

115TH CONGRESS
1ST SESSION

S. _____

To address financial conflicts of interest of the President and Vice President.

IN THE SENATE OF THE UNITED STATES

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To address financial conflicts of interest of the President and Vice President.

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 “Presidential Conflicts
5 of Interest Act of 2017”.

6 **SEC. 2. DIVESTITURE OF PERSONAL FINANCIAL INTERESTS**

7 **OF THE PRESIDENT AND VICE PRESIDENT**

8 **THAT POSE A POTENTIAL CONFLICT OF IN-**

9 **TEREST.**

10 (a) DEFINITIONS.—

11 (1) IN GENERAL.—In this section—

1 (A) the term “conflict-free holding” means
2 a financial interest described in section
3 102(f)(8) of the Ethics in Government Act of
4 1978 (5 U.S.C. App.);

5 (B) the term “financial interest posing a
6 potential conflict of interest” means a financial
7 interest of the President, the Vice President,
8 the spouse of the President or Vice President,
9 or a minor child of the President or Vice Presi-
10 dent, as applicable, that—

11 (i) would constitute a financial inter-
12 est described in subsection (a) of section
13 208 of title 18, United States Code—

14 (I) if—

15 (aa) for purposes of such
16 section 208, the terms “officer”
17 and “employee” included the
18 President and the Vice President;
19 and

20 (bb) the President or Vice
21 President, as applicable, partici-
22 pated as described in subsection
23 (a) of such section 208 in rela-
24 tion to such financial interest;
25 and

1 (II) determined without regard to
2 any exception under subsection (b) of
3 such section 208; or

4 (ii) may constitute a present, emolu-
5 ment, office, or title, of any kind whatever,
6 from any king, prince, or foreign state (in-
7 cluding from an entity owned or controlled
8 by a foreign government), within the
9 meaning of article I, section 9 of the Con-
10 stitution of the United States;

11 (C) the term “qualified blind trust” has
12 the meaning given that term in section
13 102(f)(3) of the Ethics in Government Act of
14 1978 (5 U.S.C. App.), unless otherwise speci-
15 fied in this Act; and

16 (D) the term “tax return”—

17 (i) means any Federal income tax re-
18 turn and any amendment or supplement
19 thereto, including supporting schedules, at-
20 tachments, or lists which are supplemental
21 to, or part of, the return for the taxable
22 year; and

23 (ii) includes any information return
24 that reports information that does or may

1 affect the liability for tax for the taxable
2 year.

3 (2) APPLICABILITY OF ETHICS IN GOVERNMENT
4 ACT OF 1978.—For purposes of the definition of
5 “qualified blind trust” in this section, the term “su-
6 pervising ethics officer” in section 102(f)(3) of the
7 Ethics in Government Act of 1978 (5 U.S.C. App.)
8 means the Director of the Office of Government
9 Ethics.

10 (b) INITIAL FINANCIAL DISCLOSURE.—

11 (1) SUBMISSION OF DISCLOSURE.—

12 (A) IN GENERAL.—Not later than 30 days
13 after assuming the office of President or Vice
14 President, respectively, the President and Vice
15 President shall submit to Congress and the Di-
16 rector of the Office of Government Ethics a dis-
17 closure of financial interests.

18 (B) APPLICATION TO SITTING PRESIDENT
19 AND VICE PRESIDENT.—For any individual who
20 is serving as the President or Vice President on
21 the date of enactment of this Act, the disclosure
22 of financial interests shall be submitted to Con-
23 gress and the Director of the Office of Govern-
24 ment Ethics not later than 30 days after the
25 date of enactment of this Act.

1 (2) CONTENTS.—

2 (A) PRESIDENT.—The disclosure of finan-
3 cial interests submitted under paragraph (1) by
4 the President shall—

5 (i) describe in detail each financial in-
6 terest of the President, the spouse of the
7 President, or a minor child of the Presi-
8 dent;

9 (ii) at a minimum, include the infor-
10 mation relating to each such financial in-
11 terest that is required for reports under
12 section 102 of the Ethics in Government
13 Act of 1978 (5 U.S.C. App.); and

14 (iii) include the tax returns filed by or
15 on behalf of the President for—

16 (I) the 3 most recent taxable
17 years; and

18 (II) each taxable year for which
19 an audit of the return by the Internal
20 Revenue Service is pending on the
21 date the report is filed.

