

Managers Substitute Amendment

118TH CONGRESS
1ST SESSION

S. _____

To foster Tunisia’s democratic institutions, to limit funds until Tunisia restores checks and balances, and to authorize the creation of a fund to support democratic reforms.

IN THE SENATE OF THE UNITED STATES

Mr. RISCH (for himself and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To foster Tunisia’s democratic institutions, to limit funds until Tunisia restores checks and balances, and to authorize the creation of a fund to support democratic reforms.

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 “Safeguarding Tunisian
5 Democracy Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) In 2010 and 2011, waves of anti-govern-
2 ment protests and violence reshaped governments
3 across the Middle East and North Africa.

4 (2) While other countries in the Middle East
5 and North Africa experienced violent crackdown,
6 rapid changes in government, or descent into civil
7 war, Tunisia’s “Jasmine Revolution” saw the ouster
8 of autocratic President Zine El Abidine Ben Ali and
9 the emergence of a nascent, growing democracy.

10 (3) On October 14, 2019, Tunisians overwhelm-
11 ingly elected Kais Saied, a constitutional law pro-
12 fessor, as President based on his pledges to combat
13 corruption and improve Tunisia’s economic outlook.

14 (4) On July 25, 2021, President Saied unilater-
15 ally suspended parliament and dismissed the Prime
16 Minister, citing exceptional circumstances and Arti-
17 cle 80 of the 2014 constitution.

18 (5) On September 22, 2021, President Saied
19 issued Presidential Decree 117, consolidating full ex-
20 ecutive and legislative powers within the presidency
21 and authorizing further decrees regulating the judi-
22 ciary, media, political parties, electoral law, freedoms
23 and human rights.

1 (6) On February 6, 2022, President Saied dis-
2 solved the Supreme Judicial Council, eliminating an
3 independent judiciary.

4 (7) On March 30, 2022, President Saied offi-
5 cially dissolved parliament, further consolidating
6 power and eliminating checks and balances on the
7 presidency.

8 (8) On June 30, 2022, President Saied unilat-
9 erally introduced a new draft constitution, subject to
10 a referendum, consolidating broad powers under ex-
11 ecutive rule.

12 (9) On July 25, 2022, Saied claimed victory in
13 a constitutional referendum widely criticized for its
14 lack of credibility and participation.

15 (10) On September 13, 2022, President Saied
16 announced Presidential Decree 2022-54 on
17 Cybercrime, imposing prison terms for “false infor-
18 mation or rumors” online and crippling free speech.

19 (11) On September 15, 2022, President Saied
20 announced Presidential Decree 2022-55 which weak-
21 ened the role of political parties and imposed bur-
22 densome requirements to run for parliament.

23 (12) On October 15, 2022, the International
24 Monetary Fund reached a staff-level agreement to
25 support Tunisia’s economic policies with a 48-month

1 arrangement under the Extended Fund Facility of
2 \$1,900,000,000 and the potential for more from
3 international donors.

4 (13) On December 17, 2022, only 11 percent of
5 Tunisians participated in parliamentary elections,
6 reflecting dissatisfaction with the referendum, bar-
7 riers to political parties, and low public trust for
8 democratic institutions in Tunisia.

9 (14) On January 20, 2023, four political oppo-
10 nents of President Saied were sentenced through
11 military courts for “insulting a public official” and
12 disturbing public order.

13 (15) On January 29, 2023, only 11 percent of
14 Tunisians participated in parliamentary run-off elec-
15 tions, reaffirming low public trust for democratic in-
16 stitutions in Tunisia.

17 (16) On February 1, 2023, President Saied ex-
18 tended the state of emergency until the end of 2023.

19 (17) On February 10, 2023, President Saied
20 announced strengthened diplomatic ties with the
21 Government of Syria, a United States-designated
22 State Sponsor of Terrorism.

