

amounts would be" and all that follows through "10 percent of such amounts" and inserting "10 percent should be used".

**SEC. 403. ALLOCATION OF FUNDS.**

Section 403 of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673) is amended—

(1) by amending subsection (a) to read as follows:

“(a) **BALANCED FUNDING REQUIREMENT.**—

“(1) **IN GENERAL.**—The Global AIDS Coordinator shall—

“(A) provide balanced funding for prevention activities for sexual transmission of HIV/AIDS; and

“(B) ensure that behavioral change programs, including abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction, are implemented and funded in a meaningful and equitable way in the strategy for each host country based on objective epidemiological evidence as to the source of infections and in consultation with the government of each host country involved in HIV/AIDS prevention activities.

“(2) **PREVENTION STRATEGY.**—

“(A) **ESTABLISHMENT.**—In carrying out paragraph (1), the Global AIDS Coordinator shall establish a HIV sexual transmission prevention strategy governing the expenditure of funds authorized under this Act to prevent the sexual transmission of HIV in any host country with a generalized epidemic.

“(B) **REPORT.**—In each host country described in subparagraph (A), if the strategy established under subparagraph (A) provides less than 50 percent of the funds described in subparagraph (A) for behavioral change programs, including abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction, the Global AIDS Coordinator shall, not later than 30 days after the issuance of this strategy, report to the appropriate congressional committees on the justification for this decision.

“(3) **EXCLUSION.**—Programs and activities that implement or purchase new prevention technologies or modalities, such as medical male circumcision, pre-exposure pharmaceutical prophylaxis to prevent transmission of HIV, or microbicides and programs and activities that provide counseling and testing for HIV or prevent mother-to-child prevention of HIV, shall not be included in determining compliance with paragraph (2).

“(4) **REPORT.**—Not later than 1 year after the date of the enactment of the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008, and annually thereafter as part of the annual report required under section 104A(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b-2(e)), the President shall—

“(A) submit a report on the implementation of paragraph (2) for the most recently concluded fiscal year to the appropriate congressional committees; and

“(B) make the report described in subparagraph (A) available to the public.”; and

(2) in subsection (b)—

(A) by striking “fiscal years 2006 through 2008” and inserting “fiscal years 2009 through 2013”; and

(B) by striking “vulnerable children affected by” and inserting “other children affected by, or vulnerable to.”.

UNANIMOUS-CONSENT REQUEST—S. 3186

Mr. REID. Mr. President, I now ask unanimous consent that upon disposition of S. 2731/H.R. 5501, the global AIDS legislation, the Senate then proceed to Calendar No. 835, S. 3186, which is a bill to provide for the Low-Income Home Energy Assistance Program.

The PRESIDING OFFICER. Is there objection?

Mr. LUGAR. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I have asked the leader for clarification of the situation. My understanding is that, as things stood, we would be automatically moving on to discussion of PEPFAR. I appreciate the anxiety of the leader with regard to the situation, but, at the same time, from our standpoint on this side of the aisle, I have been advised we would need to object to that simply because the agreement our Members feel they have realized would be that we would move to PEPFAR today and have the debates on PEPFAR, as opposed to additional material.

Mr. REID. Mr. President, I would say to my friend that is absolutely what we are going to do. The only way we would not do that is if you object to it. I have explained in more detail than probably everyone wants to hear, but we have a situation now, procedurally in the Senate, where there is a spot open. It has nothing to do with PEPFAR. It is separate and apart from PEPFAR. There is an empty spot there that anyone can walk in here—any Senator can walk in here—and move to anything we have on the calendar. By doing that, of course, they could also accompany that with a cloture motion, and that is what we would be on. That would take away from what the President wants and, I would say, 90 Senators want. So I am not trying to take advantage of anyone. No one loses anything, nothing, other than the ability to sucker punch the entire Senate.

So I would say to my friend, the distinguished Senator from Indiana, if we are on this matter here, I would be happy to—and no harm can be done. If people do not want us to move to that, I could not do it. I could not do it anyway. I would have to have 60 Senators to agree to that. This is simply an effort to allow us to complete PEPFAR—without using the term too many times; this is the third time I have used it—without the entire Senate being sucker punched.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

**MORNING BUSINESS**

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business, that Senator LUGAR be recognized to speak for up to one-half hour, and that following his speech, I be recognized.

The PRESIDING OFFICER. Is there objection to the majority leader's previous request?

Mr. LUGAR. I object.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the majority leader's pending request?

Without objection, it is so ordered.

Mr. REID. Mr. President, I further ask unanimous consent that if and when we get on the PEPFAR legislation, the distinguished Senator from Indiana be recognized for an opening statement on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana is recognized.

**PEPFAR**

Mr. LUGAR. I thank the leader.

I rise today in support of S. 2731, the Tom Lantos and Henry J. Hyde United States Global Leadership Act Against HIV/AIDS, Tuberculosis, and Malaria. I thank Chairman JOE BIDEN for working with me and other Republicans to achieve a bipartisan approach for the reauthorization of our Nation's program to combat these diseases. I believe we will have an excellent bill before us that will preserve the best aspects of the President's Emergency Plan For AIDS Relief—PEPFAR—and expand the efforts of the United States to stem the tide of AIDS, tuberculosis, and malaria worldwide.

The HIV/AIDS pandemic, coupled with the impact of tuberculosis and malaria, is rending the socioeconomic fabric of communities, nations, and an entire continent. The U.S. National Intelligence Council and innumerable top officials, including President Bush, have stated the HIV/AIDS pandemic is a threat to national and international security.

Communities are being hobbled by the disability and the loss of consumers and workers at the peak of their productive, reproductive, and care-giving years. In the most heavily affected areas, communities are losing a whole generation of parents, teachers, laborers, health care workers, peacekeepers, and police.

United Nations projections indicate that by 2020, HIV/AIDS will have depressed GDP by more than 20 percent in the hardest hit countries. The World Bank recently warned that while the global economy is expected to more than double over the next 25 years, Africa is at risk of being left behind.

Many children who have lost parents to HIV/AIDS are left entirely on their own, leading to an epidemic of orphan-headed households. When they drop out of school to fend for themselves and their siblings, they lose the potential for economic empowerment that an education can provide. Alone and desperate, they sometimes resort to transactional sex or prostitution to survive and risk becoming infected with HIV themselves.

I believe that in addition to our own national security concerns, we have a humanitarian duty to take action. Five years ago, HIV was a death sentence

for most individuals in the developing world who contracted that disease. Now there is hope. We should never forget that behind each number is a person—a human being—a life the United States can touch or even save.

PEPFAR has provided treatment to an estimated 1.4 million men, women, and children infected with HIV/AIDS in Africa and elsewhere. Before the program began, only 50,000 people in all of sub-Saharan Africa were receiving life-saving antiretroviral drugs. Today, three times that many are being treated in Kenya alone. PEPFAR also has focused on prevention programs, with the target of preventing 7 million new HIV infections. As Americans, we should take pride in our Nation's efforts to combat these diseases overseas.

We should understand that our investments in disease prevention programs have yielded enormous foreign policy benefits during the last 5 years. PEPFAR has helped to prevent instability and societal collapse in a number of at-risk countries; it has stimulated contributions from other wealthy nations to fight AIDS; it has facilitated deep partnerships with a generation of African leaders; and it has improved attitudes toward the United States and Africa and other regions of the world. In my judgment, the dollars spent on this program can be justified purely on the basis of the humanitarian results we have achieved, but the value of this investment clearly extends to our national security and to our national reputation.

I wish to emphasize three points that should guide our deliberations. First, it is important that Congress move now to reauthorize the program. The authorization expires in 2½ months. Partner governments and implementing organizations in the field have indicated that without certainty of reauthorization of this bill, they may delay expanding their programs to meet PEPFAR goals. Certainty of U.S. action is an important matter of perception, delivering something similar to consumer confidence to these nations. It may be intangible, but it will profoundly affect the behavior of individuals, groups, and governments engaged in the fight against HIV/AIDS. The continuity of our efforts to combat aids, malaria, and tuberculosis, and the impact of our resources on the commitments of the rest of the world will be maximized if we act now.

Underscoring this point, last fall the Ministers of Health of the 12 African focus countries receiving PEPFAR assistance wrote to us saying:

Without an early and clear signal of the continuity of PEPFAR's support, we are concerned that partners might not move as quickly as possible to fill the resource gap that might be created. Therefore, services will not reach all who need them. . . . The momentum will be much greater in 2008 if we know what to expect after 2008.

Secondly, our bill expands the flexibility of current law so that U.S. ef-

forts in each country can be tailored to its unique situation. I have consulted extensively with American officials who are implementing PEPFAR. Most believe that adding new restrictions to the law can limit the flexibility of those charged with implementation in 2009 and beyond. We don't know who that will be and, more importantly, we don't know what the challenges of 2013 will be, although we can probably say with confidence the landscape will be very different than it is today. As the Institute of Medicine said, the Global Leadership Act is a "learning organization." We should pass a bill that allows PEPFAR to expand and evolve its program implementation, utilizing the experience it has gained in its initial years of operation.

