To promote ethics and prevent corruption in Department of Defense contracting and other activities, and for other purposes.

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 promote ethics and prevent corruption in Department of Defense contracting and other activities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Department of Defense Ethics and Anti-corruption Act of 2021”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REVOLVING DOOR AND CONTRACTOR INFLUENCE
Sec. 101. Heightened revolving door requirements.
Sec. 102. Requirements for defense contractors relating to certain former Department of Defense officials and lobbying activities.
Sec. 103. Ban on hiring contracting officials enforceable on certain contracts.
Sec. 104. Ban on hiring senior officials by giant defense contractors.
Sec. 105. Modification of prohibition on lobbying activities with respect to the Department of Defense by certain officers of the Armed Forces and civilian employees of the Department of Defense following separation from military service or employment with the Department.
Sec. 106. Enhancement of recusal for conflicts of personal interest requirements for Department of Defense officers and employees.
Sec. 107. Prohibition on ownership or trading of stocks in certain companies by Department of Defense officers and employees.

TITLE II—LIMITING FOREIGN INFLUENCE

Sec. 201. Advising foreign governments.
Sec. 202. Ban on former military and civilian intelligence officers from foreign employment.

TITLE III—TRANSPARENCY

Sec. 301. Affirmative contractor record disclosures.
Sec. 302. Ownership of information.
Sec. 303. Financial disclosure by large contractors.

1 TITLE I—REVOLVING DOOR AND CONTRACTOR INFLUENCE

2 SEC. 101. HEIGHTENED REVOLVING DOOR REQUIREMENTS.

Section 847 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 1701 note) is amended—

(1) in subsection (a)(1), by striking “within two years of leaving service” and inserting “within four years of leaving service”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “retained by the Department of Defense in a central database or repository maintained by the General
Counsel of the Department for not less than five years” and inserting “retained by the Department of Defense in a central database or repository maintained by the General Counsel Standards and Conduct Office of the Department for not less than ten years”; and

(ii) by inserting “and shall be posted on a publicly available Internet website of the General Counsel Standards and Conduct Office” after “opinion was provided”; and

(B) in paragraph (2), by inserting “not less than biannually” after “conduct periodic reviews”.

SEC. 102. REQUIREMENTS FOR DEFENSE CONTRACTORS RELATING TO CERTAIN FORMER DEPARTMENT OF DEFENSE OFFICIALS AND LOBBYING ACTIVITIES.

(a) REQUIREMENTS.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code is amended by adding at the end the following new section:
§ 2410t. Defense contractors report: requirements concerning former Department of Defense officials and lobbying activities

(a) IN GENERAL.—Each contract for the procurement of goods or services in excess of $10,000,000, other than a contract for the procurement of office supplies or food and beverage (vending) services, that is entered into by the Department of Defense shall include a provision under which the contractor agrees to submit to the Secretary of Defense, not later than April 1 of each year such contract is in effect, a written report setting forth the information required by subsection (b).

(b) REPORT INFORMATION.—Except as provided in subsection (c), a report by a contractor under subsection (a) shall—

(1) list the name of each person who—

(A) is a former officer or employee of the Department of Defense or a former or retired member of the armed forces who served—

(i) in an Executive Schedule position under subchapter II of chapter 53 of title 5;

(ii) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5;
“(iii) in a position compensated at a rate of pay for grade O–7 or above under section 201 of title 37; or

“(iv) as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract with a value in excess of $10,000,000; and

“(B) during the preceding calendar year was provided compensation by the contractor, if such compensation was first provided by the contractor not more than four years after such officer, employee, or member left service in the Department of Defense;

“(2) in the case of each person listed under subparagraph (A)—

“(A) identify the agency in which such person was employed or served on active duty during the last two years of such person’s service with the Department of Defense;

“(B) state such person’s job title and identify each major defense system, contract, modi-
ification, subcontract, task order, and delivery order in excess of $10,000,000, if any, on which such person performed any work with the Department of Defense during the last two years of such person’s service with the Department; and

