

Calendar No. 267

113TH CONGRESS
1ST SESSION**S. 1857**

To reform assistance to Egypt, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2013

Mr. MENENDEZ, from the Committee on Foreign Relations, reported the following original bill; which was read twice and placed on the calendar

A BILL

To reform assistance to Egypt, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Egypt Assistance Reform Act of 2013”.

6 (b) TABLE OF CONTENTS.—The table of contents for
 7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITION ON ASSISTANCE TO GOVERNMENTS
FOLLOWING COUPS D’ÉTAT

Sec. 101. Prohibition on assistance to governments following coups d’état.

TITLE II—UNITED STATES ASSISTANCE FOR EGYPT

Sec. 201. Suspension and reform of arms sales.

Sec. 202. Suspension and reform of United States economic support to Egypt.

Sec. 203. Termination.

Sec. 204. Additional oversight of ongoing Egypt funding.

Sec. 205. Sunset of existing authority.

Sec. 206. Appropriate congressional committees defined.

1 TITLE I—PROHIBITION ON AS-
2 SISTANCE TO GOVERNMENTS
3 FOLLOWING COUPS D’ÉTAT

4 SEC. 101. PROHIBITION ON ASSISTANCE TO GOVERNMENTS
5 FOLLOWING COUPS D’ÉTAT.

6 (a) IN GENERAL.—Chapter 1 of part II of the For-
7 eign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) is
8 amended by adding at the end the following new section:

9 “SEC. 502C. PROHIBITION ON ASSISTANCE FOLLOWING
10 COUPS D’ÉTAT.

11 “(a) IN GENERAL.—After the date of the enactment
12 of the Egypt Assistance Reform Act of 2013, except as
13 provided under subsection (b), no foreign assistance au-
14 thorized pursuant to this Act or the Arms Export Control
15 Act (22 U.S.C. 2751 et seq.) may be provided to the gov-
16 ernment of a foreign country, and none of the funds ap-
17 propriated for such assistance shall be obligated or ex-
18 pended to finance directly any such assistance for such
19 government, whose democratically elected head of govern-
20 ment is deposed by coup d’état or decree in which the se-
21 curity services of that country play a decisive role.

1 “(b) EXCEPTIONS.—The prohibition in subsection (a)
2 shall not apply to humanitarian assistance or assistance
3 to promote democratic elections or public participation in
4 democratic processes.

5 “(c) DETERMINATION AND PUBLICATION.—

6 “(1) IN GENERAL.—After the date of the enact-
7 ment of the Egypt Assistance Reform Act of 2013,
8 not later than 30 days after receiving credible infor-
9 mation that the democratically elected head of a na-
10 tional government may have been deposed by coup
11 d’état or decree in which the security services of that
12 country played a decisive role, the Secretary of State
13 shall determine whether the democratically elected
14 head of government was deposed by coup d’état or
15 decree in which the security forces of that country
16 played a decisive role.

17 “(2) TRANSMISSION OF DETERMINATION.—A
18 determination made under paragraph (1) shall be
19 submitted to the appropriate congressional commit-
20 tees on the day that such determination is made, to-
21 gether with a report reviewing United States assist-
22 ance programs to that country and assessing the im-
23 pact on that country and on United States national
24 security interests of a cessation of assistance re-
25 stricted under subsection (a).

1 “(d) TERMINATION OF RESTRICTION.—The restric-
2 tion in subsection (a) shall terminate 15 days after the
3 Secretary of State notifies the appropriate congressional
4 committees that a democratically elected government has
5 taken office in such country pursuant to elections deter-
6 mined to be free and fair.

7 “(e) WAIVER.—

8 “(1) IN GENERAL.—The President may waive
9 the restrictions in subsection (a) for a 180-day pe-
10 riod if, not later than 5 days before the waiver takes
11 effect, the President certifies to the appropriate con-
12 gressional committees that—

13 “(A) providing such assistance is in the
14 vital national security interests of the United
15 States, including for the purpose of combating
16 terrorism; and

17 “(B) such foreign government is com-
18 mitted to restoring democratic governance and
19 due process of law, and is taking demonstrable
20 steps toward holding free and fair elections in
21 a reasonable timeframe.

