

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 2779

To amend the Zimbabwe Democracy and Economic Recovery Act of 2001.

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. FLAKE

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Zimbabwe Democracy
5 and Economic Recovery Amendment Act of 2018”.

6 **SEC. 2. RECONSTRUCTION AND REBUILDING OF**
7 **ZIMBABWE.**

8 Section 2 of the Zimbabwe Democracy and Economic
9 Recovery Act of 2001 (Public Law 107–99; 22 U.S.C.
10 2151 note) is amended by inserting “to enable
11 Zimbabweans to reconstruct and rebuild Zimbabwe and
12 come to terms with the past through a process of genuine

1 reconciliation that acknowledges past human rights abuses
2 and orders inquiries into disappearances, including the
3 disappearance of human rights activists, such as Patrick
4 Nabanyama, Itai Dzamara, and Paul Chizuze” before the
5 period at the end.

6 **SEC. 3. FINDINGS.**

7 Section 4(a) of the Zimbabwe Democracy and Eco-
8 nomic Recovery Act of 2001 is amended—

9 (1) in paragraph (1), by striking “costly deploy-
10 ment of troops to the Democratic Republic of the
11 Congo” and inserting “private appropriation of pub-
12 lic assets”; and

13 (2) by adding at the end the following:

14 “(6) In October 2016, the Government of
15 Zimbabwe cleared a small hurdle in its longstanding
16 public sector arrears with the IMF.”.

17 **SEC. 4. PROVISIONS RELATED TO MULTILATERAL DEBT RE-
18 LIEF AND OTHER FINANCIAL ASSISTANCE.**

19 Section 4(b)(2) of the Zimbabwe Democracy and
20 Economic Recovery Act of 2001 is amended—

21 (1) in subparagraph (A), by striking “to pro-
22 pose that the bank should undertake a review of the
23 feasibility of restructuring, rescheduling, or elimi-
24 nating the sovereign debt of Zimbabwe held by that
25 bank” and inserting “to support efforts to reevalua-

1 ate plans to restructure, rebuild, reschedule, or
2 eliminate Zimbabwe’s sovereign debt held by that
3 bank and provide an analysis based on reasonable fi-
4 nancial options to achieve those goals”; and

5 (2) in subparagraph (B), by striking “dollar”
6 and inserting “currency”.

7 **SEC. 5. ADDITIONAL CERTIFICATION REQUIREMENTS FOR**
8 **ASSISTANCE.**

9 Section 4(d) of the Zimbabwe Democracy and Eco-
10 nomic Recovery Act of 2001 is amended—

11 (1) by amending paragraph (2) to read as fol-
12 lows:

13 “(2) PRE- AND POST-ELECTION CONDITIONS.—

14 The following pre- and post-election conditions are
15 met:

16 “(A) Establishment and public release,
17 without cost, of a provisional and a final voter
18 registration roll that is endorsed by all political
19 parties represented in the parliament of
20 Zimbabwe and those parties contesting the elec-
21 tions.

22 “(B) The Zimbabwe Electoral Commission
23 is permitted to entirely carry out the functions
24 assigned to it in section 239 of Zimbabwe’s
25 2013 Constitution in an independent manner,

1 and the chairperson meets with and consults
2 regularly with representatives of political par-
3 ties represented in the parliament of Zimbabwe
4 and those parties contesting the elections.

5 “(C) Consistent with Zimbabwe’s 2013
6 Constitution, the Defence Forces of
7 Zimbabwe—

8 “(i) are neither permitted to actively
9 participate in campaigning for any can-
10 didate nor to intimidate voters;

11 “(ii) are required to verifiably and
12 credibly uphold their Constitutionally man-
13 dated duty to respect the fundamental
14 rights and freedoms of all persons and to
15 be nonpartisan in character; and

16 “(iii) are not permitted to print,
17 transfer, or control ballots or transmit the
18 results of elections.

19 “(D) International observers, including
20 from the United States, the African Union, the
21 Southern African Development Community, and
22 the European Union—

23 “(i) are permitted to observe the en-
24 tire electoral process prior to, on, and fol-

1 lowing voting day, including by monitoring
2 polling stations and tabulation centers; and

3 “(ii) are able to independently access
4 and analyze vote tallying tabulation and
5 the transmission and content of voting re-
6 sults.

7 “(E) Candidates are allowed access to pub-
8 lic broadcasting media during the election pe-
9 riod, as provided in Zimbabwe’s Electoral Act,
10 and candidates are able to campaign in an envi-
11 ronment that is free from intimidation and vio-
12 lence.

