

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 fol-
2 lowing:

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 (22 U.S.C. 2151 note; Public Law
10 107–99) is amended by striking “and restore the rule of
11 law” and inserting “restore the rule of law, reconstruct
12 and rebuild Zimbabwe, and come to terms with the past

1 through a process of genuine reconciliation that acknowl-
2 edges past human rights abuses and orders inquiries into
3 disappearances, including the disappearance of human
4 rights activists, such as Patrick Nabanyama, Itai
5 Dzamara, and Paul Chizuze”.

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. SENSE OF CONGRESS ON THE UNITED STATES-**
8 **ZIMBABWE BILATERAL RELATIONSHIP.**

9 It is the sense of Congress that the United States
10 should seek to forge a stronger bilateral relationship with
11 Zimbabwe, including in the areas of trade and investment,
12 if the following conditions are satisfied:

13 (1) The Government of Zimbabwe takes the
14 concrete, tangible steps outlined in paragraphs (1)
15 through (4) of section 4(d) of the Zimbabwe Democ-
16 racy and Economic Recovery Act of 2001, as amend-
17 ed by section 6 of this Act.

18 (2) The Government of Zimbabwe takes con-
19 crete, tangible steps towards—

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

22 (B) economic reforms that promote
23 growth, address unemployment and under-
24 development, restore livelihoods, ensure respect
25 for contracts and private property rights, and

1 promote significant progress toward monetary
2 policy reforms, particularly with the Reserve
3 Bank of Zimbabwe, and currency exchange re-
4 forms; and

5 (C) identification and recovery of stolen
6 private and public assets within Zimbabwe and
7 in other countries.

8 (3) The Government of Zimbabwe holds an
9 election that is widely accepted as free and fair,
10 based on the following pre- and post-election criteria
11 or conditions:

12 (A) Establishment and public release, with-
13 out cost, of a provisional and a final voter reg-
14 istration roll.

15 (B) The Zimbabwe Electoral Commission
16 is permitted to entirely carry out the functions
17 assigned to it under section 239 of Zimbabwe's
18 2013 Constitution in an independent manner,
19 and the chairperson meets and consults regu-
20 larly with representatives of political parties
21 represented in the parliament of Zimbabwe and
22 the parties contesting the elections.

23 (C) Consistent with Zimbabwe's 2013 Con-
24 stitution, the Defence Forces of Zimbabwe—

1 (i) are neither permitted to actively
2 participate in campaigning for any can-
3 didate nor to intimidate voters;

4 (ii) are required to verifiably and
5 credibly uphold their constitutionally-man-
6 dated duty to respect the fundamental
7 rights and freedoms of all persons and to
8 be nonpartisan in character; and

9 (iii) are not permitted to print, trans-
10 fer, or control ballots or transmit the re-
11 sults of elections.

12 (D) International observers, including ob-
13 servers from the United States, the African
14 Union, the Southern African Development Com-
15 munity, and the European Union—

16 (i) are permitted to observe the entire
17 electoral process prior to, on, and following
18 voting day, including by monitoring polling
19 stations and tabulation centers; and

20 (ii) are able to independently access
21 and analyze vote tallying tabulation and
22 the transmission and content of voting re-
23 sults.

24 (E) Candidates are allowed access to pub-
25 lic broadcasting media during the election pe-

1 riod, consistent with Zimbabwe's Electoral Act
2 and are able to campaign in an environment
3 that is free from intimidation and violence.

4 (F) Civil society organizations are able to
5 freely and independently carry out voter and
6 civic education and monitor the entire electoral
7 process, including by observing, recording, and
8 transmitting publicly-posted or announced vot-
9 ing results at the ward, constituency, and all
10 higher levels of the vote tallying process.

11 (4) Laws enacted prior to the passage of
12 Zimbabwe's March 2013 Constitution that are in-
13 consistent with the new Constitution are amended,
14 repealed, or subjected to a formal process for review
15 and correction so that such laws are consistent with
16 the new Constitution.

17 (5) The Government of Zimbabwe—

18 (A) has made significant progress on the
19 implementation of all elements of the new Con-
20 stitution; and

21 (B) has demonstrated its commitment to
22 sustain such efforts in achieving full implemen-
23 tation of the new Constitution.

24 (6) Traditional leaders of Zimbabwe observe
25 section 281 of the 2013 Constitution and are not

1 using humanitarian assistance provided by outside
2 donor organizations or countries in a politicized
3 manner to intimidate or pressure voters during the
4 campaign period.

5 **SEC. 6. CERTIFICATION REQUIREMENTS.**

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

8 (1) in paragraph (3), by striking “consistent
9 with” and all that follows through “September
10 1998”;

11 (2) by striking paragraph (4); and

12 (3) by redesignating paragraph (5) as para-
13 graph (4).

14 **SEC. 7. REMOVAL OF AUTHORITY TO PAY LAND ACQUISITION COSTS.**

15
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. 8. INCLUSION OF AUSTRALIA, THE UNITED KINGDOM,**
2 **THE AFRICAN UNION, AND THE SOUTHERN**
3 **AFRICAN DEVELOPMENT COMMUNITY IN**
4 **CONSULTATIONS ABOUT ZIMBABWE.**

5 Section 6 of the Zimbabwe Democracy and Economic
6 Recovery Act of 2001 is amended by inserting “Australia,
7 the United Kingdom, the African Union, the Southern Af-
8 rican Development Community,” after “Canada,”.

9 **SEC. 9. SENSE OF CONGRESS ON ENFORCEMENT OF**
10 **SOUTHERN AFRICAN DEVELOPMENT COMMU-**
11 **NITY TRIBUNAL RULINGS.**

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