

117TH CONGRESS
2D SESSION

S. 3494

To amend the Ethics in Government Act of 1978 to require Members of Congress and their spouses and dependents to place certain assets into blind trusts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 12 (legislative day, JANUARY 10), 2022

Mr. OSSOFF (for himself and Mr. KELLY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Ethics in Government Act of 1978 to require Members of Congress and their spouses and dependents to place certain assets into blind trusts, 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 “Ban Congressional
5 Stock Trading Act”.

1 **SEC. 2. PLACEMENT OF CERTAIN ASSETS OF MEMBERS OF**
 2 **CONGRESS, SPOUSES, AND DEPENDENTS IN**
 3 **QUALIFIED BLIND TRUSTS.**

4 The Ethics in Government Act of 1978 (5 U.S.C.
 5 App.) is amended by inserting after title I the following:

6 **“TITLE II—CERTAIN ASSETS OF**
 7 **MEMBERS OF CONGRESS,**
 8 **SPOUSES, AND DEPENDENTS**

9 **“SEC. 201. DEFINITIONS.**

10 “In this title:

11 “(1) **COMMODITY.**—The term ‘commodity’ has
 12 the meaning given the term in section 1a of the
 13 Commodity Exchange Act (7 U.S.C. 1a).

14 “(2) **COVERED INVESTMENT.**—

15 “(A) **IN GENERAL.**—The term ‘covered in-
 16 vestment’ means—

17 “(i) an investment in a security, a
 18 commodity, or a future; and

19 “(ii) any economic interest com-
 20 parable to an interest described in clause
 21 (i) that is acquired through synthetic
 22 means, such as the use of a derivative, in-
 23 cluding an option, warrant, or other, simi-
 24 lar means.

25 “(B) **INCLUSIONS.**—The term ‘covered in-
 26 vestment’ includes an investment or economic

1 interest described in subparagraph (A) that is
2 held directly, or in which an individual has an
3 indirect, beneficial, or economic interest,
4 through—

5 “(i) an investment fund;

6 “(ii) a trust (other than a qualified
7 blind trust);

8 “(iii) an employee benefit plan; or

9 “(iv) a deferred compensation plan,
10 including a carried interest or other agree-
11 ment tied to the performance of an invest-
12 ment, other than a fixed cash payment.

13 “(C) EXCLUSIONS.—The term ‘covered in-
14 vestment’ does not include—

15 “(i) a diversified mutual fund (includ-
16 ing any holdings of such a fund);

17 “(ii) a diversified exchange-traded
18 fund (including any holdings of such a
19 fund);

20 “(iii) a United States Treasury bill,
21 note, or bond;

22 “(iv) compensation from the primary
23 occupation of a spouse or dependent of a
24 Member of Congress; or

1 “(v) any investment fund held in a
2 Federal, State, or local government em-
3 ployee retirement plan.

4 “(D) CLARIFICATION.—An investment that
5 achieves compliance with applicable environ-
6 mental, social, and governance criteria shall not
7 be considered to be a covered investment solely
8 by reason of that compliance.

9 “(3) CURRENT.—The term ‘current’, with re-
10 spect to a Member of Congress, means an individual
11 who is serving as a Member of Congress on the date
12 of enactment of the Ban Congressional Stock Trad-
13 ing Act.

14 “(4) DEPENDENT.—The term ‘dependent’, with
15 respect to an individual, means a child or other re-
16 lative who is a resident of the immediate household
17 of the individual.

18 “(5) DIVERSIFIED.—The term ‘diversified’,
19 with respect to a fund, trust, or plan, means that
20 the fund, trust, or plan does not have a stated policy
21 of concentrating its investments in any industry,
22 business, single country other than the United
23 States, or bonds of a single State.

24 “(6) FUTURE.—The term ‘future’ means—

1 “(A) a security future (as defined in sec-
2 tion 3(a) of the Securities Exchange Act of
3 1934 (15 U.S.C. 78c(a)); and

4 “(B) any other contract for the sale of a
5 commodity for future delivery.

6 “(7) INITIAL PROPERTY.—The term ‘initial
7 property’ means an asset or financial interest trans-
8 ferred to a qualified blind trust by, or on behalf of,
9 an interested party or a relative of an interested
10 party, regardless of whether the asset or financial
11 interest is transferred to the qualified blind trust on
12 or after the date of establishment of the qualified
13 blind trust.

