

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 the Committee on Finance, and the Committee
3 on Appropriations of the Senate; and

4 (B) the Committee on Foreign Affairs, the
5 Committee on Ways and Means, and the Com-
6 mittee on Appropriations of the House of Rep-
7 resentatives.

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

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

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

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

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

1 Energy Security Pacts Council established under
2 section 6.

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

6 (8) SECRETARY.—The term “Secretary” means
7 the Secretary of State.

8 (9) UNDER SECRETARY.—The term “Under
9 Secretary” means the Under Secretary of State for
10 Economic Growth, Energy, and the Environment.

11 **SEC. 3. AUTHORITY AND FUNDING FOR ENERGY SECURITY**
12 **FACTS.**

13 (a) IN GENERAL.—The Secretary may establish
14 multiyear agreements (to be known as “Energy Security
15 Pacts”) with partner countries under which the Secretary
16 may coordinate and provide assistance to enhance the en-
17 ergy and economic security and stability of the United
18 States and such partner countries, including through ef-
19 forts to counter economic coercion through the diversifica-
20 tion of critical mineral and energy supply chains.

21 (b) FUNDING.—

22 (1) AVAILABILITY OF AMOUNTS.—The Sec-
23 retary may make available, from amounts authorized
24 to be appropriated for fiscal year 2026 or any subse-
25 quent fiscal year under the heading “National Secu-

1 rity Investment Programs” in Acts making appro-
2 priations for the Department of State, foreign oper-
3 ations, and related programs (including amounts au-
4 thorized to be appropriated to the Economic Resil-
5 ience Initiative), amounts for the purpose of estab-
6 lishing and implementing Energy Security Pacts.

7 (2) TRANSFERS.—Funds authorized to be made
8 available pursuant to paragraph (1) may be trans-
9 ferred to, and merged with, funds appropriated for
10 fiscal year 2026 or any subsequent fiscal year under
11 the headings “United States Trade and Develop-
12 ment Agency”, “Millennium Challenge Corporation”,
13 “United States International Development Finance–
14 Corporate Capital Account”, “United States Inter-
15 national Development Finance–Program Account”,
16 “Development Finance Corporate Equity Investment
17 Account”, and “Export-Import Bank of the United
18 States–Program Account” to carry out the purpose
19 described in paragraph (1).

20 (3) CONSULTATION AND NOTIFICATION.—The
21 transfer authority provided by this subsection is—

22 (A) in addition to any other transfer au-
23 thority provided by law; and

24 (B) subject to—

25 (i) prior consultation with—

1 (I) the Committee on Appropria-
2 tions and the Committee on Foreign
3 Relations of the Senate; and

4 (II) the Committee on Appropria-
5 tions and the Committee on Foreign
6 Affairs of the House of Representa-
7 tives; and

8 (ii) the regular notification procedures
9 of such committees.

10 (c) 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 (d) LIMITATIONS.—

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) PROHIBITION ON ASSISTANCE RELATING TO
6 UNITED STATES JOB LOSS OR PRODUCTION DIS-
7 PLACEMENT.—Assistance under this section may not
8 be provided for any project that is likely to cause a
9 substantial loss of United States jobs or a substan-
10 tial displacement of United States production.

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

16 (4) FOREIGN AID TRANSPARENCY AND AC-
17 COUNTABILITY ACT COMPLIANCE.—None of the
18 funds authorized to be appropriated or otherwise
19 made available to carry out this Act may be obli-
20 gated or expended for an Energy Security Pact un-
21 less the Secretary complies with the requirements of
22 section 4 of the Foreign Aid Transparency and Ac-
23 countability Act of 2016 (22 U.S.C. 2394c) with re-
24 spect to the Pact and all activities associated with
25 the Pact.

1 (5) PROHIBITION ON ASSISTANCE FOR CERTAIN
2 ENTITIES.—None of the funds authorized to be ap-
3 propriated or otherwise made available to carry out
4 this Act may be obligated or expended to provide
5 any grant, contract, loan, or other financial assist-
6 ance to an entity in which a senior United States
7 Government official or an immediate family member
8 (as defined in section 1128(j) of the Social Security
9 Act (42 U.S.C. 1320a–7(j))) of such official holds
10 any ownership interest or serves in any managerial,
11 officer, director, or board capacity.

