

116TH CONGRESS
1ST SESSION

H. R. 765

To prohibit congressional recesses until Congress adopts a concurrent resolution on the budget that results in a balanced Federal budget by the last fiscal year covered by such resolution, to establish a 5-year ban on individuals appointed to Executive Schedule positions and Members of Congress engaging in lobbying activities at the Federal level, to provide for the termination of further retirement coverage for Members of Congress under the Federal Employees Retirement System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2019

Mr. GALLAGHER (for himself and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on the Budget, Rules, Oversight and Reform, and House Administration, 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 prohibit congressional recesses until Congress adopts a concurrent resolution on the budget that results in a balanced Federal budget by the last fiscal year covered by such resolution, to establish a 5-year ban on individuals appointed to Executive Schedule positions and Members of Congress engaging in lobbying activities at the Federal level, to provide for the termination of further retirement coverage for Members of Congress under the

Federal Employees Retirement System, and for other purposes.

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 “Serve the People, Not
 5 the Swamp Act”.

6 **SEC. 2. HOUSE AND SENATE APPROVAL OF REGULAR AP-**
 7 **PROPRIATION BILLS.**

8 Section 312 of the Congressional Budget Act of 1974
 9 is amended by adding at the end the following new sub-
 10 sections:

11 “(g) HOUSE AND SENATE APPROVAL OF REGULAR
 12 APPROPRIATION BILLS.—

13 “(1) POINT OF ORDER IN THE HOUSE OF REP-
 14 REPRESENTATIVES AGAINST ADJOURNING IN AUGUST
 15 UNTIL HOUSE PASSAGE OF ALL APPROPRIATION
 16 BILLS.—It shall not be in order in the House of
 17 Representatives to consider any resolution providing
 18 for an adjournment period of more than three cal-
 19 endar days during the month of August until the
 20 House of Representatives has approved annual ap-
 21 propriation bills providing new budget authority
 22 under the jurisdiction of all the subcommittees of
 23 the Committee on Appropriations of the House of

1 Representatives for the fiscal year beginning on Oc-
2 tober 1 of such year.

3 “(2) POINTS OF ORDER IN THE HOUSE OF REP-
4 REPRESENTATIVES AND SENATE AGAINST ADJOURNING
5 UNTIL HOUSE AND SENATE PASSAGE OF ALL APPRO-
6 PRIATION BILLS.—Beginning on October 1 of a ses-
7 sion of Congress and during the duration of that
8 session, it shall not be in order in the House of Rep-
9 resentatives or the Senate to consider any resolution
10 providing for an adjournment period of more than
11 three calendar days for the duration of that session
12 until the annual appropriation bills providing new
13 budget authority under the jurisdiction of all the
14 subcommittees of the Committees on Appropriations
15 of the House of Representatives and the Senate for
16 the fiscal year beginning on October 1 of such year
17 have been presented to the President under section
18 7 of article I of the Constitution.

19 “(h) NO CONGRESSIONAL RECESSES.—Neither the
20 Senate nor the House of Representatives may recess or
21 stand adjourned for a period of longer than 24 hours dur-
22 ing any calendar year unless and until Congress has
23 agreed to a concurrent resolution on the budget for the
24 fiscal year beginning on October 1 of that calendar year
25 which concurrent resolution projects a balanced budget for

1 the Government by the last fiscal year covered by that con-
2 current resolution.”.

3 **SEC. 3. 5-YEAR BAN ON LOBBYING BY INDIVIDUALS AP-**
4 **POINTED TO EXECUTIVE SCHEDULE POSI-**
5 **TIONS AND MEMBERS OF CONGRESS.**

6 (a) INDIVIDUALS APPOINTED TO EXECUTIVE SCHED-
7 ULE POSITIONS.—

8 (1) IN GENERAL.—Section 207(d) of title 18,
9 United States Code, is amended to read as follows:

10 “(d) RESTRICTIONS ON VERY SENIOR PERSONNEL
11 OF THE EXECUTIVE BRANCH AND INDEPENDENT AGEN-
12 CIES.—

13 “(1) VICE PRESIDENT.—

14 “(A) RESTRICTIONS.—In addition to the
15 restrictions set forth in subsections (a) and (b),
16 any person who serves in the position of Vice
17 President of the United States and who, within
18 2 years after the termination of that person’s
19 service in that position, knowingly makes, with
20 the intent to influence, any communication to
21 or appearance before any person described in
22 subparagraph (B), on behalf of any other per-
23 son (except the United States), in connection
24 with any matter on which such person seeks of-
25 ficial action by any officer or employee of the

1 executive branch of the United States, shall be
2 punished as provided in section 216 of this title.