22 “(2) CONSULTATION.—Not later than 15 days
23 prior to the submission of the certification required
24 by paragraph (1), the President shall consult with
25 the appropriate congressional committees regarding

1 the use of the waiver authority provided under such
2 paragraph and provide such committees a full brief-
3 ing on the need for such waiver.

4 “(3) EXTENSION OF WAIVER.—The President
5 may extend the effective period of a waiver under
6 paragraph (1) for additional 180-day periods if, not
7 later than 5 days before the extension takes effect,
8 the President submits to the appropriate congres-
9 sional committees an updated certification meeting
10 the requirements of subparagraphs (A) and (B) of
11 paragraph (1).

12 “(f) REPORTING REQUIREMENT.—Any certification
13 submitted pursuant to subsection (e) shall be accompanied
14 by a report describing the types and amounts of assistance
15 to be provided pursuant to the waiver and the justification
16 for the waiver, including a description and analysis of the
17 foreign government’s commitment to restoring democratic
18 governance and due process of law and the demonstrable
19 steps being taken by such foreign government toward
20 holding free and fair elections.

21 “(g) APPROPRIATE CONGRESSIONAL COMMITTEES
22 DEFINED.—In this section, the term ‘appropriate congres-
23 sional committees’ means the Committees on Foreign Re-
24 lations and Appropriations of the Senate and the Commit-

tees on Foreign Affairs and Appropriations of the House
of Representatives.”.

(b) APPLICATION OF COUP PROVISION.—The restrictions and exceptions under subsections (a) and (b) of section 502C of the Foreign Assistance Act of 1961, as added by subsection (a), shall apply to Fiji, Guinea-Bissau, Madagascar, and Sudan as of the date of the enactment of such section.

TITLE II—UNITED STATES ASSISTANCE FOR EGYPT

SEC. 201. SUSPENSION AND REFORM OF ARMS SALES.

(a) IN GENERAL.—The United States Government may not license, approve, facilitate, or otherwise allow the sale, lease, transfer, retransfer, or delivery of defense articles or defense services to Egypt under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)) until 15 days after the Secretary of State submits to the appropriate congressional committees a certification that—

(1) providing such assistance is in the national security interests of the United States; and

(2) the Government of Egypt—

(A) continues to implement the Peace Treaty between the State of Israel and the

1 Arab Republic of Egypt, signed at Washington,
2 March 26, 1979;

3 (B) is taking necessary and appropriate
4 measures to counter terrorism, including meas-
5 ures to counter smuggling into the Gaza Strip
6 by, among other measures, detecting and de-
7 stroying tunnels between Egypt and the Gaza
8 Strip and securing the Sinai peninsula;

9 (C) is allowing the United States Armed
10 Forces to transit the territory of Egypt, includ-
11 ing through the airspace and territorial waters
12 of Egypt;

13 (D) is supporting a transition to an inclu-
14 sive civilian government by demonstrating a
15 commitment to, and making consistent progress
16 toward, holding regular, credible elections that
17 are free, fair, and consistent with internation-
18 ally accepted standards;

19 (E) is respecting and protecting the polit-
20 ical and economic freedoms of all residents of
21 Egypt, including taking measures to address vi-
22 olence against women and religious minorities;

23 (F) is respecting freedom of expression
24 and due process of law, including respecting the
25 rights of women and religious minorities; and

1 (G) has continued to abide by its nuclear
2 non-proliferation commitments as a signatory of
3 the Treaty on the Non-Proliferation of Nuclear
4 Weapons, done at London, Moscow, and Wash-
5 ington July 1, 1968, has not detonated a nu-
6 clear explosive device, and is not in material
7 violation of IAEA safeguards.

8 (b) EXCEPTION.—The limitation under subsection
9 (a) shall not apply to defense articles and defense services
10 to be used primarily for supporting or enabling counterter-
11 rorism, border and maritime security, or special operations
12 capabilities or operations.

