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A BILL TO PROMOTE THE STRENGTHENING OF THE PRIVATE SECTOR IN EGYPT AND TUNISIA

JUNE 22, 2011.—Ordered to be printed

Mr. KERRY, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. 618]

The Committee on Foreign Relations, having had under consideration the bill (S. 618) to promote the strengthening of the private sector in Egypt and Tunisia, reports favorably thereon, with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

CONTENTS

I. PURPOSE

The purpose of S. 618 is to promote the strengthening of the private sector in Egypt and Tunisia.

II. COMMITTEE ACTION

S. 618 was introduced by Senators Kerry, McCain and Lieberman on March 17, 2011. On May 17, 2011, the committee considered S. 618 with an amendment in the nature of a substitute. On May 17, 2011 the committee ordered S. 618, as amended, reported favorably by voice vote.

III. DISCUSSION

S. 618, the Egyptian-American and Tunisian-American Enterprise Fund Act, authorizes the establishment of two funds to provide loans, equity investments and other forms of support to promote the strengthening of the private sector in Egypt and Tunisia with a strong focus on small- and medium-sized private enter-

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prises, in order to create economic opportunity and to create jobs for Egyptians and Tunisians. The legislation provides four purposes for the establishment of the Funds, including to:

1. Promote the development of Egypt's and Tunisia's private sector, particularly small- and medium-sized enterprises;
2. Promote policies and practices to strengthen Egypt's and Tunisia's private sector;
3. Advance good governance and transparency in Egypt and Tunisia; and
4. Promote security through job creation and expand Egypt's and Tunisia's middle class.

The Egyptian-American and Tunisian-American Enterprise Funds ("the Funds") are modeled after similar funds established through the Support for East European Democracy (SEED) Act of 1989 (P.L. 101–179; 22 U.S.C. 5421) to assist the economic development of Eastern Europe. Funds authorized under the SEED Act were invested in over 500 enterprises in 19 countries, leveraged an additional $5 billion in private investment capital from outside the U.S. Government, provided substantial development capital where supply was limited, and created or sustained over 260,000 jobs through investment and development activities.

The legislation provides for the Funds to be administered by a non-profit entity under the supervision of a Board of Directors consisting of six private citizens from the United States and three private citizens from Egypt and Tunisia respectively for each Fund, appointed by the President of the United States. The committee recognizes the important leadership role the Board of Directors must play and expects the Funds' board members to be individuals who have led successful business careers and demonstrated experience and expertise in international and particularly emerging markets. While not giving the relevant government (Egypt or Tunisia) a veto over the appointment of Board members, the bill requires the President to consult appropriately with the government in connection with appointment of its citizens to the Boards. Consistent with the practice of past enterprise funds, the committee expects that any firm, association, or entity in which a board member of either Fund serves as partner, director, officer, or employee will not receive financing from that Fund. Board members shall not benefit from the Funds except through salary or reasonable compensation for service.

The legislation addresses the need for effective administrative oversight of the fund. It requires a grant agreement between USAID and the Fund establishing the rules and procedures—as specified by the Secretary of State—to ensure that the Fund is not used to finance money laundering or terrorist activities. The legislation states that the President is to appoint the U.S. Ambassador to each country (or his or her designee) as a liaison to the Board. The legislation also states that the President may appoint two additional liaisons to the Board—one from a non-government organization with experience in the country of operation, and the other with technical expertise—of which, only one can be a non-citizen of the United States. The committee expects that these liaisons could be a helpful resource for the Board as it executes its independent investment decision-making responsibility. At least 15 days prior to designating an organization to operate either of the funds, the

President must notify Congress of the organization's identity, the names and qualifications of the members of the board of directors, the procedures the funds will apply to curtail money-laundering and terrorist financing activities, and the amount of the grant intended to fund the Enterprise Funds.

The legislation would make applicable to the Egyptian-American and Tunisian-American Enterprise Funds a number of administrative provisions contained in the SEED Act of 1989 that governed the operation of enterprise funds in Eastern Europe. These include requirements that the Funds take into account additional factors including, environmental impact, United States economic and employment effects, and the livelihood of commercial viability of the activity receiving assistance. The Funds may conduct public offerings or private placements for the purpose of soliciting and accepting additional capital.

The Funds' accounts must be audited annually by a U.S. licensed public accountant and recipients of support from the Funds will keep independent records of their use of Fund assistance. The Funds must produce an annual report of their activities, available to the public on the Internet, providing a description of each investment or project supported by each Fund, the amount of support provided to each project—including any private support—and the profits or losses associated with each project.

