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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend title 5, United States Code, to prohibit the President, Vice President, Members of Congress, and other senior Executive branch personnel from accepting any foreign emoluments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend title 5, United States Code, to prohibit the President, Vice President, Members of Congress, and other senior Executive branch personnel from accepting any foreign emoluments, 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 “No Foreign Emolu-
5 ments Without Congressional Consent Act”.

1 **SEC. 2. PROHIBITING SENIOR FEDERAL OFFICIALS FROM**
2 **ACCEPTING FOREIGN PAYMENTS.**

3 (a) IN GENERAL.—Subchapter IV of chapter 73 of
4 title 5, United States Code, is amended by adding after
5 section 7342 the following:

6 **“§ 7343. Prohibiting senior Federal officials from ac-**
7 **cepting foreign payments**

8 “(a) PROHIBITION.—

9 “(1) IN GENERAL.—It shall be unlawful for any
10 senior Federal official to receive, accept, or retain a
11 foreign payment, including through a business entity
12 controlled by a senior Federal official, without first
13 obtaining the consent of Congress pursuant to this
14 section and section 7344.

15 “(2) TWO-YEAR POST EMPLOYMENT.—During
16 the 2-year period beginning on the date that an indi-
17 vidual leaves the position of a senior Federal official,
18 it shall be unlawful for such individual to receive, ac-
19 cept, or retain a foreign payment, including through
20 a business entity controlled by a senior Federal offi-
21 cial, without first obtaining the consent of Congress
22 pursuant to this section and section 7344. Such in-
23 dividual shall make the requisite disclosures required
24 under subsection (b) of this section.

25 “(3) CANDIDATE REPORTS.—An individual
26 other than an incumbent President or Vice President

1 who becomes a candidate (as defined in section 301
2 of the Federal Election Campaign Act of 1971 (52
3 U.S.C. 30101)) for the office of President or Vice
4 President shall submit a report to Congress at the
5 end of each 30-day period such individual is such a
6 candidate listing any foreign payments such indi-
7 vidual received during such period.

8 “(b) DISCLOSURE.—

9 “(1) NOTICE.—Any senior Federal official that
10 wishes to receive, accept, or retain a foreign pay-
11 ment shall submit (in writing) notice to the Director
12 prior to receiving, accepting, or retaining any foreign
13 payment. Such request shall include, at a min-
14 imum—

15 “(A) the name of, and position occupied
16 by, the senior Federal official;

17 “(B) details regarding the foreign payment
18 the senior Federal official wishes to receive, ac-
19 cept, and retain, including the foreign govern-
20 ment that would provide the foreign payment,
21 the type of payment and the financial instru-
22 ment to be used to provide the payment, the
23 value of the foreign payment, and whether the
24 foreign payment would be provided through a
25 business entity, and, if so, the business entity

1 and the specific transaction through which it
2 would be provided; and

3 “(C) a statement confirming that the sen-
4 ior Federal official has not requested or other-
5 wise encouraged the tender of the foreign pay-
6 ment.

7 “(2) NOTIFICATION TO CONGRESS.—Not later
8 than 10 days after receiving notice under paragraph
9 (1), the Director shall submit such notice to Con-
10 gress.

11 “(3) MEMBERS OF CONGRESS.—For purposes
12 of carrying out this subsection with respect to Mem-
13 bers of Congress—

14 “(A) with respect to any such Member who
15 is a Senator, the term ‘the Select Committee on
16 Ethics of the Senate’ shall be substituted for
17 ‘Director’; and

18 “(B) with respect to any such Member who
19 is a Member of the House of Representatives,
20 the term ‘Committee on Ethics of the House of
21 Representatives’ shall be substituted for ‘Direc-
22 tor’.

