

109TH CONGRESS
2D SESSION

S. 2370

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2006

Mr. MCCONNELL (for himself, Mr. BIDEN, Mr. DEMINT, Ms. MIKULSKI, Mr. MARTINEZ, Mr. NELSON of Florida, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. DEWINE, Mr. TALENT, Mr. ALLEN, Mr. FRIST, Mr. BURNS, Mr. THUNE, Mr. REID, Mr. SALAZAR, Mr. KERRY, Mr. BUNNING, Mr. LIEBERMAN, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, 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.**

4 This Act may be cited as the “Palestinian Anti-Ter-
5 rorism Act of 2006”.

1 **SEC. 2. LIMITATION ON ASSISTANCE TO THE PALESTINIAN**
2 **AUTHORITY.**

3 (a) **DECLARATION OF POLICY.**—It shall be the policy
4 of the United States—

5 (1) to support a peaceful, two-state solution to
6 end the conflict between Israel and the Palestinians
7 in accordance with the Performance-Based Roadmap
8 to a Permanent Two-State Solution to the Israeli-
9 Palestinian Conflict (commonly referred to as the
10 “Roadmap”);

11 (2) to oppose those organizations, individuals,
12 and countries that support terrorism and violently
13 reject a two-state solution to end the Israeli-Pales-
14 tinian conflict;

15 (3) to promote the rule of law, democracy, the
16 cessation of terrorism and incitement, and good gov-
17 ernance in institutions and territories controlled by
18 the Palestinian Authority; and

19 (4) to urge members of the international com-
20 munity to avoid contact with and refrain from finan-
21 cially supporting the terrorist organization Hamas
22 until it agrees to recognize Israel, renounce violence,
23 disarm, and accept prior agreements, including the
24 Roadmap.

1 (b) AMENDMENTS.—Chapter 1 of part III of the For-
2 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.) is
3 amended—

4 (1) by redesignating the second section 620G
5 (as added by section 149 of Public Law 104-164
6 (110 Stat. 1436)) as section 620J; and

7 (2) by adding at the end the following new sec-
8 tion:

9 **“SEC. 620K. LIMITATION ON ASSISTANCE TO THE PALES-**
10 **TINIAN AUTHORITY.**

11 “(a) LIMITATION.—Assistance may be provided
12 under this Act to the Palestinian Authority only during
13 a period for which a certification described in subsection
14 (b) is in effect.

15 “(b) CERTIFICATION.—A certification described in
16 this subsection is a certification transmitted by the Presi-
17 dent to Congress that contains a determination of the
18 President that—

19 “(1) no ministry, agency, or instrumentality of
20 the Palestinian Authority is effectively controlled by
21 Hamas, unless Hamas has—

22 “(A) publicly acknowledged Israel’s right
23 to exist as a Jewish state; and

24 “(B) committed itself and is adhering to
25 all previous agreements and understandings

1 with the United States Government, with the
2 Government of Israel, and with the inter-
3 national community, including agreements and
4 understandings pursuant to the Performance-
5 Based Roadmap to a Permanent Two-State So-
6 lution to the Israeli-Palestinian Conflict (com-
7 monly referred to as the ‘Roadmap’); and

8 “(2) the Palestinian Authority has made de-
9 monstrable progress toward—

10 “(A) completing the process of purging
11 from its security services individuals with ties to
12 terrorism;

13 “(B) dismantling all terrorist infrastruc-
14 ture within its jurisdiction, confiscating unau-
15 thorized weapons, arresting and bringing terror-
16 ists to justice, destroying unauthorized arms
17 factories, thwarting and preempting terrorist
18 attacks, and fully cooperating with Israel’s se-
19 curity services;

20 “(C) halting all anti-American and anti-
21 Israel incitement in Palestinian Authority-con-
22 trolled electronic and print media and in
23 schools, mosques, and other institutions it con-
24 trols, and replacing educational materials, in-

1 including textbooks, with materials that promote
2 peace, tolerance, and coexistence with Israel;

3 “(D) ensuring democracy, the rule of law,
4 and an independent judiciary, and adopting
5 other reforms such as ensuring transparent and
6 accountable governance; and

7 “(E) ensuring the financial transparency
8 and accountability of all government ministries
9 and operations.

