

118TH CONGRESS  
1ST SESSION

# H. R. 5069

To amend title 5, United States Code, to require Federal political appointees to sign a binding ethics pledge, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2023

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

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## A BILL

To amend title 5, United States Code, 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 Chapter 131 of title 5, United States Code, is amend-  
6 ed by adding at the end the following:

7 “SUBCHAPTER IV—ETHICS PLEDGE

8 “§ 13151. Definitions

9 “For the purposes of this subchapter, the following  
10 definitions apply:

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

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

19          “(3) The term ‘gift’—

20                  “(A) has the meaning given that term in  
21                  section 2635.203(b) of title 5, Code of Federal  
22                  Regulations;

23                  “(B) includes gifts that are solicited or ac-  
24                  cepted indirectly as defined at section  
25                  2635.203(f) of such title; and

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

4           “(4) The term ‘covered executive branch offi-  
5           cial’ and ‘lobbyist’ have the meanings given those  
6           terms in section 3 of the Lobbying Disclosure Act of  
7           1995 (2 U.S.C. 1602).

8           “(5) The term ‘registered lobbyist or lobbying  
9           organization’ means a lobbyist or an organization fil-  
10          ing a registration pursuant to section 4(a) of the  
11          Lobbying Disclosure Act of 1995 (2 U.S.C.  
12          1603(a)), and in the case of an organization filing  
13          such a registration, ‘registered lobbyist’ includes  
14          each of the lobbyists identified therein.

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

17          “(7) The term ‘particular matter’ has the  
18          meaning given that term in section 207 of title 18  
19          and section 2635.402(b)(3) of title 5, Code of Fed-  
20          eral Regulations.

21          “(8) The term ‘particular matter involving spe-  
22          cific parties’ has the meaning set forth in section  
23          2641.201(h) of title 5, Code of Federal Regulations,  
24          except that it shall include any meeting or other  
25          communication relating to the performance of one’s

1 official duties with a former employer or former cli-  
2 ent, unless the communication applies to a particular  
3 matter of general applicability and participation in  
4 the meeting or other event is open to all interested  
5 parties.

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

15 “(10) The term ‘former client’ is any person for  
16 whom the appointee served personally as agent, at-  
17 torney, or consultant within the 2 years prior to the  
18 date of his or her appointment, but excluding in-  
19 stances where the service provided was limited to a  
20 speech or similar appearance. It does not include cli-  
21 ents of the appointee’s former employer to whom the  
22 appointee did not personally provide services.

23 “(11) The term ‘directly and substantially re-  
24 lated to my former employer or former clients’  
25 means matters in which the appointee’s former em-

1        ployer or a former client is a party or represents a  
2        party.

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

5            “(13) The term ‘post-employment restrictions’  
6        includes the provisions and exceptions in section  
7        207(c) of title 18, and the implementing regulations.

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

10           “(15) The term ‘Administration’ means all  
11        terms of office of the incumbent President serving at  
12        the time of the appointment of an appointee covered  
13        by this subchapter.

14           “(16) The term ‘pledge’ means the ethics  
15        pledge set forth in section 13152 of this subchapter.

16           “(17) All references to provisions of law and  
17        regulations shall refer to such provisions as in effect  
18        on the date of enactment of this subchapter.

19    **“§ 13152. Ethics pledge**

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

24           “‘As a condition, and in consideration, of my employ-  
25        ment in the United States Government in an appointee

1 position invested with the public trust, I commit myself  
2 to the following obligations, which I understand are bind-  
3 ing on me and are enforceable under law:

4 ““(1) I will not, within 5 years after the termi-  
5 nation of my employment as an appointee in any ex-  
6 ecutive agency in which I am appointed to serve, en-  
7 gage in lobbying activities with respect to that agen-  
8 cy.

9 ““(2) If, upon my departure from the Govern-  
10 ment, I am covered by the post-employment restric-  
11 tions on communicating with employees of my  
12 former executive agency set forth in section 207(c)  
13 of title 18, United States Code, I agree that I will  
14 abide by those restrictions.

15 ““(3) In addition to abiding by the limitations  
16 of paragraphs 1 and 2, I also agree, upon leaving  
17 Government service, not to engage in lobbying activi-  
18 ties with respect to any covered executive branch of-  
19 ficial or noncareer Senior Executive Service ap-  
20 pointee for the remainder of the Administration.

