

## Manager's Amendment

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

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.****S. 3491**

To establish a commission to reform and modernize the  
Department of State.

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. HAGERTY

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 “Commission on Reform  
5 and Modernization of the Department of State Act”.

6 **SEC. 2. ESTABLISHMENT OF COMMISSION.**

7 There is established in the legislative branch the  
8 Commission on Reform and Modernization of the Depart-  
9 ment of State (in this Act referred to as the “Commis-  
10 sion”).

1 **SEC. 3. PURPOSES.**

2 The purposes of the Commission are to examine the  
3 changing nature of diplomacy in the 21st century and  
4 ways that the Department of State and its personnel can  
5 modernize to advance the interests of the United States,  
6 as well as offer recommendations related to—

7 (1) the organizational structure of the Depart-  
8 ment of State;

9 (2) personnel-related matters, to include re-  
10 cruitment, promotion, training, and retention of the  
11 Department of State's workforce in order to retain  
12 the best and brightest personnel and foster effective  
13 diplomacy worldwide, including measures to  
14 strengthen diversity and inclusion to ensure that the  
15 Department's workforce represents all of America;

16 (3) the Department of State's infrastructure—  
17 both domestic and overseas—to include information  
18 technology, transportation, and security;

19 (4) the link between diplomacy and defense, in-  
20 telligence, development, commercial, health, law en-  
21 forcement, and other core United States interests;

22 (5) core legislation that authorizes United  
23 States diplomacy, including the Foreign Service Act  
24 of 1980 (Public Law 96-465);

1           (6) related regulations, rules, and processes  
2           that define United States diplomatic efforts, includ-  
3           ing the Foreign Affairs Manual;

4           (7) Chief of Mission authority at United States  
5           diplomatic missions overseas, including authority  
6           over employees of other Federal departments and  
7           agencies; and

8           (8) treaties that impact United States overseas  
9           presence.

10 **SEC. 4. MEMBERSHIP.**

11           (a) COMPOSITION.—The Commission shall be com-  
12           posed of 8 members of whom—

13           (1) 1 member shall be appointed by the chair-  
14           person of the Committee on Foreign Relations of the  
15           Senate, who shall serve as co-chair of the Commis-  
16           sion;

17           (2) 1 member shall be appointed by the ranking  
18           member of the Committee on Foreign Relations of  
19           the Senate, who shall serve as co-chair of the Com-  
20           mission;

21           (3) 1 member shall be appointed by the chair-  
22           person of the Committee on Foreign Affairs of the  
23           House of Representatives;

1           (4) 1 member shall be appointed by the ranking  
2 member of the Committee on Foreign Affairs of the  
3 House of Representatives;

4           (5) 1 member shall be appointed by the major-  
5 ity leader of the Senate;

6           (6) 1 member shall be appointed by the Speak-  
7 er of the House of Representatives;

8           (7) 1 member shall be appointed by the minor-  
9 ity leader of the Senate; and

10          (8) 1 member shall be appointed by the minor-  
11 ity leader of the House of Representatives.

12          (b) QUALIFICATIONS; MEETINGS.—

13           (1) MEMBERSHIP.—The members of the Com-  
14 mission should be prominent United States citizens,  
15 with national recognition and significant depth of ex-  
16 perience in international relations and the Depart-  
17 ment of State.

18           (2) POLITICAL PARTY AFFILIATION.—Not more  
19 than 4 members of the Commission may be from the  
20 same political party.

21           (3) MEETINGS.—

22           (A) INITIAL MEETING.—The Commission  
23 shall hold the first meeting and begin oper-  
24 ations as soon as practicable.

1 (B) FREQUENCY.—The Commission shall  
2 meet at the call of the co-chairs.

3 (C) QUORUM.—Five members of the Com-  
4 mission shall constitute a quorum for purposes  
5 of conducting business, except that two mem-  
6 bers of the Commission shall constitute a  
7 quorum for purposes of receiving testimony.

8 (4) VACANCIES.—Any vacancy in the Commis-  
9 sion shall not affect the powers of the Commission,  
10 but shall be filled in the same manner as the origi-  
11 nal appointment.

