

Calendar No. 367

118TH CONGRESS
2^D SESSION

S. 138

To amend the Tibetan Policy Act of 2002 to modify certain provisions
of that Act.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2023

Mr. MERKLEY (for himself, Mr. YOUNG, Mr. CARDIN, Mr. BLUMENTHAL, Mr. BRAUN, Mr. COONS, Mr. ROMNEY, Ms. SMITH, Mr. KAINE, Mr. RISCH, Mr. CRAPO, Mr. VAN HOLLEN, Ms. BUTLER, and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

MAY 7, 2024

Reported by Mr. CARDIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Tibetan Policy Act of 2002 to modify certain
provisions of that Act.

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.**

4 This Act may be cited as the “~~Promoting a Resolu-~~
5 ~~tion to the Tibet-China Conflict Act~~”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) It has been the long-standing policy of the
4 United States to encourage meaningful and direct
5 dialogue between People's Republic of China au-
6 thorities and the Dalai Lama or his representatives,
7 without preconditions, to seek a settlement that re-
8 solves differences.

9 (2) Ten rounds of dialogue held between 2002
10 and 2010 between the People's Republic of China
11 authorities and the 14th Dalai Lama's representa-
12 tives failed to produce a settlement that resolved dif-
13 ferences, and the two sides have not met since Janu-
14 ary 2010.

15 (3) An obstacle to further dialogue is that the
16 Government of the People's Republic of China con-
17 tinues to impose conditions on His Holiness the
18 Dalai Lama for a resumption of dialogue, including
19 a demand that he say that Tibet has been part of
20 China since ancient times, which the Dalai Lama
21 has refused to do because it is false.

22 (4) United States Government statements that
23 the United States considers Tibet a part of the Peo-
24 ple's Republic of China have reflected the reality on
25 the ground that the Government of the People's Re-

1 public of China has exerted effective control over
2 Tibet.

3 (5) The United States Government has never
4 taken the position that Tibet was a part of China
5 since ancient times or that the means by which the
6 Government of the People's Republic of China came
7 to exert effective control over Tibet was consistent
8 with international law or included the free or mean-
9 ingful consent of the Tibetan people.

10 (6) United States Government documents dated
11 January 9, 1919, June 1, 1944, June 17, 1949,
12 April 4, 1951, December 3, 1951, March 23, 1961,
13 and February 14, 1963, listed Tibet as an entity
14 separate and distinct from China.

15 (7) Article 1 of the International Covenant on
16 Civil and Political Rights and Article 1 the Inter-
17 national Covenant on Economic, Social and Cultural
18 Rights provide that "All peoples have the right of
19 self-determination. By virtue of that right they freely
20 determine their political status and freely pursue
21 their economic, social and cultural development."

22 (8) Under international law, including United
23 Nations General Assembly Resolution 2625, the
24 right to self-determination is the right of a people to
25 determine its own destiny and the exercise of this

1 right can result in a variety of outcomes ranging
2 from independence, federation, protection, some
3 form of autonomy or full integration within a State.

4 (9) United Nations General Assembly Resolu-
5 tion 1723, adopted on December 20, 1961, called for
6 the “cessation of practices which deprive the Tibetan
7 people of their fundamental human rights and free-
8 doms, including their right to self-determination.”.

9 (10) In a December 30, 1950, note to the Gov-
10 ernments of the United Kingdom and India, the De-
11 partment of State wrote that “The United States,
12 which was one of the early supporters of the prin-
13 ciple of self-determination of peoples, believes that
14 the Tibetan people has the same inherent right as
15 any other to have the determining voice in its polit-
16 ical destiny. It is believed further that, should devel-
17 opments warrant, consideration could be given to
18 recognition of Tibet as an independent State.”.

19 (11) In a June 2, 1951, telegram to the United
20 States Embassy in New Delhi, the State Depart-
21 ment wrote that Tibet should not “be compelled by
22 duress [to] accept [the] violation [of] its autonomy”
23 and that the Tibetan people should “enjoy certain
24 rights [of] self-determination, commensurate with

1 [the] autonomy Tibet has maintained since [the]
2 Chinese revolution.”.

