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PEPFAR Reauthorization: Side-by-Side of Existing and Proposed Legislation

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Overview

The President's Emergency Plan for AIDS Relief (PEPFAR) is the U.S. government's global effort to combat HIV and the largest global health program devoted to a single disease (for more information, see the KFF fact sheet on PEPFAR). It was first proposed by President George W. Bush in 2003. Three major pieces of authorizing legislation govern PEPFAR's HIV response, as well as U.S. participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) and bilateral assistance for tuberculosis (TB) and malaria programs: The Leadership Act, The Lantos-Hyde Act, and The PEPFAR Stewardship Act (see Table 1). These legislative vehicles have permanently authorized much of the program within U.S. law but have also created some time-bound provisions. PEPFAR's current authorizing legislation goes through Fiscal Year (FY) 2018, which ended on September 30, 2018, and most of these time-bound provisions have expired. On August 3, 2018, the House introduced a bill (H.R. 6651) to reauthorize PEPFAR through FY 2023 and FY 2024, depending on the provision. The Senate introduced a similar bill (S. 3476) on September 18, 2018.

Table 1: PEPFAR Legislation

Full Title	Common Title	Public Law #	Years
United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003	"The Leadership Act"	P.L. 108-25	FY 2004 - FY 2008
Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008	"The Lantos-Hyde Act"	P.L. 110-293	FY 2009 - FY 2013
PEPFAR Stewardship and Oversight Act of 2013	"The PEPFAR Stewardship Act"	P.L. 113-56	FY 2014 - FY 2018

This brief identifies the PEPFAR authorities that expired at the end of this fiscal year and notes how they are addressed by the proposed reauthorization bills (see Table 2). It also provides a detailed comparison of PEPFAR's authorizing legislation over time (see Table 3). It will be updated as needed.

Legislative Changes to PEPFAR Over Time

After first setting the broad parameters for PEPFAR and creating its main structures in 2003, PEPFAR's subsequent authorizing legislation has made several key changes to the program, as the HIV response has evolved and as PEPFAR has moved from an emergency response to one supporting longer-term sustainability and epidemic control. These include changes to funding authorization levels and spending directives, as well as requirements for reporting and oversight. Among the major changes over time are:

- *Funding authorization levels*: The Leadership Act authorized $15 billion during PEPFAR's first five-year period (FY 2004 – FY 2008), which marked a significant increase in funding for HIV by the U.S. government. The Lantos-Hyde Act authorized even more, with $48 billion over the next five-year period (FY 2009 – FY 2013). The Stewardship Act did not specify authorization of funding for the most recent five-year period (FY 2014 – FY 2018).
- *Spending directives*: Congress has provided several spending directives to PEPFAR through its authorizing legislation, although these have generally been relaxed over time. For example, in the Leadership Act, Congress required that at least 33% of prevention funds be spent on abstinence-until-marriage programs during the FY 2004 – FY 2009 period. This was relaxed in the Lantos-Hyde Act, which removed the 33% directive and replaced it with a requirement of "balanced funding" for prevention, to be accompanied by a report to Congress if less than half of prevention funds were spent on abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction activities in any host country with a generalized epidemic.
- *Reporting, monitoring, and transparency*: Each of the authorizing bills has included reporting requirements to provide Congress and others with data and information about the program and to support oversight and evaluation. For example, the Leadership Act and the Lantos-Hyde Act required the Institute of Medicine to conduct evaluations of PEPFAR; however, this was not included in the PEPFAR Stewardship Act. The Lantos-Hyde Act and the PEPFAR Stewardship Act require the Inspectors General of several U.S. agencies (the Department of State, the Department of Health and Human Services, and the U.S. Agency for International Development) to jointly develop coordinated annual plans for overseeing U.S. government global HIV, TB, and malaria programs.

It is important to note that Congress has also made changes to PEPFAR through other legislative vehicles. For example, Congress has used appropriations legislation in certain years to change the amount of withholding required from the annual U.S. contribution to the Global Fund, pending certification of certain benchmarks by the Secretary of State. Still, by the time of the Stewardship Act, a decade after PEPFAR's creation, most changes were relatively minor, focused on adding new or refining existing reporting requirements.

