

113TH CONGRESS
1ST SESSION

S. 980

To provide for enhanced embassy security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2013

Mr. MENENDEZ (for himself, Mr. REID, Mr. CARDIN, Mr. KAINE, Mrs. BOXER, Mr. MURPHY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for enhanced embassy security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Chris Stevens, Sean Smith, Tyrone Woods, and Glen
6 Doherty Embassy Security and Personnel Protection Act
7 of 2013”.

8 (b) **TABLE OF CONTENTS.**—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table contents.

TITLE I—FUNDING AUTHORIZATION AND TRANSFER AUTHORITY

- Sec. 101. Capital Security Cost Sharing Program.
- Sec. 102. Language training.
- Sec. 103. Foreign Affairs Security Training Center.
- Sec. 104. Transfer authority.

TITLE II—CONTRACTING AND OTHER MATTERS

- Sec. 201. Local guard contracts abroad under diplomatic security program.
- Sec. 202. Exemptions from certain protest procedures for non-compete contracting in exigent circumstances.
- Sec. 203. Disciplinary action resulting from unsatisfactory leadership in relation to a security incident.
- Sec. 204. Security enhancements for soft targets.
- Sec. 205. Death gratuity.
- Sec. 206. Reemployment of annuitants.
- Sec. 207. Special immigrant visas for families of foreign national employees of United States Government missions abroad.

TITLE III—EXPANSION OF THE MARINE CORPS SECURITY GUARD DETACHMENT PROGRAM

- Sec. 301. Marine Corps Security Guard Program.

TITLE IV—REPORTING ON THE IMPLEMENTATION OF THE ACCOUNTABILITY REVIEW BOARD RECOMMENDATIONS

- Sec. 401. Department of State implementation of the recommendations provided by the Accountability Review Board convened after the September 11–12, 2012, attacks on United States Government personnel in Benghazi, Libya.
- Sec. 402. Designation and reporting for high-risk, high-threat posts.

1 **TITLE I—FUNDING AUTHORIZA-** 2 **TION AND TRANSFER AU-** 3 **THORITY**

4 **SEC. 101. CAPITAL SECURITY COST SHARING PROGRAM.**

5 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
 6 authorized to be appropriated for fiscal year 2014 for the
 7 Department of State \$1,383,000,000, to be available until
 8 expended, for the purpose of restoring to its full capacity
 9 the Capital Security Cost Sharing Program, authorized by
 10 section 604(e) of Secure Embassy Construction and
 11 Counterterrorism Act of 1999 (title VI of division A of

1 H.R. 3427, as enacted into law by section 1007(a)(7) of
2 Public Law 106–113; 113 Stat. 1501A–453; 22 U.S.C.
3 4865 note).

4 (b) SENSE OF CONGRESS ON THE CAPITAL SECURITY
5 COST SHARING PROGRAM.—It is the sense of Congress
6 that—

7 (1) the Capital Security Cost Sharing Program
8 should prioritize the construction of new facilities
9 and the maintenance of existing facilities in high-
10 risk, high-threat areas; and

11 (2) all United States Government agencies
12 should pay into the Capital Security Cost Sharing
13 Program a percentage of total costs determined by
14 interagency agreements, in order to restore the Cap-
15 ital Security Cost Sharing Program to its full capac-
16 ity of \$2,200,000,000.

17 (c) RESTRICTION ON CONSTRUCTION OF OFFICE
18 SPACE.—Section 604 (e)(2) of the Secure Embassy Con-
19 struction and Counterterrorism Act of 1999 (title VI of
20 division A of H.R. 3427, as enacted into law by section
21 1007(a)(7) of Public Law 106–113; 113 Stat. 1501A–
22 453; 22 U.S.C. 4865 note) is amended by adding at the
23 end the following: “A project to construct a diplomatic fa-
24 cility of the United States may not include office space
25 or other accommodations for an employee of a Federal

1 agency or department if the Secretary of State determines
2 that such department or agency has not provided to the
3 Department of State the full amount of funding required
4 by paragraph (1), except that such project may include
5 office space or other accommodations for members of the
6 United States Marine Corps.”.

7 **SEC. 102. LANGUAGE TRAINING.**

8 Such sums as may be necessary are authorized to be
9 appropriated for the acquisition, operation, and mainte-
10 nance of instructional programs to upgrade foreign lan-
11 guage capacity, especially in critical need languages in-
12 cluding Arabic, among United States employees within the
13 Department of State, including the Bureau of Diplomatic
14 Security.

15 **SEC. 103. FOREIGN AFFAIRS SECURITY TRAINING CENTER.**

16 (a) IN GENERAL.—Such sums as may be necessary
17 are authorized to be appropriated for the acquisition, con-
18 struction, and operation of a Foreign Affairs Security
19 Training Center.