3 (12) Secretary of State Antony Blinken, in a
4 May 26, 2022, speech entitled “The Administra-
5 tion’s Approach to the People’s Republic of China,”
6 said that the rules-based international order’s
7 “founding documents include the UN Charter and
8 the Universal Declaration of Human Rights, which
9 enshrined concepts like self-determination, sov-
10 ereignty, the peaceful settlement of disputes. These
11 are not Western constructs. They are reflections of
12 the world’s shared aspirations.”.

13 (13) The Tibetan Policy Act of 2002 (22
14 U.S.C. 6901 note), in directing the United States
15 Government “to promote the human rights and dis-
16 tinct religious, cultural, linguistic, and historical
17 identity of the Tibetan people” acknowledges that
18 the Tibetan people possess a distinct religious, cul-
19 tural, linguistic, and historical identity.

20 (14) Department of State reports on human
21 rights and religious freedom have consistently docu-
22 mented repression by the People’s Republic of China
23 authorities against Tibetans as well as acts of defi-
24 ance and resistance by Tibetan people against the
25 People’s Republic of China policies.

1 (15) Section 355 of the Foreign Relations Au-
2 thorization Act, Fiscal Years 1992 and 1993 (Public
3 Law 102-138; 105 Stat. 713) stated that it is the
4 sense of Congress that—

5 (A) “Tibet, including those areas incor-
6 porated into the Chinese provinces of Sichuan,
7 Yunnan, Gansu, and Qinghai, is an occupied
8 country under the established principles of
9 international law”;

10 (B) “Tibet’s true representatives are the
11 Dalai Lama and the Tibetan Government in
12 exile as recognized by the Tibetan people”;

13 (C) “Tibet has maintained throughout its
14 history a distinctive and sovereign national, cul-
15 tural, and religious identity separate from that
16 of China and, except during periods of illegal
17 Chinese occupation, has maintained a separate
18 and sovereign political and territorial identity”;

19 (D) “historical evidence of this separate
20 identity may be found in Chinese archival docu-
21 ments and traditional dynastic histories, in
22 United States recognition of Tibetan neutrality
23 during World War II, and in the fact that a
24 number of countries including the United
25 States, Mongolia, Bhutan, Sikkim, Nepal,

1 India, Japan, Great Britain, and Russia recog-
2 nized Tibet as an independent nation or dealt
3 with Tibet independently of any Chinese gov-
4 ernment”;

5 (E) “1949–1950, China launched an
6 armed invasion of Tibet in contravention of
7 international law”;

8 (F) “it is the policy of the United States
9 to oppose aggression and other illegal uses of
10 force by one country against the sovereignty of
11 another as a manner of acquiring territory, and
12 to condemn violations of international law, in-
13 cluding the illegal occupation of one country by
14 another”;

15 (G) “numerous United States declarations
16 since the Chinese invasion have recognized Ti-
17 bet’s right to self-determination and the ille-
18 gality of China’s occupation of Tibet.”.

19 (16) The joint explanatory statement to accom-
20 pany division K of the Consolidated Appropriations
21 Act for Fiscal Year 2023 (Public Law 117–328)
22 states that “Funds appropriated by the Act shall not
23 be used to produce or disseminate documents, maps,
24 or other materials that recognize or identify Tibet,
25 including the Tibet Autonomous Region and other

1 Tibetan autonomous counties and prefectures, as
2 part of the PRC until the Secretary of State reports
3 to the appropriate congressional committees that the
4 Government of the PRC has reached a final nego-
5 tiated agreement on Tibet with the Dalai Lama or
6 his representatives or with democratically elected
7 leaders of the Tibetan people.”.