22 (B) VICE PRESIDENT.—The disclosure of
23 financial interests submitted under paragraph
24 (1) by the Vice President shall—

1 (i) describe in detail each financial in-
2 terest of the Vice President, the spouse of
3 the Vice President, or a minor child of the
4 Vice President;

5 (ii) at a minimum, include the infor-
6 mation relating to each such financial in-
7 terest that is required for reports under
8 section 102 of the Ethics in Government
9 Act of 1978 (5 U.S.C. App.); and

10 (iii) include the tax returns filed by or
11 on behalf of the Vice President for—

12 (I) the 3 most recent taxable
13 years; and

14 (II) each taxable year for which
15 an audit of the return by the Internal
16 Revenue Service is pending on the
17 date the report is filed.

18 (c) DIVESTITURE OF FINANCIAL INTERESTS POSING
19 A POTENTIAL CONFLICT OF INTEREST.—

20 (1) IN GENERAL.—The President, the Vice
21 President, the spouse of the President or Vice Presi-
22 dent, and any minor child of the President or Vice
23 President shall divest of any financial interest posing
24 a potential conflict of interest by transferring such
25 interest to a qualified blind trust.

1 (2) TRUSTEE DUTIES.—Within a reasonable pe-
2 riod of time after the date a financial interest is
3 transferred to a qualified blind trust under para-
4 graph (1), the trustee of the qualified blind trust
5 shall—

6 (A) sell the financial interest; and

7 (B) use the proceeds of the sale of the fi-
8 nancial interest to purchase conflict-free hold-
9 ings.

10 (d) REVIEW BY OFFICE OF GOVERNMENT ETHICS.—

11 (1) IN GENERAL.—The Director of the Office of
12 Government Ethics shall submit to Congress, the
13 President, and the Vice President an annual report
14 regarding the financial interests of the President,
15 the Vice President, the spouse of the President or
16 Vice President, and any minor child of the President
17 or Vice President.

18 (2) CONTENTS.—Each report submitted under
19 paragraph (1) shall—

20 (A) indicate whether any financial interest
21 of the President, the Vice President, the spouse
22 of the President or Vice President, or a minor
23 child of the President or Vice President is a fi-
24 nancial interest posing a potential conflict of in-
25 terest;

1 (B) evaluate whether any previously held
2 financial interest of the President, the Vice
3 President, the spouse of the President or Vice
4 President, or a minor child of the President or
5 Vice President that was a financial interest pos-
6 sing a potential conflict of interest was divested
7 in accordance with subsection (c); and

8 (C) redact such information as the Direc-
9 tor of the Office of Government Ethics deter-
10 mines necessary for preventing identity theft,
11 such as social security numbers or taxpayer
12 identification numbers.

13 (e) ENFORCEMENT.—

14 (1) IN GENERAL.—The Attorney General, the
15 attorney general of any State, or any person ag-
16 grieved by any violation of subsection (c) may seek
17 declaratory or injunctive relief in a court of com-
18 petent jurisdiction if—

19 (A) the Director of the Office of Govern-
20 ment Ethics is unable to issue a report indi-
21 cating whether the President or the Vice Presi-
22 dent is in substantial compliance with sub-
23 section (c); or

1 (B) there is probable cause to believe that
2 the President or the Vice President has not
3 complied with subsection (c).

4 (2) FAIR MARKET VALUE.—In granting injunc-
5 tive relief to the plaintiff, the court shall ensure that
6 any divestment procedure shall ensure the fair mar-
7 ket return for any asset that is liquidated.