20 (b) SENSE OF CONGRESS ON THE FOREIGN AFFAIRS
21 SECURITY TRAINING CENTER.—It is the sense of Con-
22 gress that—

23 (1) Department of State employees and their
24 families deserve improved and consolidated programs

1 and facilities for high-threat training and risk man-
2 agement decision processes;

3 (2) improved and consolidated high-threat
4 training at a Foreign Affairs Security Training Cen-
5 ter (FASTC) at Fort Pickett, Virginia, is consistent
6 with the Benghazi Accountability Review Board rec-
7 ommendation number 17; and

8 (3) a FASTC should take advantage of training
9 synergies that already exist, like training with, or in
10 close proximity to, Fleet Antiterrorism Security
11 Teams (FAST), special operations forces, or other
12 appropriate military and security assets.

13 **SEC. 104. TRANSFER AUTHORITY.**

14 Section 4 of the Foreign Service Buildings Act of
15 1926 (22 U.S.C. 295) is amended by adding at the end
16 the following new subsections:

17 “(j)(1) In addition to exercising any other transfer
18 authority available to the Secretary of State, and subject
19 to subsection (k), the Secretary may transfer to, and
20 merge with, any appropriation for embassy security, con-
21 struction, and maintenance such amounts appropriated for
22 any other purpose related to the administration of foreign
23 affairs on or after October 1, 2013, as the Secretary deter-
24 mines are necessary to provide for the security of sites

1 and buildings in foreign countries under the jurisdiction
2 and control of the Secretary.

3 “(2)(A) Any funds transferred under the authority
4 provided in paragraph (1) shall be merged with funds in
5 the heading to which transferred, and shall, except as pro-
6 vided in subparagraph (B), be available subject to the
7 same terms and conditions as the funds with which
8 merged.

9 “(B) Any funds transferred under paragraph (1)
10 shall be available for the same period for which such funds
11 were originally appropriated.

12 “(k) Not later than 15 days before any transfer of
13 funds under subsection (j), the Secretary shall notify the
14 Committees on Foreign Relations and Appropriations of
15 the Senate and the Committees on Foreign Affairs and
16 Appropriations of the House of Representatives.”.

17 **TITLE II—CONTRACTING AND** 18 **OTHER MATTERS**

19 **SEC. 201. LOCAL GUARD CONTRACTS ABROAD UNDER DIP-** 20 **LOMATIC SECURITY PROGRAM.**

21 (a) IN GENERAL.—Section 136(c)(3) of the Foreign
22 Relations Authorization Act, Fiscal Years 1990 and 1991
23 (22 U.S.C. 4864(c)(3)) is amended to read as follows:

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

4 “(A) the Secretary may award contracts on
5 the basis of best value (as determined by a cost-
6 technical tradeoff analysis); and

7 “(B) proposals received from United
8 States persons and qualified United States joint
9 venture persons shall be evaluated by reducing
10 the bid price by 10 percent;”.

11 (b) REPORT.—Not later than one year after the date
12 of the enactment of this Act, the Secretary shall submit
13 to the Committee on Foreign Relations of the Senate and
14 the Committee on Foreign Affairs of the House of Rep-
15 resentatives a report that includes—

16 (1) an explanation of the implementation of
17 paragraph (3) of section 136(c) of the Foreign Rela-
18 tions Authorization Act, Fiscal Years 1990 and
19 1991, as amended by subsection (a); and

20 (2) for each instance in which an award is
21 made pursuant to subparagraph (A) of such para-
22 graph, as so amended, a written justification and ap-
23 proval, providing the basis for such award and an
24 explanation of the inability to satisfy the needs of

1 the Department of State by technically acceptable,
2 lowest price evaluation award.

3 **SEC. 202. EXEMPTIONS FROM CERTAIN PROTEST PROCE-**
4 **DURES FOR NON-COMPETE CONTRACTING IN**
5 **EXIGENT CIRCUMSTANCES.**

6 A determination by the Department of State to use
7 a procurement competition exemption under section 3304
8 of title 41, United States Code, in order to meet emer-
9 gency security requirements shall not be subject to chal-
10 lenge by protest under either sections 3551 through 3557
11 of title 31, United States Code, or section 1491 of title
12 28, United States Code.

