

116TH CONGRESS
1ST SESSION

S. 2485

To prohibit Federal agencies from using Government funds to pay for expenses at lodging establishments that are owned by or employ certain public officials or their relatives.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 2019

Mr. PETERS (for himself, Ms. WARREN, Mr. UDALL, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BROWN, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. GILLIBRAND, Ms. HARRIS, Ms. HASSAN, Mr. HEINRICH, Ms. HIRONO, Mr. KAINE, Mr. KING, Ms. KLOBUCHAR, Mr. LEAHY, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mrs. MURRAY, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SINEMA, Ms. STABENOW, Mr. TESTER, Mr. VAN HOLLEN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To prohibit Federal agencies from using Government funds to pay for expenses at lodging establishments that are owned by or employ certain public officials or their relatives.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Heightened Oversight
3 of Travel, Eating, and Lodging Act of 2019” or the
4 “HOTEL Act”.

5 **SEC. 2. LIMITATION ON GOVERNMENT SPENDING.**

6 (a) DEFINITIONS.—In this section:

7 (1) AGENCY.—The term “agency” means—

8 (A) an Executive agency (as defined in sec-
9 tion 105 of title 5, United States Code), a mili-
10 tary department (as defined in section 102 of
11 title 5, United States Code), or any other estab-
12 lishment in the executive branch (including the
13 Executive Office of the President, the United
14 States Postal Service, and the Postal Regu-
15 latory Commission);

16 (B) an office, agency, or other establish-
17 ment in the legislative branch; and

18 (C) an office, agency, or other establish-
19 ment in the judicial branch.

20 (2) BENEFICIAL OWNER.—

21 (A) IN GENERAL.—Except as provided in
22 subparagraph (B), the term “beneficial owner”,
23 with respect to a lodging establishment, means
24 an individual who, directly or indirectly,
25 through any contract, arrangement, under-
26 standing, relationship, or otherwise—

1 (i) exercises control over the establish-
2 ment; or

3 (ii) has a substantial interest in or re-
4 ceives substantial economic benefits from
5 the assets of the establishment.

6 (B) EXCEPTIONS.—The term “beneficial
7 owner” does not include, with respect to a lodg-
8 ing establishment—

9 (i) a person acting as a nominee,
10 intermediary, custodian, or agent on behalf
11 of another person; or

12 (ii) a creditor of the establishment,
13 unless the creditor also meets the require-
14 ments of subparagraph (A).

15 (C) ANTI-ABUSE RULE.—The exceptions
16 under subparagraph (B) shall not apply if used
17 for the purpose of evading, circumventing, or
18 abusing the requirements of this Act.

19 (3) CONTROL.—The term “control”, with re-
20 spect to a lodging establishment, means—

21 (A) having the authority or ability to de-
22 termine how the establishment is utilized; or

23 (B) having decision-making power for the
24 use of the establishment.

1 (4) COVERED ESTABLISHMENT.—The term
2 “covered establishment” means a lodging establish-
3 ment that meets one or more of the following cri-
4 teria:

5 (A) A covered individual is the highest-
6 level owner, an immediate owner, or a beneficial
7 owner of the establishment.

8 (B) The establishment employs a covered
9 individual described in subparagraph (A), (B),
10 or (D) of paragraph (5).

11 (5) COVERED INDIVIDUAL.—The term “covered
12 individual” means—

13 (A) the President;

14 (B) the Vice President;

15 (C) a relative of the President or Vice
16 President; and

17 (D) with respect to an agency that is an
18 Executive department, the head of the Execu-
19 tive department.

20 (6) EXECUTIVE DEPARTMENT.—The term “Ex-
21 ecutive department” has the meaning given the term
22 in section 101 of title 5, United States Code.

23 (7) FEDERAL EMPLOYEE.—The term “Federal
24 employee”—

1 (A) means an individual employed in or
2 under an agency, including—

3 (i) an individual employed intermit-
4 tently in the Government service as an ex-
5 pert or consultant and paid on a daily
6 when-actually-employed basis; and

7 (ii) an individual serving without pay
8 or at \$1 a year; and

9 (B) includes—

10 (i) the President;

11 (ii) the Vice President;

12 (iii) a Member of Congress; and

13 (iv) any judge or justice who is enti-
14 tled to hold office during good behavior.