Permanent and Expiring Authorities

PEPFAR operates largely under permanent authorities of U.S. law that allow for ongoing funding and the continuation of the major structures of the program, such as the Office of the Global AIDS Coordinator at the Department of State as well as the position of Global AIDS Coordinator, U.S. participation in the Global Fund, and annual reporting on PEPFAR efforts. Absent a reauthorization, the PEPFAR program would continue, provided funds are appropriated. Still, seven of PEPFAR's congressionally-mandated requirements expired at the end of FY 2018, while one (a requirement for an annual treatment study) will expire at the end of FY 2019. Of these, two relate to how HIV funding is allocated, four specify requirements related to the U.S. contribution to the Global Fund, and two address reporting or oversight. Both H.R. 6651 and S. 3476 would extend these expiring authorities, and after changes to the House bill during committee markup, the bills are virtually identical. While it remains to be seen whether Congress will move to pass a reauthorization bill, these provisions could be extended through appropriations legislation or via some other legislative vehicle.

Table 2: PEPFAR Legislation - Expiring Provisions and Proposed Legislation			
Topic of Provision	**Description**	**H.R. 6651 (8-3-18)**	**S. 3476 (9-18-18)**
HIV Bilateral Funding Allocation: Treatment, Care, Nutrition and Food Support	Requires that more than half of funds appropriated or otherwise made available for bilateral HIV be expended for treatment, care, and nutrition and food support for people living with HIV (through FY 2018)	Extended through FY 2023	Extended through FY 2023
HIV Bilateral Funding Allocation: Orphans and Vulnerable Children (OVC)	Requires that not less than 10% of funds appropriated or otherwise made available for bilateral HIV be expended for programs targeting orphans and other children affected by, of vulnerable to, HIV (through FY 2018)	Bill as introduced did not include an extension; added extension through FY 2023 during committee markup on 9-27-18	Extended through FY 2023
Global Fund Contribution: 1/3 Cap	Limits U.S. contributions to the Global Fund to not exceed 33% of all funds donated to the Global Fund during a specified period ("1/3 cap") (through FY 2018)	Extended through FY 2023, calculated from FY 2004	Extended through FY 2023, calculated from FY 2004
Global Fund Contribution: Use of Funds Withheld Due to 1/3 Cap	Authorizes that any of the U.S. contribution to the Global Fund withheld due to the 1/3 cap may be used for bilateral HIV, TB, and malaria programs (through FY 2018)	Extended through FY 2023	Extended through FY 2023
Global Fund Contribution: Withholding Obligation of 20% Pending Certification	Requires withholding 20% of annual U.S. contribution to the Global Fund pending certification of certain accountability and transparency benchmarks by the Secretary of State* (through FY 2018)	Extended through FY 2023	Extended through FY 2023
Global Fund Contribution: Withholding Portion if Funds Expended to Certain Governments	Requires withholding a portion of the U.S. contribution to the Global Fund, the next fiscal year, equal to the amount expended by the Global Fund to country governments determined by the Secretary of State to have "repeatedly provided support for acts of international terrorism" (through FY 2018)	Extended through FY 2023**	Extended through FY 2023**
Annual Treatment Providers Study	Directs the Global AIDS Coordinator to annually complete a study of treatment providers for HIV programs, including spending by the Global Fund and partner countries (through FY 2019)	Extended through FY 2024	Extended through FY 2024
Oversight Plans of Inspectors General	Directs various agencies' inspectors general to jointly develop coordinated annual plans for overseeing HIV, malaria, and TB programs (through FY 2018)	Extended through FY 2023	Extended through FY 2023

NOTES: * In certain years, Congress directed the withholding to be 10%, rather than 20%. **Would also amend the use of funds withheld due to this provision to them to be used for bilateral HIV, TB, and malaria programs (current legislation allows them to be used for bilateral HIV only). Also would also apply to any funds withheld due if certain expenses exceeding 10%.

