

118TH CONGRESS  
2D SESSION

# S. 4390

To amend title 5, United States Code, to prohibit the President, Vice President, Members of Congress, and other senior Executive branch personnel from accepting any foreign emoluments, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 22, 2024

Mr. BLUMENTHAL introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend title 5, United States Code, to prohibit the President, Vice President, Members of Congress, and other senior Executive branch personnel from accepting any foreign emoluments, 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. SHORT TITLE.**

4 This Act may be cited as the “No Foreign Emolu-  
5 ments Without Congressional Consent Act”.

1 **SEC. 2. PROHIBITING SENIOR FEDERAL OFFICIALS FROM**  
2 **ACCEPTING FOREIGN PAYMENTS.**

3 (a) IN GENERAL.—Subchapter IV of chapter 73 of  
4 title 5, United States Code, is amended by adding after  
5 section 7342 the following:

6 **“§ 7343. Prohibiting senior Federal officials from ac-**  
7 **cepting foreign payments**

8 “(a) PROHIBITION.—

9 “(1) IN GENERAL.—It shall be unlawful for any  
10 senior Federal official to receive, accept, or retain a  
11 foreign payment, including through a business entity  
12 controlled by a senior Federal official, without first  
13 obtaining the consent of Congress pursuant to this  
14 section and section 7344.

15 “(2) TWO-YEAR POST EMPLOYMENT.—During  
16 the 2-year period beginning on the date that an indi-  
17 vidual leaves the position of a senior Federal official,  
18 it shall be unlawful for such individual to receive, ac-  
19 cept, or retain a foreign payment, including through  
20 a business entity controlled by a senior Federal offi-  
21 cial, without first obtaining the consent of Congress  
22 pursuant to this section and section 7344. Such in-  
23 dividual shall make the requisite disclosures required  
24 under subsection (b) of this section.

25 “(3) CANDIDATE REPORTS.—An individual  
26 other than an incumbent President or Vice President

1 who becomes a candidate (as defined in section 301  
2 of the Federal Election Campaign Act of 1971 (52  
3 U.S.C. 30101)) for the office of President or Vice  
4 President shall submit a report to Congress at the  
5 end of each 30-day period such individual is such a  
6 candidate listing any foreign payments such indi-  
7 vidual received during such period.

8 “(b) DISCLOSURE.—

9 “(1) NOTICE.—Any senior Federal official that  
10 wishes to receive, accept, or retain a foreign pay-  
11 ment shall submit (in writing) notice to the Director  
12 prior to receiving, accepting, or retaining any foreign  
13 payment. Such request shall include, at a min-  
14 imum—

15 “(A) the name of, and position occupied  
16 by, the senior Federal official;

17 “(B) details regarding the foreign payment  
18 the senior Federal official wishes to receive, ac-  
19 cept, and retain, including the foreign govern-  
20 ment that would provide the foreign payment,  
21 the type of payment and the financial instru-  
22 ment to be used to provide the payment, the  
23 value of the foreign payment, and whether the  
24 foreign payment would be provided through a  
25 business entity, and, if so, the business entity

1 and the specific transaction through which it  
2 would be provided; and

3 “(C) a statement confirming that the sen-  
4 ior Federal official has not requested or other-  
5 wise encouraged the tender of the foreign pay-  
6 ment.

7 “(2) NOTIFICATION TO CONGRESS.—Not later  
8 than 10 days after receiving notice under paragraph  
9 (1), the Director shall submit such notice to Con-  
10 gress.

11 “(3) MEMBERS OF CONGRESS.—For purposes  
12 of carrying out this subsection with respect to Mem-  
13 bers of Congress—

14 “(A) with respect to any such Member who  
15 is a Senator, the term ‘the Select Committee on  
16 Ethics of the Senate’ shall be substituted for  
17 ‘Director’; and

18 “(B) with respect to any such Member who  
19 is a Member of the House of Representatives,  
20 the term ‘Committee on Ethics of the House of  
21 Representatives’ shall be substituted for ‘Direc-  
22 tor’.

