

116TH CONGRESS  
1ST SESSION

# H. R. 1523

To amend the Ethics in Government Act of 1978 to require Federal political appointees to sign a binding ethics pledge, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 5, 2019

Mr. GALLAGHER introduced the following bill; which was referred to the Committee on Oversight and Reform

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## A BILL

To amend the Ethics in Government Act of 1978 to require Federal political appointees to sign a binding ethics pledge, 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. ETHICS PLEDGE REQUIREMENT FOR SENIOR**  
4               **EXECUTIVE BRANCH EMPLOYEES.**

5       The Ethics in Government Act of 1978 (5 U.S.C.  
6       App. 101 et seq.) is amended by inserting after title I the  
7       following new title:

1       **“TITLE II—ETHICS PLEDGE**

2       **“SEC. 201. DEFINITIONS.**

3       “For the purposes of this title, the following defini-  
4 tions apply:

5               “(1) The term ‘executive agency’ has the mean-  
6 ing given that term in section 105 of title 5, United  
7 States Code, and includes the Executive Office of  
8 the President, the United States Postal Service, and  
9 Postal Regulatory Commission, but does not include  
10 the Government Accountability Office.

11              “(2) The term ‘appointee’ means any full-time,  
12 non-career Presidential or Vice-Presidential ap-  
13 pointee, noncareer appointee in the Senior Executive  
14 Service (or other SES-type system), or appointee to  
15 a position that has been excepted from the competi-  
16 tive service by reason of being of a confidential or  
17 policymaking character (Schedule C and other posi-  
18 tions excepted under comparable criteria) in an exec-  
19 utive agency, but does not include any individual ap-  
20 pointed as a member of the Senior Foreign Service  
21 or solely as a uniformed service commissioned offi-  
22 cer.

23              “(3) The term ‘gift’—

1           “(A) has the meaning given that term in  
2           section 2635.203(b) of title 5, Code of Federal  
3           Regulations;

4           “(B) includes gifts that are solicited or ac-  
5           cepted indirectly as defined at section  
6           2635.203(f) of such title; and

7           “(C) does not include those items excluded  
8           by sections 2635.204(b), (c), (e)(1)–(3) and  
9           (j)–(l) of such title.

10          “(4) The term ‘covered executive branch offi-  
11          cial’ and ‘lobbyist’ have the meanings given those  
12          terms in section 3 of the Lobbying Disclosure Act of  
13          1995 (2 U.S.C. 1602).

14          “(5) The term ‘registered lobbyist or lobbying  
15          organization’ means a lobbyist or an organization fil-  
16          ing a registration pursuant to section 4(a) of the  
17          Lobbying Disclosure Act of 1995 (2 U.S.C.  
18          1603(a)), and in the case of an organization filing  
19          such a registration, ‘registered lobbyist’ includes  
20          each of the lobbyists identified therein.

21          “(6) The term ‘lobby’ and ‘lobbied’ mean to act  
22          or have acted as a registered lobbyist.

23          “(7) The term ‘particular matter’ has the  
24          meaning given that term in section 207 of title 18,

1 United States Code, and section 2635.402(b)(3) of  
2 title 5, Code of Federal Regulations.

3 “(8) The term ‘particular matter involving spe-  
4 cific parties’ has the meaning set forth in section  
5 2641.201(h) of title 5, Code of Federal Regulations,  
6 except that it shall include any meeting or other  
7 communication relating to the performance of one’s  
8 official duties with a former employer or former cli-  
9 ent, unless the communication applies to a particular  
10 matter of general applicability and participation in  
11 the meeting or other event is open to all interested  
12 parties.

13 “(9) The term ‘former employer’ is any person  
14 for whom the appointee has within the 2 years prior  
15 to the date of his or her appointment served as an  
16 employee, officer, director, trustee, or general part-  
17 ner, except that ‘former employer’ does not include  
18 any executive agency or other entity of the Federal  
19 Government, State or local government, the District  
20 of Columbia, Native American tribe, or any United  
21 States territory or possession.