SOURCES: KFF analysis of: U.S. Congress, *United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003* (P.L. 108-25), May 27, 2003; *Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008* (P.L. 110-293), July 30, 2008; *PEPFAR Stewardship and Oversight Act of 2013* (P.L. 113-56), Dec. 2, 2013; U.S. Code, Title 22: Foreign Relations and Intercourse, Chapter 83 (UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA) and Chapter 32 (FOREIGN ASSISTANCE), Sections 2151b - 2151b-4; appropriations legislation; Congressional Research Service, *International HIV/AIDS, Tuberculosis, and Malaria: Key Changes to U.S. Programs and Funding*, RL34569, July 14, 2008. Congressional Research Service, *The President's Emergency Plan for AIDS Relief (PEPFAR), U.S. Global HIV/AIDS, Tuberculosis, and Malaria Programs: A Description of Permanent and Expiring Authorities*, R43232, September 27, 2013; Congressional Research Service, "PEPFAR Stewardship and Oversight Act: Expiring Authorities," IF10797, May 18, 2018; U.S. Congress, *PEPFAR Extension Act of 2018*, H.R. 6651; U.S. Congress, *PEPFAR Extension Act of 2018*, S. 3476.

Table 3: PEPFAR Legislation - Side-by-Side of Key Topics			
Common Title	**THE LEADERSHIP ACT**	**THE LANTOS-HYDE ACT**	**THE PEPFAR STEWARDSHIP ACT**
		OVERVIEW	
Full Title	United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003	Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008	PEPFAR Stewardship and Oversight Act of 2013
Date Enacted	**May 27, 2003**	**July 30, 2008**	**December 2, 2013**
Public Law #	P.L. 108-25	P.L. 110-293	P.L. 113-56
Authorization of Programs	Authorizes U.S. global HIV, TB and malaria efforts Authorizes U.S. participation in the Global Fund to Fight AIDS, TB, and Malaria	Maintains current law	Maintains current law
Authorization of Funding	**FY04 – FY08:** Authorizes **$15 billion** ($3 billion/year), of which: • Up to $1 billion for Global Fund in FY04; such sums as necessary in FY05 – FY08 • Such sums as necessary for HIV • Such sums as necessary for TB • Such sums as necessary for malaria	**FY09 – FY13:** Authorizes **$48 billion** (in total[a]), of which: • Up to $2 billion for Global Fund in FY09; such sums as necessary in FY10 – FY13 • Such sums as necessary for HIV • $4 billion for TB (in total) • $5 billion for malaria (in total)	**FY14 - FY18:** Does not specify authorization for funding for HIV, TB, or malaria (however, Congress effectively authorizes funding when it appropriates funding for a purpose)
Program Coordinator/ Office	Establishes Office of the **Global HIV/AIDS Coordinator** and Global HIV/AIDS Coordinator at Department of State	Maintains current law regarding Global HIV/AIDS Coordinator Establishes **Malaria Coordinator** at USAID	Maintains current law
		HIV	
Major Objective	Providing assistance for the prevention, treatment, and control of HIV/AIDS is a "major objective of the foreign assistance program of the United States"	Providing assistance for the prevention and treatment of HIV/AIDS and the care of those affected by the disease is a "major objective of the foreign assistance program of the United States"	Maintains current law
5-Year Strategy, Reports, Targets/Goals	Requires: • 5-year HIV/AIDS strategy • Annual report on U.S. global HIV efforts • Annual report on PMTCT for 5 years Recommends (Sense of Congress) an urgent priority be the rapid increase in distribution of antiretroviral treatment so that U.S. assistance provides treatment for:	Requires: • Updated 5-year HIV/AIDS strategy ○ Include a longer-term estimate of projected resource needs and anticipated role of the U.S. in global HIV efforts during the 10-year period beginning FY13 • Annual report on U.S. global HIV efforts • Annual report on PMTCT for 10 years (from FY04)	Maintains current law regarding annual report on Best Practices Requires: • Annual report on U.S. global HIV efforts • Treatment Providers Study annually through FY19[b]

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	• At least 500,000 individuals with HIV/AIDS by end of FY04
	• At least 1 million individuals with HIV/AIDS by end of FY05
	• At least 2 million individuals with HIV/AIDS by end of FY06
	
