

118TH CONGRESS  
2D SESSION

# S. 4232

To amend title 18, United States Code, to prohibit former employees of covered health agencies from serving on the board of entities involved in development and research of a drug, biological product, or device and from profiting from a drug, biological product, or device, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MAY 1, 2024

Mr. VANCE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to prohibit former employees of covered health agencies from serving on the board of entities involved in development and research of a drug, biological product, or device and from profiting from a drug, biological product, or device, 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 “Fixing Administrations  
5 Unethical Corrupt Influence Act” or the “FAUCI Act”.

1 **SEC. 2. PROHIBITION AGAINST SERVICE BY FORMER EM-**  
 2 **PLOYEES OF COVERED HEALTH AGENCIES**  
 3 **ON BOARDS OF ENTITIES INVOLVED IN DE-**  
 4 **VELOPMENT AND RESEARCH OF A DRUG, BI-**  
 5 **OLOGICAL PRODUCT, OR DEVICE.**

6 (a) PROHIBITION AGAINST SERVICE ON BOARDS OF  
 7 ENTITIES.—Title 18, United States Code, is amended by  
 8 inserting after section 207 the following:

9 **“§ 207A. Prohibition against service by former em-**  
 10 **ployees of covered health agencies on**  
 11 **boards of entities involved in develop-**  
 12 **ment and research of a drug, biological**  
 13 **product, or device.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) BIOLOGICAL PRODUCT.—The term ‘bio-  
 16 logical product’ has the meaning given such term in  
 17 section 351(i) of the Public Health Service Act (42  
 18 U.S.C. 262(i)).

19 “(2) COVERED HEALTH AGENCY.—The term  
 20 ‘covered health agency’ means any of the following:

21 “(A) The National Institutes of Health.

22 “(B) The Food and Drug Administration.

23 “(C) The Centers for Disease Control and  
 24 Prevention.

25 “(3) DEVICE; DRUG.—The terms ‘device’ and  
 26 ‘drug’ have the meanings given those terms in sec-

1 tion 201 of the Federal Food, Drug, and Cosmetic  
2 Act (21 U.S.C. 321).

3 “(4) TOP OFFICIAL.—The term ‘top official’  
4 means—

5 “(A) any officer or employee in the execu-  
6 tive branch who occupies a position classified at  
7 or above GS–13 of the General Schedule or, in  
8 the case of any position not under the General  
9 Schedule, for which the rate of basic pay is  
10 equal to or greater than the minimum rate of  
11 basic pay payable for GS–13 of the General  
12 Schedule; or

13 “(B) any employee of the Federal Govern-  
14 ment who directly or indirectly has input or any  
15 authority to determine or help determine the  
16 authorization for use or emergency use author-  
17 ization of a drug, biological product, or device.

18 “(b) PROHIBITION AGAINST SERVICE BY FORMER  
19 EMPLOYEES OF COVERED HEALTH AGENCIES ON  
20 BOARDS OF ENTITIES INVOLVED IN DEVELOPMENT AND  
21 RESEARCH OF A DRUG, BIOLOGICAL PRODUCT, OR DE-  
22 VICE.—Any person who is a top official of a covered health  
23 agency of the United States, and who, within 8 years after  
24 the termination of the service or employment of the top  
25 official with the United States, serves as an officer or

1 member of the board of any association, corporation, or  
 2 entity that directly manufactures or researches a drug, bi-  
 3 ological product, or device shall be punished as provided  
 4 in section 216 of this title.

5       “(c) PROHIBITION AGAINST PROFITING FROM A  
 6 DRUG, BIOLOGICAL PRODUCT, OR DEVICE BY FORMER  
 7 EMPLOYEES OF COVERED HEALTH AGENCIES INVOLVED  
 8 IN THE APPROVAL OF RELATED GRANT APPLICATIONS.—  
 9 Any person who is a former Federal employee of a covered  
 10 health agency who profits from a drug, biological product,  
 11 or device if such employee at any point during the course  
 12 of service or employment with the United States was di-  
 13 rectly involved in determining whether a grant application  
 14 for such drug, biological product, or device was approved  
 15 shall be subject to a civil penalty of \$250,000 and impris-  
 16 oned for not more than five years nor less than one year.”.

17       (b) PENALTIES AND INJUNCTIONS.—Section 216(a)  
 18 of title 18, United States Code, is amended, in the matter  
 19 preceding paragraph (1), by inserting “207A,” after  
 20 “207,”.