8 **SEC. 3. RECUSAL OF APPOINTEES.**

9 Section 208 of title 18, United States Code, is
10 amended by adding at the end the following:

11 “(e)(1) Any officer or employee appointed by the
12 President shall recuse himself or herself from any par-
13 ticular matter involving specific parties in which a party
14 to that matter is—

15 “(A) the President who appointed the officer or
16 employee, which shall include any entity in which the
17 President has a substantial interest; or

18 “(B) the spouse of the President who appointed
19 the officer or employee, which shall include any enti-
20 ty in which the spouse of the President has a sub-
21 stantial interest.

22 “(2)(A) Subject to subparagraph (B), if an officer or
23 employee is recused under paragraph (1), a career ap-
24 pointee in the agency of the officer or employee shall per-

1 form the functions and duties of the officer or employee
2 with respect to the matter.

3 “(B)(i) In this subparagraph, the term ‘Commission’
4 means a board, commission, or other agency for which the
5 authority of the agency is vested in more than 1 member.

6 “(ii) If the recusal of a member of a Commission
7 from a matter under paragraph (1) would result in there
8 not being a statutorily required quorum of members of the
9 Commission available to participate in the matter, not-
10 withstanding such statute or any other provision of law,
11 the members of the Commission not recused under para-
12 graph (1) may—

13 “(I) consider the matter without regard to the
14 quorum requirement under such statute;

15 “(II) delegate the authorities and responsibil-
16 ities of the Commission with respect to the matter
17 to a subcommittee of the Commission; or

18 “(III) designate an officer or employee of the
19 Commission who was not appointed by the President
20 who appointed the member of the Commission
21 recused from the matter to exercise the authorities
22 and duties of the recused member with respect to
23 the matter.

1 “(3) Any officer or employee who negligently violates
2 paragraph (1) shall be subject to the penalties set forth
3 in section 216.

4 “(4) For purposes of this section, the term ‘particular
5 matter’ shall have the meaning given the term in section
6 207(i).”.

7 **SEC. 4. CONTRACTS BY THE PRESIDENT OR VICE PRESI-**
8 **DENT.**

9 (a) AMENDMENT.—Section 431 of title 18, United
10 States Code, is amended—

11 (1) in the section heading, by inserting “**the**
12 **President, Vice President, or a**” after
13 “**Contracts by**”; and

14 (2) in the first undesignated paragraph, by in-
15 serting “the President or Vice President,” after
16 “Whoever, being”.

17 (b) TABLE OF SECTIONS AMENDMENT.—The table of
18 sections for chapter 23 of title 18, United States Code,
19 is amended by striking the item relating to section 431
20 and inserting the following:

“431. Contracts by the President, Vice President, or a Member of Congress.”.

21 **SEC. 5. PRESIDENTIAL TAX TRANSPARENCY.**

22 (a) IN GENERAL.—Title I of the Ethics in Govern-
23 ment Act of 1978 (5 U.S.C. App.) is amended—

24 (1) by inserting after section 102 the following:

1 **“SEC. 102A. DISCLOSURE OF TAX RETURNS.**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the term ‘covered candidate’ means an in-
4 dividual—

5 “(A) required to file a report under section
6 101(c); and

7 “(B) who is nominated by a major party
8 as a candidate for the office of President; and

9 “(2) the term ‘covered individual’ means—

10 “(A) a President required to file a report
11 under subsection (a) or (d) of section 101; and

12 “(B) an individual who occupies the office
13 of the President required to file a report under
14 section 101(e);

15 “(3) the term ‘major party’ has the meaning
16 given the term in section 9002 of the Internal Rev-
17 enue Code of 1986; and

18 “(4) the term ‘income tax return’ means, with
19 respect to any covered candidate or covered indi-
20 vidual, any return (within the meaning of section
21 6103(b) of the Internal Revenue Code of 1986) re-
22 lated to Federal income taxes, but does not in-
23 clude—

24 “(A) information returns issued to persons
25 other than such covered candidate or covered
26 individual, and

1 “(B) declarations of estimated tax.

