

118TH CONGRESS
1ST SESSION

H. R. 3642

To require the Office of Government Ethics to establish and maintain a centralized database for executive branch ethics records of noncareer appointees.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2023

Mr. LANGWORTHY (for himself, Ms. TOKUDA, Mr. BUCK, Mrs. MILLER of Illinois, Mr. ALFORD, Mr. GROTHMAN, Mr. WILLIAMS of New York, Mr. EDWARDS, Mr. HIGGINS of Louisiana, and Mr. TIMMONS) introduced the following bill; which was referred to the Committee on Oversight and Accountability

A BILL

To require the Office of Government Ethics to establish and maintain a centralized database for executive branch ethics records of noncareer appointees.

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 “Executive Branch Ac-
5 countability and Transparency Act”.

1 **SEC. 2. CENTRALIZED DATABASE FOR PUBLICLY AVAIL-**
2 **ABLE GOVERNMENT ETHICS RECORDS.**

3 (a) ESTABLISHMENT.—Not later than 210 days after
4 the date of enactment of this Act, the Director of the Of-
5 fice of Government Ethics shall establish a searchable,
6 sortable database through which members of the public
7 can access covered ethics records.

8 (b) SPECIFICATIONS OF DATABASE.—The database
9 under subsection (a) shall be—

10 (1) hosted on a official website of the Office of
11 Government Ethics without charge and without a re-
12 quirement that members of the public register for
13 access;

14 (2) accessible through an application program-
15 ming interface; and

16 (3) fully compliant with—

17 (A) section 508 of the Rehabilitation Act
18 of 1973 (29 U.S.C. 794d); and

19 (B) the most recent Web Content Accessi-
20 bility Guidelines (or successor guidelines).

21 (c) APPLICABILITY OF OTHER INSPECTION PROCE-
22 DURES.—In establishing the database under subsection
23 (a), the Director of the Office of Government Ethics may
24 not apply the inspection procedures established in section
25 13107(b) of title 5, United States Code, to any procedures
26 concerning the accessibility of covered ethics records.

1 (d) AGENCY COOPERATION.—

2 (1) SUBMISSION OF ELECTRONIC COVERED
3 ETHICS RECORDS.—Except as provided in subsection
4 (g), the designated agency ethics official of each em-
5 ploying agency shall—

6 (A) not later than 60 days after the date
7 of enactment of this Act or within 60 days of
8 receipt or issuance, submit electronic copies of
9 covered ethics records, in such format and
10 through such means as the Director of the Of-
11 fice of Government Ethics may require; and

12 (B) ensure that the content of all such
13 records is machine readable and compliant with
14 the requirements of subsection (b).

15 (2) COSTS ASSOCIATED WITH COMPLIANCE.—

16 The cost of complying with the requirements of
17 paragraph (1) and uploading covered ethics records
18 to the website of the Office of Government Ethics
19 shall be the responsibility of the employing agency.

20 (e) REIMBURSABLE COSTS.—

21 (1) PERIODIC ASSESSMENT.—In consultation
22 with the Office of Management and Budget, the Di-
23 rector of the Office of Government Ethics is author-
24 ized to periodically assess from any agency a share
25 of the costs of establishing and maintaining the

1 database, provided that the total amounts assessed
2 do not exceed costs actually incurred by the Office
3 of Government Ethics, and provided further that
4 any part of the assessment attributable to the cost
5 of services of personnel of the Office of Government
6 Ethics does not exceed the cost of one full-time
7 equivalent.

8 (2) DETERMINATION AND REIMBURSEMENT.—

9 (A) DETERMINATION.—The Office of Man-
10 agement and Budget shall assist the Office of
11 Government Ethics in determining amounts to
12 assess agencies and in collecting the assess-
13 ments authorized under this subsection.

14 (B) REIMBURSEMENT.—Each agency in
15 the executive branch is authorized to reimburse
16 the Office of Government Ethics for an as-
17 sessed share of such costs.

