

114TH CONGRESS  
2D SESSION

# H. R. 6340

To extend conflict of interest provisions to the President and Vice President  
of the United States.

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IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 2016

Ms. CLARK of Massachusetts introduced the following bill; which was referred  
to the Committee on the Judiciary

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## A BILL

To extend conflict of interest provisions to the President  
and Vice President of the United States.

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 Account-  
5       ability Act”.

1 **SEC. 2. ACTS AFFECTING A PERSONAL FINANCIAL INTER-**  
2 **EST OF THE PRESIDENT OR VICE PRESIDENT**  
3 **OF THE UNITED STATES.**

4 (a) IN GENERAL.—Chapter 11 of title 18, United  
5 States Code, is amended by inserting after section 208 the  
6 following:

7 **“§ 208A. Acts affecting a personal financial interest of**  
8 **the President or Vice President of the**  
9 **United States**

10 “(a) Except as permitted by subsection (b) hereof,  
11 whoever, being the President or Vice President of the  
12 United States, participates personally and substantially,  
13 through decision, approval, disapproval, recommendation,  
14 the rendering of advice, investigation, or otherwise, in a  
15 judicial or other proceeding, application, request for a rul-  
16 ing or other determination, contract, claim, controversy,  
17 charge, accusation, arrest, or other particular matter in  
18 which, to their knowledge, the President or Vice President  
19 of the United States, their spouse, child, general partner,  
20 organization in which they are serving as officer, director,  
21 trustee, general partner or employee, or any person or or-  
22 ganization with whom they are negotiating or has any ar-  
23 rangement concerning prospective employment, has a fi-  
24 nancial interest shall be subject to the penalties set forth  
25 in section 216 of this title.

26 “(b) Subsection (a) shall not apply—

1           “(1) if the financial interest that would be af-  
2           fected by the particular matter involved is held in a  
3           qualified blind trust as defined by subsection (g); or

4           “(2) if the President or Vice President of the  
5           United States first advises the Director of the Office  
6           of Government Ethics of the nature and cir-  
7           cumstances of the judicial or other proceeding, appli-  
8           cation, request for a ruling or other determination,  
9           contract, claim, controversy, charge, accusation, ar-  
10          rest, or other particular matter and makes full dis-  
11          closure of the financial interest and receives in ad-  
12          vance a written determination made by the Director  
13          of the Office of Government Ethics that the interest  
14          is not so substantial as to be deemed likely to affect  
15          the actions of the President or Vice President or un-  
16          dermine the public’s confidence in the integrity of  
17          their office.

18          “(c) In the event that a national emergency neces-  
19          sitates the President or Vice President taking any imme-  
20          diate action that affects their personal financial interests  
21          prior to receiving an exemption under subsection (b)(2),  
22          the President or Vice President shall, in addition to the  
23          information required by subsection (b)(2), notify the Di-  
24          rector of the Office of Government Ethics of the cir-  
25          cumstances requiring action to be taken prior to the re-

1 ceipt of an exemption and shall make a retroactive request  
2 for an exemption under subsection (b)(2) within 48 hours  
3 of taking the action. The Director of the Office of Govern-  
4 ment Ethics shall then make a written determination as  
5 to whether an exemption under subsection (b)(2) would  
6 have been issued had the President or Vice President re-  
7 quested an exemption prior to taking the action. Should  
8 the Director of the Office of Government Ethics determine  
9 that an exemption would not have been granted, the Presi-  
10 dent or Vice President shall, to the extent practicable, re-  
11 turn, repay, remit, or refund any benefit gained as a result  
12 of that action. Any financial gains that cannot be repaid  
13 shall be gifted to reduce the public debt pursuant to sec-  
14 tion 3113 of title 31, United States Code.

15 “(d) The Director of the Office of Government Ethics  
16 shall complete the written determination required under  
17 subsection (b)(2) and subsection (e) as soon as prac-  
18 ticable, but in no event shall the determination be made  
19 later than 10 days following a request for an exemption.  
20 Any request for exemption under subsection (b)(2) and  
21 subsection (e) not receiving a written determination within  
22 10 days will be deemed to have been denied.

