

117TH CONGRESS
2D SESSION

S. _____

To amend the Ethics in Government Act of 1978 to prohibit transactions involving certain financial instruments by Members of Congress.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Ethics in Government Act of 1978 to prohibit transactions involving certain financial instruments by Members of Congress.

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 “Banning Insider Trad-
5 ing in Congress Act”.

6 **SEC. 2. BANNING INSIDER TRADING IN CONGRESS.**

7 (a) IN GENERAL.—The Ethics in Government Act of
8 1978 (5 U.S.C. App.) is amended by inserting after title
9 I the following:

1 “(ii) a diversified exchange-traded
2 fund;

3 “(iii) a United States Treasury bill,
4 note, or bond; or

5 “(iv) compensation from the primary
6 occupation of a spouse or dependent of a
7 Member of Congress.

8 “(2) MEMBER OF CONGRESS.—The term ‘Mem-
9 ber of Congress’ has the meaning given the term in
10 section 109.

11 “(3) QUALIFIED BLIND TRUST.—The term
12 ‘qualified blind trust’ has the meaning given the
13 term in section 102(f)(3).

14 “(4) SUPERVISING ETHICS COMMITTEE.—The
15 term ‘supervising ethics committee’ means, as appli-
16 cable—

17 “(A) the Select Committee on Ethics of
18 the Senate; and

19 “(B) the Committee on Ethics of the
20 House of Representatives.

21 **“SEC. 202. PROHIBITION ON CERTAIN TRANSACTIONS AND**
22 **HOLDINGS INVOLVING COVERED FINANCIAL**
23 **INSTRUMENTS.**

24 “(a) PROHIBITION.—Except as provided in sub-
25 section (b), a Member of Congress, or any spouse of a

1 Member of Congress, may not, during the term of service
2 of the Member of Congress, hold, purchase, or sell any
3 covered financial instrument.

4 “(b) EXCEPTIONS.—The prohibition under sub-
5 section (a) shall not apply to—

6 “(1) a sale by a Member of Congress, or a
7 spouse of a Member of Congress, that is completed
8 by the date that is—

9 “(A) for a Member of Congress serving on
10 the date of enactment of the Banning Insider
11 Trading in Congress Act, 180 days after that
12 date of enactment; and

13 “(B) for any Member of Congress who
14 commences service as a Member of Congress
15 after the date of enactment of the Banning In-
16 sider Trading in Congress Act, 180 days after
17 the first date of the initial term of service; or

18 “(2) a covered financial instrument held in a
19 qualified blind trust operated on behalf of, or for the
20 benefit of, the Member of Congress or spouse of the
21 Member of Congress.

22 “(c) PENALTIES.—

23 “(1) DISGORGEMENT.—A Member of Congress
24 shall disgorge to the Treasury of the United States
25 any profit from a transaction or holding involving a

1 covered financial instrument that is conducted in
2 violation of this section.

3 “(2) INCOME TAX.—A loss from a transaction
4 or holding involving a covered financial instrument
5 that is conducted in violation of this section may not
6 be deducted from the amount of income tax owed by
7 the applicable Member of Congress or spouse of a
8 Member of Congress.

9 “(3) FINES.—A Member of Congress who holds
10 or conducts a transaction involving, or whose spouse
11 holds or conducts a transaction involving, a covered
12 financial instrument in violation of this section may
13 be subject to a civil fine assessed by the supervising
14 ethics committee under section 204.

15 **“SEC. 203. CERTIFICATION OF COMPLIANCE.**

16 “(a) IN GENERAL.—Not less frequently than annu-
17 ally, each Member of Congress shall submit to the applica-
18 ble supervising ethics committee a written certification
19 that the Member of Congress has achieved compliance
20 with the requirements of this title.

21 “(b) PUBLICATION.—The supervising ethics commit-
22 tees shall publish each certification submitted under sub-
23 section (a) on a publicly available website.

1 **“SEC. 204. AUTHORITY OF SUPERVISING ETHICS COMMIT-**
2 **TEES.**

3 “(a) IN GENERAL.—The supervising ethics commit-
4 tees may implement and enforce the requirements of this
5 title, including by—

6 “(1) issuing—

7 “(A) for Members of Congress—

8 “(i) rules governing that implementa-
9 tion; and

10 “(ii) 1 or more reasonable extensions
11 to achieve compliance with this title, if the
12 supervising ethics committee determines
13 that a Member of Congress is making a
14 good faith effort to divest any covered fi-
15 nancial instruments; and

16 “(B) guidance relating to covered financial
17 instruments;

18 “(2) publishing on the Internet certifications
19 submitted by Members of Congress under section
20 203(a); and

21 “(3) assessing civil fines against any Member of
22 Congress who is in violation of this title, subject to
23 subsection (b).

24 “(b) REQUIREMENTS FOR CIVIL FINES.—

25 “(1) IN GENERAL.—Before imposing a fine pur-
26 suant to this section, a supervising ethics committee

1 shall provide to the applicable Member of Con-
2 gress—

3 “(A) a written notice describing each cov-
4 ered financial instrument transaction for which
5 a fine will be assessed; and

6 “(B) an opportunity, with respect to each
7 such covered financial instrument transaction—

8 “(i) for a hearing; and

9 “(ii) to achieve compliance with the
10 requirements of this title.

11 “(2) PUBLICATION.—Each supervising ethics
12 committee shall publish on a publicly available
13 website a description of—

14 “(A) each fine assessed by the supervising
15 ethics committee pursuant to this section;

16 “(B) the reasons why each such fine was
17 assessed; and

18 “(C) the result of each assessment, includ-
19 ing any hearing under paragraph (1)(B)(i) re-
20 lating to the assessment.

