

Calendar No. 147

112TH CONGRESS } 1st Session }	SENATE	{ REPORT 112-67
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A BILL TO PROMOTE SUSTAINABLE PRIVATE SECTOR
GROWTH AND ECONOMIC DEVELOPMENT IN HAITI

AUGUST 30 (legislative day, AUGUST 2), 2011.—Ordered to be printed
Filed under authority of the order of the Senate of August 2, 2011

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

REPORT

[To accompany S. 954]

The Committee on Foreign Relations, having had under consideration of the bill (S. 954) to promote the strengthening of the Haitian private sector, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE

The purpose of S. 954 is to promote sustainable private sector growth and economic development in Haiti.

II. COMMITTEE ACTION

S. 954 was introduced by Senators Lugar, Durbin, and Rubio on May 11, 2011. On May 17, 2011, the committee ordered S. 954 reported favorably by voice vote.

III. DISCUSSION

S. 954, the Haitian-American Enterprise Fund Act, authorizes the establishment of a fund to provide loans, equity investments and other forms of support to small- and medium-sized private enterprises to create jobs in Haiti. The legislation provides several purposes for the establishment of the Fund, including to:

1. Promote the development of Haiti's private sector, particularly small- and medium-sized enterprises, the agricultural sector and joint ventures with United States and Haitian participants; and
2. Promote policies and practices to strengthen Haiti's private sector through advocating good governance and transparency in Haiti as well as through loans, grants, equity investments, feasibility studies, technical assistance, insurance, guarantees and other measures.

The Haitian-American Enterprise Fund (the Fund) is 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 bill provides for the Fund to be administered by a nonprofit entity under the supervision of a board of directors consisting of six private citizens from the United States or Haiti, of which not more than two may be citizens of Haiti, appointed by the President of the United States. The committee recognizes the important leadership role the board of directors must play and expects the Fund's board members to be individuals who have led successful business careers and demonstrated experience and expertise in international and particularly emerging markets similar to the experience of individuals who previously served on the Board of Directors of a successful Enterprise Fund established by the United States Government on or after January 1, 1990. The legislation also states that the President may appoint, upon the recommendation of the board, two additional board members, of which, only one can be a non-citizen of the United States.

The bill incorporates provisions of the SEED Act specifying that no part of the funds of the Enterprise Fund shall inure to the benefit of any board member, officer, or employee of the Enterprise Fund, except as salary or reasonable compensation for services. The committee notes that board members of prior Enterprise Funds have served without compensation and encourages the Board of the Haiti Enterprise Fund to follow this practice. In addition, consistent with the practice of prior Enterprise Funds, the committee expects that any firm, association, or entity in which a board member of the Fund serves as partner, director, officer, or employee will not receive financing from the Fund.

The bill directs the U.S. Agency for International Development (USAID) to have effective administrative oversight of the fund. The bill requires a grant agreement between USAID and the Fund es-

establishing the rules and procedures—as specified by the Secretary of State—for the utilization of the Fund’s capital. The bill requires that these rules and procedures will include provisions specified by the Secretary of State to ensure that the Fund is not used to finance money laundering or terrorist activities.

The legislation also directs the Fund to take into account such considerations as internationally recognized worker rights and other internationally recognized human rights, environmental factors, United States economic and employment effects, and the likelihood of commercial viability of the activity receiving assistance. The Fund may conduct public offerings or private placements for the purpose of soliciting and accepting United States venture capital.

The legislation directs the President to notify the relevant committees of the identity of the organization that will operate the Fund not later than 15 days before designating said organization. The President is also directed to notify appropriate congressional committees of the names and qualifications of the individuals who will comprise the initial board of directors, the procedures established for the purposes of curtailing money-laundering and terrorist financing activities and the size of the financial grant that shall be made available to the Fund not later than 15 days before designating the organization that will operate the Fund.

The bill incorporates provisions of the SEED Act requiring that the Fund will be subjected to an annual audit by a U.S. licensed public accountant and recipients of support from the Fund will keep independent records of their use of Fund assistance.

The bill also requires that the Fund 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 bill directs the Government Accountability Office (GAO) to conduct an assessment of the Fund’s activities every 3 years and provide a report to the above-mentioned congressional committees.

The bill provides that the Fund should, to the maximum extent practicable, adopt best practices and procedures used by previous Enterprise Funds.

The bill directs the Fund to end its reinvestment cycle not later than December 31, 2021, unless USAID determines—after consultation with the above-mentioned congressional committees—that the reinvestment cycle should be extended. The bill directs the assets of the Fund at the time of its dissolution to be returned to the General Fund of the U.S. Treasury for the purpose of deficit reduction. The committee expects that the capital to establish the fund and cover its administrative expenses shall be drawn from funds already authorized through existing appropriations.

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 the observations and recommendations offered by these previous board members be given careful consideration by the Secretary of State and USAID during the formation of the Fund.

The committee notes that the cost estimate provided by the Congressional Budget Office (CBO) estimates that the capitalization of

the Fund would require an appropriation of \$200 million. The committee understands that the CBO estimate was largely based on an average of the appropriations granted to previous enterprise funds authorized under the SEED Act. In light of the current realities and absorptive capacity of Haiti's economy, the committee expects that the appropriation used to capitalize the Fund will be significantly lower than the cost estimate provided by the CBO. The size of any such appropriation will ultimately be determined during the Congress' regular appropriations process.

IV. 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 26, 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. 954, the Haitian-American Enterprise Fund Act.

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.

Enclosure.

S. 954—Haitian-American Enterprise Fund Act—As ordered reported by the Senate Committee on Foreign Relations on May 17, 2011

S. 954 would authorize the President to establish an enterprise fund for Haiti to stimulate private-sector development in that country and would authorize the appropriation of such sums as may be necessary for that purpose. The fund would be similar to enterprise funds established in the 1990s for several countries and would provide technical and financial assistance to the private sector.

Based on information from the Administration and appropriations provided for previous enterprise funds, CBO estimates that implementing the bill would cost \$200 million over the 2012–2016 period, assuming appropriation of the necessary amounts. CBO further estimates that the fund would be capitalized over four years with separate installments of funding. The bill would require the Government Accountability Office to assess the fund's 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 direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

The estimated budgetary impact of S. 954 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

	[By fiscal year, in millions of dollars]					
	2012	2013	2014	2015	2016	2012- 2016
Estimated Authorization Level	50	50	50	50	0	200
Estimated Outlays	25	50	50	50	25	200

The bill would require the fund to be terminated no later than December 31, 2021 (unless the U.S. Agency for International Development determines it should be extended) and the assets of the fund 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 exceeded the original funding levels, while others have experienced losses. Because of the uncertainty surrounding the term and performance of the fund, CBO cannot provide an estimate of any potential receipts; furthermore, any such receipts would probably be received outside the 10-year budget period.

§. 954 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 regulation.

VI. CHANGES IN EXISTING LAW

In compliance with rule XXVI, paragraph 12 of the Standing Rules of the Senate, the committee has determined that no changes in existing law are made by the bill, as reported.