23 “(c) DEFINITIONS.—For purposes of this section and  
24 sections 7344 and 7345—

25 “(1) the term ‘business entity’—

1           “(A) means a for-profit corporation, asso-  
2           ciation, partnership, limited liability company,  
3           limited liability partnership, other legal entity,  
4           or sole proprietorship in which a senior Federal  
5           official has an ownership stake; and

6           “(B) does not include an entity in which  
7           more than 100 people have an ownership stake  
8           and the senior Federal official holds no more  
9           than 5 percent in a beneficial ownership stake  
10          and that—

11           “(i) issues securities registered with  
12           the Securities and Exchange Commission  
13           pursuant to section 12 of the Securities  
14           Exchange Act of 1934 (15 U.S.C. 78l);

15           “(ii) is an investment company reg-  
16           istered pursuant to section 8 of the Invest-  
17           ment Company Act of 1940 (15 U.S.C.  
18           80a-8) that does not have a stated policy  
19           of concentrating the investments of the in-  
20           vestment company in any industry, busi-  
21           ness, single country other than the United  
22           States, or bonds of a single State within  
23           the United States; or

24           “(iii) is a unit investment trust, as de-  
25           fined in section 4 of the Investment Com-

1                   pany Act of 1940 (15 U.S.C. 80a-4)  
2                   that—

3                               “(I) is a regulated investment  
4                               company, as defined in section 851 of  
5                               the Internal Revenue Code of 1986;  
6                               and

7                               “(II) does not have a stated pol-  
8                               icy of concentrating the investments  
9                               of the investment company in any in-  
10                              dustry, business, single country other  
11                              than the United States, or bonds of a  
12                              single State within the United States;

13                   “(2) the term ‘Director’ means the Director of  
14                   the Office of Government Ethics;

15                   “(3) the term ‘foreign payment’—

16                               “(A) means any direct or indirect payment  
17                               in any form, including any tangible item, aris-  
18                               ing from commercial transactions of any kind,  
19                               including any payment involving a business en-  
20                               tity, whether or not at fair market value from—

21                                       “(i) any foreign government (as that  
22                                       term is defined in section 7342(a));

23                                       “(ii) any corporate enterprise engaged  
24                                       in commercial endeavors owned 50 percent

1 or more or controlled by a foreign govern-  
2 ment; or

3 “(iii) any member of the family of a  
4 sovereign in a monarchical government;

5 “(B) does not include any gift or decora-  
6 tion covered under section 7342; and

7 “(4) the term ‘senior Federal official’ means—

8 “(A) the President and the Vice President;

9 “(B) a Member of Congress (as that term  
10 is defined in section 2106);

11 “(C) the head of any Executive depart-  
12 ment;

13 “(D) any individual employed on the staff  
14 of the President in a position with the title of  
15 Assistant to the President, Deputy Assistant to  
16 the President, Special Assistant to the Presi-  
17 dent, Advisor to the President, or Counselor to  
18 the President; and

19 “(E) any other senior United States Gov-  
20 ernment employee designated by the Director.

21 **“§ 7344. Congressional review of request to receive,**

22 **accept, and retain foreign payment**

23 “(a) IN GENERAL.—A senior Federal official may not  
24 receive, accept, or retain a foreign payment unless Con-  
25 gress has, prior to such receipt, acceptance, or retention,

1 consented through enactment of a concurrent resolution  
2 of approval as provided under this section.

3 “(b) REVIEW.—

4 “(1) IN GENERAL.—In this section, the term  
5 ‘concurrent resolution’ means only a concurrent res-  
6 olution—

7 “(A) introduced during the period begin-  
8 ning on the date Congress receives notice from  
9 the Director under section 7343(b)(2) and end-  
10 ing on the date that is 90 days thereafter; and

11 “(B) consisting only of the following text  
12 in the matter following the resolving clause:  
13 ‘That Congress hereby consents to the accept-  
14 ance by \_\_\_\_\_ of the foreign payment  
15 described as follows: \_\_\_\_\_.’, with the  
16 first blank space filled in with the name of the  
17 senior Federal official and the second blank  
18 space filled in with a detailed description of the  
19 foreign payment.

20 “(2) COMMITTEE CONSIDERATION.—A concu-  
21 rent resolution under this section shall be referred to  
22 the appropriate committee of the House of Rep-  
23 resentatives and the Senate. One such concurrent  
24 resolution shall be reported out by such committee  
25 together with its recommendations within fifteen leg-



1       islative days after the day on which such resolution  
2       is referred to such committee, unless such House  
3       shall otherwise determine by the yeas and nays.

4               “(3) CONSIDERATION.—Any concurrent resolu-  
5       tion so reported shall become the pending business  
6       of the House in question (in the case of the Senate  
7       the time for debate shall be equally divided between  
8       the proponents and the opponents) and shall be  
9       voted on within three legislative days after the day  
10      on which such resolution is reported, unless such  
11      House shall otherwise determine by yeas and nays.