“(C) state such person’s current job title with the contractor and identify each major defense system, contract, modification, subcontract, task order, and delivery order in excess of $10,000,000, on which such person has performed any work on behalf of the contractor; and

“(3) if the contractor is a client, include—

“(A) a statement that—

“(i) lists each specific issue for which the contractor, any employee of the contractor, or any lobbyist paid by the contractor engaged in lobbying activities with the Department of Defense; and

“(ii) specifies the Federal rule or regulation, Executive order, or other program, policy, contract, or position of the Department of Defense to which the lobbying activities described in clause (i) related;
“(iii) lists each lobbying activity relating to the Department of Defense that the contractor, any employee of the contractor, or any lobbyist paid by the contractor has engaged in on behalf of the contractor, including—

“(I) each document prepared by the contractor, any employee of the contractor, or any lobbyist paid by the contractor that was submitted to an officer or employee of the Department of Defense by the lobbyist;

“(II) each meeting that was a lobbying contact with an officer or employee of the Department of Defense, including the subject of the meeting, the date of the meeting, and the name and position of each individual who attended the meeting;

“(III) each phone call made to an officer or employee of the Department of Defense that was a lobbying contact, including the subject of the phone call, the date of the phone call, and the name and position of each in-
individual who was on the phone call; and

“(IV) each electronic communication sent to an officer or employee of the Department of Defense that was a lobbying contact, including the subject of the electronic communication, the date of the electronic communication, and the name and position of each individual who received the electronic communication;

“(iv) lists the name of each employee of the contractor who—

“(I) did not participate in a lobbying contact with an officer or employee of the Department of Defense; and

“(II) engaged in lobbying activities in support of a lobbying contact with an officer or employee of the Department of Defense; and

“(v) describes the lobbying activities referred to in clause (iv)(II); and

“(B) a copy of any document transmitted to an officer or employee of the Department of
Defense in the course of the lobbying activities described in subparagraph (A)(iv)(II).

“(c) Duplicate Information Not Required.—An annual report submitted by a contractor pursuant to subsection (b) need not provide information with respect to any former officer or employee of the Department of Defense or former or retired member of the armed forces if such information has already been provided in a previous annual report filed by such contractor under this section.

“(d) Definitions.—In subsection (b)(3), the terms ‘client’, ‘lobbying activities’, ‘lobbying contact’, and ‘lobbyist’ have the meanings given the terms in section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).”.

(2) Clerical Amendment.—The table of sections at the beginning of chapter 141 of such title is amended by adding at the end the following new item:

“Sec. 2410t. Defense contractors: requirements concerning former Department of Defense officials.”.

(3) Effective Date.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act, and shall apply with respect to contracts entered into on or after that date.

(b) Future Transfer.—
(1) Transfer and redesignation.—Section 2410t of title 10, United States Code, as added by subsection (a), is transferred to chapter 363, as added by section 1862(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283), and redesignated as section 4661.

(2) Clerical amendments.—

(A) Target chapter table of sections.—The table of sections at the beginning of chapter 363 of title 10, United States Code, as added by section 1862(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283), is amended by inserting after the item relating to section 4660 the following:

"Sec. 4661. Defense contractors report: requirements concerning former Department of Defense officials and lobbying activities."

(B) Origin chapter table of sections.—The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by striking the item relating to section 24410t.

(3) Effective date.—The amendments made by this subsection shall take effect on January 1, 2022.
(4) References; savings provisions; rule of construction.—Sections 1883 through 1885 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) shall apply with respect to the amendments made under this subsection as if such amendments were made under title XVIII of such Act.

SEC. 103. BAN ON HIRING CONTRACTING OFFICIALS ENFORCEABLE ON CERTAIN CONTRACTS.

(a) Prohibition.—

(1) In general.—Any contract for the procurement of goods or services, other than a contract for the procurement of commercial products or services, with a value of excess of $10,000,000 shall include a contract clause prohibiting the contractor from providing compensation to a former Department of Defense official described in paragraph (2) within four years after such former official leaves service in the Department of Defense.

