IN THE SENATE OF THE UNITED STATES

Mr. Menendez (for himself and Mr. Corker) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To reform assistance to Egypt.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Egypt Assistance Reform Act of 2013".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PROHIBITION ON ASSISTANCE TO GOVERNMENTS FOLLOWING COUPS D'ETAT

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.
TITI LE I—PROHIBITION ON ASSISTANCE TO GOVERNMENTS FOLLOWING COUPS D’ÉTAT

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

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

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

“(a) IN GENERAL.—After the date of the enactment of the Egypt Assistance Reform Act of 2013, except as provided under subsection (b), no foreign assistance authorized pursuant to this Act or the Arms Export Control Act (22 U.S.C. 2751 et seq.) may be provided to the government of a foreign country, and none of the funds appropriated for such assistance shall be obligated or expended to finance directly any such assistance for such government, whose democratically elected head of government is deposed by coup d’état or decree in which the security services of that country play a decisive role.

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

“(c) DETERMINATION AND PUBLICATION.—

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

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

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

“(e) WAIVER.—

“(1) IN GENERAL.—The President may waive the restrictions in subsection (a) for a 180-day period if, not later than 5 days before the waiver takes effect, the President certifies to the appropriate congressional committees that—

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

“(B) such foreign government is committed to restoring democratic governance and due process of law, and is taking demonstrable steps toward holding free and fair elections in a reasonable timeframe.

“(2) CONSULTATION.—Not later than 15 days prior to the submission of the certification required by paragraph (1), the President shall consult with the appropriate congressional committees regarding the use of the waiver authority provided under such
paragraph and provide such committees a full briefing on the need for such waiver.

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

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

“(g) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the Committees on Foreign Relations and Appropriations of the Senate and the Committees 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 Arab Republic of Egypt, signed at Washington, March 26, 1979;
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(B) is taking necessary and appropriate measures to counter terrorism, including measures to counter smuggling into the Gaza Strip by, among other measures, detecting and destroying tunnels between Egypt and the Gaza Strip and securing the Sinai peninsula;

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

(D) is supporting a transition to an inclusive civilian government by demonstrating a commitment to, and making consistent progress toward, holding regular, credible elections that are free, fair, and consistent with internationally accepted standards;

(E) is respecting and protecting the political and economic freedoms of all residents of Egypt, including taking measures to address violence against women and religious minorities;

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

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

(b) EXCEPTION.—The limitation under subsection (a) shall not apply to defense articles and defense services to be used primarily for supporting or enabling counterterrorism, border and maritime security, or special operations capabilities or operations.

(c) WAIVER.—

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

(A) certifies to the appropriate congressional committees that providing such assistance is in the vital national security interests of the United States;

(B) provides to such committees a report detailing the reasons for making the determination that such assistance is in the vital national security interests of the United States; and

(C) submits to such committees an analysis of the degree to which providing such as-
istance is in the national security interests of
the United States and the actions of the Gov-
ernment of Egypt do or do not satisfy each of
the criteria contained in subparagraphs (A)
through (G) of subsection (a)(2).

(2) EXTENSION OF WAIVER.—

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

(B) SUBSEQUENT FISCAL YEARS.—The
President may annually extend the effective pe-
riod 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 Presi-
dent submits to the appropriate congressional
committees an updated certification, report, and analysis that meet the requirements of subparagraphs (A), (B), and (C), respectively, of paragraph (1).

(d) Strategy to Reform United States Military Assistance to Egypt.—

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

(A) enhance the ability of the Government of Egypt to detect, disrupt, dismantle, and defeat al Qaeda, its affiliated groups, and other terrorist organizations operating in Egypt, and to counter terrorist ideology and radicalization in Egypt;

(B) improve the capacity of the Government of Egypt to prevent human trafficking and the illicit movement of terrorists, criminals, weapons, and other dangerous material across Egypt’s borders or administrative boundaries, especially through illicit points of entry into the Gaza Strip;
(C) improve the Government of Egypt’s operational capabilities in counterinsurgency, counterterrorism, and border and maritime security;

(D) enhance the capacity of the Government of Egypt to gather, integrate, analyze, and share intelligence, especially with respect to the threat posed by terrorism and other illicit activity, while also ensuring a proper protection for the civil liberties of Egypt’s citizens; and

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

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

(A) A detailed assessment of the mechanism by which military assistance is provided to Egypt and whether such mechanism should be modified.

(B) A detailed summary of the current balance between the levels of economic and military support provided to Egypt, including an assessment of whether funding for economic development and political assistance programs
should be increased as a percentage of overall United States foreign assistance to Egypt, and an assessment of whether there should be an increased percentage of foreign military assistance focused on counterinsurgency, counterrorism, border and maritime security and related training.

(C) A process to assess whether current levels of economic and military support provided to Egypt are achieving United States national security objectives and supporting Egypt’s transition to democracy.

(D) An estimated schedule for completing the baseline conventional modernization of the armed forces of Egypt with United States-origin equipment.

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

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

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

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

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

(3) CONSULTATION REQUIREMENT.—In developing the strategy required under paragraph (1), the Secretary of State shall consult with, among other relevant parties, the appropriate congressional committees and the Government of Egypt.