3 “(B) PERSONS WHO MAY NOT BE CON-
4 TACTED.—A person described in this subpara-
5 graph is—

6 “(i) any officer or employee of any de-
7 partment or agency in which the Vice
8 President served within a period of 1 year
9 before the Vice President’s service or em-
10 ployment with the United States Govern-
11 ment terminated; and

12 “(ii) any person appointed to a posi-
13 tion in the executive branch which is listed
14 in section 5312, 5313, 5314, 5315, or
15 5316 of title 5.

16 “(2) FIVE-YEAR RESTRICTION ON INDIVIDUALS
17 IN EXECUTIVE SCHEDULE AND EQUIVALENT POSI-
18 TIONS.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraphs (B) and (C), and in addition to
21 the restrictions set forth in subsections (a) and
22 (b), any individual employed in a position in the
23 executive branch for which the rate of pay is
24 the rate of pay payable for any level of the Ex-
25 ecutive Schedule under subchapter II of chapter

1 53 of title 5 who, within 5 years after the ter-
2 mination of his or her service or employment in
3 such position, knowingly makes, with the intent
4 to influence, any communication to or appear-
5 ance before any officer or employee of any de-
6 partment or agency in the executive branch, on
7 behalf of any other person (except the United
8 States), in connection with any matter on which
9 such person seeks official action by any officer
10 or employee of such department or agency, shall
11 be punished as provided in section 216 of this
12 title.

13 “(B) SPECIAL GOVERNMENT EMPLOY-
14 EES.—Subparagraph (A) shall not apply to a
15 special Government employee who serves less
16 than 60 days in the 1-year period before his or
17 her service or employment as such employee
18 terminates.

19 “(C) WAIVER.—

20 “(i) AUTHORITY.—Except as provided
21 in clause (ii), at the request of a depart-
22 ment or agency, the Director of the Office
23 of Government Ethics may waive the re-
24 strictions under subparagraph (A) with re-

1 spect to a position, or a category of posi-
2 tions, if the Director determines that—

3 “(I) the imposition of the restric-
4 tions with respect to the position, or
5 category of positions, would create an
6 undue hardship on the department or
7 agency in obtaining qualified per-
8 sonnel to fill the position, or category
9 of positions; and

10 “(II) granting the waiver would
11 not create the potential for use of
12 undue influence or unfair advantage.

13 “(ii) EXCLUDED POSITIONS.—The Di-
14 rector of the Office of Government Ethics
15 may not waive the restrictions under sub-
16 paragraph (A) with respect to—

17 “(I) a position in the executive
18 branch (including any independent
19 agency) for which the rate of pay is
20 the rate of pay payable for level I of
21 the Executive Schedule; or

22 “(II) a position in the Executive
23 Office of the President for which the
24 rate of pay is the rate of pay for level
25 II of the Executive Schedule.”.

1 (2) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—Section 207 of title 18, United States
3 Code, is amended—

4 (A) in subsection (c)(2)—

5 (i) in subparagraph (A)—

6 (I) by striking clauses (i) and

7 (iii);

8 (II) by redesignating clauses (ii),

9 (iv), and (v) as clauses (i), (ii), and

10 (iii), respectively; and

11 (III) in clause (i), as so redesign-

12 nated—

13 (aa) by striking “which is

14 not referred to in clause (i)” the

15 first place it appears and insert-

16 ing “for which the rate of pay is

17 not specified in or fixed accord-

18 ing to subchapter II of chapter

19 53 of title 5”; and

20 (bb) by striking “, or, for a

21 period of 2 years” and all that

22 follows through the end of clause

23 (i) and inserting a comma; and

24 (ii) in subparagraph (C), in the mat-

25 ter preceding clause (i), by striking “clause

1 (ii) or (iv)” and inserting “clause (i) or
2 (ii)”;

3 (B) in subsection (h)(2), by striking the
4 second sentence.

