

AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve embassy security.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

S. _____

To authorize appropriations for the Department of State
for fiscal year 2016, 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 intended to be proposed by Mr. CORKER

Viz:

1 At the end of the bill, add the following:

2 **TITLE VI—EMBASSY SECURITY**

3 **Subtitle A—Allocation of Author-**
4 **ized Security Appropriations.**

5 **SEC. 601. WORLDWIDE SECURITY PROTECTION.**

6 (a) IN GENERAL.—Notwithstanding any other provi-
7 sion of law, before any amounts authorized to be appro-
8 priated for worldwide security protection may be allocated
9 for any other authorized purpose, such amounts shall be
10 allocated for—

11 (1) immediate threat mitigation support in ac-
12 cordance with subsection (b) at facilities determined

1 to be “high threat, high risk” pursuant to section
2 631;

3 (2) immediate threat mitigation support in ac-
4 cordance with subsection (b) at other facilities; and

5 (3) locations with high vulnerabilities.

6 (b) IMMEDIATE THREAT MITIGATION SUPPORT
7 PRIORITIZATION.—In allocating amounts for immediate
8 threat mitigation support pursuant to this section, the
9 Secretary shall prioritize funding for—

10 (1) the purchasing of additional security equip-
11 ment, including additional defensive weaponry;

12 (2) the paying of expenses of additional security
13 forces, with an emphasis on funding United States
14 security forces where practicable; and

15 (3) any other purposes that are necessary to
16 mitigate immediate threats to United States per-
17 sonnel serving overseas.

18 **SEC. 602. EMBASSY SECURITY, CONSTRUCTION, AND MAIN-**
19 **TENANCE.**

20 (a) IN GENERAL.—Notwithstanding any other provi-
21 sion of law, amounts authorized to be appropriated to the
22 Embassy Security, Construction and Maintenance account
23 shall, before being allocated for any other authorized pur-
24 pose, be allocated for the following purposes in the fol-
25 lowing prioritized order:

1 (1) Immediate threat mitigation projects, in ac-
2 cordance with subsection (b), at facilities determined
3 to be high threat, high risk pursuant to section 631.

4 (2) Other security upgrades to facilities deter-
5 mined to be high threat, high risk pursuant to sec-
6 tion 631.

7 (3) All other immediate threat mitigation
8 projects in accordance with subsection (b).

9 (4) Security upgrades to all other facilities or
10 new construction for facilities determined to be high
11 threat, high risk pursuant to such section.

12 (b) IMMEDIATE THREAT MITIGATION PROJECTS
13 PRIORITIZATION.—In allocating amounts for immediate
14 threat mitigation projects pursuant to this section, the
15 Secretary shall prioritize funding for—

16 (1) the construction of safeguards that provide
17 immediate security benefits; and

18 (2) any other purposes necessary to mitigate
19 immediate threats to United States personnel serv-
20 ing overseas.

21 (c) ADDITIONAL LIMITATION.—No amounts author-
22 ized to be appropriated may be obligated or expended for
23 new embassy construction, other than for high risk, high
24 threat facilities, unless the Secretary certifies to the ap-
25 propriate congressional committees that—

1 (1) the Department has fully complied with the
2 requirements under subsection (a);

3 (2) high risk, high threat facilities are being se-
4 cured to the best of the ability of the United States
5 Government; and

6 (3) the Secretary will make amounts available
7 from the Embassy Security, Construction and Main-
8 tenance account or other sources to address any
9 changed security threats or new or emergent secu-
10 rity needs, including new immediate threat mitiga-
11 tion projects.

12 (d) REPORT.—Not later than 180 days after the date
13 of the enactment of this Act, the Secretary shall submit
14 a report to the appropriate congressional that—

15 (1) identifies the funding allocated for the pri-
16 orities described in subsection (a);

17 (2) describes the efforts by the United Sates
18 Government to secure high risk, high threat facilities
19 and high vulnerability locations facilities;

20 (3) describes plans to make amounts available
21 from the Embassy Security, Construction and Main-
22 tenance account or other sources to address any
23 changed security threats or new or emergent secu-
24 rity needs, including new immediate threat mitiga-
25 tion projects; and

1 (4) includes a list of all requests for security
2 upgrades or support received from high risk, high
3 threat facilities under the Department’s manage-
4 ment for the previous calendar year that were not
5 fulfilled.