13 (c) WAIVER.—

14 (1) IN GENERAL.—The President may waive
15 the restrictions in subsection (a) for a 180-day pe-
16 riod if, not later than 15 days before the waiver
17 takes effect, the President—

18 (A) certifies to the appropriate congres-
19 sional committees that providing such assist-
20 ance is in the vital national security interests of
21 the United States;

22 (B) provides to such committees a report
23 detailing the reasons for making the determina-
24 tion that such assistance is in the vital national
25 security interests of the United States; and

1 (C) submits to such committees an anal-
2 ysis of the degree to which providing such as-
3 sistance is in the national security interests of
4 the United States and the actions of the Gov-
5 ernment of Egypt do or do not satisfy each of
6 the criteria contained in subparagraphs (A)
7 through (G) of subsection (a)(2).

8 (2) EXTENSION OF WAIVER.—

9 (A) FISCAL YEARS 2014 AND 2015.—The
10 President may extend the effective period of a
11 waiver under paragraph (1) for the remainder
12 of fiscal year 2014 and an additional fiscal year
13 if the Secretary of State submits the strategy
14 required in subsection (d) to the appropriate
15 congressional committees and, not later than 15
16 days before the waiver expires, the President
17 submits to the appropriate congressional com-
18 mittees an updated certification, report, and
19 analysis that meet the requirements of subpara-
20 graphs (A), (B), and (C), respectively, of para-
21 graph (1).

22 (B) SUBSEQUENT FISCAL YEARS.—The
23 President may annually extend the effective pe-
24 riod of a waiver under paragraph (2)(A) for an
25 additional fiscal year if, not later than 15 days

1 before the prior year waiver expires, the Presi-
2 dent submits to the appropriate congressional
3 committees an updated certification, report, and
4 analysis that meet the requirements of subpara-
5 graphs (A), (B), and (C), respectively, of para-
6 graph (1).

7 (d) STRATEGY TO REFORM UNITED STATES MILI-
8 TARY ASSISTANCE TO EGYPT.—

9 (1) IN GENERAL.—Not later than 90 days after
10 the date of the enactment of this Act, the Secretary
11 of State shall submit to Congress a comprehensive
12 strategy for modernizing and improving United
13 States security cooperation with, and assistance for
14 Egypt. The strategy shall seek to—

15 (A) enhance the ability of the Government
16 of Egypt to detect, disrupt, dismantle, and de-
17 feat al Qaeda, its affiliated groups, and other
18 terrorist organizations operating in Egypt, and
19 to counter terrorist ideology and radicalization
20 in Egypt;

21 (B) improve the capacity of the Govern-
22 ment of Egypt to prevent human trafficking
23 and the illicit movement of terrorists, criminals,
24 weapons, and other dangerous material across
25 Egypt's borders or administrative boundaries,

1 especially through illicit points of entry into the
2 Gaza Strip;

3 (C) improve the Government of Egypt's
4 operational capabilities in counterinsurgency,
5 counterterrorism, and border and maritime se-
6 curity;

7 (D) enhance the capacity of the Govern-
8 ment of Egypt to gather, integrate, analyze,
9 and share intelligence, especially with respect to
10 the threat posed by terrorism and other illicit
11 activity, while also ensuring a proper protection
12 for the civil liberties of Egypt's citizens; and

13 (E) increase transparency, accountability
14 to civilian authority, respect for human rights,
15 and the rule of law within the armed forces of
16 Egypt.

17 (2) ELEMENTS.—The strategy required under
18 paragraph (1) shall include the following elements:

19 (A) A detailed assessment of the mecha-
20 nism by which military assistance is provided to
21 Egypt and whether such mechanism should be
22 modified.

23 (B) A detailed summary of the current bal-
24 ance between the levels of economic and mili-
25 tary support provided to Egypt, including an

1 assessment of whether funding for economic de-
2 velopment and political assistance programs
3 should be increased as a percentage of overall
4 United States foreign assistance to Egypt, and
5 an assessment of whether there should be an in-
6 creased percentage of foreign military assist-
7 ance focused on counterinsurgency, counterter-
8 rorism, border and maritime security and re-
9 lated training.

10 (C) A process to assess whether current
11 levels of economic and military support provided
12 to Egypt are achieving United States national
13 security objectives and supporting Egypt's tran-
14 sition to democracy.

