



No. 23

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H.R. 1298 – United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003

Calendar No. 86

Read the second time and placed on the Senate Legislative Calendar under General Orders on May 6, 2003.

NOTEWORTHY

- By unanimous consent, the Senate will proceed to the consideration of H.R. 1298 at a time agreed to by the Majority and Minority leaders (that is, following conclusion of the Growth package). The consent agreement provides that only relevant first-degree amendments be in order, and that any second-degree amendment be relevant to the first-degree amendment.
- H.R. 1298 authorizes \$15 billion over five years to provide the President with the authority to implement a new Global AIDS initiative in 14 developing countries. It also authorizes continued global programs addressing HIV/AIDS, tuberculosis, and malaria.
- H.R. 1298 was introduced in the House of Representatives by Rep. Henry Hyde (R-IL) on March 17, 2003, was reported (amended) by the Committee on Foreign Relations on April 7, 2003 (H. Report 108-60), and was passed by a vote of 375-41 on May 1, 2003. Only one Democrat (Rep. Gene Taylor, D-MS) opposed passage.
- The President strongly supports H.R. 1298, and has indicated that he will sign the House-passed version (as is) if it is sent to him. Because the President wishes to sign the bill prior to his departure for the G8 summit in France which commences on June 1, the Majority Leader has implored his colleagues to pass H.R. 1298 without amendment.
- President Bush announced during his 2003 State of the Union Address an initiative referred to as the Emergency Plan for AIDS Relief – a comprehensive effort to combat the global HIV/AIDS pandemic. The House based H.R. 1298 on the President's proposal.

HIGHLIGHTS

- H.R. 1298 was passed by the House of Representatives on May 1, 2003 by a vote of 375-41.
- The Administration has stated that this bill's provisions "in large part are consistent" with the President's Emergency Plan for AIDS Relief that was first announced during the 2003 State of the Union Address.
- The purpose of the bill is to strengthen U.S. leadership and the effectiveness of the U.S. response to certain global infectious diseases by establishing a comprehensive, integrated five-year, global strategy to fight HIV/AIDS. The bill provides increased resources for multilateral efforts to fight HIV/AIDS; provides increased resources for U.S. bilateral efforts, particularly for technical assistance and training, to combat HIV/AIDS, tuberculosis, and malaria; encourages the expansion of private-sector efforts and expands public-private-sector partnerships to combat HIV/AIDS; and intensifies efforts to support the development of vaccines and treatment for HIV/AIDS, tuberculosis, and malaria.
- The bill authorizes \$15 billion over five years for HIV/AIDS programs and up to \$1 billion for the Swiss-based Global Fund to Fight AIDS, Tuberculosis, and Malaria for FY2004. Specifically, the bill authorizes \$3 billion for FY '04 and for each year through FY'08. The President's budget asks for \$2 billion for FY '04.
- The bill nearly triples the U.S. commitment for international AIDS assistance. Funding in FY2004 will be \$2 billion and increase annually through FY2008, adding nearly \$10 billion in new monies for U.S. efforts. The United States has increased total funding for HIV/AIDS tenfold in the last four years — from \$154 million in 1999 to \$2 billion in next year's budget.
- The bill establishes within the Department of State the office of Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally.
- As does the President's plan, the bill focuses the bulk of U.S. international AIDS assistance efforts on the 14 most afflicted countries in Africa and the Caribbean: Botswana, Cote d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, and Zambia. However, the President is not limited to these fourteen countries and can expand the program to other afflicted countries.

- The United States has committed \$1.65 billion to the Global Fund through 2008, that is 51 percent of all the pledges to date.
- U.S. funded HIV/AIDS prevention efforts must prioritize the promotion of the “A,B,C” approach, which includes abstinence from sexual activities and substance abuse, being faithful (encouraging monogamy), and the effective use of condoms.
- Tuberculosis is the cause of death for one out of every three people with AIDS worldwide. HIV infection is the leading threat to tuberculosis control. Tuberculosis accelerates the onset of AIDS in individuals infected with HIV.
- Malaria is undergoing a dramatic resurgence in recent years due to increasing resistance of the malaria parasite to drugs. Persons with HIV are particularly vulnerable to the malaria parasite. Each year, 2 million to 3 million people die from malaria.

