

116TH CONGRESS  
1ST SESSION

# H. R. 812

To amend the Ethics in Government Act of 1978 to require individuals nominated or appointed to Senate-confirmed positions or to positions of a confidential or policymaking character to disclose certain types of contributions made or solicited by, or at the request of, the individuals.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2019

Mr. DEUTCH (for himself, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. JOHNSON of Georgia, Mr. COHEN, Ms. ROYBAL-ALLARD, and Ms. NORTON) introduced the following bill; which was referred to the Committee on Oversight and Reform

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## A BILL

To amend the Ethics in Government Act of 1978 to require individuals nominated or appointed to Senate-confirmed positions or to positions of a confidential or policymaking character to disclose certain types of contributions made or solicited by, or at the request of, the individuals.

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 “Conflicts from Political  
5 Fundraising Act of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Public confidence in the Federal Govern-  
4 ment is based on the expectation that officers and  
5 employees will discharge their duties impartially, and  
6 avoid either actual conflicts of interest or the ap-  
7 pearance thereof.

8 (2) The risk of an actual conflict of interest, or  
9 the appearance thereof, arises when a nominee or  
10 appointee to a Senate-confirmed position or an indi-  
11 vidual in a position of a confidential or policymaking  
12 character has previously donated to, solicited for, or  
13 received funds from a political action committee or  
14 entity organized under section 501(c)(4) or section  
15 501(c)(6) of the Internal Revenue Code of 1986.

16 (3) Since the 2010 decision by the Supreme  
17 Court of the United States in *Citizens United v.*  
18 *Federal Election Commission*, spending by corpora-  
19 tions subject to Federal laws and regulations has in-  
20 creased dramatically.

21 (4) While some corporate political spending is  
22 done publicly, contributions to entities organized  
23 under section 501(c)(4) of the Internal Revenue  
24 Code of 1986 need not be disclosed, making this  
25 spending effectively anonymous. The risk of an ac-  
26 tual conflict of interest, or the appearance thereof,

1 arises whether political spending is public or anony-  
2 mous.

3 (5) Current financial disclosure requirements do  
4 not require filers to report funds they have donated  
5 to, solicited for, or received from political action  
6 committees or entities organized under section  
7 501(c)(4) or section 501(c)(6) of the Internal Rev-  
8 enue Code of 1986.

9 (6) Apparent or actual conflicts of interest are  
10 best ameliorated through public disclosure of this ac-  
11 tivity to the Office of Government Ethics so the ap-  
12 parent or actual conflicts can be addressed in ethics  
13 agreements negotiated between the filer and the  
14 agency in which the filer will serve.

15 **SEC. 3. DISCLOSURE OF CERTAIN TYPES OF CONTRIBU-**  
16 **TIONS.**

17 (a) DEFINITIONS.—Section 109 of the Ethics in Gov-  
18 ernment Act of 1978 (5 U.S.C. App.) is amended—

19 (1) by redesignating paragraphs (2) through  
20 (19) as paragraphs (5) through (22), respectively;  
21 and

22 (2) by inserting after paragraph (1) the fol-  
23 lowing:

1           “(2) ‘covered contribution’ means a payment,  
2           advance, forbearance, rendering, or deposit of  
3           money, or any thing of value—

4                   “(A)(i) that—

5                           “(I) is—

6                                   “(aa) made by or at the request  
7                                   of a covered individual; or

8                                   “(bb) solicited in writing by or at  
9                                   the request of a covered individual;  
10                                  and

11                           “(II) is made—

12                                   “(aa) to a political organization,  
13                                   as defined in section 527 of the Inter-  
14                                   nal Revenue Code of 1986; or

15                                   “(bb) to an organization—

16   “(AA) that is described in  
17   paragraph (4) or (6) of section  
18   501(c) of the Internal Revenue  
19   Code of 1986 and exempt from  
20   tax under section 501(a) of such  
21   Code; and

22   “(BB) that promotes or op-  
23   poses changes in Federal laws or  
24   regulations that are (or would  
25   be) administered by the agency in

1 which the covered individual has  
2 been nominated for appointment  
3 to a covered position or is serving  
4 in a covered position; or

5 “(ii) that is—

6 “(I) solicited in writing by or at the  
7 request of a covered individual; and

8 “(II) made—

9 “(aa) by an individual or entity  
10 the activities of which are subject to  
11 Federal laws or regulations that are  
12 (or would be) administered by the  
13 agency in which the covered individual  
14 has been nominated for appointment  
15 to a covered position or is serving in  
16 a covered position; and

17 “(bb) to—

18 “(AA) a political organiza-  
19 tion, as defined in section 527 of  
20 the Internal Revenue Code of  
21 1986; or

22 “(BB) an organization that  
23 is described in paragraph (4) or  
24 (6) of section 501(c) of the Inter-  
25 nal Revenue Code of 1986 and