	Recommends (as U.S. policy):
	• Placing high priority on prevention of mother-to-child transmission (PMTCT) of HIV, the care and treatment of family members and caregivers, and the care of children orphaned by AIDS
	
	Requires HIV/AIDS strategy to:
	• Provide for meeting or exceeding the goal to reduce the rate of mother-to-child transmission of HIV by 20 percent by 2005 and by 50 percent by 2010
		• Submission of one-time report by PMTCT expert panel
		• Annual report on Best Practices
		• Treatment Providers Study (with treatment cost data) annually through FY13
		
		Includes U.S. policy objective to, by FY13, assist partner countries to:
		• Prevent 12 million new HIV infections (requires this goal to be increased consistent with epidemiological evidence and available resources for FY09 – FY13)
		• Provide treatment to more than 2 million people with HIV/AIDS
		  ○ To be increased by at least the percentage increase in the amount appropriated for bilateral global HIV/AIDS assistance in any FY as compared to FY08, for FY09 – FY13
		  ○ To be increased above this calculated number in proportion to the decrease in per patient cost to the U.S. Government of providing treatment in countries receiving bilateral global HIV/AIDS assistance, as compared with FY08, for FY09 – FY13
		• Support additional treatment through coordinated multilateral efforts
		• Support care for 12 million, including 5 million orphans and vulnerable children
		• Provide at least 80% of pregnant women with PMTCT coverage (requires this goal to be increased consistent with epidemiological evidence and available resources for FY09 – FY13)
		• Provide care and treatment to children with HIV/AIDS in proportion to their share of the HIV-infected population in a given country
		• Train at least 140,000 new health workers
			Maintains current law regarding targets/goals specified in the Lantos-Hyde Act
			
			Requires annual report to include :
			• PEPFAR targets in partner countries[b]
			• National targets established by partner countries or, when not available, a description of progress towards developing them
			• Description of how partner country targets are designed to:
			  ○ ensure that the annual increase in new patients on treatment exceeds the number of annual new HIV infections
			  ○ reduce the number of new HIV infections below the number of deaths among persons infected with HIV
			  ○ achieve an AIDS-free generation

Authorization of Funding and Spending Directives	**FY04 – FY08:** Authorizes $15 billion ($3 billion/year), of which: • **Such sums as necessary** for HIV	**FY09 – FY13:** Authorizes $48 billion (in total), of which: • **Such sums as necessary** for HIV	**FY14 - FY18:** Does not specify authorization for funding for HIV (however, Congress effectively authorizes funding when it appropriates funding for a purpose)

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	Recommends (Sense of Congress on funding distribution): • 15% of funds be spent on palliative care • 20% of funds be spent on prevention ○ At least 33% of prevention funds be spent on abstinence-until-marriage programs • 55% be spent on treatment • 10% be spent on orphans and vulnerable children Requires for FY06 – FY08: • Not less than 33% of prevention funds be spent on abstinence-until-marriage programs • Not less than 55% be spent on treatment • Not less than 10% be spent on orphans and vulnerable children States that no funds may be used to promote or advocate the legalization or practice of prostitution	Removes Sense of Congress on funding distribution that was in the Leadership Act Requires for FY09 – FY13: • More than half of bilateral aid be spent on treatment, care, and nutrition and food support for people living with HIV • Not less than 10% be spent on orphans and vulnerable children Requires the Global AIDS Coordinator provide balanced funding for prevention activities for sexual transmission of HIV/AIDS +and: • Ensure "activities promoting 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 county involved in HIV/AIDS prevention activities" • Establish an HIV sexual transmission prevention strategy to govern prevention funding in any host country with a generalized epidemic • Provide a report to Congress with a justification of the decision if this strategy provides less than half of prevention funds for abstinence, delay of sexual debut, monogamy, fidelity, and partner reduction in each such host country (funds used for new prevention technologies/modalities excluded from determining compliance) Maintains current law regarding no funds used to promote or advocate the legalization or practice of prostitution	Requires for FY09 – FY18: • More than half of bilateral aid be spent on treatment, care, and nutrition and food support for people living with HIV • Not less than 10% of bilateral aid be spent on orphans and vulnerable children Maintains current law regarding balanced funding for prevention requirement and no funds used to promote or advocate the legalization or practice of prostitution
Organizations' Eligibility for Funding	States that no funds may be made available to provide assistance "to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking" (often called the **"prostitution pledge"**[1])	Maintains current law regarding "prostitution pledge" Regarding the conscience clause: • Explicitly states that "an organization" includes faith-based organizations	Maintains current law