I understand some Members identify concerns or areas that they believe deserve specific emphasis. As Senators study the record of PEPFAR to date, I believe they will find that the vast majority of the authorities needed for the next phase of our efforts already are in existing legislation. This flexibility is preserved in the House bill and in the bill before us today.

The one directive in the Leadership Act that I believe must be maintained holds that 10 percent of funding be devoted to programs for orphans and vulnerable children. There were few programs focused on the needs of these children before the Leadership Act, and we remain in the early stages of the effort to serve them. Before the advent of PEPFAR, neither the United States nor anyone else had much experience in programs that support children infected with or affected by HIV/AIDS. After several years of effort, we have made some progress, but our programs are not yet as firmly established as they can be.

The AIDS orphans crisis in sub-Saharan Africa has implications for political stability, development, and human welfare that extend far beyond that region. The American people strongly back this effort, and the maintenance of this directive will help to ensure that we remain attentive to those who need our support the most. The directive will also help ensure the success of the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2005, a bill I drafted and which was cosponsored by 11 Senators. That bill was signed into law on November 8, 2005.

The third point I would underscore is this is an authorization bill subject to the annual budget and appropriations process. It is meant to establish policy and the overall parameters of spending on the PEPFAR program. The \$50 billion figure is based on what we believe can be spent efficiently and effectively in the years ahead. It presumes that funding will gradually increase over the coming 5-year period. Of the \$50 billion authorized, \$5 billion has been reserved for malaria and \$4 billion has been reserved for tuberculosis.

I understand some Members would spend less than \$50 billion, while others would choose to spend more.

But this is a reasonable target that has emerged from good-faith negotiations between Congress and the White House. I believe it will maximize the humanitarian and foreign policy benefits of the PEPFAR Program.

We have an opportunity this week to establish policy on a bipartisan basis that will be a triumph for the United States of America. We have the opportunity to save lives on a massive scale and preserve the fabric of numerous fragile societies. I ask my colleagues to continue to work together for this very important result.

I look forward to the passage of this important legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that I be allowed to speak for the remainder of the time on this side in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I thank the Senator from Indiana for his and Senator BIDEN's leadership in getting this legislation to the floor.

This Senator has just returned from Africa over the July 4th recess. Four countries in southeastern Africa—Kenya, Tanzania, Uganda, and Rwanda—is where PEPFAR has been concentrated. Out of the \$3 billion that is being spent per year in Africa, for example, \$500 million of that goes just to the country of Kenya.

As the distinguished Senator from Indiana has said, it is very true that the attitudes about the United States—as a result of us being out there with this very effective program that is turning people's lives around, which, in fact, is taking people who were nothing but skin and bones and now being able to live a somewhat normal life, it has increased the favorability toward the United States enormously all over the continent. It has had a tremendous effect. For example, in Kampala, Uganda, I visited a PEPFAR program. It was not only giving the antiviral drugs—and these were to a lot of the children of the refugees who live in this squalor you could not believe, but, in addition, if their bodies won't take the drugs because they are malnourished, there is a food program that goes along with it through USAID. The combination of the two—a year ago in Ethiopia, the same thing—by getting their little bodies up to where, nutritionally, they can accept the HIV antiviral drugs, it has had a tremendous effect.

On this particular PEPFAR Program, there was much more—a school for the children. The children wore uniforms. The children were learning science, math, English, and all the studies that will give them some opportunity for a fruitful and productive life. So now, as the leadership of our Senate Foreign

Relations Committee has come forth with an extension and expansion of this program, it is absolutely necessary that we pass it.

You cannot do any better than the good will—just think about the globe and about where America may not be held in the highest of esteem. But it is held in the highest esteem in Africa. It is in large part as a result—

Mr. REID. Mr. President, I ask my friend to yield for a unanimous consent request.

Mr. NELSON of Florida. I yield to the majority leader for that purpose.

Mr. REID. Mr. President, it is my understanding that we had a half hour under morning business. I told Senator NELSON he could use the remaining approximately 10 minutes of that time and I would be recognized thereafter. Is there any concern about that? Is that still in effect?

Mr. President, it is no big deal. It might make it easier for everybody. I will ask unanimous consent that I be recognized when Senator NELSON finishes his statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I say to the majority leader, I would have asked that, but this Senator thought that was locked in with the previous unanimous consent. I thank the majority leader for the opportunity.

Mr. President, the United States has benefited enormously because of the good will. That is one thing. But when you see these folks who have been bedeviled with this terrible, terrible infliction suddenly have a chance for a normal life as a result of these lifegiving drugs, when properly administered, along with the food programs as well, indeed it is one of the least things we can do.

Is it not in the capacity of the United States to help the rest of the world? Of course it is. Is it not within our ethos to want to help the rest of the world? It certainly is. Just as a byproduct of that, the people of Africa are recognizing the leadership that the United States has taken. They are appreciative.

I must say that there was a part of this African trip that was very disturbing to me, and that was the grave situation in Zimbabwe. That is as a result of the disastrous regime of Robert Mugabe.

Last Friday, a bunch of us Senators had joined Senators FEINGOLD and ISAKSON, who are leaders on the African Affairs Subcommittee of the Foreign Relations Committee, in introducing a resolution to rebuke Robert Mugabe and support U.S. efforts at the United Nations to impose tougher sanctions on the Mugabe regime. Although the U.S.-sponsored resolution failed to overcome the vetoes of China and Russia—listen to that: the vetoes of China and Russia—in the Security Council on Friday—we kind of get an

indication of where their attitude is about a democratically elected government in Zimbabwe—it is critical for us to continue to work with the U.N. and our African Union partners to help bring about a political solution for the desperate people in Zimbabwe.

On this most recent trip, I didn't go to Zimbabwe. I wasn't welcome. It was a striking survey of the governments that I saw in those four countries, a new African leadership, strong economic growth, the rule of law, political stability—what a contrast with the old ways of dealing with people such as Mugabe, in a government that is marked with autocracy, corruption, and the rule of law through the barrel of a gun. Well, what is clearly in the interest of the people of Zimbabwe and the rest of the world is stability in Zimbabwe. And it is important that we continue to press forward.

In east Africa, the rule of law does have some new applications—for example, the Government of Kenya. There, the whole place was being torn apart because of a dispute in the December election. Finally, after much violence and with as many as 5,000 deaths—if you can believe it—because of the violence following the election, the business community, the government community, and the two opposition parties came together and said: We have to have a better way. They formed this unity government. Thus far, it has worked. Let's see how it continues.

But in the aftermath of September 11, we know all too well how instability and weak governance and corruption can sow the seeds of radicalization and terrorism. Now, however destitute and downtrodden the heroic people of Zimbabwe, however, those heroic people have risen up against Mugabe's machine at the ballot box on March 29 and they cast their votes overwhelmingly for Morgan Tsvangirai and his Movement for Democratic Change. That opposition party won 48 percent of the vote against 43 percent for Mugabe.

But then, of course, Mugabe initiated a reign of terror and intimidation in the lead-up to this farce of a runoff election. His state-sponsored violence against opposition members, against supporters, against civilians, in an attempt to consolidate his power, ultimately caused the opposition candidates to withdraw from the election. He had to take refuge in the Dutch Embassy. This recent runoff was declared neither credible nor fair by independent election monitors. Mugabe was the only candidate left. He was declared the winner.

Since the initial election back in March, the opposition party said that 86 of its supporters have been killed and 200,000 of its supporters forced from their homes by militias loyal to Mugabe's party.

If you will go back decades, Mugabe took over in a new country of Zimbabwe when he had thrown off the colonial rule under the old Rhodesia. Mugabe was looked upon as a freedom fighter

and someone who was going to bring a fresh break, a fresh government that was going to be a democratic government. He has long been celebrated by his fellow African leaders for his role as a liberation leader for Zimbabwe. In recent years, Mugabe has too often been coddled as his failings have come to light. Two weeks ago, unfortunately, the African Union allowed him to take his seat as the head of state among the leaders in their annual meeting that was in Sharm el-Sheikh.

Those African Union leaders were split over how to deal with Mugabe, but they allowed him to be seated. Many leaders, including South African President Mbeki, who serves as the South African Development Community's designated mediator, have stood by as Mugabe has trampled human rights, as he has silenced the press, as he has undermined the rule of law, and he has run the once-thriving Zimbabwean economy into the ground.

South Africa worked behind the scenes to sink the U.S.-sponsored resolution on Zimbabwe at the U.N. last week. This is quite distressing, given that South Africa is where it is today because of the international sanctions to end apartheid.