12 **SEC. 5. FUNCTIONS OF COMMISSION.**

13 (a) IN GENERAL.—The Commission shall act by reso-  
14 lution agreed to by a majority of the members of the Com-  
15 mission voting and present.

16 (b) PANELS.—The Commission may establish panels  
17 composed of less than the full membership of the Commis-  
18 sion for purposes of carrying out the duties of the Com-  
19 mission under this Act. The actions of any such panel  
20 shall be subject to the review and control of the Commis-  
21 sion. Any findings and determinations made by such a  
22 panel shall not be considered the findings and determina-  
23 tions of the Commission unless approved by the Commis-  
24 sion.

1           (c) DELEGATION.—Any member, agent, or staff of  
2 the Commission may, if authorized by the co-chairs of the  
3 Commission, take any action which the Commission is au-  
4 thorized to take pursuant to this Act.

5 **SEC. 6. POWERS OF COMMISSION.**

6           (a) HEARINGS AND EVIDENCE.—The Commission or,  
7 as delegated by the co-chairs, any panel or member there-  
8 of, may, for the purpose of carrying out this Act—

9                   (1) hold such hearings and meetings, take such  
10 testimony, receive such evidence, and administer  
11 such oaths as the Commission or such designated  
12 subcommittee or designated member considers nec-  
13 essary;

14                   (2) require the attendance and testimony of  
15 such witnesses and the production of such cor-  
16 respondence, memoranda, papers, and documents, as  
17 the Commission or such designated subcommittee or  
18 designated member considers necessary; and

19                   (3) subject to applicable privacy laws and rel-  
20 evant regulations, secure directly from any Federal  
21 department or agency information and data nec-  
22 essary to enable it to carry out its mission, which  
23 shall be provided by the head or acting representa-  
24 tive of the department or agency not later than 30

1 days after the Commission provides a written re-  
2 quest for such information and data.

3 (b) CONTRACTS.—The Commission may, to such ex-  
4 tent and in such amounts as are provided in appropriation  
5 Acts, enter into contracts to enable the Commission to dis-  
6 charge its duties under this Act.

7 (c) INFORMATION FROM FEDERAL AGENCIES.—

8 (1) IN GENERAL.—The Commission may secure  
9 directly from any executive department, bureau,  
10 agency, board, commission, office, independent es-  
11 tablishment, or instrumentality of the Government,  
12 information, suggestions, estimates, and statistics  
13 for the purposes of this Act.

14 (2) FURNISHING INFORMATION.—Each depart-  
15 ment, bureau, agency, board, commission, office,  
16 independent establishment, or instrumentality shall,  
17 to the extent authorized by law, furnish such infor-  
18 mation, suggestions, estimates, and statistics di-  
19 rectly to the Commission, upon request made by a  
20 co-chair, the chairman of any panel created by a ma-  
21 jority of the Commission, or any member designated  
22 by a majority of the Commission.

23 (3) HANDLING.—Information shall only be re-  
24 ceived, handled, stored, and disseminated by mem-  
25 bers of the Commission and its staff consistent with

1 all applicable statutes, regulations, and Executive or-  
2 ders.

3 (d) ASSISTANCE FROM FEDERAL AGENCIES.—

4 (1) SECRETARY OF STATE.—The Secretary of  
5 State shall provide to the Commission, on a non-re-  
6 imburseable basis, such administrative services,  
7 funds, staff, facilities, and other support services as  
8 are necessary for the performance of the Commis-  
9 sion's duties under this Act.

10 (2) OTHER DEPARTMENTS AND AGENCIES.—

11 Other Federal departments and agencies may pro-  
12 vide the Commission such services, funds, facilities,  
13 staff, and other support as such departments and  
14 agencies consider advisable and as may be author-  
15 ized by law.

16 (3) COOPERATION.—The Commission shall re-  
17 ceive the full and timely cooperation of any official,  
18 department, or agency of the Federal Government  
19 whose assistance is necessary, as jointly determined  
20 by the co-chairs of the Commission, for the fulfill-  
21 ment of the duties of the Commission, including the  
22 provision of full and current briefings and analyses.