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	States that an organization that is otherwise eligible to receive HIV assistance shall not be required, as a condition of receiving the assistance, to endorse or utilize a multisectoral approach to combatting 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 (often called the **"conscience clause"**)	• Expands language by broadening the conditions that organizations cannot be required to meet as a condition for funding, including a "multisectoral *or comprehensive* approach" and "to endorse, utilize, *make a referral to, become integrated with,* or otherwise participate in *any program or activity*" (*italics* indicate changes) • Adds that organizations are not be discriminated against in the solicitation or issuance of grants, contracts, or cooperative agreements under such provisions of law for refusing to meet any requirement described above	
Focus Countries/ Regions and Partnership Frameworks	Requires the HIV/AIDS Coordinator to directly approve all U.S. activities and funding related to HIV/AIDS in certain countries (often referred to as "**PEPFAR focus countries**"): • 14 countries (Botswana, Cote d'Ivoire, Ethiopia, Guyana, Haiti, Kenya, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda, Zambia) and • Other countries designated by the President (Vietnam was later so designated) • Also states that assistance should be provided to countries in sub-Saharan Africa and the Caribbean, and to other countries and areas	Adds: • Vietnam as 15th focus country • Central Asia, Eastern Europe, and Latin America as specific regions where assistance should be provided • With regard to designating additional focus countries, requires the President give priority to those countries in which there is a high prevalence of HIV or risk of significantly increasing incidence of HIV within the general population and inadequate financial means within the country Authorizes "compacts" and "framework agreements" with recipient countries in order to promote host government commitment to deeper integration of HIV/AIDS services into health systems, contribute to health systems overall, enhance sustainability Requires annual report to describe compacts or framework agreements reached or negotiated with countries	Maintains current law Requires annual report to describe what has been learned in advancing partnership framework agreements and implications for how to further strengthen these agreements (previously called "compacts" and "framework agreements")
Prevention	Requires that funding be used to carry out: • Prevention activities that "are designed or intended to impart knowledge with the exclusive purpose of helping individuals avoid behaviors that place them at risk of HIV infection, including integration of such programs into health programs and the inclusion in counseling programs of	Maintains existing funding requirements under the Leadership Act, and adds requirement funding also be used to carry out the following prevention activities: • Addressing multiple concurrent sexual partnering • Male circumcision	Maintains current law (amends some annual reporting requirements)