BACKGROUND

According to recent White House data, the HIV/AIDS pandemic has killed at least 20 million of the more than 60 million people that are infected with HIV/AIDS. It has orphaned 14 million children worldwide. Today, on the continent of Africa, nearly 30 million people have the AIDS virus – including 3 million children under the age of 15. There are whole countries in Africa where more than one-third of the adult population carries the infection.

On January 28, 2003 in his State of the Union Address, President Bush announced his Emergency Plan for AIDS Relief – “a work of mercy beyond all current international efforts to help the people of Africa.” His plan called for a massive commitment of U.S. monies and efforts to combat the HIV/AIDS pandemic. “I ask the Congress to commit \$15 billion over the next five years, including nearly \$10 billion in new money, to turn the tide against AIDS in the most afflicted nations of Africa and the Caribbean,” he said. The goal of this five-year effort is to prevent 7 million new AIDS infections, treat at least 2 million people with life-extending drugs, and provide humane care for millions of people suffering from AIDS and for children orphaned by AIDS. To accomplish these goals, the President’s plan relies heavily on both U.S. and foreign government efforts, public-private partnerships, nongovernmental, faith-based, and community organizations to provide the necessary support and medical, technical, and logistical expertise.

On April 28, 2003, the President repeated his commitment to AIDS relief and urged the U.S. House of Representatives to pass H.R. 1298, a bill that largely encompasses the President’s Emergency Plan. President Bush stated that the “fight against AIDS is an integral [part] of our nation’s foreign policy,” and added that “confronting this tragedy is the responsibility of every nation.”

The President's Emergency Plan for AIDS Relief builds on other initiatives launched during his presidency. The United States was instrumental in launching the Global Fund to Fight HIV/AIDS, Tuberculosis, and Malaria. The United States was the first country to make a contribution to the Fund and leads the world in having committed \$500 million to it – 23 percent of total fund pledges to date. In 2002, President Bush launched the \$500 million Mother-and-Child HIV Prevention Initiative designed to prevent mother-to-child transmission.

The President has indicated his determination in having Congress send him a final bill before he departs for the June 1-3 G8 Summit in Evian, France. At the G8 Summit, the President intends to use H.R. 1298 as a catalyst and leverage in requesting that the world's leading powers make combating global HIV/AIDS a significant element in their foreign assistance programs.

BILL PROVISIONS

Title I Highlights:

- (Sec. 101) Requires the President to establish a comprehensive, integrated, five-year strategy to combat global HIV/AIDS that strengthens U.S. leadership in the international campaign against global HIV/AIDS.
- Requires the President to include specific objectives and strategies to treat individuals infected with HIV/AIDS and to prevent the further spread of HIV infections, with a focus on the needs of families (including the prevention of mother-to-child transmission), women, young people and children; the direct delivery of care and treatment through a network of central facilities and local systems; HIV/AIDS prevention efforts must prioritize the promotion of abstinence from sexual activities and substance abuse, encouraging monogamy, and the promotion of the effective use of condoms.
- Indicates that resource distribution should be prioritized based on factors such as size and demographics of the population with HIV/AIDS, tuberculosis, and malaria and the needs of that population and the existing infrastructure or funding that may exist to cure, treat, and prevent HIV/AIDS, tuberculosis, and malaria.
- Requires the President to improve coordination and reduce duplication among relevant executive branch agencies, foreign governments, and international organizations.
- Requires the President to expand public-private partnerships and offer initiatives to maximize the leverage of private sector dollars in the reduction and treatment of HIV/AIDS, tuberculosis, and malaria.

- Requires the President to submit a detailed report to Congress no later than 270 days after the bill's enactment on the components of a U.S. strategy to combat global HIV/AIDS.
- (Sec. 102) Establishes within the Department of State the office of Coordinator of U.S. Government Activities to Combat HIV/AIDS Globally. The Coordinator will be appointed by the President, confirmed by the Senate, will hold the rank of ambassador, and will report to the Secretary of State. The Coordinator will be responsible for overseeing all U.S. international HIV/AIDS assistance. This includes coordinating the efforts of various agencies and departments, as well as nongovernmental organizations (including faith-based and community organizations), involved in delivering assistance. The Coordinator also will be responsible for disbursing funds (including grants) made available for U.S. international HIV/AIDS assistance efforts. The Coordinator shall administer the "Activities to Combat HIV/AIDS Globally Fund," that will be established in the U.S. Treasury.