18 (f) REDACTIONS.—Covered ethics records may not be
19 redacted except to the extent necessary to—

20 (1) ensure the exclusion of information de-
21 scribed in subsection (i)(3)(B);

22 (2) prevent the release of trade secrets or com-
23 mercial information that is privileged or confidential,
24 unless the disclosure of such information is required

1 pursuant to section 13104 of title 5, United States
2 Code; or

3 (3) prevent the release of information that, in
4 the opinion of the Director, poses an identifiable risk
5 to the safety of an individual, such as a street ad-
6 dress, the name of a minor, or a brokerage account
7 number.

8 (g) RECORDS PREDATING ESTABLISHMENT OF THE
9 DATABASE.—

10 (1) SEARCH FOR OLDER INFORMATION.—Not
11 later than 12 months after the date of enactment of
12 this Act, each employing agency shall complete a
13 search reasonably calculated to find covered ethics
14 records that were created during the 9-year period
15 preceding the date of enactment of this Act.

16 (2) INCLUDED INFORMATION AND CERTIFI-
17 CATION.—The search shall include all materials in
18 the possession of the agency's ethics office or readily
19 accessible materials in any other office within the
20 agency that the designated agency ethics official cer-
21 tifies in writing is the most likely office to possess
22 covered ethics records.

23 (3) EXCLUSION FROM SEARCH.—The agency
24 may exclude information described in subsection
25 (i)(3)(B) from the search.

1 (4) ELECTRONIC COPIES.—The agency shall
2 provide the Director of the Office of Government
3 Ethics with electronic copies of all covered ethics
4 records in a manner prescribed by the Director and
5 as required by this Act with respect to format and
6 accessibility.

7 (5) REPORT.—Not later than 30 days after the
8 completion of the search under paragraph (1), the
9 designated agency ethics official shall provide the
10 Director of the Office of Government Ethics with a
11 report that describes—

12 (A) the scope of the search and steps un-
13 dertaken to identify information;

14 (B) a copy of the certification required
15 under paragraph (2);

16 (C) the best estimate as to the complete-
17 ness of the collection of information provided to
18 the Director;

19 (D) an identification of any categories of
20 information known to the agency that the agen-
21 cy was unable to find; and

22 (E) a certification signed by the designated
23 agency ethics official affirming that the agency
24 made reasonable efforts in good faith to identify
25 and obtain covered ethics records.

1 (6) PUBLICATION.—The Director shall publish
2 the report under paragraph (5) on the official
3 website of the Office of Government Ethics.

4 (h) REMOVAL OF RECORDS FROM THE DATABASE.—
5 Notwithstanding any other law regarding the destruction
6 of records or information, all covered ethics records re-
7 quired to be included in the database shall remain publicly
8 available through the database established under this Act
9 for a period of not less than 10 years.

10 (i) DEFINITIONS.—In this section:

11 (1) AGENCY.—The term “agency” means each
12 executive agency, as defined in section 105 of title
13 5, United States Code, and each component of the
14 Executive Office of the President.

15 (2) COVERED EMPLOYEE.—

16 (A) INCLUSIONS.—The term “covered em-
17 ployee” includes the following individuals:

18 (i) Each individual who is—

19 (I) a noncareer employee; and

20 (II) is described in paragraphs
21 (3) through (8) of section 13103(f) of
22 title 5, United States Code.

23 (ii) Each individual serving in a posi-
24 tion with respect to which a determination

1 has been made under section 7511(b)(2) of
2 title 5, United States Code.

3 (iii) Each special Government em-
4 ployee, as defined in section 202(a) of title
5 18, United States Code, who is employed
6 in the Executive Office of the President,
7 other than a special government employee
8 serving solely on a Federal advisory com-
9 mittee or presidential advisory committee.

10 (iv) An individual who previously
11 served in the Federal Government in a ca-
12 pacity described in subparagraphs (A)
13 through (C) within the last 10 years.

14 (B) EXCLUSIONS.—The term “covered em-
15 ployee” excludes any individual described in
16 section 13107(a)(1) of title 5, United States
17 Code.