8 **SEC. 3. STATEMENT OF POLICY.**

9 It is the policy of the United States that—

10 (1) the Tibetan people are a people entitled to
11 the right of self-determination under international
12 law, including the International Covenant on Civil
13 and Political Rights and the International Covenant
14 on Economic, Social and Cultural Rights and that
15 their ability to exercise this right is precluded by the
16 current policies of the People’s Republic of China;
17 and

18 (2) the conflict between Tibet and the People’s
19 Republic of China is unresolved, and that the legal
20 status of Tibet remains to be determined in accord-
21 ance with international law.

22 **SEC. 4. SENSE OF CONGRESS.**

23 It is the sense of Congress that—

24 (1) claims made by officials of the People’s Re-
25 public of China and the Chinese Communist Party

1 that Tibet has been a part of China since ancient
2 times are historically false;

3 ~~(2)~~ the Government of the People's Republic of
4 China has failed to meet the expectations of the
5 United States to engage in meaningful dialogue with
6 the Dalai Lama or his representatives toward a
7 peaceful settlement of the unresolved conflict be-
8 tween Tibet and the People's Republic of China; and

9 ~~(3)~~ United States public diplomacy efforts
10 should counter disinformation about Tibet from the
11 Government of the People's Republic of China and
12 the Chinese Communist Party, including
13 disinformation about the history of Tibet, the Ti-
14 betan people, and Tibetan institutions including that
15 of the Dalai Lama.

16 **SEC. 5. MODIFICATIONS TO THE TIBETAN POLICY ACT OF**
17 **2002.**

18 (a) TIBET NEGOTIATIONS.—Section 613(b) of the
19 Tibetan Policy Act of 2002 (22 U.S.C. 6901 note) is
20 amended—

21 (1) in paragraph (2), by striking “and” at the
22 end;

23 (2) in paragraph (3), by striking the period at
24 the end and inserting “; and”; and

25 (3) by adding at the end the following:

1 “~~(4)~~ efforts to counter disinformation about
 2 Tibet from the Government of the People’s Republic
 3 of China and the Chinese Communist Party, includ-
 4 ing disinformation about the history of Tibet, the
 5 Tibetan people, and Tibetan institutions including
 6 that of the Dalai Lama.”.

7 (b) UNITED STATES SPECIAL COORDINATOR FOR TI-
 8 BETAN ISSUES.—Section 621(d) of the Tibetan Policy Act
 9 of 2002 (22 U.S.C. 6901 note) is amended—

10 (1) by redesignating paragraphs (6), (7), and
 11 (8) as paragraphs (7), (8), and (9), respectively; and

12 (2) by inserting after paragraph (5) the fol-
 13 lowing:

14 “~~(6)~~ work to ensure that United States Govern-
 15 ment statements and documents counter, as appro-
 16 priate, disinformation about Tibet from the Govern-
 17 ment of the People’s Republic of China and the Chi-
 18 nese Communist Party, including disinformation
 19 about the history of Tibet, the Tibetan people, and
 20 Tibetan institutions including that of the Dalai
 21 Lama;”.

22 (c) GEOGRAPHIC DEFINITION OF TIBET.—The Ti-
 23 betan Policy Act of 2002 (22 U.S.C. 6901 note) is amend-
 24 ed by adding at the end the following:

1 **“SEC. 622. GEOGRAPHIC DEFINITION OF TIBET.**

2 “In this Act and in implementing policies relating to
3 the Tibetan people under other provisions of law, the term
4 ‘Tibet’, unless otherwise specified, means—

5 “(1) the Tibet Autonomous Region; and

6 “(2) the Tibetan areas of Qinghai, Sichuan,
7 Gansu, and Yunnan provinces.”.

8 **SEC. 6. AVAILABILITY OF AMOUNTS TO COUNTER**
9 **DISINFORMATION ABOUT TIBET.**

10 Amounts authorized to be appropriated or otherwise
11 made available to carry out section 201(e) of the Asia Re-
12 assurance Initiative Act of 2018 (~~22 U.S.C. 2292~~ et seq.)
13 are authorized to be made available to counter
14 disinformation about Tibet from the Government of the
15 People’s Republic of China and the Chinese Communist
16 Party, including disinformation about the history of Tibet,
17 the Tibetan people, and Tibetan institutions including that
18 of the Dalai Lama.