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

15 **SEC. 4. OFFICE OF ENERGY SECURITY PACTS.**

16 (a) ESTABLISHMENT.—Not later than 180 days after
17 the date of the enactment of this Act, the Secretary may
18 establish an Office of Energy Security Pacts, which should
19 perform such functions related to the administration, co-
20 ordination, and implementation of Energy Security Pacts
21 as the Under Secretary may prescribe.

22 (b) DIRECTOR FOR ENERGY SECURITY PACTS.—

23 (1) IN GENERAL.—The Office of Energy Secu-
24 rity may be led by a Director for Energy Security
25 Pacts, who may be—

1 (A) appointed by the Secretary; and

2 (B) responsible—

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

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

10 (2) RESPONSIBILITIES.—In addition to the re-
11 sponsibilities described in paragraph (1), the Direc-
12 tor for Energy Security Pacts should be responsible
13 for supporting the coordination and implementation
14 by the Department of State of the Economic Resil-
15 ience Initiative and the Energy Security Pacts Coun-
16 cil, including for matters pertaining to the following:

17 (A) Drafting the contribution of the Sec-
18 retary to the strategy required by section
19 7030(d) of the Further Consolidated Appropria-
20 tions Act, 2024 (Public Law 118–47; 138 Stat.
21 782).

22 (B) Leading the development, negotiation,
23 and management of Energy Security Pacts.

24 (C) Consulting and coordinating with
25 council agencies to develop prospective Energy

1 Security Pacts and implement ongoing Energy
2 Security Pacts, as appropriate.

3 (D) Serving as the recipient for—

4 (i) solicited proposals under Energy
5 Security Pacts; and

6 (ii) unsolicited proposals for projects
7 to be considered for inclusion in any En-
8 ergy Security Pact by national, regional,
9 and local governments and private corpora-
10 tions.

11 (E) Signing interagency agreements from
12 departments, agencies, or independent estab-
13 lishments of the United States Government on
14 behalf of the Department of State (with the
15 consent of the head of such department, agen-
16 cy, or establishment) for the purpose of devel-
17 oping, implementing, or otherwise participating
18 in an Energy Security Pact, including for the
19 use as credit subsidy to provide loans.

20 (F) Coordinating with other donor entities,
21 including countries that are allies and partners
22 of the United States, the Forum on Resource
23 Geostrategic Engagement of the Department of
24 State, and other multilateral fora, for purposes
25 of deconflicting, augmenting, and leveraging, as

1 appropriate, Energy Security Pact workplans
2 with the development and financing activities
3 performed by others.

4 (3) ANNUAL REPORT REQUIRED.—Not less fre-
5 quently than annually until the date that is 5 years
6 after the date of the enactment of this Act, the Di-
7 rector for Energy Security Pacts shall submit to the
8 appropriate congressional committees, the Executive
9 Office of the President, the National Security Coun-
10 cil, and the Secretary a report describing—

11 (A) the current status of activities author-
12 ized under this Act;

13 (B) any obstacles to the implementation of
14 such activities; and

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

17 (e) COUNTRY PACT TEAMS.—

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

22 (2) LEADERSHIP; DUTIES.—Each Country Pact
23 Team shall—

24 (A) be led by the Director for Energy Se-
25 curity Pacts, who may regularly engage with

1 the Energy Security Pacts Council on matters
2 related to the Energy Security Pact; and

3 (B) manage the day-to-day activities re-
4 lated to the development, negotiation, imple-
5 mentation, and monitoring of the Pact.

6 (d) PERSONNEL.—

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

9 (A) detail staff to heads of council agencies
10 with relevant sectoral, financial, or regional ex-
11 pertise for the express purpose of supporting
12 the negotiation or implementation of an Energy
13 Security Pact;

14 (B) request from the heads of council
15 agencies the detail of personnel to the Office of
16 Energy Security Pacts with relevant sectoral, fi-
17 nancial, or regional expertise, on a reimbursable
18 basis, for the express purpose of supporting the
19 negotiation or implementation of an Energy Se-
20 curity Pact; and

21 (C) appoint, without regard to the provi-
22 sions of sections 3309 through 3318 of title 5,
23 United States Code, candidates directly to posi-
24 tions in the competitive service, as defined in
25 section 2102 of that title.

