

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 2d Sess.

S. 4392

To promote United States and allied energy and mineral security, 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. COONS (for himself and Mr.
RICKETTS)

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 “Energy Security Pact
5 Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) APPROPRIATE CONGRESSIONAL COMMIT-
9 TEES.—The term “appropriate congressional com-
10 mittees” means—

1 (A) the Committee on Foreign Relations
2 and the Committee on Appropriations of the
3 Senate; and

4 (B) the Committee on Foreign Affairs and
5 the Committee on Appropriations of the House
6 of Representatives.

7 (2) COUNCIL AGENCY.—The term “council
8 agency” means a department, agency, or organiza-
9 tion described in section 6(c).

10 (3) CRITICAL MINERAL.—The term “critical
11 mineral” means any mineral on the list of critical
12 minerals required by section 7002(c)(3) of the En-
13 ergy Act of 2020 (30 U.S.C. 1606(c)(3)) on or after
14 January 1, 2026.

15 (4) DIRECTOR FOR ENERGY SECURITY
16 PACTS.—The term “Director for Energy Security
17 Pacts” means the Director for Energy Security
18 Pacts described in section 4.

19 (5) ENERGY SECURITY PACT.—The term “En-
20 ergy Security Pact” means an Energy Security Pact
21 described in section 3.

22 (6) ENERGY SECURITY PACTS COUNCIL.—The
23 term “Energy Security Pacts Council” means the
24 Energy Security Pacts Council established under
25 section 6.

1 (7) PARTNER COUNTRY.—The term “partner
2 country” means a country eligible for participation
3 in an Energy Security Pact.

4 (8) RELIABLE ACCESS TO ENERGY OR ELEC-
5 TRICITY.—The term “reliable access to energy or
6 electricity” means access to energy or electricity that
7 enables the electric system to consistently meet de-
8 mand through a combination of generation, fore-
9 casting, storage, and grid management tools avail-
10 able across all resources and technologies.

11 (9) SECRETARY.—The term “Secretary” means
12 the Secretary of State.

13 (10) SENIOR UNITED STATES GOVERNMENT OF-
14 FICIAL.—The term “senior United States Govern-
15 ment official” means—

16 (A) any individual serving in a position at
17 level I of the Executive Schedule under section
18 5312 of title 5, United States Code; and

19 (B) any individual serving as a presidential
20 special envoy.

21 (11) UNDER SECRETARY.—The term “Under
22 Secretary” means the Under Secretary of State for
23 Economic Growth, Energy, and the Environment.

1 **SEC. 3. AUTHORITY FOR ENERGY SECURITY PACTS.**

2 (a) IN GENERAL.—The Secretary may carry out an
3 initiative to establish multiyear agreements, to be known
4 as “Energy Security Pacts”, with partner countries for
5 the purpose of enhancing the energy and economic secu-
6 rity and stability of the United States and partner coun-
7 tries, including through efforts to counter economic coer-
8 cion through the diversification of critical mineral and en-
9 ergy supply chains.

10 (b) ASSISTANCE FOR THE DEVELOPMENT AND IM-
11 PLEMENTATION OF PACTS.—The Director for Energy Se-
12 curity Pacts may—

13 (1) enter into contracts for required technical
14 support related to Energy Security Pacts;

15 (2) make grants to partner countries that meet
16 eligibility requirements for United States foreign as-
17 sistance for the purpose of building the administra-
18 tive or technical capacity necessary to facilitate the
19 development and implementation of an Energy Secu-
20 rity Pact between the United States and such coun-
21 try; and

22 (3) lead Country Pact Teams, in accordance
23 with section 4(c), to carry out the implementation of
24 Energy Security Pacts.

25 (c) LIMITATIONS AND CONDITIONS.—

1 (1) PROHIBITION ON MILITARY ASSISTANCE
2 AND TRAINING.—Assistance under this section may
3 not include military assistance or military training
4 for a country.

5 (2) CONDITION ON ASSISTANCE RELATING TO
6 AMERICAN COMPETITIVENESS OR PRODUCTION DIS-
7 PLACEMENT.—Prior to funding a project pursuant
8 to an Energy Security Pact, the Secretary, in con-
9 sultation with other relevant departments and agen-
10 cies, should conduct an assessment on whether the
11 proposed project would undermine the competitive-
12 ness or displace production of relevant domestic sup-
13 pliers.