19 **SECTION 1. SHORT TITLE.**

20 *This Act may be cited as the “Promoting a Resolution*
21 *to the Tibet-China Dispute Act”.*

22 **SEC. 2. FINDINGS.**

23 *Congress finds the following:*

24 (1) *It has been the long-standing policy of the*
25 *United States to encourage meaningful and direct*
26 *dialogue between representatives of the People’s Re-*

1 *public of China and the Dalai Lama, his or her rep-*
2 *resentatives, or democratically elected leaders of the*
3 *Tibetan community, without preconditions, to seek a*
4 *settlement that resolves differences.*

5 *(2) Nine rounds of dialogue held between 2002*
6 *and 2010 between the People’s Republic of China au-*
7 *thorities and the 14th Dalai Lama’s representatives*
8 *failed to produce a settlement that resolved differences,*
9 *and the two sides have held no formal dialogue since*
10 *January 2010.*

11 *(3) An obstacle to further dialogue is that the*
12 *Government of the People’s Republic of China con-*
13 *tinues to impose conditions on substantive dialogue*
14 *with the Dalai Lama, including a demand that he*
15 *say that Tibet has been part of China since ancient*
16 *times, which the Dalai Lama has refused to do be-*
17 *cause it is inaccurate.*

18 *(4) Article 1 of the International Covenant on*
19 *Civil and Political Rights and Article 1 of the Inter-*
20 *national Covenant on Economic, Social and Cultural*
21 *Rights provide, “All peoples have the right of self-de-*
22 *termination. By virtue of that right they freely deter-*
23 *mine their political status and freely pursue their eco-*
24 *nomi, social and cultural development.”.*

1 (5) *The United States Government has never*
2 *taken the position that Tibet was a part of China*
3 *since ancient times.*

4 (6) *China signed the International Covenant on*
5 *Civil and Political Rights on October 5, 1998, and*
6 *ratified the International Covenant on Economic, So-*
7 *cial and Cultural Rights on March 27, 2001.*

8 (7) *Under international law, including United*
9 *Nations General Assembly Resolution 2625, the right*
10 *to self-determination is the right of a people to deter-*
11 *mine its own destiny and the exercise of this right*
12 *can result in a variety of outcomes ranging from*
13 *independence, federation, protection, some form of au-*
14 *tonomy, or full integration within a State.*

15 (8) *United Nations General Assembly Resolution*
16 *1723, adopted on December 20, 1961, called for the*
17 *“cessation of practices which deprive the Tibetan peo-*
18 *ple of their fundamental human rights and freedoms,*
19 *including their right to self-determination”.*

20 (9) *Secretary of State Antony Blinken, in a May*
21 *26, 2022, speech entitled “The Administration’s Ap-*
22 *proach to the People’s Republic of China”, said that*
23 *the rules-based international order’s “founding docu-*
24 *ments include the UN Charter and the Universal Dec-*
25 *laration of Human Rights, which enshrined concepts*

1 *like self-determination, sovereignty, the peaceful settle-*
2 *ment of disputes. These are not Western constructs.*
3 *They are reflections of the world’s shared aspira-*
4 *tions.”.*

5 *(10) The Tibetan Policy Act of 2002 (22 U.S.C.*
6 *6901 note), as amended by the Tibetan Policy and*
7 *Support Act of 2020 (subtitle E of title III of division*
8 *FF of Public Law 116–260), in directing the United*
9 *States Government “to promote the human rights and*
10 *distinct religious, cultural, linguistic, and historical*
11 *identity of the Tibetan people” acknowledges that the*
12 *Tibetan people possess a distinct religious, cultural,*
13 *linguistic, and historical identity.*

14 *(11) Department of State reports on human*
15 *rights and religious freedom have consistently docu-*
16 *mented systematic repression by the authorities of the*
17 *People’s Republic of China against Tibetans as well*
18 *as acts of defiance and resistance by Tibetan people*
19 *against the People’s Republic of China policies.*