22 “(10) The term ‘former client’ is any person for  
23 whom the appointee served personally as agent, at-  
24 torney, or consultant within the 2 years prior to the  
25 date of his or her appointment, but excluding in-

1       stances where the service provided was limited to a  
2       speech or similar appearance. It does not include cli-  
3       ents of the appointee’s former employer to whom the  
4       appointee did not personally provide services.

5               “(11) The term ‘directly and substantially re-  
6       lated to my former employer or former clients’  
7       means matters in which the appointee’s former em-  
8       ployer or a former client is a party or represents a  
9       party.

10              “(12) The term ‘participate’ means to partici-  
11       pate personally and substantially.

12              “(13) The term ‘post-employment restrictions’  
13       includes the provisions and exceptions in section  
14       207(c) of title 18, United States Code, and the im-  
15       plementing regulations.

16              “(14) The term ‘Government official’ means  
17       any employee of the executive branch.

18              “(15) The term ‘Administration’ means all  
19       terms of office of the incumbent President serving at  
20       the time of the appointment of an appointee covered  
21       by this title.

22              “(16) The term ‘pledge’ means the ethics  
23       pledge set forth in section 202 of this title.

1           “(17) All references to provisions of law and  
2           regulations shall refer to such provisions as in effect  
3           on the date of enactment of this title.

4   **“SEC. 202. ETHICS PLEDGE.**

5           “Each appointee in every executive agency appointed  
6   on or after the date of enactment of this section shall sign,  
7   and upon signing shall be contractually committed to, the  
8   following pledge upon becoming an appointee:

9           “‘As a condition, and in consideration, of my employ-  
10   ment in the United States Government in a position in-  
11   vested with the public trust, I commit myself to the fol-  
12   lowing obligations, which I understand are binding on me  
13   and are enforceable under law:

14           ““(1) *Lobbyist Gift Ban*. I will not accept gifts  
15   from registered lobbyists or lobbying organizations  
16   for the duration of my service as an appointee.

17           ““(2) *Revolving Door Ban—All Appointees En-*  
18   *tering Government*. I will not for a period of 2 years  
19   from the date of my appointment participate in any  
20   particular matter involving specific parties that is di-  
21   rectly and substantially related to my former em-  
22   ployer or former clients, including regulations and  
23   contracts.

24           ““(3) *Revolving Door Ban—Lobbyists Entering*  
25   *Government*. If I was a registered lobbyist within the

1 2 years before the date of my appointment, in addi-  
2 tion to abiding by the limitations of paragraph 2, I  
3 will not for a period of 2 years after the date of my  
4 appointment:

5 ““(A) participate in any particular matter  
6 on which I lobbied within the 2 years before the  
7 date of my appointment;

8 ““(B) participate in the specific issue area  
9 in which that particular matter falls; or

10 ““(C) seek or accept employment with any  
11 executive agency that I lobbied within the 2  
12 years before the date of my appointment.

13 ““(4) *Revolving Door Ban—Appointees Leaving*  
14 *Government*. If, upon my departure from the Gov-  
15 ernment, I am covered by the post-employment re-  
16 strictions on communicating with employees of my  
17 former executive agency set forth in section 207(c)  
18 of title 18, United States Code, I agree that I will  
19 abide by those restrictions for a period of 2 years  
20 following the end of my appointment.

21 ““(5) *Revolving Door Ban—Appointees Leaving*  
22 *Government to Lobby*. In addition to abiding by the  
23 limitations of paragraph 4, I also agree, upon leav-  
24 ing Government service, not to lobby any covered ex-  
25 ecutive branch official or non-career Senior Execu-

1       tive Service appointee for the remainder of the Ad-  
2       ministration.

3               “(6) *Employment Qualification Commitment*. I  
4       agree that any hiring or other employment decisions  
5       I make will be based on the candidate’s qualifica-  
6       tions, competence, and experience.