14 (3) PROHIBITION ON ASSISTANCE RELATING TO
15 ENVIRONMENTAL, HEALTH, OR SAFETY HAZARDS.—
16 Assistance under this section may not be provided
17 for any project that is likely to cause a significant
18 environmental, health, or safety hazard.

19 (4) FOREIGN AID TRANSPARENCY AND AC-
20 COUNTABILITY ACT COMPLIANCE.—None of the
21 funds authorized to be appropriated or otherwise
22 made available to carry out this Act may be obli-
23 gated or expended for an Energy Security Pact un-
24 less the Secretary complies with the requirements of
25 section 4 of the Foreign Aid Transparency and Ac-

1 countability Act of 2016 (22 U.S.C. 2394c) with re-
2 spect to the Pact and all activities associated with
3 the Pact.

4 (5) PROHIBITION ON ASSISTANCE FOR CERTAIN
5 ENTITIES.—None of the funds authorized to be ap-
6 propriated or otherwise made available to carry out
7 this Act may be obligated or expended to provide
8 any grant, contract, or other financial assistance to
9 an entity in which a senior United States Govern-
10 ment official or an immediate family member (as de-
11 fined in section 1128(j) of the Social Security Act
12 (42 U.S.C. 1320a-7(j))) of such official holds any
13 ownership interest or serves in any managerial, offi-
14 cer, director, or board capacity.

15 (6) OTHER PROHIBITION.—Assistance under
16 this section may not be used in any manner other-
17 wise prohibited by any provision of law.

18 **SEC. 4. DIRECTOR OF ENERGY SECURITY PACTS.**

19 (a) DIRECTOR FOR ENERGY SECURITY PACTS.—

20 (1) IN GENERAL.—The activities described in
21 this Act may be led by a Director for Energy Secu-
22 rity Pacts, who may be—

23 (A) appointed by the Secretary; and

24 (B) responsible—

1 (i) to the Under Secretary for all mat-
2 ters pertaining to the administration and
3 implementation of Energy Security Pacts;
4 and

5 (ii) for such other related duties as
6 the Secretary may from time to time des-
7 ignate.

8 (2) RESPONSIBILITIES.—In addition to the re-
9 sponsibilities described in paragraph (1), the Direc-
10 tor for Energy Security Pacts should be responsible
11 for supporting the coordination and implementation
12 of the Energy Security Pacts Council, including for
13 matters pertaining to the following:

14 (A) Leading the development, negotiation,
15 and management of Energy Security Pacts.

16 (B) Consulting and coordinating with
17 council agencies to develop prospective Energy
18 Security Pacts and implement ongoing Energy
19 Security Pacts, as appropriate.

20 (C) Serving as the recipient for—

21 (i) solicited proposals under Energy
22 Security Pacts; and

23 (ii) unsolicited proposals for projects
24 to be considered for inclusion in any En-
25 ergy Security Pact by national, regional,

1 and local governments and private corpora-
2 tions.

3 (D) Signing interagency agreements from
4 departments, agencies, or independent estab-
5 lishments of the United States Government on
6 behalf of the Department of State (with the
7 consent of the head of such department, agen-
8 cy, or establishment) for the purpose of devel-
9 oping, implementing, or otherwise participating
10 in an Energy Security Pact.

11 (E) Coordinating with other donor entities,
12 including countries that are allies and partners
13 of the United States, the Forum on Resource
14 Geostrategic Engagement of the Department of
15 State, and other multilateral fora, for purposes
16 of deconflicting, augmenting, and leveraging, as
17 appropriate, Energy Security Pact workplans
18 with the development and financing activities
19 performed by others.

20 (3) ANNUAL REPORT REQUIRED.—Not less fre-
21 quently than annually until the date that is 5 years
22 after the date of the enactment of this Act, the Di-
23 rector for Energy Security Pacts shall submit to the
24 appropriate congressional committees, the Executive

1 Office of the President, the National Security Coun-
2 cil, and the Secretary a report describing—

3 (A) the current status and expenditures of
4 activities authorized under this Act;

5 (B) any obstacles to the implementation of
6 such activities; and

7 (C) any updates to the multiyear financial
8 plan developed pursuant to section 5(d)(G).

9 (b) COUNTRY PACT TEAMS.—

10 (1) IN GENERAL.—The Secretary, in consulta-
11 tion with the Under Secretary and relevant Federal
12 departments and agencies, may designate a Country
13 Pact Team for each Energy Security Pact.

