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IN FOCUS

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Prohibiting Senators from Prediction Market Participation

In April 2026, the Senate agreed to S.Res. 708, as amended, to amend Senate rules to prohibit Senators, Senate officers, and Senate employees from participating in prediction markets—exchange platforms that specialize in offering event contracts with a binary payoff structure tied to the occurrence or nonoccurrence of a specific event.

This In Focus provides background on the Senate prohibition on participation in prediction markets, related legislation, legal context, and considerations for Congress.

Amendment to Senate Standing Rules

On April 30, 2026, the Senate agreed to S.Res. 708, as amended, to amend Rule XXXVII (Senate Rule 37) of the standing rules of the Senate and prohibit Senators, Senate officers, and Senate employees from participating in prediction markets. During debate on the resolution, the sponsor explained his reasoning for introducing the measure.

> Engaging in any way in a prediction market or trying to place bets where we might have insider information deteriorates the confidence our constituents have in us. So it is extremely important that the public know that from this day forward, there is no chance that any Member of Congress—Member of the Senate in this case, in this resolution I am going to propose—will be involved in any prediction market whatsoever. I am presenting a resolution that makes that crystal clear.
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> By changing the standing rules of the Senate, what we are doing is allowing our constituents to know once and for all that no Member of the U.S. Senate, no Member of the staff of the U.S. Senate can ever use that inside information as a way to monetize this job whatsoever.
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> —Senator Bernie Moreno, *Congressional Record*, April 30, 2026 (p. S2151)

Senate Rule 37 contains "Conflict of Interest" provisions that govern outside employment restrictions, financial ethics, and other conflicts of interest. As amended, the new clause in Rule 37, as added by S.Res. 708, states:

> **Section. 1. Prohibition on Prediction Market Trading by Senators**
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> …
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> 15. No Member, officer, or employee of the Senate may enter into, or offer to enter into, an agreement, contract, swap, or transaction that provides for any purchase, sale, payment, or delivery of an excluded commodity, as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a), that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of a specific event or contingency. Nothing in this paragraph shall be construed to apply to insurance for which the insured holds a lawful insurable interest.

Additionally, S.Res. 708 contains a "Sense of the Senate" provision that the "House of Representatives, executive branch, and judicial branch should establish restrictions similar to those" adopted by the Senate.

Following adoption of S.Res. 708, the Senate Select Committee on Ethics issued a Dear Colleague letter to provide guidance on prediction markets. The Dear Colleague letter described prediction markets as "exchange platforms specializing in event contracts. Event contracts refer to contracts with a binary payoff structure based on the occurrence or nonoccurrence of an event. Users buy and sell these event contracts, continually updating the established price." The letter reiterated that the prohibition extends to activity "conditioned on the occurrence, nonoccurrence, or extent of an occurrence of a specific event." For more information, see CRS In Focus IF13187, *Prediction Markets: Policy Issues for Congress*, by Karl E. Schneider and Rena S. Miller (2026); and CRS Legal Sidebar LSB11406, *Prediction Markets and Insider Trading Law*, by Jay B. Sykes (2026).

Senate Select Committee on Ethics Implementation of Prediction Market Prohibition

The Senate Select Committee on Ethics' Dear Colleague letter included guidance and frequently asked questions (FAQ) for the implementation of S.Res. 708. The letter provided background information on prediction markets and noted the laws restricting the use of material nonpublic information. The FAQ explained that S.Res. 708

- does not apply to spouses and dependent children of covered individuals;
- does not apply to commodity futures trading in agricultural products or exempt commodities, but does apply to excluded "commodities conditioned on the occurrence or nonoccurrence, or extent of an occurrence of a specific event";
- does not apply to legalized sports gambling in jurisdictions that permit sports wagering; and
- is effective immediately and covered individuals are required to divest positions and could be required to file a periodic transaction report (PTR).