(2) Covered department of defense official.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official is a former officer or employee of the Department of Defense or a former or retired member of the Armed
Forces who served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract with a value in excess of $10,000,000, and such person—

(A) participated in the contract or license selection;

(B) determined or signed off on the technical requirements of the contract or license; or

(C) granted the contract or license.

(b) Administrative Actions.—In the event that an official or former official of the Department of Defense described in subsection (a)(2), or a Department of Defense contractor, knowingly fails to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in section 2105 of title 41, United States Code, that the Secretary of Defense determines to be appropriate.

SEC. 104. BAN ON HIRING SENIOR OFFICIALS BY GIANT DEFENSE CONTRACTORS.

(a) Prohibition.—

(1) In general.—Any Department of Defense contract for the procurement of goods or services
with a giant defense contractor shall include a con-
tract clause prohibiting the contractor from hiring or
paying (including as a consultant or lawyer) any cov-
ered Department of Defense official within four
years after such former official leaves service in the
Department of Defense.

(2) DEFINITIONS.—In this section:

(A) COVERED DEPARTMENT OF DEFENSE
OFFICIAL.—The term “covered Department of
Defense official” means a former officer or em-
ployee of the Department of Defense or a
former or retired member of the Armed Forces
who served—

(i) in an Executive Schedule position
under subchapter II of chapter 53 of title
5, United States Code;

(ii) in a position in the Senior Execu-
tive Service under subchapter VIII of
chapter 53 of title 5, United States Code;

(iii) in position compensated at a rate
of pay for grade O–7 or above under sec-
tion 201 of title 37, United States Code; or

(iv) in a supervisory position com-
pensated at a rate of pay for grade GS–15
of the General Schedule under section
5107 of title 5, United States Code, or higher.

(B) GIANT DEFENSE CONTRACTOR.—The term “giant defense contractor” means a contractor (other than an institution of higher education) that received an average of more than $1,000,000,000 in annual revenue from the Department of Defense or the Department of Energy for contracted work related to the United States nuclear program in the previous three fiscal years.

(b) ADMINISTRATIVE ACTIONS.—In the event that a covered Department of Defense official, or a Department of Defense contractor, knowingly fails to comply with the requirements of this section, the Secretary of Defense may take any of the administrative actions set forth in section 2105 of title 41, United States Code that the Secretary of Defense determines to be appropriate.

(c) ANNUAL REPORT.—The Inspector General of the Department of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an annual report listing the officials or former officials of the Department of Defense described in subsection (a)(2)(A), or any Department of Defense contractor, subject to any of the
1 administrative actions from the Secretary of Defense
2 under the requirements of subsection (b) during the prior
3 calendar year.

SEC. 105. MODIFICATION OF PROHIBITION ON LOBBYING

ACTIVITIES WITH RESPECT TO THE DEPART-

MENT OF DEFENSE BY CERTAIN OFFICERS

OF THE ARMED FORCES AND CIVILIAN EM-

PLOYEES OF THE DEPARTMENT OF DEFENSE

FOLLOWING SEPARATION FROM MILITARY

SERVICE OR EMPLOYMENT WITH THE DE-

PARTMENT.

Section 1045 of the National Defense Authorization
Act for Fiscal Year 2018 (Public Law 115–91; 131 Stat.
1555) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking

“TWO-YEAR PROHIBITION” and inserting

“FOUR-YEAR PROHIBITION”;

(B) in paragraph (1), by striking “during
the two-year period” and inserting “during the
four-year period”; and

(C) in paragraph (2)(A), by striking
“grade O–9 or higher” and inserting “grade O–
7 or higher”; and

(2) by striking subsection (b);
(3) by redesignating subsection (c) as subsection (b); and

(4) in subsection (b)(1)(A), as redesignated by paragraph (3), by inserting “, including activities in support of lobbying contact with an officer or employee of the Department of Defense” before the period at the end.