23 “(e) A copy of any request for an exemption and a  
24 copy of any determination made in response to a request  
25 for an exemption, including exemptions under subsection

1 (b)(2) or (c) and any determination deemed to have been  
2 denied under subsection (d), shall be made available to  
3 the public by the Office of Government Ethics within 10  
4 days of the receipt of a request for an exemption pursuant  
5 to procedures set forth in section 105 of the Ethics in Gov-  
6 ernment Act of 1978. In making such determination avail-  
7 able, the agency may withhold from disclosure any infor-  
8 mation contained in the determination that would be ex-  
9 empt from disclosure under section 552 of title 5.

10 “(f) A violation of subsection (a) shall constitute a  
11 high crime and misdemeanor for the purposes of article  
12 II, section 4 of the United States Constitution.

13 “(g) For the purposes of this section, the term ‘quali-  
14 fied blind trust’ shall include any trust in which the Presi-  
15 dent or Vice President of the United States, their spouse,  
16 or any child has a beneficial interest in the principal or  
17 income, and which meets the following requirements:

18 “(1) IN GENERAL.—

19 “(A) The trustee of the trust and any  
20 other entity designated in the trust instrument  
21 to perform fiduciary duties is a financial insti-  
22 tution, an attorney, a certified public account-  
23 ant, a broker, or an investment advisor who—

24 “(i) is independent of and not associ-  
25 ated with any interested party so that the

1 trustee or other person cannot be con-  
2 trolled or influenced in the administration  
3 of the trust by any interested party;

4 “(ii) is not and has not been an em-  
5 ployee of or affiliated with any interested  
6 party and is not a partner of, or involved  
7 in any joint venture or other investment  
8 with, any interested party; and

9 “(iii) is not a relative of any inter-  
10 ested party.

11 “(B) Any officer or employee of a trustee  
12 or other entity who is involved in the manage-  
13 ment or control of the trust—

14 “(i) is independent of and not associ-  
15 ated with any interested party so that such  
16 officer or employee cannot be controlled or  
17 influenced in the administration of the  
18 trust by any interested party;

19 “(ii) is not a partner of, or involved in  
20 any joint venture or other investment with,  
21 any interested party; and

22 “(iii) is not a relative of any inter-  
23 ested party.

24 “(2) Any asset transferred to the trust by an  
25 interested party is free of any restriction with re-

1 spect to its transfer of sale unless such restriction  
2 is expressly approved in writing by the Director of  
3 the Office of Government Ethics.

4 “(3) The trust instrument that establishes the  
5 trust provides that—

6 “(A) except to the extent provided in sub-  
7 paragraph (2) of this subsection, the trustee in  
8 the exercise of his authority and discretion to  
9 manage and control the assets of the trust shall  
10 not consult or notify any interested party;

11 “(B) the trust shall not contain any asset  
12 the holding of which by any interested party is  
13 prohibited by any law or regulation;

14 “(C) the trustee shall promptly notify the  
15 reporting individual and the Director of the Of-  
16 fice of Government Ethics when the holdings of  
17 any particular asset transferred to the trust by  
18 any interested party are disposed of or when  
19 the value of such holding is less than \$1,000;

20 “(D) the trust tax return shall be prepared  
21 by the trustee or his designee, and such return  
22 and any information relating thereto (other  
23 than the trust income summarized in appro-  
24 priated categories necessary to complete an in-

1           terested party's tax return), shall not be dis-  
2           closed to any interested party;

3           “(E) an interested party shall not receive  
4           any report on the holdings and sources of in-  
5           come of the trust, except a report at the end of  
6           each calendar quarter with respect to the total  
7           cash value of the interest of the interested party  
8           in the trust or the net income or loss of the  
9           trust or any reports necessary to enable the in-  
10          terested party to complete an individual tax re-  
11          turn required by law, but such report shall not  
12          identify any asset or holding;