23 “(c) DEFINITIONS.—For purposes of this section and
24 sections 7344 and 7345—

25 “(1) the term ‘business entity’—

1 “(A) means a for-profit corporation, asso-
2 ciation, partnership, limited liability company,
3 limited liability partnership, other legal entity,
4 or sole proprietorship in which a senior Federal
5 official has an ownership stake; and

6 “(B) does not include an entity in which
7 more than 100 people have an ownership stake
8 and the senior Federal official holds no more
9 than 5 percent in a beneficial ownership stake
10 and that—

11 “(i) issues securities registered with
12 the Securities and Exchange Commission
13 pursuant to section 12 of the Securities
14 Exchange Act of 1934 (15 U.S.C. 78l);

15 “(ii) is an investment company reg-
16 istered pursuant to section 8 of the Invest-
17 ment Company Act of 1940 (15 U.S.C.
18 80a–8) that does not have a stated policy
19 of concentrating the investments of the in-
20 vestment company in any industry, busi-
21 ness, single country other than the United
22 States, or bonds of a single State within
23 the United States; or

24 “(iii) is a unit investment trust, as de-
25 fined in section 4 of the Investment Com-

1 pany Act of 1940 (15 U.S.C. 80a–4)
2 that—

3 “(I) is a regulated investment
4 company, as defined in section 851 of
5 the Internal Revenue Code of 1986;
6 and

7 “(II) does not have a stated pol-
8 icy of concentrating the investments
9 of the investment company in any in-
10 dustry, business, single country other
11 than the United States, or bonds of a
12 single State within the United States;

13 “(2) the term ‘Director’ means the Director of
14 the Office of Government Ethics;

15 “(3) the term ‘foreign payment’—

16 “(A) means any direct or indirect payment
17 in any form, including any tangible item, aris-
18 ing from commercial transactions of any kind,
19 including any payment involving a business en-
20 tity, whether or not at fair market value from—

21 “(i) any foreign government (as that
22 term is defined in section 7342(a));

23 “(ii) any corporate enterprise engaged
24 in commercial endeavors owned 50 percent

1 or more or controlled by a foreign govern-
2 ment; or

3 “(iii) any member of the family of a
4 sovereign in a monarchical government;

5 “(B) does not include any gift or decora-
6 tion covered under section 7342; and

7 “(4) the term ‘senior Federal official’ means—

8 “(A) the President and the Vice President;

9 “(B) a Member of Congress (as that term
10 is defined in section 2106);

11 “(C) the head of any Executive depart-
12 ment;

13 “(D) any individual employed on the staff
14 of the President in a position with the title of
15 Assistant to the President, Deputy Assistant to
16 the President, Special Assistant to the Presi-
17 dent, Advisor to the President, or Counselor to
18 the President; and

19 “(E) any other senior United States Gov-
20 ernment employee designated by the Director.

21 **“§ 7344. Congressional review of request to receive,**
22 **accept, and retain foreign payment**

23 “(a) IN GENERAL.—A senior Federal official may not
24 receive, accept, or retain a foreign payment unless Con-
25 gress has, prior to such receipt, acceptance, or retention,

1 consented through enactment of a concurrent resolution
2 of approval as provided under this section.

3 “(b) REVIEW.—

4 “(1) IN GENERAL.—In this section, the term
5 ‘concurrent resolution’ means only a concurrent res-
6 olution—

7 “(A) introduced during the period begin-
8 ning on the date Congress receives notice from
9 the Director under section 7343(b)(2) and end-
10 ing on the date that is 90 days thereafter; and

11 “(B) consisting only of the following text
12 in the matter following the resolving clause:
13 ‘That Congress hereby consents to the accept-
14 ance by _____ of the foreign payment
15 described as follows: _____.’, with the
16 first blank space filled in with the name of the
17 senior Federal official and the second blank
18 space filled in with a detailed description of the
19 foreign payment.

20 “(2) COMMITTEE CONSIDERATION.—A concur-
21 rent resolution under this section shall be referred to
22 the appropriate committee of the House of Rep-
23 resentatives and the Senate. One such concurrent
24 resolution shall be reported out by such committee
25 together with its recommendations within fifteen leg-

1 islative days after the day on which such resolution
2 is referred to such committee, unless such House
3 shall otherwise determine by the yeas and nays.

4 “(3) CONSIDERATION.—Any concurrent resolu-
5 tion so reported shall become the pending business
6 of the House in question (in the case of the Senate
7 the time for debate shall be equally divided between
8 the proponents and the opponents) and shall be
9 voted on within three legislative days after the day
10 on which such resolution is reported, unless such
11 House shall otherwise determine by yeas and nays.