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	information on methods of avoiding infection of HIV, including delaying sexual debut, abstinence, fidelity and monogamy, reduction of casual sexual partnering, reducing sexual violence and coercion, including child marriage, widow inheritance, and polygamy, and where appropriate, use of condoms" • With particular emphasis on high risk populations, preventative intervention education and technologies activities, including support for: bulk purchases of test kits, condoms, and, when proven effective, microbicides; for the introduction and distribution of these commodities; and education and training on the use of the technologies	• Female and male condoms (change from "condoms") Expresses Sense of Congress recognizing need and urgency to expand range of female-controlled HIV prevention methods Requires microbicides research at the National Institutes of Health and "strongly encourage[s]" the Centers for Disease Control and Prevention to fully implement its microbicide agenda	
Women & Girls / Gender	Recommends significant funding, of FY04 – FY08 funding directed to a pilot program for care and treatment of orphans and other children and young people affected by HIV, be directed to activities ensuring the importance of inheritance rights of women, in light of the impact of the epidemic Requires: • HIV/AIDS strategy to address needs of women and girls and include programs to make available testing and treatment to HIV-positive women and their family members • Annual report to include reporting on indicators related to reaching women and girls	Adds greater, more explicit emphasis on women and girls, particularly related to PMTCT and families, and language about gender and gender-related vulnerabilities to HIV Requires: • Funding be used to carry out activities improving accountability through more detailed measures regarding reaching women and girls, as well as gender- and age-specific measures • HIV/AIDS strategy to address vulnerabilities of women and youth to HIV infection in prevention strategy and seek to reduce factors that lead to gender disparities in HIV • Annual report to describe programs serving women and girls • Establishment of PMTCT expert panel and submission of one-time report by panel	Maintains current law (amends some annual reporting requirements)
Nutrition & Food Support	Requires, as appropriate: • support for nutrition and food for people living with and affected by HIV, including children affected by HIV • integration of nutrition programs with HIV activities, generally Expresses "Sense of Congress" that U.S. food assistance should be accepted by countries with	Strengthens support for nutrition and food assistance: • Authorizes use of such sums as necessary of assistance (of overall $48 billion authorization) for purchase of food as a component of treatment for FY09 – FY13 • Requires nutritional assessments in all HIV programs	Maintains current law (amends some annual reporting requirements); does not include specific funding authorization (however, Congress effectively authorizes funding when it appropriates funding for a purpose)

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	large populations of people living with HIV to help feed such individuals		
Immigration and Travel Ban of HIV Positive Individuals	No mention[c]	Ends statutory prohibition against HIV-positive visitors and immigrants by amending *Immigration & Nationality Act*[d]	Maintains current law
	GLOBAL FUND		
Global Fund to Fight AIDS, TB, and Malaria	**FY04 – FY08:** Authorizes $15 billion ($3 billion/year), of which: • **Up to $1 billion** for Global Fund in FY04 • **Such sums as necessary** for Global Fund FY05 - FY08 **"1/3 cap":** Limits U.S. contributions to Global Fund to 1/3 (cannot exceed 33%) of contributions from all sources for FY04 – FY08 • Requires any amount not contributed due to 1/3 cap to be contributed as soon as practicable, after other sources have made additional contributions to the Global Fund • However, after July 31 of each FY for FY04 – FY08, any amount still withheld due to the cap is authorized to be made available for bilateral HIV, TB, and malaria (amendment made in 2004 via other legislation[e]) Requires, for FY04 – FY08, that if the President determines the Global Fund has provided assistance to a country the government of which the Secretary of State has determined has "repeatedly provided support for acts of international terrorism," then the U.S. shall withhold from the U.S. contribution for the next fiscal year an amount equaling the amount of funding expended by the Global Fund to the government of each such country Authorizes amounts withheld for this and other reasons[f] to be made available for bilateral HIV	**FY09 – FY13:** Authorizes $48 billion (in total), of which: • **Up to $2 billion** for Global Fund in FY09 • **Such sums as necessary** for Global Fund in FY10 – FY13 "1/3 cap": Limits U.S. contributions to 1/3 for FY09 – FY13 • Requires amount not contributed due to cap to be contributed as soon as practicable. • Authorizes, after July 31 of each FY for FY09 – FY13, any amount still withheld due to cap to be made available for bilateral HIV, TB, and malaria Requires, for FY09 – FY13, withholding portion if funding expended by the Global Fund to governments that have "repeatedly provided support for acts of international terrorism" Maintains authorization for amounts withheld for this and other reasons[f] to be made available for bilateral HIV Requires **withholding 20%** of annual contribution from obligation for each year during FY10 – FY13 pending certification of certain accountability and transparency benchmarks by the Secretary of State[g] Finds the Global Fund represents the multilateral component of U.S. global HIV, TB, and malaria efforts and that the Global Fund and U.S. bilateral efforts in these areas "are demonstrating increasingly effective coordination, with each	**FY14 - FY18:** Does not specify authorization for funding for Global Fund (however, Congress effectively authorizes funding when it appropriates funding for a purpose) "1/3 cap": Limits U.S. contributions to 1/3 for FY09 – FY18[h] • Requires amount not contributed due to cap to be contributed as soon as practicable. • Authorizes, after July 31 of each FY for FY09 – FY18, any amount still withheld due to cap to be made available for bilateral HIV, TB, and malaria Requires, for FY09 – FY18, withholding portion if funding expended by the Global Fund to governments that have "repeatedly provided support for acts of international terrorism" Maintains authorization for amounts withheld for this and other reasons[f] to be made available for bilateral HIV Requires withholding 20% of annual contribution from obligation for each year during FY10 – FY18 pending certification of certain accountability and transparency benchmarks by the Secretary of State[g] Maintains current law regarding Global Fund and U.S. bilateral efforts

