

AMENDMENT TO RULES COMMITTEE PRINT 116-

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OFFERED BY MS. JAYAPAL OF WASHINGTON

Insert after section 8014 the following:

1 **SEC. 8015. LEGAL DEFENSE FUNDS.**

2 (a) DEFINITIONS.—In this section—

3 (1) the term “Director” means the Director of
4 the Office of Government Ethics;

5 (2) the term “legal defense fund” means a
6 trust—

7 (A) that has only one beneficiary;

8 (B) that is subject to a trust agreement
9 creating an enforceable fiduciary duty on the
10 part of the trustee to the beneficiary, pursuant
11 to the applicable law of the jurisdiction in which
12 the trust is established;

13 (C) that is subject to a trust agreement
14 that provides for the mandatory public disclo-
15 sure of all donations and disbursements;

16 (D) that is subject to a trust agreement
17 that prohibits the use of its resources for any
18 purpose other than—

19 (i) the administration of the trust;

1 (ii) the payment or reimbursement of
2 legal fees or expenses incurred in investiga-
3 tive, civil, criminal, or other legal pro-
4 ceedings relating to or arising by virtue of
5 service by the trust's beneficiary as an offi-
6 cer or employee, as defined in this section,
7 or as an employee, contractor, consultant
8 or volunteer of the campaign of the Presi-
9 dent or Vice President; or

10 (iii) the distribution of unused re-
11 sources to a charity selected by the trustee
12 that has not been selected or recommended
13 by the beneficiary of the trust;

14 (E) that is subject to a trust agreement
15 that prohibits the use of its resources for any
16 other purpose or personal legal matters, includ-
17 ing tax planning, personal injury litigation, pro-
18 tection of property rights, divorces, or estate
19 probate; and

20 (F) that is subject to a trust agreement
21 that prohibits the acceptance of donations, ex-
22 cept in accordance with this section and the
23 regulations of the Office of Government Ethics;

1 (3) the term “lobbying activity” has the mean-
2 ing given that term in section 3 of the Lobbying
3 Disclosure Act of 1995 (2 U.S.C. 1602);

4 (4) the term “officer or employee” means—

5 (A) an officer (as that term is defined in
6 section 2104 of title 5, United States Code) or
7 employee (as that term is defined in section
8 2105 of such title) of the executive branch of
9 the Government;

10 (B) the Vice President; and

11 (C) the President; and

12 (5) the term “relative” has the meaning given
13 that term in section 3110 of title 5, United States
14 Code.

15 (b) **LEGAL DEFENSE FUNDS.**—An officer or em-
16 ployee may not accept or use any gift or donation for the
17 payment or reimbursement of legal fees or expenses in-
18 curred in investigative, civil, criminal, or other legal pro-
19 ceedings relating to or arising by virtue of the officer or
20 employee’s service as an officer or employee, as defined
21 in this section, or as an employee, contractor, consultant
22 or volunteer of the campaign of the President or Vice
23 President except through a legal defense fund that is cer-
24 tified by the Director of the Office of Government Ethics.

1 (c) LIMITS ON GIFTS AND DONATIONS.—Not later
2 than 120 days after the date of the enactment of this Act,
3 the Director shall promulgate regulations establishing lim-
4 its with respect to gifts and donations described in sub-
5 section (b), which shall, at a minimum—

6 (1) prohibit the receipt of any gift or donation
7 described in subsection (b)—

8 (A) from a single contributor (other than
9 a relative of the officer or employee) in a total
10 amount of more than \$5,000 during any cal-
11 endar year;

12 (B) from a registered lobbyist;

13 (C) from a foreign government or an agent
14 of a foreign principal;

15 (D) from a State government or an agent
16 of a State government;

17 (E) from any person seeking official action
18 from, or seeking to do or doing business with,
19 the agency employing the officer or employee;

20 (F) from any person conducting activities
21 regulated by the agency employing the officer
22 or employee;

23 (G) from any person whose interests may
24 be substantially affected by the performance or

1 nonperformance of the official duties of the offi-
2 cer or employee;

3 (H) from an officer or employee of the ex-
4 ecutive branch;

5 (I) from any organization a majority of
6 whose members are described in (A)–(H); or

7 (J) require that a legal defense fund, in
8 order to be certified by the Director only permit
9 distributions to the officer or employee.

10 (d) WRITTEN NOTICE.—

11 (1) IN GENERAL.—An officer or employee who
12 wishes to accept funds or have a representative ac-
13 cept funds from a legal defense fund shall first en-
14 sure that the proposed trustee of the legal defense
15 fund submits to the Director the following informa-
16 tion:

17 (A) The name and contact information for
18 any proposed trustee of the legal defense fund.

19 (B) A copy of any proposed trust docu-
20 ment for the legal defense fund.

21 (C) The nature of the legal proceeding (or
22 proceedings), investigation or other matter
23 which give rise to the establishment of the legal
24 defense fund.

1 (D) An acknowledgment signed by the offi-
2 cer or employee and the trustee indicating that
3 they will be bound by the regulations and limi-
4 tation under this section.

5 (2) APPROVAL.—An officer or employee may
6 not accept any gift or donation to pay, or to reim-
7 burse any person for, fees or expenses described in
8 subsection (b) of this section except through a legal
9 defense fund that has been certified in writing by
10 the Director following that office’s receipt and ap-
11 proval of the information submitted under para-
12 graph (1) and approval of the structure of the fund.

13 (e) REPORTING.—

14 (1) IN GENERAL.—An officer or employee who
15 establishes a legal defense fund may not directly or
16 indirectly accept distributions from a legal defense
17 fund unless the fund has provided the Director a
18 quarterly report for each quarter of every calendar
19 year since the establishment of the legal defense
20 fund that discloses, with respect to the quarter cov-
21 ered by the report—

22 (A) the source and amount of each con-
23 tribution to the legal defense fund; and

24 (B) the amount, recipient, and purpose of
25 each expenditure from the legal defense fund,

1 including all distributions from the trust for
2 any purpose.

3 (2) PUBLIC AVAILABILITY.—The Director shall
4 make publicly available online—

5 (A) each report submitted under para-
6 graph (1) in a searchable, sortable, and
7 downloadable form;

8 (B) each trust agreement and any amend-
9 ment thereto;

10 (C) the written notice and acknowledgment
11 required by subsection (d); and

12 (C) the Director's written certification of
13 the legal defense fund.

14 (f) RECUSAL.—An officer or employee, other than the
15 President and the Vice President, who is the beneficiary
16 of a legal defense fund may not participate personally and
17 substantially in any particular matter in which the officer
18 or employee knows a donor of any source of a gift or dona-
19 tion to the legal defense fund established for the officer
20 or employee has a financial interest, for a period of two
21 years from the date of the most recent gift or donation
22 to the legal defense fund.