7               “(7) *Assent to Enforcement*. I acknowledge that  
8       title II of the Ethics in Government Act of 1978,  
9       which I have read before signing this document, de-  
10      fines certain of the terms applicable to the foregoing  
11      obligations and sets forth the methods for enforcing  
12      them. I expressly accept the provisions of that title  
13      as a part of this agreement and as binding on me.  
14      I understand that the terms of this pledge are in ad-  
15      dition to any statutory or other legal restrictions ap-  
16      plicable to me by virtue of Federal Government serv-  
17      ice.’.

18   **“SEC. 203. WAIVER.**

19       “(a) The Director of the Office of Management and  
20      Budget, in consultation with the Counsel to the President,  
21      may grant to any current or former appointee a written  
22      waiver of any restrictions contained in the pledge signed  
23      by such appointee if, and to the extent that, the Director  
24      certifies (in writing) that—



1           “(1) the literal application of the restriction is  
2           inconsistent with the purposes of the restriction; or

3           “(2) it is in the public interest to grant the  
4           waiver.

5           “(b) Any waiver under this section shall take effect  
6           when the certification is signed by the Director.

7           “(c) For purposes of subsection (a)(2), the public in-  
8           terest shall include exigent circumstances relating to na-  
9           tional security or to the economy. De minimis contact with  
10          an executive agency shall be cause for a waiver of the re-  
11          strictions contained in paragraph 3 of the pledge.

12       **“SEC. 204. ADMINISTRATION.**

13          “(a) The head of each executive agency shall, in con-  
14          sultation with the Director of the Office of Government  
15          Ethics, establish such rules or procedures (conforming as  
16          nearly as practicable to the agency’s general ethics rules  
17          and procedures, including those relating to designated  
18          agency ethics officers) as are necessary or appropriate to  
19          ensure—

20               “(1) that every appointee in the agency signs  
21               the pledge upon assuming the appointed office or  
22               otherwise becoming an appointee;

23               “(2) that compliance with paragraph 3 of the  
24               pledge is addressed in a written ethics agreement  
25               with each appointee to whom it applies, which agree-

1       ment shall also be approved by the Counsel to the  
2       President prior to the appointee commencing work;

3               “(3) that spousal employment issues and other  
4       conflicts not expressly addressed by the pledge are  
5       addressed in ethics agreements with appointees or,  
6       where no such agreements are required, through eth-  
7       ics counseling; and

8               “(4) compliance with this title within the agen-  
9       cy.

10       “(b) With respect to the Executive Office of the  
11       President, the duties set forth in subsection (a) shall be  
12       the responsibility of the Counsel to the President.

13       “(c) The Director of the Office of Government Ethics  
14       shall—

15               “(1) ensure that the pledge and a copy of this  
16       title are made available for use by agencies in ful-  
17       filling their duties under subsection (a);

18               “(2) in consultation with the Attorney General  
19       or the Counsel to the President, when appropriate,  
20       assist designated agency ethics officers in providing  
21       advice to current or former appointees regarding the  
22       application of the pledge; and

23               “(3) in consultation with the Attorney General  
24       and the Counsel to the President, adopt such rules  
25       or procedures as are necessary or appropriate—

1           “(A) to carry out the responsibilities as-  
2 signed by this subsection;

3           “(B) to apply the lobbyist gift ban set  
4 forth in paragraph 1 of the pledge to all execu-  
5 tive branch employees;

6           “(C) to authorize limited exceptions to the  
7 lobbyist gift ban for circumstances that do not  
8 implicate the purposes of the ban;

9           “(D) to make clear that no person shall  
10 have violated the lobbyist gift ban if the person  
11 properly disposes of a gift as provided by sec-  
12 tion 2635.205 of title 5, Code of Federal Regu-  
13 lations;

14           “(E) to ensure that existing rules and pro-  
15 cedures for Government employees engaged in  
16 negotiations for future employment with private  
17 businesses that are affected by their official ac-  
18 tions do not affect the integrity of the Govern-  
19 ment’s programs and operations; and