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

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

(B) information on any contracts or purchases made by the Government of Egypt using interest earned from amounts in an interest-bearing account for Egypt related to funds made available under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and
whether the use of this interest has furthered
the goals described in this section.

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

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

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

(2) the Government of Egypt—

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

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

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

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

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

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

(e) WAIVER.—

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

(A) certifies to the appropriate congres-
sional committees that providing such assist-
ance is in the vital national security interests of
the United States;
(B) submits to such committees a report
detailing the reasons for making the determina-
tion that such assistance is in the vital national
security interests of the United States notwith-
standing the fact that the certification required
by subsection (a) cannot be made; and

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

(2) EXTENSION OF WAIVER.—

(A) FISCAL YEARS 2014 AND 2015.—The
President may extend the effective period of a
waiver under paragraph (1) for the remainder
of fiscal year 2014 and an additional fiscal year
if the Secretary of State submits the strategy
required in subsection (d) to the appropriate
congressional committees and, not later than 15
days before the prior waiver expires, the Presi-
dent submits to the appropriate congressional
committees an updated certification, report, and
analysis that meet the requirements of subpara-
(A) addresses how United States foreign
assistance can most effectively—

(i) respond to the political and eco-

mic development concerns and aspira-
tions 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 cooperation 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 operation of nongovernmental organiza-
tions, a free and independent media, respect for women, and protections for the political, economic, and religious freedoms and rights of all citizens and residents of Egypt; and

(vi) seek to support security sector reform, particularly regarding civilian police forces;

(B) includes an assessment of what actions the Government of Egypt has taken, in law and practice, that advance or inhibit the interests, principles, and goals described within this strategy, including the ability of Egyptian and international nongovernmental organizations to operate inside Egypt, especially for the purposes of promoting political, economic, and religious freedoms and rights, democracy, and education, and what actions the Secretary of State has taken to further the same interests, principles, and goals in Egypt;

(C) is based on the best principles and practices of effective international development, the provision of matching funds by the host government, leveraging assistance for greater
impact together with the private sector, and the
goal of graduation from assistance;

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

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

(2) CONSIDERATION OF CERTAIN ELEMENTS.—
The strategy required by paragraph (1) shall include
consideration of—

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

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

(C) efforts to improve the business climate
in Egypt, including by promoting United States
trade with Egypt and investment in that coun-
try; and
(D) efforts to promote market-based economic reforms and to identify barriers to entry in the economy of Egypt that prevent the efficient flow of capital, goods, and services.

(3) CONSULTATION REQUIREMENT.—In developing the strategy required by paragraph (1), the Secretary of State shall consult with, among other relevant parties, the appropriate congressional committees, the Government of Egypt, political opposition groups in Egypt, private sector leaders, non-governmental organizations, religious and secular groups, women’s organizations, and civil society groups, as well as relevant international nongovernmental organizations.

(e) FUNDING FOR DEMOCRACY AND GOVERNANCE PROGRAMS.—

(1) IN GENERAL.—If, in any fiscal year, bilateral economic assistance is provided to Egypt pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the Economic Support Fund), not less than $50,000,000 of that assistance shall be provided through the Department of State and the National Endowment for Democracy for democracy and governance programs in Egypt.
(2) ADDITIONAL FUNDING IF WAIVER AUTHORITY INVOKED.—If, in any fiscal year, the President exercises the waiver authority under subsection (c) and bilateral economic assistance is provided to Egypt pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $25,000,000 of that assistance (in addition to the amount provided for under paragraph (1)) shall be provided through the Department of State and the National Endowment for Democracy for democracy and governance programs in Egypt.

SEC. 203. TERMINATION.

The limitations under section 201 and 202 shall terminate on September 30, 2016, if the Secretary of State submits to the appropriate congressional committees a certification that the Government of Egypt—

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

(2) is taking necessary and appropriate measures to counter terrorism, including measures to counter smuggling into the Gaza Strip by, among other measures, detecting and destroying tunnels between Egypt and the Gaza Strip and securing the Sinai peninsula;
(3) is allowing the United States Armed Forces to transit the territory of Egypt, including through the airspace and territorial waters of Egypt; and

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

SEC. 204. ADDITIONAL OVERSIGHT OF ONGOING EGYPT FUNDING.

Section 7041(a) of the Consolidated Appropriations Act, 2012 (Public Law 112–74; 125 Stat. 1222) is amended by striking “Committees on Appropriations” each place it appears and inserting “Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives”.

SEC. 205. SUNSET OF EXISTING AUTHORITY.

(a) REPEAL.—Section 7008 of the Consolidated Appropriations Act, 2012 (Public Law 112–74; 125 Stat. 1195) is hereby repealed.

(b) TERMINATION OF EXISTING RESTRICTIONS.—Notwithstanding any other provision of law, any restrictions on assistance to a foreign government as the result of a coup d’état that were enacted before the date of the
enactment of this Act shall terminate as of the date of
the enactment of this Act and shall no longer apply to
the provision of such assistance.

SEC. 206. APPROPRIATE CONGRESSIONAL COMMITTEES
DEFINED.

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