

Calendar No. 202

113TH CONGRESS
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S. 1545

[Report No. 113–112]

To extend authorities related to global HIV/AIDS and to promote oversight of United States programs.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2013

Mr. MENENDEZ (for himself and Mr. CORKER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

OCTOBER 2, 2013

Reported by Mr. MENENDEZ, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To extend authorities related to global HIV/AIDS and to promote oversight of United States programs.

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 “PEPFAR Stewardship
5 and Oversight Act of 2013”.

1 **SEC. 2. INSPECTOR GENERAL OVERSIGHT.**

2 Section 101(f)(1) of the United States Leadership
3 Against HIV/AIDS, Tuberculosis, and Malaria Act of
4 2003 (22 U.S.C. 7611(f)(1)) is amended—

5 (1) in subparagraph (A), by striking “5 coordi-
6 nated annual plans for oversight activity in each of
7 the fiscal years 2009 through 2013” and inserting
8 “coordinated annual plans for oversight activity in
9 each of the fiscal years 2009 through 2018”; and

10 (2) in subparagraph (C)—

11 (A) in clause (ii)—

12 (i) in the heading, by striking “SUB-
13 SEQUENT” and inserting “2010 THROUGH
14 2013”; and

15 (ii) by striking “the last four plans”
16 and inserting “the plans for fiscal years
17 2010 through 2013”; and

18 (B) by adding at the end the following new
19 clause:

20 “(iii) 2014 PLAN.—The plan devel-
21 oped under subparagraph (A) for fiscal
22 year 2014 shall be completed not later
23 than 60 days after the date of the enact-
24 ment of the PEPFAR Stewardship and
25 Oversight Act of 2013.

1 “(iv) SUBSEQUENT PLANS.—Each of
 2 the last four plans developed under sub-
 3 paragraph (A) shall be completed not later
 4 than 30 days before each of the fiscal
 5 years 2015 through 2018, respectively.”.

6 **SEC. 3. ANNUAL TREATMENT STUDY.**

7 (a) ANNUAL STUDY; MESSAGE.—Section 101(g) of
 8 the United States Leadership Against HIV/AIDS, Tuber-
 9 culosis, and Malaria Act of 2003 (22 U.S.C. 7611(g)) is
 10 amended—

11 (1) in paragraph (1), by striking “through Sep-
 12 tember 30, 2013” and inserting “through September
 13 30, 2019”;

14 (2) by redesignating paragraph (2) as para-
 15 graph (3);

16 (3) by inserting after paragraph (1) the fol-
 17 lowing new paragraph:

18 “(2) 2013 THROUGH 2018 STUDIES.—The stud-
 19 ies required to be submitted by September 30, 2014,
 20 and annually thereafter through September 30,
 21 2018, shall include, in addition to the elements set
 22 forth under paragraph (1), the following elements:

23 “(A) A plan for conducting cost studies of
 24 United States assistance under section 104A of
 25 the Foreign Assistance Act of 1961 (22 U.S.C.

1 2151b-2) in partner countries, taking into ac-
 2 count the goal for more systematic collection of
 3 data, as well as the demands of such analysis
 4 on available human and fiscal resources.

5 “(B) A comprehensive and harmonized ex-
 6 penditure analysis by partner country, includ-
 7 ing—

8 “(i) an analysis of Global Fund and
 9 national partner spending and comparable
 10 data across United States, Global Fund,
 11 and national partner spending; or

12 “(ii) where providing such comparable
 13 data is not currently practicable, an expla-
 14 nation of why it is not currently prac-
 15 ticable, and when it will be practicable.”;
 16 and

17 (4) by adding at the end the following new
 18 paragraph:

19 “(4) PARTNER COUNTRY DEFINED.—In this
 20 subsection, the term ‘partner country’ means a coun-
 21 try with a minimum United States Government in-
 22 vestment of HIV/AIDS assistance of at least
 23 \$5,000,000 ~~annually~~ *in the prior fiscal year.*”.

