

Calendar No. 147

112TH CONGRESS
1ST SESSION**S. 954****[Report No. 112-67]**

To promote the strengthening of the Haitian private sector.

IN THE SENATE OF THE UNITED STATES

MAY 11, 2011

Mr. LUGAR (for himself, Mr. DURBIN, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

AUGUST 30 (legislative day, AUGUST 2), 2011

Reported under authority of the order of the Senate of August 2, 2011, by
Mr. KERRY, without amendment

A BILL

To promote the strengthening of the Haitian private sector.

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 “Haitian-American En-
5 terprise Fund Act”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to promote the Haitian private sector, in-
2 cluding small businesses, the agricultural sector, and
3 joint ventures with United States and Haitian par-
4 ticipants; and

5 (2) to promote policies and practices conducive
6 to the private sector in Haiti through loans, grants,
7 equity investments, feasibility studies, technical as-
8 sistance, training, insurance, guarantees, and other
9 measures.

10 **SEC. 3. HAITIAN-AMERICAN ENTERPRISE FUND.**

11 (a) DESIGNATION.—After consultation with the lead-
12 ership of each House of Congress, the President may des-
13 ignate a private, nonprofit organization, which has been
14 established for the purposes specified in section 2 and
15 which shall be known as the “Haitian-American Enter-
16 prise Fund”, to receive financial assistance and support
17 made available under this Act.

18 (b) BOARD OF DIRECTORS.—

19 (1) APPOINTMENT.—The Haitian-American
20 Enterprise Fund shall be governed by a Board of
21 Directors, which shall be comprised of 6 private citi-
22 zens of the United States or Haiti, appointed by the
23 President, of which not more than 2 may be citizens
24 of Haiti.

1 (2) QUALIFICATIONS.—Member of the Board of
2 Directors shall be selected from among people who
3 have had successful business careers in private eq-
4 uity, banking, or finance that is similar to the expe-
5 rience of individuals who previously served on the
6 Board of Directors of a successful Enterprise Fund
7 established by the United States Government on or
8 after January 1, 1990.

9 (3) ADDITIONAL BOARD MEMBERS.—Upon the
10 recommendation of the Board of Directors, the
11 President may appoint up to 2 additional members
12 to the Board (in addition to the Directors appointed
13 pursuant to paragraph (1)), of which not more than
14 1 may be a citizen of Haiti.

15 (c) GRANTS.—

16 (1) IN GENERAL.—Amounts appropriated to
17 the President pursuant to section 7 shall be granted
18 to the Haitian-American Enterprise Fund by the
19 United States Agency for International Development
20 to enable the Fund to carry out the purposes speci-
21 fied in section 2 and for the administrative expenses
22 of the Fund.

23 (2) ELIGIBLE PROGRAMS AND PROJECTS.—
24 Grants awarded under this section may only be used

1 for programs and projects that support the purposes
2 set forth in section 2.

3 (3) COMPLIANCE REQUIREMENT.—

4 (A) IN GENERAL.—Grants may not be
5 awarded to the Haitian-American Enterprise
6 Fund under this section unless the Fund agrees
7 to comply with the requirements under this sec-
8 tion.

9 (B) GRANT AGREEMENT.—The grant
10 agreement between the United States Agency
11 for International Development (referred to in
12 this section as “USAID”) and the Haitian-
13 American Enterprise Fund shall state that the
14 Fund shall end its reinvestment cycle not later
15 than December 31, 2021, unless the USAID
16 Administrator determines, after consultation
17 with the appropriate congressional committees,
18 that the Fund should be extended.

19 (C) PREVENTION OF MONEY LAUNDERING
20 AND TERRORIST FINANCING.—The grant agree-
21 ment between USAID and the Haitian-Amer-
22 ican Enterprise Fund shall state that the Fund
23 shall comply with procedures specified by the
24 Secretary of State to ensure that grant funds
25 are not provided by the Fund to or through—

1 (i) any individual, private or govern-
2 ment entity, or educational institution that
3 advocates, plans, sponsors, engages in, or
4 has engaged in, money laundering or ter-
5 rorist activity; or

6 (ii) any private entity or educational
7 institution if a principal officer of its gov-
8 erning board is—

9 (I) involved in or advocating
10 money laundering or terrorist activity;
11 or

12 (II) a member of a designated
13 foreign terrorist organization.

14 (D) DISPOSITION OF ASSETS.—All assets
15 of the Haitian-American Enterprise Fund on
16 the date on which the Fund is dissolved shall
17 be returned to the Treasury of the United
18 States for the purpose of deficit reduction.