So now because of these ruinous economic policies, Zimbabwe is the world's fastest shrinking economy. It has a negative GDP of minus 6 percent. It has skyrocketing inflation. Zimbabwe's central bank stopped posting inflation figures in January when inflation stood at, unbelievably, over 100,000 percent. A loaf of bread cost 30 billion Zimbabwean dollars—a loaf of bread.

The sinking economy and the government-orchestrated political intimidation and murder has caused a massive refugee flight into the neighboring countries. According to a recent report by Human Rights Watch, there is now estimated to be 1.5 million Zimbabweans who have fled across the border into South Africa.

The international community must honor the courage of the Zimbabwean people and help them take back their country from the brink of ruin.

Recent reports show that a Chinese ship loaded with more than 1 million pounds of arms bound for Zimbabwe was eventually turned away by the dock workers in Durban, South Africa, a reminder of the support Mugabe continues to receive from around the world.

The United States is going to have to continue to work in the U.N. and with the African Union to immediately call for Robert Mugabe to step down and to push for a number of practical solutions for the crisis in Zimbabwe.

First is an international arms embargo and stricter sanctions. Although our backed resolution in the United Nations last Friday failed, we must continue to work on an international framework to impose sanctions on international arms, travel, and an asset embargo. We have to get Mugabe

to understand that his totalitarian, dictatorial ways have to change.

Then we need to press for any new power sharing arrangement. Any new mediation must secure agreement with the opposition, with Tsvangirai in the lead, and provide support in setting up new institutions. We can assist the transitional government by helping to provide a framework for future elections and reforms.

We need to help them economically. The African Union, led by Zimbabwe's largest trading partners, including South Africa, Zambia, Congo, and Botswana, should put together a package of aid and reconstruction funding to help the ravaged people of Zimbabwe stand on their feet. The United States and Europe can play a leading role in backing that effort with the support that we are so generously quick to offer.

The situation in Zimbabwe is dire, and the United States must take the lead in rebuking Robert Mugabe in calling for a new dawn for Zimbabwe.

It is a time in which when you see the success, the beginnings of political stability, the beginnings of economic blossoming in countries such as Kenya and Tanzania and Uganda and Rwanda, we know the same thing can be done in a place such as Zimbabwe.

Just think, in those last two countries I mentioned, Uganda and Rwanda, look from where they have come. It was not too many years ago that there was a brutal dictator named Idi Amin. A lot of people have seen the movie "The Last King of Scotland," which tells about the brutality of that regime. But as soon as Idi Amin was gone, the former President came in again and became almost as bad, Obote. It wasn't until another strong man, a general named Museveni, came on that he has brought stability for the last couple of decades.

Look at the country immediately to the south of Uganda. Look at Rwanda. Look at what has happened to Rwanda, a country, just 14 years ago, in 1994, because there was the hatred between the two tribes, the Hutus and the Tutsis—the Hutus were in charge of the government. They allowed the militias, the gangs, the thugs to reign and use as an excuse the downing of the President's airplane, and they unleashed a reign of terror that was nothing short of mass slaughter, genocide, of which, unbelievably, within 100 days, 1 million people were slaughtered and hacked to death by machetes. That was 14 years ago.

The general who took over and is now the President of Rwanda, the opposite tribe, a Tutsi, said: We are not going the same way. We are not going to take revenge.

You can imagine when his army came in and invaded the capital city of Rwanda and they saw bodies strewn all over the streets rotting, corpses that dogs were eating the flesh, and when his soldiers found out that their entire families had been wiped out, hacked to death with machetes, you can imagine

the problem of discipline that general, now the new President of Rwanda, had in trying to exert discipline.

The President told me in our meeting that was a very difficult time because a soldier would go to his home and find his entire family slaughtered, and he felt that he would have to take the revenge into his own hands, despite the order that the general had given him. The general, the new President, then would have that soldier arrested, even though you can understand the feeling of outrage of seeing 50 members of his family slaughtered.

The President told me also the story about the notes that he would get from members of his army that said: Mr. President, it is not going to please you because you have given orders to the contrary, but I could not stand by and see these people who have slaughtered my family get away with it. And then that soldier would take the revenge and that soldier would then turn the gun on his own self and commit suicide.

But the general's orders took hold. He established a government. It was a government where they would go through under Rwandan law and try those people. They would try to bring about reconciliation. And 14 years later, after 1 million people were slaughtered in a 100-day period, Rwanda is on its way back with some stability, some economic promise, and some economic progress.

This is what can happen in Africa, and this is what needs to happen in Zimbabwe. Soon there are going to be elections in South Africa bringing in a new President. If present President Mbeki will not move, since they are the biggest influence on Zimbabwe because of their trade relationship, if he will not move, then there is another election in South Africa that will elect a new leader, and maybe that new leader will move to bring sanctions on Zimbabwe so that, once again, the promise of Africa will become realized, as so many countries in Africa today are realizing.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Without objection, it is so ordered.

Mr. KYL. I ask I be allowed to speak in morning business for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I want to speak about the bill which we had hoped to have taken up by now, the PEPFAR Reauthorization Act. Because of some procedural questions, we are not on the bill right now, but I thought I would utilize this time to make some remarks about the bill which I hope we

will be able to begin dealing with in the not too distant future.

This bill is called PEPFAR, as I said, but that stands for the President's Emergency Plan for AIDS Relief. It is a program that President Bush brought to the Congress in 2003 and was enacted. It authorized \$15 billion over a 5-year period for the purpose primarily of supporting the treatment of AIDS in Africa and elsewhere.

Between 2004 and 2008, according to the Bush administration, PEPFAR has supported a cure for about 10 million people infected by HIV/AIDS, including children orphaned by AIDS. It prevented 7 million new HIV infections. It supported efforts to provide support to another 2 million HIV-infected people.

As a result, I think when the President indicated in his State of the Union speech that he wanted to reauthorize the program, most of us in the Congress, in the House and in the Senate, were supportive of that. I supported the initial legislation and fully intended to support the reauthorization.

There is one little catch. When the President made his announcement, he offered to double the amount of the authorization from \$15 billion to \$30 billion. I swallowed rather hard because doubling the amount is a big change in the amount of money available, but I assumed I would be able to support the reauthorization of the bill. However, when the bill was written in the House of Representatives and then sent over to the Senate, two things happened. First, one of the things that made the legislation effective in the first place was that we had several conditions attached to it as to how the money would be spent. We were very careful to ensure that the money was spent appropriately. That is one of the reasons it has been effective.

And, secondly, when the bill was written in the House of Representatives, lo and behold, it was not doubled from \$15 to \$30 billion, it was more than tripled to \$50 billion.

Now, there was not anything magical about \$50 billion; it seemed like a nice, round, symbolic number. As a result, several of us at that point said: Wait a minute. That is a lot of money. In Washington when a program doubles, that is something. When it more than triples, it bears some looking into.

Because of many of the problems with the substance of the bill, as well as this tripling of the amount from \$15 to \$50 billion, several of us began to take a harder look at it. Then, as the gas crisis hit, the housing crisis hit, and we find that more and more Americans are feeling the real pinch of a downturn in our economy, the question began to solidify: Should America be committing to spend \$50 billion on this program, which at \$15 billion was quite successful, without at least considering whether we can reduce the amount and certainly taking a look at the substantive provisions of it to see if it can get back to the original purpose rather

than some of the expanded purposes under the House bill.

That is why several of us said, when the bill came through the Senate Foreign Relations Committee: We object to simply passing the bill out of the Senate without any opportunity to amend it, certainly without any opportunity to reduce the amount of it and without an opportunity to fix it. I know some of us were criticized. But I would hope that when we talk about some of the changes that have already been agreed to, those who were critical of us who said: No, we are not going to automatically pass it, would at least acknowledge there have been numerous improvements in the bill because of the negotiation process which ensued.

I wish to particularly thank Senators COBURN, BURR, and ENZI for working on several provisions of the bill and, frankly, restoring the original purpose of PEPFAR in the process. They did a good job. Let me note two or three of the areas with which I think they did a good job. One key to PEPFAR working in the first place was that at least 55 percent of the funding had to go directly to the treatment of AIDS patients. That was a good thing. Once the House said: No, we can spend this money on other things, too, you could see the same kind of problems with some other foreign aid bills, where money is going to governments or NGOs and you never see it again.

As a result, what Senators COBURN, BURR, and ENZI did was say: Look, we need to get back to the proposition that at least half the bilateral AIDS funding is spent on treatment, for treatment for HIV/AIDS. That, in fact, was agreed to. But I would note, again, that the original House and Senate bills proposed simply eliminating that treatment floor.

Another thing they negotiated was to strengthen the protection of funding for abstinence and fidelity programs, clarifying that 50 percent of any funding had to go to those kinds of programs. I would note, again, that the original House and Senate bills eliminated the requirement in the previous law that a third of the prevention funds would go to abstinence education.