12              “(4) COORDINATION.—Such a concurrent reso-  
13      lution passed by one House shall be referred to the  
14      appropriate committee of the other House and shall  
15      be reported out by such committee together with its  
16      recommendations within fifteen legislative days after  
17      the day on which such resolution is referred to such  
18      committee and shall thereupon become the pending  
19      business of such House and shall be voted upon  
20      within three legislative days after the day on which  
21      such resolution is reported, unless such House shall  
22      otherwise determine by yeas and nays.

23              “(5) CONFERENCE.—In the case of any dis-  
24      agreement between the two Houses of Congress with  
25      respect to a joint resolution passed by both Houses,

1 conferees shall be promptly appointed and the com-  
2 mittee of conference shall make and file a report  
3 with respect to such joint resolution within six legis-  
4 lative days after the day on which managers on the  
5 part of the Senate and the House have been ap-  
6 pointed. Notwithstanding any rule in either House  
7 concerning the printing of conference reports or con-  
8 cerning any delay in the consideration of such re-  
9 ports, such report shall be acted on by both Houses  
10 not later than six legislative days after the con-  
11 ference report is filed in the House in which such re-  
12 port is filed first. In the event the conferees are un-  
13 able to agree within forty-eight hours, they shall re-  
14 port back to their respective Houses in disagree-  
15 ment.

16 “(c) EXERCISE OF RULEMAKING POWERS.—This  
17 section is enacted by the Congress—

18 “(1) as an exercise of the rulemaking power of  
19 the House of Representatives and the Senate, re-  
20 spectively, and as such they shall be considered as  
21 part of the rules of each House, respectively, or of  
22 that House to which they specifically apply, and  
23 such rules shall supersede other rules only to the ex-  
24 tent that they are inconsistent therewith; and

1           “(2) with full recognition of the constitutional  
2 right of either House to change such rules (so far  
3 as relating to such House) at any time, in the same  
4 manner, and to the same extent as in the case of  
5 any other rule of such House.

6 **“§ 7345. Penalties**

7           “(a) CIVIL ACTION BY THE ATTORNEY GENERAL.—  
8 The Attorney General may bring a civil action against a  
9 senior Federal official in an appropriate United States dis-  
10 trict court for a violation of section 7343 or 7344 for—

11           “(1) a civil monetary penalty in an amount not  
12 to exceed \$5,000 more than the retail value of the  
13 foreign payment; and

14           “(2) such injunctive relief as may be appro-  
15 priate.

16           “(b) CRIMINAL PENALTY.—Whoever, being a senior  
17 Federal official, knowingly violates section 7343 or 7344  
18 shall be imprisoned for not more than one year, fined in  
19 the amount of \$50,000 or the total value of the foreign  
20 payments accepted, whichever is greater, or both.

21           “(c) FORFEITURE.—Any payment received, accepted,  
22 or retained in violation of section 7343 or 7344 shall be  
23 seized and forfeited to the United States in accordance  
24 with chapter 46 of title 18.

1       “(d) ACTIONS BY PRIVATE PERSONS.—A person may  
2 bring a civil action for a violation of section 7343 or 7344  
3 for the person and for the United States Government in  
4 the same manner as an action under section 3730(b) of  
5 title 31, except that—

6           “(1) any extension of time under section  
7 3730(b)(3) of title 31 shall not exceed 120 days;

8           “(2) section 3730(e)(2) of title 31 shall not  
9 apply; and

10          “(3) section 3730(e)(4) of title 31 shall not  
11 apply with regard to a civil action brought against  
12 the President, the Vice President, or the Attorney  
13 General.

14       “(e) SAFE HARBOR.—The penalties under this sec-  
15 tion shall not apply with respect to a foreign payment  
16 made to a senior Federal official if the official—

17           “(1) did not solicit the payment; and

18           “(2) not later than 72 hours after becoming  
19 aware of the receipt of such a payment, and in no  
20 case later than 90 days after its receipt—

21           “(A) notifies the Director (or, in the case  
22 of a Member of Congress, the Select Committee  
23 on Ethics of the Senate or the Committee on  
24 Ethics of the House of Representatives, as the  
25 case may be) of the payment; and

1           “(B) returns the payment in full to the en-  
2           tity that made the payment or remits such pay-  
3           ment to the Treasury.”.