10 “(c) RECERTIFICATIONS.—Not later than 90 days
11 after the date on which the President transmits to Con-
12 gress an initial certification under subsection (b), and
13 every six months thereafter—

14 “(1) the President shall transmit to Congress a
15 recertification that the conditions described in sub-
16 section (b) are continuing to be met; or

17 “(2) if the President is unable to make such a
18 recertification, the President shall transmit to Con-
19 gress a report that contains the reasons therefor.

20 “(d) CONGRESSIONAL NOTIFICATION.—Assistance
21 made available under this Act to the Palestinian Authority
22 may not be provided until 15 days after the date on which
23 the President has provided notice thereof to the Com-
24 mittee on International Relations and the Committee on
25 Appropriations of the House of Representatives and to the

1 Committee on Foreign Relations and the Committee on
2 Appropriations of the Senate in accordance with the proce-
3 dures applicable to reprogramming notifications under
4 section 634A(a) of this Act.

5 “(e) NATIONAL SECURITY WAIVER.—

6 “(1) WAIVER.—The President may waive the
7 limitation in subsection (a) with respect to the ad-
8 ministrative and personal security costs of the Office
9 of President of the Palestinian Authority and for ac-
10 tivities of the President of the Palestinian Authority
11 to promote democracy and the rule of law if the
12 President certifies and reports to the appropriate
13 congressional committees that—

14 “(A) it is in the national security interests
15 of the United States to provide such assistance;
16 and

17 “(B) the President of the Palestinian Au-
18 thority and the President’s party are not affili-
19 ated with Hamas or any other foreign terrorist
20 organization.

21 “(2) CONSULTATION REQUIRED.—The Presi-
22 dent shall consult with the appropriate congressional
23 committees prior to making a certification under
24 paragraph (1).

25 “(f) DEFINITIONS.—In this section:

1 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES DEFINED.—The term ‘appropriate congress-
3 sional committees’ means—

4 “(A) the Committee on International Rela-
5 tions and the Committee on Appropriations of
6 the House of Representatives; and

7 “(B) the Committee on Foreign Relations
8 and the Committee on Appropriations of the
9 Senate.

10 “(2) FOREIGN TERRORIST ORGANIZATION.—
11 The term ‘foreign terrorist organization’ means an
12 organization designated as a foreign terrorist organi-
13 zation by the Secretary of State in accordance with
14 section 219(a) of the Immigration and Nationality
15 Act (8 U.S.C. 1189(a)).

16 “(3) PALESTINIAN AUTHORITY.—The term
17 ‘Palestinian Authority’ means the interim Pales-
18 tinian administrative organization that governs part
19 of the West Bank and all of the Gaza Strip (or any
20 successor Palestinian governing entity), including
21 the Palestinian Legislative Council.”.

22 (c) PREVIOUSLY OBLIGATED FUNDS.—The provi-
23 sions of section 620K of the Foreign Assistance Act of
24 1961, as added by subsection (b), shall be applicable to

1 the unexpended balances of funds obligated prior to the
2 date of the enactment of this Act.

3 **SEC. 3. LIMITATION ON ASSISTANCE FOR THE WEST BANK**
4 **AND GAZA.**

5 (a) AMENDMENT.—Chapter 1 of part III of the For-
6 eign Assistance Act of 1961 (22 U.S.C. 2351 et seq.), as
7 amended by section 2(b)(2), is further amended by adding
8 at the end the following new section:

9 **“SEC. 620L. LIMITATION ON ASSISTANCE FOR THE WEST**
10 **BANK AND GAZA.**

11 “(a) LIMITATION.—Assistance may be provided
12 under this Act to nongovernmental organizations for the
13 West Bank and Gaza only during a period for which a
14 certification described in section 620K(b) is in effect with
15 respect to the Palestinian Authority.

16 “(b) EXCEPTIONS.—Subsection (a) shall not apply
17 with respect to the following:

18 “(1) ASSISTANCE TO MEET BASIC HUMAN
19 NEEDS.—Assistance to meet food, water, medicine,
20 or sanitation needs, or other assistance to meet basic
21 human needs.