Another thing that they did to make the bill better was to protect faith-based groups and others from discrimination in all funding. Again, the House and Senate bills had very weak conscience clauses, so-called conscience clause provisions. This was, again, an improvement of the bill which would not have occurred if we had simply agreed to the unanimous consent that we pass the bill that had been posed earlier and that some of us had objected to.

To some extent, it strengthens the Global Fund transparency and accountability. This is an area that needs additional strengthening. But there is a part of this bill that is not the bilateral U.S. money, it goes into this big Global Fund. And the Global Fund is

not well monitored. It is very possible for our funding to be wasted as a part of that.

Again, there was nothing in the original House and Senate bills on this and they at least got some strengthening of the Global Fund transparency and accountability provisions.

Another provision was to protect AIDS patients from substandard medicine, which again was not in the original language. There were other things. My point is that when those of us objected originally to passing the bill as it came out of the House, we were criticized: Well, this is a perfect bill, we were told. It turns out it was not so perfect after all.

That is point No. 1. Point No. 2, there are some additional things which should be done to the substance of the bill. Point No. 3 deals with the amount of money that is being spent.

Here are some of the remaining areas that are problematic: The bill would not prohibit funding for countries such as China, Russia, and India, countries that are quite wealthy, that have their own nuclear weapons and space exploration programs. Russia is awash in petrodollars. China has hundreds of billions of dollars in its foreign currency reserve, has an exploding military budget, and so on. So, certainly, we ought to limit the funding of the bill to countries that actually need the money.

Secondly, it adds a variety of lower priority programs to spend the extra money above the \$15 billion, including—well, I am not going to mention all of these, but educating males about the dangers of visiting prostitutes. That is a fine thing, but is that a priority that we need to spend this money on? Addressing the inheritance rights of women and orphans. There is money in here for legal aid and the like, legal aid services.

There is mission creep in the new legislation. It calls for PEPFAR dollars to support nutrition programs, drinking water and sanitation and income-generation activities and livelihood activities—legal services, as I said.

All of these might be fine, but this is not the PEPFAR program, this is foreign aid. There are not any kind of constraints on this mission creep that ought to be in existence if we are going to authorize this kind of money for it.

The bill diverts funding from AIDS treatment for other purposes. I mentioned legal services and substance abuse and so on. It doubles the funding for the U.N.-affiliated Global Fund, which disregards U.S. policies on positions such as abortion and needle exchange and has been linked to funding for corrupt and criminal regimes.

It strikes current law regarding the inadmissibility into the United States of HIV-positive aliens. It calls for a strategy and objective over the next 5 years with these funds to train and hire 140,000 new nurses and other health care professionals in these countries.

This at a time when the United States is drastically in need of health

care professionals and nurses. We are wealthy and can afford to be a very generous country, but we also have needs in this country. I mentioned the water development projects and so on. I happen to be familiar, and Senator THUNE has offered an amendment on this, with the needs in the United States of America for water development in our Native American communities, on Indian reservations.

There is a study out right now that demonstrates the need that many, thousands of our Native Americans have to rely on water being hauled to their communities, which they then take to their individual hogans or residences. We need water development right here in the United States for American citizens, and I might add to whom we have a trust responsibility, at least as a priority before we send money abroad for folks who do not fall into that same category.

The final point I wished to make is that this legislation, at \$50 billion of authorization, is more than we can afford. The Congressional Budget Office, in fact, says that if it is authorized at \$50 billion, we cannot efficaciously spend more than about \$34 billion. In other words, it is very hard to spend that much money, at least to do so without a lot of waste, fraud, and abuse.

As a result, even the Congressional Budget Office, the nonpartisan entity that we ask for advice on such things, said we could not spend more than \$34 billion in that event. As I said, \$50 billion is the amount of the authorization here.

To put it in perspective, what is \$50 billion? What could we spend \$50 billion on? We passed a new GI bill. It could pay for the GI bill twice. It could pay for the Apollo Program to land a man on the Moon twice. It could pay for about half the entire interstate defense highway system. It could pay the pensions of our military veterans for over a year. Now, \$50 billion is a lot of money. As I said, I do not know of anybody who would not be willing, especially if we are able to clean up some of the other language in the bill, to authorize it at \$15 billion, maybe to even double it to \$30 billion, but \$50 billion?

I note President Bush has, at least in more recent months, begun to focus on the wasteful Washington spending, the programs he believes spend too much money, and to put some fiscal discipline on the Congress. In fact, since the Democratic Party takeover of the Congress, the President has threatened to veto more than 25 authorization and appropriations bills. This amounts to about \$188 billion in spending because of his view that this is excessive beyond what the American taxpayer can be burdened with.

I will note a couple of those. But it illustrates where the President has been willing to say: I am going to veto a bill. That is his ultimate authority here. In the case of the Labor-HHS 2008 Appropriations Act, the President

would have vetoed the bill by exceeding his request by \$9 billion. Now, this is \$35 billion more than the previous funding, \$20 billion more than the President announced in his State of the Union speech that he would be willing to reauthorize the bill at.

He would have vetoed \$2.3 billion beyond the budget in the Commerce State and Justice Appropriations Act in 2008; \$2.2 billion in the Department of Homeland Security Appropriations Act.

Then, for some authorizations—because this is an authorization, not an appropriation—the Water Quality Financing Act, H.R. 720, which authorizes Federal spending for State clean water revolving funds, that bill would have been vetoed for providing \$14 billion in excess above the current \$5.6 billion authorization.

I know many of my colleagues have said a \$50 billion authorization for PEPFAR is not a big deal because it is only an authorization, not an appropriation. But that certainly was not the position of the administration when it threatened to veto this bill that was over \$14 billion more than what the President wanted, or H.R. 1495, the Water Resources Development Act, which authorized water infrastructure projects. That bill was vetoed for going about \$7 billion over what the President had authorized or had budgeted.

So it is kind of difficult to understand how the administration or my colleagues can support more than tripling a foreign aid program by spending \$50 billion on PEPFAR when the administration was so keen, and I believe correctly so, to finally put the stake down in the ground and say: I am going to veto legislation that is \$2 billion or \$3 billion or \$7 billion over what it should be, including authorizations.

As I said before, we are very wealthy and therefore should be and can be a very generous country. But we also have to establish our priorities. Changing this legislation and tripling the money is not necessarily going to make it triply effective. In fact, if anything, as I said, I think it is going to make it less effective.

I make this point: We have now an American economy which is struggling and American families who are struggling with their budgets. They do not need additional liabilities, either in terms of taxes or more debt, which they and their children and grandchildren are going to have to pay. Someone has to pay for the \$50 billion. I do not know where the money is going to come from. Are we going to take it from other spending? Not likely. Are we going to increase taxes to pay for it? Quite conceivably. Or are we going to add it to the deficit? That is the only other choice.

So \$50 billion does not grow on trees. It is very easy to be generous with other people's money. But we are talking about the taxpayers' money. I think, when we are taking about tax-

payer money, we need to be good stewards of it. More than tripling a program to get it up to \$50 billion in foreign aid is more than I think most Americans—if you put the question to them and said: Is this what you want to do with \$50 billion of your money, I would bet you the vast majority of Americans would say: Look, we are willing to be generous, provide something for that program but not \$50 billion.

That brings me to my final point. In prioritizing, and that is what Congress needs to do, prioritizing what we spend our money on, we have to look at our domestic needs as well. I have supported some increases in funding for years on programs that I think are very important. The answer has always been: Well, there is not enough money. We would love to help you out, Senator KYL, but there is not enough money. OK. Now we have gone from \$15 billion to \$50 billion that we are ready to spend on PEPFAR.

So, clearly, the majority around here has decided, along with the administration, that we can afford to spend \$50 billion on something. My approach would be to say: OK, if we have decided we can afford to spend \$50 billion, why don't we only spend part of that on PEPFAR, and why don't we spend part of it on America for what we know are top priorities?

We have already decided we can afford to spend \$50 billion. How about some priority for American spending as well? I can think of a lot of things that almost all of us would agree upon as good projects for spending some of this money.

I mentioned before the fact that the U.S. Government has a trust responsibility to Native Americans in this country. We have an obligation to help them pay for what is important to them. Health care. We passed an Indian health care bill. So I asked: Are there additional health care needs? Well, mostly they were taken care of thanks to Senators MURKOWSKI and DORGAN in the Indian health bill, which I was happy to support.

There are two other needs on Indian reservations that are drastic, emergencies, and an embarrassment in that we in the Congress are not able to meet these requirements for the Native American population. Yet we are willing to spend \$50 billion on this foreign aid program. This trust responsibility includes public safety and drinking water. There are Federal Government reports that identify needs in both of these areas. As a result, Senator THUNE and I have an amendment which would designate \$2 billion—\$1 billion for public safety, \$1 billion for drinking water—for Indians on reservations. Is that too much to ask, out of \$50 billion, that we take \$2 billion and authorize programs for public safety and water development on Indian reservations? To me, this would be a better prioritization of funding.

