

115TH CONGRESS
1ST SESSION

H. R. 371

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2017

Ms. CLARK of Massachusetts (for herself, Mr. NEAL, Mr. CONYERS, Mr. WELCH, Mr. CICILLINE, Mr. CUMMINGS, Ms. DELAURO, Mr. QUIGLEY, Mr. GARAMENDI, Mr. HUFFMAN, Ms. VELÁZQUEZ, Mr. MEEKS, Mr. LANGEVIN, Mrs. NAPOLITANO, Ms. SCHAKOWSKY, Mr. DEUTCH, Mr. SCHIFF, Mr. GALLEGO, Ms. BONAMICI, Ms. PINGREE, Mr. CAPUANO, Mr. KIND, Mr. EVANS, Mr. NADLER, Mr. COHEN, Mr. PETERS, Mr. SARBANES, Mrs. WATSON COLEMAN, Mr. TED LIEU of California, Ms. HANABUSA, Ms. MENG, Mr. DOGGETT, Mr. MOULTON, Mr. O’ROURKE, Mr. CONNOLLY, Ms. MCCOLLUM, Mr. BEYER, Mr. SERRANO, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. TSONGAS, Mr. BLUMENAUER, Mr. SOTO, Mr. DESAULNIER, Ms. BROWNLEY of California, Ms. MOORE, Mr. JOHNSON of Georgia, Mr. ENGEL, Mr. KENNEDY, Ms. TITUS, Ms. MATSUI, Ms. SPEIER, Mr. KEATING, Mr. POLIS, Ms. LEE, Ms. KAPTUR, Mr. MCGOVERN, Mr. CARSON of Indiana, Mr. ELLISON, Mr. LOEBSACK, Ms. JACKSON LEE, Mr. TAKANO, Mr. AL GREEN of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SMITH of Washington, Mr. DEFazio, Mr. THOMPSON of Mississippi, Ms. BASS, Mr. COOPER, Ms. PLASKETT, Mr. CLAY, Mr. LYNCH, Mrs. LAWRENCE, Mr. SCOTT of Virginia, Mr. HIMES, Mr. PASCARELL, Mr. LOWENTHAL, Mr. POCAN, Mr. LEVIN, Mr. GRIJALVA, Mr. FOSTER, Ms. KUSTER of New Hampshire, Ms. JUDY CHU of California, Mrs. DINGELL, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Ms. KELLY of Illinois, Ms. SLAUGHTER, Mr. RASKIN, Mr. PALONE, Mr. PERLMUTTER, Ms. CASTOR of Florida, Mr. KILMER, Ms. SHEA-PORTER, Mr. YARMUTH, and Mr. SHERMAN) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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—

12 (A) the term “conflict-free holding” means
13 a financial interest described in section
14 102(f)(8) of the Ethics in Government Act of
15 1978 (5 U.S.C. App.);

16 (B) the term “financial interest posing a
17 potential conflict of interest” means a financial
18 interest of the President, the Vice President,
19 the spouse of the President or Vice President,
20 or a minor child of the President or Vice Presi-
21 dent, as applicable, that—

1 (i) would constitute a financial inter-
2 est described in subsection (a) of section
3 208 of title 18, United States Code—

4 (I) if—

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

10 (bb) the President or Vice
11 President, as applicable, partici-
12 pated as described in subsection
13 (a) of such section 208 in rela-
14 tion to such financial interest;
15 and

16 (II) determined without regard to
17 any exception under subsection (b) of
18 such section 208; or

19 (ii) may constitute a present, emolu-
20 ment, office, or title, of any kind whatever,
21 from any king, prince, or foreign state (in-
22 cluding from an entity owned or controlled
23 by a foreign government), within the
24 meaning of article I, section 9 of the Con-
25 stitution of the United States;

1 (C) the term “qualified blind trust” has
2 the meaning given that term in section
3 102(f)(3) of the Ethics in Government Act of
4 1978 (5 U.S.C. App.), unless otherwise speci-
5 fied in this Act; and

6 (D) the term “tax return”—

7 (i) means any Federal income tax re-
8 turn and any amendment or supplement
9 thereto, including supporting schedules, at-
10 tachments, or lists which are supplemental
11 to, or part of, the return for the taxable
12 year; and

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

17 (2) APPLICABILITY OF ETHICS IN GOVERNMENT
18 ACT OF 1978.—For purposes of the definition of
19 “qualified blind trust” in this section, the term “su-
20 pervising ethics officer” in section 102(f)(3) of the
21 Ethics in Government Act of 1978 (5 U.S.C. App.)
22 means the Director of the Office of Government
23 Ethics.

