

114TH CONGRESS
2D SESSION

H. R. 4809

To amend the Lobbying Disclosure Act of 1995 to require the disclosure of political intelligence activities, to amend title 18, United States Code, to provide for restrictions on former officers, employees, and elected officials of the executive and legislative branches regarding political intelligence contacts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2016

Ms. SLAUGHTER (for herself, Mr. DUNCAN of Tennessee, and Mr. WALZ) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Lobbying Disclosure Act of 1995 to require the disclosure of political intelligence activities, to amend title 18, United States Code, to provide for restrictions on former officers, employees, and elected officials of the executive and legislative branches regarding political intelligence contacts, 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 “Political Intelligence
5 Transparency Act of 2016”.

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

3 (a) DEFINITIONS.—Section 3 of the Lobbying Discl-
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 a covered executive branch official

1 or a covered legislative branch official, the in-
2 formation derived from which is for use in ana-
3 lyzing the markets for securities, commodities
4 for future delivery, swaps, or security-based
5 swaps, or in informing investment decisions in
6 any such market, and which is made on behalf
7 of a client with regard to—

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

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

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

21 “(iv) the nomination or confirmation
22 of a person for a position subject to con-
23 firmation by the Senate.

1 “(B) EXCEPTION.—The term ‘political in-
2 telligence contact’ does not include a commu-
3 nication that is—

4 “(i) made by a representative of a
5 media organization (as such term is de-
6 fined in this subsection) if the purpose of
7 the communication is gathering and dis-
8 seminating news and information to the
9 public;

10 “(ii) made in a speech, article, publi-
11 cation or other material that is distributed
12 and made available to the public, or
13 through radio, television, cable television,
14 or other medium of mass communication;

15 “(iii) made on behalf of a government
16 of a foreign country or a foreign political
17 party and disclosed under the Foreign
18 Agents Registration Act of 1938 (22
19 U.S.C. 611 et seq.);

20 “(iv) a request for a meeting, a re-
21 quest for the status of an action, or any
22 other similar administrative request, if the
23 request does not include an attempt to in-
24 fluence a covered executive branch official
25 or a covered legislative branch official;

1 “(v) made in the course of participa-
2 tion in an advisory committee subject to
3 the Federal Advisory Committee Act;

4 “(vi) testimony given before a com-
5 mittee, subcommittee, or task force of the
6 Congress, or submitted for inclusion in the
7 public record of a hearing conducted by
8 such committee, subcommittee, or task
9 force;

10 “(vii) information provided in writing
11 in response to an oral or written request
12 by a covered executive branch official or a
13 covered legislative branch official for spe-
14 cific information;

15 “(viii) required by subpoena, civil in-
16 vestigative demand, or otherwise compelled
17 by statute, regulation, or other action of
18 the Congress or an agency, including any
19 communication compelled by a Federal
20 contract, grant, loan, permit, or license;

21 “(ix) made in response to a notice in
22 the Federal Register, Commerce Business
23 Daily, or other similar publication solie-
24 iting communications from the public and
25 directed to the agency official specifically

1 designated in the notice to receive such
2 communications;

3 “(x) not possible to report without
4 disclosing information, the unauthorized
5 disclosure of which is prohibited by law;

6 “(xi) made to an official in an agency
7 with regard to—

8 “(I) a judicial proceeding or a
9 criminal or civil law enforcement in-
10 quiry, investigation, or proceeding; or

11 “(II) a filing or proceeding that
12 the Government is specifically re-
13 quired by statute or regulation to
14 maintain or conduct on a confidential
15 basis, if that agency is charged with
16 responsibility for such proceeding, in-
17 quiry, investigation, or filing;

18 “(xii) made in compliance with writ-
19 ten agency procedures regarding an adju-
20 dication conducted by the agency under
21 section 554 of title 5, United States Code,
22 or substantially similar provisions;

23 “(xiii) a written comment filed in the
24 course of a public proceeding or any other

1 communication that is made on the record
2 in a public proceeding;

3 “(xiv) a petition for agency action
4 made in writing and required to be a mat-
5 ter of public record pursuant to established
6 agency procedures;

7 “(xv) made on behalf of an individual
8 with regard to that individual’s benefits,
9 employment, or other personal matters in-
10 volving only that individual, except that
11 this clause does not apply to any commu-
12 nication with—

13 “(I) a covered executive branch
14 official, or

15 “(II) a covered legislative branch
16 official (other than the individual’s
17 elected Members of Congress or em-
18 ployees who work under such Mem-
19 bers’ direct supervision), with respect
20 to the formulation, modification, or
21 adoption of private legislation for the
22 relief of that individual;