I mentioned reports. There is a 2004 report by the Department of Interior

inspector general. Here is what it says in part: That some Indian detention facilities were egregiously unsafe, unsanitary, and a hazard to both inmates and staff. BIA's detention program is riddled with problems and is a national disgrace. A recent 2008 Department of Interior study, called the Shubnum report, confirms that tribal jails are still grossly inefficient and says:

[O]nly half of the offenders are being incarcerated who should be incarcerated, the remaining are released through a variety of informal practices due to severe overcrowding in existing detention facilities.

Life and safety of officers and inmates are at risk for lack of adequate Justice Facilities and programs in Indian Country.

It goes on to recommend that we construct or rehabilitate 263 detention facilities at a cost of about \$8.4 billion over the next 10 years. So there is a need identified for American citizens.

What the Thune-Kyl amendment asks is that we take a billion out of PEPFAR and apply it to this \$8.4 billion need. I have personally visited detention facilities in Arizona. I have witnessed firsthand their deplorable conditions. The Navajo Nation, to mention one, in New Mexico, Utah, and Arizona is about the size of the State of West Virginia. It has a population of more than 180,000 people. In fact, it is over 200,000, if you count all of them. Yet a number of its detention facilities have been closed for health and safety reasons. It has bed space—this place, the size of West Virginia—for 59 inmates. That is to serve a total of over 50,000 inmates booked in its facilities in 2007. I think everyone would agree this is a deplorable state of affairs. This represents only a fraction of its needs.

There is much more we can discuss. When people are released, it is impossible to protect the people of the community.

Let me briefly turn to water. The managers' amendment to S. 2731 includes assistance to foreign countries for safe drinking water and adequate sanitation. This is supposed to be an AIDS bill. Why are we providing drinking water facilities abroad? I concede that they are a good thing to do, and there is a need for them, but when there is a very big crisis in our country, primarily involving people to whom we have a trust responsibility, why aren't we prioritizing funding for those projects?

According to the Indian Health Service, safe and adequate water supplies and waste disposal facilities are lacking in approximately 11 percent of American Indian and Alaska Native homes compared to 1 percent for the U.S. general population. In some areas of Indian country the figure is as high as 35 percent. In Arizona, the Navajo Nation estimates that approximately 30 percent of the households on the reservation do not have direct access to a public water system and are forced to haul water long distances to provide drinking water. I have seen it. They

have water trucks, and they fill them at some central location. They come to another central location. People drive up in their pickup trucks and fill their gallon jugs and barrels, take them back to their hogans, and so on. That is in the United States today. If we have decided that we can afford to spend \$50 billion on something, starting with a \$15 billion AIDS program, then why not double that to \$30 billion, as the President originally proposed, and spend some of the rest of the money on American requirements?

This lack of a reliable potable water supply in Indian country results in a high incidence of disease and infection as a result of waterborne contaminants. IHS estimates that for every dollar it spends on safe drinking water and sewage systems, it achieves a twentyfold return in terms of health benefits. The cost to provide American Indians and Alaska Natives with safe drinking water and adequate sewage is estimated to be over \$2.3 billion. Delivering water to the people within the tribe would be several billion on top of that.

These are priorities in the United States. I wouldn't be raising it except for the fact that there seems to be an assumption that we can afford to spend \$50 billion. My point is, if we can afford to spend \$50 billion, let's at least take a little bit of that money and spend it on Americans.

In conclusion, I supported PEPFAR when it was authorized 5 years ago. Because of its success, I would vote to extend the original funding policy for another 5 years. I would even consider the doubling which the President had asked for in his State of the Union speech. For the United States to have the resources to continue funding U.S. Government responsibilities both to our citizens and to be generous with others around the globe, we need a strong economy that creates wealth. I can think of a lot of things we could do with part of this \$50 billion to improve our economy so that we will be better able to help others in the future. I have discussed some of them. I will continue to work to improve this bill. It will take some time in this body, but I think it is worth moving forward.

I hope we will be able to move forward on the 10 amendments we have agreed to. I won't describe all of the amendments. They have been described. One of them I have mentioned Senator THUNE and I will offer. I hope we will have a process by which we consider these things; that my colleagues will be open to their adoption, and at the end of the day, when we do pass a PEPFAR bill, it will be a bill we can all be proud of that will meet the purposes of the original legislation, that will not waste American taxpayer dollars, and that will prioritize American needs as well as those with respect to foreign aid programs.

I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, I would like to respond to the Senator from Arizona. I don't quarrel with his premise that we need to spend a lot more money when it comes to Native Americans. Senator BYRON DORGAN tried valiantly for months to bring Indian health care to the floor. He ran into a lot of obstacles. I think all of us believe when it comes to Native Americans, there is a lot more we need to do. But it strikes me as fundamentally unfair to argue that money should be taken from fighting a global epidemic of HIV/AIDS, the problem of tuberculosis and malaria, and divert that money and put it into help for Native Americans.

Has America reached that point? Is that what the choices have come to, that we cannot join the world in trying to stop this global AIDS epidemic to the extent we know is necessary?

If there is anyone who believes that the \$50 billion over 5 years suggested in this bill is adequate to the challenge, they haven't sat down to take an honest look. This is indeed a global epidemic. There are parts of this bill that have been criticized by some. I would like to address one of them. It is the argument that somehow we have gone adrift. We are no longer talking about prevention and medication, but we are talking about unrelated elements. One criticism is that this bill addresses the global AIDS epidemic in terms of food and water. I can tell you point blank that the best medicine in the world is no help to a person who is suffering from malnutrition or a person whose water supply is contaminated, making them sick when they take the expensive drugs.

I have seen it in Africa, where people receiving the antiretroviral medications are wasting away because of malnutrition. We can't save their lives from starvation simply by stopping the onset of HIV infection. So we need, if we are going to do this honestly, to take a serious and comprehensive look at the challenge.

This is a rarity in a way, that the Members on the Democratic side and the overwhelming majority on the Republican side are of one mind. We support the President. The President was right when he initiated the PEPFAR Program to deal with global AIDS and the global fight to address those countries that are not part of PEPFAR. But we need to come together now and try to pass this bill for the President and, more importantly, for those who are the victims of this global epidemic.

I will be the first in line when Senator KYL offers his amendment to help those Native Americans who are being shortchanged and deprived because of our inadequate funding. But at the risk of being slightly political for a moment, were we not fighting a war in Iraq that costs \$10 billion to \$15 billion a month, there would be a lot more to spend in America. That war, which is now in its sixth year, with no end in sight, has drained our Treasury of over

\$700 billion that could have been spent for curing diseases, dealing with Native Americans in the United States, expanding education, expanding health care and clinics in our own country, more medical research. Instead, we have been shoveling this money as fast as we can out of our Treasury into Iraq and making it part of our permanent national deficit. That is the reality of what we face.

It is hard to imagine that Iraq, an oil-rich country, one of the richest in the world with oil, is still waiting on U.S. taxpayers to spend more money to help them out of the current problems they face. It is time for the Iraqis to step up and defend their own country, govern their own country, and spend their own money on their own problems.

After almost 6 years, it is overdue. If they do that, there would be a lot more money in the United States for our priorities. A strong America begins at home. It begins by bringing this war to an end, bringing our combat troops home.

When we have suggestions from the Iraqis that it is time for America to leave, I think we ought to take them. We ought to start bringing our brave men and women, who have risked their lives, home to the hero's welcome they deserve. Waiting for another 10, 20, 50, or 100 years, as some have suggested, is ludicrous. The United States cannot afford it, and it is no favor to Iraq to create that kind of long-term dependency.

I sincerely hope we can resolve this. I hope we can pass the President's bill. I support it. I hope there is adequate bipartisan support. Then when Senator KYL and others come forward and ask us to find money to help Native Americans, they can count on many of us on the Democratic side.

Mr. KYL. Will the assistant minority leader yield for one quick point?

Mr. DURBIN. Of course.

Mr. KYL. Having mentioned my name and alluded to the fact that we had a hard time getting the Indian health bill to the floor, I hope my colleague would acknowledge the fact that one of the people central in getting that bill to the floor and getting it passed was the Senator from Arizona. It was because of my strong commitment to get that done. I will work with anybody, not only to deal with the Indian health matter but also local law enforcement and the water development problems that we talked about with Native Americans. I know my colleague understands that is my position.

Mr. DURBIN. There is no question of the Senator's sincerity. Senator DORGAN tried to lead the fight on this side, and Senator KYL was a great help in that regard. Let the record be clear. If there is to be future help for Indian Health Services and other Native American needs, I am certain the Senator from Arizona will be part of that effort.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for approximately 10 to 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I have supporting material related to PEPFAR that I will ask to be printed in the RECORD, which I will deliver to the desk.