24 (b) INITIAL FINANCIAL DISCLOSURE.—

25 (1) SUBMISSION OF DISCLOSURE.—

1 (A) IN GENERAL.—Not later than 30 days
2 after assuming the office of President or Vice
3 President, respectively, the President and Vice
4 President shall submit to Congress and the Di-
5 rector of the Office of Government Ethics a dis-
6 closure of financial interests.

7 (B) APPLICATION TO SITTING PRESIDENT
8 AND VICE PRESIDENT.—For any individual who
9 is serving as the President or Vice President on
10 the date of enactment of this Act, the disclosure
11 of financial interests shall be submitted to Con-
12 gress and the Director of the Office of Govern-
13 ment Ethics not later than 30 days after the
14 date of enactment of this Act.

15 (2) CONTENTS.—

16 (A) PRESIDENT.—The disclosure of finan-
17 cial interests submitted under paragraph (1) by
18 the President shall—

19 (i) describe in detail each financial in-
20 terest of the President, the spouse of the
21 President, or a minor child of the Presi-
22 dent;

23 (ii) at a minimum, include the infor-
24 mation relating to each such financial in-
25 terest that is required for reports under

1 section 102 of the Ethics in Government
2 Act of 1978 (5 U.S.C. App.); and

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

5 (I) the 3 most recent taxable
6 years; and

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

11 (B) VICE PRESIDENT.—The disclosure of
12 financial interests submitted under paragraph
13 (1) by the Vice President shall—

14 (i) describe in detail each financial in-
15 terest of the Vice President, the spouse of
16 the Vice President, or a minor child of the
17 Vice President;

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

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

1 (I) the 3 most recent taxable
2 years; and

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

7 (c) DIVESTITURE OF FINANCIAL INTERESTS POSING
8 A POTENTIAL CONFLICT OF INTEREST.—

9 (1) IN GENERAL.—The President, the Vice
10 President, the spouse of the President or Vice Presi-
11 dent, and any minor child of the President or Vice
12 President shall divest of any financial interest posing
13 a potential conflict of interest by transferring such
14 interest to a qualified blind trust.

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

20 (A) sell the financial interest; and

21 (B) use the proceeds of the sale of the fi-
22 nancial interest to purchase conflict-free hold-
23 ings.

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

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

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

10 (A) indicate whether any financial interest
11 of the President, the Vice President, the spouse
12 of the President or Vice President, or a minor
13 child of the President or Vice President is a fi-
14 nancial interest posing a potential conflict of in-
15 terest;

16 (B) evaluate whether any previously held
17 financial interest of the President, the Vice
18 President, the spouse of the President or Vice
19 President, or a minor child of the President or
20 Vice President that was a financial interest pos-
21 ing a potential conflict of interest was divested
22 in accordance with subsection (c); and

23 (C) redact such information as the Direc-
24 tor of the Office of Government Ethics deter-
25 mines necessary for preventing identity theft,

1 such as social security numbers or taxpayer
2 identification numbers.

3 (e) ENFORCEMENT.—

4 (1) IN GENERAL.—The Attorney General, the
5 attorney general of any State, or any person ag-
6 grieved by any violation of subsection (c) may seek
7 declaratory or injunctive relief in a court of com-
8 petent jurisdiction if—

9 (A) the Director of the Office of Govern-
10 ment Ethics is unable to issue a report indi-
11 cating whether the President or the Vice Presi-
12 dent is in substantial compliance with sub-
13 section (c); or

14 (B) there is probable cause to believe that
15 the President or the Vice President has not
16 complied with subsection (c).