14 “(8) INTERESTED PARTY.—The term ‘inter-
15 ested party’ has the meaning given the term in sec-
16 tion 102(f)(3)(E).

17 “(9) MEMBER OF CONGRESS.—The term ‘Mem-
18 ber of Congress’ has the meaning given the term in
19 section 109.

20 “(10) NEW.—The term ‘new’, with respect to a
21 Member of Congress, means an individual who—

22 “(A) is not a current Member of Congress;
23 but

1 “(B) commences service as a Member of
2 Congress after the date of enactment of the
3 Ban Congressional Stock Trading Act.

4 “(11) QUALIFIED BLIND TRUST.—The term
5 ‘qualified blind trust’ means a qualified blind trust
6 (as defined in section 102(f)(3)) that has been ap-
7 proved in writing by the applicable supervising ethics
8 office under section 102(f)(3)(D).

9 “(12) SECURITY.—The term ‘security’ has the
10 meaning given the term in section 3(a) of the Secu-
11 rities Exchange Act of 1934 (15 U.S.C. 78c(a)).

12 “(13) SUPERVISING ETHICS OFFICE.—The term
13 ‘supervising ethics office’ has the meaning given the
14 term in section 109.

15 **“SEC. 202. PLACEMENT OF CERTAIN ASSETS IN QUALIFIED**
16 **BLIND TRUSTS.**

17 “(a) CURRENT MEMBERS OF CONGRESS.—

18 “(1) CERTIFICATION.—Not later than 30 days
19 after the date of enactment of the Ban Congres-
20 sional Stock Trading Act, each current Member of
21 Congress shall submit to the applicable supervising
22 ethics office a certification that, as applicable—

23 “(A) for each covered investment owned by
24 the Member of Congress or a spouse or depend-
25 ent of the Member of Congress, the Member of

1 Congress, or the applicable spouse or dependent
2 of the Member of Congress, will—

3 “(i) divest the covered investment; or

4 “(ii) place the covered investment in a
5 qualified blind trust, including by estab-
6 lishing a qualified blind trust for that pur-
7 pose, if necessary; or

8 “(B) neither the Member of Congress nor
9 any spouse or dependent of the Member of Con-
10 gress owns a covered investment.

11 “(2) DIVESTITURE OR PLACEMENT IN QUALI-
12 FIED BLIND TRUST.—

13 “(A) REQUIREMENT.—Subject to para-
14 graph (3), not later than 120 days after the
15 date of enactment of the Ban Congressional
16 Stock Trading Act, each current Member of
17 Congress shall divest, or place in a qualified
18 blind trust (including by establishing a qualified
19 blind trust for that purpose, if necessary), each
20 covered investment owned by the Member of
21 Congress or a spouse or dependent of the Mem-
22 ber of Congress.

23 “(B) DIVESTITURE.—A current Member of
24 Congress shall divest a covered investment held

1 by the Member of Congress or a spouse or de-
2 pendent of the Member of Congress if—

3 “(i) the Member of Congress, or the
4 applicable spouse or dependent of the
5 Member of Congress, is unable to place the
6 covered investment in a qualified blind
7 trust by the date described in subpara-
8 graph (A); and

9 “(ii) the Member of Congress fails to
10 obtain an extension pursuant to paragraph
11 (3).

12 “(3) EXTENSIONS.—If a current Member of
13 Congress, or a spouse or dependent of the Member
14 of Congress, is unable to place a covered investment
15 in a qualified blind trust by the date described in
16 paragraph (2)(A), the Member of Congress may re-
17 quest, and the supervising ethics office may grant,
18 1 or more reasonable extensions, subject to the con-
19 ditions that—

20 “(A) the total period of time covered by all
21 extensions granted to the Member of Congress
22 for the covered investment shall not exceed 180
23 days; and

24 “(B) the period covered by a single exten-
25 sion shall be not longer than 45 days.

1 “(b) NEW MEMBERS OF CONGRESS.—

2 “(1) CERTIFICATION.—Not later than 30 days
3 after the date on which an individual becomes a new
4 Member of Congress, the new Member of Congress
5 shall submit to the applicable supervising ethics of-
6 fice a certification that, as applicable—

7 “(A) for each covered investment owned by
8 the Member of Congress or a spouse or depend-
9 ent of the Member of Congress, the Member of
10 Congress, or the applicable spouse or dependent
11 of the Member of Congress, will—

12 “(i) divest the covered investment; or

13 “(ii) place the covered investment in a
14 qualified blind trust, including by estab-
15 lishing a qualified blind trust for that pur-
16 pose, if necessary; or

17 “(B) neither the Member of Congress nor
18 a spouse or dependent of the Member of Con-
19 gress owns a covered investment.