PEPFAR's unique contribution has been treatment. By any measure, PEPFAR has been a success. We have helped almost 2 million people with AIDS live longer. We have prevented millions of new infections. We have cared for millions of people more. And we have prevented hundreds of thousands of babies—newborn children—who were born to infected moms from being infected with the HIV virus.

PEPFAR was different from all our previous efforts precisely because we treated it like a disease rather than a development problem. We ran it like a medical program and not a foreign aid poverty program. Rather than funding the usual beltway contractors who like to write reports, give advice, and convene meetings, we put pills in the hands of doctors, nurses, and a legion of community-based health care workers riding out to the bush on mopeds with medicine in their backpacks. We treated people with HIV like patients we can save instead of victims. And we told them the truth about where HIV comes from.

If you go to Nairobi or Soweto or Kampala and ask people what PEPFAR is about, they will tell you it is about treatment. Have we spent billions on prevention? Yes. But ask anyone in Africa what PEPFAR is, and they will say: It is about HIV and AIDS treatment. It was AIDS treatment that was the innovation of PEPFAR. We had been funding prevention messages long before we had PEPFAR, although certainly not to the extent as we did after PEPFAR started. But what was new, what was miraculous, what rocked Africa, was the medical treatment.

And it has worked. It was not easy. With a tiny staff, the AIDS coordinator achieved the impossible—what many had said could not be done—bringing high-tech medical innovation to the lowest tech settings on Earth. It is still just as hard today as it was then, especially as we start in new countries.

The path of least resistance is always the status quo: contractors and “social marketing” and reports and “technical assistance” and “capacity building” and meetings. Without statutory mandates, that path will always look more appealing to people who have been asked to do the impossible. That is why PEPFAR reauthorization could not re-

treat on its mandated treatment priority.

Take it out of the law, and despite all the rhetoric and good intentions, it will always be easier to fund something else. Maybe treatment would not have been eliminated, but it would have taken a back street, maybe by small cuts, by not building new clinics in the harder places, by letting the shortage of doctors become an excuse to not get creative. The commitment to treatment would have eroded over time, and before we knew it, PEPFAR would have become just another failing foreign aid program like so many others.

It does not matter what people say their intentions are, because people come and go and promises are hard to keep. What matters is what the law requires, and so it is encouraging to be able to assure the American people today that PEPFAR's unique innovation—cutting-edge HIV/AIDS medical care—has been preserved in this bill.

For that, there are a lot of people to thank, starting first with the President and his staff, who first reached out to try to broker this critical compromise. Of course, the bill managers, Chairman BIDEN and Senator LUGAR, and their staff were patient, constructive, and deserve all the thanks in the world. They were quick, thorough, honest, and at all times operated in good faith. Senators ENZI and BURR and their staff were incredible to work with, and their commitment to this cause is commendable.

The compromise language has a number of critical features that make it worthy of passage.

First and most important, the compromise restores the critical focus of PEPFAR on medical treatment. The House bill eliminated the provision in current law that required that 55 percent of all funding go to “therapeutic medical care” of people with HIV. The managers' substitute preserves this focus by requiring that “more than half” of the money goes to that medical care. This time, the law will also clarify what was meant by “therapeutic medical care,” so that there is no longer any confusion that this treatment money can be spent on ARV—antiretroviral—treatment, care for opportunistic infections, and medical monitoring of folks who do not yet need antiretroviral therapy.

Prioritizing treatment is not a radical policy. It is the same policy we have right here in the United States. In this country, this year, we are spending 63 percent of all domestic AIDS funding on treatment and 14 percent on prevention. Prevention is cheap, so you can still make prevention a big priority without spending nearly the money necessary for treatment.

The substitute also restores an ambitious target linked to funding. The original law had the 55-percent allocation, but it also had an ambitious target of treating 2 million people with antiretroviral drugs. The House-passed reauthorization only targeted 3 million

people on treatment—a pretty underwhelming figure that meant adding only 1 million people on PEPFAR treatment rolls. That 1 million would have been a 50-percent increase in results, while funding was more than tripling in the bill.

Some have argued that this funding includes a lot of other things besides AIDS and so you cannot make that comparison. That is just not true. The original bill included malaria, it included TB, and it included the Global Fund. So it is an apples-to-apples comparison to say that the funding for AIDS, TB, malaria, and the Global Fund was \$15 billion the first time this bill was authorized and that then, in this bill, \$50 billion is authorized for those same things at this time.

That is a tremendous amount of money, and the targets for what we expect to achieve with that money must go up at the same rate the funding goes up. The compromise language appropriately links the target number to appropriations. As the funding goes up from the current funding level, the treatment target has to go up by the same percentage above the current goal of 2 million people. That means that if all the money authorized in this bill is appropriated, the number of people treated will exceed more than 5 million. Those extra millions of lives saved are a major accomplishment of the Senate bill. Those are lives. Those are individuals who would otherwise succumb to HIV.

However, the formula does not end there. Treatment costs per patient right now are fairly high—anywhere from \$800 to \$1,000 per patient. Some drugs are as low as \$80 or at most around \$200 per person, so we are talking 80 percent of the treatment costs that are not being spent on direct medical care now. That 80 percent represents overhead and infrastructure which should be reduced over time as the efficiencies are built in and clinics are expanded.

To account for that, the compromise language also requires that the target number for treatment increases by the same percent that cost-per-patient decreases over time. This ensures that the cost savings are reinvested right back into treatment rather than diverted to other activities.

Another key element of the compromise is the protection of PEPFAR patients from substandard medicines. From the earliest days of PEPFAR, there were some calling for the United States to buy cheap, copycat drugs for PEPFAR patients, including drugs that were not approved by the FDA or any other rigorous regulatory body of any country. These are drugs we would never treat our domestic patients with here in the United States. This is no abstract threat. Today, under the Orwellian named “quality assurance” process at the Global Fund, American dollars may be used to purchase drugs that have met no standard except that they have been put on an application for a WHO prequalification.

When this conflict arose shortly after PEPFAR was first authorized, the President rightly insisted that we would not treat the African AIDS patients like lab rats or guinea pigs. We would treat them with the same standards we treat American patients: They would only receive drugs with FDA approval or equivalent. To help expedite the approval of some international products that were likely safe and effective but had not been through the FDA process, the President established an emergency review process to speed up approval while still ensuring that PEPFAR patients get the same standard of care we expect for our domestic patients. Since then, others have generally agreed that all appropriate safe and effective drugs make it through this new process with proper and direct speed.

In direct contradiction of this more moral approach, the House bill took bilateral PEPFAR programs down the same scary path that the Global Fund has gone. It required that PEPFAR purchase the cheapest drugs available on the world market, without requiring any standard of safety and efficacy. Under such a provision, African patients would have been treated worse than lab rats—receiving drugs that the United States would never use for its patients, never purchase through Medicaid, Medicare, or the Ryan White Care Act.

The bill managers are to be commended for modifying this provision in their substitute to require that drugs purchased by PEPFAR have FDA approval or its equivalent in other developed countries. We can all breathe a little easier as we seek to put 5 million people on ARVs. We want those 5 million people to thrive as long as possible on first-line drugs before they experience a treatment failure. You should not be relegated to unsafe drugs just because you are poor and living in Africa.

There are quite a few other improvements in this substitute bill that the managers and the President helped to broker, but I will not take any more time. Suffice it to say that most of my outstanding concerns have been met through our negotiations, and I am confident that PEPFAR's success in the future is no longer in jeopardy.

PEPFAR was not broken. It did not need fixing. It just needed reauthorization. The managers' substitute does that. I am confident that lives are going to be saved because of the good faith in the bill and of the bill managers and the President and my other colleagues who are associated with it.

Mr. President, I ask unanimous consent to have the supplementary material I referred to printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FROM GOOD INTENTIONS TO BAD AIDS POLICY:  
THE MORAL HAZARDS OF REDESIGNING  
PEPFAR

(By Daniel Patrick Moynihan)

The President's Emergency Plan for AIDS Relief (PEPFAR) has received praise from across the political spectrum, both for its principles and for its successes in fighting HIV/AIDS in some of the world's poorest countries. Announced by President George W. Bush in the 2003 State of the Union Address, PEPFAR fights HIV/AIDS primarily in countries with generalized epidemics. These countries are mostly, though not exclusively, in Africa.

PEPFAR's successful track record is a result of its focus on three points:

Treating those infected with HIV,  
Preventing new HIV infections, and  
Ensuring, through bilateral programs, that assistance is in accord with U.S. policy.

Bills under consideration in the U.S. House and Senate (H.R. 5501 and S. 2731) represent significant departures from the current law. These bills are hugely expensive, and would take existing U.S. policy off its present, successful course.