The legislation also requires the Funds to provide an annual report to the Senate Committee on Foreign Relations, the Senate Committee on Appropriations, the House Committee on Foreign Affairs, and the House Committee on Appropriations detailing its administrative expenses. The administrative expenses of the Funds should not exceed 5 percent of total enterprise fund capital commitment, and while the committee recognizes the need for quality advice, legal services and accounting services to be available for the Funds, it is the intention that a competitive process be in put place for the Funds before hiring such outside companies to ensure administrative expenses are fair, reasonable, and not dissimilar to a comparable industry average for expenses of similar investment funds. The legislation directs the Government Accountability Office (GAO) to conduct an assessment of the Funds' activities every three years and provide a report to the above-mentioned congressional committees.

The legislation directs the Funds to end their reinvestment cycles not later than December 31, 2021, unless the Secretary of State, in consultation with the Administrator of the USAID, and after consultation with the above-mentioned congressional committees, determines that the Funds should be extended. Following the cessation of the re-investment cycle, it is expected that, similar to the original Enterprise Funds created by the SEED Act, the Egyptian-American and Tunisian-American Enterprise Funds would be dissolved. The legislation directs the assets of the Funds at the time of its dissolution to be returned to the General Fund of the U.S. Treasury.

The committee, noting the April 2011 constructive trip of previous Enterprise Fund Board Members to Haiti in advance of the creation of a Haitian-American Enterprise Fund, suggests that similar preparatory measures be taken for the Egyptian-American Enterprise Fund and Tunisian-American Enterprise Fund.

V. COST ESTIMATE

In accordance with Rule XXVI, paragraph 11(a) of the Standing Rules of the Senate, the committee provides this estimate of the costs of this legislation prepared by the Congressional Budget Office.

UNITED STATES CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 24, 2011.

Hon. JOHN F. KERRY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 618, a bill to promote the strengthening of the private sector in Egypt and Tunisia.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte.

Sincerely,

DOUGLAS W. ELMENDORF.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

May 24, 2011.

S. 618

A Bill To Promote the Strengthening of the Private Sector in Egypt and Tunisia

AS ORDERED REPORTED BY THE SENATE COMMITTEE ON FOREIGN RELATIONS ON MAY 17, 2011

S. 618 would authorize the President to establish enterprise funds for Egypt and Tunisia to stimulate private-sector development in those countries. The funds would be similar to enterprise funds established in the 1990s for several countries and would provide technical and financial assistance to the private sector. CBO estimates that enacting the bill would increase direct spending by $80 million over the 2012–2016 period; therefore, pay-as-you-go procedures apply.

The bill would require the Government Accountability Office to assess the funds' activities and report to the Congress periodically. CBO estimates that the cost of implementing that requirement would be less than $500,000 over the 2012–2016 period, assuming the availability of appropriated funds. Enacting the bill would not affect revenues.

The Statutory Pay-As-You-Go Act of 2010 establishes budget reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

NET INCREASE IN THE DEFICIT DUE TO S. 618
[By fiscal year, in millions of dollars]

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
Statutory Pay-As-You-Go Impact	0	27	27	26	0	0	0	0	0	0	0	80	80

The bill would authorize the President to use existing appropriations to establish the funds and pay for their administrative expenses. Based on information from the Department of State, CBO expects that the department would use existing amounts in the Economic Support Fund program to implement the bill and estimates that the department would spend $60 million to establish the Egyptian fund and $20 million on the Tunisian fund. Because no new appropriations would be required, those costs would be considered direct spending. CBO further estimates that the enterprise funds would be capitalized over three years with separate installments of funding.

The bill would require both funds to be terminated no later than December 31, 2021 (unless the Secretary of State determines they should be extended) and the assets of the funds at the time of dissolution to be returned to the Treasury. Other enterprise funds have generally had a life span of 10 to 15 years. Some had assets that exceed the original funding while others have experienced losses. Because of the uncertainty surrounding the term and performance of the funds, CBO cannot provide an estimate of any potential receipts; furthermore, any such receipts would probably be received outside the 10-year budget period.

S. 618 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Sunita D'Monte. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to Rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the committee has determined that there is no regulatory impact as a result of this legislation.

VI. CHANGES IN EXISTING LAW

Pursuant to Rule XXVI, paragraph 12 of the Standing Rules of the Senate, the committee has determined that there are no changes in existing law made by the bill, as reported.

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