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## **RSC Policy Update: President's Emergency Plan for AIDS Relief (PEPFAR)**

*March 4, 2008*

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As you may know, last week, Acting Chairman Berman and the Democratic Foreign Affairs Committee staff met with Ranking Member Ros-Lehtinen and the Republican Foreign Affairs Committee staff to discuss potential changes to the PEPFAR draft bill before the Committee mark-up, which took place on Wednesday, February 27<sup>th</sup>, 2008. In an effort to receive bi-partisan support on what was once a bi-partisan initiative, the following changes were made to the reauthorization draft. The compromise bill passed out of Committee on a voice vote.

- The current Abstinence/Be Faithful/Condoms (ABC) program is not maintained. Instead, new language was added to require the Coordinator to provide “balanced funding for prevention activities for sexual transmission of HIV/AIDS,” and to ensure that abstinence and faithfulness programs “are implemented and funded in a meaningful and equitable way...” Congressional intent with respect to “balance” will be further defined in accompanying report language. The bill also includes a requirement that the Coordinator establish a strategy for HIV prevention in each host country, and if the strategy provides less than 50 percent of sexual prevention funds for abstinence and faithfulness programs, the Coordinator is required to provide Congress with a justification of the failure to reach this level. However, since the language itself does not define “balance”, this provision may provide a Coordinator opposed to abstinence programs flexibility to escape the bill’s requirements.
- The bill modifies the Majority’s language attempting to clarify that this bill should focus on providing HIV/AIDS education and testing through existing family planning programs without integrating family planning into HIV/AIDS programs. References to family planning *are* included in the bill, but only in the context of family planning done through organizations that are “supported by US government” (which should ensure that such programs are covered under the Mexico City Policy).
- The bill maintains the Prostitution Pledge. The current requirement that organizations receiving funds under the Act have a policy opposing prostitution and sex trafficking is maintained.

- They have amended the “Conscience Clause” by adding to the existing language that groups are not required to “endorse, utilize, make a referral to, become integrated with or otherwise participate in any program or activity to which the organization has a religious or moral objection.”
- All references to reproductive health, which existed in the initial Democratic proposal, have been removed.
- The bill retains a provision in current law that caps the U.S. contribution to the Global Fund at 33%. In addition, language requiring that the Global Fund meet certain transparency and accountability benchmarks is added, along with a sense of Congress referring to provisions of past appropriations bills requiring the withholding of 20 percent of the U.S. contribution to the Global Fund unless it meets certain conditions.
- The bill adds 14 Caribbean countries to the existing list of countries in which the Global AIDS Coordinator is given explicit statutory authority over HIV/AIDS programs.
- The bill is renamed “The Tom Lantos and Henry Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2008.”

**The following are among the concerns that conservatives may still have with the bill:**

- **\$50 billion reauthorization; \$35 billion above original 2003 PEPFAR authorization.** Some African non-governmental organizations (NGOs) have actually asked that the U.S. not grant such a large increase in funding because of capacity issues—some organizations do not have the infrastructure to support such funding, meaning that much of the funding could be misspent. In addition, the bill sets a performance target of only three million people to reach with treatment, which seems rather under ambitious given that funding for the program would triple (and doubling for treatment). Currently, PEPFAR is treating two million people, and to increase treatment by only 50 percent when the bill increases funding by 200 percent may cause some concern.
- The Kemp-Kasten anti-coercion law is not applied to Global Fund monies, effectively allowing programs such as UNFPA to continue receiving funds through the Global Fund. The Kemp-Kasten amendment prohibits giving U.S. “population assistance” funds to “any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization.”
- Some conservatives may be concerned that the new language regarding the “meaningful and equitable” inclusion of abstinence and fidelity programs in prevention programs could allow too much room for interpretation by a

Coordinator who may not be pro-abstinence and pro-fidelity programs in the future. In addition, there is little, if any, enforcement of the “meaningful and equitable” incorporations of abstinence and fidelity programs.

- The bill does not apply any statutory language similar to the Mexico City Policy to require that organizations that are not doing family planning activities, but are providing HIV/AIDS care with PEPFAR funds, agree that they will not promote or perform abortions as a method of family planning.
- There are no enforcement mechanisms for Global Fund accountability, which could render the accountability provisions ineffective.
- The treatment floor has not been addressed, allowing PEPFAR dollars to still flow to conferences, etc. and not specifically to HIV/AIDS treatments. This raises serious concerns among many conservatives, least among those being that the lack of a prescriptive treatment floor leaves the program open to increased fraud and abuse.
- The new bill greatly expands the scope of PEPFAR, and leads to numerous jurisdictional concerns regarding PEPFAR’s funding for research and other similar activities. For example, the bill inserts an authorization for Tuberculosis vaccine research, which diverts foreign aid money from life-saving medical treatment to biomedical research.
- The bill would provide assistance for treatment of other diseases not covered by the bill currently (for example, sexually transmitted infections). Treating such diseases does not prevent the spread of HIV/AIDS.
- This reauthorization would require PEPFAR to support U.S. universities who are working on food safety issues, diverting funds from life-saving treatment to further subsidize U.S. universities.
- The new PEPFAR bill does not contain a dedicated funding stream for mother-to-child transmission prevention, which has proven to be a key prevention mechanism in many countries. Some conservatives may be concerned that this would leave mother-to-child prevention programs to go ignored and underfunded. As was noted in the RSC Policy Brief on PEPFAR released in early February, a [recent article](#) suggests that there are organizations that are encouraging that HIV infected women in Africa seek abortion as an option for their pregnancy. By not including a dedicated funding stream (especially in the midst of such large funding increases) to address mother-to-child transmission prevention, this trend could undesirably be furthered.

For further information on PEPFAR, please see the following RSC documents:

PEPFAR Policy Brief: [http://www.house.gov/hensarling/rsc/doc/pb\\_020508\\_pepfar.doc](http://www.house.gov/hensarling/rsc/doc/pb_020508_pepfar.doc)

PEPFAR Question and Answer:

[http://www.house.gov/hensarling/rsc/doc/qa\\_2262008\\_pepfar.pdf](http://www.house.gov/hensarling/rsc/doc/qa_2262008_pepfar.pdf)

**RSC Staff Contact:** Sarah Makin; [sarah.makin@mail.house.gov](mailto:sarah.makin@mail.house.gov); 202-226-0718.

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