2 “(b) DISCLOSURE.—

3 “(1) COVERED INDIVIDUALS.—

4 “(A) IN GENERAL.—In addition to the in-
5 formation described in subsections (a) and (b)
6 of section 102, a covered individual shall in-
7 clude in each report required to be filed under
8 this title a copy of the income tax returns of the
9 covered individual for the 3 most recent taxable
10 years for which a return have been filed with
11 the Internal Revenue Service as of the date on
12 which the report is filed.

13 “(B) FAILURE TO DISCLOSE.—If an in-
14 come tax return is not disclosed under subpara-
15 graph (A), the Director of the Office of Govern-
16 ment Ethics shall submit to the Secretary of
17 the Treasury a request that the Secretary of
18 the Treasury provide the Director of the Office
19 of Government Ethics with a copy of the in-
20 come tax return.

21 “(C) PUBLICLY AVAILABLE.—Each income
22 tax return submitted under this paragraph shall
23 be filed with the Director of the Office of Gov-
24 ernment Ethics and made publicly available in

1 the same manner as the information described
2 in subsections (a) and (b) of section 102.

3 “(D) REDACTION OF CERTAIN INFORMA-
4 TION.—Before making any income tax return
5 submitted under this paragraph available to the
6 public, the Director of the Office of Government
7 Ethics shall redact such information as the Di-
8 rector of the Office of Government Ethics, in
9 consultation with the Secretary of the Treasury
10 (or a delegate of the Secretary), determines ap-
11 propriate.

12 “(2) CANDIDATES.—

13 “(A) IN GENERAL.—Not later than 15
14 days after the date on which a covered can-
15 didate is nominated, the covered candidate shall
16 amend the report filed by the covered candidate
17 under section 101(c) with the Federal Election
18 Commission to include a copy of the income tax
19 returns of the covered candidate for the 3 most
20 recent taxable years for which a return has
21 been filed with the Internal Revenue Service.

22 “(B) FAILURE TO DISCLOSE.—If an in-
23 come tax return is not disclosed under subpara-
24 graph (A) the Federal Election Commission
25 shall submit to the Secretary of the Treasury a

1 request that the Secretary of the Treasury pro-
2 vide the Federal Election Commission with the
3 income tax return.

4 “(C) PUBLICLY AVAILABLE.—Each income
5 tax return submitted under this paragraph shall
6 be filed with the Federal Election Commission
7 and made publicly available in the same manner
8 as the information described in section 102(b).

9 “(D) REDACTION OF CERTAIN INFORMA-
10 TION.—Before making any income tax return
11 submitted under this paragraph available to the
12 public, the Federal Election Commission shall
13 redact such information as the Federal Election
14 Commission, in consultation with the Secretary
15 of the Treasury (or a delegate of the Secretary)
16 and the Director of the Office of Government
17 Ethics, determines appropriate.

18 “(3) SPECIAL RULE FOR SITTING PRESI-
19 DENTS.—Not later than 30 days after the date of
20 enactment of this section, the President shall submit
21 to the Director of the Office of Government Ethics
22 a copy of the income tax returns described in para-
23 graph (1)(A).”; and

24 (2) in section 104—

25 (A) in subsection (a)—

1 (i) in paragraph (1), in the first sen-
2 tence, by inserting “or any individual who
3 knowingly and willfully falsifies or who
4 knowingly and willfully fails to file an in-
5 come tax return that such individual is re-
6 quired to disclose pursuant to section
7 102A” before the period; and

8 (ii) in paragraph (2)(A)—

9 (I) in clause (i), by inserting “or
10 falsify any income tax return that
11 such person is required to disclose
12 under section 102A” before the semi-
13 colon; and

14 (II) in clause (ii), by inserting
15 “or fail to file any income tax return
16 that such person is required to dis-
17 closed under section 102A” before the
18 period;

19 (B) in subsection (b), in the first sentence
20 by inserting “or willfully failed to file or has
21 willfully falsified an income tax return required
22 to be disclosed under section 102A” before the
23 period;

24 (C) in subsection (c), by inserting “or fail-
25 ing to file or falsifying an income tax return re-

1 required to be disclosed under section 102A” be-
2 fore the period; and

3 (D) in subsection (d)(1)—

4 (i) in the matter preceding subpara-
5 graph (A), by inserting “or files an income
6 tax return required to be disclosed under
7 section 102A” after “title”; and

8 (ii) in subparagraph (A), by inserting
9 “or such income tax return, as applicable,”
10 after “report”.