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

21 **SEC. 3. RECUSAL OF APPOINTEES.**

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

24 “(e)(1) Any officer or employee appointed by the
25 President shall recuse himself or herself from any par-

1 particular matter involving specific parties in which a party
2 to that matter is—

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

6 “(B) the spouse of the President who appointed
7 the officer or employee, which shall include any enti-
8 ty in which the spouse of the President has a sub-
9 stantial interest.

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

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

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

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

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

6 “(III) designate an officer or employee of the
7 Commission who was not appointed by the President
8 who appointed the member of the Commission
9 recused from the matter to exercise the authorities
10 and duties of the recused member with respect to
11 the matter.

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

15 “(4) For purposes of this section, the term ‘particular
16 matter’ shall have the meaning given the term in section
17 207(i).”.

18 **SEC. 4. CONTRACTS BY THE PRESIDENT OR VICE PRESI-**
19 **DENT.**

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

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

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

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

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

8 **SEC. 5. PRESIDENTIAL TAX TRANSPARENCY.**

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

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

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

13 “(a) DEFINITIONS.—In this section—

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

16 “(A) required to file a report under section
 17 101(c); and

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

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

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

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

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

4 “(4) the term ‘income tax return’ means, with
5 respect to any covered candidate or covered indi-
6 vidual, any return (within the meaning of section
7 6103(b) of the Internal Revenue Code of 1986) re-
8 lated to Federal income taxes, but does not in-
9 clude—

10 “(A) information returns issued to persons
11 other than such covered candidate or covered
12 individual, and

13 “(B) declarations of estimated tax.

14 “(b) DISCLOSURE.—

15 “(1) COVERED INDIVIDUALS.—

16 “(A) IN GENERAL.—In addition to the in-
17 formation described in subsections (a) and (b)
18 of section 102, a covered individual shall in-
19 clude in each report required to be filed under
20 this title a copy of the income tax returns of the
21 covered individual for the 3 most recent taxable
22 years for which a return have been filed with
23 the Internal Revenue Service as of the date on
24 which the report is filed.

1 “(B) FAILURE TO DISCLOSE.—If an in-
2 come tax return is not disclosed under subpara-
3 graph (A), the Director of the Office of Govern-
4 ment Ethics shall submit to the Secretary of
5 the Treasury a request that the Secretary of
6 the Treasury provide the Director of the Office
7 of Government Ethics with a copy of the in-
8 come tax return.

9 “(C) PUBLICLY AVAILABLE.—Each income
10 tax return submitted under this paragraph shall
11 be filed with the Director of the Office of Gov-
12 ernment Ethics and made publicly available in
13 the same manner as the information described
14 in subsections (a) and (b) of section 102.

15 “(D) REDACTION OF CERTAIN INFORMA-
16 TION.—Before making any income tax return
17 submitted under this paragraph available to the
18 public, the Director of the Office of Government
19 Ethics shall redact such information as the Di-
20 rector of the Office of Government Ethics, in
21 consultation with the Secretary of the Treasury
22 (or a delegate of the Secretary), determines ap-
23 propriate.

24 “(2) CANDIDATES.—

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

10 “(B) FAILURE TO DISCLOSE.—If an in-
11 come tax return is not disclosed under subpara-
12 graph (A) the Federal Election Commission
13 shall submit to the Secretary of the Treasury a
14 request that the Secretary of the Treasury pro-
15 vide the Federal Election Commission with the
16 income tax return.

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

22 “(D) REDACTION OF CERTAIN INFORMA-
23 TION.—Before making any income tax return
24 submitted under this paragraph available to the
25 public, the Federal Election Commission shall

1 redact such information as the Federal Election
2 Commission, in consultation with the Secretary
3 of the Treasury (or a delegate of the Secretary)
4 and the Director of the Office of Government
5 Ethics, determines appropriate.