20 “(2) DIVESTITURE OR PLACEMENT IN QUALI-
21 FIED BLIND TRUST.—

22 “(A) REQUIREMENT.—Subject to para-
23 graph (3), not later than 120 days after the
24 date on which an individual becomes a new
25 Member of Congress, the individual shall divest,

1 or place in a qualified blind trust (including by
2 establishing a qualified blind trust for that pur-
3 pose, if necessary), each covered investment
4 owned by the Member of Congress or a spouse
5 or dependent of the Member of Congress.

6 “(B) DIVESTITURE.—A new Member of
7 Congress shall divest a covered investment held
8 by the Member of Congress or a spouse or de-
9 pendent of the Member of Congress if—

10 “(i) the Member of Congress, or the
11 applicable spouse or dependent of the
12 Member of Congress, is unable to place the
13 covered investment in a qualified blind
14 trust by the date described in subpara-
15 graph (A); and

16 “(ii) the Member of Congress fails to
17 obtain an extension pursuant to paragraph
18 (3).

19 “(3) EXTENSIONS.—If a new Member of Con-
20 gress, or a spouse or dependent of the Member of
21 Congress, is unable to place a covered investment in
22 a qualified blind trust by the date described in para-
23 graph (2)(A), the Member of Congress may request,
24 and the supervising ethics office may grant, 1 or

1 more reasonable extensions, subject to the conditions
2 that—

3 “(A) the total period of time covered by all
4 extensions granted to the Member of Congress
5 for the covered investment shall not exceed 180
6 days; and

7 “(B) the period covered by a single exten-
8 sion shall be not longer than 45 days.

9 “(c) ACQUISITIONS DURING SERVICE.—

10 “(1) IN GENERAL.—Subject to paragraph (2),
11 and any applicable rules issued pursuant to sub-
12 section (h)(3), effective beginning on the date of en-
13 actment of the Ban Congressional Stock Trading
14 Act, a Member of Congress, and a spouse or depend-
15 ent of the Member of Congress, may not acquire a
16 covered investment.

17 “(2) INHERITANCES.—

18 “(A) IN GENERAL.—Subject to subpara-
19 graph (B), a Member of Congress or a spouse
20 or dependent of a Member of Congress who in-
21 herits a covered investment shall divest or place
22 the covered investment in a qualified blind trust
23 by not later than 120 days after the date on
24 which the covered investment is inherited.

1 “(B) EXTENSIONS.—If a Member of Con-
2 gress, or a spouse or dependent of the Member
3 of Congress, is unable to place a covered invest-
4 ment in a qualified blind trust by the date de-
5 scribed in subparagraph (A), the Member of
6 Congress may request, and the supervising eth-
7 ics office may grant, 1 or more reasonable ex-
8 tensions, subject to the conditions that—

9 “(i) the total period of time covered
10 by all extensions granted to the Member of
11 Congress for the covered investment shall
12 not exceed 180 days; and

13 “(ii) the period covered by a single ex-
14 tension shall be not longer than 45 days.

15 “(d) MINGLING OF ASSETS.—A spouse or dependent
16 of a Member of Congress may place a covered investment
17 in a qualified blind trust established by the Member of
18 Congress under subsection (a)(1)(A)(ii) or (b)(1)(A)(ii).

19 “(e) SEPARATION FROM SERVICE AND COOLING-OFF
20 PERIOD REQUIRED FOR CONTROL.—During the period
21 beginning on the date on which an individual becomes a
22 Member of Congress and ending on the date that is 180
23 days after the date on which the individual ceases to serve
24 as a Member of Congress, the Member of Congress, and

1 any spouse or dependent of the Member of Congress, may
2 not—

3 “(1) dissolve any qualified blind trust in which
4 a covered investment has been placed pursuant to
5 subsection (a), (b), (c)(2), or (d); or

6 “(2) except as provided in this section, other-
7 wise control a covered investment.