23 “(xvi) a disclosure by an individual
24 that is protected under the amendments
25 made by the Whistleblower Protection Act

1 of 1989, under the Inspector General Act
2 of 1978, or under another provision of law;

3 “(xvii) made by—

4 “(I) a church, its integrated aux-
5 iliary, or a convention or association
6 of churches that is exempt from filing
7 a Federal income tax return under
8 paragraph (2)(A)(i) of section
9 6033(a) of the Internal Revenue Code
10 of 1986, or

11 “(II) a religious order that is ex-
12 empt from filing a Federal income tax
13 return under paragraph (2)(A)(iii) of
14 such section 6033(a); and

15 “(xviii) between—

16 “(I) officials of a self-regulatory
17 organization (as defined in section
18 3(a)(26) of the Securities Exchange
19 Act) that is registered with or estab-
20 lished by the Securities and Exchange
21 Commission as required by that Act
22 or a similar organization that is des-
23 ignated by or registered with the
24 Commodities Future Trading Com-

1 mission as provided under the Com-
2 modity Exchange Act; and

3 “(II) the Securities and Ex-
4 change Commission or the Commod-
5 ities Future Trading Commission, re-
6 spectively;

7 relating to the regulatory responsibilities of
8 such organization under that Act.

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

14 “(20) POLITICAL INTELLIGENCE CONSULT-
15 ANT.—The term ‘political intelligence consultant’
16 means any individual who is employed or retained by
17 a client for financial or other compensation for serv-
18 ices that include one or more political intelligence
19 contacts, including an individual who provides bro-
20 kerage and research services under section 28(e) of
21 the Securities Exchange Act of 1934.

22 “(21) SECURITY.—The term ‘security’ has the
23 meaning given such term in section 3(a)(10) of the
24 Securities Exchange Act of 1934 (15 U.S.C.
25 78c(a)(10)).

1 “(22) SECURITY-BASED SWAP.—The term ‘se-
2 curity-based swap’ has the meaning given such term
3 in section 3(a)(68) of the Securities Exchange Act
4 of 1934 (15 U.S.C. 78c(a)(68)).

5 “(23) COMMODITY.—The term ‘commodity’ has
6 the meaning given such term in section 1a(9) of the
7 Commodity Exchange Act (7 U.S.C. 1a(9)).

8 “(24) SWAP.—The term ‘swap’ has the mean-
9 ing given such term in section 1a(47) of the Com-
10 modity Exchange Act (7 U.S.C. 1a(47)).”.

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

14 (1) in subsection (a)—

15 (A) by amending paragraph (1) to read as
16 follows:

17 “(1) GENERAL RULE.—A lobbyist or a political
18 intelligence consultant (or, as provided under para-
19 graph (2), the organization employing such lobbyist
20 or consultant), shall register with the Secretary of
21 the Senate and the Clerk of the House of Represent-
22 atives—

23 “(A) no later than 45 days after—

24 “(i) the lobbyist first makes a lob-
25 bying contact or is employed or retained to

1 make a lobbying contact, whichever is ear-
2 lier; or

3 “(ii) the political intelligence consult-
4 ant first makes a political intelligence con-
5 tact or is employed or retained to make a
6 political intelligence contact, whichever is
7 earlier; or

8 “(B) on the first business day after such
9 45th day if the 45th day is not a business
10 day.”;

11 (B) in paragraph (2), by inserting after
12 “lobbyists” each place that term appears the
13 following: “or political intelligence consultants”;
14 and

15 (C) in paragraph (3)(A)—

16 (i) in clause (i)—

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

20 (II) by inserting after “lobbying
21 firm” the following: “or political intel-
22 ligence firm”; and

23 (ii) in clause (ii)—

1 (I) by inserting after “lobbying
2 activities” the following: “and political
3 intelligence activities”; and

4 (II) by inserting after “lobbying
5 activities” the following: “or political
6 intelligence activities”;

7 (2) in subsection (b)—

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

12 (B) in paragraph (4)—

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

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

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

1 (D) in the matter following paragraph (6),
2 by inserting “or political intelligence activities”
3 after “such lobbying activities”;

4 (3) in subsection (c)—

5 (A) in paragraph (1), by inserting after
6 “lobbying contacts” the following: “or political
7 intelligence contacts”;

8 (B) in paragraph (2)—

9 (i) by inserting after “lobbying con-
10 tact” the following: “or political intel-
11 ligence contact”; and