Title II Highlights:

- (Sec. 201) Includes a Sense of Congress that the promotion of public-private partnerships should be a priority of U.S. strategy.
- (Sec. 202) Authorizes the United States to participate in the Global Fund to Fight AIDS, Tuberculosis, and Malaria, and authorizes appropriations up to \$1 billion for U.S. contribution to the Global Fund in FY2004, and authorizes appropriations through FY 2008 for bilateral or multilateral HIV/AIDS, tuberculosis, or malaria programs, including such sums as may be necessary for contributions to the Global Fund. Permits the reprogramming of certain FY 2001 funds under the Global AIDS and Tuberculosis Relief Act of 2000 to the Global Fund.
- Requires the President to report annually to Congress on the Global Fund, specifically on contributions pledged to, contributions received by, and projects funded by the Global Fund, and mechanisms established for transparency and accountability in the grant-making process.
- Limits on the expenditure of funds include determinations by the President that: the Global Fund has provided assistance to governments that support acts of international terrorism; the expenses of the governing, administrative, and advisory bodies of the Global Fund exceed ten percent of the total expenditures of the Fund for any two-year period; and the salary of any individual employed by the Global Fund exceeds the salary of the Vice President of the United States. In addition, during FY2004-2008, total U.S. government contribution to the Global Fund cannot exceed 33 percent of the total amount of funds contributed to the Global Fund from all other sources.

- Establishes an interagency technical review panel to serve as a “shadow” panel to the Global Fund.
- (Sec. 203) Amends the Foreign Assistance Act of 1961 to authorize appropriations through FY2008 for U.S. contributions to the Vaccine Fund, the International AIDS Vaccine Initiative, and the Malaria Vaccine Initiative of the Program for Appropriate Technologies in Health.

Title III Highlights:

- (Sec. 301) Amends the Foreign Assistance Act of 1961 to authorize the President to provide assistance to prevent, treat, and monitor of HIV/AIDS around the world. Authorizes appropriations through FY2008. (For a detailed description of prevention, treatment, and monitoring programs and measures, see Sec. 301.)
- Includes a Sense of the Congress that the President should provide an appropriate level of assistance through nongovernmental organizations (including faith-based and community-based organizations).
- Encourages the President to explore the establishment and operation of public-private partnerships that can provide engage local and foreign partners and donors in assisting with the in-country coordination and implementation of HIV/AIDS prevention, treatment, and monitoring programs, conduct research, provide technical assistance, and establish local human resource capacities.
- Requires the President to report to Congress with a detailed assessment of the programs established and their impact in achieving the President’s overall plan for combating HIV/AIDS.
- Recognizes malnutrition as a factor in hastening the progression of HIV to AIDS, and recommends that USAID integrate nutrition programs with HIV/AIDS activities, provide (as a component of an anti-retroviral program) support for food and nutrition to individuals infected with and affected by HIV/AIDS, and provide support for food and nutrition for children affected by HIV/AIDS.
- Provides a clause that does not require an organization as a condition of receiving assistance to endorse or utilize a multisectoral approach to combating HIV/AIDS, or to endorse, utilize, or participate in a prevention method or treatment program to which the organization has a religious or moral objection.
- Prohibits the use of funds to promote or advocate the legalization or practice of prostitution or sex trafficking.