15 (8) HIGHEST-LEVEL OWNER.—The term “high-
16 est-level owner”, with respect to a lodging establish-
17 ment, means the person that owns or controls one
18 or more of the following:

19 (A) An immediate owner of the establish-
20 ment.

21 (B) A person that owns or controls an im-
22 mediate owner of the establishment.

23 (9) IMMEDIATE OWNER.—The term “immediate
24 owner”, with respect to a lodging establishment,
25 means a person that has direct control of the estab-

1 lishment, including ownership or interlocking man-
2 agement, identity of interests among family mem-
3 bers, shared facilities and equipment, and the com-
4 mon use of employees.

5 (10) LODGING ESTABLISHMENT.—The term
6 “lodging establishment” means a hotel, motel, or
7 other entity that provides lodging in exchange for a
8 fee.

9 (11) PER DIEM ALLOWANCE.—The term “per
10 diem allowance” means a per diem allowance, as de-
11 fined in section 5701 of title 5, United States Code,
12 or any similar allowance to which a Federal em-
13 ployee is entitled, including any amounts made avail-
14 able to the head or other senior officer of an agency
15 to pay for subsistence or other expenses related to
16 travel.

17 (12) RELATIVE.—The term “relative” has the
18 meaning given the term in section 3110(a) of title
19 5, United States Code.

20 (13) SUBSTANTIAL ECONOMIC BENEFITS.—The
21 term “substantial economic benefits”, with respect
22 to a lodging establishment, means having an entitle-
23 ment to the funds or assets of the establishment
24 that, as a practical matter, enables a person, directly

1 or indirectly, to control, manage, or direct the estab-
2 lishment.

3 (14) TRAVEL REIMBURSEMENT.—The term
4 “travel reimbursement” means reimbursement for
5 actual and necessary expenses of official travel under
6 section 5702 of title 5, United States Code, or any
7 similar reimbursement to which a Federal employee
8 is entitled.

9 (b) PROHIBITION.—The Federal Government may
10 not authorize, pay for, reimburse, contract for, or procure
11 any good or service at or from a covered establishment,
12 including by providing travel reimbursement or a per diem
13 allowance for the cost of lodging or any other expense at
14 a covered establishment.

15 (c) EXCEPTIONS.—

16 (1) IN GENERAL.—Subsection (b) shall not
17 apply to—

18 (A) an expenditure by the United States
19 Secret Service or any other agency for protec-
20 tive services relating to the protection of indi-
21 viduals;

22 (B) an expenditure that, in the case of a
23 lodging establishment located in the United
24 States, the Secretary of Homeland Security, or,
25 in the case of an establishment located outside

1 of the United States, the Secretary of State, de-
2 termines is necessary for purposes of pro-
3 viding—

4 (i) humanitarian assistance; or

5 (ii) disaster relief or other urgent life-
6 saving measures; or

7 (C) an expenditure by an agency at a cov-
8 ered establishment that is the only lodging es-
9 tablishment that would meet statutory or regu-
10 latory requirements for lodging or other ex-
11 penses during official travel, if, with respect to
12 an expenditure by—

13 (i) an agency described in subsection
14 (a)(1)(A), a written waiver is issued by the
15 designated agency ethics official (as de-
16 fined in section 109 of the Ethics in Gov-
17 ernment Act of 1978 (5 U.S.C. App.)) of
18 the agency;

19 (ii) an office, agency, or other estab-
20 lishment in the Senate, a written waiver is
21 issued by an official designated by the Se-
22 lect Committee on Ethics of the Senate;

23 (iii) an office, agency, or other estab-
24 lishment in the House of Representatives,
25 a written waiver is issued by an official

1 designated by the Committee on Ethics of
2 the House of Representatives;

3 (iv) an agency described in subsection
4 (a)(1)(B) that is not in the Senate or the
5 House of Representatives, a written waiver
6 is issued by an official designated by the
7 head of the agency; and

8 (v) an agency described in subsection
9 (a)(1)(C), a written waiver is issued by an
10 official designated by the Judicial Con-
11 ference of the United States.

