



1. [H.R. 4969 – Embassy Security Authorization Act, Fiscal Year 2019, as amended](#)
2. [H.R. 5576 – Cyber Deterrence and Response Act of 2018](#)
3. [H.R. 5274 – Global Electoral Exchange Act](#)

# H.R. 4969 — Embassy Security Authorization Act, Fiscal Year 2019, as amended (Rep. McCaul, R-TX)

CONTACT: [Nicholas Rodman](#), 202-226-8576

## FLOOR SCHEDULE:

Scheduled for consideration on September 5, 2018, under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

[H.R. 4969](#) would direct the Secretary of State to make a series considerations and policies related to embassy construction and design, as well as authorize appropriations for embassy security, construction, and maintenance.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing the bill would cost less than \$500,000 each year and total \$2 million over the 2019-2023 period. That spending would be subject to the availability of appropriated funds. Enacting H.R. 4969 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 4969 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

The bill would authorize \$2,314,474,000 for fiscal year 2019 for the purposes of the “Embassy Security, Construction, and Maintenance” account of the Department of State, of which \$1,549,015,000 is authorized to be appropriated for the costs of worldwide security upgrades.

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.R. 4969 would express a sense of Congress that the Department of State’s Bureau of Overseas Building Operations (OBO) or successor office should give appropriate consideration to standard embassy design, in which each new embassy and new consulate starts with a standard design and keeps customization to a minimum.

The bill would require the Secretary of State to carry out any new embassy compound project or new consulate compound project in the design phase or pre-design phase as of the bill’s enactment and that utilizes a non-standard design. The Secretary would be directed to provide Congress, for each project: a comparison of the estimated full lifecycle costs of the project at issue to the estimated full lifecycle costs of such project if such project were to use a standard embassy design; a comparison of the estimated completion date of the project to the estimated completion date if such project were to

use a standard embassy design; a comparison of the security of the completed project to the security of such completed project if such completed project were to use a standard embassy design; a justification for the Secretary's selection of a non-standard design over a standard embassy design for such project; a written explanation if any of the documentation necessary to support the comparisons and justification cannot be provided.

The bill would issue a statement of policy that the Department of State's Bureau of Overseas Building Operations or its successor office would continue to balance functionality and security with accessibility as defined by guidelines established by the United States Access Board in constructing embassies and consulates and shall ensure compliance with the [Architectural Barriers Act of 1968](#) to the fullest extent possible.

The bill would require a comprehensive report to Congress regarding all ongoing overseas capital construction projects and major embassy security upgrade projects. The Secretary of State would be directed to complete by October 1, 2020, all contractor performance evaluations required by [subpart 42.15 of the Federal Acquisition Regulation](#).

The Secretary of State would be directed to develop a prioritization system for clearing the current backlog of required evaluations. The bill would further require a briefing to Congress on the Department of State's plan for completing all evaluations by October 1, 2020, and the prioritization system.

The bill would require the Office of Management Policy, Rightsizing, and Innovation of the Department of State to project growth over the estimated life of the facility at issue using all available and relevant data. The Secretary of State would develop a comprehensive six-year Long-Range Overseas Buildings Plan (LROBP) documenting the Department of State's overseas building program for the replacement of overseas diplomatic facilities taking into account security factors under the [Secure Embassy Construction and Counterterrorism Act of 1999](#); and a comprehensive six-year plan detailing the Department's long-term planning for the maintenance and sustainment of completed facilities, known as a Long-Range Overseas Maintenance Plan (LROMP).

The proposed allocation of capital construction and maintenance funds that is required by the Committees on Appropriations of the House of Representatives and the Senate making appropriations for the Department of State would also be submitted to the appropriate congressional committees.

The Secretary of State would be directed to provide, upon request, information to Congress on security deficiencies at United States diplomatic posts. The bill would direct the Bureau of Diplomatic Security of the Department of State shall provide a security briefing or written materials with up-to-date information on the current threat environment in writing or orally to all United States Government employees traveling to a foreign country on official business

The bill would also direct the Secretary to make use of the design-build project delivery system at diplomatic posts that have not yet received design or capital construction contract.

The Secretary would be mandated to report to Congress on performance evaluation measures in line with the Government Accountability Office (GAO)'s "Standards for Internal Control in the Federal Government" that will be applicable to design and construction, lifecycle cost, and building maintenance programs of the Bureau of Overseas Building Operations.

The bill would authorize \$2,314,474,000 for fiscal year 2019 for the purposes of the “Embassy Security, Construction, and Maintenance” account of the Department of State, of which \$1,549,015,000 is authorized to be appropriated for the costs of worldwide security upgrades.

**COMMITTEE ACTION:**

H.R. 4969 was introduced on February 7, 2018, and was referred to the House Committee on Foreign Affairs. The bill was ordered to be reported in the nature of a substitute (amended) by voice vote on [June 28, 2018](#).