4           (b) DESIGNATION BY OGE.—Not later than 90 days  
5 after the date of the enactment of this Act, the Director  
6 of the Office of Government Ethics shall publish, on the  
7 Office’s public website, an initial list of any individual des-  
8 ignated by the Director under section 7343(c)(4)(E) of  
9 title 5, United States Code (as added by subsection (a)  
10 of this Act). The Director shall update such list as appro-  
11 priate.

12           (c) CLERICAL.—The table of sections for subchapter  
13 IV of chapter 73 of title 5, United States Code, is amend-  
14 ed by adding after the item relating to section 7342 the  
15 following:

“7343. Prohibiting senior Federal officials from accepting foreign payments.

“7344. Congressional review of foreign payments.

“7345. Penalties.”.

16 **SEC. 3. ENFORCEMENT AUTHORITY FOR OFFICE OF GOV-**  
17 **ERNMENT ETHICS AND FINANCIAL DISCLO-**  
18 **SURES.**

19           (a) ENFORCEMENT.—

20           (1) IN GENERAL.—Section 13122(a) of title 5,  
21 United States Code, is amended—

22           (A) by striking “The Director” and insert-  
23 ing “(1) IN GENERAL.—The Director”; and

24           (B) by adding at the end the following:

1 “(2) FOREIGN PAYMENTS.—

2 “(A) IN GENERAL.—The Director shall  
3 provide overall direction of executive branch  
4 policies related to compliance with sections  
5 7343 through 7345, and shall have authority  
6 to—

7 “(i) order individuals to take correc-  
8 tive action; and

9 “(ii) pursuant to section 7345, require  
10 disgorgement and divestiture of any for-  
11 eign payment received, accepted, or re-  
12 tained by a senior Federal official without  
13 the consent of Congress to ensure compli-  
14 ance by a senior Federal official with the  
15 No Foreign Emoluments Without Congres-  
16 sional Consent Act.

17 “(B) DEFINITIONS.—In this paragraph  
18 and for purposes of subsection (b)(16), the  
19 terms ‘foreign payment’ and ‘senior Federal of-  
20 ficial’ have the meaning given those terms in  
21 section 7343(e).”.

22 (2) SPECIFIC AUTHORITY.—Section 13122(b) of  
23 title 5, United States Code, is amended—

24 (A) in paragraph (14), by striking “and”  
25 at the end;

1 (B) in paragraph (15), by striking the pe-  
2 riod at the end and inserting “; and”; and

3 (C) by adding after paragraph (15) the fol-  
4 lowing:

5 “(16) developing and promulgating rules and  
6 regulations to ensure compliance with the require-  
7 ments of sections 7343 through 7345, including es-  
8 tablishing—

9 “(A) a process for making required reports  
10 and notifications to Congress;

11 “(B) a process for ensuring the surrender  
12 or requiring the disgorgement and divestiture of  
13 a foreign payment when Congress does not con-  
14 sent to retention of the foreign payment;

15 “(C) a process for notifying Congress of  
16 non-compliance with the requirements of section  
17 7343 and 7344 or with any disapproval of re-  
18 tention of any foreign payment by a senior Fed-  
19 eral official; and

20 “(D) such other matters as are necessary  
21 to ensure compliance with the requirements of  
22 section 7343 and 7344.”.

23 (b) DISCLOSURES.—Section 13104(a) of title 5,  
24 United States Code, is amended by adding at the end the  
25 following:

1           “(9) FOREIGN PAYMENTS.—Any foreign pay-  
2           ment received by a senior Federal official on or be-  
3           fore the date of filing during the preceding calendar  
4           year, including the source, date, type, amount or  
5           value, date of surrender, or the date of adoption by  
6           Congress of a concurrent resolution approving the  
7           retention of the foreign payment under section 7344.  
8           In this paragraph, the terms ‘foreign payment’ and  
9           ‘senior Federal official’ have the meaning given  
10          those terms in section 7343(c).

11          “(10) PAYMENTS TO BUSINESS INTEREST.—  
12          Each business interest of a senior Federal official  
13          that is reasonably expected to result in the receipt  
14          of any foreign payment during the current calendar  
15          year. In this paragraph, the terms ‘foreign payment’  
16          and ‘senior Federal official’ have the meaning given  
17          those terms in section 7343(c).”.

18 **SEC. 4. SEVERABILITY.**

19          If any provision of this Act or amendment made by  
20          this Act, or the application of a provision or amendment  
21          to any person or circumstance, is held to be unconstitu-  
22          tional, the remainder of this Act and amendments made  
23          by this Act, and the application of the provisions and



- 1 amendment to any person or circumstance, shall not be
- 2 affected by the holding.

○