12 (ii) by inserting after “lobbying con-
13 tacts” the following: “and political intel-
14 ligence contacts”; and

15 (C) by inserting after paragraph (2), the
16 following new paragraph:

17 “(3) RULE OF CONSTRUCTION.—Any threshold
18 dollar amount or percentage described in subsection
19 (b) relates to the sum of the income, contributions,
20 or percent equitable ownership related to lobbying
21 activities plus the income, contributions, or percent
22 equitable ownership related to political intelligence
23 activities.”; and

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

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

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

10 (2) in subsection (b)—

11 (A) in paragraph (2)—

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

16 (ii) in subparagraph (A)—

17 (I) by inserting after “lobbyist”
18 the following: “or political intelligence
19 consultant”; and

20 (II) by inserting after “lobbying
21 activities” the following: “or political
22 intelligence activities”;

23 (iii) in subparagraph (B), by inserting
24 after “lobbyists” the following: “and polit-
25 ical intelligence consultants”; and

1 (iv) in subparagraph (C), by inserting
2 after “lobbyists” the following: “or political
3 intelligence consultants”;

4 (B) in paragraph (3)—

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

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

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

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

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

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

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

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

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

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

15 (1) in subsection (a)—

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

18 (B) by inserting “or political intelligence
19 contact” after “lobbying contact” each place
20 that term appears; and

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

24 (2) in subsection (b)—

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

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

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

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

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

14 (1) in subsection (a)—

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

18 (B) by striking “lobbying registrations”
19 and inserting “registrations”;

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

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

1 **SEC. 3. RESTRICTIONS ON FORMER OFFICERS, EMPLOY-**
2 **EES, AND ELECTED OFFICIALS OF THE EXEC-**
3 **UTIVE AND LEGISLATIVE BRANCHES RE-**
4 **GARDING POLITICAL INTELLIGENCE CON-**
5 **TACTS.**

6 Section 207 of title 18, United States Code, is
7 amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1), by inserting after
10 “with the intent to influence,” the following:
11 “or with the intent to gain information for use
12 in analyzing securities or commodities markets,
13 or in informing investment decisions in securi-
14 ties or commodities markets,”; and

15 (B) in paragraph (2), by inserting after
16 “with the intent to influence,” the following:
17 “or with the intent to gain information for use
18 in analyzing securities or commodities markets,
19 or in informing investment decisions in securi-
20 ties or commodities markets,”;

21 (2) in subsection (c)(1), by inserting after “with
22 the intent to influence,” the following: “or with the
23 intent to gain information for use in analyzing secu-
24 rities or commodities markets, or in informing in-
25 vestment decisions in securities or commodities mar-
26 kets,”;

1 (3) in subsection (d)(1), by inserting after
2 “with the intent to influence,” the following: “or
3 with the intent to gain information for use in ana-
4 lyzing securities or commodities markets, or in in-
5 forming investment decisions in securities or com-
6 modities markets,”;

7 (4) in subsection (e), by inserting after “with
8 the intent to influence,” each place it appears the
9 following: “or with the intent to gain information for
10 use in analyzing securities or commodities markets,
11 or in informing investment decisions in securities or
12 commodities markets,”;

13 (5) in subsection (i)(1), by inserting after “with
14 the intent to influence,” each place it appears the
15 following: “or with the intent to gain information for
16 use in analyzing securities or commodities markets,
17 or in informing investment decisions in securities or
18 commodities markets,”; and

19 (6) in subsection (j), by adding at the end the
20 following:

21 “(8) REPRESENTATIVE OF A MEDIA ORGANIZA-
22 TION.—The restrictions contained in this section re-
23 lating to a communication made with the intent to
24 gain information for use in analyzing securities or
25 commodities markets, or in informing investment de-

1 cisions in securities or commodities markets shall
2 not apply to a communication made by a representa-
3 tive of a media organization (as such term is defined
4 in section 3 of the Lobbying Disclosure Act of 1995
5 (2 U.S.C. 1602)), if the purpose of the communica-
6 tion is gathering and disseminating news and infor-
7 mation to the public.”.

8 **SEC. 4. EFFECTIVE DATE.**

9 The amendments made by this Act shall apply with
10 respect to any political intelligence contact (as defined in
11 section 3 of the Lobbying Disclosure Act of 1995 (2
12 U.S.C. 1602), as added by section 2 of this Act) that is
13 made on or after the 90th day after the date of the enact-
14 ment of this Act.

○