1 **SEC. 4. PARTICIPATION IN THE GLOBAL FUND TO FIGHT**
2 **AIDS, TUBERCULOSIS, AND MALARIA.**

3 (a) LIMITATION.—Section 202(d)(4) of the United
4 States Leadership Against HIV/AIDS, Tuberculosis, and
5 Malaria Act of 2003 (22 U.S.C. 7622(d)(4)) is amended—

6 (1) in subparagraph (A)—

7 (A) in clause (i), by striking “2013” and
8 inserting “2018”;

9 (B) in clause (ii)—

10 (i) by striking “2013” and inserting
11 “2018”; and

12 (ii) by striking the last two sentences;

13 and

14 (C) in clause (vi), by striking “2013” and
15 inserting “2018”; and

16 (2) in subparagraph (B)—

17 (A) by striking “under this subsection”
18 each place it appears;

19 (B) in clause (ii), by striking “pursuant to
20 the authorization of appropriations under sec-
21 tion 401” and inserting “to carry out section
22 104A of the Foreign Assistance Act of 1961”;
23 and

24 (C) in clause (iv), by striking “2013” and
25 inserting “2018”.

1 (b) WITHHOLDING FUNDS.—Section 202(d)(5) of the
2 United States Leadership Against HIV/AIDS, Tuber-
3 culosis, and Malaria Act of 2003 (22 U.S.C. 7622(d)) is
4 amended by—

5 (1) in paragraph (5)—

6 (A) by striking “2013” and inserting
7 “2018”;

8 (B) in subparagraph (C)—

9 (i) by inserting “in an open, machine
10 readable format” after “site”;

11 (ii) by amending clause (v) to read as
12 follows:

13 “(v) a regular collection, analysis, and
14 reporting of performance data and funding
15 of grants of the Global Fund, which covers
16 all principal recipients and all subrecipi-
17 ents on the fiscal cycle of each grant, and
18 includes the distribution of resources, by
19 grant and principal recipient and sub-
20 recipient, for prevention, care, treatment,
21 drugs, and commodities purchase, and
22 other purposes as practicable;”;

23 (C) in subparagraph (D)(ii), by inserting
24 “, in an open, machine readable format,” after
25 “audits”;

1 (D) in subparagraph (E), by inserting “,
2 in an open, machine readable format,” after
3 “publicly”;

4 (E) in subparagraph (F)—

5 (i) in clause (i), by striking “; and”
6 and inserting a semicolon; and

7 (ii) by striking clause (ii) and insert-
8 ing the following new clauses:

9 “(ii) all principal recipients and sub-
10 recipients and the amount of funds dis-
11 bursed to each principal recipient and sub-
12 recipient on the fiscal cycle of the grant;

13 “(iii) expenditure data—

14 “(I) tracked by principal recipi-
15 ents and subrecipients ~~by prevention,~~
16 ~~care, and treatment as practicable by~~
17 *program area, where practicable, pre-*
18 *vention, care, and treatment* and re-
19 ported in a format that allows com-
20 parison with other funding streams in
21 each country; or

22 “(II) if such expenditure data is
23 not available, outlay or disbursement
24 data, and an explanation of progress

1 made toward providing such expendi-
2 ture data; and

3 “(iv) high-quality grant performance
4 evaluations measuring inputs, outputs, and
5 outcomes, as appropriate, with the goal of
6 achieving outcome reporting;”; and

7 (F) by amending subparagraph (G) to read
8 as follows:

9 “(G) has published an annual report on a
10 publicly available Web site in an open, machine
11 readable format, that includes—

12 “(i) a list of all countries imposing
13 import duties and internal taxes on any
14 goods or services financed by the Global
15 Fund;

16 “(ii) a description of the types of
17 goods or services on which the import du-
18 ties and internal taxes are levied;

19 “(iii) the total cost of the import du-
20 ties and internal taxes;

21 “(iv) recovered import duties or inter-
22 nal taxes; and

23 “(v) the status of country status-
24 agreements;”.

1 **SEC. 5. ANNUAL REPORT.**

2 Section 104A(f) of the Foreign Assistance Act of
3 1961 (22 U.S.C. 2151b–2(f)) is amended to read as fol-
4 lows:

5 “(f) ANNUAL REPORT.—

6 “(1) IN GENERAL.—Not later than February
7 15, 2014, and annually thereafter, the President
8 shall submit to the Committee on Foreign Relations
9 of the Senate and the Committee on Foreign Affairs
10 of the House of Representatives a report in an open,
11 machine readable format, on the implementation of
12 this section for the prior fiscal year.

13 “(2) *REPORT DUE IN 2014.*—*The report due not*
14 *later than February 15, 2014, shall include the ele-*
15 *ments required by law prior to the enactment of the*
16 *PEPFAR Stewardship and Oversight Act of 2013.*

17 “~~(2)~~(3) REPORT ELEMENTS.—Each report sub-
18 mitted after February 15, 2014, shall include the
19 following:

20 “(A) A description based on internationally
21 available data, and where practicable high-qual-
22 ity country-based data, of the total global bur-
23 den and need for HIV/AIDS prevention, treat-
24 ment, and care, including—

25 “(i) estimates by partner country of
26 the global burden and need; and

1 “(ii) HIV incidence, prevalence, and
2 AIDS deaths for the reporting period.