22 “(2) ASSISTANCE TO PROMOTE DEMOCRACY.—
23 Assistance to promote democracy, human rights,
24 freedom of the press, non-violence, reconciliation,
25 and peaceful co-existence, provided that such assist-

1 ance does not directly benefit Hamas or other for-
2 eign terrorist organizations.

3 “(3) OTHER TYPES OF ASSISTANCE.—Any
4 other type of assistance if the President—

5 “(A) determines that the provision of such
6 assistance will further the national security in-
7 terests of the United States; and

8 “(B) not less than 45 days prior to the ob-
9 ligation of amounts for the provision of such as-
10 sistance—

11 “(i) consults with the appropriate con-
12 gressional committees regarding the spe-
13 cific programs, projects, and activities to
14 be carried out using such assistance; and

15 “(ii) submits to the appropriate con-
16 gressional committees a written memo-
17 randum that contains the determination of
18 the President under subparagraph (A).

19 “(4) DEFINITION.—In this subsection, the term
20 ‘appropriate congressional committees’ means—

21 “(A) the Committee on International Rela-
22 tions and the Committee on Appropriations of
23 the House of Representatives; and

1 “(B) the Committee on Foreign Relations
2 and the Committee on Appropriations of the
3 Senate.

4 “(c) MARKING REQUIREMENT.—Assistance provided
5 under this Act to nongovernmental organizations for the
6 West Bank and Gaza shall be marked as assistance from
7 the American people or the United States Government un-
8 less the Administrator of the United States Agency for
9 International Development determines that such marking
10 will endanger the lives or safety of persons delivering such
11 assistance or would have a significant adverse effect on
12 the implementation of that assistance.

13 “(d) CONGRESSIONAL NOTIFICATION.—Assistance
14 made available under this Act to nongovernmental organi-
15 zations for the West Bank and Gaza may not be provided
16 until 15 days after the date on which the President has
17 provided notice thereof to the Committee on International
18 Relations and the Committee on Appropriations of the
19 House of Representatives and to the Committee on For-
20 eign Relations and the Committee on Appropriations of
21 the Senate in accordance with the procedures applicable
22 to reprogramming notifications under section 634A(a) of
23 this Act.”.

24 (b) OVERSIGHT AND RELATED REQUIREMENTS.—

1 (1) OVERSIGHT.—For each of the fiscal years
2 2007 and 2008, the Secretary of State shall certify
3 to the appropriate congressional committees not
4 later than 30 days prior to the initial obligation of
5 amounts for assistance to nongovernmental organi-
6 zations for the West Bank or Gaza under the For-
7 eign Assistance Act of 1961 that procedures have
8 been established to ensure that the Comptroller Gen-
9 eral of the United States will have access to appro-
10 prium United States financial information in order
11 to review the use of such assistance.

12 (2) VETTING.—Prior to any obligation of
13 amounts for each of the fiscal years 2007 and 2008
14 for assistance to nongovernmental organizations for
15 the West Bank or Gaza under the Foreign Assist-
16 ance Act of 1961 or any other provision of law, the
17 Secretary of State shall take all appropriate steps to
18 ensure that such assistance is not provided to or
19 through any individual or entity that the Secretary
20 knows, or has reason to believe, advocates, plans,
21 sponsors, engages in, or has engaged in, terrorist ac-
22 tivity. The Secretary shall, as appropriate, establish
23 procedures specifying the steps to be taken in car-
24 rying out this paragraph and shall terminate assist-
25 ance to any individual or entity that the Secretary

1 has determined advocates, plans, sponsors, or en-
2 gages in terrorist activity.

3 (3) PROHIBITION.—No amounts made available
4 for fiscal year 2007 or 2008 for assistance to non-
5 governmental organizations for the West Bank or
6 Gaza under the Foreign Assistance Act of 1961 may
7 be made available for the purpose of recognizing or
8 otherwise honoring individuals who commit, or have
9 committed, acts of terrorism.

10 (4) AUDITS.—

11 (A) IN GENERAL.—The Administrator of
12 the United States Agency for International De-
13 velopment shall ensure that Federal or non-
14 Federal audits of all contractors and grantees,
15 and significant subcontractors and subgrantees,
16 that receive amounts for assistance to non-
17 governmental organizations for the West Bank
18 or Gaza under the Foreign Assistance Act of
19 1961 are conducted for each of the fiscal years
20 2007 and 2008 to ensure, among other things,
21 compliance with this subsection.

