

118TH CONGRESS
1ST SESSION

S. 1486

To address financial conflicts of interest of the President and Vice President.

IN THE SENATE OF THE UNITED STATES

MAY 9, 2023

Ms. WARREN (for herself, Mr. MURPHY, Ms. STABENOW, Mrs. FEINSTEIN, Mr. CASEY, Mr. MARKEY, Mr. VAN HOLLEN, Mr. BLUMENTHAL, Ms. DUCKWORTH, Mr. MERKLEY, Mr. BROWN, Mr. BOOKER, Mr. BENNET, Mrs. MURRAY, Mr. WYDEN, Mr. CARDIN, Ms. HIRONO, Mr. PADILLA, Mr. COONS, Ms. KLOBUCHAR, Mr. LUJÁN, Mrs. GILLIBRAND, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To address financial conflicts of interest of the President
and Vice President.

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 Conflicts
5 of Interest Act of 2023”.

1 **SEC. 2. DIVESTITURE OF PERSONAL FINANCIAL INTERESTS**
2 **OF THE PRESIDENT AND VICE PRESIDENT**
3 **THAT POSE A POTENTIAL CONFLICT OF IN-**
4 **TEREST.**

5 (a) DEFINITIONS.—

6 (1) IN GENERAL.—In this section—

7 (A) the term “conflict-free holding” means
8 an interest in a widely held investment fund
9 (whether such fund is a mutual fund, regulated
10 investment company, pension or deferred com-
11 pensation plan, or other investment fund)
12 that—

13 (i) is diversified (as defined in section
14 2640.102 of title 5, Code of Federal Regu-
15 lations, as in effect on the date of enact-
16 ment of this Act); and

17 (ii) is—

18 (I) publicly traded;

19 (II) registered as a management
20 company under the Investment Com-
21 pany Act of 1940 (15 U.S.C. 80a–1 et
22 seq.); or

23 (III) a unit investment trust (as
24 defined in section 4 of the Investment
25 Company Act of 1940 15 U.S.C. 80a–
26 4) that is a regulated investment com-

1 pany under section 851 of the Inter-
2 nal Revenue Code of 1986;

3 (B) the term “financial interest posing a
4 potential conflict of interest” means a financial
5 interest of the President, the Vice President,
6 the spouse of the President or Vice President,
7 or a minor child of the President or Vice Presi-
8 dent, as applicable, that—

9 (i) would constitute a financial inter-
10 est described in subsection (a) of section
11 208 of title 18, United States Code—

12 (I) if—

13 (aa) for purposes of such
14 section 208, the terms “officer”
15 and “employee” included the
16 President and the Vice President;
17 and

18 (bb) the President or Vice
19 President, as applicable, partici-
20 pated in a particular matter af-
21 fecting such financial interest;
22 and

23 (II) determined without regard to
24 any exception under subsection (b)(1)
25 of such section 208; or

1 (ii) constitutes a present, emolument,
 2 office, or title, of any kind whatever, from
 3 any king, prince, or foreign state (includ-
 4 ing from an entity owned or controlled by
 5 a foreign government), within the meaning
 6 of article I, section 9 of the Constitution of
 7 the United States;

8 (C) the term “qualified blind trust” has
 9 the meaning given that term in section
 10 13104(f)(3) of title 5, United States Code; and

11 (D) the term “tax return”—

12 (i) means any Federal income tax re-
 13 turn and any amendment or supplement
 14 thereto, including supporting schedules, at-
 15 tachments, or lists which are supplemental
 16 to, or part of, the return for the taxable
 17 year; and

18 (ii) includes any information return
 19 that reports information that does or may
 20 affect the liability for tax for the taxable
 21 year.

22 (2) APPLICABILITY OF ETHICS IN GOVERNMENT
 23 REQUIREMENTS.—For purposes of the definition of
 24 “qualified blind trust” in this section, the term “su-
 25 pervising ethics officer” in section 13104(f)(3) of

1 title 5, United States Code, means the Director of
2 the Office of Government Ethics.

3 (b) INITIAL FINANCIAL DISCLOSURE.—

4 (1) SUBMISSION OF DISCLOSURE.—

5 (A) IN GENERAL.—Not later than 30 days
6 after assuming the office of President or Vice
7 President, respectively, the President and Vice
8 President shall submit to Congress and the Di-
9 rector of the Office of Government Ethics a dis-
10 closure of financial interests.