18 (3) COVERED ETHICS RECORD.—

19 (A) INCLUSIONS.—The term “covered eth-
20 ics record”—

21 (i) with respect to any individual,
22 means—

23 (I) each approval granted pursu-
24 ant to subsection (b) or subsection (c)

1 of section 908 of title 37, United
2 States Code; and

3 (II) each report to Congress re-
4 quired under section 908(d) of title
5 37, United States Code; and

6 (ii) with respect to a covered em-
7 ployee, means each of the following:

8 (I) Each public financial disclo-
9 sure report filed pursuant to section
10 13103 or section 13105(l) of title 5,
11 United States Code.

12 (II) Each amendment to a public
13 financial disclosure report filed pursu-
14 ant to section 13103 or section
15 13105(l) of title 5, United States
16 Code.

17 (III) Each waiver of—

18 (aa) a post-employment re-
19 striction, pursuant to subsection
20 (c)(2)(C) or subsection (k) of sec-
21 tion 207 of title 18, United
22 States Code;

23 (bb) section 208(a) of title
24 18, United States Code, that has
25 been issued pursuant to section

1 208(b)(1) of title 18, United
2 States Code;

3 (cc) a public financial diselo-
4 sure requirement, pursuant to
5 section 13103(i) of title 5,
6 United States Code;

7 (dd) the requirement to dis-
8 close a gift, pursuant to section
9 13104(a)(2)(C) of title 5, United
10 States Code; and

11 (ee) a provision of any regu-
12 lation of the Office of Govern-
13 ment Ethics, supplemental agen-
14 cy ethics regulation, or Executive
15 order pertaining to government
16 ethics.

17 (IV) Each authorization of an in-
18 dividual to participate in a matter
19 from which recusal would otherwise be
20 required under any provision of law,
21 regulation, Executive order, or policy
22 pertaining to government ethics and
23 applicable to the individual as an em-
24 ployee of the executive branch.

1 (V) Each approval or authoriza-
2 tion permitting an individual to accept
3 a gift from an outside source that
4 would otherwise be prohibited under
5 section 7353 of title 5, United States
6 Code, or any other provision of law,
7 regulation, Executive order, or policy
8 pertaining to government ethics and
9 applicable to the individual as an em-
10 ployee of the executive branch.

11 (VI) Each determination—

12 (aa) that a position may be
13 excluded from otherwise applica-
14 ble public financial disclosure re-
15 quirements, pursuant to section
16 13103(f)(5) of title 5, United
17 States Code;

18 (bb) that an employee of the
19 executive branch, or the spouse
20 or minor child of an employee of
21 the executive branch, must divest
22 a financial interest; or

23 (cc) regarding an individual
24 that is made pursuant to any
25 other provision of law, regulation,

1 Executive order, or policy per-
2 taining to government ethics and
3 applicable to the individual as an
4 employee or former employee of
5 the executive branch.

6 (VII) Each written ethics agree-
7 ment, recusal, or screening arrange-
8 ment pertaining to employment in the
9 executive branch.

10 (VIII) Each record of a presi-
11 dential appointee's completion of eth-
12 ics training required under a regula-
13 tion of the Office of Government Eth-
14 ics.

15 (IX) Each Certificate of Divesti-
16 ture issued pursuant to section 1043
17 of title 26, United States Code, and
18 each request that resulted in the
19 issuance of a Certificate of Divesti-
20 ture.

21 (X) Each qualified blind trust
22 agreement and each record described
23 in section 13104(f)(5)(D) of title 5,
24 United States Code.

1 (XI) Each record submitted pur-
2 suant to section 13103(b)(1) of title
3 5, United States Code for the purpose
4 of making current, with respect to in-
5 come and honoraria, a financial dis-
6 closure filed pursuant to that para-
7 graph.

8 (XII) Each notice submitted pur-
9 suant to section 13111 of title 5,
10 United States Code and any certifi-
11 cation by a Senate-confirmed presi-
12 dential appointee as to compliance
13 with an ethics agreement, whether
14 submitted to the employing agency,
15 the Office of Government Ethics, or
16 the Senate.

