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.

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 “Presidential Conflicts of Interest Act of 2017”.

SEC. 2. DIVESTITURE OF PERSONAL FINANCIAL INTERESTS OF THE PRESIDENT AND VICE PRESIDENT THAT POSE A POTENTIAL CONFLICT OF INTEREST.

(a) DEFINITIONS.—

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

(B) the term “financial interest posing a potential conflict of interest” means a financial interest of the President, the Vice President, the spouse of the President or Vice President, or a minor child of the President or Vice President, as applicable, that—

(i) would constitute a financial interest described in subsection (a) of section 208 of title 18, United States Code—

(I) if—

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

(bb) the President or Vice President, as applicable, participated as described in subsection (a) of such section 208 in relation to such financial interest; and
(II) determined without regard to any exception under subsection (b) of such section 208; or

(ii) may constitute a present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state (including from an entity owned or controlled by a foreign government), within the meaning of article I, section 9 of the Constitution of the United States;

(C) the term “qualified blind trust” has the meaning given that term in section 102(f)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.), unless otherwise specified in this Act; and

(D) the term “tax return”—

(i) means any Federal income tax return and any amendment or supplement thereto, including supporting schedules, attachments, or lists which are supplemental to, or part of, the return for the taxable year; and

(ii) includes any information return that reports information that does or may
affect the liability for tax for the taxable year.


(b) Initial Financial Disclosure.—

(1) Submission of disclosure.—

(A) In general.—Not later than 30 days after assuming the office of President or Vice President, respectively, the President and Vice President shall submit to Congress and the Director of the Office of Government Ethics a disclosure of financial interests.

(B) Application to sitting president and vice president.—For any individual who is serving as the President or Vice President on the date of enactment of this Act, the disclosure of financial interests shall be submitted to Congress and the Director of the Office of Government Ethics not later than 30 days after the date of enactment of this Act.
(2) CONTENTS.—

(A) PRESIDENT.—The disclosure of financial interests submitted under paragraph (1) by the President shall—

(i) describe in detail each financial interest of the President, the spouse of the President, or a minor child of the President;

(ii) at a minimum, include the information relating to each such financial interest that is required for reports under section 102 of the Ethics in Government Act of 1978 (5 U.S.C. App.); and

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

(I) the 3 most recent taxable years; and

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

(B) VICE PRESIDENT.—The disclosure of financial interests submitted under paragraph (1) by the Vice President shall—
(i) describe in detail each financial interest of the Vice President, the spouse of the Vice President, or a minor child of the Vice President;

(ii) at a minimum, include the information relating to each such financial interest that is required for reports under section 102 of the Ethics in Government Act of 1978 (5 U.S.C. App.); and

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

(I) the 3 most recent taxable years; and

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

(c) Divestiture of Financial Interests Posing a Potential Conflict of Interest.—

(1) In general.—The President, the Vice President, the spouse of the President or Vice President, and any minor child of the President or Vice President shall divest of any financial interest posing a potential conflict of interest by transferring such interest to a qualified blind trust.
(2) TRUSTEE DUTIES.—Within a reasonable period of time after the date a financial interest is transferred to a qualified blind trust under paragraph (1), the trustee of the qualified blind trust shall—

(A) sell the financial interest; and

(B) use the proceeds of the sale of the financial interest to purchase conflict-free holdings.

(d) REVIEW BY OFFICE OF GOVERNMENT ETHICS.—

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

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

(A) indicate whether any financial interest of the President, the Vice President, the spouse of the President or Vice President, or a minor child of the President or Vice President is a financial interest posing a potential conflict of interest;
(B) evaluate whether any previously held financial interest of the President, the Vice President, the spouse of the President or Vice President, or a minor child of the President or Vice President that was a financial interest posing a potential conflict of interest was divested in accordance with subsection (c); and

(C) redact such information as the Director of the Office of Government Ethics determines necessary for preventing identity theft, such as social security numbers or taxpayer identification numbers.

(e) ENFORCEMENT.—

(1) IN GENERAL.—The Attorney General, the attorney general of any State, or any person aggrieved by any violation of subsection (c) may seek declaratory or injunctive relief in a court of competent jurisdiction if—

(A) the Director of the Office of Government Ethics is unable to issue a report indicating whether the President or the Vice President is in substantial compliance with subsection (e); or
(B) there is probable cause to believe that the President or the Vice President has not complied with subsection (c).

(2) **Fair Market Value.**—In granting injunctive relief to the plaintiff, the court shall ensure that any divestment procedure shall ensure the fair market return for any asset that is liquidated.

**Sec. 3. Recusal of Appointees.**

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

“(e)(1) Any officer or employee appointed by the President shall recuse himself or herself from any particular matter involving specific parties in which a party to that matter is—

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

“(B) the spouse of the President who appointed the officer or employee, which shall include any entity in which the spouse of the President has a substantial interest.

“(2)(A) Subject to subparagraph (B), if an officer or employee is recused under paragraph (1), a career appointee in the agency of the officer or employee shall per-
form the functions and duties of the officer or employee
with respect to the matter.

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

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

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

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

“(III) designate an officer or employee of the
Commission who was not appointed by the President
who appointed the member of the Commission
recused from the matter to exercise the authorities
and duties of the recused member with respect to
the matter.
“(3) Any officer or employee who negligently violates paragraph (1) shall be subject to the penalties set forth in section 216.

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

SEC. 4. CONTRACTS BY THE PRESIDENT OR VICE PRESIDENT.