23 (18) On February 11, 2023, and in the fol-
24 lowing weeks, President Saied launched a political
25 crackdown by arresting political activists, journal-

1 ists, and business leaders for allegedly plotting
2 against the state, including by opening a criminal in-
3 vestigation against a former Nidaa Tounes parlia-
4 mentarian.

5 (19) On February 21, 2023, President Saied
6 justified widespread arrests and harassment of Afri-
7 can migrants and Black Tunisians by accusing
8 “hordes of irregular migrants” of criminality and vi-
9 olence, claiming a “criminal enterprise hatched at
10 the beginning of this century to change the demo-
11 graphic composition of Tunisia” threatened national
12 security.

13 (20) On February 22, 2023, Tunisian authori-
14 ties arrested Republican Party leader Issam Chebbi
15 and National Salvation Front member Chaima Issa.

16 (21) On February 24, 2023, Tunisian authori-
17 ties arrested National Salvation Front member
18 Jawher Ben Mbarek.

19 (22) On April 17, 2023, President Kais Saied
20 vowed “relentless war” against opposition figures,
21 such as jailed Ennahdha party leader Rached
22 Ghannouchi, and shuttered Ennahdha offices and
23 the offices of an ideologically broad opposition coali-
24 tion.

1 (23) As of April 20, 2023, an International
2 Monetary Fund loan for Tunisia remains stalled as
3 President Saied’s characterized necessary reforms as
4 “foreign diktats” and decried proposed cuts in sub-
5 sidies as socially destabilizing.

6 **SEC. 3. STATEMENT OF POLICY.**

7 It shall be the policy of the United States—

8 (1) to forge a strong and lasting partnership
9 with the Government of Tunisia to support shared
10 national security interests to include countering the
11 enduring threat of transnational terrorism and pro-
12 moting regional stability;

13 (2) to develop and implement a security strat-
14 egy that builds partner capacity to address shared
15 threats and cements the role of the United States as
16 the partner of choice;

17 (3) to encourage standards and training for the
18 Tunisian Armed Forces that enshrines military pro-
19 fessionalism and respect for civil-military relations;

20 (4) to support the Tunisian people’s aspirations
21 for a democratic future and support democratic
22 principles in Tunisia, to include a robust civil soci-
23 ety, respect for freedoms of expression and associa-
24 tion, press freedom, separation of powers, and the
25 rule of law;

1 (5) to support the Tunisian people’s livelihoods
2 and aspirations for economic dignity;

3 (6) to work in tandem with our G7 and other
4 partners to promote Tunisia’s return to democratic
5 principles in a manner that halts democratic back-
6 sliding, stabilizes the economic crisis, spurs economic
7 development, and mitigates destabilizing migration
8 flows; and

9 (7) to readjust bilateral United States foreign
10 assistance, including security assistance, based on
11 the progress of the Government of Tunisia toward
12 meeting the democratic aspirations and economic
13 needs of the Tunisian people.

14 **SEC. 4. LIMITATION ON FUNDS; CREATION OF TUNISIA DE-**
15 **MOCRACY SUPPORT FUND; REPORT.**

16 (a) IN GENERAL.—Effective upon the date of the en-
17 actment of this Act, the Secretary of State , in conjunction
18 with the Administrator of the United States Agency for
19 International Development—

20 (1) shall limit funding to Tunisia, as provided
21 for in subsection (b); and

22 (2) is authorized to establish a “Tunisia De-
23 mocracy Support Fund”, as provided for in sub-
24 section (c), to encourage reforms that restore Tuni-
25 sian democracy and rule of law.

1 (b) LIMITATION ON FUNDS.—Of the amounts au-
2 thorized to be appropriated or otherwise made available
3 in fiscal years 2024 and 2025 to carry out chapters 1 and
4 8 of part I of the Foreign Assistance Act of 1961 (22
5 U.S.C. 2151 et seq.), chapters 1 through 6, 8, and 9 of
6 part II of such Act (22 U.S.C. 2301 et seq.), and section
7 23 of the Arms Export Control Act (22 U.S.C. 2763) for
8 the Government of Tunisia, 25 percent the amount made
9 available under each such authority for each such fiscal
10 year shall be withheld from obligation, with the exception
11 of funding for Tunisian civil society, until the Secretary
12 of State determines and certifies to the appropriate con-
13 gressional committees that the Government of Tunisia—

14 (1) has ceased its use of military courts to try
15 civilians;

16 (2) is making clear and consistent progress in
17 releasing political prisoners; and

18 (3) has terminated all states of emergency.

