

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 1545

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

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. MENENDEZ (for himself and Mr. CORKER)

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “PEPFAR Stewardship
5 and Oversight Act of 2013”.

6 **SEC. 2. INSPECTOR GENERAL OVERSIGHT.**

7 Section 101(f)(1) of the United States Leadership
8 Against HIV/AIDS, Tuberculosis, and Malaria Act of
9 2003 (22 U.S.C. 7611(f)(1)) is amended—

10 (1) in subparagraph (A), by striking “5 coordi-
11 nated annual plans for oversight activity in each of

1 the fiscal years 2009 through 2013” and inserting
2 “coordinated annual plans for oversight activity in
3 each of the fiscal years 2009 through 2018”; and

4 (2) in subparagraph (C)—

5 (A) in clause (ii)—

6 (i) in the heading, by striking “SUB-
7 SEQUENT” and inserting “2010 THROUGH
8 2013”; and

9 (ii) by striking “the last four plans”
10 and inserting “the plans for fiscal years
11 2010 through 2013”; and

12 (B) by adding at the end the following new
13 clause:

14 “(iii) 2014 PLAN.—The plan devel-
15 oped under subparagraph (A) for fiscal
16 year 2014 shall be completed not later
17 than 60 days after the date of the enact-
18 ment of the PEPFAR Stewardship and
19 Oversight Act of 2013.

20 “(iv) SUBSEQUENT PLANS.—Each of
21 the last four plans developed under sub-
22 paragraph (A) shall be completed not later
23 than 30 days before each of the fiscal
24 years 2015 through 2018, respectively.”.

1 **SEC. 3. ANNUAL TREATMENT STUDY.**

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

6 (1) in paragraph (1), by striking “through Sep-
7 tember 30, 2013” and inserting “through September
8 30, 2019”;

9 (2) by redesignating paragraph (2) as para-
10 graph (3);

11 (3) by inserting after paragraph (1) the fol-
12 lowing new paragraph:

13 “(2) 2013 THROUGH 2018 STUDIES.—The stud-
14 ies required to be submitted by September 30, 2014,
15 and annually thereafter through September 30,
16 2018, shall include, in addition to the elements set
17 forth under paragraph (1), the following elements:

18 “(A) A plan for conducting cost studies of
19 United States assistance under section 104A of
20 the Foreign Assistance Act of 1961 (22 U.S.C.
21 2151b–2) in partner countries, taking into ac-
22 count the goal for more systematic collection of
23 data, as well as the demands of such analysis
24 on available human and fiscal resources.

1 “(B) A comprehensive and harmonized ex-
2 penditure analysis by partner country, includ-
3 ing—

4 “(i) an analysis of Global Fund and
5 national partner spending and comparable
6 data across United States, Global Fund,
7 and national partner spending; or

8 “(ii) where providing such comparable
9 data is not currently practicable, an expla-
10 nation of why it is not currently prac-
11 ticable, and when it will be practicable.”;
12 and

13 (4) by adding at the end the following new
14 paragraph:

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

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

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

25 (1) in subparagraph (A)—

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

3 (B) in clause (ii)—

4 (i) by striking “2013” and inserting
5 “2018”; and

6 (ii) by striking the last two sentences;

7 and

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

10 (2) in subparagraph (B)—

11 (A) by striking “under this subsection”
12 each place it appears;

13 (B) in clause (ii), by striking “pursuant to
14 the authorization of appropriations under sec-
15 tion 401” and inserting “to carry out section
16 104A of the Foreign Assistance Act of 1961”;
17 and

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

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

24 (1) in paragraph (5)—

1 (A) by striking “2013” and inserting
2 “2018”;

3 (B) in subparagraph (C)—

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

6 (ii) by amending clause (v) to read as
7 follows:

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

18 (C) in subparagraph (D)(ii), by inserting
19 “, in an open, machine readable format,” after
20 “audits”;

21 (D) in subparagraph (E), by inserting “,
22 in an open, machine readable format,” after
23 “publicly”;

24 (E) in subparagraph (F)—

1 (i) in clause (i), by striking “; and”
2 and inserting a semicolon; and

3 (ii) by striking clause (ii) and insert-
4 ing the following new clauses:

5 “(ii) all principal recipients and sub-
6 recipients and the amount of funds dis-
7 bursed to each principal recipient and sub-
8 recipient on the fiscal cycle of the grant;

9 “(iii) expenditure data—

10 “(I) tracked by principal recipi-
11 ents and subrecipients by program
12 area, where practicable, prevention,
13 care, and treatment and reported in a
14 format that allows comparison with
15 other funding streams in each coun-
16 try; or

17 “(II) if such expenditure data is
18 not available, outlay or disbursement
19 data, and an explanation of progress
20 made toward providing such expendi-
21 ture data; and

22 “(iv) high-quality grant performance
23 evaluations measuring inputs, outputs, and
24 outcomes, as appropriate, with the goal of
25 achieving outcome reporting;”; and

1 (F) by amending subparagraph (G) to read
2 as follows:

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

6 “(i) a list of all countries imposing
7 import duties and internal taxes on any
8 goods or services financed by the Global
9 Fund;

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

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

15 “(iv) recovered import duties or inter-
16 nal taxes; and

17 “(v) the status of country status-
18 agreements;”.