11 (B) APPLICATION TO SITTING PRESIDENT
12 AND VICE PRESIDENT.—For any individual who
13 is serving as the President or Vice President on
14 the date of enactment of this Act, the disclosure
15 of financial interests shall be submitted to Con-
16 gress and the Director of the Office of Govern-
17 ment Ethics not later than 30 days after the
18 date of enactment of this Act.

19 (2) CONTENTS.—

20 (A) PRESIDENT.—The disclosure of finan-
21 cial interests submitted under paragraph (1) by
22 the President shall—

23 (i) describe in detail each financial in-
24 terest of the President, the spouse of the
25 President, or a minor child of the Presi-

1 dent that is required to be disclosed under
2 regulations of the Office of Government
3 Ethics in addition to the financial interests
4 required to be disclosed under section
5 13104 of title 5, United States Code; and

6 (ii) include the tax returns filed by or
7 on behalf of the President for—

8 (I) the 3 most recent taxable
9 years; and

10 (II) each taxable year for which
11 an audit of the return by the Internal
12 Revenue Service is pending on the
13 date the report is filed.

14 (B) VICE PRESIDENT.—The disclosure of
15 financial interests submitted under paragraph
16 (1) by the Vice President shall—

17 (i) describe in detail each financial in-
18 terest of the Vice President, the spouse of
19 the Vice President, or a minor child of the
20 Vice President that is required to be dis-
21 closed under regulations of the Office of
22 Government Ethics in addition to the fi-
23 nancial interests required to be disclosed
24 under section 13104 of title 5, United
25 States Code; and

1 (ii) include the tax returns filed by or
2 on behalf of the Vice President for—

3 (I) the 3 most recent taxable
4 years; and

5 (II) each taxable year for which
6 an audit of the return by the Internal
7 Revenue Service is pending on the
8 date the report is filed.

9 (c) DIVESTITURE OF FINANCIAL INTERESTS POSING
10 A POTENTIAL CONFLICT OF INTEREST.—

11 (1) IN GENERAL.—The President, the Vice
12 President, the spouse of the President or Vice Presi-
13 dent, and any minor child of the President or Vice
14 President shall divest of any financial interest posing
15 a potential conflict of interest by—

16 (A) converting each such interest to cash
17 or another investment that meets the criteria
18 established by the Director of the Office of Gov-
19 ernment Ethics through regulation as being an
20 interest so remote or inconsequential as not to
21 pose a conflict; or

22 (B) transferring such interest to a quali-
23 fied blind trust.

24 (2) TRUSTEE DUTIES.—Within a reasonable pe-
25 riod of time after the date a financial interest is

1 transferred to a qualified blind trust under para-
2 graph (1)(B), the trustee of the qualified blind trust
3 shall—

4 (A) sell the financial interest; and

5 (B) use the proceeds of the sale of the fi-
6 nancial interest to purchase conflict-free hold-
7 ings.

8 (3) REGULATIONS.—Not later than 120 days
9 after the date of enactment of this Act, the Director
10 of the Office of Government Ethics shall promulgate
11 regulations to define the criteria described in para-
12 graph (1)(A).

13 (d) REVIEW BY OFFICE OF GOVERNMENT ETHICS.—

14 (1) IN GENERAL.—The Director of the Office of
15 Government Ethics shall submit to Congress, the
16 President, and the Vice President an annual report
17 regarding the financial interests of the President,
18 the Vice President, the spouse of the President or
19 Vice President, and any minor child of the President
20 or Vice President.

21 (2) CONTENTS.—Each report submitted under
22 paragraph (1) shall—

23 (A) indicate whether any financial interest
24 of the President, the Vice President, the spouse
25 of the President or Vice President, or a minor

1 child of the President or Vice President is a fi-
2 nancial interest posing a potential conflict of in-
3 terest;

4 (B) evaluate whether any previously held
5 financial interest of the President, the Vice
6 President, the spouse of the President or Vice
7 President, or a minor child of the President or
8 Vice President that was a financial interest pos-
9 ing a potential conflict of interest was divested
10 in accordance with subsection (c); and

11 (C) redact such information as the Direc-
12 tor of the Office of Government Ethics deter-
13 mines necessary for preventing identity theft,
14 such as social security numbers or taxpayer
15 identification numbers.

16 (3) TRUSTEE RESPONSIBILITY.—If the Presi-
17 dent, the Vice President, the spouse of the President
18 or Vice President, or any minor child of the Presi-
19 dent or Vice President transfers 1 or more interests
20 to a qualified blind trust under subsection (c)(1)(B),
21 the trustee for the qualified blind trust shall assist
22 the Director in complying with paragraph (2)(B) of
23 this subsection by notifying the Director of the Of-
24 fice of Government Ethics when all initial property
25 of the qualified blind trust has been sold and fur-

1 nishing such other information as the Director may
2 require.