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor: “Congress has the power to enact this legislation pursuant to the following: Article I, section 8, clause 1; and Article I, section 8, clause 18 of the Constitution of the United States.”

# H.R. 5576 — Cyber Deterrence and Response Act of 2018 (Rep. Yoho, R-FL)

CONTACT: [Nicholas Rodman](#), 202-226-8576

## FLOOR SCHEDULE:

Scheduled for consideration on September 5, 2018, under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

[H.R. 5576](#) would require the President, acting through the Secretary of State, to designate certain persons or entities as a critical cyber threat actor and authorize the President to impose sanctions on such actors.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing the bill would cost less than \$500,000 over the 2019-2023 period. That spending would be subject to the availability of appropriated funds. Because enacting the bill would affect direct spending and revenues, pay-as-you-go procedures apply. However, CBO expects H.R. 5576 would affect very few additional people and thus would have insignificant effects on both revenues and direct spending. CBO estimates that enacting H.R. 5576 would not significantly increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

### CONSERVATIVE CONCERNS:

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.R. 5576 would require the President, acting through the Secretary of State, to designate as a critical cyber threat actor each foreign person and each agency or instrumentality of a foreign state that the President determines to be knowingly responsible for or complicit in state-sponsored cyber activities that are reasonably likely to result in a significant threat to the national security, foreign policy, or economic health or financial stability of the United States; each foreign person, or each agency or instrumentality of a foreign state that the President has determined to have knowingly assisted, or provided financial, material, or technological support for any activities by a foreign person or agency or instrumentality of a foreign state designated as a critical cyber threat actor.

The bill would require the President to publish in the Federal Register a list of each foreign person and each agency or instrumentality of a foreign state designated as a critical cyber threat actor; and regularly update such list not later than seven days after making any changes to it, and publish updates in the Federal Register. The President may withhold from publication in the Federal Register the identification of any foreign person or agency or instrumentality of a foreign state designated as a critical cyber threat actor if the President determines that withholding such

identification is in the national interests of the United States; or is for an important law enforcement purpose. In doing so, the President would be required to submit a classified notification to Congress.

The bill would require the President to impose sanctions on each foreign person and each agency or instrumentality of a foreign state designated as a critical cyber threat actor.

In doing so the President: may provide for the withdrawal, limitation, or suspension of non-humanitarian United States development assistance under chapter 1 of part I of the [Foreign Assistance Act of 1961](#); may provide for the withdrawal, limitation, or suspension of United States security assistance under part II of the Foreign Assistance Act of 1961; may direct the United States executive director to each international financial institution to use the voice and vote of the United States to oppose any loan from the international financial institution that would benefit the designated foreign person or the designated agency or instrumentality of a foreign state; may direct the Overseas Private Investment Corporation, or any other United States Government agency not to approve the issuance of any guarantees, insurance, extensions of credit, or participations in the extension of credit; may prohibit any United States person from investing in or purchasing significant amounts of equity or debt instruments of the designated foreign person; may prohibit any United States agency or instrumentality from procuring, or entering into any contract for the procurement of, any goods, technology, or services, or classes of goods, technology, or services, from the designated foreign person or the designated agency or instrumentality of a foreign state; may order the heads of the appropriate United States agencies to not issue any specific licenses, and to not grant any other specific authority to export any goods or technology to the designated foreign person or the designated agency or instrumentality of a foreign state; may exercise all of the powers granted to the President under the International Emergency Economic Powers Act ([50 U.S.C. 1701 et seq.](#)) to block and prohibit all transactions in property and interests in property of the designated foreign person if such property and interests in property are in the United States; may prohibit any transfers of credit or payments between one or more financial institutions or to any financial institution, subject to the jurisdiction of the United States and involve any interest of the designated foreign person.

The bill would impose sanctions on an alien who is designated as a critical cyber threat actor as inadmissible to the United States; ineligible to receive a visa or other documentation to enter the United States; and otherwise ineligible to be admitted or paroled into the United States. The Department of State or Department of Homeland Security shall revoke any visa or other entry documentation issued to the foreign person designated as a critical cyber threat actor.

The bill would further authorize the President to impose additional sanctions related to foreign states that the President has determined aided, abetted, or directed a foreign person or agency or instrumentality of a foreign state designated as a critical cyber threat actor. Actions taken by the President should be coordinated with United States allies and partners; and the Secretary of State should work with United States allies and partners, on a voluntary basis, to lead an international diplomatic initiative to deter critical cyber threat actors and state-sponsored cyber activities; and provide mutual support to such allies and partners participating in such initiative to respond to such state-sponsored cyber activities.

The bill would further establish waiver authority and a process for the removal of sanctions under specified circumstances.

## **COMMITTEE ACTION:**

H.R. 5576 was introduced on April 18, 2018, and was referred to the House Committee on Foreign Affairs. The bill was ordered to be reported in the nature of a substitute (amended) by voice vote on [June 28, 2018](#).