6 **Subtitle B—Contracting and Other**
7 **Matters.**

8 **SEC. 611. LOCAL GUARD CONTRACTS ABROAD UNDER DIP-**
9 **LOMATIC SECURITY PROGRAM.**

10 (a) IN GENERAL.—Section 136(c)(3) of the Foreign
11 Relations Authorization Act, Fiscal Years 1990 and 1991
12 (22 U.S.C. 4864(c)(3)) is amended to read as follows:

13 “(3) in evaluating proposals for such contracts,
14 award contracts to technically acceptable firms offer-
15 ing the lowest evaluated price, except that—

16 “(A) the Secretary may award contracts on
17 the basis of best value (as determined by a cost-
18 technical tradeoff analysis), especially for posts
19 determined to be high risk, high threat pursu-
20 ant to section 631 of the Department of State
21 Operations Authorization and Embassy Secu-
22 rity Act, Fiscal Year 2016; and

23 “(B) proposals received from United
24 States persons and qualified United States joint

1 venture persons shall be evaluated by reducing
2 the bid price by 10 percent;”.

3 (b) REPORT.—Not later than 1 year after the date
4 of the enactment of this Act, the Secretary shall submit
5 a report to the Committee on Foreign Relations of the
6 Senate and the Committee on Foreign Affairs of the
7 House of Representatives that includes—

8 (1) an explanation of the implementation of sec-
9 tion 136(c)(3) of the Foreign Relations Authoriza-
10 tion Act, Fiscal Years 1990 and 1991, as amended
11 by subsection (a); and

12 (2) for each instance in which a contract is
13 awarded pursuant to subparagraph (A) of such sec-
14 tion, a written justification and approval that de-
15 scribes the basis for such award and an explanation
16 of the inability of the Secretary to satisfy the needs
17 of the Department by awarding a contract to the
18 technically acceptable firm offering the lowest evalu-
19 ated price.

20 **SEC. 612. DISCIPLINARY ACTION RESULTING FROM UNSAT-**
21 **ISFACTORY LEADERSHIP IN RELATION TO A**
22 **SECURITY INCIDENT.**

23 Section 304(c) of the Diplomatic Security Act (22
24 U.S.C. 4834 (c)) is amended—

1 (1) by redesignating paragraphs (1), (2), and
2 (3) as subparagraphs (A), (B), and (C), respectively,
3 and moving such subparagraphs, as so redesignated,
4 2 ems to the right;

5 (2) by striking “Whenever” in the first sentence
6 immediately following the subsection heading and in-
7 serting the following:

8 “(1) IN GENERAL.—Whenever”; and

9 (3) by inserting at the end the following:

10 “(2) CERTAIN SECURITY INCIDENTS.—

11 “(A) UNSATISFACTORY LEADERSHIP.—Un-
12 satisfactory leadership by a senior official with
13 respect to a security incident involving loss of
14 life, serious injury, or significant destruction of
15 property at or related to a United States Gov-
16 ernment mission abroad may be grounds for
17 disciplinary action.

18 “(B) DISCIPLINARY ACTION.—If a Board
19 finds reasonable cause to believe that a senior
20 official provided such unsatisfactory leadership,
21 the Board may recommend disciplinary action
22 subject to the procedures in paragraph (1).”.

23 **SEC. 613. MANAGEMENT AND STAFF ACCOUNTABILITY.**

24 (a) AUTHORITY OF SECRETARY OF STATE.—Nothing
25 in this Act or in any other provision of law may be con-

1 strued to prevent the Secretary from using all authorities
2 invested in the office of Secretary to take personnel action
3 against any employee or official of the Department that
4 the Secretary determines has breached the duty of that
5 individual or has engaged in misconduct or unsatis-
6 factorily performed the duties of employment of that indi-
7 vidual, and such misconduct or unsatisfactory perform-
8 ance has significantly contributed to the serious injury,
9 loss of life, or significant destruction of property, or a seri-
10 ous breach of security, even if such action is the subject
11 of an Accountability Review Board’s examination under
12 section 304(a) of the Diplomatic Security Act (22 U.S.C.
13 4834(a)).