23 (e) ASSISTANCE FROM INDEPENDENT ORGANIZA-  
24 TIONS.—



1           (1) IN GENERAL.—In order to inform its work,  
2           the Commission should review reports written within  
3           the last 15 years by independent organizations and  
4           outside experts relating to reform and modernization  
5           of the Department of State.

6           (2) AVOIDING DUPLICATION.—In analyzing the  
7           reports specified under paragraph (1), the Commis-  
8           sion should pay particular attention to any specific  
9           reform proposal that has been recommended by two  
10          or more such reports.

11          (f) POSTAL SERVICES.—The Commission may use  
12          the United States mails in the same manner and under  
13          the same conditions as other departments and agencies of  
14          the Federal Government.

15          (g) GIFTS.—The Commission may accept, use, and  
16          dispose of gifts or donations of services or property.

17          (h) CONGRESSIONAL CONSULTATION.—No less fre-  
18          quently than once every 90 days, the Commission shall  
19          provide a briefing to the Committee on Foreign Relations  
20          of the Senate and the Committee on Foreign Affairs of  
21          the House of Representatives about the work of the Com-  
22          mission.

23          **SEC. 7. STAFF AND COMPENSATION.**

24          (a) STAFF.—

1           (1) COMPENSATION.—The co-chairs of the  
2 Commission, in accordance with rules agreed upon  
3 by the Commission, shall appoint and fix the com-  
4 pensation of a staff director and such other per-  
5 sonnel as may be necessary to enable the Commis-  
6 sion to carry out its duties, without regard to the  
7 provisions of title 5, United States Code, governing  
8 appointments in the competitive service, and without  
9 regard to the provisions of chapter 51 and sub-  
10 chapter III of chapter 53 of such title relating to  
11 classification and General Schedule pay rates, except  
12 that no rate of pay fixed under this subsection may  
13 exceed the equivalent of that payable to a person oc-  
14 cupying a position at level V of the Executive Sched-  
15 ule under section 5316 of such title.

16           (2) DETAIL OF GOVERNMENT EMPLOYEES.—A  
17 Federal Government employee may be detailed to  
18 the Commission without reimbursement, and such  
19 detail shall be without interruption or loss of civil  
20 service status or privilege.

21           (3) PROCUREMENT OF TEMPORARY AND INTER-  
22 MITTENT SERVICES.—The Chairperson of the Com-  
23 mission may procure temporary and intermittent  
24 services under section 3109(b) of title 5, United  
25 States Code, at rates for individuals that do not ex-

1       ceed the daily equivalent of the annual rate of basic  
2       pay prescribed for level IV of the Executive Schedule  
3       under section 5315 of that title.

4       (b) COMMISSION MEMBERS.—

5           (1) COMPENSATION.—

6           (A) IN GENERAL.—Except as provided in  
7           paragraph (2), each member of the Commission  
8           may be compensated at not to exceed the daily  
9           equivalent of the annual rate of basic pay in ef-  
10          fect for a position at level IV of the Executive  
11          Schedule under section 5315 of title 5, United  
12          States Code, for each day during which that  
13          member is engaged in the actual performance of  
14          the duties of the Commission under this Act.

15          (B) WAIVER OF CERTAIN PROVISIONS.—

16          Subsections (a) through (d) of section 824 of  
17          the Foreign Service Act of 1980 (22 U.S.C.  
18          4064) are waived for an annuitant on a tem-  
19          porary basis so as to be compensated for work  
20          performed as part of the Commission.

21          (c) TRAVEL EXPENSES.—While away from their  
22          homes or regular places of business in the performance  
23          of services for the Commission, members and staff of the  
24          Commission, as well as any Federal Government employ-  
25          ees detailed to the Commission, shall be allowed travel ex-

1 penses, including per diem in lieu of subsistence, in the  
2 same manner as persons employed intermittently in the  
3 Government service are allowed expenses under section  
4 5703(b) of title 5, United States Code.