20           “(F) to ensure, in consultation with the  
21 Director of the Office of Personnel Manage-  
22 ment, that the requirement set forth in para-  
23 graph 6 of the pledge is honored by every em-  
24 ployee of the executive branch;

1           “(4) in consultation with the Director of the  
2       Office of Management and Budget, report to the  
3       President on whether full compliance is being  
4       achieved with existing laws and regulations gov-  
5       erning executive branch procurement lobbying disclo-  
6       sure and on steps the executive branch can take to  
7       expand to the fullest extent practicable disclosure of  
8       such executive branch procurement lobbying and of  
9       lobbying for presidential pardons, and to include in  
10      the report both immediate action the executive  
11      branch can take and, if necessary, recommendations  
12      for legislation; and

13           “(5) provide an annual public report on the ad-  
14      ministration of the pledge and this title.

15      “(d) The Director of the Office of Government Ethics  
16      shall, in consultation with the Attorney General, the Coun-  
17      sel to the President, and the Director of the Office of Per-  
18      sonnel Management, report to the President on steps the  
19      executive branch can take to expand to the fullest extent  
20      practicable the revolving door ban set forth in paragraph  
21      5 of the pledge to all executive branch employees who are  
22      involved in the procurement process such that they may  
23      not for 2 years after leaving Government service lobby any  
24      Government official regarding a Government contract that  
25      was under their official responsibility in the last 2 years

1 of their Government service, and to include in the report  
2 both immediate action the executive branch can take and,  
3 if necessary, recommendations for legislation.

4 “(e) All pledges signed by appointees, and all waiver  
5 certifications with respect thereto, shall be filed with the  
6 head of the appointee’s agency for permanent retention  
7 in the appointee’s official personnel folder or equivalent  
8 folder.

9 **“SEC. 205. ENFORCEMENT.**

10 “(a) The contractual, fiduciary, and ethical commit-  
11 ments in the pledge are solely enforceable by the United  
12 States pursuant to this section by any legally available  
13 means, including debarment proceedings within any af-  
14 fected executive agency or judicial civil proceedings for de-  
15 claratory, injunctive, or monetary relief.

16 “(b) Any former appointee who is determined, after  
17 notice and hearing, by the duly designated authority with-  
18 in any agency, to have violated his or her pledge may be  
19 barred from lobbying any officer or employee of that agen-  
20 cy for up to 5 years in addition to the time period covered  
21 by the pledge. The head of every executive agency shall,  
22 in consultation with the Director of the Office of Govern-  
23 ment Ethics, establish procedures to implement this sub-  
24 section, which procedures shall include providing for fact-  
25 finding and investigation of possible violations of this title

1 and for referrals to the Attorney General for consideration  
2 pursuant to subsection (c).

3 “(c) The Attorney General is authorized—

4 “(1) upon receiving information regarding the  
5 possible breach of any commitment in a signed  
6 pledge, to request any appropriate Federal investiga-  
7 tive authority to conduct such investigations as may  
8 be appropriate; and

9 “(2) upon determining that there is a reason-  
10 able basis to believe that a breach of a commitment  
11 has occurred or will occur or continue, if not en-  
12 joined, to commence a civil action against the former  
13 employee in any United States District Court with  
14 jurisdiction to consider the matter.

15 “(d) In any such civil action, the Attorney General  
16 is authorized to request any and all relief authorized by  
17 law, including—

18 “(1) such temporary restraining orders and pre-  
19 liminary and permanent injunctions as may be ap-  
20 propriate to restrain future, recurring, or continuing  
21 conduct by the former employee in breach of the  
22 commitments in the pledge he or she signed under  
23 this title; and

24 “(2) establishment of a constructive trust for  
25 the benefit of the United States, requiring an ac-

1        counting and payment to the United States Treas-  
2        ury of all money and other things of value received  
3        by, or payable to, the former employee arising out  
4        of any breach or attempted breach of such pledge.”.

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