H. R. 4264

To promote United States national security and foreign policy objectives through consolidation and strengthening of the rule of law and respect for human rights in the Republic of Azerbaijan.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2015

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote United States national security and foreign policy objectives through consolidation and strengthening of the rule of law and respect for human rights in the Republic of Azerbaijan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Azerbaijan Democracy Act of 2015”.

SECTION 2. FINDINGS.

Congress makes the following findings:
(1) The United States and the Republic of Azerbaijan have many areas of mutual interest and cooperation, but the United States ability to more fully cooperate with Azerbaijan has been severely hindered by the Government of Azerbaijan’s gross violations of human rights and fundamental freedoms, including violations of basic principles of democratic governance, standards to which Azerbaijan has committed itself to adhere as a participating State in the Organization for Security and Cooperation in Europe (OSCE) and other multilateral institutions.

(2) On December 5, 2014, the Government of Azerbaijan arrested investigative reporter Khadija Ismayilova, who also was a radio host on Radio Free/Radio Liberty (RFE/RL). The charge against her was “incitement to suicide”, and she was held in pretrial detention and not allowed out on bail. On December 26, 2014, the Government of Azerbaijan raided the Baku Office of RFE/RL and closed its operations. Over the course of a year in pretrial detention, the original charges against Ms. Ismayilova were dropped after government-called witnesses refused to cooperate with the case. However, Ms. Ismayilova remained in detention and the Govern-
ment of Azerbaijan subsequently charged her with embezzlement, illegal entrepreneurship, tax evasion, and abuse of power. She was convicted and is now serving a 7½-year sentence in prison. The RFE/RL Baku Bureau has not been allowed to reopen.

(3) According to the United States State Department report for 2014, the Government of Azerbaijan did not respect its own laws on freedom of speech and press censorship. The report said, “The government continued to limit freedom of speech and media independence. Journalists faced intimidation and at times were beaten and imprisoned.”.

(4) The Committee to Protect Journalists stated that Azerbaijan is the leading jailer of journalists in Europe and Central Asia, and is the fifth most censored country in the world.

(5) As an OSCE participating State, the Government of Azerbaijan has committed itself to work toward a standard of free and fair elections. Since its independence in 1992, no election held in Azerbaijan has met the minimum requirements as outlined by the OSCE. Elections for President and for the Parliament have shown a pattern of disregard for the conduct of democratic elections and have been marred by the arbitrary use of state power, dis-
regard for the basic rights of freedom of assembly, association, and expression. The conduct of the elections demonstrates the unwillingness of authorities in Azerbaijan to tolerate political competition.

(6) According to the United States Department of State’s Country Reports on Human Rights Practices for 2014, Azerbaijan has used “...the judicial system to punish peaceful dissent—including increased reports of arbitrary arrest and detention, politically motivated imprisonment, lack of due process, and lengthy pretrial detention—by secular and religious individuals perceived as a threat by government officials, while crimes against such individuals or their family members went unpunished.”

(7) According to the 2015 report on religious freedom by the United States Commission on International Religious Freedom (USCIRF), “Despite societal religious tolerance in Azerbaijan, governmental respect for religious freedom continued to deteriorate in 2014.”. The report details the Government’s use of the 2009 religion law “to limit religious freedom and to justify fines, police raids, detentions, and imprisonment.”. There are 44 names on the list of religious prisoners published by USCIRF.
(8) USCIRF cited poor conditions for religious minorities in Azerbaijan, reporting that “most Protestant denominations do not have legal status, including Baptists, Seventh-day Adventists, and Pentecostals, as well as Jehovah’s Witnesses.”

(9) The Government of Azerbaijan has further attempted to silence dissent through retribution against the political opposition, journalists, independent NGOs, and their family members, through physical threats and beatings, dismissal from employment, travel restrictions and other forms of intimidation.