Rather than simply reauthorizing PEPFAR, Congress seeks to rewrite it, vastly expanding funding while removing structural guidance that stipulates how it is apportioned. The structure of the original PEPFAR law was essential for keeping it focused on its prevention and treatment objectives. The congressional bills fail to do this. Both more than triple the \$15 billion cost of the original program, yet neither adjusts the targets of the program to reflect this increase. Instead, both propose to spend tens of billions of dollars on projects not directly related to the fight against HIV/AIDS. This proposed spending duplicates existing programs, and diverts resources into social engineering projects at odds with the values of many Americans.

To achieve PEPFAR's goal, policy must continue to be guided by strong requirements that will direct funding toward effective prevention and treatment strategies, rather than a diffuse set of general development goals.

From Good Intentions to Good Policy: The Original Design of PEPFAR. As proposed by President Bush in 2003, PEPFAR was built around three priorities:

Providing medicine to treat those who have HIV/AIDS in those countries where the disease affects the general population,

Funding local programs that aim to prevent new HIV infections, and

Providing palliative care to those suffering from HIV/AIDS, including children orphaned as a result of HIV-infected parents.

To justify its ambitious agenda and \$15 billion price tag, the original law used three structural features to keep the program focused on its priorities: ambitious targets, spending requirements, and an emphasis on bilateral agreements.

The law set ambitious targets for the number of people in its treatment, prevention, and care programs. These goals were so ambitious that they could not be met were the money lost to waste or corruption, or simply diverted to other development activities not directly providing treatment, care, or prevention of HIV/AIDS.

The law also provided strong guidance so that the money would be spent in proportion to the law's priorities. It did this in two distinct but related sections of the law. The first, a "Sense of Congress" resolution, declared that 55 percent of the funds should be spent on medicine and treatment, 10 percent on orphans and children affected by HIV, 20 percent on prevention programs, and 15 percent on palliative care. This gave the Global

AIDS Coordinator some idea how to balance the competing ends of the bill. The next section, which actually allocated the funds, made the first two elements of this non-binding resolution into binding spending requirements. Though it did not make binding that 20 percent be spent on prevention, it did require that one-third of funds spent on prevention be spent on programs that promote abstinence outside of marriage and fidelity within it. By requiring that the money be spent according to these specific percentages, rather than authorizing particular dollar amounts, the law ensured that its priorities would always be implemented in the same proportions, even were Congress later to appropriate funds at amounts different than the law had authorized.

The law required that PEPFAR deliver aid through bilateral arrangements with each of the partner countries, rather than through multilateral organizations. This procedural safeguard gave the U.S. its best opportunity to make sure the funds were spent on its priorities. It was consistent with the President's belief that welfare and aid programs work best when they support civil society, rather than supplant it with an international bureaucracy.

The bills in the House and the Senate undermine these principles. They set goals too low for their budgets, remove most of the spending mandates under the guise of "flexibility," and add radical new agendas on which the unstructured and abundant funds are to be spent.

Funding Should Fit Program Goals. In asking Congress to reauthorize PEPFAR for the next five years, the Bush Administration sought to increase the budget by 100 percent to \$30 billion over five years. However, the President sought to increase its goals by a mere 20 percent to 70 percent (depending on the criterion) over that period. Some Members of Congress have complained that the Administration's goals are too low to justify doubling the funding. They note that the program is on track to meet its original goals of 2 million treated, 7 million infections prevented, and 10 million people in care, while staying close to its original budget of \$15 billion—\$18 billion. Given such a history, the Administration's moderately increased goals should require only moderately increased funding, particularly now that so much early infrastructure has been laid in the focus countries and some efficiencies of scale may be expected.

The Administration defends its lower goals on the grounds that they are realistic given local infrastructure. It also notes that its proposed goals represent a U.S. commitment to treat a number of people equal to the commitment of all other aid-donor nations combined. For the U.S. to treat more would not demand enough of the world community. It also expresses doubts that in 2013 there will be as many people to be treated in the focus countries as some of its critics predict.

If the Administration's request is disproportionate to its goals, the bills in the House and the Senate are even more so. Both bills add an additional \$20 billion to the President's request—more than the entire first five years of the program—while barely changing the Administration's underwhelming new goals. The bills authorize up to \$9 billion to fight other diseases common in Africa (i.e., tuberculosis and malaria), and they authorize billions more in contributions to the Global Fund to Fight AIDS, Tuberculosis, and Malaria. After taking all these into account and after assuming full funding of the bills' priorities, the Congressional Budget Office concluded that the bills would still have at least \$15 billion left over. To date, no one in either chamber has adequately explained what will be done with the "extra" billions.

Congress could improve the fit between PEPFAR's funding and its goals by making the latter more ambitious. For example, Senators Tom Coburn (R-OK), Jon Kyl (R-AZ), Saxby Chambliss (R-GA), and Richard Burr (R-NC) have introduced S. 2749, the Save Lives First Act of 2008. This bill would set PEPFAR's treatment goal at providing HIV/AIDS treatment and pre-treatment medical monitoring to 7 million people, about one-half of them in sub-Saharan Africa—an increase from 3 million in the House and Senate bills. It would also reinstate the provision in current law allocating at least 55 percent of all PEPFAR funds to treatment. To treat that many people is estimated to cost between \$8.4 billion and \$11.5 billion.

Higher goals require more money, but the draft bills' proposed goals for treatment, prevention, and care are not by themselves high enough to justify even the Administration's \$30 billion price tag. Activities extraneous to the original program are likely to make up the difference. Whether Congress decides to increase PEPFAR's treatment goals along the lines of the Save Lives First Act, or whether it sticks with its current goals, a \$50 billion budget would still include extra billions likely to be spent on purposes irrelevant to PEPFAR.

"Flexibility" Means Blank Check Worth Billions. The original PEPFAR law contained binding requirements that 55 percent of all funds be spent on medical treatment, and 10 percent on orphans and vulnerable children. It further required that 33 percent of the prevention funds be spent on abstinence and fidelity programs. The spending restrictions (except for that regarding orphans) have been criticized, both by NGOs that disagree with U.S. priorities, and by bureaucrats who implement the program.

Both the House and the Senate strip out these funding requirements for prevention and treatment. (The Senate bill even strips out most of the nonbinding "Sense of Congress" resolutions of the original law.) The House bill gives the Global AIDS Coordinator complete control over 55 percent of the funding, and the Senate bill writes a blank check for 90 percent of the funds. Beyond this, the bills provide some vague guidance, but not hard requirements, on how money will be spent. The Global AIDS Coordinator is left to prioritize the multiple goals and agendas of the bills.

New Funds and Radical New Agendas. The proposed legislation expands the activities eligible for PEPFAR funding well beyond the scope of the original program, offering some clues about how its "extra billions" could be spent. Some of these new agendas are duplicative of other foreign aid programs and are irrelevant to fighting HIV/AIDS. For example, the legislation promotes micro-finance, education, general health care, and food security, among other new programs.

The bills also add a number of radical new agendas that change the focus of PEPFAR, are at odds with the values of many Americans, and trample on the cultural values of the partner countries. For example, the bills before Congress make it U.S. policy to teach safer drug-use techniques to injection drug users, and safer sex techniques to prostitutes, injection drug users, and men who have sex with men (MSM). The original law made no special provisions for outreach to these populations, reflecting the fact that infections among these risk groups are marginal to the generalized epidemic in sub-Saharan Africa, as opposed to the epidemics concentrated among these groups in countries such as Russia and Thailand. Where it did mention them, the original law sought to eradicate prostitution and to encourage injection drug users to stop, recognizing that

public health policy should not enable such high-risk behavior but seek to end it. In a clear policy reversal, the proposed legislation strips out the original commitment to eradicate prostitution, and makes PEPFAR dollars available to activities intended to make illicit drug use "safer." Not coincidentally, it also allows PEPFAR to expand to include more focus countries in Europe and Asia where the epidemics are concentrated among prostitutes and drug users.

The bills would also commit the U.S. to altering the relations between men and women in developing countries to reflect the values of Western gender activists. The bills encourage U.S. intervention on sensitive cultural topics that are not scientifically demonstrated to have direct impacts on rates of HIV/AIDS morbidity or mortality, but very well might offend those whom U.S. policy is designed to help. Whatever merits these provisions might have as aspirations, they were not in the original bill, they would do nothing to stop the AIDS emergency in sub-Saharan Africa, and they would commit the U.S. to agendas that are likely to be unpopular in partner countries.

Conclusion: Compassionate Aid Is Effective Aid. The three structural features of the original law—ambitious targets, spending restraints, and an emphasis on bilateral agreements—have helped PEPFAR stay on target. In the process, the U.S. has created a strong precedent for combating HIV/AIDS in poor countries with generalized epidemics. PEPFAR's commitment to abstinence and fidelity programs, which was and is still ridiculed by many activists and others, is now recognized to have a measurable impact on HIV infection rates.