13          “(F) except for communications which  
14          solely consist of requests for distributions of  
15          cash or other unspecified assets of the trust,  
16          there shall be no direct or indirect communica-  
17          tion between the trustee and an interested  
18          party with respect to the trust unless such com-  
19          munication is in writing (a copy of which shall  
20          be provided to the Director of the Office of  
21          Government Ethics), and unless it relates only  
22          (i) to the general financial interest and needs of  
23          the interested party (including, but not limited  
24          to, an interest in maximizing income or long-  
25          term capital gain), (ii) to the notification of a



1 trustee of a law or regulation subsequently ap-  
2 plicable to the reporting individual which pro-  
3 hibits the interested party from holding an  
4 asset, which notification directs that the asset  
5 not be held by the trust, or (iii) to directions to  
6 the trustee to sell all of an asset initially placed  
7 in the trust by an interested party which in the  
8 determination of the reporting individual cre-  
9 ates a conflict of interest or the appearance  
10 thereof due to the subsequent assumption of  
11 duties by the reporting individual; and

12 “(G) the interested parties shall make no  
13 effort to obtain information with respect to the  
14 holdings of the trust, including obtaining a copy  
15 of any trust tax return filed or any information  
16 relating thereto except as otherwise provided in  
17 this subsection.

18 “(4) The proposed trust instrument and the  
19 proposed trustee are certified in writing by the Di-  
20 rector of the Office of Government Ethics to be in  
21 compliance with the requirements of this section.  
22 The Director of the Office of Government Ethics  
23 shall conduct an annual recertification of the trust  
24 instrument and trustee to verify that they remain in  
25 compliance with the requirements of this section. If

1 at any time the Director of the Office of Govern-  
2 ment Ethics determines that the trust instrument or  
3 trustee are no longer in compliance with require-  
4 ments of this section, the Director of the Office of  
5 Government Ethics shall notify the Committee on  
6 Oversight and Government Reform of the House of  
7 Representatives and the Committee on Homeland  
8 Security and Governmental Affairs of the Senate,  
9 and provide written notification to the interested  
10 parties that they are no longer eligible for an exemp-  
11 tion under subsection (b)(1) until the trust instru-  
12 ment and trustee are recertified.

13 “(5) For the purposes of this subsection, ‘inter-  
14 ested party’ means the President or Vice President  
15 of the United States, their spouse, and any child;  
16 ‘reporting individual’ means the President or Vice  
17 President of the United States; ‘broker’ has the  
18 meaning set forth in section 3(a)(4) of the Securities  
19 Exchange Act of 1934 (15 U.S.C. 78c(a)(4)); and  
20 ‘investment adviser’ includes any investment adviser  
21 who, as determined under regulations prescribed by  
22 the Office of Government Ethics, is generally in-  
23 volved in their role as such an advisor in the man-  
24 agement or control of trusts.

1           “(6) Any written certification or notification  
2           made pursuant to subsection (g) shall be made avail-  
3           able to the public within 10 days of the certification  
4           or notification being made.”.

5           (b) IN GENERAL.—Section 216 of title 18, United  
6 States Code, is amended—

7           (1) in subsection (a) by inserting “208A,” after  
8           “208,”;

9           (2) in subsection (b) by inserting “208A,” after  
10          “208,”; and

11          (3) in subsection (c) by inserting “208A,” after  
12          “208,”.

13          (c) CLERICAL AMENDMENT.—The table of sections  
14 at the beginning of chapter 11 of title 18, United States  
15 Code, is amended by inserting after “Sec. 208. Acts affect-  
16 ing a personal financial interest.” the following new item:

          “Sec. 208A. Acts affecting a personal financial interest of the President or Vice  
          President of the United States.”.

17 **SEC. 3. CONTRACTS BY THE PRESIDENT OR VICE PRESI-**  
18 **DENT OF THE UNITED STATES.**

19          (a) IN GENERAL.—Section 431 of title 18, United  
20 States Code, is amended by inserting “the President or  
21 Vice President of the United States,” after “Whoever,  
22 being”.

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