116TH CONGRESS
2D SESSION

H. R.

To strengthen and enhance certain ethics requirements for the Federal Government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GOMEZ introduced the following bill; which was referred to the Committee on ______________________

A BILL

To strengthen and enhance certain ethics requirements for the Federal Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Executive Branch Conflict of Interest Act”.

SEC. 2. RESTRICTIONS ON PRIVATE SECTOR PAYMENT FOR GOVERNMENT SERVICE.

Section 209 of title 18, United States Code, is amended—
(1) in subsection (a), by striking “any salary” and inserting “any salary (including a bonus)”; and
(2) in subsection (b)—
   (A) by inserting “(1)” after “(b)”; and
   (B) by adding at the end the following:
   “(2) For purposes of paragraph (1), a pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan that makes payment of any portion of compensation contingent on accepting a position in the United States Government shall not be considered bona fide.”.

SEC. 3. REQUIREMENTS RELATING TO SLOWING THE REVOLVING DOOR.

(a) IN GENERAL.—The Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“TITLE VI—ENHANCED REQUIREMENTS FOR CERTAIN EMPLOYEES

“SEC. 601. DEFINITIONS.

“(1) COVERED AGENCY.—The term ‘covered agency’—
“(A) means an Executive agency, as defined in section 105 of title 5, United States Code, the Postal Service and the Postal Rate Commission, but does not include the Government Accountability Office or the Government of the District of Columbia; and

“(B) shall include the Executive Office of the President.

“(2) COVERED EMPLOYEE.—The term ‘covered employee’ means an officer or employee referred to in paragraph (2) of section 207(c) of title 18, United States Code.

“(3) DIRECTOR.—The term ‘Director’ means the Director of the Office of Government Ethics.

“(4) EXECUTIVE BRANCH.—The term ‘executive branch’ has the meaning given that term in section 109.

“(5) FORMER CLIENT.—The term ‘former client’—

“(A) means a person for whom a covered employee served personally as an agent, attorney, or consultant during the 2-year period ending on the date before the date on which the covered employee begins service in the Federal Government; and
“(B) does not include—

“(i) instances in which the service provided was limited to a speech or similar appearance by the covered employee; or

“(ii) a client of the former employer of the covered employee to whom the covered employee did not personally provide such services.

“(6) FORMER EMPLOYER.—The term ‘former employer’—

“(A) means a person for whom a covered employee served as an employee, officer, director, trustee, or general partner during the 2-year period ending on the date before the date on which the covered employee begins service in the Federal Government; and

“(B) does not include—

“(i) an entity in the Federal Government, including an executive branch agency;

“(ii) a State or local government;

“(iii) the District of Columbia;

“(iv) an Indian tribe, as defined in section 4 of the Indian Self-Determination
and Education Assistance Act (25 U.S.C. 5304); or

“(v) the government of a territory or possession of the United States.

“(7) PARTICULAR MATTER.—The term ‘particular matter’ has the meaning given that term in section 207(i) of title 18, United States Code.

“SEC. 602. CONFLICT OF INTEREST AND ELIGIBILITY STANDARDS.

“(a) IN GENERAL.—A covered employee may not use, or attempt to use, the official position of the covered employee to participate in a particular matter in which the covered employee knows a former employer or former client of the covered employee has a financial interest.

“(b) WAIVER.—

“(1) IN GENERAL.—The head of the covered agency employing a covered employee, in consultation with the Director, may grant a written waiver of the restrictions under subsection (a) prior to engaging in the action otherwise prohibited by subsection (a) if, and to the extent that, the head of the covered agency certifies in writing that—

“(A) the application of the restriction to the particular matter is inconsistent with the purposes of the restriction; or
“(B) it is in the public interest to grant
the waiver.

“(2) PUBLICATION.—The head of the covered
agency shall provide a waiver under paragraph (1)
to the Director and post the waiver on the website
of the agency within 30 calendar days after granting
such waiver.

“SEC. 603. PENALTIES AND INJUNCTIONS.

“(a) CRIMINAL PENALTIES.—

“(1) IN GENERAL.—Any person who violates
section 602 shall be fined under title 18, United
States Code, imprisoned for not more than 1 year,
or both.

“(2) WILLFUL VIOLATIONS.—Any person who
willfully violates section 602 shall be fined under
title 18, United States Code, imprisoned for not
more than 5 years, or both.