SEC. 106. ENHANCEMENT OF RECUSAL FOR CONFLICTS OF PERSONAL INTEREST REQUIREMENTS FOR DEPARTMENT OF DEFENSE OFFICERS AND EMPLOYEES.

(a) In General.—An officer or employee of the Department of Defense may not participate personally and substantially in any covered matter that the officer or employee knows, or reasonably should know, is likely to have a direct and predictable effect on the financial interests of any of the following:

(1) Any organization, including a trade organization, for which the officer or employee has served as an employee, officer, director, trustee, or general partner in the past 4 years.

(2) A former direct competitor or client of any organization for which the officer or employee has served as an employee, officer, director, trustee, or general partner in the past 4 years.
(3) Any employer with whom the officer or employee is seeking employment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to terminate, alter, or make inapplicable any other prohibition or limitation in law or regulation on the participation of officers or employees of the Department of Defense in covered matters having an effect on their or related financial or other personal interests.

c) COVERED MATTER DEFINED.—In this section, the term “covered matter”—

(1) means any matter that involves deliberation, decision, or action that is focused upon the interests of specific person or a discrete and identifiable class of persons; and

(2) includes policy making that is narrowly focused on the interests of a discrete and identifiable class of persons.

SEC. 107. PROHIBITION ON OWNERSHIP OR TRADING OF STOCKS IN CERTAIN COMPANIES BY DEPARTMENT OF DEFENSE OFFICERS AND EMPLOYEES.

(a) DEFINITION.—In this section:

(1) COVERED OFFICIAL.—The term “covered official” means any official described in section

(2) Publicly traded stock.—The term “publicly traded stock” does not include a widely held mutual investment fund as defined in regulations issued by the Office of Government Ethics under section 208(d)(2) of title 18, United States Code.

(b) Prohibition on Ownership and Trading Publicly Traded Stocks.—

(1) Covered officials.—No covered official may own or trade a publicly traded stock of a company if, during the preceding calendar year, the company received more than $1,000,000,000 in revenue from the Department of Defense, including through 1 or more contracts with the Department.

(2) Other officers and employees.—No officer or employee of the Department of Defense who is not a covered official may own or trade a publicly traded stock of a company that is a contractor or subcontractor of the Department if the Standards of Conduct Office of the Office of the General Counsel of the Department of Defense determines that the value of the stock may be directly
or indirectly influenced by any official action of the officer or employee.

(3) PENALTY.—Whoever violates paragraph (1) or (2) shall be subject to the penalties set forth in section 216 of title 18, United States Code.

TITLE II—LIMITING FOREIGN INFLUENCE

SEC. 201. ADVISING FOREIGN GOVERNMENTS.

Section 207(f) of title 18, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) PERMANENT RESTRICTION WITHOUT PRIOR APPROVAL.—

“(A) IN GENERAL.—Any person who has been employed as a senior official in the White House, the Department of State; the Department of Defense, or the Department of the Treasury who, without the explicit prior approval of the Secretary of State, performs compensated work for the benefit of a foreign entity that might benefit from the knowledge obtained by the person as a result of such United States
Government employment, shall be punished as provided in section 216 of this title.

“(B) LIMITATION ON APPROVAL.—The Secretary of State may not approve any work described in subparagraph (A) that conflicts with the national security interests of the United States, as determined by the Secretary and verified by the Director of National Intelligence.

“(C) ANNUAL REPORT.—The Secretary of State shall submit an annual report listing all of the approvals under subparagraph (A), to include the related foreign entity, the duties as assigned and performed by senior official, and the work role (billet) held by the senior official during the prior calendar year to the Committee on Foreign Relations of the Senate, the Committee on Armed Services of the Senate, the Select Committee on Intelligence of the Senate, the Committee on Foreign Affairs of the House of Representatives, the Committee on Armed Services of the House of Representatives, and the Permanent Select Committee on Intelligence of the House of Representatives.”
SEC. 202. BAN ON FORMER MILITARY AND CIVILIAN INTELLIGENCE OFFICERS FROM FOREIGN EMPLOYMENT.