14 (2) LEADERSHIP; DUTIES.—Each Country Pact
15 Team shall—

16 (A) be led by the Director for Energy Se-
17 curity Pacts, who may regularly engage with
18 the Energy Security Pacts Council on matters
19 related to the Energy Security Pact; and

20 (B) manage the day-to-day activities re-
21 lated to the development, negotiation, imple-
22 mentation, and monitoring of the Pact.

23 (c) PERSONNEL.—

24 (1) IN GENERAL.—The Under Secretary or the
25 Under Secretary's designee may—

1 (A) upon request from the heads of rel-
2 evant Federal departments and agencies, detail
3 staff, on a reimbursable basis, to heads of coun-
4 cil agencies with relevant sectoral, financial, or
5 regional expertise for the express purpose of
6 supporting the negotiation or implementation of
7 an Energy Security Pact;

8 (B) request from the heads of council
9 agencies the detail of personnel to the Director
10 of Energy Security Pacts with relevant sectoral,
11 financial, or regional expertise, on a reimburs-
12 able basis, for the express purpose of sup-
13 porting the negotiation or implementation of an
14 Energy Security Pact; and

15 (C) appoint, without regard to the provi-
16 sions of sections 3309 through 3318 of title 5,
17 United States Code, candidates directly to posi-
18 tions in the competitive service, as defined in
19 section 2102 of that title.

20 (2) DETAILED EMPLOYEES.—Any employee de-
21 tailed pursuant to a request made under paragraph
22 (1)(A) shall remain, for the purpose of preserving
23 such employee's allowances, privileges, rights, senior-
24 ity, and other benefits, an employee of the agency
25 from which detailed.

1 (d) TERMINATION.—

2 (1) NEW ENERGY SECURITY PACTS.—The au-
3 thority to enter into new Energy Security Pacts
4 shall terminate on the date that is 15 years after the
5 date of the enactment of this Act.

6 (2) DIRECTOR; COUNCIL.—The position of Di-
7 rector for Energy Security Pacts and the Energy Se-
8 curity Pacts Council shall terminate 30 days after
9 the final Energy Security Pact expires.

10 (e) REPORTS.—Not later than 180 days after the
11 date of the enactment of this Act, the Under Secretary
12 shall submit to the appropriate congressional committees
13 a report that contains plans to attract and retain diplo-
14 matic, policy, legal, and technical expertise for civil service
15 officers to work with the Director of Energy Security
16 Pacts, including career promotion tracks to supervisory
17 and non-supervisory GS–15 positions.

18 **SEC. 5. APPROVAL, ELIGIBILITY, AND ELEMENTS OF EN-**
19 **ERGY SECURITY PACTS.**

20 (a) GOAL.—It shall be the goal of each Energy Secu-
21 rity Pact to increase reliable access to energy or electricity
22 for the United States and the partner country to the En-
23 ergy Security Pact, for the purpose of stimulating eco-
24 nomic growth, promoting United States mineral produc-
25 tion where possible, enabling follow-on private sector in-

1 vestment, supporting the commercial competitiveness of
2 United States companies, or diversifying relevant supply
3 chains.

4 (b) INITIAL REQUIREMENTS.—

5 (1) RECOMMENDATION; ANALYSIS.—Before en-
6 tering into an Energy Security Pact—

7 (A) the Pact shall be recommended by the
8 Director for Energy Security Pacts and the
9 Under Secretary and approved by the Sec-
10 retary, after consultation with the United
11 States Ambassador, or in the absence of an
12 Ambassador, the Charge d’Affaires, for the
13 partner country; and

14 (B) the Director for Energy Security
15 Pacts, in collaboration with the Energy Security
16 Pacts Council and the partner country, shall
17 conduct a constraints analysis that—

18 (i) identifies insufficiencies in the en-
19 ergy sector and supply-chain segments
20 needed to strengthen the partner country’s
21 energy security, consistent with United
22 States energy security risks and commer-
23 cial opportunities; and

24 (ii) includes an assessment of the
25 partner country’s ability to address shared

1 critical mineral supply chain
2 vulnerabilities.

3 (2) CONGRESSIONAL NOTIFICATION.—Not later
4 than 30 days before entering into an Energy Secu-
5 rity Pact, the Director for Energy Security Pacts
6 shall—

7 (A) notify and consult with the appropriate
8 congressional committees regarding such Pact;

9 (B) transmit to the appropriate congres-
10 sional committees the text of such Pact and ad-
11 ditional documentation that describes the imple-
12 mentation of such Pact; and

13 (C) provide to the appropriate congres-
14 sional committees an in-person briefing regard-
15 ing such Pact.