13 **SEC. 203. DISCIPLINARY ACTION RESULTING FROM UNSAT-**
14 **ISFACTORY LEADERSHIP IN RELATION TO A**
15 **SECURITY INCIDENT.**

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

18 (1) by redesignating paragraphs (1), (2), and
19 (3) as subparagraphs (A), (B), and (C), respectively,
20 and moving such subparagraphs, as so redesignated,
21 2 ems to the right;

22 (2) by striking “RECOMMENDATIONS.—When-
23 ever” and inserting the following: “RECOMMENDA-
24 TIONS.—

25 “(1) IN GENERAL.—Whenever”; and

1 (3) by inserting at the end the following new
2 paragraph:

3 “(2) CERTAIN SECURITY INCIDENTS.—Unsatis-
4 factory leadership by a senior official with respect to
5 a security incident involving loss of life, serious in-
6 jury, or significant destruction of property at or re-
7 lated to a United States Government mission abroad
8 may be grounds for disciplinary action. If a Board
9 finds reasonable cause to believe that a senior offi-
10 cial provided such unsatisfactory leadership, the
11 Board may recommend disciplinary action subject to
12 the procedures in paragraph (1).”.

13 **SEC. 204. SECURITY ENHANCEMENTS FOR SOFT TARGETS.**

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

18 **SEC. 205. DEATH GRATUITY.**

19 Section 413(a) of the Foreign Service Act of 1980
20 (22 U.S.C. 3973(a)), is amended in the first sentence by
21 striking “at the time of death” and inserting “at level II
22 of the Executive Schedule under section 5313 of title 5,
23 United States Code, at the time of death, except that for
24 employees compensated under local compensation plans
25 established under section 408 the amount shall be equal

1 to the greater of either one year’s salary at the time of
2 death, or one year’s basic salary at the highest step of
3 the highest grade on the Local Compensation Plan from
4 which the employee was being paid at the time of death”.

5 **SEC. 206. REEMPLOYMENT OF ANNUITANTS.**

6 Section 824(g) of the Foreign Service Act of 1980
7 (22 U.S.C. 4064(g)) is amended—

8 (1) in paragraph (1)(B), by striking “to facili-
9 tate the” and all that follows through “Afghani-
10 stan,”;

11 (2) by striking paragraph (2); and

12 (3) by redesignating paragraph (3) as para-
13 graph (2).

14 **SEC. 207. SPECIAL IMMIGRANT VISAS FOR FAMILIES OF**
15 **FOREIGN NATIONAL EMPLOYEES OF UNITED**
16 **STATES GOVERNMENT MISSIONS ABROAD.**

17 Section 101(a)(27)(D) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1101(a)(27)(D)) is amended by in-
19 serting before “: *Provided*” the following: “, except that
20 the spouse and children may also qualify if such employee
21 is killed in the line of duty and had performed faithful
22 service for a minimum of 15 years, and the relevant rec-
23 ommendation referenced in the following proviso is made
24 with respect to each such individual”.

1 **TITLE III—EXPANSION OF THE**
2 **MARINE CORPS SECURITY**
3 **GUARD DETACHMENT PRO-**
4 **GRAM**

5 **SEC. 301. MARINE CORPS SECURITY GUARD PROGRAM.**

6 (a) IN GENERAL.—Pursuant to the responsibility of
7 the Secretary of State for diplomatic security under sec-
8 tion 103 of the Diplomatic Security Act (22 U.S.C. 4802),
9 the Secretary of State, in consultation with the Secretary
10 of Defense, shall—

11 (1) develop and implement a plan to incor-
12 porate the additional Marine Corps Security Guard
13 personnel authorized pursuant to section 404 of the
14 National Defense Authorization Act for Fiscal Year
15 2013 (Public Law 112–239; 10 U.S.C. 5983 note)
16 at United States embassies, consulates, and other
17 diplomatic facilities; and

18 (2) conduct an annual review of the Marine
19 Corps Security Guard Program, including—

20 (A) an evaluation of whether the size and
21 composition of the Marine Corps Security
22 Guard Program is adequate to meet global dip-
23 lomatic security requirements;

24 (B) an assessment of whether the Marine
25 Corps security guards are appropriately de-

1 ployed among diplomatic posts to respond to
2 evolving security developments and potential
3 threats to United States interests abroad; and

4 (C) an assessment of the mission objectives
5 of the Marine Corps Security Guard Program
6 and the procedural rules of engagement to pro-
7 tect diplomatic personnel under the Program.

8 (b) REPORTING REQUIREMENT.—Not later than 180
9 days after the date of the enactment of this Act and annu-
10 ally thereafter for three years, the Secretary of State, in
11 consultation with the Secretary of Defense, shall provide
12 to the Committee on Foreign Relations of the Senate and
13 the Committee on Foreign Affairs of the House of Rep-
14 resentatives an unclassified report, with a classified annex
15 as necessary, that addresses the requirements set forth in
16 subsection (a)(2).

