



Manager's Substitute Amendment

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.**

**S. 4320**

To enhance security at United States diplomatic facilities,  
and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. RISCH

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure Embassy Con-  
5 struction and Counterterrorism Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Secure Embassy Construction and  
9 Counterterrorism Act of 1999 (title VI of division A  
10 of appendix G of Public Law 106–113) was a nec-  
11 essary response to bombings on August 7, 1998, at  
12 the United States embassies in Nairobi, Kenya, and

1 in Dar es Salaam, Tanzania, that were destroyed by  
2 simultaneously exploding bombs. The resulting ex-  
3 plosions killed 220 persons and injured more than  
4 4,000 others. Twelve Americans and 40 Kenyan and  
5 Tanzanian employees of the United States Foreign  
6 Service were killed in the attacks.

7 (2) Those bombings, followed by the expedi-  
8 tionary diplomatic efforts in Iraq and Afghanistan,  
9 demonstrated the need to prioritize the security of  
10 United States posts and personnel abroad above  
11 other considerations.

12 (3) Between 1999 and 2022, the risk calculus  
13 of the Department of State impacted the ability of  
14 United States diplomats around the world to ad-  
15 vance the interests of the United States through ac-  
16 cess to local populations, leaders, and places.

17 (4) America's competitors and adversaries do  
18 not have the same restrictions that United States  
19 diplomats have, especially in critically important me-  
20 dium-threat and high-threat posts.

21 (5) The Department of State's 2021 Overseas  
22 Security Panel report states that—

23 (A) the requirement for setback and col-  
24 location of diplomatic posts under paragraphs  
25 (2) and (3) of section 606(a) of the Secure Em-

1           bassy Construction and Counterterrorism Act of  
2           1999 (22 U.S.C. 4865(a)) has led to sky-rock-  
3           eting costs of new embassies and consulates;  
4           and

5                   (B) the locations of such posts have be-  
6           come less desirable, creating an extremely sub-  
7           optimal nexus that further hinders United  
8           States diplomats who are willing to accept more  
9           risk in order to advance United States' inter-  
10          ests.

11 **SEC. 3. SENSE OF CONGRESS.**

12          It is the sense of Congress that—

13                   (1) the setback and collocation requirements re-  
14          ferred to in section 2(5)(A), even with available  
15          waivers, no longer provide the security such require-  
16          ments used to provide because of advancement in  
17          technologies, such as remote controlled drones, that  
18          can evade walls and other such static barriers;

19                   (2) the Department of State should focus on  
20          creating performance security standards that—

21                           (A) attempt to keep the setback require-  
22          ments of diplomatic posts as limited as possible;  
23          and

1 (B) provide diplomats access to local popu-  
2 lations as much as possible, while still providing  
3 a necessary level of security;

4 (3) collocation of diplomatic facilities is often  
5 not feasible or advisable, particularly for public di-  
6 plomacy spaces whose mission is to reach and be ac-  
7 cessible to wide sectors of the public, including in  
8 countries with repressive governments, since such  
9 spaces are required to permit the foreign public to  
10 enter and exit the space easily and openly;

11 (4) the Bureau of Diplomatic Security should—

12 (A) fully utilize the waiver process pro-  
13 vided under paragraphs (2)(B) and (3)(B) of  
14 section 606(a) of the Secure Embassy Con-  
15 struction and Counterterrorism Act of 1999 (22  
16 U.S.C. 4865(a)); and

17 (B) appropriately exercise such waiver  
18 process as a tool to right-size the appropriate  
19 security footing at each diplomatic post rather  
20 than only approving waivers in extreme cir-  
21 cumstances;

22 (5) the return of great power competition re-  
23 quires—

24 (A) United States diplomats to do all they  
25 can to outperform our adversaries; and

1 (B) the Department of State to better op-  
2 timize use of taxpayer funding to advance  
3 United States national interests; and

4 (6) this Act will better enable United States  
5 diplomats to compete in the 21st century, while sav-  
6 ing United States taxpayers millions in reduced  
7 property and maintenance costs at embassies and  
8 consulates abroad.

9 **SEC. 4. DEFINITION OF UNITED STATES DIPLOMATIC FA-**  
10 **CILITY.**

11 Section 603 of the Secure Embassy Construction and  
12 Counterterrorism Act of 1999 (title VI of division A of  
13 appendix G of Public Law 106–113) is amended to read  
14 as follows:

15 **“SEC. 603. UNITED STATES DIPLOMATIC FACILITY DE-**  
16 **FINED.**

17 “In this title, the terms ‘United States diplomatic fa-  
18 cility’ and ‘diplomatic facility’ mean any chancery, con-  
19 sulate, or other office that—

20 “(1) is considered by the Secretary of State to  
21 be diplomatic or consular premises, consistent with  
22 the Vienna Convention on Diplomatic Relations,  
23 done at Vienna April 18, 1961, and the Vienna Con-  
24 vention on Consular Relations, done at Vienna April

1       24, 1963, and was notified to the host government  
2       as such; or

3               “(2) is otherwise subject to a publicly available  
4       bilateral agreement with the host government (con-  
5       tained in the records of the United States Depart-  
6       ment of State) that recognizes the official status of  
7       the United States Government personnel present at  
8       the facility.”.