Other Proposed Legislation

In addition to the Senate's adoption of S.Res. 708, proposals have been introduced to limit Members' (and others') participation in prediction markets. In the 119th Congress, two House resolutions—H.Res. 1248 and H.Res. 1263—propose to restrict House Members, House officers, and House employees from participation in prediction markets, similar to S.Res. 708. Both House resolutions also propose an exemption for insurance contracts similar to the exemption found in the Senate prohibition. H.Res. 1248 also includes an exemption for lawful sports wagers.

Several measures have been introduced that propose to amend the Ethics in Government Act (H.R. 8076; S. 4188), amend the Commodity Exchange Act (S. 4017), or create new law (H.R. 7004) to prohibit Members of Congress and other covered individuals from participation in prediction markets. For analysis of prediction market legislation, see CRS In Focus IF13207, *Prediction Markets Legislation in the 119th Congress*, by Karl E. Schneider and Alexander H. Pepper (2026).

Legal Context

Measures like S.Res. 708 exercise authority granted Congress under Article I, Section 5, Clause 2 of the Constitution, which gives each chamber authority to determine the rules of its proceedings and to punish its Members.

In addition to chamber rules, Members and congressional staff participating in prediction markets are subject to requirements under certain government ethics statutes. These include the Ethics in Government Act and the Stop Trading on Congressional Knowledge (STOCK) Act, which may require annual and/or periodic disclosure of transactions on prediction markets. For more information on disclosure requirements, see CRS Report R47320, *Financial Disclosure in the U.S. Government: Frequently Asked Questions*, by Jacob R. Straus (2023).

No federal law prohibits Members or congressional staff from trading on prediction markets. The primary federal conflict of interest statute, 18 U.S.C. §208, does not apply to Members or congressional staff. However, Members and congressional staff trading on prediction markets using confidential information gained in the course of their government service are subject to other limitations under federal law. Some prediction markets have registered with the Commodity Futures Trading Commission (CFTC), and the CFTC has treated contracts traded on these markets as options and swaps. The Commodity Exchange Act (CEA) prohibits the use of "any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as [CFTC] shall promulgate." CFTC has used a rule implementing this provision, Rule 180.1, to pursue persons making trades in commodities and derivatives markets based on material, nonpublic information in breach of a duty to the source of the information.

In addition to this generally applicable prohibition, Members and congressional staff are also subject to certain explicit prohibitions. The CEA, as amended by the STOCK Act, prohibits Members and employees of Congress from using nonpublic "information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap" to enter into a futures contract, option, or swap for personal gain. Members and congressional staff are also prohibited from providing such information to a third party with intent to assist that person to enter into such transactions.

These prohibitions also apply to other employees or agents of the federal government. CFTC has recently taken action against an active-duty servicemember in the U.S. Army for violating these prohibitions and Rule 180.1 by allegedly using nonpublic information to trade on a prediction market. The U.S. Attorney's Office for the Southern District of New York has also brought criminal charges arising from the same conduct.

Considerations for Congress

Congress could decide to take no further action in relation to the participation of government officials in prediction markets. Should Congress decide to legislate further, several options might exist. These could include a prohibition similar to S.Res. 708, a limitation on participation in categories of prediction market contracts related to congressional or governmental actions, or the inclusion of prediction markets in other measures limiting financial activities.

In that context, the House could pass a resolution to amend House Rules to prohibit House Members, House officers, and/or House employees from engaging in prediction markets. Amending House Rules would likely create a parallel requirement in House and Senate Rules against participation in prediction markets.

The House and Senate could enact legislation to statutorily prohibit Members, House and Senate officers, House and Senate employees, or other covered officials from participating in prediction markets.

Congress could enact legislation to cover a broader group of government officials and employees. For further discussion of legislative proposal in the 119th Congress that would limit or prohibit participation in prediction markets, see CRS Report R48641, *Proposals to Limit Member of Congress Financial Activities: Analysis of Introduced Legislation in the 119th Congress*, by Jacob R. Straus (2026).

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