1 (2) DETAILED EMPLOYEES.—Any employee de-
2 tailed pursuant to a request made under paragraph
3 (1)(B) shall remain, for the purpose of preserving
4 such employee’s allowances, privileges, rights, senior-
5 ity, and other benefits, an employee of the agency
6 from which detailed.

7 (e) TERMINATION.—

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

12 (2) OFFICE; DIRECTOR; COUNCIL.—The Office
13 of Energy Security Pacts, the position of Director
14 for Energy Security Pacts, and the Energy Security
15 Pacts Council shall terminate after the final Energy
16 Security Pact expires.

17 (f) REPORTS.—Not later than 180 days after the
18 date of the enactment of this Act, the Under Secretary
19 shall submit to the appropriate congressional committees
20 a report that contains plans to attract and retain diplo-
21 matic, policy, legal, and technical expertise for civil service
22 officers in the Office of Energy Security Pacts, including
23 career promotion tracks to supervisory and non-super-
24 visory GS–15 positions.

1 **SEC. 5. APPROVAL, ELIGIBILITY, AND ELEMENTS OF EN-**
2 **ERGY SECURITY PACTS.**

3 (a) GOAL.—It should be the goal of each Energy Se-
4 curity Pact to increase reliable access to energy or elec-
5 tricity, including that needed for production of critical
6 minerals, for the United States and the partner country
7 to the Energy Security Pact, for the purpose of stimu-
8 lating economic growth, enabling follow-on private sector
9 investment, supporting the commercial competitiveness of
10 United States companies, or diversifying relevant supply
11 chains.

12 (b) INITIAL REQUIREMENTS.—

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

15 (A) the Pact should be recommended by
16 the Director for Energy Security Pacts and the
17 Under Secretary and approved by the Sec-
18 retary; and

19 (B) the Director for Energy Security
20 Pacts, in collaboration with the Energy Security
21 Pacts Council and the partner country, shall
22 conduct a constraints analysis that—

23 (i) identifies insufficiencies in the en-
24 ergy sector and supply-chain segments
25 needed to strengthen the partner country's
26 energy security, consistent with United

1 States energy security risks and commer-
2 cial opportunities; and

3 (ii) assesses the partner country's
4 ability to address United States critical
5 mineral supply chain vulnerabilities.

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

10 (A) notify and consult with the appropriate
11 congressional committees regarding such Pact;

12 (B) transmit to the appropriate congres-
13 sional committees the text of such Pact; and

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

17 (c) ELIGIBILITY.—A country may be eligible for par-
18 ticipation in an Energy Security Pact if—

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

22 (B) at the beginning of the year in which nego-
23 tiations are initiated, the country is eligible for sup-
24 port from the World Bank's International Bank for

1 Reconstruction and Development or International
2 Development Association graduation process;

3 (2) the country has been identified as strategi-
4 cally or commercially important for the United
5 States by the Secretary or the President;

6 (3) the country has the capacity and commit-
7 ment to implement the Energy Security Pact; and

8 (4) the country is not a foreign country of con-
9 cern (as defined in section 10612(a) of the Research
10 and Development, Competition, and Innovation Act
11 (42 U.S.C. 19221(a)).

12 (d) ENERGY SECURITY PACT ELEMENTS.—

13 (1) IN GENERAL.—Each Energy Security Pact
14 should contain the following:

15 (A) The constraints analysis conducted
16 under subsection (b)(1)(B).

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

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

24 (i) increased energy production, reli-
25 ability, and affordability in the partner

1 country that increases the economic viabil-
2 ity of critical mineral projects for United
3 States companies;

4 (ii) economic growth in the partner
5 country that may reduce the need for for-
6 eign assistance;

7 (iii) improved access to energy, in con-
8 sultation with affected communities and
9 civil society; and

10 (iv) improved infrastructure that en-
11 ables access to critical minerals mining and
12 processing for United States companies.

13 (D) The responsibilities of the partner
14 country and the United States in the achieve-
15 ment of such objectives.

16 (E) Regular quantitative benchmarks to
17 measure, as appropriate, progress toward
18 achieving such objectives.

19 (F) An identification of the intended im-
20 pact of the activities carried out in accordance
21 with the Energy Security Pact.

