

118TH CONGRESS
2D SESSION

S. 4548

To make a technical correction to the National Defense Authorization Act for Fiscal Year 2024 by repealing section 5101 and enacting an updated version of the Foreign Extortion Prevention Act.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2024

Mr. WHITEHOUSE (for himself and Mr. TILLIS) introduced the following bill;
which was read twice, considered, read the third time, and passed

A BILL

To make a technical correction to the National Defense Authorization Act for Fiscal Year 2024 by repealing section 5101 and enacting an updated version of the Foreign Extortion Prevention Act.

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 “Foreign Extortion Pre-
5 vention Technical Corrections Act”.

6 **SEC. 2. TECHNICAL CORRECTION TO 2024 NDAA.**

7 (a) REPEAL OF PREVIOUS VERSION OF FEPA.—Sec-
8 tion 5101 of the National Defense Authorization Act for

1 Fiscal Year 2024 (Public Law 118–31) is repealed, and
 2 each provision of law amended by that section is amended
 3 to read as it read on the day before the date of enactment
 4 of that Act.

5 (b) PROHIBITION OF DEMAND FOR BRIBE.—

6 (1) IN GENERAL.—Chapter 63 of title 18,
 7 United States Code, is amended by adding at the
 8 end the following:

9 **“§ 1352. Demands by foreign officials for bribes**

10 “(a) DEFINITIONS.—In this section:

11 “(1) FOREIGN OFFICIAL.—The term ‘foreign
 12 official’ means—

13 “(A)(i) any official or employee of a for-
 14 eign government or any department, agency, or
 15 instrumentality thereof; or

16 “(ii) any senior foreign political figure, as
 17 defined in section 1010.605 of title 31, Code of
 18 Federal Regulations, or any successor regula-
 19 tion;

20 “(B) any official or employee of a public
 21 international organization;

22 “(C) any person acting in an official ca-
 23 pacity for or on behalf of—

1 “(i) a government, department, agen-
2 cy, or instrumentality described in sub-
3 paragraph (A)(i); or

4 “(ii) a public international organiza-
5 tion.

6 “(2) PUBLIC INTERNATIONAL ORGANIZATION.—

7 The term ‘public international organization’
8 means—

9 “(A) an organization that is designated by
10 Executive order pursuant to section 1 of the
11 International Organizations Immunities Act (22
12 U.S.C. 288); or

13 “(B) any other international organization
14 that is designated by the President by Execu-
15 tive order for the purposes of this section, effec-
16 tive as of the date of publication of the order
17 in the Federal Register.

18 “(b) PROHIBITION OF DEMAND FOR A BRIBE.—

19 “(1) OFFENSE.—It shall be unlawful for any
20 foreign official or person selected to be a foreign of-
21 ficial to corruptly demand, seek, receive, accept, or
22 agree to receive or accept, directly or indirectly, any-
23 thing of value personally or for any other person or
24 nongovernmental entity, by making use of the mails

1 or any means or instrumentality of interstate com-
2 merce—

3 “(A) from—

4 “(i) any person (as defined in section
5 104A of the Foreign Corrupt Practices Act
6 of 1977 (15 U.S.C. 78dd–3), except that
7 that definition shall be applied without re-
8 gard to whether the person is an offender)
9 while the foreign official or person selected
10 to be a foreign official, or a person acting
11 on behalf of the foreign official or person
12 selected to be a foreign official, is in the
13 territory of the United States;

14 “(ii) an issuer (as defined in section
15 3(a) of the Securities Exchange Act of
16 1934 (15 U.S.C. 78c(a))), or any officer,
17 director, employee, or agent of an issuer or
18 any stockholder thereof acting on behalf of
19 the issuer; or

20 “(iii) a domestic concern (as defined
21 in section 104 of the Foreign Corrupt
22 Practices Act of 1977 (15 U.S.C. 78dd–
23 2)), or any officer, director, employee, or
24 agent of a domestic concern or any stock-

holder thereof acting on behalf of the domestic concern; and

“(B) in return for—

“(i) being influenced in the performance of any act or decision of the foreign official or person selected to be a foreign official in the official capacity of the foreign official or person selected to be a foreign official;

“(ii) being induced to do or omit to do any act in violation of the lawful duty of the foreign official or person selected to be a foreign official;

“(iii) conferring any improper advantage; or

“(iv) using the influence of the foreign official or person selected to be a foreign official with a foreign government or instrumentality thereof to affect or influence any act or decision of that government or instrumentality,

in connection with obtaining or retaining business for or with, or directing business to, any person.

1 “(2) PENALTIES.—Any person who violates
2 paragraph (1) shall be fined not more than
3 \$250,000 or 3 times the monetary equivalent of the
4 thing of value, imprisoned for not more than 15
5 years, or both.

6 “(3) JURISDICTION.—An offense under para-
7 graph (1) shall be subject to extraterritorial Federal
8 jurisdiction.

9 “(4) REPORT.—Not later than 1 year after the
10 date of enactment of this section, and annually
11 thereafter, the Attorney General, in consultation
12 with the Secretary of State as relevant, shall submit
13 to the Committee on the Judiciary and the Com-
14 mittee on Foreign Relations of the Senate and the
15 Committee on the Judiciary and the Committee on
16 Foreign Affairs of the House of Representatives,
17 and post on the publicly available website of the De-
18 partment of Justice, a report—

19 “(A) focusing, in part, on demands by for-
20 eign officials for bribes from entities domiciled
21 or incorporated in the United States, and the
22 efforts of foreign governments to prosecute such
23 cases;

24 “(B) addressing United States diplomatic
25 efforts to protect entities domiciled or incor-

1 porated in the United States from foreign brib-
2 ery, and the effectiveness of those efforts in
3 protecting such entities;

4 “(C) summarizing major actions taken
5 under this section in the previous year, includ-
6 ing enforcement actions taken and penalties im-
7 posed;

8 “(D) evaluating the effectiveness of the
9 Department of Justice in enforcing this section;
10 and

11 “(E) detailing what resources or legislative
12 action the Department of Justice needs to en-
13 sure adequate enforcement of this section.

14 “(5) RULE OF CONSTRUCTION.—This sub-
15 section shall not be construed as encompassing con-
16 duct that would violate section 30A of the Securities
17 Exchange Act of 1934 (15 U.S.C. 78dd–1) or sec-
18 tion 104 or 104A of the Foreign Corrupt Practices
19 Act of 1977 (15 U.S.C. 78dd–2; 15 U.S.C. 78dd–
20 3) whether pursuant to a theory of direct liability,
21 conspiracy, complicity, or otherwise.”.

22 (2) TECHNICAL AND CONFORMING AMEND-
23 MENT.—The table of sections for chapter 63 of title

- 1 18, United States Code, is amended by adding at
- 2 the end the following:

“1352. Demands by foreign officials for bribes.”.

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