12 (2) REPORTING REQUIREMENT.—

13 (A) IMMEDIATE REPORT.—

14 (i) IN GENERAL.—Not later than 90
15 days after the date on which an agency
16 makes an expenditure that would be pro-
17 hibited under subsection (b) but for the ex-
18 ception under paragraph (1) of this sub-
19 section, the agency shall submit a report
20 describing the expenditure to the appro-
21 priate agency or official, including a copy
22 of each waiver issued under paragraph
23 (1)(C), if any.

24 (ii) APPROPRIATE AGENCY OR OFFI-
25 CIAL.—For purposes of clause (i), the term

1 “appropriate agency or official”, in the
2 case of an expenditure by—

3 (I) an agency described in sub-
4 section (a)(1)(A), or an agency de-
5 scribed in subsection (a)(1)(B) that is
6 not in the Senate or the House of
7 Representatives, means the Office of
8 Government Ethics;

9 (II) an office, agency, or other
10 establishment in the Senate, means
11 the Secretary of the Senate;

12 (III) an office, agency, or other
13 establishment in the House of Rep-
14 resentatives, means the Clerk of the
15 House of Representatives; and

16 (IV) an agency described in sub-
17 section (a)(1)(C), means the Judicial
18 Conference of the United States.

19 (B) ANNUAL REPORT TO CONGRESS.—Not
20 later than 60 days after the end of each fiscal
21 year, an agency shall submit to the Committee
22 on Homeland Security and Governmental Af-
23 fairs of the Senate and the Committee on Over-
24 sight and Reform of the House of Representa-
25 tives a report that—

1 (i) states whether the agency made an
2 expenditure described in subparagraph
3 (A)(i) during the fiscal year; and

4 (ii) if the agency made an expenditure
5 described in subparagraph (A)(i) during
6 the fiscal year, describes each expenditure
7 made, and each waiver issued, during the
8 fiscal year.

9 (d) REGULATIONS AND PROCEDURES.—

10 (1) EXECUTIVE BRANCH.—The Director of the
11 Office of Government Ethics shall issue any regula-
12 tions or procedures necessary to carry out this sec-
13 tion with respect to expenditures by an agency de-
14 scribed in subsection (a)(1)(A).

15 (2) LEGISLATIVE BRANCH.—

16 (A) SENATE.—The Select Committee on
17 Ethics of the Senate shall issue any regulations
18 or procedures necessary to carry out this sec-
19 tion with respect to expenditures by an office,
20 agency, or other establishment in the Senate.

21 (B) HOUSE OF REPRESENTATIVES.—The
22 Committee on Ethics of the House of Rep-
23 resentatives shall issue any regulations or pro-
24 cedures necessary to carry out this section with
25 respect to expenditures by an office, agency, or

1 other establishment in the House of Represent-
2 atives.

3 (C) OTHER LEGISLATIVE BRANCH AGEN-
4 CIES.—The head of each agency described in
5 subsection (a)(1)(B) that is not in the Senate
6 or the House of Representatives shall issue any
7 regulations or procedures necessary to carry out
8 this section with respect to expenditures by that
9 agency.

10 (3) JUDICIAL BRANCH.—The Judicial Con-
11 ference of the United States (or such other agency
12 as it may designate) shall issue any regulations or
13 procedures necessary to carry out this section with
14 respect to expenditures by an agency described in
15 subsection (a)(1)(C).

16 (4) PARALLEL REGULATIONS AND PROCE-
17 DURES.—The regulations or procedures issued under
18 paragraphs (2) and (3) shall be the same as sub-
19 stantive regulations or procedures issued by the Di-
20 rector of the Office of Government Ethics under
21 paragraph (1) except to the extent that an agency
22 issuing regulations or procedures under paragraph
23 (2) or (3) may determine, for good cause shown and
24 stated together with the regulations or procedures,
25 that a modification of the regulations or procedures

1 issued under paragraph (1) would be more effective
2 for the implementation of this section with respect
3 to the agency or agencies to which the regulations
4 or procedures issued under paragraph (2) or (3) will
5 apply.

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