16 (c) ELIGIBILITY.—A country is eligible for participa-
17 tion in an Energy Security Pact if—

18 (1)(A) the per capita income of the country is
19 not greater than the World Bank's loan threshold;
20 or

21 (B) at the beginning of the year in which nego-
22 tiations are initiated, the country is eligible for sup-
23 port from the World Bank's International Bank for
24 Reconstruction and Development or International
25 Development Association graduation process; and

1 (2)(A) the country has deposits of critical min-
2 erals strategically or commercially important for the
3 United States; or

4 (B) United States adversary encroachment into
5 the country's energy system poses a threat to the
6 national security of the United States; and

7 (3) the country is not a covered nation (as de-
8 fined in section 4872(f) of title 10, United States
9 Code).

10 (d) ENERGY SECURITY PACT ELEMENTS.—

11 (1) IN GENERAL.—Each Energy Security Pact
12 shall contain the following:

13 (A) The constraints analysis conducted
14 under subsection (b)(1)(B).

15 (B) A demonstrated effort to integrate the
16 national economic development strategy of the
17 partner country.

18 (C) Specific objectives that the partner
19 country and the United States expect to achieve
20 during the term of the Energy Security Pact,
21 including—

22 (i) increased energy production, reli-
23 ability, and affordability in the partner
24 country;

1 (ii) economic growth in the partner
2 country that may reduce the need for for-
3 eign assistance;

4 (iii) improved access to energy, in con-
5 sultation with affected communities and
6 civil society; and

7 (iv) improved infrastructure that en-
8 ables access to critical minerals mining and
9 processing.

10 (D) The responsibilities of the partner
11 country and the United States in the achieve-
12 ment of such objectives.

13 (E) Regular quantitative benchmarks to
14 measure, as appropriate, progress toward
15 achieving such objectives.

16 (F) An identification of the intended im-
17 pact of the activities carried out in accordance
18 with the Energy Security Pact.

19 (G) A multiyear financial plan, updated
20 annually until the expiration of the term of the
21 Energy Security Pact, that—

22 (i) estimates the amount of contribu-
23 tions, commitments, and other participa-
24 tion to be provided by council agencies, the
25 partner country, multilateral development

1 banks, and other development finance in-
2 stitutions as applicable;

3 (ii) ensures that the Pact incorporates
4 and is complementary to development pro-
5 grams administered by other Federal de-
6 partments and agencies, so that United
7 States funds are used to improve feasibility
8 for private sector investment to further de-
9 velopment goals;

10 (iii) identifies proposed mechanisms to
11 implement the plan and provide oversight
12 of the plan; and

13 (iv) describes how the requirements
14 described in this subsection will be met, in-
15 cluding the role of the private sector in the
16 achievement of such requirements.

17 (H) As appropriate, a description of the
18 current and potential participation of other do-
19 nors, including council agencies or countries
20 that are allies and partners of the United
21 States, in the achievement of the objectives de-
22 scribed in subparagraph (C).

23 (I) A description of how oversight and
24 transparency of the foreign assistance provided

1 through the Energy Security Pact will be main-
2 tained.

3 (J) As appropriate, a process or processes
4 for considering—

5 (i) solicited proposals under the En-
6 ergy Security Pact; and

7 (ii) unsolicited proposals by national,
8 regional, and local governments and pri-
9 vate corporations.

10 (K) A requirement that open, fair, com-
11 petitive, and transparent procedures are used in
12 the administration of grants or cooperative
13 agreements or the procurement of goods and
14 services for the accomplishment of objectives
15 under the Energy Security Pact.

16 (L) The strategy of the partner country to
17 sustain progress made toward achieving the ob-
18 jectives described in subparagraph (C) after ex-
19 piration of the Energy Security Pact.

20 (M) A description of the role of council
21 agencies in any design, implementation, and
22 monitoring of programs and activities funded
23 through the Energy Security Pact.

24 (N) A description of any contribution, as
25 appropriate, from the partner country relative

1 to its national budget and taking into account
2 the prevailing economic conditions, toward
3 meeting the objectives described in subpara-
4 graph (C).

5 (2) PROHIBITION ON TAXATION.—In addition
6 to the elements described in paragraph (1), each En-
7 ergy Security Pact shall contain a provision stating
8 that assistance provided by the United States under
9 the Energy Security Pact shall be exempt from tax-
10 ation by the government of the partner country.

