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 sup-
port of the candidate or committee from a foreign na-
tional for purposes of the ban on such solicitations under
such Act, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “?? Act”. [Do you want a short title for the bill?]

SEC. 2. RESTRICTIONS ON EXCHANGE OF CAMPAIGN INFORMATION BETWEEN CANDIDATES AND FOREIGN POWERS.

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

“(c) Restrictions on Exchange of Information Between Candidates and Foreign Powers.—

“(1) Treatment of offer to share non-public campaign material as solicitation of contribution from foreign national.—If a candidate or an individual affiliated with the campaign of a candidate, or if a political committee or an individual affiliated with a political committee, provides or offers to provide nonpublic campaign material to a foreign power or an agent of a foreign power or to another person whom the candidate, committee, or individual knows or has reason to know will provide the material to a foreign power or an agent of a foreign power, the candidate, committee, or individual (as the case may be) shall be considered for purposes of this section to have solici-
ited a contribution or donation described in sub-
section (a)(1)(A) from a foreign national.

“(2) SUSPICIOUS ACTIVITY REPORTS.—

“(A) DUTY TO FILE.—If a candidate or
any individual affiliated with a campaign of a
candidate, or if a political committee or an indi-

gual affiliated with a political committee,
knowingly receives an offer of assistance with
respect to the campaign or the committee from
a person the candidate, committee, or individual
knows is a foreign power or an agent of a for-
eign power, not later than 72 hours after re-
ceiving the offer the candidate, committee, or
individual shall file a suspicious activity report
with the Attorney General (or such official as
may be designated by the Attorney General for
purposes of this paragraph) which describes the
offer, and shall include in the report (to the ex-
tent known) the name, address, and nationality
of the foreign power or agent making the offer.

“(B) REFERRAL.—Upon receiving a sus-
picious activity report under subparagraph (A),
the Attorney General shall refer the report to
the Secretary of State and the Commission.
The Commission may take such action in re-
response to the report as may be authorized under section 309, without regard to whether or not the Attorney General takes any action in response to the report.

“(C) EFFECTIVE DATE.—This paragraph shall take effect upon the expiration of the 120-day period which begins on the date of the enactment of this paragraph.

“(3) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) The term ‘agent of a foreign power’ means any person who acts as an agent, representative, employee or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign power or of any person whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign power.

“(B) The term ‘candidate’ means an individual who seeks nomination for, or election to, any Federal, State, or local public office.

“(C) The term ‘foreign power’ means—

“(i) a government of a foreign country, as defined in section 1(e) of the For-
eign Agents Registration Act of 1938, as Amended (22 U.S.C. 611(e));

“(ii) a foreign political party, as defined in section in section 1(f) of the Foreign Agents Registration Act of 1938, as Amended (22 U.S.C. 611(f); or

“(iii) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

“(D) The term ‘individual affiliated with a campaign’ means, with respect to a candidate, an employee of any organization legally authorized under Federal, State, or local law to support the candidate’s campaign for nomination for, or election to, any Federal, State, or local public office, as well as any independent contractor of such an organization and any individual who performs services on behalf of the organization, whether paid or unpaid.

“(E) The term ‘individual affiliated with a political committee’ means, with respect to a political committee, an employee of the committee as well as any independent contractor of
the committee and any individual who performs services on behalf of the committee, whether paid or unpaid.

“(F) The term ‘nonpublic campaign material’ means, with respect to a candidate or a political committee, campaign material that is produced by the candidate or the committee or produced at the candidate or committee’s expense or request which is not distributed or made available to the general public or otherwise in the public domain, including polling and focus group data and opposition research, except that such term does not include material produced for purposes of consultations relating solely to the candidate’s or committee’s position on a legislative or policy matter.

“(G) The term ‘offer of assistance’ means, with respect to a candidate or a political committee, an offer to provide direct assistance to the candidate or committee with respect to activities of the candidate or committee, including an offer to provide polling information, opposition research, or similar information, including information that would reasonably be expected to have been obtained through illicit means, ex-
cept that such term does not include an offer
to engage in consultations relating solely to the
candidate’s or committee’s position on a legisla-
tive or policy matter or an offer to provide ma-
terial produced solely for purposes of such con-
sultations.”.

SEC. 3. DUTY OF CANDIDATES AND COMMITTEES TO FILE
SUSPICIOUS ACTIVITY REPORTS AFTER RECEIVING OFFER OF UNLAWFUL ASSISTANCE.

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

“SEC. 325. DUTY OF CANDIDATES AND COMMITTEES TO
FILE SUSPICIOUS ACTIVITY REPORTS AFTER RECEIVING OFFER OF UNLAWFUL ASSISTANCE.

“(a) DUTY TO FILE.—If a candidate or any indi-
vidual affiliated with a campaign of a candidate, or if a
political committee or an individual affiliated with a polit-
ical committee, knowingly receives an offer of unlawful as-
sistance with respect to the campaign or committee from
any person, not later than 72 hours after receiving the
offer the candidate, committee, or individual shall file a
suspicious activity report with the Attorney General (or
such official as may be designated by the Attorney General
for purposes of this paragraph) which describes the offer, and shall include in the report (to the extent known) the name and address of the person making the offer.

“(b) REFERRAL.—Upon receiving a suspicious activity report under subparagraph (A), the Attorney General shall refer the report to the Commission. The Commission may take such action in response to the report as may be authorized under section 309, without regard to whether or not the Attorney General takes any action in response to the report.

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

“(1) The term ‘individual affiliated with a campaign’ means, with respect to a candidate, an employee of any authorized committee of the candidate, as well as any independent contractor of an authorized committee of the candidate and any individual who performs services on behalf of the committee, whether paid or unpaid.

“(2) The term ‘individual affiliated with a political committee’ means, with respect to a political committee, an employee of the committee as well as any independent contractor of the committee and any individual who performs services on behalf of the committee, whether paid or unpaid.
“(3) The term ‘offer of unlawful assistance’ means, with respect to a candidate or a political committee, an offer by a person to provide direct assistance to the candidate or committee which consists of providing information (including polling information, opposition research, or similar information) that the candidate, committee, or individual knows or reasonably should know was obtained by such person through illicit means, except that such term does not include an offer to engage in consultations relating solely to the candidate’s or committee’s position on a legislative or policy matter or an offer to provide material produced solely for purposes of such consultations.

“(d) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 120-day period which begins on the date of the enactment of this section.”.