13 “(F) Civil society organizations are able to
14 freely and independently carry out voter and
15 civic education, and to monitor the entire elec-
16 toral process, including by observing, recording,
17 and transmitting publicly-posted or announced
18 voting results, including at the ward, constitu-
19 ency, and all higher levels of the vote tallying
20 process.”;

21 (2) by redesignating paragraphs (3) and (5) as
22 paragraphs (8) and (9), respectively;

23 (3) by striking paragraph (4);

24 (4) by inserting after paragraph (2) the fol-
25 lowing:

1 “(3) PRESIDENTIAL ELECTION.—Zimbabwe has
2 held an election that is widely accepted as free, fair,
3 and credible by independent international and do-
4 mestic civil society monitors, and the president-elect
5 is free to assume the duties of the office.

6 “(4) UPDATING STATUTES.—Laws enacted
7 prior to passage of Zimbabwe’s March 2013 Con-
8 stitution that are inconsistent with the new Con-
9 stitution are amended or repealed or are subject to
10 a formal process for review and correction so that
11 such laws are consistent with the new Constitution.

12 “(5) UPHOLDING THE CONSTITUTION.—The
13 Government of Zimbabwe—

14 “(A) has made significant progress on the
15 implementation of all elements of the new Con-
16 stitution; and

17 “(B) has demonstrated its commitment to
18 sustain such efforts in achieving full implemen-
19 tation of the new Constitution.

20 “(6) ECONOMIC REFORMS.—The Government of
21 Zimbabwe has demonstrated a sustained commit-
22 ment to reforming Zimbabwe’s economy in ways that
23 will promote economic growth, address unemploy-
24 ment and underdevelopment, and restore livelihoods,
25 including significant progress toward monetary pol-

1 icy reform, particularly with the Reserve Bank of
2 Zimbabwe, and currency exchange reforms.

3 “(7) ROLE OF TRADITIONAL LEADERS.—Tradi-
4 tional leaders of Zimbabwe observe section 281 of
5 the 2013 Constitution and are not using humani-
6 tarian assistance provided by outside donor organi-
7 zations or countries in a politicized manner to in-
8 timidate or pressure voters during the campaign pe-
9 riod.”; and

10 (5) in paragraph (8), as redesignated by para-
11 graph (2) of this subsection, by striking “consistent
12 with” and all that follows through “September
13 1998”.

14 **SEC. 6. REMOVAL OF AUTHORITY TO PAY LAND ACQUISI-**
15 **TION COSTS.**

16 Section 5(a) of the Zimbabwe Democracy and Eco-
17 nomic Recovery Act of 2001 is amended—

18 (1) in paragraph (2), by striking “, including
19 the payment of costs” and all that follows through
20 “thereto; and” and inserting a semicolon;

21 (2) in paragraph (3), by striking the period at
22 the end and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(4) identify and recover stolen public assets.”.

1 **SEC. 7. INCLUSION OF AUSTRALIA AND THE UNITED KING-**
2 **DOM IN CONSULTATIONS ABOUT ZIMBABWE.**

3 Section 6 of the Zimbabwe Democracy and Economic
4 Recovery Act of 2001 is amended by inserting “Australia,
5 the United Kingdom,” after “Canada,”.

6 **SEC. 8. SENSE OF CONGRESS ON ENFORCEMENT OF**
7 **SOUTHERN AFRICAN DEVELOPMENT COMMU-**
8 **NITY TRIBUNAL RULINGS.**

9 It is the sense of Congress that the Government of
10 Zimbabwe and the Southern African Development Com-
11 munity (referred to in this section as “SADC”) should en-
12 force the SADC tribunal rulings from 2007 to 2010, in-
13 cluding 18 disputes involving employment, commercial,
14 and human rights cases surrounding dispossessed
15 Zimbabwean commercial farmers and agricultural compa-
16 nies.

17 **SEC. 9. SENSE OF CONGRESS ON THE UNITED STATES-**
18 **ZIMBABWE BILATERAL RELATIONSHIP.**

19 It is the sense of Congress that the United States
20 Government is optimistic about the possibility for a
21 stronger bilateral relationship with Zimbabwe, including
22 in the areas of trade and investment, if—

23 (1) the Government of Zimbabwe takes con-
24 crete, tangible steps outlined in paragraphs (2)
25 through (6) of section 4(d) of the Zimbabwe Democ-

1 racy and Economic Recovery Act of 2001, as amend-
2 ed by section 5 of this Act; and

3 (2) takes concrete, tangible steps towards—

4 (A) good governance, including respect for
5 the opposition, rule of law, and human rights;

6 (B) economic reforms such as respect for
7 contracts and private property rights; and

8 (C) identification and recovery of stolen
9 private and public assets within Zimbabwe and
10 abroad.