“(b) CIVIL ENFORCEMENT.—

“(1) IN GENERAL.—The Attorney General may
bring a civil action in an appropriate district court
of the United States against any person who vio-
lates, or whom the Attorney General has reason to
believe is engaging in conduct that violates, section
602.

“(2) CIVIL PENALTY.—
“(A) IN GENERAL.—If the court finds by a preponderance of the evidence that a person violated section 602, the court shall impose a civil penalty of not more than the greater of—

“(i) $100,000 for each violation; or

“(ii) the amount of compensation the person received or was offered for the conduct constituting the violation.

“(B) RULE OF CONSTRUCTION.—A civil penalty under this subsection may be in addition to any other criminal or civil statutory, common law, or administrative remedy available to the United States or any other person.

“(3) INJUNCTIVE RELIEF.—

“(A) IN GENERAL.—In a civil action brought under paragraph (1) against a person, the Attorney General may petition the court for an order prohibiting the person from engaging in conduct that violates section 602.

“(B) STANDARD.—The court may issue an order under subparagraph (A) if the court finds by a preponderance of the evidence that the conduct of the person violates section 602.

“(C) RULE OF CONSTRUCTION.—The filing of a petition seeking injunctive relief under this
paragraph shall not preclude any other remedy that is available by law to the United States or any other person.”.

SEC. 4. PROHIBITION OF PROCUREMENT OFFICERS ACCEPTING EMPLOYMENT FROM GOVERNMENT CONTRACTORS.

(a) Expansion of prohibition on acceptance by former officials of compensation from contractors.—Section 2104 of title 41, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking “or consultant” and inserting “attorney, consultant, subcontractor, or lobbyist”; and

(ii) by striking “one year” and inserting “2 years”; and

(B) in paragraph (3), by striking “personally made for the Federal agency” and inserting “participated personally and substantially in”; and

(2) by striking subsection (b) and inserting the following:
“(b) Prohibition on Compensation from Affiliates and Subcontractors.—A former official responsible for a Government contract referred to in paragraph (1), (2), or (3) of subsection (a) may not accept compensation for 2 years after awarding the contract from any division, affiliate, or subcontractor of the contractor.”.

(b) Requirement for Procurement Officers to Disclose Job Offers Made on Behalf of Relatives.—Section 2103(a) of title 41, United States Code, is amended in the matter preceding paragraph (1) by inserting after “that official” the following: “, or for a relative (as defined in section 3110 of title 5) of that official,”.

(c) Requirement on Award of Government Contracts to Former Employers.—

(1) In general.—Chapter 21 of division B of subtitle I of title 41, United States Code, is amended by adding at the end the following new section:

“§2108. Prohibition on involvement by certain former contractor employees in procurements

“An employee of the Federal Government may not be personally and substantially involved with any award of a contract to, or the administration of a contract awarded to, a contractor that is a former employer of the em-
ployee during the 2-year period beginning on the date on
which the employee leaves the employment of the con-
tractor.”.

(2) TECHNICAL AND CONFORMING AMEND-
MENT.—The table of sections for chapter 21 of title
41, United States Code, is amended by adding at
the end the following new item:

“2108. Prohibition on involvement by certain former contractor employees
in procurements.”.

(d) REGULATIONS.—The Administrator for Federal
Procurement Policy and the Director of the Office of Man-
agement and Budget shall—

(1) in consultation with the Director of the Of-

fice of Personnel Management and the Counsel to
the President, promulgate regulations to carry out
and ensure the enforcement of chapter 21 of title
41, United States Code, as amended by this section;
and

(2) in consultation with designated agency eth-

ics officials (as that term is defined in section
109(3) of the Ethics in Government Act of 1978 (5
U.S.C. App.)), monitor compliance with that chapter
by individuals and agencies.
SEC. 5. REVOLVING DOOR RESTRICTIONS ON EMPLOYEES

MOVING INTO THE PRIVATE SECTOR.

(a) IN GENERAL.—Subsection (e) of section 207 of title 18, United States Code, is amended—

(1) in the subsection heading, by striking “ONE-YEAR” and inserting “TWO-YEAR”; 

(2) in paragraph (1), by striking “1 year” in each instance and inserting “2 years”; and 

(3) in paragraph (2)(B), by striking “1-year” and inserting “2-year”.

(b) APPLICATION.—The amendments made by subsection (a) shall apply to any individual covered by subsection (c) of section 207 of title 18, United States Code, separating from the civil service on or after the date of enactment of this Act.

SEC. 6. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.