19 (c) TUNISIA DEMOCRACY SUPPORT FUND AUTHOR-
20 IZED.—

21 (1) IN GENERAL.—There is authorized to be
22 appropriated to the Secretary of State \$100,000,000
23 for each of the fiscal years 2024 and 2025, which
24 shall be used to establish the “Tunisia Democracy

1 Support Fund” for the purpose of encouraging re-
2 forms that—

3 (A) restore Tunisia’s democratic institu-
4 tions;

5 (B) restore the rule of law; and

6 (C) stabilize the Tunisian economy.

7 (2) LIMITATION.—Funds authorized to be ap-
8 propriated pursuant to paragraph (1) shall not be
9 available for obligation until the Secretary of State
10 certifies in writing to the appropriate congressional
11 committees that the Government of Tunisia has
12 demonstrated measurable progress towards the
13 democratic benchmarks outlined in subsection (d).

14 (d) DEMOCRATIC BENCHMARKS.—Pursuant to sub-
15 section (c)(2), the democratic benchmarks to be addressed
16 in the Secretary of State’s certification are whether the
17 Government of Tunisia—

18 (1) appropriately empowers Parliament to serve
19 the Tunisian people and serve as an independent, co-
20 equal branch of government essential to a healthy
21 democracy;

22 (2) restores judicial independence and estab-
23 lishes the Constitutional Court in a manner that fos-
24 ters an independent judiciary and serves as a check
25 on the presidency;

1 (3) is taking credible steps to respect freedoms
2 of expression, association, and the press;

3 (4) creates an enabling operating environment
4 in which Tunisian civil society organizations can op-
5 erate without undue interference, including permit-
6 ting international funding; and

7 (5) ceases efforts to intimidate Tunisian inde-
8 pendent media through arbitrary arrests and crimi-
9 nal prosecutions of journalists on illegitimate
10 charges.

11 (e) INITIAL REPORT, ANNUAL REPORT AND BRIEF-
12 ING.—

13 (1) INITIAL REPORT.—Not later than 120 days
14 after the date of the enactment of this Act and an-
15 nually thereafter through 2028, the Secretary of
16 State shall provide a report and accompanying brief-
17 ing to the appropriate congressional committees that
18 describes—

19 (A) the state of Tunisia’s democracy and
20 associated progress on the democratic bench-
21 marks outlined in subsection (d); and

22 (B) how United States foreign assistance
23 is funding programs to support progress to-
24 wards achieving such benchmarks.

1 (2) FORM OF REPORT.—The report required by
2 paragraph (1) shall be submitted in unclassified
3 form, but may include a classified annex.

4 (f) WAIVER.—The Secretary of State may waive the
5 limitation on funding under subsection (b) if the Sec-
6 retary, not later than 15 days before the waiver is to take
7 effect, certifies to the appropriate congressional commit-
8 tees that such waiver is in the national interest of the
9 United States. The Secretary shall submit with the certifi-
10 cation a detailed justification explaining the reasons for
11 the waiver.

12 (g) DEFINED TERM.—In this section, the term “ap-
13 propriate congressional committees” means—

14 (1) the Committee on Foreign Relations of the
15 Senate;

16 (2) the Committee on Appropriations of the
17 Senate;

18 (3) the Committee on Foreign Affairs of the
19 House of Representatives; and

20 (4) the Committee on Appropriations of the
21 House of Representatives.

22 **SEC. 5. SUNSET.**

23 This Act shall terminate on the date that is 5 years
24 after the date of the enactment of this Act.