3 “(B) Reporting on annual targets across
4 prevention, treatment, and care interventions in
5 partner countries, including—

6 “(i) a description of how those targets
7 are designed to—

8 “(I) ensure that the annual in-
9 crease in new patients on
10 antiretroviral treatment exceeds the
11 number of annual new HIV infections;

12 “(II) reduce the number of new
13 HIV infections below the number of
14 deaths among persons infected with
15 HIV; and

16 “(III) achieve an AIDS-free gen-
17 eration;

18 “(ii) national targets across preven-
19 tion, treatment, and care that are—

20 “(I) established by partner coun-
21 tries; or

22 “(II) where such national partner
23 country-developed targets are unavail-
24 able, a description of progress towards

1 developing national partner country
2 targets; and

3 “(iii) bilateral programmatic targets
4 across prevention, treatment, and care, in-
5 cluding—

6 “(I) the number of adults and
7 children to be directly supported on
8 HIV treatment under United States-
9 funded programs;

10 “(II) the number of adults and
11 children to be otherwise supported on
12 HIV treatment under United States-
13 funded programs; and

14 “(III) other programmatic tar-
15 gets for activities directly and other-
16 wise supported by United States-fund-
17 ed programs.

18 “(C) A description, by *partner* country, of
19 HIV/AIDS funding from all sources, including
20 funding levels from partner countries, other do-
21 nors, and the private sector, as practicable.

22 “(D) A description of how United States-
23 funded programs, in conjunction with the Glob-
24 al Fund, other donors, and partner countries,

1 together set targets, measure progress, and
2 achieve positive outcomes in partner countries.

3 “(E) An annual assessment of outcome in-
4 dicator development, dissemination, and per-
5 formance for programs supported under this
6 section, including ongoing corrective actions to
7 improve reporting.

8 “(F) A description and explanation of
9 changes in related guidance or policies related
10 to implementation of programs supported under
11 this section.

12 “(G) An assessment and quantification of
13 progress over the reporting period toward
14 achieving the targets set forth in subparagraph
15 (B), including—

16 “(i) the number, by *partner* country,
17 of persons on HIV treatment, including
18 specifically—

19 “(I) the number of adults and
20 children on HIV treatment directly
21 supported by United States-funded
22 programs; and

23 “(II) the number of adults and
24 children on HIV treatment otherwise

1 supported by United States-funded
2 programs;

3 “(ii) HIV treatment coverage rates by
4 *partner* country;

5 “(iii) the net increase in persons on
6 HIV treatment by *partner* country;

7 “(iv) new infections of HIV by *part-*
8 *ner* country;

9 “(v) the number of HIV infections
10 averted;

11 “(vi) antiretroviral treatment program
12 retention rates by *partner* country, includ-
13 ing—

14 “(I) performance against annual
15 targets for program retention; and

16 “(II) the retention rate of per-
17 sons on HIV treatment directly sup-
18 ported by United States-funded pro-
19 grams; and

20 “(vii) a description of supportive care;
21 ~~including management of co-morbidities.~~

22 “(H) A description of ~~national~~ *partner*
23 *country* and United States-funded HIV/AIDS
24 prevention programs and policies, including—

1 “(i) an assessment by country of
2 progress towards targets set forth in sub-
3 paragraph (B), with a detailed description
4 of the metrics used to assess—

5 “(I) programs to prevent mother
6 to child transmission of HIV/AIDS,
7 including coverage rates;

8 “(II) programs to provide or pro-
9 mote voluntary medical male circumci-
10 sion, including coverage rates;

11 “(III) programs for behavior-
12 change; and

13 “(IV) other programmatic activi-
14 ties to prevent the transmission of
15 HIV;

16 “(ii) antiretroviral treatment as pre-
17 vention; and

18 “(iii) a description of any new pre-
19 ventative interventions or methodologies.

20 “(I) A description of the goals, scope, and
21 measurement of program efforts aimed at
22 women and girls.

23 “(J) A description of the goals, scope, and
24 measurement of program efforts aimed at or-
25 phans, vulnerable children, and youth.