21       (c) TABLE OF CHAPTERS.—Chapter of 11 of title 18,  
 22 United States Code, is amended by inserting after the  
 23 item relating to section 207 the following:

“Sec. 207A. Prohibition against service by former employees of covered health agencies on boards of entities involved in development and research of a drug, biological product, or device.”.

1 (d) EFFECTIVE DATE.—Except as provided in sub-  
 2 section (d), the amendments made by this section shall  
 3 apply with respect to an individual whose service or em-  
 4 ployment with the United States terminates on or after  
 5 the date of the enactment of this Act.

6 (e) SPECIAL RULE FOR CERTAIN FORMER FEDERAL  
 7 EMPLOYEES OF COVERED HEALTH AGENCIES.—

8 (1) APPLICATION.—Section 207A(c) of title 18,  
 9 United States Code, as added by subsection (a),  
 10 shall apply to an individual who at any point served  
 11 or was employed with the United States.

12 (2) COMPLIANCE PERIOD.—With respect to the  
 13 prohibition under section 207A(c) of title 18, United  
 14 States Code, as added by subsection (a), the compli-  
 15 ance period for a former Federal employee whose  
 16 service or employment with the United States termi-  
 17 nated prior to the date of enactment of this Act  
 18 shall be 6 months from such date of enactment.

19 **SEC. 3. PROHIBITION AGAINST OWNERSHIP OR FINANCIAL**  
 20 **INTEREST IN CERTAIN PATENTS.**

21 Section 208 of title 18 is amended by adding at the  
 22 end the following:

23 “(e) PROHIBITION AGAINST OWNERSHIP OR FINAN-  
 24 CIAL INTEREST IN CERTAIN PATENTS.—

25 “(1) DEFINITIONS.—In this subsection:

1           “(A) BIOLOGICAL PRODUCT.—The term  
2           ‘biological product’ has the meaning given such  
3           term in section 351(i) of the Public Health  
4           Service Act (42 U.S.C. 262(i)).

5           “(B) COVERED PATENT.—The term ‘cov-  
6           ered patent’ means a patent issued by the  
7           United States for a drug, biological product, or  
8           device.

9           “(C) DEVICE; DRUG.—The terms ‘device’  
10          and ‘drug’ have the meanings given those terms  
11          in section 201 of the Federal Food, Drug, and  
12          Cosmetic Act (21 U.S.C. 321).

13          “(D) TOP OFFICIAL.—The term ‘top offi-  
14          cial’ means—

15                 “(i) each officer or employee in the  
16                 executive branch who occupies a position  
17                 classified at or above GS–13 of the Gen-  
18                 eral Schedule or, in the case of any posi-  
19                 tion not under the General Schedule, for  
20                 which the rate of basic pay is equal to or  
21                 greater than the minimum rate of basic  
22                 pay payable for GS–13 of the General  
23                 Schedule; or

24                 “(ii) any employee of the Federal  
25                 Government who directly or indirectly has

1           input or any authority to determine or help  
2           determine the authorization for use or  
3           emergency use authorization of a drug, bi-  
4           ological product, or device.

5           “(2) IN GENERAL.—A person who is a top offi-  
6           cial may not submit an application for a covered  
7           patent (or be included in the application for a cov-  
8           ered patent)—

9           “(A) in the case of a drug, biological prod-  
10          uct, or device invented by the person during the  
11          course of employment as a top official, at any  
12          point during employment as a top official; and

13          “(B) in the case of a drug, biological prod-  
14          uct, or device invented by the person outside  
15          the course of employment as a top official, at  
16          any point during employment as a top official.

17          “(3) DISCLOSURE.—

18          “(A) REQUIREMENT AS OF DATE OF EN-  
19          ACTMENT OF THE FAUCI ACT.—A person who is  
20          a top official or a spouse of a top official on the  
21          date of enactment of the FAUCI Act shall dis-  
22          close not later than 180 days after the date of  
23          enactment of such Act any ownership of, or any  
24          rights or interest in, a covered patent.

1           “(B) REQUIREMENT AFTER DATE OF EN-  
2           ACTMENT OF THE FAUCI ACT.—A person who is  
3           a top official or a spouse of a top official after  
4           the date of enactment of the FAUCI Act shall  
5           disclose not later than 90 days after becoming  
6           a top official or the spouse of a top official any  
7           ownership of, or any rights or interest in, a cov-  
8           ered patent.”.

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