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

12 (2) in section 104—

13 (A) in subsection (a)—

14 (i) in paragraph (1), in the first sen-
15 tence, by inserting “or any individual who
16 knowingly and willfully falsifies or who
17 knowingly and willfully fails to file an in-
18 come tax return that such individual is re-
19 quired to disclose pursuant to section
20 102A” before the period; and

21 (ii) in paragraph (2)(A)—

22 (I) in clause (i), by inserting “or
23 falsify any income tax return that
24 such person is required to disclose

1 under section 102A” before the semi-
2 colon; and

3 (II) in clause (ii), by inserting
4 “or fail to file any income tax return
5 that such person is required to dis-
6 closed under section 102A” before the
7 period;

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

13 (C) in subsection (c), by inserting “or fail-
14 ing to file or falsifying an income tax return re-
15 quired to be disclosed under section 102A” be-
16 fore the period; and

17 (D) in subsection (d)(1)—

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

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

25 (b) AUTHORITY TO DISCLOSE INFORMATION.—

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

4 “(23) DISCLOSURE OF RETURN INFORMATION
5 OF PRESIDENTS AND CERTAIN PRESIDENTIAL CAN-
6 DIDATES.—

7 “(A) DISCLOSURE OF RETURNS OF PRESI-
8 DENTS.—

9 “(i) IN GENERAL.—The Secretary
10 shall, upon written request from the Direc-
11 tor of the Office of Government Ethics
12 pursuant to section 102A(b)(1)(B) of the
13 Ethics in Government Act of 1978, provide
14 to officers and employees of the Office of
15 Government Ethics a copy of any income
16 tax return of the President which is re-
17 quired to be filed under section 102A of
18 such Act.

19 “(ii) DISCLOSURE TO PUBLIC.—The
20 Director of the Office of Government Eth-
21 ics may disclose to the public the income
22 tax return of any President which is re-
23 quired to be filed with the Director pursu-
24 ant to section 102A of the Ethics in Gov-
25 ernment Act of 1978.

1 “(B) DISCLOSURE OF RETURNS OF CER-
2 TAIN CANDIDATES FOR PRESIDENT.—

3 “(i) IN GENERAL.—The Secretary
4 shall, upon written request from the Chair-
5 man of the Federal Election Commission
6 pursuant to section 102A(b)(2)(B) of the
7 Ethics in Government Act of 1978, provide
8 to officers and employees of the Federal
9 Election Commission copies of the applica-
10 ble returns of any person who has been
11 nominated as a candidate of a major party
12 (as defined in section 9002(a)) for the of-
13 fice of President.

14 “(ii) DISCLOSURE TO PUBLIC.—The
15 Federal Election Commission may disclose
16 to the public applicable returns of any per-
17 son who has been nominated as a can-
18 didate of a major party (as defined in sec-
19 tion 9002(6)) for the office of President
20 and which is required to be filed with the
21 Commission pursuant to section 102A of
22 the Ethics in Government Act.

23 “(C) APPLICABLE RETURNS.—For pur-
24 poses of this paragraph, the term ‘applicable re-
25 turns’ means, with respect to any candidate for

1 the office of President, income tax returns for
2 the 3 most recent taxable years for which a re-
3 turn has been filed as of the date of the nomi-
4 nation.”.

5 (2) CONFORMING AMENDMENTS.—Section
6 6103(p)(4) of such Code, in the matter preceding
7 subparagraph (A) and in subparagraph (F)(ii), is
8 amended by striking “or (22)” and inserting “(22),
9 or (23)” each place it appears.

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

11 It is the sense of Congress that a violation of section
12 2 of this Act or the Ethics in Government Act of 1978
13 (5 U.S.C. App.) by the President or the Vice President
14 would constitute a high crime or misdemeanor under arti-
15 cle II, section 4 of the Constitution of the United States.

16 **SEC. 7. RULE OF CONSTRUCTION.**

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

20 **SEC. 8. SEVERABILITY.**

21 If any provision of this Act or any amendment made
22 by this Act, or any application of such provision or amend-
23 ment to any person or circumstance, is held to be uncon-
24 stitutional, the remainder of the provisions of this Act and
25 the amendments made by this Act, and the application of

- 1 the provision or amendment to any other person or cir-
- 2 cumstance, shall not be affected.

○