3 (e) ENFORCEMENT.—

4 (1) IN GENERAL.—The Attorney General, the
5 attorney general of any State, or any person ag-
6 grieved by any violation of subsection (c) may seek
7 declaratory or injunctive relief in a court of com-
8 petent jurisdiction if—

9 (A) the Director of the Office of Govern-
10 ment Ethics is unable to issue a report indi-
11 cating whether the President or the Vice Presi-
12 dent is in substantial compliance with sub-
13 section (c); or

14 (B) there is probable cause to believe that
15 the President or the Vice President has not
16 complied with subsection (c).

17 (2) FAIR MARKET VALUE.—In granting injunc-
18 tive relief to the plaintiff, the court shall ensure that
19 any divestment procedure is reasonably calculated to
20 ensure the fair market return for any asset that is
21 liquidated.

22 **SEC. 3. RECUSAL OF APPOINTEES.**

23 Section 208 of title 18, United States Code, is
24 amended by adding at the end the following:

1 “(e)(1) Any officer or employee appointed by the
2 President shall recuse himself or herself from any par-
3 ticular matter involving specific parties in which a party
4 to that matter is—

5 “(A) the President who appointed the officer or
6 employee, which shall include any entity in which the
7 President has a substantial interest; or

8 “(B) the spouse of the President who appointed
9 the officer or employee, which shall include any enti-
10 ty in which the spouse of the President has a sub-
11 stantial interest.

12 “(2)(A) Subject to subparagraph (B), if an officer or
13 employee is recused under paragraph (1), a career ap-
14 pointee in the agency of the officer or employee shall per-
15 form the functions and duties of the officer or employee
16 with respect to the matter.

17 “(B)(i) In this subparagraph, the term ‘Commission’
18 means a board, commission, or other agency for which the
19 authority of the agency is vested in more than 1 member.

20 “(ii) If the recusal of a member of a Commission
21 from a matter under paragraph (1) would result in there
22 not being a statutorily required quorum of members of the
23 Commission available to participate in the matter, not-
24 withstanding such statute or any other provision of law,

1 the members of the Commission not recused under para-
2 graph (1) may—

3 “(I) consider the matter without regard to the
4 quorum requirement under such statute;

5 “(II) delegate the authorities and responsibil-
6 ities of the Commission with respect to the matter
7 to a subcommittee of the Commission; or

8 “(III) designate an officer or employee of the
9 Commission who was not appointed by the President
10 who appointed the member of the Commission
11 recused from the matter to exercise the authorities
12 and duties of the recused member with respect to
13 the matter.

14 “(3) Any officer or employee who knowingly and will-
15 fully violates paragraph (1) shall be subject to the pen-
16 alties set forth in section 216.

17 “(4) For purposes of this section, the term ‘particular
18 matter’ shall have the meaning given the term in section
19 207(i).”.

20 **SEC. 4. CONTRACTS BY THE PRESIDENT OR VICE PRESI-**
21 **DENT.**

22 (a) AMENDMENT.—Section 431 of title 18, United
23 States Code, is amended—

1 (1) in the section heading, by inserting “**the**
 2 **President, Vice President, or a**” after
 3 **“Contracts by”**; and

4 (2) in the first undesignated paragraph, by in-
 5 serting “the President or Vice President,” after
 6 “Whoever, being”.

7 (b) TABLE OF SECTIONS AMENDMENT.—The table of
 8 sections for chapter 23 of title 18, United States Code,
 9 is amended by striking the item relating to section 431
 10 and inserting the following:

“431. Contracts by the President, Vice President, or a Member of Congress.”.

11 **SEC. 5. PRESIDENTIAL TAX TRANSPARENCY.**

12 (a) DISCLOSURE REQUIREMENT.—

13 (1) IN GENERAL.—Chapter 131 of title 5,
 14 United States Code, is amended—

15 (A) by inserting after section 13104 the
 16 following:

17 **“§ 13104A. Disclosure of tax returns**

18 “(a) DEFINITIONS.—In this section—

19 “(1) the term ‘covered candidate’ means an in-
 20 dividual—

21 “(A) required to file a report under section
 22 13103(c); and

23 “(B) who is nominated by a major party
 24 as a candidate for the office of President; and

25 “(2) the term ‘covered individual’ means—

1 “(A) a President required to file a report
2 under subsection (a) or (d) of section 13103;
3 and

4 “(B) an individual who occupies the office
5 of the President required to file a report under
6 section 13103(e);

7 “(3) the term ‘income tax return’ means, with
8 respect to any covered candidate or covered indi-
9 vidual, any return (within the meaning of section
10 6103(b) of the Internal Revenue Code of 1986) re-
11 lated to Federal income taxes, but does not in-
12 clude—

13 “(A) information returns issued to persons
14 other than such covered candidate or covered
15 individual, and

16 “(B) declarations of estimated tax; and

17 “(4) the term ‘major party’ has the meaning
18 given the term in section 9002 of the Internal Rev-
19 enue Code of 1986.