21 ““(4) I will not, at any time after the termi-  
22 nation of my employment in the United States Gov-  
23 ernment, engage in any activity on behalf of any for-  
24 eign government or foreign political party which,  
25 were it undertaken on January 20, 2017, would re-

1       quire me to register under the Foreign Agents Reg-  
2       istration Act of 1938, as amended.

3               “(5) I will not accept gifts from registered lob-  
4       byists or lobbying organizations for the duration of  
5       my service as an appointee.

6               “(6) I will not for a period of 2 years from the  
7       date of my appointment participate in any particular  
8       matter involving specific parties that is directly and  
9       substantially related to my former employer or  
10      former clients, including regulations and contracts.

11              “(7) If I was a registered lobbyist within the  
12      2 years before the date of my appointment, in addi-  
13      tion to abiding by the limitations of paragraph 6, I  
14      will not for a period of 2 years after the date of my  
15      appointment participate in any particular matter on  
16      which I lobbied within the 2 years before the date  
17      of my appointment or participate in any particular  
18      matter on which I lobbied within the 2 years before  
19      the date of my appointment or participate in the  
20      specific issue area in which that particular matter  
21      falls.

22              “(8) I agree that any hiring or other employ-  
23      ment decisions I make will be based on the can-  
24      didate’s qualifications, competence, and experience.

1           “(9) I understand that the obligations of this  
2       pledge are in addition to any statutory or other legal  
3       restrictions applicable to me by virtue of Govern-  
4       ment service.’.

5   **“§ 13153. Waiver**

6       “(a) IN GENERAL.—The Director of the Office of  
7       Management and Budget, in consultation with the Counsel  
8       to the President, may grant to any current or former ap-  
9       pointee a written waiver of any restrictions contained in  
10      the pledge signed by such appointee if, and to the extent  
11      that, the Director certifies (in writing) that—

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

14           “(2) it is in the public interest to grant the  
15      waiver.

16      “(b) APPLICATION.—Any waiver under this section  
17      shall take effect when the certification is signed by the  
18      Director.

19      “(c) PUBLIC INTEREST.—For purposes of subsection  
20      (a)(2), the public interest shall include exigent cir-  
21      cumstances relating to national security or to the econ-  
22      omy. De minimis contact with an executive agency shall  
23      be cause for a waiver of the restrictions contained in para-  
24      graph 3 of the pledge.



1   **“§ 13154. Administration**

2           “(a) IN GENERAL.—The head of each executive agen-  
3   cy shall, in consultation with the Director of the Office  
4   of Government Ethics, establish such rules or procedures  
5   (conforming as nearly as practicable to the agency’s gen-  
6   eral ethics rules and procedures, including those relating  
7   to designated agency ethics officers) as are necessary or  
8   appropriate to ensure—

9           “(1) that every appointee in the agency signs  
10   the pledge upon assuming the appointed office or  
11   otherwise becoming an appointee;

12           “(2) that compliance with paragraph 3 of the  
13   pledge is addressed in a written ethics agreement  
14   with each appointee to whom it applies, which agree-  
15   ment shall also be approved by the Counsel to the  
16   President prior to the appointee commencing work;

17           “(3) that spousal employment issues and other  
18   conflicts not expressly addressed by the pledge are  
19   addressed in ethics agreements with appointees or,  
20   where no such agreements are required, through eth-  
21   ics counseling; and

22           “(4) compliance with this subchapter within the  
23   agency.

24           “(b) EOP.—With respect to the Executive Office of  
25   the President, the duties set forth in subsection (a) shall  
26   be the responsibility of the Counsel to the President.

1       “(c) DIRECTOR DUTIES.—The Director of the Office  
2 of Government Ethics shall—

3               “(1) ensure that the pledge and a copy of this  
4 subchapter are made available for use by agencies in  
5 fulfilling their duties under subsection (a);

6               “(2) in consultation with the Attorney General  
7 or the Counsel to the President, when appropriate,  
8 assist designated agency ethics officers in providing  
9 advice to current or former appointees regarding the  
10 application of the pledge;

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

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

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

19                      “(C) to authorize limited exceptions to the  
20 lobbyist gift ban for circumstances that do not  
21 implicate the purposes of the ban;

22                      “(D) to make clear that no person shall  
23 have violated the lobbyist gift ban if the person  
24 properly disposes of a gift as provided by sec-

1           tion 2635.205 of title 5, Code of Federal Regu-  
2           lations;