17 (XIII) Any written opinion issued
18 pursuant to section 847 of the Na-
19 tional Defense Authorization Act for
20 2008 (Public Law 110–181), except
21 that the employing agency may redact
22 the name of an individual or organiza-
23 tion with whom an individual has not
24 yet accepted an offer of employment
25 or compensation.

1 (XIV) Any notification filed pur-
2 suant to section 17 of the Stop Trad-
3 ing On Congressional Knowledge Act
4 (Public Law 112–105), except that
5 the agency may withhold the public
6 release of any such notification until
7 such time as the employee has accept-
8 ed an offer of employment or com-
9 pensation from an individual or orga-
10 nization that is the subject of the no-
11 tification.

12 (XV) Each certification made
13 pursuant to—

14 (aa) section 203(e) of title
15 18, United States Code;

16 (bb) section 205(f) of title
17 18, United States Code; or

18 (cc) section 207(j)(5) of title
19 18, United States Code.

20 (XVI) Any other category of
21 records that the Director of the Office
22 of Government Ethics determines is
23 appropriate for inclusion in the data-
24 base.

1 (B) EXCLUSIONS.—The term “covered eth-
2 ics record” excludes—

3 (i) national defense information;

4 (ii) the subject of an ongoing law en-
5 forcement matter which, in the opinion of
6 the agency, requires the information or
7 record to be kept confidential;

8 (iii) a confidential financial disclosure
9 report under section 13109 of title 5,
10 United States Code; or

11 (iv) individualized ethics counseling or
12 advice concerning an interpretation of ap-
13 plicable legal requirements that has been
14 provided by an ethics official to an indi-
15 vidual, except that such information or
16 record shall not be excluded from the re-
17 quirements of this Act if—

18 (I) the information or record has
19 the operative effect of altering a legal
20 obligation of the individual, such as
21 the approval of an employee’s accept-
22 ance of a gift from an outside source
23 under a regulation requiring approval;
24 or

1 (II) is required by law to be
2 issued, such as a post-employment
3 opinion that section 847 of the Na-
4 tional Defense Authorization Act for
5 Fiscal Year 2008 (Public Law 110-
6 181).

7 (4) EMPLOYING AGENCY.—The term “employ-
8 ing agency” means any agency that employs or em-
9 ployed the individual whose record is the subject of
10 a requirement of this Act, except that the National
11 Archives and Records Administration shall be deter-
12 mined to be the employing agency with respect to
13 any record for which it is responsible.

14 (5) NONCAREER EMPLOYEE.—The term “non-
15 career employee” means an individual who is—

16 (A) an employee, as defined in section
17 2105 of title 5, United States Code, serving in
18 a position in the executive branch; and

19 (B) is—

20 (i) serving in a position to which the
21 President appointed the individual (without
22 regard to whether the advice and consent
23 of the Senate was required with respect to
24 that appointment), other than an indi-
25 vidual who is—

1 (I) a member of a uniformed
2 service, as that term is defined in sec-
3 tion 210(m) of the Social Security Act
4 (42 U.S.C. 410(m)); or

5 (II) a member of the Foreign
6 Service serving under a career ap-
7 pointment, as described in section 301
8 of the Foreign Service Act of 1980
9 (22 U.S.C. 3941);

10 (ii) a noncareer appointee, as that
11 term is defined in section 3132(a) of title
12 5, United States Code;

13 (iii) serving in a position in a Federal
14 executive system that is comparable to the
15 Senior Executive Service, the appointment
16 to which is not made through merit-based
17 procedures, such as a position in the
18 Transportation Security Executive Service;
19 or

20 (iv) serving in a position with respect
21 to which a determination has been made
22 under section 7511(b)(2) of title 5, United
23 States Code.

24 (j) SEVERABILITY.—If any provision of this Act or
25 the application of such provision to any person or cir-

1 cumstance is held to be unconstitutional, the remainder
2 of this Act, and the application of the remaining provisions
3 of this Act to any person or circumstance, shall not be
4 affected.

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