15 (D) An estimated schedule for completing
16 the baseline conventional modernization of the
17 armed forces of Egypt with United States-ori-
18 gin equipment.

19 (E) An assessment of the extent to which
20 the Government of Egypt is—

21 (i) implementing the 1979 Egypt-
22 Israel Peace Treaty;

23 (ii) taking effective steps to combat
24 terrorism on the Sinai Peninsula; and

1 (iii) taking effective steps to eliminate
2 smuggling networks and to detect and de-
3 stroy tunnels between Egypt and the Gaza
4 Strip.

5 (F) An assessment of the abilities of the
6 United States Government to achieve the goals
7 set forth in the strategy if defense articles and
8 services to Egypt are withheld.

9 (3) CONSULTATION REQUIREMENT.—In devel-
10 oping the strategy required under paragraph (1), the
11 Secretary of State shall consult with, among other
12 relevant parties, the appropriate congressional com-
13 mittees and the Government of Egypt.

14 (4) REPORT ON CONTRACTS.—The Secretary of
15 State shall submit with the strategy required under
16 paragraph (1) a report containing—

17 (A) a summary of all contracts with the
18 Government of Egypt funded through United
19 States assistance over the prior 10 years and a
20 projection of such contracts over the next 5
21 years; and

22 (B) information on any contracts or pur-
23 chases made by the Government of Egypt using
24 interest earned from amounts in an interest-
25 bearing account for Egypt related to funds

1 made available under section 23 of the Arms
2 Export Control Act (22 U.S.C. 2763) and
3 whether the use of this interest has furthered
4 the goals described in this section.

5 **SEC. 202. SUSPENSION AND REFORM OF UNITED STATES**
6 **ECONOMIC SUPPORT TO EGYPT.**

7 (a) IN GENERAL.—No bilateral economic assistance
8 may be made available to the Government of Egypt pursu-
9 ant to chapter 4 of part II of the Foreign Assistance Act
10 of 1961 (22 U.S.C. 2346 et seq.; relating to the Economic
11 Support Fund) until 15 days after the Secretary of State
12 certifies to the appropriate congressional committees
13 that—

14 (1) providing such assistance is in the national
15 security interest of the United States; and

16 (2) the Government of Egypt—

17 (A) continues to implement the Peace
18 Treaty between the State of Israel and the
19 Arab Republic of Egypt, signed at Washington,
20 March 26, 1979;

21 (B) is supporting the transition to an in-
22 clusive civilian government by demonstrating a
23 commitment to hold regular, credible elections
24 that are free, fair, and consistent with inter-
25 nationally accepted standards;

1 (C) is respecting and protecting the polit-
2 ical, economic, and religious freedoms of all
3 residents of Egypt, including taking measures
4 to address violence against women and religious
5 minorities;

6 (D) is permitting nongovernmental organi-
7 zations and civil society groups in Egypt to op-
8 erate freely and consistent with internationally
9 recognized standards; and

10 (E) is demonstrating a commitment to im-
11 plementing economic reforms, including reforms
12 necessary to reduce the deficit and ensure eco-
13 nomic stability and growth.

14 (b) EXCEPTIONS.—The prohibition in subsection (a)
15 shall not apply to humanitarian assistance or assistance
16 to promote democratic elections or public participation in
17 democratic processes.

18 (c) WAIVER.—

19 (1) IN GENERAL.—The President may waive
20 the limitation under subsection (a) for a 180-day pe-
21 riod if, not later than 15 days before the waiver
22 takes effect, the President—

23 (A) certifies to the appropriate congres-
24 sional committees that providing such assist-

1 ance is in the vital national security interests of
2 the United States;

3 (B) submits to such committees a report
4 detailing the reasons for making the determina-
5 tion that such assistance is in the vital national
6 security interests of the United States notwith-
7 standing the fact that the certification required
8 by subsection (a) cannot be made; and

9 (C) submits to such committees an anal-
10 ysis of the degree to which such assistance is in
11 the national security interests of the United
12 States and the actions of the Government of
13 Egypt do, or do not, satisfy the criteria in sub-
14 section (a)(2).