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		possessing certain comparative advantages" and "often work most effectively in concert with each other"; says the U.S. Government is "fully committed to the success of the Global Fund as a multilateral public-private partnership"	
		TB	
Tuberculosis Programs	Control of tuberculosis (TB) is a "major objective of the foreign assistance program of the United States" **FY04 – FY08:** Authorizes $15 billion ($3 billion/year), of which: • **Such sums as necessary** for TB Requires funding priority be given to activities that increase Directly Observed Treatment Short-course (DOTS) coverage and MDR-TB treatment Recommends that at least 75 percent of the amount made available for TB each year be spent on drugs, supplies, direct patient services, DOTS training, and treatment of multi-drug resistant tuberculosis using DOTS-Plus, including substantially increased funding for the Global Tuberculosis Drug Facility	Maintains current law regarding major objective **FY09 – FY13:** Authorizes $48 billion (in total), of which: • **$4 billion** for TB (in total) Requires funding priority be given to direct services described in the Stop TB Strategy, including DOTS coverage, treatment for individuals co-infected with TB/HIV, and MDR-TB treatment; as well as to funding for the Global TB Drug Facility, the Stop TB Partnership, and the Global Alliance for TB Drug Development Significantly strengthens and elevates focus on TB: • Requires a 5-year TB strategy • Requires annual report on U.S. TB efforts Adds specific TB goals/targets: • Recommends achieving goals of 1) reducing by half the TB death and disease burden from the 1990 baseline and 2) sustaining or exceeding the detection of at least 70 percent of sputum smear-positive cases of TB and the successful treatment of at least 85 percent of the cases detected in countries with established USAID TB programs • Requires TB strategy to include plan to support 1) the successful treatment of 4.5 million new sputum smear TB patients under DOTS programs by 2013, primarily through direct support for needed services, commodities, health workers, and training and additional treatment through coordinated multilateral efforts; and 2) the diagnosis and treatment of 90,000 new MDR-TB cases by	Maintains current law **FY14 – FY18:** Does not specify authorization for funding for TB (however, Congress effectively authorizes funding when it appropriates funding for a purpose)

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		2013, and additional treatment through coordinated multilateral efforts	
		MALARIA	
Malaria Programs	Providing assistance for the prevention, control, and cure of malaria is a "major objective of the foreign assistance program of the United States" **FY04 – FY08:** Authorizes $15 billion ($3 billion/year), of which: • **Such sums as necessary** for malaria	Adds providing assistance for treatment to major objective Strengthens, embraces President's Malaria Initiative: • Requires a 5-year malaria strategy • Requires annual report on U.S. malaria efforts • Establishes Malaria Coordinator at USAID, with primary responsibility for the oversight and coordination of all resources and international activities of the U.S. Government relating to efforts to combat malaria **FY09 – FY13:** Authorizes $48 billion (in total), of which: • **$5 billion** for malaria (in total)	Maintains current law **FY14 – FY18:** Does not specify authorization for funding for malaria (however, Congress effectively authorizes funding when it appropriates funding for a purpose)
		EVALUATION AND OVERSIGHT	
Evaluation and Oversight	Requires **IOM study** comparing the success rates of the various programs and methods used under the first 5-year strategy for combatting HIV, as well as TB and malaria Requires **U.S. Comptroller General** to monitor and evaluate projects funded by the **Global Fund** and, every two years, prepare a report on its results	Requires IOM studies for: data evaluation plan; performance assessment; impact evaluation • IOM to include assessment of efforts to address gender-specific aspects of HIV/AIDS, including gender-related constraints to accessing services and addressing underlying social and economic vulnerabilities of women and men, in its evaluation Maintains current law regarding U.S. Comptroller General and the Global Fund Requires the **Inspectors General** of the Department of State and Broadcasting Board of Governors, the Department of Health and Human Services (HHS), and USAID to jointly develop five coordinated annual plans for overseeing U.S. Government global HIV, TB, and malaria programs from FY09 – FY13	Does not require IOM (now the National Academy of Medicine, or NAM) study Maintains current law reqarding U.S. Comptroller General and the Global Fund Requires Inspectors General of the Department of State and Broadcasting Board of Governors, the Department of Health and Human Services (HHS), and USAID jointly develop annual oversight plans through FY18