12 “(4) COORDINATION.—Such a concurrent reso-
13 lution passed by one House shall be referred to the
14 appropriate committee of the other House and shall
15 be reported out by such committee together with its
16 recommendations within fifteen legislative days after
17 the day on which such resolution is referred to such
18 committee and shall thereupon become the pending
19 business of such House and shall be voted upon
20 within three legislative days after the day on which
21 such resolution is reported, unless such House shall
22 otherwise determine by yeas and nays.

23 “(5) CONFERENCE.—In the case of any dis-
24 agreement between the two Houses of Congress with
25 respect to a joint resolution passed by both Houses,

1 conferees shall be promptly appointed and the com-
2 mittee of conference shall make and file a report
3 with respect to such joint resolution within six legis-
4 lative days after the day on which managers on the
5 part of the Senate and the House have been ap-
6 pointed. Notwithstanding any rule in either House
7 concerning the printing of conference reports or con-
8 cerning any delay in the consideration of such re-
9 ports, such report shall be acted on by both Houses
10 not later than six legislative days after the con-
11 ference report is filed in the House in which such re-
12 port is filed first. In the event the conferees are un-
13 able to agree within forty-eight hours, they shall re-
14 port back to their respective Houses in disagree-
15 ment.

16 “(c) EXERCISE OF RULEMAKING POWERS.—This
17 section is enacted by the Congress—

18 “(1) as an exercise of the rulemaking power of
19 the House of Representatives and the Senate, re-
20 spectively, and as such they shall be considered as
21 part of the rules of each House, respectively, or of
22 that House to which they specifically apply, and
23 such rules shall supersede other rules only to the ex-
24 tent that they are inconsistent therewith; and

1 “(2) with full recognition of the constitutional
2 right of either House to change such rules (so far
3 as relating to such House) at any time, in the same
4 manner, and to the same extent as in the case of
5 any other rule of such House.

6 **“§ 7345. Penalties**

7 “(a) CIVIL ACTION BY THE ATTORNEY GENERAL.—
8 The Attorney General may bring a civil action against a
9 senior Federal official in an appropriate United States dis-
10 trict court for a violation of section 7343 or 7344 for—

11 “(1) a civil monetary penalty in an amount not
12 to exceed \$5,000 more than the retail value of the
13 foreign payment; and

14 “(2) such injunctive relief as may be appro-
15 priate.

16 “(b) CRIMINAL PENALTY.—Whoever, being a senior
17 Federal official, knowingly violates section 7343 or 7344
18 shall be imprisoned for not more than one year, fined in
19 the amount of \$50,000 or the total value of the foreign
20 payments accepted, whichever is greater, or both.

21 “(c) FORFEITURE.—Any payment received, accepted,
22 or retained in violation of section 7343 or 7344 shall be
23 seized and forfeited to the United States in accordance
24 with chapter 46 of title 18.

1 “(d) ACTIONS BY PRIVATE PERSONS.—A person may
2 bring a civil action for a violation of section 7343 or 7344
3 for the person and for the United States Government in
4 the same manner as an action under section 3730(b) of
5 title 31, except that—

6 “(1) any extension of time under section
7 3730(b)(3) of title 31 shall not exceed 120 days;

8 “(2) section 3730(e)(2) of title 31 shall not
9 apply; and

10 “(3) section 3730(e)(4) of title 31 shall not
11 apply with regard to a civil action brought against
12 the President, the Vice President, or the Attorney
13 General.

14 “(e) SAFE HARBOR.—The penalties under this sec-
15 tion shall not apply with respect to a foreign payment
16 made to a senior Federal official if the official—

17 “(1) did not solicit the payment; and

18 “(2) not later than 72 hours after becoming
19 aware of the receipt of such a payment, and in no
20 case later than 90 days after its receipt—

21 “(A) notifies the Director (or, in the case
22 of a Member of Congress, the Select Committee
23 on Ethics of the Senate or the Committee on
24 Ethics of the House of Representatives, as the
25 case may be) of the payment; and

1 “(B) returns the payment in full to the en-
2 tity that made the payment or remits such pay-
3 ment to the Treasury.”.

4 (b) DESIGNATION BY OGE.—Not later than 90 days
5 after the date of the enactment of this Act, the Director
6 of the Office of Government Ethics shall publish, on the
7 Office’s public website, an initial list of any individual des-
8 ignated by the Director under section 7343(c)(4)(E) of
9 title 5, United States Code (as added by subsection (a)
10 of this Act). The Director shall update such list as appro-
11 priate.