15 (2) EXTENSION OF WAIVER.—

16 (A) FISCAL YEARS 2014 AND 2015.—The
17 President may extend the effective period of a
18 waiver under paragraph (1) for the remainder
19 of fiscal year 2014 and an additional fiscal year
20 if the Secretary of State submits the strategy
21 required in subsection (d) to the appropriate
22 congressional committees and, not later than 15
23 days before the prior waiver expires, the Presi-
24 dent submits to the appropriate congressional
25 committees an updated certification, report, and

analysis that meet the requirements of subparagraph (A), (B), and (C), respectively, of paragraph (1).

(B) SUBSEQUENT FISCAL YEARS.—The President may annually extend the effective period of a waiver under paragraph (2)(A) for an additional fiscal year if, not later than 15 days before the prior year waiver expires, the President submits to the appropriate congressional committees an updated certification, report, and analysis that meet the requirements of subparagraph (A), (B), and (C), respectively, of paragraph (1).

(d) STRATEGY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall separately provide to Congress a comprehensive foreign assistance strategy for Egypt that—

(A) addresses how United States foreign assistance can most effectively—

(i) respond to the political and economic development concerns and aspirations of the people of Egypt, and seek to advance the United States' strategic objec-

tive of a secure, democratic, civilian-led, and prosperous Egypt that is a partner of the United States and advances peace and security in the region;

(ii) support regional stability and co-operation by strengthening the political and economic relationships between Egypt and her neighbors;

(iii) encourage and support efforts by the Government and people of Egypt to foster democratic norms and institutions, including rule of law, transparent and accountable governance, an independent legislature and judiciary, regular conduct of free and fair elections, an inclusive political process, and effective, law-abiding public security forces;

(iv) support economic reforms by the Government of Egypt to encourage private sector-led growth and job creation, create a favorable climate for business and investment, fight corruption, and expand international trade;

(v) seek to foster a vibrant civil society in Egypt, including the unencumbered

1 operation of nongovernmental organiza-
2 tions, a free and independent media, re-
3 spect for women, and protections for the
4 political, economic, and religious freedoms
5 and rights of all citizens and residents of
6 Egypt; and

7 (vi) seek to support security sector re-
8 form, particularly regarding civilian police
9 forces;

10 (B) includes an assessment of what actions
11 the Government of Egypt has taken, in law and
12 practice, that advance or inhibit the interests,
13 principles, and goals described within this strat-
14 egy, including the ability of Egyptian and inter-
15 national nongovernmental organizations to op-
16 erate inside Egypt, especially for the purposes
17 of promoting political, economic, and religious
18 freedoms and rights, democracy, and education,
19 and what actions the Secretary of State has
20 taken to further the same interests, principles,
21 and goals in Egypt;

22 (C) is based on the best principles and
23 practices of effective international development,
24 the provision of matching funds by the host
25 government, leveraging assistance for greater

1 impact together with the private sector, and the
2 goal of graduation from assistance;

3 (D) includes a detailed assessment of re-
4 sources and amounts that will be necessary to
5 achieve the goals set forth in this subsection
6 over the next five fiscal years; and

7 (E) includes an assessment of the effects
8 of a cessation of bilateral economic support for
9 Egypt on the Middle East region and United
10 States national security interests in the region.

11 (2) CONSIDERATION OF CERTAIN ELEMENTS.—

12 The strategy required by paragraph (1) shall include
13 consideration of—

14 (A) measures to promote and protect for-
15 eign direct investment in the economy of Egypt;

16 (B) programs to assist regional economic
17 engagement by the Government of Egypt and
18 job creation in that country through, among
19 other things, assisting in the establishment of
20 free trade zones in Egypt along the Suez Canal
21 Zone;

22 (C) efforts to improve the business climate
23 in Egypt, including by promoting United States
24 trade with Egypt and investment in that coun-
25 try; and

1 (D) efforts to promote market-based eco-
2 nomic reforms and to identify barriers to entry
3 in the economy of Egypt that prevent the effi-
4 cient flow of capital, goods, and services.