19 **SEC. 5. ANNUAL REPORT.**

20 Section 104A(f) of the Foreign Assistance Act of
21 1961 (22 U.S.C. 2151b–2(f)) is amended to read as fol-
22 lows:

23 “(f) ANNUAL REPORT.—

24 “(1) IN GENERAL.—Not later than February
25 15, 2014, and annually thereafter, the President

1 shall submit to the Committee on Foreign Relations
2 of the Senate and the Committee on Foreign Affairs
3 of the House of Representatives a report in an open,
4 machine readable format, on the implementation of
5 this section for the prior fiscal year.

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

10 “(3) REPORT ELEMENTS.—Each report sub-
11 mitted after February 15, 2014, shall include the
12 following:

13 “(A) A description based on internationally
14 available data, and where practicable high-qual-
15 ity country-based data, of the total global bur-
16 den and need for HIV/AIDS prevention, treat-
17 ment, and care, including—

18 “(i) estimates by partner country of
19 the global burden and need; and

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

22 “(B) Reporting on annual targets across
23 prevention, treatment, and care interventions in
24 partner countries, including—

1 “(i) a description of how those targets
2 are designed to—

3 “(I) ensure that the annual in-
4 crease in new patients on
5 antiretroviral treatment exceeds the
6 number of annual new HIV infections;

7 “(II) reduce the number of new
8 HIV infections below the number of
9 deaths among persons infected with
10 HIV; and

11 “(III) achieve an AIDS-free gen-
12 eration;

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

15 “(I) established by partner coun-
16 tries; or

17 “(II) where such national partner
18 country-developed targets are unavail-
19 able, a description of progress towards
20 developing national partner country
21 targets; and

22 “(iii) bilateral programmatic targets
23 across prevention, treatment, and care, in-
24 cluding—

1 “(I) the number of adults and
2 children to be directly supported on
3 HIV treatment under United States-
4 funded programs;

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

9 “(III) other programmatic tar-
10 gets for activities directly and other-
11 wise supported by United States-fund-
12 ed programs.

13 “(C) A description, by partner country, of
14 HIV/AIDS funding from all sources, including
15 funding levels from partner countries, other do-
16 nors, and the private sector, as practicable.

17 “(D) A description of how United States-
18 funded programs, in conjunction with the Glob-
19 al Fund, other donors, and partner countries,
20 together set targets, measure progress, and
21 achieve positive outcomes in partner countries.

22 “(E) An annual assessment of outcome in-
23 dicator development, dissemination, and per-
24 formance for programs supported under this

1 section, including ongoing corrective actions to
2 improve reporting.

3 “(F) A description and explanation of
4 changes in related guidance or policies related
5 to implementation of programs supported under
6 this section.

7 “(G) An assessment and quantification of
8 progress over the reporting period toward
9 achieving the targets set forth in subparagraph
10 (B), including—

11 “(i) the number, by partner country,
12 of persons on HIV treatment, including
13 specifically—

14 “(I) the number of adults and
15 children on HIV treatment directly
16 supported by United States-funded
17 programs; and

18 “(II) the number of adults and
19 children on HIV treatment otherwise
20 supported by United States-funded
21 programs;

22 “(ii) HIV treatment coverage rates by
23 partner country;

24 “(iii) the net increase in persons on
25 HIV treatment by partner country;

1 “(iv) new infections of HIV by part-
2 ner country;

3 “(v) the number of HIV infections
4 averted;

5 “(vi) antiretroviral treatment program
6 retention rates by partner country, includ-
7 ing—

8 “(I) performance against annual
9 targets for program retention; and

10 “(II) the retention rate of per-
11 sons on HIV treatment directly sup-
12 ported by United States-funded pro-
13 grams; and

14 “(vii) a description of supportive care.

15 “(H) A description of partner country and
16 United States-funded HIV/AIDS prevention
17 programs and policies, including—

18 “(i) an assessment by country of
19 progress towards targets set forth in sub-
20 paragraph (B), with a detailed description
21 of the metrics used to assess—

22 “(I) programs to prevent mother
23 to child transmission of HIV/AIDS,
24 including coverage rates;

1 “(II) programs to provide or pro-
2 mote voluntary medical male circumci-
3 sion, including coverage rates;

4 “(III) programs for behavior-
5 change; and

6 “(IV) other programmatic activi-
7 ties to prevent the transmission of
8 HIV;

9 “(ii) antiretroviral treatment as pre-
10 vention; and

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

13 “(I) A description of the goals, scope, and
14 measurement of program efforts aimed at
15 women and girls.