14 (b) ACCOUNTABILITY.—Section 304 of the Diplo-
15 matic Security Act (22 U.S.C. 4834) is amended—

16 (1) in subsection (c), by inserting “or has en-
17 gaged in misconduct or unsatisfactorily performed
18 the duties of employment of that individual, and
19 such misconduct or unsatisfactory performance has
20 significantly contributed to the serious injury, loss of
21 life, or significant destruction of property, or the se-
22 rious breach of security that is the subject of the
23 Board’s examination as described in subsection (a),”
24 after “breached the duty of that individual”;

1 (2) by redesignating subsection (d) as sub-
2 section (e); and

3 (3) by inserting after subsection (c) the fol-
4 lowing:

5 “(d) MANAGEMENT ACCOUNTABILITY.—Whenever a
6 Board determines that an individual has engaged in any
7 conduct described in subsection (c), the Board shall evalu-
8 ate the level and effectiveness of management and over-
9 sight conducted by employees or officials in the manage-
10 ment chain of such individual.”.

11 **SEC. 614. SECURITY ENHANCEMENTS FOR SOFT TARGETS.**

12 Section 29 of the State Department Basic Authorities
13 Act of 1956 (22 U.S.C. 2701) is amended, in the third
14 sentence, by inserting “physical security enhancements
15 and” after “Such assistance may include”.

16 **Subtitle C—Marine Corps Security**
17 **Guard Program**

18 **SEC. 621. ADDITIONAL REPORTS ON EXPANSION AND EN-**
19 **HANCEMENT OF MARINE CORPS SECURITY**
20 **GUARD PROGRAM.**

21 Section 1269(a)(2) of the Carl Levin and Howard P.
22 ‘Buck’ McKeon National Defense Authorization Act for
23 Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 5983
24 note) is amended by inserting “and not less frequently

1 than once each year thereafter until the date that is three
2 years after such date” after “of this Act”.

3 **Subtitle D—Defending High Threat**
4 **Posts**

5 **SEC. 631. DESIGNATION AND REPORTING FOR HIGH**
6 **THREAT, HIGH RISK POSTS.**

7 (a) REPORT REQUIRED.—Not later than 90 days
8 after the date of the enactment of this Act and annually
9 thereafter, the Secretary, in consultation with the Director
10 of National Intelligence and the Secretary of Defense,
11 shall submit, to the Committee on Foreign Relations of
12 the Senate, the Select Committee on Intelligence of the
13 Senate, the Committee on Armed Services of the Senate,
14 the Committee on Foreign Affairs of the House of Rep-
15 resentatives, the Permanent Select Committee on Intel-
16 ligence of the House of Representatives, and the Com-
17 mittee on Armed Services of the House of Representatives,
18 a classified report, with an unclassified summary, evalu-
19 ating Department facilities that the Secretary determines
20 to be high threat, high risk in accordance with subsection
21 (c).

22 (b) CONTENTS.—For each facility determined to be
23 high threat, high risk pursuant to subsection (a), the re-
24 port submitted under subsection (a) shall include—

1 (1) a narrative assessment describing the secu-
2 rity threats and risks facing posts overseas and the
3 overall threat level to United States personnel under
4 chief of mission authority;

5 (2) the number of diplomatic security per-
6 sonnel, Marine Corps security guards, and other De-
7 partment personnel dedicated to providing security
8 for United States personnel, information, and facili-
9 ties;

10 (3) an assessment of host nation willingness
11 and capability to provide protection in the event of
12 a security threat or incident, pursuant to the obliga-
13 tions of the United States under the Vienna Conven-
14 tion on Consular Relations, done at Vienna April 24,
15 1963, and the 1961 Vienna Convention on Diplo-
16 matic Relations, done at Vienna April 18, 1961;

17 (4) an assessment of the quality and experience
18 level of the team of United States senior security
19 personnel assigned to the facility, considering collec-
20 tively the assignment durations and lengths of gov-
21 ernment experience;

22 (5) the number of Foreign Service Officers who
23 have received Foreign Affairs Counter Threat train-
24 ing;

1 (6) a summary of the requests made during the
2 previous calendar year for additional resources,
3 equipment, or personnel related to the security of
4 the facility and the status of such requests;

5 (7) an assessment of the ability of United
6 States personnel to respond to and survive a fire at-
7 tack, including—

8 (A) whether the facility has adequate fire
9 safety and security equipment for safe havens
10 and safe areas; and

11 (B) whether the employees working at the
12 facility have been adequately trained on the
13 equipment available;

14 (8) if it is a new facility, a detailed description
15 of the steps taken to provide security for the new fa-
16 cility, including whether a dedicated support cell was
17 established in the Department to ensure proper and
18 timely resourcing of security; and

19 (9) a listing of any high-threat, high-risk facili-
20 ties where the facilities of the Department and other
21 government agencies are not collocated, including—

22 (A) a rationale for the lack of collocation;
23 and

24 (B) a description of what steps, if any, are
25 being taken to mitigate potential security

1 vulnerabilities associated with the lack of col-
2 location.