19 (d) NOTIFICATION.—

20 (1) IN GENERAL.—Not later than 15 days be-
21 fore designating an organization to operate as the
22 Haitian-American Enterprise Fund pursuant to sub-
23 section (a), the President shall provide the informa-
24 tion described in paragraph (2) to the Chairman and

1 Ranking Member of the appropriate congressional
2 committees.

3 (2) INFORMATION.—The information described
4 in this paragraph is—

5 (A) the identity of the organization to be
6 designated to operate as the Haitian-American
7 Enterprise Fund pursuant to subsection (a);

8 (B) the names and qualifications of the in-
9 dividuals who will comprise the Initial Board;

10 (C) the procedures referred to in sub-
11 section (c)(3)(C) that will apply to the Haitian-
12 American Enterprise Fund for purposes of cur-
13 tailing money laundering and terrorist financing
14 activities; and

15 (D) the size of the financial grant that
16 shall be made available to the Haitian-American
17 Enterprise Fund.

18 (e) REPORTS.—

19 (1) ADMINISTRATIVE EXPENSES.—Not later
20 than 1 year after the date of the enactment of this
21 Act, and annually thereafter until the Fund is dis-
22 solved, the Fund shall submit a report to the appro-
23 priate congressional committees that details the ad-
24 ministrative expenses of the Fund.

1 (2) GAO REPORT.—Not later than 3 years
2 after the date of the enactment of this Act, and
3 every 3 years thereafter until the Fund is dissolved,
4 the Comptroller General of the United States shall
5 submit a report to the appropriate congressional
6 committees that assesses the activities of the Fund
7 in—

8 (A) achieving the stated goals of promoting
9 private sector investment and employment in
10 Haiti; and

11 (B) identifying those institutional or regu-
12 latory constraints that inhibit a more effective
13 application of Fund resources.

14 (f) DEFINED TERM.—In this section, the term “ap-
15 propriate congressional committees” means—

16 (1) the Committee on Foreign Relations of the
17 Senate;

18 (2) the Committee on Appropriations of the
19 Senate;

20 (3) the Committee on Foreign Affairs of the
21 House of Representatives; and

22 (4) the Committee on Appropriations of the
23 House of Representatives.

1 **SEC. 4. OPERATION PROVISIONS.**

2 (a) **APPLICABLE PROVISIONS.**—Subsections (d)(5),
3 (g), (h), (i), (k), (l), (m), (n), (o), and (p) of section 201
4 of the Support for East European Democracy (SEED)
5 Act of 1989 (Public Law 101–179; 22 U.S.C. 5421) shall
6 apply with respect to the Haitian-American Enterprise
7 Fund in the same manner as such provisions apply to En-
8 terprise Funds designated pursuant to subsection (d) of
9 such section.

10 (b) **REINVESTMENT.**—Returns on investments of the
11 Haitian-American Enterprise Fund and other payments to
12 the Fund may be reinvested in projects carried out by the
13 Fund without further appropriation by Congress.

14 **SEC. 5. BEST PRACTICES AND PROCEDURES.**

15 To the maximum extent practicable, the Board of Di-
16 rectors of the Haitian-American Enterprise Fund should
17 adopt the best practices and procedures used by Enter-
18 prise Funds, including those for which funding has been
19 made available pursuant to section 201 of the Support for
20 East European Democracy (SEED) Act of 1989 (Public
21 Law 101–179; 22 U.S.C. 5421).

22 **SEC. 6. EXPERIENCE OF OTHER ENTERPRISE FUNDS.**

23 In implementing this Act, the President shall ensure
24 that the Articles of Incorporation of the Haitian-American
25 Enterprise Fund (including provisions specifying the re-
26 sponsibilities of the Board of Directors of the Fund), the

1 terms of United States Government grant agreements
2 with the Fund, and United States Government oversight
3 of the Fund are, to the maximum extent practicable, con-
4 sistent with the Articles of Incorporation of, the terms of
5 grant agreements with, and the oversight of the Enter-
6 prise Funds established pursuant to section 201 of the
7 Support for East European Democracy (SEED) Act of
8 1989 (22 U.S.C. 5421) and comparable provisions of law.

9 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

10 (a) IN GENERAL.—There are authorized to be appro-
11 priated to the President such sums as may be necessary
12 to provide funding for grants to the Haitian-American En-
13 terprise Fund, which shall be used for the purposes speci-
14 fied in section 2.

15 (b) AVAILABILITY OF FUNDS.—Amounts appro-
16 priated pursuant to subsection (a) shall remain available
17 until expended.

18 (c) NONAPPLICABILITY OF OTHER LAWS.—Notwith-
19 standing any other provision of law, amounts appropriated
20 pursuant to subsection (a) may be used to carry out this
21 Act.

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