20 “(b) DISCLOSURE.—

21 “(1) COVERED INDIVIDUALS.—

22 “(A) IN GENERAL.—In addition to the in-
23 formation described in subsections (a) and (b)
24 of section 13104, a covered individual shall in-
25 clude in each report required to be filed under

1 this subchapter a copy of the income tax re-
2 turns of the covered individual for the 3 most
3 recent taxable years for which a return have
4 been filed with the Internal Revenue Service as
5 of the date on which the report is filed.

6 “(B) FAILURE TO DISCLOSE.—If an in-
7 come tax return is not disclosed under subpara-
8 graph (A), the Director of the Office of Govern-
9 ment Ethics shall submit to the Secretary of
10 the Treasury a request that the Secretary of
11 the Treasury provide the Director of the Office
12 of Government Ethics with a copy of the in-
13 come tax return.

14 “(C) PUBLICLY AVAILABLE.—Each income
15 tax return submitted under this paragraph shall
16 be filed with the Director of the Office of Gov-
17 ernment Ethics and made publicly available in
18 the same manner as the information described
19 in subsections (a) and (b) of section 13104.

20 “(D) REDACTION OF CERTAIN INFORMA-
21 TION.—Before making any income tax return
22 submitted under this paragraph available to the
23 public, the Director of the Office of Government
24 Ethics shall redact such information as the Di-
25 rector of the Office of Government Ethics, in

1 consultation with the Secretary of the Treasury
2 (or a delegate of the Secretary), determines ap-
3 propriate.

4 “(2) CANDIDATES.—

5 “(A) IN GENERAL.—Not later than 15
6 days after the date on which a covered can-
7 didate is nominated, the covered candidate shall
8 amend the report filed by the covered candidate
9 under section 13103(c) with the Federal Elec-
10 tion Commission to include a copy of the in-
11 come tax returns of the covered candidate for
12 the 3 most recent taxable years for which a re-
13 turn has been filed with the Internal Revenue
14 Service.

15 “(B) FAILURE TO DISCLOSE.—If an in-
16 come tax return is not disclosed under subpara-
17 graph (A), the Federal Election Commission
18 shall submit to the Secretary of the Treasury a
19 request that the Secretary of the Treasury pro-
20 vide the Federal Election Commission with the
21 income tax return.

22 “(C) PUBLICLY AVAILABLE.—Each income
23 tax return submitted under this paragraph shall
24 be filed with the Federal Election Commission
25 and made publicly available in the same manner

1 as the information described in section
2 13104(b).

3 “(D) REDACTION OF CERTAIN INFORMA-
4 TION.—Before making any income tax return
5 submitted under this paragraph available to the
6 public, the Federal Election Commission shall
7 redact such information as the Federal Election
8 Commission, in consultation with the Secretary
9 of the Treasury (or a delegate of the Secretary)
10 and the Director of the Office of Government
11 Ethics, determines appropriate.

12 “(3) SPECIAL RULE FOR SITTING PRESI-
13 DENTS.—Not later than 30 days after the date of
14 enactment of this section, the President shall submit
15 to the Director of the Office of Government Ethics
16 a copy of the income tax returns described in para-
17 graph (1)(A).”; and

18 (B) in section 13106—

19 (i) in subsection (a)—

20 (I) in paragraph (1), in the first
21 sentence, by inserting “or any indi-
22 vidual who knowingly and willfully fal-
23 sifies or who knowingly and willfully
24 fails to file an income tax return that
25 such individual is required to disclose

1 pursuant to section 13104A” before
2 the period; and

3 (II) in paragraph (2)(A)—

4 (aa) in clause (i), by insert-
5 ing “or falsify any income tax re-
6 turn that such person is required
7 to disclose under section
8 13104A” before the semicolon;
9 and

10 (bb) in clause (ii), by insert-
11 ing “or fail to file any income tax
12 return that such person is re-
13 quired to disclosed under section
14 13104A” before the period;

15 (ii) in subsection (b), in the first sen-
16 tence by inserting “or willfully failed to file
17 or has willfully falsified an income tax re-
18 turn required to be disclosed under section
19 13104A” before the period;

20 (iii) in subsection (c), by inserting “or
21 failing to file or falsifying an income tax
22 return required to be disclosed under sec-
23 tion 13104A” before the period; and

24 (iv) in subsection (d)(1)—

1 (I) in the matter preceding sub-
 2 paragraph (A), by inserting “or files
 3 an income tax return required to be
 4 disclosed under section 13104A” after
 5 “subchapter”; and

6 (II) in subparagraph (A), by in-
 7 serting “or such income tax return, as
 8 applicable,” after “report”.