Table 3: PEPFAR Legislation - Side-by-Side of Key Topics			
Common Title	**THE LEADERSHIP ACT**	**THE LANTOS-HYDE ACT**	**THE PEPFAR STEWARDSHIP ACT**
		Requires **U.S. Comptroller General** to submit a one-time report on **U.S. global HIV/AIDS programs** no later than 3 years after enactment of Lantos-Hyde Act	

NOTES: Provisions expiring at the end of FY 2018 are in red. Existing law remains in force unless it was limited to a specific period (expiring at a particular point, such as funding that was authorized through the end of a certain fiscal year) or amended.

a: Also authorizes an additional $2 billion over five years for Emergency Fund for Indian Health and Safety and requires establishment of an emergency plan for Indian safety and health.

b: Defines partner country as a country that receives a minimum of $5 million in HIV/AIDS assistance from the U.S. Government in the previous fiscal year, for the purposes of the annual report and the Treatment Provider Study.

c: Governed by Immigration & Nationality Act, which prohibits HIV-positive individuals from visiting or immigrating to the United States (except if a waiver is granted). HIV is only health condition specifically named as inadmissible in the law; for all others, the Secretary of Health and Human Services is given the authority to decide what conditions pose public health threats.

d: Returns decision about whether HIV should be considered a threat to public health to the Secretary of Health & Human Services, as is the case for all other health conditions.

e: This amendment to the Leadership Act was made in the Consolidated Appropriations Act of 2004 (P.L. 108-199).

f: Specifically, amounts withheld from the U.S. contribution 1) equaling the amount of funding, if any, expended by the Global Fund in the prior year to any governments that have "repeatedly provided support for acts of international terrorism" and 2) equaling the average annual amount of funding, if any, spent on certain administrative expenses in excess of 10% of the total expenditures of the Global Fund for any 2-year period.

g: In certain years, Congress directed 10% withholding, rather than 20%.

h: For U.S. contributions from FY 2015 through FY 2018, Congress directed that the basis for calculating the limitation of the overall U.S. contribution to not exceed 33% of total Global Fund contributions would be U.S. contributions relative to all contributions to the Global Fund from FY 2004 rather than FY 2009, as was directed in the 2013 PEPFAR Stewardship Act.

SOURCES: KFF analysis of: U.S. Congress, *United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003* (P.L. 108-25), May 27, 2003; *Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008* (P.L. 110-293), July 30, 2008; *PEPFAR Stewardship and Oversight Act of 2013* (P.L. 113-56), Dec. 2, 2013; U.S. Code, Title 22: Foreign Relations and Intercourse, Chapter 83 (UNITED STATES LEADERSHIP AGAINST HIV/AIDS, TUBERCULOSIS, AND MALARIA) and Chapter 32 (FOREIGN ASSISTANCE), Sections 2151b - 2151b-4; appropriations legislation; Congressional Research Service, *International HIV/AIDS, Tuberculosis, and Malaria: Key Changes to U.S. Programs and Funding*, RL34569, July 14, 2008. Congressional Research Service, *The President's Emergency Plan for AIDS Relief (PEPFAR), U.S. Global HIV/AIDS, Tuberculosis, and Malaria Programs: A Description of Permanent and Expiring Authorities*, R43232, September 27, 2013; Congressional Research Service, "PEPFAR Stewardship and Oversight Act: Expiring Authorities," IF10797, May 18, 2018.