5 (d) SECURITY CLEARANCES FOR COMMISSION MEM-  
6 BERS AND STAFF.—The appropriate Federal agencies or  
7 departments shall cooperate with the Commission in expe-  
8 ditiously providing to the Commission members and staff  
9 appropriate security clearances to the extent possible pur-  
10 suant to existing procedures and requirements, except that  
11 no person shall be provided with access to classified infor-  
12 mation under this Act without the appropriate security  
13 clearances.

14 **SEC. 8. REPORT.**

15 (a) IN GENERAL.—Not later than 18 months after  
16 the date of the enactment of this Act, the Commission  
17 shall submit to the President and Congress a final report  
18 that examines all substantive aspects of Department of  
19 State personnel, management, and operations and con-  
20 tains such findings, conclusions, and recommendations for  
21 corrective measures as have been agreed to by a majority  
22 of Commission members.

23 (b) ELEMENTS.—The report required under sub-  
24 section (a) shall include findings, conclusions, and rec-  
25 ommendations related to—

1           (1) the organizational structure of the Depart-  
2           ment of State;

3           (2) personnel-related matters, to include re-  
4           cruitment, promotion, training, and retention of the  
5           Department of State's workforce in order to retain  
6           the best and brightest personnel and foster effective  
7           diplomacy worldwide, including measures to  
8           strengthen diversity and inclusion to ensure that the  
9           Department's workforce represents all of America;

10          (3) the Department of State's infrastructure—  
11          both domestic and overseas—to include information  
12          technology, transportation, and security;

13          (4) the link between diplomacy and defense, in-  
14          telligence, development, commercial, health, law en-  
15          forcement, and other core United States interests;

16          (5) core legislation that authorizes United  
17          States diplomacy;

18          (6) related regulations, rules, and processes  
19          that define United States diplomatic efforts, includ-  
20          ing the Foreign Affairs Manual;

21          (7) treaties that impact United States overseas  
22          presence;

23          (8) the authority of Chiefs of Mission at United  
24          States diplomatic missions overseas, including the  
25          degree of authority that Chiefs of Mission exercise in

1 reality over Department of State and other Federal  
2 employees at overseas posts;

3 (9) any other areas that the Commission con-  
4 sider necessary for a complete appraisal of United  
5 States diplomacy and Department of State manage-  
6 ment and operations; and

7 (10) the amount of time, manpower, and finan-  
8 cial resources that would be necessary to implement  
9 the recommendations specified under this subsection.

10 (c) DEPARTMENT OF STATE RESPONSE.—Before the  
11 Commission submits its report to the President and Con-  
12 gress, the Secretary of State shall have the right to review  
13 and respond to all Commission recommendations not later  
14 than 90 days after receiving them from the Commission.

15 **SEC. 9. TERMINATION OF COMMISSION.**

16 (a) IN GENERAL.—The Commission, and all the au-  
17 thorities under this Act, shall terminate 60 days after the  
18 date on which the final report is submitted under section  
19 8.

20 (b) ADMINISTRATIVE ACTIVITIES BEFORE TERMI-  
21 NATION.—The Commission may use the 60-day period re-  
22 ferred to in subsection (a) for the purpose of concluding  
23 its activities, including providing testimony to committees  
24 of Congress concerning its reports and disseminating the  
25 report.

1 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

2 (a) IN GENERAL.—There is authorized to be appro-  
3 priated to the Commission to carry out this Act  
4 \$2,000,000 for fiscal year 2022.

5 (b) AVAILABILITY.—Amounts made available to the  
6 Commission under subsection (a) shall remain available  
7 until the termination of the Commission.

8 **SEC. 11. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE**  
9 **PROVISIONS.**

10 (a) FEDERAL ADVISORY COMMITTEE ACT.—The  
11 Federal Advisory Committee Act (5 U.S.C. App.) shall not  
12 apply to the Commission.

13 (b) FREEDOM OF INFORMATION ACT.—The provi-  
14 sions of section 552 of title 5, United States Code (com-  
15 monly referred to as the Freedom of Information Act),  
16 shall not apply to the activities, records, and proceedings  
17 of the Commission under this Act.