9 (2) CONFORMING AMENDMENT.—The table of
 10 sections for chapter 131 of title 5, United States
 11 Code, is amended by inserting after the item relating
 12 to section 13104 the following:

“13104A. Disclosure of tax returns.”.

13 (b) AUTHORITY TO DISCLOSE INFORMATION.—

14 (1) IN GENERAL.—Section 6103(l) of the Inter-
 15 nal Revenue Code of 1986 is amended by adding at
 16 the end the following new paragraph:

17 “(23) DISCLOSURE OF RETURN INFORMATION
 18 OF PRESIDENTS AND CERTAIN PRESIDENTIAL CAN-
 19 DIDATES.—

20 “(A) DISCLOSURE OF RETURNS OF PRESI-
 21 DENTS.—

22 “(i) IN GENERAL.—The Secretary
 23 shall, upon written request from the Direc-
 24 tor of the Office of Government Ethics
 25 pursuant to section 13104A(b)(1)(B) of

1 title 5, United States Code, provide to offi-
2 cers and employees of the Office of Gov-
3 ernment Ethics a copy of any income tax
4 return of the President which is required
5 to be filed under section 13104A of such
6 title.

7 “(ii) DISCLOSURE TO PUBLIC.—The
8 Director of the Office of Government Eth-
9 ics may disclose to the public the income
10 tax return of any President which is re-
11 quired to be filed with the Director pursu-
12 ant to section 13104A of title 5, United
13 States Code.

14 “(B) DISCLOSURE OF RETURNS OF CER-
15 TAIN CANDIDATES FOR PRESIDENT.—

16 “(i) IN GENERAL.—The Secretary
17 shall, upon written request from the Chair-
18 man of the Federal Election Commission
19 pursuant to section 13104A(b)(2)(B) of
20 title 5, United States Code, provide to offi-
21 cers and employees of the Federal Election
22 Commission copies of the applicable re-
23 turns of any person who has been nomi-
24 nated as a candidate of a major party (as

1 defined in section 9002(a)) for the office of
2 President.

3 “(ii) DISCLOSURE TO PUBLIC.—The
4 Federal Election Commission may disclose
5 to the public applicable returns of any per-
6 son who has been nominated as a can-
7 didate of a major party (as defined in sec-
8 tion 9002(6)) for the office of President
9 and which is required to be filed with the
10 Commission pursuant to section 13104A of
11 title 5, United States Code.

12 “(C) APPLICABLE RETURNS.—For pur-
13 poses of this paragraph, the term ‘applicable re-
14 turns’ means, with respect to any candidate for
15 the office of President, income tax returns for
16 the 3 most recent taxable years for which a re-
17 turn has been filed as of the date of the nomi-
18 nation.”.

19 (2) CONFORMING AMENDMENTS.—Section
20 6103(p)(4) of such Code, in the matter preceding
21 subparagraph (A) and in subparagraph (F)(ii), is
22 amended by striking “or (22)” and inserting “(22),
23 or (23)” each place it appears.

1 **SEC. 6. SENSE OF CONGRESS REGARDING VIOLATIONS.**

2 It is the sense of Congress that a violation of section
3 2 of this Act or chapter 131 of title 5, United States Code,
4 by the President or the Vice President would constitute
5 a high crime or misdemeanor under article II, section 4
6 of the Constitution of the United States.

7 **SEC. 7. RULE OF CONSTRUCTION.**

8 Nothing in this Act or an amendment made by this
9 Act shall be construed to violate the Constitution of the
10 United States.

11 **SEC. 8. SEVERABILITY.**

12 If any provision of this Act or any amendment made
13 by this Act, or any application of such provision or amend-
14 ment to any person or circumstance, is held to be uncon-
15 stitutional, the remainder of the provisions of this Act and
16 the amendments made by this Act, and the application of
17 the provision or amendment to any other person or cir-
18 cumstance, shall not be affected.

○