1 exempt from tax under section  
2 501(a) of such Code; and

3 “(B) that is made to an organization de-  
4 scribed in item (aa) or (bb) of clause (i)(II) or  
5 clause (ii)(II)(bb) of subparagraph (A) for  
6 which the total amount of such payments, ad-  
7 vances, forbearances, renderings, or deposits of  
8 money, or any thing of value, during the cal-  
9 endar year in which it is made is not less than  
10 the contribution limitation in effect under sec-  
11 tion 315(a)(1)(A) of the Federal Election Cam-  
12 paign Act of 1971 (52 U.S.C. 30116(a)(1)(A))  
13 for elections occurring during such calendar  
14 year;

15 “(3) ‘covered individual’ means an individual  
16 who has been nominated or appointed to a covered  
17 position; and

18 “(4) ‘covered position’—

19 “(A) means—

20 “(i) a position described under sec-  
21 tions 5312 through 5316 of title 5, United  
22 States Code;

23 “(ii) a position placed in level IV or V  
24 of the Executive Schedule under section  
25 5317 of title 5, United States Code;

1 “(iii) a position as a limited term ap-  
2 pointee, limited emergency appointee, or  
3 noncareer appointee in the Senior Execu-  
4 tive Service, as defined under paragraphs  
5 (5), (6), and (7), respectively, of section  
6 3132(a) of title 5, United States Code; or

7 “(iv) a position in the executive  
8 branch of the Government of a confidential  
9 or policy-determining character under  
10 schedule C of subpart C of part 213 of  
11 title 5 of the Code of Federal Regulations;  
12 and

13 “(B) does not include a position if the in-  
14 dividual serving in the position has been ex-  
15 cluded from the application of section  
16 101(f)(5);”.

17 (b) DISCLOSURE REQUIREMENTS.—The Ethics in  
18 Government Act of 1978 (5 U.S.C. App.) is amended—

19 (1) in section 101—

20 (A) in subsection (a)—

21 (i) by inserting “(1)” before “With-  
22 in”;

23 (ii) by striking “unless” and inserting  
24 “and, if the individual is assuming a cov-  
25 ered position, the information described in

1 section 102(j), except that, subject to para-  
2 graph (2), the individual shall not be re-  
3 quired to file a report if”; and

4 (iii) by adding at the end the fol-  
5 lowing:

6 “(2) If an individual has left a position de-  
7 scribed in subsection (f) that is not a covered posi-  
8 tion and, within 30 days, assumes a position that is  
9 a covered position, the individual shall, within 30  
10 days of assuming the covered position, file a report  
11 containing the information described in section  
12 102(j)(2)(A).”;

13 (B) in subsection (b)(1), in the first sen-  
14 tence, by inserting “and the information re-  
15 quired by section 102(j)” after “described in  
16 section 102(b)”;

17 (C) in subsection (d), by inserting “and, if  
18 the individual is serving in a covered position,  
19 the information required by section  
20 102(j)(2)(A)” after “described in section  
21 102(a)”;

22 (D) in subsection (e), by inserting “and, if  
23 the individual was serving in a covered position,  
24 the information required by section

1           102(j)(2)(A)” after “described in section  
2           102(a)”;

3           (2) in section 102—

4           (A) in subsection (g), by striking “Political  
5           campaign funds” and inserting “Except as pro-  
6           vided in subsection (j), political campaign  
7           funds”;

8           (B) by adding at the end the following:

9           “(j)(1) In this subsection—

10           (A) the term ‘applicable period’ means—

11           (i) with respect to a report filed pursuant  
12           to subsection (a) or (b) of section 101, the year  
13           of filing and the 4 calendar years preceding the  
14           year of the filing; and

15           (ii) with respect to a report filed pursuant  
16           to subsection (d) or (e) of section 101, the pre-  
17           ceding calendar year; and

18           (B) the term ‘covered gift’ means a gift that—

19           (i) is made to a covered individual, the  
20           spouse of a covered individual, or the dependent  
21           child of a covered individual;

22           (ii) is made by an entity described in item  
23           (aa) or (bb) of section 109(2)(A)(i)(II); and

24           (iii) would have been required to be re-  
25           ported under subsection (a)(2) if the covered in-

1           dividual had been required to file a report  
2           under section 101(d) with respect to the cal-  
3           endar year during which the gift was made.

4           “(2)(A) A report filed pursuant to subsection (a), (b),  
5 (d), or (e) of section 101 by a covered individual shall in-  
6 clude, for each covered contribution made by or at the re-  
7 quest of, or that was solicited in writing by or at the re-  
8 quest of, that covered individual during the applicable pe-  
9 riod—

10           “(i) the date on which the covered contribution  
11           was made;

12           “(ii) if applicable, the date or dates on which  
13           the covered contribution was solicited;

14           “(iii) the value of the covered contribution;

15           “(iv) the name of the person making the cov-  
16           ered contribution; and

17           “(v) the name of the person receiving the cov-  
18           ered contribution.