20 *(12) The Tibetan Policy Act of 2002 (22 U.S.C.*
21 *6901 note) specifies that the central objective of the*
22 *United States Special Coordinator for Tibetan Issues*
23 *is to promote substantive dialogue between the Gov-*
24 *ernment of the People’s Republic of China and the*

1 *Dalai Lama, his or her representatives, or democrat-*
2 *ically elected leaders of the Tibetan community.*

3 **SEC. 3. STATEMENT OF POLICY.**

4 *It is the policy of the United States—*

5 *(1) that the Tibetan people are a people with a*
6 *distinct religious, cultural, linguistic, and historical*
7 *identity;*

8 *(2) that the dispute between Tibet and the Peo-*
9 *ple's Republic of China must be resolved in accord-*
10 *ance with international law, including the United*
11 *Nations Charter, by peaceful means, through dialogue*
12 *without preconditions;*

13 *(3) that the People's Republic of China should*
14 *cease its propagation of disinformation about the his-*
15 *tory of Tibet, the Tibetan people, and Tibetan institu-*
16 *tions, including that of the Dalai Lama;*

17 *(4) to encourage the People's Republic of China*
18 *to ratify the International Covenant on Civil and Po-*
19 *litical Rights and uphold all its commitments under*
20 *the International Covenant on Economic, Social and*
21 *Cultural Rights; and*

22 *(5) in accordance with the Tibetan Policy and*
23 *Support Act of 2020—*

24 *(A) to promote substantive dialogue without*
25 *pre-conditions, between the Government of the*

1 *People’s Republic of China and the Dalai Lama,*
 2 *his or her representatives, or democratically*
 3 *elected leaders of the Tibetan community, or ex-*
 4 *plore activities to improve prospects for dialogue,*
 5 *that leads to a negotiated agreement on Tibet;*

6 *(B) to coordinate with other governments in*
 7 *multilateral efforts towards the goal of a nego-*
 8 *tiated agreement on Tibet; and*

9 *(C) to encourage the Government of the Peo-*
 10 *ple’s Republic of China to address the aspira-*
 11 *tions of the Tibetan people with regard to their*
 12 *distinct historical, cultural, religious, and lin-*
 13 *guistic identity.*

14 **SEC. 4. SENSE OF CONGRESS.**

15 *It is the sense of Congress that—*

16 *(1) claims made by officials of the People’s Re-*
 17 *public of China and the Chinese Communist Party*
 18 *that Tibet has been a part of China since ancient*
 19 *times are historically inaccurate;*

20 *(2) the current policies of the People’s Republic*
 21 *of China are systematically suppressing the ability of*
 22 *the Tibetan people to preserve their religion, culture,*
 23 *language, history, way of life, and environment;*

24 *(3) the Government of the People’s Republic of*
 25 *China is failing to meet the expectations of the United*

1 *States to engage in meaningful dialogue with the*
 2 *Dalai Lama or his representatives or to reach a nego-*
 3 *tiated resolution that includes the aspirations of the*
 4 *Tibetan people; and*

5 *(4) United States public diplomacy efforts should*
 6 *counter disinformation about Tibet from the Govern-*
 7 *ment of the People’s Republic of China and the Chi-*
 8 *nese Communist Party, including disinformation*
 9 *about the history of Tibet, the Tibetan people, and Ti-*
 10 *betan institutions, including that of the Dalai Lama.*

11 **SEC. 5. MODIFICATIONS TO THE TIBETAN POLICY ACT OF**
 12 **2002.**

13 *(a) TIBET NEGOTIATIONS.—Section 613(b) of the Ti-*
 14 *betan Policy Act of 2002 (22 U.S.C. 6901 note) is amend-*
 15 *ed—*

16 *(1) in paragraph (2), by striking “; and” and*
 17 *inserting a semicolon;*

18 *(2) in paragraph (3), by striking the period at*
 19 *the end and inserting “; and”; and*

