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(Original Signature of Member)

117TH CONGRESS
1ST SESSION

H. R. _____

To amend the Ethics in Government Act of 1978 to require senior Executive branch employees to sign an ethics pledge, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SCHNEIDER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Ethics in Government Act of 1978 to require senior Executive branch employees to sign an ethics pledge, 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 “Ethics in Public Serv-
5 ice Act”.

1 **SEC. 2. ETHICS PLEDGE REQUIREMENT FOR SENIOR EXEC-**
2 **UTIVE BRANCH EMPLOYEES.**

3 The Ethics in Government Act of 1978 (5 U.S.C.
4 App. 101 et seq.) is amended by inserting after title I the
5 following new title:

6 **“TITLE II—ETHICS PLEDGE**

7 **“SEC. 201. DEFINITIONS.**

8 “For the purposes of this title, the following defini-
9 tions apply:

10 “(1) The term ‘executive agency’ has the mean-
11 ing given that term in section 105 of title 5, United
12 States Code, and includes the Executive Office of
13 the President, the United States Postal Service, and
14 Postal Regulatory Commission, but does not include
15 the Government Accountability Office.

16 “(2) The term ‘appointee’ means any noncareer
17 Presidential or Vice-Presidential appointee, non-
18 career appointee in the Senior Executive Service (or
19 other SES-type system), or appointee to a position
20 that has been excepted from the competitive service
21 by reason of being of a confidential or policymaking
22 character (Schedule C and other positions excepted
23 under comparable criteria) in an executive agency,
24 but does not include any individual appointed as a
25 member of the Senior Foreign Service or solely as
26 a uniformed service commissioned officer.

1 “(3) The term ‘gift’—

2 “(A) has the meaning given that term in
3 section 2635.203(b) of title 5, Code of Federal
4 Regulations (or any successor regulation); and

5 “(B) does not include those items excluded
6 by sections 2635.204(b), (c), (e)(1), (e)(3), (j),
7 (k), and (l) of such title 5.

8 “(4) The term ‘covered executive branch offi-
9 cial’ and ‘lobbyist’ have the meanings given those
10 terms in section 3 of the Lobbying Disclosure Act of
11 1995 (2 U.S.C. 1602).

12 “(5) The term ‘registered lobbyist or lobbying
13 organization’ means a lobbyist or an organization fil-
14 ing a registration pursuant to section 4(a) of the
15 Lobbying Disclosure Act of 1995 (2 U.S.C.
16 1603(a)), and in the case of an organization filing
17 such a registration, ‘registered lobbyist’ includes
18 each of the lobbyists identified therein.

19 “(6) The term ‘lobby’ and ‘lobbied’ mean to act
20 or have acted as a registered lobbyist.

21 “(7) The term ‘former employer’—

22 “(A) means a person or entity for whom
23 an appointee served as an employee, officer, di-
24 rector, trustee, partner, agent, attorney, con-
25 sultant, or contractor during the 2-year period

1 ending on the date before the date on which the
2 covered employee begins service in the Federal
3 Government; and

4 “(B) does not include—

5 “(i) an agency or instrumentality of
6 the Federal Government;

7 “(ii) a State or local government;

8 “(iii) the District of Columbia;

9 “(iv) an Indian tribe, as defined in
10 section 4 of the Indian Self-Determination
11 and Education Assistance Act (25 U.S.C.
12 5304); or

13 “(v) the government of a territory or
14 possession of the United States.

15 “(8) The term ‘former client’ means a person
16 or entity for whom an appointee served personally as
17 agent, attorney, or consultant during the 2-year pe-
18 riod ending on the date before the date on which the
19 covered employee begins service in the Federal Gov-
20 ernment, but does not include an agency or instru-
21 mentality of the Federal Government;

22 “(9) The term ‘directly and substantially re-
23 lated to my former employer or former clients’
24 means matters in which the appointee’s former em-

1 ployer or a former client is a party or represents a
2 party.

3 “(10) The term ‘participate’ means to partici-
4 pate personally and substantially.

5 “(11) The term ‘post-employment restrictions’
6 includes the provisions and exceptions in section
7 207(c) of title 18, United States Code, and the im-
8 plementing regulations.

9 “(12) The term ‘Government official’ means
10 any employee of the executive branch.