11 (3) ENERGY SOURCES.—An Energy Security
12 Pact shall not exclude, as a matter of policy, any
13 specific type of energy or power generation.

14 (e) NOTIFICATION REGARDING INCREASE OR EXTEN-
15 SION OF ASSISTANCE.—Not later than 30 days after mak-
16 ing a determination and before distributing funds to in-
17 crease or extend assistance under an Energy Security Pact
18 with a partner country, the Secretary shall submit to the
19 appropriate congressional committees a written notifica-
20 tion that contains the following:

21 (1) A justification for the determination.

22 (2) A detailed summary of the proposed in-
23 crease in, or extension of, assistance under the En-
24 ergy Security Pact.

1 (3) A copy of the full text of the amendment to
2 the Energy Security Pact.

3 (f) DURATION.—The duration of an Energy Security
4 Pact shall not exceed 10 years.

5 (g) SUBSEQUENT AND CONCURRENT PACTS.—A
6 partner country that has entered into, and has in effect,
7 an Energy Security Pact may enter into, and concurrently
8 have in effect, not more than one additional Energy Secu-
9 rity Pact.

10 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to alter, supersede, or otherwise
12 affect any authorities, restrictions, or eligibility require-
13 ments existing on the date of the enactment of this Act
14 applicable to foreign assistance programs administered by
15 any Federal department or agency, including determina-
16 tions regarding the eligibility of countries for such assist-
17 ance made pursuant to the Foreign Assistance Act of
18 1961 (22 U.S.C. 2151 et seq.) or any other provision of
19 law.

20 **SEC. 6. ENERGY SECURITY PACTS COUNCIL.**

21 (a) ESTABLISHMENT.—Not later than 90 days after
22 the date of the enactment of this Act, the President should
23 establish an Energy Security Pacts Council (referred to
24 in this section as the “Council”) to coordinate and imple-
25 ment Energy Security Pacts.

1 (b) CHAIRPERSON.—The Council may be chaired by
2 the Secretary.

3 (c) COMPOSITION.—The Council may be composed of
4 principal officers of executive departments from the fol-
5 lowing departments and agencies:

6 (1) The United States International Develop-
7 ment Finance Corporation.

8 (2) The Department of Energy.

9 (3) The United States Trade and Development
10 Agency.

11 (4) The Export-Import Bank of the United
12 States.

13 (5) The Department of Commerce.

14 (6) The United States Trade Representative.

15 (7) The Department of Defense.

16 (8) The Department of State.

17 (9) The Department of the Treasury.

18 (10) The Millennium Challenge Corporation.

19 (11) The Department of the Interior.

20 (12) Any other Federal department, agency, or
21 organization that the President determines to be ap-
22 propriate.

23 (d) VACANCIES.—When there is a vacancy in the of-
24 fice of a principal officer of an executive department, the
25 individual acting in the capacity of principal officer shall

1 serve as a member of the Council until a new principal
2 officer of the executive department is appointed.

3 (e) DESIGNATION.—The principal officer of an execu-
4 tive department may designate a senior official of such
5 department to serve on the Council, as appropriate.

6 (f) MEETINGS.—The Council should meet not less
7 frequently than quarterly.

8 (g) DUTIES.—The Council should—

9 (1) coordinate Energy Security Pact-related ac-
10 tivities of the council agencies;

11 (2) make annual recommendations to the Direc-
12 tor for Energy Security Pacts, taking into account
13 the stated priorities of the National Security Council
14 and the President, regarding the prioritization of
15 countries eligible for Energy Security Pact negotia-
16 tion; and

17 (3) make recommendations to improve inter-
18 agency collaboration for purposes of promoting en-
19 ergy security and United States national security in-
20 terests abroad.

21 (h) SUNSHINE ACT COMPLIANCE.—Meetings of the
22 Council are subject to section 552b of title 5, United
23 States Code (commonly referred to as the “Government
24 in the Sunshine Act”).

1 **SEC. 7. EVALUATION BY GOVERNMENT ACCOUNTABILITY**
2 **OFFICE.**

3 Not later than 2 years after the date of the enact-
4 ment of this Act, and annually thereafter until the final
5 Energy Security Pact expires, the Comptroller General of
6 the United States shall submit to Congress an evaluation
7 of the efficiency and development impact of projects sup-
8 ported by an Energy Security Pact.