19           “(B)(i) Subject to clause (ii), a covered contribution  
20 made by or at the request of, or that was solicited in writ-  
21 ing by or at the request of, a covered individual shall con-  
22 stitute a conflict of interest, or an appearance thereof,  
23 with respect to the official duties of the covered individual.

24           “(ii) The Director of the Office of Government Ethics  
25 may exempt a covered contribution from the application

1 of clause (i) if the Director determines the circumstances  
2 of the solicitation and making of the covered contribution  
3 do not present a risk of a conflict of interest and the ex-  
4 emption of the covered contribution would not affect ad-  
5 versely the integrity of the Government or the public's con-  
6 fidence in the integrity of the Government.

7 “(3) A report filed pursuant to subsection (a) or (b)  
8 of section 101 by a covered individual shall include the  
9 information described in subsection (a)(2) with respect to  
10 each covered gift received during the applicable period.”.

11 (c) PROVISION OF REPORTS AND ETHICS AGREE-  
12 MENTS TO CONGRESS.—Section 105 of the Ethics in Gov-  
13 ernment Act of 1978 (5 U.S.C. App.) is amended by add-  
14 ing at the end the following:

15 “(e) Not later than 30 days after receiving a written  
16 request from the Chairman or Ranking Member of a com-  
17 mittee or subcommittee of either House of Congress, the  
18 Director of the Office of Government Ethics shall provide  
19 to the Chairman and Ranking Member each report filed  
20 under this title by a covered individual and any ethics  
21 agreement entered into between the agency and the cov-  
22 ered individual.”.

23 (d) RULES ON ETHICS AGREEMENTS.—The Director  
24 of the Office of Government Ethics shall promptly issue  
25 rules regarding how an agency in the executive branch

1 shall address information required to be disclosed under  
2 the amendments made by this Act in drafting ethics agree-  
3 ments between the agency and individuals appointed to po-  
4 sitions in the agency.

5 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

6 (1) The Ethics in Government Act of 1978 (5  
7 U.S.C. App.) is amended—

8 (A) in section 101(f)—

9 (i) in paragraph (9), by striking “sec-  
10 tion 109(12)” and inserting “section  
11 109(15)”;

12 (ii) in paragraph (10), by striking  
13 “section 109(13)” and inserting “section  
14 109(16)”;

15 (iii) in paragraph (11), by striking  
16 “section 109(10)” and inserting “section  
17 109(13)”;

18 (iv) in paragraph (12), by striking  
19 “section 109(8)” and inserting “section  
20 109(11)”;

21 (B) in section 103(l)—

22 (i) in paragraph (9), by striking “sec-  
23 tion 109(12)” and inserting “section  
24 109(15)”;

1 (ii) in paragraph (10), by striking  
2 “section 109(13)” and inserting “section  
3 109(16)”; and

4 (C) in section 105(b)(3)(A), by striking  
5 “section 109(8) or 109(10)” and inserting “sec-  
6 tion 109(11) or 109(13)”.

7 (2) Section 3(4)(D) of the Lobbying Disclosure  
8 Act of 1995 (2 U.S.C. 1602(4)(D)) is amended by  
9 striking “section 109(13)” and inserting “section  
10 109(16)”.

11 (3) Section 21A of the Securities Exchange Act  
12 of 1934 (15 U.S.C. 78u-1) is amended—

13 (A) in subsection (g)(2)(B)(ii), by striking  
14 “section 109(11) of the Ethics in Government  
15 Act of 1978 (5 U.S.C. App. 109(11))” and in-  
16 serting “section 109 of the Ethics in Govern-  
17 ment Act of 1978 (5 U.S.C. App.)”; and

18 (B) in subsection (h)(2)—

19 (i) in subparagraph (B), by striking  
20 “section 109(8) of the Ethics in Govern-  
21 ment Act of 1978 (5 U.S.C. App. 109(8))”  
22 and inserting “section 109 of the Ethics in  
23 Government Act of 1978 (5 U.S.C. App.)”;  
24 and

1           (ii) in subparagraph (C), by striking  
2           “section 109(10) of the Ethics in Govern-  
3           ment Act of 1978 (5 U.S.C. App.  
4           109(10))” and inserting “section 109 of  
5           the Ethics in Government Act of 1978 (5  
6           U.S.C. App.)”.

7           (4) Section 499(j)(2) of the Public Health Serv-  
8           ice Act (42 U.S.C. 290b(j)(2)) is amended by strik-  
9           ing “section 109(16) of the Ethics in Government  
10          Act of 1978” and inserting “section 109 of the Eth-  
11          ics in Government Act of 1978 (5 U.S.C. App.)”.

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