(a) In General.—Except as provided in subsection (b), military and civilian intelligence personnel employed by a military intelligence organization possessing a security clearance, upon separation from service or resignation, are prohibited from obtaining employment with a foreign government or a private company doing work predominantly on behalf of a foreign government.

(b) Exemption.—

(1) In General.—Employment with the Government of Australia, of Canada, of New Zealand, or of the United Kingdom is not subject to the prohibition under subsection (a).

(2) Waivers.—

(A) Authority.—Individuals may seek and be granted a waiver by the Secretary of Defense, in consultation with the Secretary of State, for employment by any other foreign government. Such waiver will be presumptively granted in cases that personnel seek employment in jobs focused on humanitarian aid, development, or civilian or nonmilitary infrastructure improvement. Waivers for employment in other jobs shall be determined based on whether
such employment would reasonably involve the
use or disclosure or appropriation of sources,
methods, or skills that could pose a threat to
United States’ interests when employed by
other countries or enable the repression of the
nationals of such countries.

(B) ANNUAL REPORT.—The Secretary of
Defense shall submit to the Committee on
Armed Services of the Senate and the Com-
mittee on Armed Services of the House of Rep-
resentatives an annual report on all waivers
gold under subparagraph (A).

TITLE III—TRANSPARENCY

SEC. 301. AFFIRMATIVE CONTRACTOR RECORD DISCLOSURES.

The Secretary of Defense shall publish on a publicly
available Internet website the following information to the
extent such information is unclassified and non-confiden-
tial:

(1) In the case of a contract with the Depart-
ment of Defense for goods or services above the sim-
plified acquisition threshold specified in section 134
of title 41, United States Code—

(A) copies of each contract and task deliv-
er order the contractor on such contract has
entered into with the Department of Defense
during the previous three fiscal years; and

    (B) past performance information about
the contractor to the extent it is maintained by
the Department.

(2) In the case of a contract with the Depart-
ment of Defense for goods or services in excess of
$10,000,000, all correspondence and documents re-
lated to the contract.

(3) The contractor report required under sec-
tion 2410t of title 10, United States Code, as added
by section 102 of this Act.

SEC. 302. OWNERSHIP OF INFORMATION.

Any entity of the Department of Defense that enters
into a contract or agreement with, or provides funding to,
a nongovernmental entity for the purposes of procuring
goods or services shall—

(1) for the purposes of paragraph (3), be
deemed to have control over all information of the
entity related to—

    (A) any costs or the expenditure of any
funds related to the contract or agreement; and

    (B) any other information related to the
performance of the contract or agreement;
(2) provide access to the information described in paragraph (1), which shall be considered an “agency record”, to any person upon request made pursuant to paragraph (3); and

(3) include compliance with this subsection as a material term in any contract, agreement, or renewal of a contract or agreement with any nongovernmental entity for the purposes of procuring goods or services.

SEC. 303. FINANCIAL DISCLOSURE BY LARGE CONTRACTORS.

(a) Disclosure Requirement.—

(1) IN GENERAL.—The Secretary of Defense shall require a covered contractor, as a condition for entering into a contract with the Department of Defense, to make publicly available the following information (excluding information determined to be classified by the Secretary):

(A) Audited financial statements.

(B) A listing of the salaries of employees performing work on the contract that receive compensation from the contractor in excess of $250,000 per year.

(C) A description of all Federal political spending, including lobbying, by the contractor.
(2) Suspension and Debarment.—The Secretary of Defense may suspend or debar any covered contractor that fails to comply with the disclosure requirements under paragraph (1).

(3) Covered Contractor Defined.—The term “covered contractor” means a contractor (other than an institute of higher education) that—

(A) received more than $10,000,000 in annual revenue from Federal Government contracts or licenses in any of the previous three fiscal years; or

(B) earned more than 20 percent of its total annual revenue from Federal Government contracts or licenses in any of the previous three fiscal years.