11 “(13) The term ‘Administration’ means all
12 terms of office of the incumbent President serving at
13 the time of the appointment of an appointee covered
14 by this title.

15 “(14) The term ‘pledge’ means the ethics
16 pledge set forth in section 202 of this title.

17 “(15) All references to provisions of law and
18 regulations shall refer to such provisions as in effect
19 on the date of enactment of this title.

20 **“SEC. 202. ETHICS PLEDGE.**

21 “Each appointee in every executive agency appointed
22 on or after the date of enactment of this section shall be
23 required to sign an ethics pledge upon appointment. The
24 pledge shall be signed and dated within 30 days of taking

1 office and shall include, at a minimum, the following ele-
2 ments:

3 “‘As a condition, and in consideration, of my employ-
4 ment in the United States Government in a position in-
5 vested with the public trust, I commit myself to the fol-
6 lowing obligations, which I understand are binding on me
7 and are enforceable under law:

8 “(1) Lobbyist Gift Ban.—I will not accept
9 gifts from registered lobbyists or lobbying organiza-
10 tions for the duration of my service as an appointee.

11 “(2) Revolving Door Ban; Entering Govern-
12 ment.—

13 “(A) All Appointees Entering Govern-
14 ment.—I will not, for a period of 2 years from
15 the date of my appointment, participate in any
16 particular matter involving specific party or
17 parties that is directly and substantially related
18 to my former employer or former clients, in-
19 cluding regulations and contracts.

20 “(B) Lobbyists Entering Government.—If
21 I was a registered lobbyist within the 2 years
22 before the date of my appointment, in addition
23 to abiding by the limitations of subparagraph
24 (A), I will not for a period of 2 years after the
25 date of my appointment:

1 “(i) participate in any particular
2 matter on which I lobbied within the 2
3 years before the date of my appointment;

4 “(ii) participate in the specific issue
5 area in which that particular matter falls;
6 or

7 “(iii) seek or accept employment with
8 any executive agency that I lobbied within
9 the 2 years before the date of my appoint-
10 ment.

11 “(3) Revolving Door Ban; Appointees Leaving
12 Government.—

13 “(A) All Appointees Leaving Govern-
14 ment.—If, upon my departure from the Govern-
15 ment, I am covered by the post-employment re-
16 strictions on communicating with employees of
17 my former executive agency set forth in section
18 207(c) of title 18, United States Code, I agree
19 that I will abide by those restrictions for a pe-
20 riod of 2 years following the end of my appoint-
21 ment.

22 “(B) Appointees Leaving Government to
23 Lobby.—In addition to abiding by the limita-
24 tions of subparagraph (A), I also agree, upon
25 leaving Government service, not to lobby any

1 covered executive branch official or noncareer
2 Senior Executive Service appointee for the re-
3 mainder of the Administration.

4 ““(4) Employment Qualification Commit-
5 ment.—I agree that any hiring or other employment
6 decisions I make will be based on the candidate’s
7 qualifications, competence, and experience.

8 ““(5) Assent to Enforcement.—I acknowledge
9 that title II of the Ethics in Government Act of
10 1978, which I have read before signing this docu-
11 ment, defines certain of the terms applicable to the
12 foregoing obligations and sets forth the methods for
13 enforcing them. I expressly accept the provisions of
14 that title as a part of this agreement and as binding
15 on me. I understand that the terms of this pledge
16 are in addition to any statutory or other legal re-
17 strictions applicable to me by virtue of Federal Gov-
18 ernment service.’”.

19 **“SEC. 203. WAIVER.**

20 ““(a) The President or the President’s designee may
21 grant to any current or former appointee a written waiver
22 of any restrictions contained in the pledge signed by such
23 appointee if, and to the extent that, the President or the
24 President’s designee certifies (in writing) that, in light of
25 all the relevant circumstances, the interest of the Federal

1 Government in the employee's participation outweighs the
2 concern that a reasonable person may question the integ-
3 rity of the agency's programs or operations.

4 “(b) Any waiver under this section shall take effect
5 when the certification is signed by the President or the
6 President's designee.

7 “(c) For purposes of subsection (a)(2), the public in-
8 terest shall include exigent circumstances relating to na-
9 tional security or to the economy. De minimis contact with
10 an executive agency shall be cause for a waiver of the re-
11 strictions contained in paragraph (2)(B) of the pledge.