20 *(3) by adding at the end the following new para-*
 21 *graph:*

22 *“(4) efforts to counter disinformation about Tibet*
 23 *from the Government of the People’s Republic of*
 24 *China and the Chinese Communist Party, including*
 25 *disinformation about the history of Tibet, the Tibetan*

1 *people, and Tibetan institutions, including that of the*
 2 *Dalai Lama.”.*

3 (b) *UNITED STATES SPECIAL COORDINATOR FOR TI-*
 4 *BETAN ISSUES.—Section 621(d) of the Tibetan Policy Act*
 5 *of 2002 (22 U.S.C. 6901 note) is amended—*

6 (1) *by redesignating paragraphs (6), (7), and (8)*
 7 *as paragraphs (7), (8), and (9), respectively; and*

8 (2) *by inserting after paragraph (5) the fol-*
 9 *lowing new paragraph:*

10 “(6) *work with relevant bureaus of the Depart-*
 11 *ment of State and the United States Agency for Inter-*
 12 *national Development to ensure that United States*
 13 *Government statements and documents counter, as*
 14 *appropriate, disinformation about Tibet from the*
 15 *Government of the People’s Republic of China and the*
 16 *Chinese Communist Party, including disinformation*
 17 *about the history of Tibet, the Tibetan people, and Ti-*
 18 *betan institutions, including that of the Dalai*
 19 *Lama;”.*

20 (c) *DEFINITION.—The Tibetan Policy Act of 2002 (22*
 21 *U.S.C. 6901 note) is amended by adding at the end the fol-*
 22 *lowing new section:*

23 **“SEC. 622. DEFINITION.**

24 *“For purposes of this Act, the term ‘Tibet’ refers to*
 25 *the following areas:*

1 “(1) *The Tibet Autonomous Region.*

2 “(2) *The areas that the Government of the Peo-*
3 *ple’s Republic of China designated as Tibetan Auton-*
4 *omous, as of 2018, as follows:*

5 “(A) *Kanlho (Gannan) Tibetan Autono-*
6 *mous Prefecture, and Pari (Tianzhu) Tibetan*
7 *Autonomous County located in Gansu Province.*

8 “(B) *Golog (Guoluo) Tibetan Autonomous*
9 *Prefecture, Malho (Huangnan) Tibetan Autono-*
10 *mous Prefecture, Tsojang (Haibei) Tibetan Au-*
11 *tonomous Prefecture, Tsolho (Hainan) Tibetan*
12 *Autonomous Prefecture, Tsonub (Haixi) Mongo-*
13 *lian and Tibetan Autonomous Prefecture, and*
14 *Yulshul (Yushu) Tibetan Autonomous Prefecture,*
15 *located in Qinghai Province.*

16 “(C) *Garze (Ganzi) Tibetan Autonomous*
17 *Prefecture, Ngawa (Aba) Tibetan and Qiang Au-*
18 *tonomous Prefecture, and Muli (Mili) Tibetan*
19 *Autonomous County, located in Sichuan Prov-*
20 *ince.*

21 “(D) *Dechen (Diqing) Tibetan Autonomous*
22 *Prefecture, located in Yunnan Province.”.*

1 **SEC. 6. AVAILABILITY OF AMOUNTS TO COUNTER**
2 **DISINFORMATION ABOUT TIBET.**

3 *Amounts authorized to be appropriated or otherwise*
4 *made available under section 346 of the Tibetan Policy and*
5 *Support Act of 2020 (subtitle E of title III of division FF*
6 *of Public Law 116–260) are authorized to be made available*
7 *to counter disinformation about Tibet from the Government*
8 *of the People’s Republic of China and the Chinese Com-*
9 *munist Party, including disinformation about the history*
10 *of Tibet, the Tibetan people, and Tibetan institutions, in-*
11 *cluding that of the Dalai Lama.*

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To amend the Tibetan Policy Act of 2002 to modify certain provisions of that Act.

MAY 7, 2024

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