22 (B) AUDITS BY INSPECTOR GENERAL OF
23 USAID.—Of the amounts available for each of
24 the fiscal years 2007 and 2008 for assistance to
25 nongovernmental organizations for the West

1 Bank or Gaza under the Foreign Assistance
2 Act of 1961, up to \$1,000,000 for each such
3 fiscal year may be used by the Office of the In-
4 spector General of the United States Agency for
5 International Development for audits, inspec-
6 tions, and other activities in furtherance of the
7 requirements of subparagraph (A). Such
8 amounts are in addition to amounts otherwise
9 available for such purposes.

10 **SEC. 4. DESIGNATION OF TERRITORY CONTROLLED BY THE**
11 **PALESTINIAN AUTHORITY AS TERRORIST**
12 **SANCTUARY.**

13 It is the sense of Congress that, during any period
14 for which a certification described in section 620K(b) of
15 the Foreign Assistance Act of 1961 (as added by section
16 2(b)(2) of this Act) is not in effect with respect to the
17 Palestinian Authority, the territory controlled by the Pal-
18 estinian Authority should be deemed to be in use as a
19 sanctuary for terrorists or terrorist organizations for pur-
20 poses of section 6(j)(5) of the Export Administration Act
21 of 1979 (50 U.S.C. App. 2405(j)(5)) and section 140 of
22 the Foreign Relations Authorization Act, Fiscal Years
23 1988 and 1989 (22 U.S.C. 2656f).

1 **SEC. 5. DENIAL OF VISAS FOR OFFICIALS OF THE PALES-**
2 **TINIAN AUTHORITY.**

3 A visa should not be issued to any alien who is an
4 official of, affiliated with, or serving as a representative
5 of the Palestinian Authority, other than the President of
6 the Palestinian Authority and his or her personal rep-
7 resentatives, provided that the President and his or her
8 personal representatives are not affiliated with Hamas or
9 any other foreign terrorist organization, during any period
10 for which a certification described in section 620K(b) of
11 the Foreign Assistance Act of 1961 (as added by section
12 2(b)(2) of this Act) is not in effect with respect to the
13 Palestinian Authority.

14 **SEC. 6. TRAVEL RESTRICTIONS ON OFFICIALS AND REP-**
15 **RESENTATIVES OF THE PALESTINIAN AU-**
16 **THORITY AND THE PALESTINE LIBERATION**
17 **ORGANIZATION STATIONED AT THE UNITED**
18 **NATIONS IN NEW YORK CITY.**

19 (a) IN GENERAL.—Notwithstanding any other provi-
20 sion of law, and except as provided in subsection (b), the
21 President should restrict the travel of officials and rep-
22 resentatives of the Palestinian Authority and of the Pal-
23 estine Liberation Organization, who are stationed at the
24 United Nations in New York City to a 25-mile radius of
25 the United Nations headquarters building during any pe-
26 riod for which a certification described in section 620K(b)

1 of the Foreign Assistance Act of 1961 (as added by section
2 2(b)(2) of this Act) is not in effect with respect to the
3 Palestinian Authority.

4 (b) EXCEPTION.—The travel restrictions described in
5 subsection (a) should not apply to the President of the
6 Palestinian Authority and his or her personal representa-
7 tives, provided that the President and his or her personal
8 representatives are not affiliated with Hamas or any other
9 foreign terrorist organization.

10 **SEC. 7. PROHIBITION ON PALESTINIAN AUTHORITY REP-**
11 **RESENTATION IN THE UNITED STATES.**

12 (a) PROHIBITION.—Notwithstanding any other provi-
13 sion of law, it shall be unlawful to establish or maintain
14 an office, headquarters, premises, or other facilities or es-
15 tablishments within the jurisdiction of the United States
16 at the behest or direction of, or with funds provided by,
17 the Palestinian Authority during any period for which a
18 certification described in section 620K(b) of the Foreign
19 Assistance Act of 1961 (as added by section 2(b)(2) of
20 this Act) is not in effect with respect to the Palestinian
21 Authority.

22 (b) ENFORCEMENT.—

23 (1) ATTORNEY GENERAL.—The Attorney Gen-
24 eral shall take the necessary steps and institute the

1 necessary legal action to effectuate the policies and
2 provisions of subsection (a).