- Authorizes the President to provide assistance for the prevention, treatment, control, and elimination of tuberculosis, and should give priority to Directly Observed Treatment Short-course (DOTS). Authorizes appropriations through FY2008.
- Authorizes the President to provide assistance for the prevention, treatment, control, and elimination of malaria. Authorizes appropriations through FY2008.
- (Sec. 304) Urges the President to establish a pilot program to demonstrate the feasibility of facilitating services of U.S. health care professionals in sub-Saharan Africa and other parts of the world severely affected by HIV/AIDS, tuberculosis, and malaria. Requires the President to report to Congress on steps taken to establish the program. Authorizes appropriations through FY 2008.
- (Sec. 305) Requires the President to report to Congress on executive branch agency programs and activities that are directed to the treatment of individuals in foreign countries infected with HIV or living with AIDS.
- (Sec. 306) Requires the President to report annually to Congress on executive branch agency activities to assist in the prevention of mother-to-child transmission of the HIV infection. It also requires the Centers for Disease Control, the Coordinator, and others to develop strategies to promote medical injection safety.
- (Sec. 307) Requires the Secretary of Health and Human Services to report to Congress on the illegal diversion of prescription drugs that are donated or sold for humanitarian efforts. The report should include recommendations to increase U.S. administrative and enforcement powers to identify, monitor, and prevent such illegal diversion of prescription drugs, as well as include recommendations and guidelines to advise developing countries on how to implement a program that minimizes diversion of such drugs into the United States.
- (Sec. 313) Requires the President to report annually to Congress on executive branch agency activities to assist in the prevention of mother-to-child transmission of the HIV infection.
- (Sec. 314) Urges the President, acting through the Administrator of the U.S. Agency for International Development, to establish a pilot program of assistance that would demonstrate the feasibility of providing care and treatment to orphans, other children, and young people affected by HIV/AIDS in foreign countries. Authorizes appropriations through FY 2008.

- (Sec. 315) Authorizes the President to establish a program, through a public-private family partnership, for the provision of medical care and support services to HIV-positive parents and their children to prevent mother-to-child transmission of HIV in countries with or at risk for a severe HIV epidemic, with particular attention to resource-constrained countries. Authorizes the President to establish a program for the award of grants to eligible administrative organizations to enable them to award subgrants to eligible entities to expand activities to prevent the mother-to-child transmission of HIV by providing medical care and support services to HIV infected parents and their children. Sets forth certain grant requirements. Authorizes appropriations through FY 2008.

Title IV Highlights:

- (Sec. 401) Authorizes appropriations of \$3 billion each year for FY2004-2008, totaling \$15 billion.
- (Sec. 403) Establishes a formula for the allocation of HIV/AIDS funds.

COST

According to an April 7, 2003 CBO estimate, H.R. 1298 would authorize the appropriation of \$3 billion per year over the five-year 2004-2008 period to fund U.S. efforts to develop a comprehensive strategy for the prevention, treatment, and monitoring of acquired immune deficiency syndrome (AIDS) caused by the human immunodeficiency virus (HIV). Specifically, the bill would authorize appropriations for contributions to the Global Fund to Fight AIDS, tuberculosis, and malaria and to various international vaccine funds. It would authorize funding for bilateral assistance programs to prevent, treat, and monitor HIV/AIDS, tuberculosis, and malaria and for assistance to the families and children of persons affected by those diseases. Assuming appropriation of the authorized amounts, CBO estimates implementing H.R. 1298 would cost \$568 million in 2004 and \$11 billion over the 2004-2008 period. The bill would not affect direct spending or receipts.

ADMINISTRATION POSITION

The Administration has expressed strong support for the House-passed version of H.R. 1298. On April 30, prior to the bill's passage, the Administration issued a Statement of

Administration Policy (SAP) commending the House International Relations Committee for crafting a bill which would provide authorities and appropriations largely consistent with the President's Emergency Plan for AIDS Relief, announced during the January 2003 State of the Union Address. In its April 30 SAP, the Administration stated that it opposes any provision that would mandate contributions to the Global Fund in excess of the Administration's \$200 million annual request for FY2004-2008 because it would diminish important funding of direct bilateral assistance programs. The Administration also stated that it supports additional provisions to prioritize abstinence programs as well as provisions that enhance the ability of faith-based organizations to participate in this initiative, by not requiring them to distribute condoms as a condition of their participation if such activities violate a tenet of their faith.

President Bush has indicated his willingness to sign H.R. 1298 if the Senate passes the identical version.

POSSIBLE AMENDMENTS

At press time, no agreement on specific amendments had been reached. The unanimous consent agreement reached on May 14 provides that first degree amendments be relevant and that any second degree amendment be relevant to the first degree amendment. The Majority Leader's Office has asked that no Republican amendments be offered and that no Democrat amendments be supported in order to meet the time frame for the bill signing sought by the President.