AMENDMENT NO._______ Calendar No._______

Purpose: To amend title 18, United States Code, to prohibit a foreign official from demanding a bribe, and for other purposes.


S. 2226

To authorize

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AMENDMENT intended to be proposed by Mr. WHITEHOUSE (for himself, Mr. TILLIS, Mr. BLUMENTHAL, and Mr. KENNEDY)

Viz:

1 At the end of subtitle G of title X, add the following:

2 SEC. 1083. PROHIBITION OF DEMAND FOR BRIBE.

3 Section 201 of title 18, United States Code, is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (2), by striking “and” at the end;
(B) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(4) the term 'foreign official' means—

“(A)(i) any official or employee of a foreign government or any department, agency, or instrumentality thereof; or

“(ii) any senior foreign political figure, as defined in section 1010.605 of title 31, Code of Federal Regulations, or any successor regulation;

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

“(C) any person acting in an official capacity for or on behalf of—

“(i) a government, department, agency, or instrumentality described in sub-paragraph (A)(i); or

“(ii) a public international organization; or

“(D) any person acting in an unofficial capacity for or on behalf of—

“(i) a government, department, agency, or instrumentality described in sub-paragraph (A)(i); or
“(ii) a public international organization; and

“(5) the term ‘public international organization’ means—

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

“(B) any other international organization that is designated by the President by Executive order for the purposes of this section, effective as of the date of publication of such order in the Federal Register.”; and

(2) by adding at the end the following:

“(f) **PROHIBITION OF DEMAND FOR A BRIBE.**—

“(1) **OFFENSE.**—It shall be unlawful for any foreign official or person selected to be a foreign official to corruptly demand, seek, receive, accept, or agree to receive or accept, directly or indirectly, anything of value personally or for any other person or nongovernmental entity, by making use of the mails or any means or instrumentality of interstate commerce, from any person (as defined in section 104A of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd–3), except that that definition shall be
applied without regard to whether the person is an
offender) while in the territory of the United States,
from an issuer (as defined in section 3(a) of the Se-
or from a domestic concern (as defined in section
104 of the Foreign Corrupt Practices Act of 1977
(15 U.S.C. 78dd–2)), in return for—

"(A) being influenced in the performance
of any official act;

"(B) being induced to do or omit to do any
act in violation of the official duty of such for-
eign official or person; or

"(C) conferring any improper advantage,
in connection with obtaining or retaining business
for or with, or directing business to, any person.

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

"(3) Jurisdiction.—An offense under para-
graph (1) shall be subject to extraterritorial Federal
jurisdiction.

"(4) Report.—Not later than 1 year after the
date of enactment of the Foreign Extortion Preven-
tion Act, and annually thereafter, the Attorney General, in consultation with the Secretary of State as relevant, shall submit to the Committee on the Judiciary and the Committee on Foreign Relations of the Senate and the Committee on the Judiciary and the Committee on Foreign Affairs of the House of Representatives, and post on the publicly available website of the Department of Justice, a report—

"(A) focusing, in part, on demands by foreign officials for bribes from entities domiciled or incorporated in the United States, and the efforts of foreign governments to prosecute such cases;

"(B) addressing United States diplomatic efforts to protect entities domiciled or incorporated in the United States from foreign bribery, and the effectiveness of those efforts in protecting such entities;

"(C) summarizing major actions taken under this section in the previous year, including enforcement actions taken and penalties imposed;

"(D) evaluating the effectiveness of the Department of Justice in enforcing this section; and
“(E) detailing what resources or legislative action the Department of Justice needs to ensure adequate enforcement of this section.