Rather than write a blank check to an unelected bureaucracy, Congress should retain firm control over PEPFAR, which touches on such delicate issues as sex, marriage, and the relations between men and women. Congress should insist that PEPFAR retain its focus on preventing new HIV infections and treating those infected with HIV/AIDS. PEPFAR should not duplicate the efforts of America's other aid programs. Lawmakers should insist that the funds authorized and appropriated for PEPFAR will not support activities irrelevant to fighting HIV/AIDS in countries with generalized epidemics. Congress should authorize funds for PEPFAR at a level appropriate to its central goals. If Congress wishes to fund other activities, it should do so by increasing the budget for other assistance programs rather than diffusing PEPFAR's focus.

America's PEPFAR partners are waiting on congressional reauthorization before setting their own budgets, putting pressure on Congress to move quickly. Hasty passage of the existing House and Senate bills, however, would not allow them to make their plans either, since so many funding decisions would still be left to the discretion of the Global AIDS Coordinator in the next administration, and subject to the annual appropriations process and the lobbying of NGOs. With lives at stake, strategic efficiency and effectiveness are paramount. Ambitious goals, clear spending directives, and a reassertion of successful U.S. policies will maintain the structure and proportion that have leveraged America's generous intentions into a highly effective policy.

#### MYTHS V. FACTS—RE: GLOBAL AIDS LEGISLATION (PEPFAR)

Myth: "We Can't Treat Our Way Out of This Epidemic."

Fact:

We have to walk and chew gum—we must prevent future infections but we must respond to the desperate and dying TODAY.

Prevention efforts may prevent new infections, and therefore prevent FUTURE treatment need, but prevention efforts do nothing to abate the treatment need in the next 5 years, which is the time period the reauthorization bills address.

Treatment need is determined by numbers infected 5–10 years ago.

This argument is like going into a post-Katrina New Orleans and spending most of the relief funds on building better levees to prevent a future disaster rather than rescuing the people waving frantically on rooftops for help.

Obviously both need to be done, but no one would claim that it was somehow more humane to focus more effort and funding on the future prevention than the immediate humanitarian disaster.

Treatment, is prevention. Treatment prevents new infections several ways:

It requires dramatic scale-up of diagnostic screening—meaning we will identify most infected people.

It will give us the opportunity to do education and prevention messaging with the people who are transmitting HIV rather than wasting money on mass media campaigns targeting mostly uninfected people. Nobody ever got HIV from someone who wasn't infected with HIV.

It identifies pregnant women with HIV so that their babies can be saved from infection.

It lowers viral load. There are quite a few studies out now showing that reduced viral load dramatically reduces the transmission of the virus.

Myth: Flexibility—"Earmarks" or "Allocations" dictating how much money has to be spent on a certain activity are too inflexible and don't allow countries to respond to their needs appropriately.

Fact:

The allocations are not country-specific, they apply to the whole pot of money. If one country needs to spend less money on treatment, there are other countries where treatment is particularly expensive and can use the extra.

Other donors such as the Global Fund can come in and fund other priorities for the country—the American people are committed to treatment being the priority for PEPFAR.

Public health has taught us how to control infectious disease and it doesn't require flexibility. It requires a formula—find every case, treat every case, work with every case to find other cases and prevent transmission to new cases. This doesn't change no matter what the circumstances on the ground are.

This argument is disingenuous—the other side only wants to eliminate the allocations that take money away from beltway contractors—those for treatment and abstinence, because those contractors don't do treatment or abstinence. The other allocations have been left in the bill, and in fact, new ones added in the House version. You can't simultaneously criticize allocations but add in new ones.

Myth: Drug prices have gone down so we don't need to preserve as much for treatment costs anymore to meet our treatment targets.

Fact:

If it's now cheaper than expected to meet targets, then we should raise our targets to save and treat more people. We only are treating a small fraction of people in need of treatment in the developing world.

Myth: Eliminating baby AIDS is unrealistic.

Fact:

Dramatic gains are seen when universal testing of pregnant women and newborns is provided and appropriate prophylaxis of infections that are identified through that testing.

In states in the U.S. that have adopted this standard of care, new cases have been virtually eliminated.

In Botswana, a country that used to have HIV infection rates as high as 50% of child-bearing-aged women, they instituted these policies. Now 92% of pregnant women are being tested, and the drop in HIV+ mothers delivering infected babies dropped from 35% to 4% from 2004–2007, with 13,000 HIV-infected moms being identified annually.

A recent study, the largest to date, just came out with findings that 99 percent of babies were born uninfected if an infected mother was diagnosed and proper treatment was administered.

However, a World Health Organization report found that access to AIDS drugs is severely limited in developing countries, with fewer than 10 percent of pregnant women with HIV in those countries having access to medication.

As a result, about 1,800 babies become infected with HIV each day. Prevention of mother-to-child-transmission (PMTCT) is cheap per life saved: Estimated cost of PMTCT drugs to support treatment of (1) mother/child pair is US\$167 (generics) and US\$318 (branded).

We haven't even come close to meeting the need in PEPFAR focus countries.

Estimated 1.15 million pregnant women with HIV/AIDS living in PEPFAR countries.

In 2006 PEPFAR proved ARV Prophylaxis to only 294,000 (25.5%).

And now PEPFAR is expanding beyond the focus countries to other countries—the need just will keep growing:

Estimated 2.1 million pregnant women estimated to be living with HIV/AIDS in developing countries (1.7 million in sub-Saharan Africa – 85%).

Of the estimated 2.3 million (1.7–3.5 million) children under the age of 15 years living with HIV, well over 90% are thought to have become infected through mother-to-child transmission.

Mr. COBURN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

#### ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that during the pendency of the PEPFAR matter, there be no motions to proceed in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. REID. Mr. President, in this body, both sides need to exercise good faith. I appreciate very much what the distinguished Republican leader has been able to work out in the last couple hours. We are going to do our very best. This is a very difficult time we find ourselves in in our country. We have housing matters for which I have had three calls today from the Secretary of the Treasury, and he does not call me very often. It is a very serious situation we have with housing. We are trying to get the House to do what we think is right for this country. We know the energy issue is right for our trying to do something.

So, Mr. President, I am going to do my very best. I have expressed to the

distinguished Republican leader, unless there is something I do not understand that comes up untoward, we are going to have all those 10 amendments debated and voted upon. And I indicated to the Republican leader that there will be no cloture filed unless he thinks it is appropriate. And if he does not want his fingerprints on it, I will do it on my own, but he will be closely advised of anything we do in that regard.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me just say to the majority leader, this is a good way to go forward. This consent agreement was rather painfully achieved last week, and I am glad to hear his representation that we will vote on the 10 amendments. I think all of our Members are more than happy to have short time agreements, process the amendments, and move on.

Mr. REID. Mr. President, on behalf of Senators BIDEN and LUGAR, I call up the managers' amendment, which Senator LUGAR was on the floor wanting to do earlier today, but because of issues he was unable to do that. So this is the substitute amendment.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TOM LANTOS AND HENRY J. HYDE UNITED STATES GLOBAL LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA RE-AUTHORIZATION ACT OF 2008—Continued

The PRESIDING OFFICER. The reported committee amendment is withdrawn.

#### AMENDMENT NO. 5075

(Purpose: In the nature of a substitute)

The clerk will report the amendment. The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BIDEN, for himself and Mr. LUGAR, proposes an amendment numbered 5075.

(The amendment is printed in today's RECORD under "Text of Amendments.") The PRESIDING OFFICER. Under the previous order, the substitute is agreed to and the bill will be treated as original text for the purpose of further amendment.

The amendment (No. 5075) was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT NO. 5077

Mr. DEMINT. Mr. President, I ask unanimous consent that the pending

amendment be set aside, and I call up amendment No. 5077 for its immediate consideration.

The PRESIDING OFFICER. There is no pending amendment.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 5077.

Mr. DEMINT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To reduce to \$35,000,000,000 the amount authorized to be appropriated to combat HIV/AIDS, tuberculosis, and malaria in developing countries during the next 5 years)

On page 130, line 1, strike "\$50,000,000,000" and insert "\$35,000,000,000".

#### AMENDMENT NO. 5078

Mr. DEMINT. Mr. President, I call up amendment No. 5078 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 5078.

Mr. DEMINT. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the countries to which Federal financial assistance may be targeted under this Act)

At the appropriate place, insert the following:

#### SEC. . . FUNDING LIMITATION.

Notwithstanding any other provision of this Act, amounts authorized to be appropriated under this Act may only be targeted toward those countries authorized for funding under the United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003 (Public Law 108–25).

#### AMENDMENT NO. 5079 TO AMENDMENT NO. 5078

Mr. DEMINT. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 5079 to amendment No. 5078:

At the end of the amendment, strike the period and add a comma and the following: "and shall not be made available to such countries, or other countries through the Global Fund to Fight AIDS, Tuberculosis and Malaria, for any organization or program which supports or participates in the management of a program of coercive abortion or involuntary sterilizations."

Mr. DEMINT. Mr. President, I rise today to speak against this foreign aid bill and in favor of a couple of amendments that will restore some integrity to it.