

111TH CONGRESS  
2D SESSION

# S. 3202

To promote the strengthening of the Haitian private sector.

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IN THE SENATE OF THE UNITED STATES

APRIL 14, 2010

Mr. LUGAR (for himself and Mr. LEAHY) introduced the following bill; which  
was read twice and referred to the Committee on Foreign Relations

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## A BILL

To promote the strengthening of the Haitian private sector.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Haitian-American En-  
5       terprise Fund Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

8               (1) The 7.3-magnitude earthquake that struck  
9       Haiti on January 12, 2010—

10               (A) was Haiti’s worst natural catastrophe  
11       in 200 years;

1 (B) caused the deaths of more than  
2 200,000 people;

3 (C) destroyed 105,000 homes, 50 hospitals  
4 and health centers, and 1,300 school and uni-  
5 versity buildings; and

6 (D) significantly damaged the Presidential  
7 Palace, the National Assembly building, and  
8 most of the other government buildings in the  
9 capital city of Port-au-Prince.

10 (2) Even before the earthquake, Haiti was the  
11 poorest country in the Western Hemisphere, with—

12 (A) 80 percent of the population living  
13 below the poverty line;

14 (B) 54 percent of the population in abject  
15 poverty; and

16 (C) more than  $\frac{2}{3}$  of the labor force be-  
17 lieved to lack formal employment.

18 (3) Although Haiti's per capita gross domestic  
19 product is among the world's lowest, positive eco-  
20 nomic growth trends were slowly emerging before  
21 the earthquake and Haiti was 1 of 2 Caribbean  
22 countries expected to experience positive economic  
23 growth in 2009.

24 (4) At a March 2010 meeting convened in Haiti  
25 by the Inter-American Development Bank and the

1 United Nations, which brought together Haitian  
2 government and private sector leaders to discuss the  
3 country's most critical needs, meeting participants  
4 agreed that 2 critical catalysts for creating poten-  
5 tially hundreds of thousands of jobs are—

6 (A) modernizing Haitian policies and infra-  
7 structure; and

8 (B) improving the flow of foreign private  
9 investment into Haiti.

10 (5) In section 201(b)(1) of the Support for  
11 East European Democracy Act of 1989 (Public Law  
12 101–279; 22 U.S.C. 5421), Congress authorized  
13 USAID to provide a grant of \$240,000,000 to the  
14 Polish-American Enterprise Fund (referred to in  
15 this section as the “Polish Fund”), which was orga-  
16 nized and incorporated on April 27, 1990.

17 (6) The Polish Fund—

18 (A) used the USAID grant to raise  
19 \$2,300,000,000 in private funds for investment  
20 in Poland; and

21 (B) used the reflows from the USAID  
22 grant to establish the Polish-American Freedom  
23 Foundation, whose endowment exceeds  
24 \$250,000,000.

1           (7) The success of the Polish Fund in attract-  
2           ing private investment to Poland and in creating a  
3           legacy foundation from its reflows represents a use-  
4           ful model for other Enterprise Funds.

5           (8) Enterprise Funds have enjoyed success in  
6           poorer and less developed countries, such as Albania,  
7           where the Albanian-American Enterprise Fund  
8           played a pivotal role in helping to develop the bank-  
9           ing sector, privatizing and modernizing the airport,  
10          and expanding access to international trade and in-  
11          vestment.

12          (9) Enterprise Funds in Albania, the Baltic  
13          States, Hungary, Poland, Russia, and other coun-  
14          tries have created and supported programs that have  
15          contributed to the growth of an entrepreneurial mid-  
16          dle class.

17          (10) A professional and well-managed Haitian-  
18          American Enterprise Fund, drawing upon the expe-  
19          rience of members of the Boards of Directors of  
20          prior Enterprise Funds, could achieve similar suc-  
21          cess.

22          (11) The programs run by the Enterprise  
23          Funds in other countries, which could also be run in  
24          Haiti, include microloans, carefully designed and  
25          monitored mortgage programs, and small business

1 loans that would create the infrastructure and in-  
2 vestment climate needed to begin to build an entre-  
3 preneurial middle class in Haiti.

4 **SEC. 3. PURPOSES.**

5 The purposes of this Act are—

- 6 (1) to promote the Haitian private sector, in-  
7 cluding small businesses, the agricultural sector, and  
8 joint ventures with United States and Haitian par-  
9 ticipants; and
- 10 (2) to promote policies and practices conducive  
11 to the private sector in Haiti through loans, grants,  
12 equity investments, feasibility studies, technical as-  
13 sistance, training, insurance, guarantees, and other  
14 measures.

15 **SEC. 4. HAITIAN-AMERICAN ENTERPRISE FUND.**

16 (a) DESIGNATION.—The President is authorized to  
17 designate a private, nonprofit organization to receive  
18 funds and support made available under this Act after de-  
19 termining that such organization has been established for  
20 the purposes specified in section 3. The President should  
21 make such designation only after consultation with the  
22 leadership of each House of Congress. The organization  
23 designated under this subsection shall be known as the  
24 “Haitian-American Enterprise Fund”.

25 (b) BOARD OF DIRECTORS.—

1           (1) APPOINTMENT.—The Haitian-American  
2     Enterprise Fund shall be governed by a Board of  
3     Directors, which shall be comprised of 7 private citi-  
4     zens of the United States or Haiti, appointed by the  
5     President, of which not more than 3 may be citizens  
6     of Haiti or United States citizens of Haitian de-  
7     scent.

8           (2) QUALIFICATIONS.—Member of the Board of  
9     Directors shall be selected from among people who  
10    have had successful business careers in private eq-  
11    uity, banking, or finance that is similar to the expe-  
12    rience of individuals who previously served on the  
13    Board of Directors of a successful Enterprise Fund  
14    established by the United States Government on or  
15    after January 1, 1990.