12 (c) CLERICAL.—The table of sections for subchapter
13 IV of chapter 73 of title 5, United States Code, is amend-
14 ed by adding after the item relating to section 7342 the
15 following:

“7343. Prohibiting senior Federal officials from accepting foreign payments.

“7344. Congressional review of foreign payments.

“7345. Penalties.”.

16 **SEC. 3. ENFORCEMENT AUTHORITY FOR OFFICE OF GOV-**
17 **ERNMENT ETHICS AND FINANCIAL DISCLO-**
18 **SURES.**

19 (a) ENFORCEMENT.—

20 (1) IN GENERAL.—Section 13122(a) of title 5,
21 United States Code, is amended—

22 (A) by striking “The Director” and insert-
23 ing “(1) IN GENERAL.—The Director”; and

24 (B) by adding at the end the following:

1 “(2) FOREIGN PAYMENTS.—

2 “(A) IN GENERAL.—The Director shall
3 provide overall direction of executive branch
4 policies related to compliance with sections
5 7343 through 7345, and shall have authority
6 to—

7 “(i) order individuals to take correc-
8 tive action; and

9 “(ii) pursuant to section 7345, require
10 disgorgement and divestiture of any for-
11 eign payment received, accepted, or re-
12 tained by a senior Federal official without
13 the consent of Congress to ensure compli-
14 ance by a senior Federal official with the
15 No Foreign Emoluments Without Congres-
16 sional Consent Act.

17 “(B) DEFINITIONS.—In this paragraph
18 and for purposes of subsection (b)(16), the
19 terms ‘foreign payment’ and ‘senior Federal of-
20 ficial’ have the meaning given those terms in
21 section 7343(c).”.

22 (2) SPECIFIC AUTHORITY.—Section 13122(b) of
23 title 5, United States Code, is amended—

24 (A) in paragraph (14), by striking “and”
25 at the end;

1 (B) in paragraph (15), by striking the pe-
2 riod at the end and inserting “; and”; and

3 (C) by adding after paragraph (15) the fol-
4 lowing:

5 “(16) developing and promulgating rules and
6 regulations to ensure compliance with the require-
7 ments of sections 7343 through 7345, including es-
8 tablishing—

9 “(A) a process for making required reports
10 and notifications to Congress;

11 “(B) a process for ensuring the surrender
12 or requiring the disgorgement and divestiture of
13 a foreign payment when Congress does not con-
14 sent to retention of the foreign payment;

15 “(C) a process for notifying Congress of
16 non-compliance with the requirements of section
17 7343 and 7344 or with any disapproval of re-
18 tention of any foreign payment by a senior Fed-
19 eral official; and

20 “(D) such other matters as are necessary
21 to ensure compliance with the requirements of
22 section 7343 and 7344.”.

23 (b) DISCLOSURES.—Section 13104(a) of title 5,
24 United States Code, is amended by adding at the end the
25 following:

1 “(9) FOREIGN PAYMENTS.—Any foreign pay-
2 ment received by a senior Federal official on or be-
3 fore the date of filing during the preceding calendar
4 year, including the source, date, type, amount or
5 value, date of surrender, or the date of adoption by
6 Congress of a concurrent resolution approving the
7 retention of the foreign payment under section 7344.
8 In this paragraph, the terms ‘foreign payment’ and
9 ‘senior Federal official’ have the meaning given
10 those terms in section 7343(c).

11 “(10) PAYMENTS TO BUSINESS INTEREST.—
12 Each business interest of a senior Federal official
13 that is reasonably expected to result in the receipt
14 of any foreign payment during the current calendar
15 year. In this paragraph, the terms ‘foreign payment’
16 and ‘senior Federal official’ have the meaning given
17 those terms in section 7343(c).”.

18 **SEC. 4. SEVERABILITY.**

19 If any provision of this Act or amendment made by
20 this Act, or the application of a provision or amendment
21 to any person or circumstance, is held to be unconstitu-
22 tional, the remainder of this Act and amendments made
23 by this Act, and the application of the provisions and
24 amendment to any person or circumstance, shall not be
25 affected by the holding.