3 (c) DETERMINATION OF HIGH THREAT, HIGH RISK
4 FACILITY.—In determining which facilities of the Depart-
5 ment constitute high threat, high risk facilities under this
6 section, the Secretary shall take into account with respect
7 to each facility whether there are—

8 (1) high to critical levels of political violence or
9 terrorism;

10 (2) national or local governments with inad-
11 equate capacity or political will to provide appro-
12 priate protection; and

13 (3) in locations where there are high to critical
14 levels of political violence or terrorism or where na-
15 tional or local governments lack the capacity or po-
16 litical will to provide appropriate protection—

17 (A) mission physical security platforms
18 that fall well below the Department's estab-
19 lished standards; or

20 (B) security personnel levels that are in-
21 sufficient for the circumstances.

22 (d) INSPECTOR GENERAL REVIEW AND REPORT.—
23 The Inspector General for the Department of State and
24 the Broadcasting Board of Governors shall annually—

1 (1) review the determinations of the Secretary
2 with respect to high threat, high risk facilities, in-
3 cluding the basis for making such determinations;

4 (2) review contingency planning for high threat,
5 high risk facilities and evaluate the measures in
6 place to respond to attacks on such facilities;

7 (3) review the risk mitigation measures in place
8 at high threat, high risk facilities to determine how
9 the Secretary evaluates risk and whether the meas-
10 ures put in place sufficiently address the relevant
11 risks;

12 (4) review early warning systems in place at
13 high threat, high risk facilities and evaluate the
14 measures being taken to preempt and disrupt
15 threats to such facilities; and

16 (5) provide to the appropriate congressional
17 committees—

18 (A) an assessment of the determinations of
19 the Secretary with respect to high threat, high
20 risk facilities, including recommendations for
21 additions or changes to the list of such facili-
22 ties; and

23 (B) a report on the reviews and evalua-
24 tions undertaken pursuant to paragraphs (1)
25 through (4).

1 **SEC. 632. DESIGNATION AND REPORTING FOR HIGH-RISK**
2 **COUNTERINTELLIGENCE THREAT POSTS.**

3 (a) DEFINITIONS.—In this section:

4 (1) APPROPRIATE COMMITTEES OF CON-
5 GRESS.—The term “appropriate committees of Con-
6 gress” means—

7 (A) the Committee on Foreign Relations of
8 the Senate;

9 (B) the Select Committee on Intelligence
10 of the Senate;

11 (C) the Committee on Armed Services of
12 the Senate;

13 (D) the Committee on Appropriations of
14 the Senate;

15 (E) the Committee on Foreign Affairs of
16 the House of Representatives;

17 (F) the Permanent Select Committee on
18 Intelligence of the House of Representatives;

19 (G) the Committee on Armed Services of
20 the House of Representatives; and

21 (H) the Committee on Appropriations of
22 the House of Representatives

23 (2) PRIORITY 1 COUNTERINTELLIGENCE
24 THREAT NATION.—The term “Priority 1 Counter-
25 intelligence Threat Nation” means a country des-

1 ignated as such by the October 2012 National Intel-
2 ligence Priorities Framework (NIPF).

3 (b) REPORT REQUIRED.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of the enactment of this Act, the Sec-
6 retary, in conjunction with appropriate officials in
7 the intelligence community and the Secretary of De-
8 fense, shall submit a report to the appropriate com-
9 mittees of Congress that assesses the counterintel-
10 ligence threat to United States diplomatic facilities
11 in Priority 1 Counterintelligence Threat Nations.

12 (2) CONTENTS.—The report required under
13 paragraph (1) shall include—

14 (A) an assessment of the use of locally em-
15 ployed staff and guard forces and a listing of
16 diplomatic facilities in Priority 1 Counterintel-
17 ligence Threat Nations without controlled ac-
18 cess areas; and

19 (B) recommendations for mitigating any
20 counterintelligence threats and for any nec-
21 essary facility upgrades, including costs assess-
22 ment of any recommended mitigation or up-
23 grades.