5 (b) MEMBERS OF CONGRESS.—Section 207(e)(1) of
6 title 18, United States Code, is amended—

7 (1) in subparagraph (A), by striking “2 years”
8 and inserting “5 years”; and

9 (2) in subparagraph (B)(i), by striking “Any
10 person who is a Member of the House of Represent-
11 atives or an elected officer of the House of Rep-
12 resentatives and who, within 1 year after that per-
13 son leaves office,” and inserting “Any person who is
14 a Member of the House of Representatives and who,
15 within 5 years after that person leaves office, or any
16 person who is an elected officer of the House of Rep-
17 resentatives and who, within 1 year after that per-
18 son leaves office,”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this Act shall apply with respect to any individual who,
21 on or after the date of the enactment of this Act, leaves
22 a position to which section 207 of title 18, United States
23 Code, applies (as amended by this Act).

1 **SEC. 4. TERMINATION OF RETIREMENT COVERAGE OF**
2 **MEMBERS OF CONGRESS UNDER FEDERAL**
3 **EMPLOYEES RETIREMENT SYSTEM.**

4 (a) IN GENERAL.—Subchapter II of chapter 84 of
5 title 5, United States Code, is amended by inserting after
6 section 8425 the following:

7 **“§ 8425a. Termination of further retirement coverage**
8 **of Members of Congress**

9 “(a) IN GENERAL.—Notwithstanding any other pro-
10 vision of this chapter, effective as of the date of enactment
11 of this section—

12 “(1) subject to subsection (f), in the case of an
13 individual who first becomes a Member before such
14 date of enactment—

15 “(A) such Member shall not be subject to
16 this chapter for any further period of time after
17 such date of enactment; and

18 “(B) no further Government contributions
19 or deductions from basic pay may be made with
20 respect to such Member for deposit in the
21 Treasury of the United States to the credit of
22 the Fund; and

23 “(2) in the case of an individual who first be-
24 comes a Member on or after such date of enact-
25 ment—

1 “(A) such Member shall not be subject to
2 this chapter; and

3 “(B) no Government contributions or de-
4 ductions from basic pay may be made with re-
5 spect to such Member for deposit in the Treas-
6 ury of the United States to the credit of the
7 Fund.

8 “(b) PRIOR RIGHTS NOT AFFECTED.—Nothing in
9 subsection (a) shall be considered to nullify, modify, or
10 otherwise affect any right, entitlement, or benefit under
11 this chapter with respect to any Member covering any pe-
12 riod prior to the date of enactment of this section.

13 “(c) RIGHT TO PARTICIPATE IN THRIFT SAVINGS
14 PLAN NOT AFFECTED.—Nothing in subsection (a) or (b)
15 shall affect the eligibility of a Member to participate in
16 the Thrift Savings Plan in accordance with otherwise ap-
17 plicable provisions of law.

18 “(d) REGULATIONS.—

19 “(1) IN GENERAL.—Any regulations necessary
20 to carry out this section may—

21 “(A) except with respect to matters under
22 subparagraph (B), be prescribed by the Direc-
23 tor of the Office of Personnel Management; and

24 “(B) with respect to matters relating to
25 the Thrift Savings Plan, be prescribed by the

1 Executive Director (as defined by section
2 8401(13)).

3 “(2) REFUNDS.—Notwithstanding subsection
4 (b), the regulations under paragraph (1)(A) shall, in
5 the case of a Member who has not completed at
6 least 5 years of civilian service as of the date of en-
7 actment of this section, provide that the lump-sum
8 credit shall be payable to such Member to the same
9 extent and in the same manner as if such Member
10 satisfied paragraphs (1) through (4) of section
11 8424(a) as of such date of enactment.

12 “(e) EXCLUSIONS.—For purposes of this section, the
13 term ‘Member’ does not include the Vice President.

14 “(f) OPT-IN FOR MEMBERS.—Not later than 90 days
15 after the date of enactment of this section, a Member cov-
16 ered by this chapter as of such date may elect, by giving
17 notice in writing to the official by whom such Member is
18 paid, to remain subject to this chapter.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of chapter 84 of title 5, United States
21 Code, is amended by inserting after the item relating to
22 section 8425 the following:

“8425a. Termination of further retirement coverage of Members of Congress.”.

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