8 “(f) REPORTING REQUIREMENTS.—

9 “(1) SUPERVISING ETHICS OFFICES.—Each su-
10 pervising ethics office shall make available on the
11 public website of the supervising ethics office—

12 “(A) a copy of—

13 “(i) each certification submitted to
14 the supervising ethics office under sub-
15 section (a)(1) or (b)(1);

16 “(ii) each qualified blind trust agree-
17 ment of each Member of Congress;

18 “(iii) each notice and other docu-
19 mentation submitted to the supervising
20 ethics office under paragraph (2) or (3);
21 and

22 “(iv) each notice, rule, and other docu-
23 mentation issued or received by the su-
24 pervising ethics office under subsection (g);

1 “(B) a schedule of all assets placed in a
2 qualified blind trust by each Member of Con-
3 gress and interested party; and

4 “(C) a description of each extension grant-
5 ed, and each civil penalty imposed, pursuant to
6 this section.

7 “(2) TRUSTEES.—Each trustee of a qualified
8 blind trust established by a Member of Congress
9 shall submit to the Member of Congress and the ap-
10 plicable supervising ethics office a written notice in
11 any case in which the trustee—

12 “(A) learns that—

13 “(i) an interested party has obtained
14 knowledge of any trust property other than
15 the initial property of the qualified blind
16 trust; or

17 “(ii) the value of the initial property
18 of the qualified blind trust is less than
19 \$1,000; or

20 “(B) divests any initial property of the
21 qualified blind trust.

22 “(3) MEMBERS OF CONGRESS.—Each Member
23 of Congress who is a beneficiary of a qualified blind
24 trust shall submit to the applicable supervising eth-
25 ics office—

1 “(A) a copy of the executed qualified blind
2 trust agreement by not later than 30 days after
3 the date of execution;

4 “(B) a list of each asset and each financial
5 interest transferred to the qualified blind trust
6 by an interested party by not later than 30
7 days after the date of the transfer;

8 “(C) a copy of each notice submitted to the
9 Member of Congress under paragraph (2) by
10 not later than 30 days after the date of receipt;

11 “(D) a written notice that an interested
12 party has obtained knowledge of any holding of
13 the qualified blind trust by not later than the
14 date that is 30 days after the date on which the
15 Member of Congress discovered that the knowl-
16 edge had been obtained; and

17 “(E) a written notice of dissolution of the
18 qualified blind trust by not later than 30 days
19 after the date of dissolution.

20 “(g) ENFORCEMENT.—

21 “(1) IN GENERAL.—The applicable supervising
22 ethics office shall provide a written notice (including
23 notice of the potential for civil penalties under para-
24 graph (2)) to any Member of Congress who fails—

1 “(A) to submit a certification under sub-
2 section (a)(1) or (b)(1) by the date on which
3 the certification is required to be submitted; or

4 “(B) to place 1 or more covered invest-
5 ments owned by the Member of Congress or a
6 spouse or dependent of the Member of Congress
7 in a qualified blind trust in accordance with
8 subsection (a)(2), (b)(2), (c)(2)(C)(i)(II), or
9 (c)(2)(A) by the applicable deadline, subject to
10 any extension under subsection (a)(3), (b)(3),
11 or (c)(2)(B).

12 “(2) CIVIL PENALTIES.—

13 “(A) IN GENERAL.—A supervising ethics
14 office shall impose a civil penalty, in the
15 amount described in subparagraph (B), on a
16 Member of Congress to whom a notice is pro-
17 vided under subparagraph (A) or (B) of para-
18 graph (1)—

19 “(i) on the date that is 30 days after
20 the date of provision of the notice; and

21 “(ii) not less frequently than once
22 every 30 days thereafter.

23 “(B) AMOUNT.—The amount of each civil
24 penalty imposed on a Member of Congress pur-
25 suant to subparagraph (A) shall be equal to the

1 monthly equivalent of the annual rate of pay
2 payable to the Member of Congress.

3 “(h) AUTHORIZATION OF SUPERVISING ETHICS OF-
4 FICES.—Each supervising ethics office in the legislative
5 branch may—

6 “(1) impose and collect civil penalties in accord-
7 ance with subsection (g);

8 “(2) establish such procedures and standard
9 forms as the supervising ethics office determines to
10 be appropriate to implement this section;

11 “(3) issue rules in accordance with this section
12 to establish new, and supplement existing, defini-
13 tions applicable to this section; and

14 “(4) publish on a website all documents and
15 communications described in this subsection.”.

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