12 “(d) For any waiver granted under this section, the
13 individual who granted the waiver shall—

14 “(1) provide a copy of the waiver to the Direc-
15 tor not more than 48 hours after the waiver is
16 granted; and

17 “(2) publish the waiver on the website of the
18 applicable agency not later than 30 calendar days
19 after granting such waiver.

20 “(e) Upon receiving a written waiver under sub-
21 section (d), the Director shall—

22 “(1) review the waiver to determine whether the
23 Director has any objection to the issuance of the
24 waiver; and

25 “(2) if the Director so objects—

1 “(A) provide reasons for the objection in
2 writing to the head of the agency who granted
3 the waiver not more than 15 calendar days
4 after the waiver was granted; and

5 “(B) publish the written objection on the
6 website of the Office of Government Ethics not
7 more than 30 calendar days after the waiver
8 was granted.

9 **“SEC. 204. ADMINISTRATION.**

10 “(a) The head of each executive agency shall, in con-
11 sultation with the Director of the Office of Government
12 Ethics, establish such rules or procedures (conforming as
13 nearly as practicable to the agency’s general ethics rules
14 and procedures, including those relating to designated
15 agency ethics officers) as are necessary or appropriate to
16 ensure—

17 “(1) that every appointee in the agency signs
18 the pledge upon assuming the appointed office or
19 otherwise becoming an appointee;

20 “(2) that compliance with paragraph (2)(B) of
21 the pledge is addressed in a written ethics agree-
22 ment with each appointee to whom it applies;

23 “(3) that spousal employment issues and other
24 conflicts not expressly addressed by the pledge are
25 addressed in ethics agreements with appointees or,

1 where no such agreements are required, through eth-
2 ics counseling; and

3 “(4) compliance with this title within the agen-
4 cy.

5 “(b) With respect to the Executive Office of the
6 President, the duties set forth in subsection (a) shall be
7 the responsibility of the Counsel to the President.

8 “(c) The Director of the Office of Government Ethics
9 shall—

10 “(1) ensure that the pledge and a copy of this
11 title are made available for use by agencies in ful-
12 filling their duties under subsection (a);

13 “(2) in consultation with the Attorney General
14 or the Counsel to the President, when appropriate,
15 assist designated agency ethics officers in providing
16 advice to current or former appointees regarding the
17 application of the pledge;

18 “(3) adopt such rules or procedures as are nec-
19 essary or appropriate—

20 “(A) to carry out the responsibilities as-
21 signed by this subsection;

22 “(B) to apply the lobbyist gift ban set
23 forth in paragraph 1 of the pledge to all execu-
24 tive branch employees;

1 “(C) to authorize limited exceptions to the
2 lobbyist gift ban for circumstances that do not
3 implicate the purposes of the ban;

4 “(D) to make clear that no person shall
5 have violated the lobbyist gift ban if the person
6 properly disposes of a gift;

7 “(E) to ensure that existing rules and pro-
8 cedures for Government employees engaged in
9 negotiations for future employment with private
10 businesses that are affected by their official ac-
11 tions do not affect the integrity of the Govern-
12 ment’s programs and operations; and

13 “(F) to ensure, in consultation with the
14 Director of the Office of Personnel Manage-
15 ment, that the requirement set forth in para-
16 graph (4) of the pledge is honored by every em-
17 ployee of the executive branch;

18 “(4) in consultation with the Director of the
19 Office of Management and Budget, report to the
20 President, the Committee on Oversight and Reform
21 of the House of Representatives, and the Committee
22 on Homeland Security and Governmental Affairs of
23 the Senate on whether full compliance is being
24 achieved with existing laws and regulations gov-
25 erning executive branch procurement lobbying disclo-

1 sure and on steps the executive branch can take to
2 expand to the fullest extent practicable disclosure of
3 such executive branch procurement lobbying and of
4 lobbying for presidential pardons, and to include in
5 the report both immediate action the executive
6 branch can take and, if necessary, recommendations
7 for legislation; and

8 “(5) provide an annual public report on the ad-
9 ministration of the pledge and this title.

10 “(d) All pledges signed by appointees, and all waiver
11 certifications with respect thereto, shall be filed with the
12 head of the appointee’s agency for permanent retention
13 in the appointee’s official personnel folder or equivalent
14 folder.”.