11 (b) AUTHORITY TO DISCLOSE INFORMATION.—

12 (1) IN GENERAL.—Section 6103(l) of the Inter-
13 nal Revenue Code of 1986 is amended by adding at
14 the end the following new paragraph:

15 “(23) DISCLOSURE OF RETURN INFORMATION
16 OF PRESIDENTS AND CERTAIN PRESIDENTIAL CAN-
17 DIDATES.—

18 “(A) DISCLOSURE OF RETURNS OF PRESI-
19 DENTS.—

20 “(i) IN GENERAL.—The Secretary
21 shall, upon written request from the Direc-
22 tor of the Office of Government Ethics
23 pursuant to section 102A(b)(1)(B) of the
24 Ethics in Government Act of 1978, provide
25 to officers and employees of the Office of

1 Government Ethics a copy of any income
2 tax return of the President which is re-
3 quired to be filed under section 102A of
4 such Act.

5 “(ii) DISCLOSURE TO PUBLIC.—The
6 Director of the Office of Government Eth-
7 ics may disclose to the public the income
8 tax return of any President which is re-
9 quired to be filed with the Director pursu-
10 ant to section 102A of the Ethics in Gov-
11 ernment Act of 1978.

12 “(B) DISCLOSURE OF RETURNS OF CER-
13 TAIN CANDIDATES FOR PRESIDENT.—

14 “(i) IN GENERAL.—The Secretary
15 shall, upon written request from the Chair-
16 man of the Federal Election Commission
17 pursuant to section 102A(b)(2)(B) of the
18 Ethics in Government Act of 1978, provide
19 to officers and employees of the Federal
20 Election Commission copies of the applica-
21 ble returns of any person who has been
22 nominated as a candidate of a major party
23 (as defined in section 9002(a)) for the of-
24 fice of President.

1 “(ii) DISCLOSURE TO PUBLIC.—The
2 Federal Election Commission may disclose
3 to the public applicable returns of any per-
4 son who has been nominated as a can-
5 didate of a major party (as defined in sec-
6 tion 9002(6)) for the office of President
7 and which is required to be filed with the
8 Commission pursuant to section 102A of
9 the Ethics in Government Act.

10 “(C) APPLICABLE RETURNS.—For pur-
11 poses of this paragraph, the term ‘applicable re-
12 turns’ means, with respect to any candidate for
13 the office of President, income tax returns for
14 the 3 most recent taxable years for which a re-
15 turn has been filed as of the date of the nomi-
16 nation.”.

17 (2) CONFORMING AMENDMENTS.—Section
18 6103(p)(4) of such Code, in the matter preceding
19 subparagraph (A) and in subparagraph (F)(ii), is
20 amended by striking “or (22)” and inserting “(22),
21 or (23)” each place it appears.

22 **SEC. 6. SENSE OF CONGRESS REGARDING VIOLATIONS.**

23 It is the sense of Congress that a violation of section
24 2 of this Act or the Ethics in Government Act of 1978
25 (5 U.S.C. App.) by the President or the Vice President

1 would constitute a high crime or misdemeanor under arti-
2 cle II, section 4 of the Constitution of the United States.

3 **SEC. 7. RULE OF CONSTRUCTION.**

4 Nothing in this Act or an amendment made by this
5 Act shall be construed to violate the Constitution of the
6 United States.

7 **SEC. 8. SEVERABILITY.**

8 If any provision of this Act or any amendment made
9 by this Act, or any application of such provision or amend-
10 ment to any person or circumstance, is held to be uncon-
11 stitutional, the remainder of the provisions of this Act and
12 the amendments made by this Act, and the application of
13 the provision or amendment to any other person or cir-
14 cumstance, shall not be affected.