5 (3) CONSULTATION REQUIREMENT.—In devel-
6 oping the strategy required by paragraph (1), the
7 Secretary of State shall consult with, among other
8 relevant parties, the appropriate congressional com-
9 mittees, the Government of Egypt, political opposi-
10 tion groups in Egypt, private sector leaders, non-
11 governmental organizations, religious and secular
12 groups, women’s organizations, and civil society
13 groups, as well as relevant international nongovern-
14 mental organizations.

15 (e) FUNDING FOR DEMOCRACY AND GOVERNANCE
16 PROGRAMS.—

17 (1) IN GENERAL.—If, in any fiscal year, bilat-
18 eral economic assistance is provided to Egypt pursu-
19 ant to chapter 4 of part II of the Foreign Assistance
20 Act of 1961 (22 U.S.C. 2346 et seq.; relating to the
21 Economic Support Fund), not less than \$50,000,000
22 of that assistance shall be provided through the De-
23 partment of State and the National Endowment for
24 Democracy for democracy and governance programs
25 in Egypt.

1 (2) ADDITIONAL FUNDING IF WAIVER AUTHOR-
2 ITY INVOKED.—If, in any fiscal year, the President
3 exercises the waiver authority under subsection (c)
4 and bilateral economic assistance is provided to
5 Egypt pursuant to chapter 4 of part II of the For-
6 eign Assistance Act of 1961, not less than
7 \$25,000,000 of that assistance (in addition to the
8 amount provided for under paragraph (1)) shall be
9 provided through the Department of State and the
10 National Endowment for Democracy for democracy
11 and governance programs in Egypt.

12 **SEC. 203. TERMINATION.**

13 The limitations under section 201 and 202 shall ter-
14 minate on September 30, 2016, if the Secretary of State
15 submits to the appropriate congressional committees a
16 certification that the Government of Egypt—

17 (1) continues to implement the Peace Treaty
18 between the State of Israel and the Arab Republic
19 of Egypt, signed at Washington, March 26, 1979;

20 (2) is taking necessary and appropriate meas-
21 ures to counter terrorism, including measures to
22 counter smuggling into the Gaza Strip by, among
23 other measures, detecting and destroying tunnels be-
24 tween Egypt and the Gaza Strip and securing the
25 Sinai peninsula;

1 (3) is allowing the United States Armed Forces
 2 to transit the territory of Egypt, including through
 3 the airspace and territorial waters of Egypt; and

4 (4) is supporting a transition to an inclusive ci-
 5 vilian government by demonstrating a commitment
 6 to, and making consistent progress toward, holding
 7 regular, credible elections that are free, fair, and
 8 consistent with internationally accepted standards.

9 **SEC. 204. ADDITIONAL OVERSIGHT OF ONGOING EGYPT**
 10 **FUNDING.**

11 Section 7041(a) of the Consolidated Appropriations
 12 Act, 2012 (Public Law 112–74; 125 Stat. 1222) is amend-
 13 ed by striking “Committees on Appropriations” each place
 14 it appears and inserting “Committees on Appropriations
 15 and Foreign Relations of the Senate and the Committees
 16 on Appropriations and Foreign Affairs of the House of
 17 Representatives”.

18 **SEC. 205. SUNSET OF EXISTING AUTHORITY.**

19 (a) **REPEAL.**—Section 7008 of the Consolidated Ap-
 20 propriations Act, 2012 (Public Law 112–74; 125 Stat.
 21 1195) is hereby repealed.

22 (b) **TERMINATION OF EXISTING RESTRICTIONS.**—
 23 Notwithstanding any other provision of law, any restric-
 24 tions on assistance to a foreign government as the result
 25 of a coup d’état that were enacted before the date of the

1 enactment of this Act shall terminate as of the date of
2 the enactment of this Act and shall no longer apply to
3 the provision of such assistance.

4 **SEC. 206. APPROPRIATE CONGRESSIONAL COMMITTEES**
5 **DEFINED.**

6 In this title, the term “appropriate congressional
7 committees” means the Committees on Foreign Relations
8 and Appropriations of the Senate and the Committees on
9 Foreign Affairs and Appropriations of the House of Rep-
10 resentatives.

Calendar No. 267

113TH CONGRESS
1ST Session

S. 1857

A BILL

To reform assistance to Egypt, and for other
purposes.

DECEMBER 18, 2013

Read twice and placed on the calendar