1 **TITLE IV—REPORTING ON THE**
2 **IMPLEMENTATION OF THE**
3 **ACCOUNTABILITY REVIEW**
4 **BOARD RECOMMENDATIONS**

5 **SEC. 401. DEPARTMENT OF STATE IMPLEMENTATION OF**
6 **THE RECOMMENDATIONS PROVIDED BY THE**
7 **ACCOUNTABILITY REVIEW BOARD CON-**
8 **VENED AFTER THE SEPTEMBER 11–12, 2012,**
9 **ATTACKS ON UNITED STATES GOVERNMENT**
10 **PERSONNEL IN BENGHAZI, LIBYA.**

11 (a) **REPORT REQUIRED.**—Not later than 90 days
12 after the date of the enactment of this Act, the Secretary
13 of State shall submit to the Committee on Foreign Rela-
14 tions of the Senate and the Committee on Foreign Affairs
15 of the House of Representatives an unclassified report,
16 with a classified annex, on the implementation by the De-
17 partment of State of the recommendations of the Account-
18 ability Review Board convened pursuant to title III of the
19 Omnibus Diplomatic and Antiterrorism Act of 1986 (22
20 U.S.C. 4831) to examine the facts and circumstances sur-
21 rounding the September 11–12, 2012, killings of four
22 United States Government personnel in Benghazi, Libya.

23 (b) **CONTENT.**—The report required under subsection
24 (a) shall include the following elements:

1 (1) An assessment of the overall state of the
2 Department of State’s diplomatic security to respond
3 to the evolving global threat environment, and the
4 broader steps the Department of State is taking to
5 improve the security of United States diplomatic
6 personnel in the aftermath of the Accountability Re-
7 view Board Report.

8 (2) A description of the specific steps taken by
9 the Department of State to address each of the 29
10 recommendations contained in the Accountability
11 Review Board Report, including—

12 (A) an assessment of whether implementa-
13 tion of each recommendation is “complete” or
14 is still “in progress”; and

15 (B) if the Secretary of State determines
16 not to fully implement any of the 29 rec-
17 ommendations in the Accountability Review
18 Board Report, a thorough explanation as to
19 why such a decision was made.

20 (3) An enumeration and assessment of any sig-
21 nificant challenges that have slowed or interfered
22 with the Department of State’s implementation of
23 the Accountability Review Board recommendations,
24 including—

1 (A) a lack of funding or resources made
2 available to the Department of State;

3 (B) restrictions imposed by current law
4 that in the Secretary of State's judgment
5 should be amended; and

6 (C) difficulties caused by a lack of coordi-
7 nation between the Department of State and
8 other United States Government agencies.

9 **SEC. 402. DESIGNATION AND REPORTING FOR HIGH-RISK,**
10 **HIGH-THREAT POSTS.**

11 (a) REPORT REQUIRED.—Not later than 90 days
12 after the date of the enactment of this Act, and annually
13 thereafter, the Secretary of State shall submit to the Com-
14 mittee on Foreign Relations of the Senate and the Com-
15 mittee on Foreign Affairs of the House of Representatives
16 a classified report, with an unclassified summary, evalu-
17 ating Department of State overseas posts that the Sec-
18 retary of State determines to be “high risk, high threat”
19 in accordance with subsection (c).

20 (b) CONTENT.—For each post determined to be
21 “high risk, high threat” pursuant to subsection (a), the
22 report submitted under such subsection shall also in-
23 clude—

1 (1) an assessment of the overall threat level to
2 United States personnel under chief of mission au-
3 thority;

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

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

16 (4) an enumeration of the assignment duration
17 and length of government experience for each of the
18 United States senior security personnel assigned;

19 (5) the number of Foreign Service Officers who
20 have received Foreign Affairs Counter Threat train-
21 ing;

22 (6) a summary of the requests made during the
23 previous calendar year for additional resources,
24 equipment, or personnel related to the security of
25 the post and the status of such requests;

1 (7) an evaluation of the quality of surveillance
2 cameras;

3 (8) an assessment of the ability of United
4 States personnel to respond to and survive a fire at-
5 tack, including:

6 (A) whether the post has adequate fire
7 safety and security equipment for safehavens
8 and safe areas; and

9 (B) whether United States Government
10 employees and their dependents have been ade-
11 quately trained on the equipment available;

12 (9) for each new post that is opened, a detailed
13 description of the steps taken to provide security for
14 the new post, including whether a dedicated support
15 cell was established in the Department of State to
16 ensure proper and timely resourcing of security; and

17 (10) a listing of any “high-risk, high-threat”
18 posts where the Department of State and other gov-
19 ernment agencies’ facilities are not collocated includ-
20 ing—

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

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

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

3 (c) DETERMINATION OF HIGH-RISK, HIGH-THREAT
4 POST.—In determining “high-risk, high-threat posts”
5 under this section, the Secretary shall take into account
6 with respect to each country those posts featuring—

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

9 (2) governments with inadequate capacity or
10 political will to provide appropriate protection; and

11 (3) mission physical security platforms that fall
12 well below the Department of State’s established
13 standards.

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