1 **SEC. 633. ENHANCED QUALIFICATIONS FOR DEPUTY AS-**
2 **SISTANT SECRETARY OF STATE FOR HIGH**
3 **THREAT, HIGH RISK POSTS.**

4 The Omnibus Diplomatic Security and Antiterrorism
5 Act of 1986 is amended by inserting after section 206 (22
6 U.S.C. 4824) the following new section:

7 **“SEC. 207. DEPUTY ASSISTANT SECRETARY OF STATE FOR**
8 **HIGH THREAT, HIGH RISK POSTS.**

9 “The individual serving as Deputy Assistant Sec-
10 retary of State for High Threat, High Risk Posts shall
11 have one or more of the following qualifications:

12 “(1) Service during the last 6 years at 1 or
13 more posts designated as high threat, high risk by
14 the Secretary of State at the time of service.

15 “(2) Previous service as the office director or
16 deputy director of 1 or more of the following De-
17 partment of State offices or successor entities car-
18 rying out substantively equivalent functions:

19 “(A) The Office of Mobile Security Deploy-
20 ments.

21 “(B) The Office of Special Programs and
22 Coordination.

23 “(C) The Office of Overseas Protective Op-
24 erations.

25 “(D) The Office of Physical Security Pro-
26 grams.

1 “(E) The Office of Intelligence and Threat
2 Analysis.

3 “(3) Previous service as the Regional Security
4 Officer at two or more overseas posts.

5 “(4) Other government or private sector experi-
6 ence substantially equivalent to service in the posi-
7 tions listed in paragraphs (1) through (3).”.

8 **SEC. 634. SECURITY ENVIRONMENT THREAT LIST BRIEF-**
9 **INGS.**

10 (a) IN GENERAL.—Not later than 90 days after the
11 date of the enactment of this Act and upon each subse-
12 quent update of the Security Environment Threat List
13 (SETL), the Assistant Secretary of State for Diplomatic
14 Security shall provide classified briefings to the appro-
15 priate congressional committees on the Security Environ-
16 ment Threat List.

17 (b) CONTENT.—The briefings required under sub-
18 section (a) shall include—

19 (1) an overview of the Security Environment
20 Threat List; and

21 (2) a summary assessment of the security pos-
22 ture of those facilities where the Security Environ-
23 ment Threat List assesses the threat environment to
24 be most acute, including factors that informed such
25 assessment.

1 **SEC. 635. COMPTROLLER GENERAL OF THE UNITED**
2 **STATES REPORT ON IMPLEMENTATION OF**
3 **BENGHAZI ACCOUNTABILITY REVIEW BOARD**
4 **RECOMMENDATIONS.**

5 (a) IN GENERAL.—Not later than 120 days after the
6 date of the enactment of this Act, the Comptroller General
7 of the United States shall submit a report to the Com-
8 mittee on Foreign Relations of the Senate and the Com-
9 mittee on Foreign Affairs of the House of Representatives
10 that describes the progress of the Secretary in imple-
11 menting the recommendations of the Benghazi Account-
12 ability Review Board.

13 (b) CONTENT.—The report required under subsection
14 (a) shall include—

15 (1) an assessment of the progress the Secretary
16 has made in implementing each specific rec-
17 ommendation of the Accountability Review Board;
18 and

19 (2) a description of any impediments to rec-
20 ommended reforms, such as budget constraints, bu-
21 reaucratic obstacles within the Department or in the
22 broader interagency community, or limitations under
23 current law.

24 (c) FORM.—The report required under subsection (a)
25 shall be submitted in unclassified form but may contain
26 a classified annex.

1 **Subtitle E—Accountability Review**
2 **Boards**

3 **SEC. 641. PROVISION OF COPIES OF ACCOUNTABILITY RE-**
4 **VIEW BOARD REPORTS TO CONGRESS.**

5 Not later than 2 days after an Accountability Review
6 Board provides its report to the Secretary of State in ac-
7 cordance with title III of the Omnibus Diplomatic and
8 Antiterrorism Act of 1986 (22 U.S.C. 4831 et seq.), the
9 Secretary shall provide copies of the report to the appro-
10 priate congressional committees for retention and review
11 by those committees.

12 **SEC. 642. STAFFING.**

13 Section 302(b)(2) of the Diplomatic Security Act (22
14 U.S.C. 4832(b)(2)) is amended by adding at the end the
15 following: “Such persons shall be drawn from bureaus or
16 other agency subunits that are not impacted by the inci-
17 dent that is the subject of the Board’s review.”.