1 “(K) A description of the indicators and
2 milestones used to assess effective, strategic,
3 and appropriately timed country ownership, in-
4 cluding—

5 “(i) an explanation of the metrics
6 used to determine whether the pace of any
7 transition to such ownership is appropriate
8 for that country, given that country’s level
9 of readiness for such transition;

10 “(ii) an analysis of governmental and
11 local nongovernmental capacity to sustain
12 positive outcomes;

13 “(iii) a description of measures taken
14 to improve partner country capacity to sus-
15 tain positive outcomes where needed; and

16 “(iv) for countries undergoing a tran-
17 sition to greater country ownership, a de-
18 scription of strategies to assess and miti-
19 gate programmatic and financial risk and
20 to ensure continued quality of care for es-
21 sential services.

22 “(L) A description, globally and by *partner*
23 country, of specific efforts to achieve and
24 incentivize greater programmatic and cost effec-
25 tiveness, including—

1 “(i) progress toward establishing com-
2 mon economic metrics across prevention,
3 care and treatment with partner countries
4 and the Global Fund;

5 “(ii) average costs, by country and by
6 core intervention;

7 “(iii) expenditure reporting in all pro-
8 gram areas, supplemented with targeted
9 analyses of the cost-effectiveness of specific
10 interventions; and

11 “(iv) import duties and internal taxes
12 imposed on program commodities and serv-
13 ices, by country.

14 “(M) A description of partnership frame-
15 work agreements with countries, and regions
16 where applicable, including—

17 “(i) the objectives and structure of
18 partnership framework agreements with
19 countries, including—

20 “(I) how these agreements are
21 aligned with national HIV/AIDS plans
22 and public health strategies and com-
23 mitments of such countries; and

24 “(II) how these agreements in-
25 corporate a role for civil society; and

1 “(ii) a description of what has been
2 learned in advancing partnership frame-
3 work agreements with countries, and re-
4 gions as applicable, in terms of improved
5 coordination and collaboration, definition
6 of clear roles and responsibilities of partici-
7 pants and signers, and implications for
8 how to further strengthen these agree-
9 ments with mutually accountable measures
10 of progress.

11 “(N) A description of efforts and activities
12 to engage new partners, including faith-based,
13 ~~community-based~~ *locally-based*, and United
14 States minority-serving institutions.

15 “(O) A definition and description of the
16 differentiation between directly and otherwise
17 supported activities, including specific efforts to
18 clarify programmatic attribution and contribu-
19 tion, as well as timelines for dissemination and
20 implementation.

21 “(P) *A description, globally and by country,*
22 *of specific efforts to address co-infections and co-*
23 *morbidities of HIV/AIDS, including—*

1 “(i) the number and percent of people
2 in HIV care or treatment who started tuber-
3 culosis treatment; and

4 “(ii) the number and percentage of
5 eligible HIV positive patients starting iso-
6 niazid preventative therapy.

7 “(Q) A description of efforts by partner
8 countries to train, employ, and retain health
9 care workers, including efforts to address work-
10 force shortages.

11 “(3)(4) PARTNER COUNTRY DEFINED.—In this
12 subsection, the term ‘partner country’ means a coun-
13 try with a minimum United States Government in-
14 vestment of HIV/AIDS assistance of at least
15 \$5,000,000 ~~annually~~ *in the prior fiscal year.*”.

16 **SEC. 6. ALLOCATION OF FUNDING.**

17 (a) ORPHANS AND VULNERABLE CHILDREN.—Sec-
18 tion 403(b) of the United States Leadership Against HIV/
19 AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C.
20 7673(b)) is amended—

21 (1) by striking “2013” and inserting “2018”;
22 and

23 (2) by striking “amounts appropriated pursuant
24 to the authorization of appropriations under section
25 401” and inserting “amounts appropriated or other-

1 wise made available to carry out the provisions of
2 section 104A of the Foreign Assistance Act of 1961
3 (22 U.S.C. 2151b-2)”.

4 (b) FUNDING ALLOCATION.—Section 403(c) of the
5 United States Leadership Against HIV/AIDS, Tuber-
6 culosis, and Malaria Act of 2003 (22 U.S.C. 7673(c)) is
7 amended—

8 (1) by striking “2013” and inserting “2018”;
9 and

10 (2) by striking “amounts appropriated for bilat-
11 eral global HIV/AIDS assistance pursuant to section
12 401” and inserting “amounts appropriated or other-
13 wise made available to carry out the provisions of
14 section 104A of the Foreign Assistance Act of 1961
15 (22 U.S.C. 2151b-2)”.

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