22 (G) A multiyear financial plan, updated
23 annually until the expiration of the term of the
24 Energy Security Pact, that—

1 (i) estimates the amount of contribu-
2 tions, commitments, and other participa-
3 tion to be provided by council agencies, the
4 partner country, multilateral development
5 banks, and other development finance in-
6 stitutions as applicable;

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

14 (iii) identifies proposed mechanisms to
15 implement the plan and provide oversight
16 of the plan; and

17 (iv) describes how the requirements
18 described in this subsection will be met, in-
19 cluding the role of the private sector in the
20 achievement of such requirements.

21 (H) As appropriate, a description of the
22 current and potential participation of other do-
23 nors, including council agencies or countries
24 that are allies and partners of the United

1 States, in the achievement of the objectives de-
2 scribed in subparagraph (C).

3 (I) A description of how oversight and
4 transparency of the foreign assistance provided
5 through the Economic Resilience Initiative will
6 be maintained.

7 (J) As appropriate, a process or processes
8 for considering—

9 (i) solicited proposals under the En-
10 ergy Security Pact; and

11 (ii) unsolicited proposals by national,
12 regional, and local governments and pri-
13 vate corporations.

14 (K) A requirement that open, fair, com-
15 petitive, and transparent procedures are used,
16 as appropriate, in the administration of grants
17 or cooperative agreements or the procurement
18 of goods and services for the accomplishment of
19 objectives under the Energy Security Pact.

20 (L) The strategy of the partner country to
21 sustain progress made toward achieving the ob-
22 jectives described in subparagraph (C) after ex-
23 piration of the Energy Security Pact.

24 (M) A description of the role of council
25 agencies in any design, implementation, and

1 monitoring of programs and activities funded
2 through the Energy Security Pact.

3 (N) A description of any contribution, as
4 appropriate, from the partner country relative
5 to its national budget and taking into account
6 the prevailing economic conditions, toward
7 meeting the objectives described in subpara-
8 graph (C).

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

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

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

25 (1) A justification for the determination.

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

4 (3) A copy of the full text of the amendment to
5 the Energy Security Pact.

6 (f) DURATION.—The duration of an Energy Security
7 Pact should not exceed 10 years.

8 (g) SUBSEQUENT AND CONCURRENT PACTS.—A
9 partner country that has entered into, and has in effect,
10 an Energy Security Pact may enter into, and concurrently
11 have in effect, additional Energy Security Pacts.

12 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed to alter, supersede, or otherwise
14 affect any authorities, restrictions, or eligibility require-
15 ments existing on the date of the enactment of this Act
16 applicable to foreign assistance programs administered by
17 any Federal department or agency, including determina-
18 tions regarding the eligibility of countries for such assist-
19 ance made pursuant to the Foreign Assistance Act of
20 1961 (22 U.S.C. 2151 et seq.) or any other provision of
21 law.

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

23 (a) ESTABLISHMENT.—Not later than 90 days after
24 the date of the enactment of this Act, the President should
25 establish an Energy Security Pacts Council (referred to

1 in this section as the “Council”) to coordinate and imple-
2 ment Energy Security Pacts.

3 (b) CHAIRPERSON.—The Council may be chaired by
4 the Secretary.

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

8 (1) The United States International Develop-
9 ment Finance Corporation.

10 (2) The Department of Energy.

11 (3) The United States Trade and Development
12 Agency.

13 (4) The Export-Import Bank of the United
14 States.

15 (5) The Department of Commerce.

16 (6) The United States Trade Representative.

17 (7) The Department of Defense.

18 (8) The Department of State.

19 (9) The Department of the Treasury.

20 (10) The Millennium Challenge Corporation.

21 (11) The Department of the Interior.

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

1 (d) VACANCIES.—When there is a vacancy in the of-
2 fice of a principal officer of an executive department, the
3 individual acting in the capacity of principal officer shall
4 serve as a member of the Council until a new principal
5 officer of the executive department is appointed.

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

9 (f) MEETINGS.—The Council should meet not less
10 frequently than quarterly.

11 (g) DUTIES.—The Council should—

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

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

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

24 (h) SUNSHINE ACT COMPLIANCE.—Meetings of the
25 Council are subject to section 552b of title 5, United

1 States Code (commonly referred to as the “Government
2 in the Sunshine Act”).

3 **SEC. 7. EVALUATION BY GOVERNMENT ACCOUNTABILITY**
4 **OFFICE.**

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