21 “(3) APPEAL.—A Member of Congress may ap-
22 peal the assessment of a fine under this section to
23 a vote on the floor of the Senate or the House of
24 Representatives, as applicable, as a privileged mo-
25 tion.

1 **“SEC. 205. AUDIT BY GOVERNMENT ACCOUNTABILITY OF-**
2 **FICE.**

3 “Not later than 2 years after the date of enactment
4 of the Banning Insider Trading in Congress Act, the
5 Comptroller General of the United States shall—

6 “(1) conduct an audit of the compliance by
7 Members of Congress with the requirements of this
8 title; and

9 “(2) submit to the supervising ethics commit-
10 tees a report describing the results of the audit con-
11 ducted under paragraph (1).”.

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 109 of the Ethics in Government
14 Act of 1978 (5 U.S.C. App.) is amended—

15 (A) in the matter preceding paragraph (1),
16 by striking “For the purposes of this title, the
17 term—” and inserting “In this title.”;

18 (B) in paragraph (1), by striking “means”
19 and all that follows through “Representatives;”
20 and inserting the following: “means, as applica-
21 ble—

22 “(A) the Select Committee on Ethics of
23 the Senate; and

24 “(B) the Committee on Ethics of the
25 House of Representatives.”;

1 (C) in each of paragraphs (2) through
2 (17), by striking the semicolon at the end of the
3 paragraph and inserting a period;

4 (D) in paragraph (18)—

5 (i) in subparagraph (B), by striking
6 “Standards of Official Conduct” and in-
7 serting “Ethics”; and

8 (ii) in subparagraph (D), by striking
9 “; and” at the end and inserting a period;

10 (E) in each of paragraphs (1) through
11 (19)—

12 (i) by inserting “The term” after the
13 paragraph designation; and

14 (ii) by inserting a paragraph heading,
15 the text of which is comprised of the term
16 defined in that paragraph; and

17 (F) by redesignating paragraphs (8) and
18 (9) as paragraphs (9) and (8), respectively, and
19 moving the paragraphs so as to appear in nu-
20 merical order.

21 (2) Section 101(f) of the Ethics in Government
22 Act of 1978 (5 U.S.C. App.) is amended—

23 (A) in paragraph (9), by striking “as de-
24 fined under section 109(12)”;

1 (B) in paragraph (10), by striking “as de-
2 fined under section 109(13)”;

3 (C) in paragraph (11), by striking “as de-
4 fined under section 109(10)”;

5 (D) in paragraph (12), by striking “as de-
6 fined under section 109(8)”.

7 (3) Section 103 of the Ethics in Government
8 Act of 1978 (5 U.S.C. App.) is amended—

9 (A) in subsection (j)(1), by striking
10 “Standards of Official Conduct” and inserting
11 “Ethics”; and

12 (B) in subsection (l)—

13 (i) in paragraph (9), by striking “, as
14 defined under section 109(12)”;

15 (ii) in paragraph (10), by striking “,
16 as defined under section 109(13)”.

17 (4) Section 105(b)(3)(A) of the Ethics in Gov-
18 ernment Act of 1978 (5 U.S.C. App.) is amended by
19 striking “described in section 109(8) or 109(10) of
20 this Act” and inserting “who is a judicial employee
21 or judicial officer”.

22 (5) Section 111(2) of the Ethics in Government
23 Act of 1978 (5 U.S.C. App.) is amended by striking
24 “Standards of Official Conduct” and inserting “Eth-
25 ics”.

1 (6) Section 402 of the Ethics in Government
2 Act of 1978 (5 U.S.C. App.) is amended—

3 (A) in subsection (b), by striking “title II
4 of” each place it appears; and

5 (B) in subsection (f)(2)(B)—

6 (i) by striking “Subject to clause (iv)
7 of this subparagraph, before” each place it
8 appears and inserting “Before”; and

9 (ii) by striking clause (iv).

10 (7) Section 503(1)(A) of the Ethics in Govern-
11 ment Act of 1978 (5 U.S.C. App.) is amended by
12 striking “Standards of Official Conduct” and insert-
13 ing “Ethics”.

14 (8) Section 3(4)(D) of the Lobbying Disclosure
15 Act of 1995 (2 U.S.C. 1602(4)(D)) is amended by
16 striking “legislative branch employee serving in a po-
17 sition described under section 109(13) of the Ethics
18 in Government Act of 1978 (5 U.S.C. App.)” and
19 inserting “officer or employee of the Congress (as
20 defined in section 109 of the Ethics in Government
21 Act of 1978 (5 U.S.C. App.))”.

22 (9) Section 21A of the Securities Exchange Act
23 of 1934 (15 U.S.C. 78u-1) is amended—

24 (A) in subsection (g)(2)(B)(ii), by striking
25 “section 109(11) of the Ethics in Government

1 Act of 1978 (5 U.S.C. App. 109(11))” and in-
2 serting “section 109 of the Ethics in Govern-
3 ment Act of 1978 (5 U.S.C. App.)”; and

4 (B) in subsection (h)(2)—

5 (i) in subparagraph (B), by striking
6 “section 109(8) of the Ethics in Govern-
7 ment Act of 1978 (5 U.S.C. App. 109(8))”
8 and inserting “section 109 of the Ethics in
9 Government Act of 1978 (5 U.S.C. App.)”;
10 and

11 (ii) in subparagraph (C), by striking
12 “under section 109(10) of the Ethics in
13 Government Act of 1978 (5 U.S.C. App.
14 109(10))” and inserting “in section 109 of
15 the Ethics in Government Act of 1978 (5
16 U.S.C. App.)”.