(10) Those jailed opposition candidates and activists have been treated harshly in pretrial detention and in prison, including physical beatings, denied access to family, defense counsel, medical treatment, and open legal proceedings.

SEC. 3. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to secure United States national security and economic interests in the region through promotion of a stable and democratic government in Azerbaijan;

(2) to call for the immediate release without preconditions of all political prisoners in Azerbaijan;
(3) to support the aspirations of the people of 
Azerbaijan for democracy, internationally recognized 
human rights, and the rule of law; 

(4) to support the growth of the rule of law and 
democratic institutions in Azerbaijan; 

(5) to work closely with other countries and 
international organizations, including the OSCE, to 
bring Azerbaijan in compliance with its multilateral 
commitments; and 

(6) reassess United States policy toward the 
Government of Azerbaijan reevaluating United 
States policy toward Azerbaijan as warranted by de-
monstrable progress made by the Government of 
Azerbaijan consistent with the policy of the United 
States as stated in this section.

SEC. 4. DENIAL OF ENTRY INTO THE UNITED STATES OF 
SENIOR LEADERSHIP OF THE GOVERNMENT 
OF AZERBAIJAN AND OTHERS.

(a) Denial of Entry.—Notwithstanding any other 
provision of law, the Secretary of State may not issue any 
visa to, and the Secretary of Homeland Security shall deny 
entry to the United States of, any alien described in sub-
section (e).

(b) Current Visas Revoked.—Notwithstanding 
any other provision of law, the Secretary of State shall
revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a).

(c) ALIENS DESCRIBED.—An alien described in this subsection is any alien who—

(1) holds a position in the senior leadership of the Government of Azerbaijan;

(2) is an immediate family member of a person described in paragraph (1);

(3) through his or her business dealings with senior leadership of the Government of Azerbaijan derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Azerbaijan; and

(4) is a member of any branch of the security, judicial, or law enforcement services of Azerbaijan and has participated in the persecution or harassment of independent media or journalists, human rights defenders, opposition groups, or religious groups.
(d) Exception.—The requirements under subsections (a) and (b) shall not apply with respect to an alien who is an official of the Government of Azerbaijan and who is seeking entry into the United States for the purpose of participation in talks related to resolution of the Nagorno Karabakh conflict under the auspices of the OSCE Minsk Group.

SEC. 5. SENSE OF CONGRESS ON SANCTIONS AGAINST THE GOVERNMENT OF AZERBAIJAN AND SENIOR LEADERSHIP OF THE GOVERNMENT OF AZERBAIJAN AND OTHERS.

(a) Prohibition on Loans and Investment.—

(1) United States government financing.—It is the sense of Congress that no loan, credit guarantee, insurance, financing, or other similar financial assistance be extended by any agency of the Government of the United States (including the Export-Import Bank of the United States and the Overseas Private Investment Corporation) to the Government of Azerbaijan, except with respect to the provision of humanitarian goods and agricultural or medical products.

(2) Trade and Development Agency.—It is the sense of Congress that no funds available to the
Trade and Development Agency should be available for activities of the Agency in or for Azerbaijan.

(b) **Multilateral Financial Assistance.**—The Secretary of the Treasury should instruct the United States Executive Director at each international financial institution of which the United States is a member to use the voice and vote of the United States to oppose any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Azerbaijan, except for loans and assistance that serve humanitarian needs.

(c) **Blocking of Assets and Other Prohibited Activities.**—

(1) **Blocking of Assets.**—It is the sense of Congress that the President should block all property and interests in property, including all commercial, industrial, or public utility undertakings or entities, that, on or after the date of the enactment of this Act—

(A) are owned, in whole or in part, by any member of the senior leadership of the Government of Azerbaijan, or by any member or family member closely linked to any member of the senior leadership of the Government of Azerbaijan, or any person who through his or her
business dealings with the senior leadership of the Government of Azerbaijan derives significant financial benefit from policies or actions, including electoral fraud, human rights abuses, or corruption, that undermine or injure democratic institutions or impede the transition to democracy in Azerbaijan; and

(B) are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person.