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

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

(2) in the first undesignated paragraph, by inserting “the President or Vice President,” after “Whoever, being”.

(b) Table of Sections Amendment.—The table of sections for chapter 23 of title 18, United States Code, is amended by striking the item relating to section 431 and inserting the following:

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

SEC. 5. PRESIDENTIAL TAX TRANSPARENCY.

(a) In General.—Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) by inserting after section 102 the following:
SEC. 102A. DISCLOSURE OF TAX RETURNS.

(a) DEFINITIONS.—In this section—

(1) the term ‘covered candidate’ means an individual—

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

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

(2) the term ‘covered individual’ means—

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

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

(3) the term ‘major party’ has the meaning given the term in section 9002 of the Internal Revenue Code of 1986; and

(4) the term ‘income tax return’ means, with respect to any covered candidate or covered individual, any return (within the meaning of section 6103(b) of the Internal Revenue Code of 1986) related to Federal income taxes, but does not include—

(A) information returns issued to persons other than such covered candidate or covered individual, and
“(B) declarations of estimated tax.

“(b) Disclosure.—

“(1) Covered individuals.—

“(A) In general.—In addition to the information described in subsections (a) and (b) of section 102, a covered individual shall include in each report required to be filed under this title a copy of the income tax returns of the covered individual for the 3 most recent taxable years for which a return have been filed with the Internal Revenue Service as of the date on which the report is filed.

“(B) Failure to disclose.—If an income tax return is not disclosed under subparagraph (A), the Director of the Office of Government Ethics shall submit to the Secretary of the Treasury a request that the Secretary of the Treasury provide the Director of the Office of Government Ethics with a copy of the income tax return.

“(C) Publicly available.—Each income tax return submitted under this paragraph shall be filed with the Director of the Office of Government Ethics and made publicly available in
the same manner as the information described in subsections (a) and (b) of section 102.

“(D) REDACTION OF CERTAIN INFORMATION.—Before making any income tax return submitted under this paragraph available to the public, the Director of the Office of Government Ethics shall redact such information as the Director of the Office of Government Ethics, in consultation with the Secretary of the Treasury (or a delegate of the Secretary), determines appropriate.

“(2) CANDIDATES.—

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

“(B) FAILURE TO DISCLOSE.—If an income tax return is not disclosed under subparagraph (A) the Federal Election Commission shall submit to the Secretary of the Treasury a
request that the Secretary of the Treasury pro-
vide the Federal Election Commission with the
income tax return.

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

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

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

(2) in section 104—

(A) in subsection (a)—
(i) in paragraph (1), in the first sentence, by inserting “or any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file an income tax return that such individual is required to disclose pursuant to section 102A” before the period; and

(ii) in paragraph (2)(A)—

(I) in clause (i), by inserting “or falsify any income tax return that such person is required to disclose under section 102A” before the semicolon; and

(II) in clause (ii), by inserting “or fail to file any income tax return that such person is required to disclosed under section 102A” before the period;

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

(C) in subsection (c), by inserting “or failing to file or falsifying an income tax return re-
required to be disclosed under section 102A” before the period; and

(D) in subsection (d)(1)—

(i) in the matter preceding subparagraph (A), by inserting “or files an income tax return required to be disclosed under section 102A” after “title”; and

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

(b) Authority to Disclose Information.—

(1) In General.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(23) Disclosure of Return Information of Presidents and Certain Presidential Candidates.—

“(A) Disclosure of Returns of Presidents.—

“(i) In General.—The Secretary shall, upon written request from the Director of the Office of Government Ethics pursuant to section 102A(b)(1)(B) of the Ethics in Government Act of 1978, provide to officers and employees of the Office of
Government Ethics a copy of any income
tax return of the President which is re-
quired to be filed under section 102A of
such Act.

“(ii) Disclosure to public.—The
Director of the Office of Government Eth-
ics may disclose to the public the income
tax return of any President which is re-
quired to be filed with the Director pursu-
ant to section 102A of the Ethics in Gov-

“(B) Disclosure of returns of cer-
tain candidates for President.—

“(i) In general.—The Secretary
shall, upon written request from the Chair-
man of the Federal Election Commission
pursuant to section 102A(b)(2)(B) of the
Ethics in Government Act of 1978, provide
to officers and employees of the Federal
Election Commission copies of the applica-
ble returns of any person who has been
nominated as a candidate of a major party
(as defined in section 9002(a)) for the of-

cice of President.
“(ii) DISCLOSURE TO PUBLIC.—The Federal Election Commission may disclose to the public applicable returns of any person who has been nominated as a candidate of a major party (as defined in section 9002(6)) for the office of President and which is required to be filed with the Commission pursuant to section 102A of the Ethics in Government Act.

“(C) APPLICABLE RETURNS.—For purposes of this paragraph, the term ‘applicable returns’ means, with respect to any candidate for the office of President, income tax returns for the 3 most recent taxable years for which a return has been filed as of the date of the nomination.”.

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

SEC. 6. SENSE OF CONGRESS REGARDING VIOLATIONS.

It is the sense of Congress that a violation of section 2 of this Act or the Ethics in Government Act of 1978 (5 U.S.C. App.) by the President or the Vice President
would constitute a high crime or misdemeanor under article II, section 4 of the Constitution of the United States.

SEC. 7. RULE OF CONSTRUCTION.

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

SEC. 8. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or any application of such provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of the provisions of this Act and the amendments made by this Act, and the application of the provision or amendment to any other person or circumstance, shall not be affected.