3           “(E) to ensure that existing rules and pro-  
4           cedures for Government employees engaged in  
5           negotiations for future employment with private  
6           businesses that are affected by their official ac-  
7           tions do not affect the integrity of the Govern-  
8           ment’s programs and operations; and

9           “(F) to ensure, in consultation with the  
10          Director of the Office of Personnel Manage-  
11          ment, that the requirement set forth in para-  
12          graph 6 of the pledge is honored by every em-  
13          ployee of the executive branch;

14          “(4) in consultation with the Director of the  
15          Office of Management and Budget, report to the  
16          President on whether full compliance is being  
17          achieved with existing laws and regulations gov-  
18          erning executive branch procurement lobbying disclo-  
19          sure and on steps the executive branch can take to  
20          expand to the fullest extent practicable disclosure of  
21          such executive branch procurement lobbying and of  
22          lobbying for presidential pardons, and to include in  
23          the report both immediate action the executive  
24          branch can take and, if necessary, recommendations  
25          for legislation; and

1           “(5) provide an annual public report on the ad-  
2           ministration of the pledge and this subchapter.

3           “(d) REPORT.—The Director of the Office of Govern-  
4           ment Ethics shall, in consultation with the Attorney Gen-  
5           eral, the Counsel to the President, and the Director of the  
6           Office of Personnel Management, report to the President  
7           on steps the executive branch can take to expand to the  
8           fullest extent practicable the revolving door ban set forth  
9           in paragraph 5 of the pledge to all executive branch em-  
10          ployees who are involved in the procurement process such  
11          that they may not for 2 years after leaving Government  
12          service lobby any Government official regarding a Govern-  
13          ment contract that was under their official responsibility  
14          in the last 2 years of their Government service, and to  
15          include in the report both immediate action the executive  
16          branch can take and, if necessary, recommendations for  
17          legislation.

18          “(e) FILING.—All pledges signed by appointees, and  
19          all waiver certifications with respect thereto, shall be filed  
20          with the head of the appointee’s agency for permanent re-  
21          tention in the appointee’s official personnel folder or  
22          equivalent folder.

23       **“§ 13155. Enforcement**

24          “(a) IN GENERAL.—The contractual, fiduciary, and  
25          ethical commitments in the pledge are solely enforceable

1 by the United States pursuant to this section by any le-  
2 gally available means, including debarment proceedings  
3 within any affected executive agency or judicial civil pro-  
4 ceedings for declaratory, injunctive, or monetary relief.

5 “(b) VIOLATIONS.—Any former appointee who is de-  
6 termined, after notice and hearing, by the duly designated  
7 authority within any agency, to have violated his or her  
8 pledge may be barred from lobbying any officer or em-  
9 ployee of that agency for up to 5 years in addition to the  
10 time period covered by the pledge. The head of every exec-  
11 utive agency shall, in consultation with the Director of the  
12 Office of Government Ethics, establish procedures to im-  
13 plement this subsection, which procedures shall include  
14 providing for fact-finding and investigation of possible vio-  
15 lations of this subchapter and for referrals to the Attorney  
16 General for consideration pursuant to subsection (c).

17 “(c) INVESTIGATION; CIVIL ACTION.—The Attorney  
18 General is authorized—

19 “(1) upon receiving information regarding the  
20 possible breach of any commitment in a signed  
21 pledge, to request any appropriate Federal investiga-  
22 tive authority to conduct such investigations as may  
23 be appropriate; and

24 “(2) upon determining that there is a reason-  
25 able basis to believe that a breach of a commitment

1       has occurred or will occur or continue, if not en-  
2       joined, to commence a civil action against the former  
3       employee in any United States District Court with  
4       jurisdiction to consider the matter.

5       “(d) RELIEF.—In any such civil action, the Attorney  
6       General is authorized to request any and all relief author-  
7       ized by law, including—

8               “(1) such temporary restraining orders and pre-  
9       liminary and permanent injunctions as may be ap-  
10      propriate to restrain future, recurring, or continuing  
11      conduct by the former employee in breach of the  
12      commitments in the pledge he or she signed under  
13      this subchapter; and

14             “(2) establishment of a constructive trust for  
15      the benefit of the United States, requiring an ac-  
16      counting and payment to the United States Treas-  
17      ury of all money and other things of value received  
18      by, or payable to, the former employee arising out  
19      of any breach or attempted breach of such pledge.”.

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