3 (2) RELIEF.—Any district court of the United
4 States for a district in which a violation of sub-
5 section (a) occurs shall have authority, upon petition
6 of relief by the Attorney General, to grant injunctive
7 and such other equitable relief as it shall deem nec-
8 essary to enforce the provisions of subsection (a).

9 (c) WAIVER.—Subsection (a) shall not apply if the
10 President determines and certifies to the appropriate con-
11 gressional committees that the establishment or mainte-
12 nance of an office, headquarters, premises, or other facili-
13 ties is vital to the national security interests of the United
14 States.

15 **SEC. 8. INTERNATIONAL FINANCIAL INSTITUTIONS.**

16 (a) REQUIREMENT.—The President should direct the
17 United States Executive Director at each international fi-
18 nancial institution to use the voice, vote, and influence of
19 the United States to prohibit assistance to the Palestinian
20 Authority (other than assistance described under sub-
21 section (b)) during any period for which a certification de-
22 scribed in section 620K(b) of the Foreign Assistance of
23 1961 (as added by section 2(b)(2) of this Act) is not in
24 effect with respect to the Palestinian Authority.

1 (b) EXCEPTIONS.—The prohibition on assistance de-
2 scribed in subsection (a) should not apply with respect to
3 the following types of assistance:

4 (1) Assistance to meet food, water, medicine, or
5 sanitation needs, or other assistance to meet basic
6 human needs.

7 (2) Assistance to promote democracy, human
8 rights, freedom of the press, non-violence, reconcili-
9 ation, and peaceful co-existence, provided that such
10 assistance does not directly benefit Hamas or other
11 foreign terrorist organizations.

12 (c) DEFINITION.—In this section, the term “inter-
13 national financial institution” has the meaning given the
14 term in section 1701(c)(2) of the International Financial
15 Institutions Act (22 U.S.C. 262r(c)(2)).

16 **SEC. 9. DIPLOMATIC CONTACTS WITH PALESTINIAN TER-**
17 **ROR ORGANIZATIONS.**

18 No funds authorized or available to the Department
19 of State may be used for or by any officer or employee
20 of the United States Government to negotiate with mem-
21 bers or official representatives of Hamas, Palestinian Is-
22 lamic Jihad, the Popular Front for the Liberation of Pal-
23 estine, al-Aqsa Martyrs Brigade, or any other Palestinian
24 terrorist organization (except in emergency or humani-
25 tarian situations), unless and until such organization—

1 (1) recognizes Israel’s right to exist;

2 (2) renounces the use of terrorism;

3 (3) dismantles the infrastructure in areas with-
4 in its jurisdiction necessary to carry out terrorist
5 acts, including the disarming of militias and the
6 elimination of all instruments of terror; and

7 (4) recognizes and accepts all previous agree-
8 ments and understandings between the State of
9 Israel and the Palestinian Authority.

10 **SEC. 10. REPORTING REQUIREMENT.**

11 Not later than 90 days after the date of the enact-
12 ment of this Act, and annually thereafter, the Secretary
13 of State shall submit to the appropriate congressional
14 committees a report that—

15 (1) describes the steps that have been taken by
16 the United States Government to ensure that other
17 countries and international organizations, including
18 multilateral development banks, do not provide di-
19 rect assistance to the Palestinian Authority for any
20 period for which a certification described in section
21 620K(b) of the Foreign Assistance Act of 1961 (as
22 added by section 2(b)(2) of this Act) is not in effect
23 with respect to the Palestinian Authority; and

24 (2) identifies any countries and international
25 organizations, including multilateral development

1 banks, that are providing direct assistance to the
2 Palestinian Authority during such a period, and de-
3 scribes the nature and amount of such assistance.

4 **SEC. 11. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on International Rela-
10 tions and the Committee on Appropriations of
11 the House of Representatives; and

12 (B) the Committee on Foreign Relations
13 and the Committee on Appropriations of the
14 Senate.

15 (2) **PALESTINIAN AUTHORITY.**—The term “Pal-
16 estinian Authority” has the meaning given the term
17 in section 620K(e)(2) of the Foreign Assistance Act
18 of 1961 (as added by section 2(b)(2) of this Act).

○