

115TH CONGRESS  
1ST SESSION

# S. 522

To establish a 5-year ban on individuals appointed to Executive Schedule positions and Members of Congress engaging in lobbying activities at the Federal level.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 2, 2017

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

---

## A BILL

To establish a 5-year ban on individuals appointed to Executive Schedule positions and Members of Congress engaging in lobbying activities at the Federal level.

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. 5-YEAR BAN ON LOBBYING BY INDIVIDUALS AP-**  
4 **POINTED TO EXECUTIVE SCHEDULE POSI-**  
5 **TIONS AND MEMBERS OF CONGRESS.**

6 (a) INDIVIDUALS APPOINTED TO EXECUTIVE SCHED-  
7 ULE POSITIONS.—

8 (1) IN GENERAL.—Section 207(d) of title 18,  
9 United States Code, is amended to read as follows:

1       “(d) RESTRICTIONS ON VERY SENIOR PERSONNEL  
2 OF THE EXECUTIVE BRANCH AND INDEPENDENT AGEN-  
3 CIES.—

4               “(1) VICE PRESIDENT.—

5                       “(A) RESTRICTIONS.—In addition to the  
6 restrictions set forth in subsections (a) and (b),  
7 any person who serves in the position of Vice  
8 President of the United States and who, within  
9 2 years after the termination of that person’s  
10 service in that position, knowingly makes, with  
11 the intent to influence, any communication to  
12 or appearance before any person described in  
13 subparagraph (B), on behalf of any other per-  
14 son (except the United States), in connection  
15 with any matter on which such person seeks of-  
16 ficial action by any officer or employee of the  
17 executive branch of the United States, shall be  
18 punished as provided in section 216 of this title.

19                       “(B) PERSONS WHO MAY NOT BE CON-  
20 TACTED.—A person described in this subpara-  
21 graph is—

22                               “(i) any officer or employee of any de-  
23 partment or agency in which the Vice  
24 President served within a period of 1 year  
25 before the Vice President’s service or em-

1           employment with the United States Govern-  
2           ment terminated; and

3           “(ii) any person appointed to a posi-  
4           tion in the executive branch which is listed  
5           in section 5312, 5313, 5314, 5315, or  
6           5316 of title 5.

7           “(2) FIVE-YEAR RESTRICTION ON INDIVIDUALS  
8           IN EXECUTIVE SCHEDULE AND EQUIVALENT POSI-  
9           TIONS.—

10           “(A) IN GENERAL.—Except as provided in  
11           subparagraphs (B) and (C), and in addition to  
12           the restrictions set forth in subsections (a) and  
13           (b), any individual employed in a position in the  
14           executive branch for which the rate of pay is  
15           the rate of pay payable for any level of the Ex-  
16           ecutive Schedule under subchapter II of chapter  
17           53 of title 5 who, within 5 years after the ter-  
18           mination of his or her service or employment in  
19           such position, knowingly makes, with the intent  
20           to influence, any communication to or appear-  
21           ance before any officer or employee of any de-  
22           partment or agency in the executive branch, on  
23           behalf of any other person (except the United  
24           States), in connection with any matter on which  
25           such person seeks official action by any officer

1 or employee of such department or agency, shall  
2 be punished as provided in section 216 of this  
3 title.

4 “(B) SPECIAL GOVERNMENT EMPLOY-  
5 EES.—Subparagraph (A) shall not apply to a  
6 special Government employee who serves less  
7 than 60 days in the 1-year period before his or  
8 her service or employment as such employee  
9 terminates.

10 “(C) WAIVER.—

11 “(i) AUTHORITY.—Except as provided  
12 in clause (ii), at the request of a depart-  
13 ment or agency, the Director of the Office  
14 of Government Ethics may waive the re-  
15 strictions under subparagraph (A) with re-  
16 spect to a position, or a category of posi-  
17 tions, if the Director determines that—

18 “(I) the imposition of the restric-  
19 tions with respect to the position, or  
20 category of positions, would create an  
21 undue hardship on the department or  
22 agency in obtaining qualified per-  
23 sonnel to fill the position, or category  
24 of positions; and

1                   “(II) granting the waiver would  
2                   not create the potential for use of  
3                   undue influence or unfair advantage.

4                   “(ii) EXCLUDED POSITIONS.—The Di-  
5                   rector of the Office of Government Ethics  
6                   may not waive the restrictions under sub-  
7                   paragraph (A) with respect to—

8                   “(I) a position in the executive  
9                   branch (including any independent  
10                  agency) for which the rate of pay is  
11                  the rate of pay payable for level I of  
12                  the Executive Schedule; or

13                  “(II) a position in the Executive  
14                  Office of the President for which the  
15                  rate of pay is the rate of pay for level  
16                  II of the Executive Schedule.”.

17                  (2) TECHNICAL AND CONFORMING AMEND-  
18                  MENTS.—Section 207 of title 18, United States  
19                  Code, is amended—

20                         (A) in subsection (c)(2)—

21                                 (i) in subparagraph (A)—

22   (I) by striking clauses (i) and  
23   (iii);

1 (II) by redesignating clauses (ii),  
2 (iv), and (v) as clauses (i), (ii), and  
3 (iii), respectively; and

4 (III) in clause (i), as so redesign-  
5 nated—

6 (aa) by striking “which is  
7 not referred to in clause (i)” the  
8 first place it appears and insert-  
9 ing “for which the rate of pay is  
10 not specified in or fixed accord-  
11 ing to subchapter II of chapter  
12 53 of title 5”; and

13 (bb) by striking “, or, for a  
14 period of 2 years” and all that  
15 follows through the end of clause  
16 (i) and inserting a comma; and

17 (ii) in subparagraph (C), in the mat-  
18 ter preceding clause (i), by striking “clause  
19 (ii) or (iv)” and inserting “clause (i) or  
20 (ii)”; and

21 (B) in subsection (h)(2), by striking the  
22 second sentence.

23 (b) MEMBERS OF CONGRESS.—Section 207(e)(1) of  
24 title 18, United States Code, is amended—

1           (1) in subparagraph (A), by striking “2 years”  
2           and inserting “5 years”; and

3           (2) in subparagraph (B)(i), by striking “Any  
4           person who is a Member of the House of Represent-  
5           atives or an elected officer of the House of Rep-  
6           resentatives and who, within 1 year after that per-  
7           son leaves office,” and inserting “Any person who is  
8           a Member of the House of Representatives and who,  
9           within 5 years after that person leaves office, or any  
10          person who is an elected officer of the House of Rep-  
11          resentatives and who, within 1 year after that per-  
12          son leaves office,”.

○