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution." No enumerating clause was listed.

# H.R. 5274 — Global Electoral Exchange Act (Rep. Castro, D-TX)

CONTACT: [Nicholas Rodman](#), 202-226-8576

## FLOOR SCHEDULE:

Scheduled for consideration on September 5, 2018, under suspension of the rules, which requires 2/3 vote for passage.

### TOPLINE SUMMARY:

[H.R. 5274](#) would authorize the Department of State to establish an international exchange program to promote the utilization of sound election administration practices in the United States and foreign countries by bringing foreign professionals and volunteers who organize elections to the United States to learn about election procedures.

### COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing H.R. 5274 would require additional appropriations of \$1 million each year and cost \$4 million over the 2019-2023 period. Enacting H.R. 5274 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting H.R. 5274 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2029.

### CONSERVATIVE CONCERNS:

Some conservatives may be concerned that the bill does not set a dollar amount for the grant program, nor does it set a sunset for the program. Some conservatives may be concerned that the grant program would solely be at the discretion of the Secretary of State which would share “best practices” with state and local governments. Some conservatives may be concerned that the bill was not referred to the House Administration Committee nor the House Judiciary Committee, which have jurisdiction over domestic elections.

- **Expand the Size and Scope of the Federal Government?** Yes, the bill would authorize the Department of State to establish an international exchange program to promote the administration of elections.
- **Encroach into State or Local Authority?** Some conservatives may believe that the “the utilization of sound election administration practices in the United States” is an authority most appropriately reserved to state and local governments.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

H.R. 5274 would express a sense of Congress that recent elections globally have illustrated the urgent need for the promotion and exchange of international best election practices, particularly in the areas of cybersecurity, results transmission, transparency of electoral data, election dispute resolution, and the elimination of discriminatory registration practices and other electoral irregularities; the advancement of democracy worldwide promotes American interests, as stable democracies provide new market opportunities, improve global health outcomes, and promote economic freedom and

regional security; credible elections are the cornerstone of a healthy democracy and enable all persons to exercise their basic human right to have a say in how they are governed; inclusive elections strengthen the credibility and stability of democracies more broadly, as democratic institutions flourish when representative of all groups of society; at the heart of a strong election cycle is the professionalism of the election management body and an empowered civil society; and the development of local expertise via peer-to-peer learning and exchanges promotes the independence of such bodies from internal and external influence.

The bill would direct the Secretary of State to establish and administer a Global Electoral Exchange Program to promote the utilization of sound election administration practices in the United States and foreign countries to include the promotion and exchange of international best election practices, including in the areas of cybersecurity, results transmission, transparency of electoral data, election dispute resolution, the elimination of discriminatory registration practices and electoral irregularities, and other sound election administration practices.

The Secretary of State may, in consultation, as appropriate, with the United States Agency for International Development and regionally focused independent agencies, make grants to any United States-based 501(c)(3) organization with experience in comparative election systems or subject matter expertise in the areas of election administration or electoral integrity that submits an application in such form, and satisfying requirements, as the Secretary may require.

A specified organization may receive a grant: to design and implement programs bringing election administrators and officials, including government officials, polling workers, civil society representatives, members of the judiciary, and others who participate in the organization and administration of an election in a foreign country to the United States to study election procedures in the United States for educational purposes; to design and implement programs taking United States or another country's election administrators and officials, including government officials, polling workers, civil society representatives, members of the judiciary, and others who participate in the organization and administration of elections for public office in the United States or such other countries to foreign countries to study election procedures in such countries for educational purposes.

The Secretary of State shall coordinate with State and local governments in the United States, in addition to the governments of United States territories, to conduct exchanges and may enter into memorandums of understanding with such governments to guide participation by such governments in the Global Electoral Exchange Program. The program's activities may not include election observation to discuss the validity or legitimacy of an election; or facilitate any advocacy for a certain electoral result by a grantee when participating in the program.

A recipient of a grant under the program may use such grant for only the purpose for which such grant was awarded, unless otherwise authorized by the Secretary of State; and may not be duplicative of any other grants made under any other provision of law for similar or related purposes.

The Secretary of State shall maintain a publically available Department of State website detailing the Global Electoral Exchange Program, including a list of grants awarded under the Program and the amount awarded in each such grant. The bill would require the Department to notify Congress any time a grant is published as well as an annual report to Congress. The Secretary of State may provide recommendations for the improvement of the Global Electoral Exchange Program in a written report to Congress.

**COMMITTEE ACTION:**

H.R. 5274 was introduced on March 14, 2018, and was referred to the House Committee on Foreign Affairs. The bill was ordered to be reported by unanimous consent on [April 17, 2018](#).

**ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

**CONSTITUTIONAL AUTHORITY:**

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3: "To regulate Commerce with foreign Nations, and among the several States..."

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