
12 the end the following new section:

13 **“SEC. 325. DUTY OF CANDIDATES AND COMMITTEES TO**
14 **FILE SUSPICIOUS ACTIVITY REPORTS AFTER**
15 **RECEIVING OFFER OF UNLAWFUL ASSIST-**
16 **ANCE.**

17 “(a) DUTY TO FILE.—If a candidate or any indi-
18 vidual affiliated with a campaign of a candidate, or if a
19 political committee or an individual affiliated with a polit-
20 ical committee, knowingly receives an offer of unlawful as-
21 sistance with respect to the campaign or committee from
22 any person, not later than 72 hours after receiving the
23 offer the candidate, committee, or individual shall file a
24 suspicious activity report with the Attorney General (or
25 such official as may be designated by the Attorney General

1 for purposes of this paragraph) which describes the offer,
2 and shall include in the report (to the extent known) the
3 name and address of the person making the offer.

4 “(b) REFERRAL.—Upon receiving a suspicious activ-
5 ity report under subparagraph (A), the Attorney General
6 shall refer the report to the Commission. The Commission
7 may take such action in response to the report as may
8 be authorized under section 309, without regard to wheth-
9 er or not the Attorney General takes any action in re-
10 sponse to the report.

11 “(c) DEFINITIONS.—In this section, the following
12 definitions apply:

13 “(1) The term ‘individual affiliated with a cam-
14 paign’ means, with respect to a candidate, an em-
15 ployee of any authorized committee of the candidate,
16 as well as any independent contractor of an author-
17 ized committee of the candidate and any individual
18 who performs services on behalf of the committee,
19 whether paid or unpaid.

20 “(2) The term ‘individual affiliated with a polit-
21 ical committee’ means, with respect to a political
22 committee, an employee of the committee as well as
23 any independent contractor of the committee and
24 any individual who performs services on behalf of
25 the committee, whether paid or unpaid.

1 “(3) The term ‘offer of unlawful assistance’
2 means, with respect to a candidate or a political
3 committee, an offer by a person to provide direct as-
4 sistance to the candidate or committee which con-
5 sists of providing information (including polling in-
6 formation, opposition research, or similar informa-
7 tion) that the candidate, committee, or individual
8 knows or reasonably should know was obtained by
9 such person through illicit means, except that such
10 term does not include an offer to engage in consulta-
11 tions relating solely to the candidate’s or commit-
12 tee’s position on a legislative or policy matter or an
13 offer to provide material produced solely for pur-
14 poses of such consultations.

15 “(d) EFFECTIVE DATE.—This section shall take ef-
16 fect upon the expiration of the 120-day period which be-
17 gins on the date of the enactment of this section.”.