16          (3) ADDITIONAL BOARD MEMBERS.—Upon the  
17    recommendation of the Board of Directors, the  
18    President may appoint up to 2 additional members  
19    to the Board (beyond the number of Directors speci-  
20    fied in paragraph (1)), of which not more than 1  
21    may be a citizen of Haiti or a United States citizen  
22    of Haitian descent.

23          (c) GRANTS.—

24          (1) IN GENERAL.—Amounts appropriated to  
25    the President pursuant to section 8 shall be granted

1 to the Haitian-American Enterprise Fund by the  
2 United States Agency for International Development  
3 to enable the Fund to carry out the purposes speci-  
4 fied in section 3 and for the administrative expenses  
5 of the Fund.

6 (2) ELIGIBLE PROGRAMS AND PROJECTS.—

7 Grants awarded under this section may only be used  
8 for programs and projects that support the purposes  
9 set forth in section 3.

10 (3) COMPLIANCE REQUIREMENT.—

11 (A) IN GENERAL.—Grants may not be  
12 awarded to the Haitian-American Enterprise  
13 Fund under this section unless the Fund agrees  
14 to comply with the requirements under this sec-  
15 tion.

16 (B) GRANT AGREEMENT.—The grant  
17 agreement between the United States Agency  
18 for International Development (“USAID”) and  
19 the Haitian-American Enterprise Fund shall  
20 state that the Fund shall liquidate its assets  
21 and dissolve not later than December 31, 2020,  
22 unless the USAID Administrator determines,  
23 after consultation with the appropriate congres-  
24 sional committees, that the Fund should be ex-  
25 tended.

1 (C) DISPOSITION OF ASSETS.—All assets  
2 of the Haitian-American Enterprise Fund at  
3 the time the Fund is dissolved shall be used by  
4 the Board of Directors to organize and endow  
5 a follow-on United States-Haitian legacy foun-  
6 dation.

7 (d) NOTIFICATION.—

8 (1) IN GENERAL.—Not later than 15 days be-  
9 fore designating an organization to operate as the  
10 Haitian-American Enterprise Fund pursuant to sub-  
11 section (a), the President shall provide the informa-  
12 tion described in paragraph (2) to the Chairman and  
13 Ranking Member of the appropriate congressional  
14 committees.

15 (2) INFORMATION.—The information described  
16 in this paragraph is—

17 (A) the identity of the organization to be  
18 designated to operate as the Haitian-American  
19 Enterprise Fund pursuant to subsection (a);  
20 and

21 (B) the names and qualifications of the in-  
22 dividuals who will comprise the Initial Board.

23 (e) DEFINED TERM.—In this section, the term “ap-  
24 propriate congressional committees” means—



1           (1) the Committee on Foreign Relations of the  
2       Senate;

3           (2) the Committee on Appropriations of the  
4       Senate;

5           (3) the Committee on Foreign Affairs of the  
6       House of Representatives; and

7           (4) the Committee on Appropriations of the  
8       House of Representatives.

9       **SEC. 5. OPERATION PROVISIONS.**

10       (a) **APPLICABLE PROVISIONS.**—Subsections (d)(5),  
11 (g), (h), (i), (k), (l), (m), (n), (o), and (p) of section 201  
12 of the Support for East European Democracy (SEED)  
13 Act of 1989 (Public Law 101–179; 22 U.S.C. 5421) shall  
14 apply with respect to the Haitian-American Enterprise  
15 Fund in the same manner as such provisions apply to En-  
16 terprise Funds designated pursuant to subsection (d) of  
17 such section.

18       (b) **REINVESTMENT.**—Returns on investments of the  
19 Haitian-American Enterprise Fund and other payments to  
20 the Fund may be reinvested in projects carried out by the  
21 Fund without further appropriation by Congress.

22       **SEC. 6. BEST PRACTICES AND PROCEDURES.**

23       To the maximum extent practicable, the Board of Di-  
24 rectors of the Haitian-American Enterprise Fund should  
25 adopt the best practices and procedures used by Enter-

1 prise Funds, including those for which funding has been  
2 made available pursuant to section 201 of the Support for  
3 East European Democracy (SEED) Act of 1989 (Public  
4 Law 101–179; 22 U.S.C. 5421).

5 **SEC. 7. EXPERIENCE OF OTHER ENTERPRISE FUNDS.**

6 In implementing this Act, the President shall ensure  
7 that the Articles of Incorporation of the Haitian-American  
8 Enterprise Fund (including provisions specifying the re-  
9 sponsibilities of the Board of Directors of the Fund), the  
10 terms of United States Government grant agreements  
11 with the Fund, and United States Government oversight  
12 of the Fund are, to the maximum extent practicable, con-  
13 sistent with the Articles of Incorporation of, the terms of  
14 grant agreements with, and the oversight of the Enter-  
15 prise Funds established pursuant to section 201 of the  
16 Support for East European Democracy (SEED) Act of  
17 1989 (22 U.S.C. 5421) and comparable provisions of law.

18 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) IN GENERAL.—There are authorized to be appro-  
20 priated to the President \$100,000,000, which shall be  
21 used to provide funding for grants to the Haitian-Amer-  
22 ican Enterprise Fund, which shall be used for the pur-  
23 poses specified in section 3.

1       (b) AVAILABILITY OF FUNDS.—Amounts appro-  
2       priated pursuant to subsection (a) shall remain available  
3       until expended.

4       (c) NONAPPLICABILITY OF OTHER LAWS.—Amounts  
5       appropriated pursuant to subsection (a) may be used to  
6       carry out this Act notwithstanding any other provision of  
7       law.

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