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

19 “(K) A description of the indicators and
20 milestones used to assess effective, strategic,
21 and appropriately timed country ownership, in-
22 cluding—

23 “(i) an explanation of the metrics
24 used to determine whether the pace of any
25 transition to such ownership is appropriate

1 for that country, given that country’s level
2 of readiness for such transition;

3 “(ii) an analysis of governmental and
4 local nongovernmental capacity to sustain
5 positive outcomes;

6 “(iii) a description of measures taken
7 to improve partner country capacity to sus-
8 tain positive outcomes where needed; and

9 “(iv) for countries undergoing a tran-
10 sition to greater country ownership, a de-
11 scription of strategies to assess and miti-
12 gate programmatic and financial risk and
13 to ensure continued quality of care for es-
14 sential services.

15 “(L) A description, globally and by partner
16 country, of specific efforts to achieve and
17 incentivize greater programmatic and cost effec-
18 tiveness, including—

19 “(i) progress toward establishing com-
20 mon economic metrics across prevention,
21 care and treatment with partner countries
22 and the Global Fund;

23 “(ii) average costs, by country and by
24 core intervention;

1 “(iii) expenditure reporting in all pro-
2 gram areas, supplemented with targeted
3 analyses of the cost-effectiveness of specific
4 interventions; and

5 “(iv) import duties and internal taxes
6 imposed on program commodities and serv-
7 ices, by country.

8 “(M) A description of partnership frame-
9 work agreements with countries, and regions
10 where applicable, including—

11 “(i) the objectives and structure of
12 partnership framework agreements with
13 countries, including—

14 “(I) how these agreements are
15 aligned with national HIV/AIDS plans
16 and public health strategies and com-
17 mitments of such countries; and

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

20 “(ii) a description of what has been
21 learned in advancing partnership frame-
22 work agreements with countries, and re-
23 gions as applicable, in terms of improved
24 coordination and collaboration, definition
25 of clear roles and responsibilities of partici-

1 pants and signers, and implications for
2 how to further strengthen these agree-
3 ments with mutually accountable measures
4 of progress.

5 “(N) A description of efforts and activities
6 to engage new partners, including faith-based,
7 locally-based, and United States minority-serv-
8 ing institutions.

9 “(O) A definition and description of the
10 differentiation between directly and otherwise
11 supported activities, including specific efforts to
12 clarify programmatic attribution and contribu-
13 tion, as well as timelines for dissemination and
14 implementation.

15 “(P) A description, globally and by coun-
16 try, of specific efforts to address co-infections
17 and co-morbidities of HIV/AIDS, including—

18 ““(i) the number and percent of peo-
19 ple in HIV care or treatment who started
20 tuberculosis treatment; and

21 ““(ii) the number and percentage of
22 eligible HIV positive patients starting iso-
23 niazid preventative therapy.

24 “(Q) A description of efforts by partner
25 countries to train, employ, and retain health

1 care workers, including efforts to address work-
2 force shortages.

3 “(R) A description of program evaluations
4 completed during the reporting period, includ-
5 ing whether all completed evaluations have been
6 published on a publically available Internet
7 website and whether any completed evaluations
8 did not adhere to the common evaluation stand-
9 ards of practice published under paragraph (4).

10 “(4) COMMON EVALUATION STANDARDS.—Not
11 later than February 1, 2014, the Global AIDS Coor-
12 dinator shall publish on a publically available Inter-
13 net website the common evaluation standards of
14 practice referred to in paragraph (3)(R).

15 “(5) PARTNER COUNTRY DEFINED.—In this
16 subsection, the term ‘partner country’ means a coun-
17 try with a minimum United States Government in-
18 vestment of HIV/AIDS assistance of at least
19 \$5,000,000 in the prior fiscal year.”.

20 **SEC. 6. ALLOCATION OF FUNDING.**

21 (a) ORPHANS AND VULNERABLE CHILDREN.—Sec-
22 tion 403(b) of the United States Leadership Against HIV/
23 AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C.
24 7673(b)) is amended—

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

2 and

3 (2) by striking “amounts appropriated pursuant
4 to the authorization of appropriations under section
5 401” and inserting “amounts appropriated or other-
6 wise made available to carry out the provisions of
7 section 104A of the Foreign Assistance Act of 1961
8 (22 U.S.C. 2151b-2)”.

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

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

14 and

15 (2) by striking “amounts appropriated for bilat-
16 eral global HIV/AIDS assistance pursuant to section
17 401” and inserting “amounts appropriated or other-
18 wise made available to carry out the provisions of
19 section 104A of the Foreign Assistance Act of 1961
20 (22 U.S.C. 2151b-2)”.