9       **SEC. 5. GUIDANCE AND REQUIREMENTS FOR DIPLOMATIC**  
10               **FACILITIES.**

11       (a) **GUIDANCE FOR CLOSURE OF PUBLIC DIPLOMACY**  
12       **FACILITIES.**—Section 5606 of the Public Diplomacy Mod-  
13       ernization Act of 2021 (Public Law 117–81; 22 U.S.C.  
14       1475g note) is amended by striking subsection (a) and in-  
15       serting the following new subsection:

16               “(a) **IN GENERAL.**—In order to preserve public diplo-  
17       macy facilities that are accessible to the publics of foreign  
18       countries, not later than 180 days after the date of the  
19       enactment of the Secure Embassy Construction and  
20       Counterterrorism Act of 2022, the Secretary of State shall  
21       adopt guidelines to collect and utilize information from  
22       each diplomatic post at which the construction of a new  
23       embassy compound or new consulate compound could re-  
24       sult in the closure or co-location of an American Space  
25       that is owned and operated by the United States Govern-

1 ment, generally known as an American Center, or any  
2 other public diplomacy facility under the Secure Embassy  
3 Construction and Counterterrorism Act of 1999 (22  
4 U.S.C. 4865 et seq.).”.

5 (b) SECURITY REQUIREMENTS FOR UNITED STATES  
6 DIPLOMATIC FACILITIES.—Section 606(a) of the Secure  
7 Embassy Construction and Counterterrorism Act of 1999  
8 (22 U.S.C. 4865(a)) is amended—

9 (1) in paragraph (1)(A), by striking “the  
10 threat” and inserting “a range of threats, including  
11 that”;

12 (2) in paragraph (2)—

13 (A) in subparagraph (A)—

14 (i) by inserting “in a location that has  
15 certain minimum ratings under the Secu-  
16 rity Environment Threat List as deter-  
17 mined by the Secretary in his or her dis-  
18 cretion” after “abroad”; and

19 (ii) by inserting “, personnel of the  
20 Peace Corps, and personnel of any other  
21 type or category of facility that the Sec-  
22 retary may identify” after “military com-  
23 mander”; and

24 (B) in subparagraph (B)—

1 (i) by amending clause (i) to read as  
2 follows:

3 “(i) IN GENERAL.—Subject to clause  
4 (ii), the Secretary of State may waive sub-  
5 paragraph (A) if the Secretary, in con-  
6 sultation with, as appropriate, the head of  
7 each agency employing personnel that  
8 would not be located at the site, if applica-  
9 ble, determines that it is in the national in-  
10 terest of the United States after taking ac-  
11 count of any considerations the Secretary  
12 in his or her discretion considers relevant,  
13 which may include security conditions.”;  
14 and

15 (ii) in clause (ii), by striking “(ii)  
16 CHANCERY OR CONSULATE BUILDING.—”  
17 and all that follows through “15 days  
18 prior” and inserting the following:

19 “(ii) CHANCERY OR CONSULATE  
20 BUILDING.—Prior”; and

21 (3) in paragraph (3)—

22 (A) by amending subparagraph (A) to read  
23 as follows:

24 “(A) REQUIREMENT.—



1           “(i) IN GENERAL.—Each newly ac-  
2           quired United States diplomatic facility in  
3           a location that has certain minimum rat-  
4           ings under the Security Environment  
5           Threat List as determined by the Sec-  
6           retary of State in his or her discretion  
7           shall—

8                       “(I) be constructed or modified  
9                       to meet the measured building blast  
10                      performance standard applicable to a  
11                      diplomatic facility sited not less than  
12                      100 feet from the perimeter of the  
13                      property on which the facility is situ-  
14                      ated; or

15                     “(II) fulfill the criteria described  
16                     in clause (ii).

17                     “(ii) ALTERNATIVE ENGINEERING  
18                     EQUIVALENCY STANDARD REQUIRE-  
19                     MENT.—Each facility referred to in clause  
20                     (i) may, instead of meeting the require-  
21                     ment under such clause, fulfill such other  
22                     criteria as the Secretary is authorized to  
23                     employ to achieve an equivalent engineer-  
24                     ing standard of security and degree of pro-  
25                     tection as the numerical perimeter distance

1 setback described in such clause seeks to  
2 achieve.”; and

3 (B) in subparagraph (B)—

4 (i) in clause (i)—

5 (I) by striking “security consider-  
6 ations permit and”; and

7 (II) by inserting “after taking ac-  
8 count of any considerations the Sec-  
9 retary in his or her discretion con-  
10 siders relevant, which may include se-  
11 curity conditions” after “national in-  
12 terest of the United States”;

13 (ii) in clause (ii), by striking “(ii)  
14 CHANCERY OR CONSULATE BUILDING.—”  
15 and all that follows through “15 days  
16 prior” and inserting the following:

17 “(ii) CHANCERY OR CONSULATE  
18 BUILDING.—Prior”; and

19 (iii) in clause (iii), by striking “an an-  
20 nual” and inserting “a quarterly”.