(2) **Prohibited Activities.**—Activities prohibited by reason of the blocking of property and interests in property under paragraph (1) should include payments or transfers of any property, or any transactions involving the transfer of anything of economic value by any United States person to any person described in subparagraph (A) of such paragraph.

(3) **Payment of Expenses.**—All expenses incident to the blocking and maintenance of property blocked under paragraph (1) should be charged to the owners or operators of such property. Such expenses may not be paid from blocked funds.
(4) Rule of Construction.—Nothing in this subsection should be construed to prohibit any contract or other financial transaction with any private or nongovernmental organization or business in Azerbaijan.

(5) Exceptions.—Paragraphs (1) and (2) should not apply with respect to the provision of medicine, medical equipment or supplies, food, as well as any other form of humanitarian assistance provided to Azerbaijan as relief in response to a humanitarian crisis.

(6) Penalties.—Any person who violates any prohibition or restriction imposed under this subsection should be subject to the penalties under section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as for a violation under that Act.

SEC. 6. TERMINATION OF SANCTIONS.

The sanctions described in section 4 shall apply with respect to an alien described in that section, and the sanctions described in section 5 should apply with respect to the Government of Azerbaijan, the senior leadership of the Government of Azerbaijan, and any other person described in section 5, until the President determines and certifies to the appropriate congressional committees that the Gov-
The government of Azerbaijan has made significant progress in meeting the following conditions:

(1) The release of individuals in Azerbaijan who have been jailed based on political or religious beliefs or expression.

(2) The cessation of all forms of harassment and repression against the independent media, non-governmental organizations, youth groups, religious organizations (including their leadership and members), and the political opposition in Azerbaijan.

(3) Progress toward free, fair and transparent elections and the rule of law consistent with OSCE commitments.

SEC. 7. MULTILATERAL COOPERATION.

It is the sense of Congress that the President should continue to seek the support of other countries, particularly European countries, for a comprehensive, multilateral strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures with respect to the Republic of Azerbaijan that are similar to measures described in this Act.

SEC. 8. REPORT.

(a) Report.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to the appropriate congressional
committees a report that describes, with respect to the
preceding 12-month period and to the extent practicable,
the following:

(1) The cooperation of the Government of Azer-
baijan with any foreign government or organization
for purposes related to the censorship or surveillance
of the Internet, or the purchase or receipt by the
Government of Azerbaijan of any technology or
training from any foreign government or organization
for purposes related to the censorship or sur-
veillance of the Internet.

(2) The personal assets and wealth of President
Ilham Aliyev and other senior leadership of the Gov-
ernment of Azerbaijan.

(b) FORM.—A report transmitted pursuant to sub-
section (a) shall be in unclassified form but may contain
a classified annex.

SEC. 9. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMIT-
TEES.—The term “appropriate congressional com-
mittees” means the Committee on Foreign Affairs of
the House of Representatives and the Committee on
Foreign Relations of the Senate.
(2) **Senior Leadership of the Government of Azerbaijan.**—The term “senior leadership of
the Government of Azerbaijan” includes—

(A) the President, Prime Minister, Deputy
Prime Ministers, government ministers, Chair-
men of State Committees, governors, heads of
state enterprises, and members of the Presi-
dential Administration of Azerbaijan;

(B) any official of the Government of Azer-
baijan who—

(i) is personally and substantially in-
volved in the suppression of freedom in
Azerbaijan, including judges, prosecutors,
and heads of professional associations and
educational institutions; or

(ii) is otherwise engaged in public cor-
rruption in Azerbaijan; and

(C) any other individual determined by the
Secretary of State (or the Secretary’s designee)
to be personally and substantially involved in
the formulation or execution of the policies of
the Government of Azerbaijan that are in con-
tradiction of internationally recognized human
rights standards.