

115TH CONGRESS
2D SESSION

S. _____

To amend the Zimbabwe Democracy and Economic Recovery Act of 2001.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Zimbabwe Democracy and Economic Recovery Act of 2001.

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 “Zimbabwe Democracy
5 and Economic Recovery Amendment Act of 2018”.

6 **SEC. 2. RECONSTRUCTION AND REBUILDING OF**
7 **ZIMBABWE.**

8 Section 2 of the Zimbabwe Democracy and Economic
9 Recovery Act of 2001 (Public Law 107–99; 22 U.S.C.
10 2151 note) is amended by striking “and restore the rule

1 of law” and inserting “restore the rule of law, and recon-
2 struct and rebuild Zimbabwe”.

3 **SEC. 3. FINDINGS.**

4 Section 4(a) of the Zimbabwe Democracy and Eco-
5 nomic Recovery Act of 2001 is amended—

6 (1) in paragraph (1)—

7 (A) by striking “the costly deployment of
8 troops to the Democratic Republic of the
9 Congo” and inserting “private appropriation of
10 public assets”; and

11 (B) by striking “Development and” and in-
12 serting “Development, International Develop-
13 ment Association, and, until recently,”; and

14 (2) by adding at the end the following new
15 paragraph:

16 “(6) In October 2016, the Government of
17 Zimbabwe cleared its longstanding arrears with the
18 IMF.”.

19 **SEC. 4. REMOVAL OF PROVISIONS RELATED TO MULTILAT-**
20 **ERAL DEBT RELIEF AND OTHER FINANCIAL**
21 **ASSISTANCE.**

22 Section 4(b) of the Zimbabwe Democracy and Eco-
23 nomic Recovery Act of 2001 is amended—

1 (1) by striking “RECOVERY.—” and all that fol-
2 lows through “Upon receipt” and inserting “RECOV-
3 ERY.—Upon receipt”; and

4 (2) by striking paragraph (2).

5 **SEC. 5. WITHHOLDING OF FUNDING FOR AFRICAN DEVEL-**
6 **OPMENT FUND.**

7 Section 4(c) of the Zimbabwe Democracy and Eco-
8 nomic Recovery Act of 2001 is amended—

9 (1) by redesignating paragraphs (1) and (2) as
10 subparagraphs (A) and (B), respectively, and mov-
11 ing such subparagraphs, as so redesignated, two ems
12 to the right;

13 (2) by striking “RESTRICTION.—Until” and in-
14 serting the following: “RESTRICTION.—

15 “(1) IN GENERAL.—Until”; and

16 (3) by adding at the end the following new
17 paragraph:

18 “(2) WITHHOLDING OF FUNDING FOR AFRICAN
19 DEVELOPMENT FUND.—The United States Govern-
20 ment shall withhold funding for the African Develop-
21 ment Fund equivalent to any funding provided to
22 Zimbabwe through Pillar II for arrears clearance.”.

1 **SEC. 6. ADDITIONAL CERTIFICATION REQUIREMENTS FOR**
2 **ASSISTANCE.**

3 Section 4(d) of the Zimbabwe Democracy and Eco-
4 nomic Recovery Act of 2001 is amended—

5 (1) by amending paragraph (2) to read as fol-
6 lows:

7 “(2) **PRE-ELECTION CONDITIONS.**—The fol-
8 lowing pre-election conditions are met:

9 “(A) Establishment and public release,
10 without cost, in both paper and digital formats,
11 of a biometric voter registration roll that is en-
12 dorsed by all registered political parties.

13 “(B) An independent electoral manage-
14 ment body is selected, the members of which
15 should be nominated by all political parties rep-
16 resented in the parliament of Zimbabwe, and
17 permitted to entirely carry out the functions as-
18 signed to it in section 239 of Zimbabwe’s 2013
19 constitution in an entirely independent manner.

20 “(C) The Defense Forces of Zimbabwe are
21 neither permitted to actively participate in cam-
22 paigning for any candidate nor to intimidate
23 voters, and must verifiably and credibly uphold
24 their constitutionally mandated duty to respect
25 the fundamental rights and freedoms of all per-
26 sons and be non-partisan in character.

1 “(D) International observers, including
2 from the United States, the African Union, the
3 Southern African Development Community, and
4 the European Union are permitted to observe
5 the entire electoral process, both prior to, on,
6 and following voting day, including by moni-
7 toring polling stations and counting centers,
8 and are able to independently operate in a man-
9 ner enabling them to access and analyze vote
10 tallying, tabulation, and the transmission and
11 content of voting results.

12 “(E) Candidates are allowed free and full
13 access to state media, which must afford equal
14 time and coverage to all registered parties, in
15 an impartial manner, and must be able to cam-
16 paign in an environment that is free from in-
17 timidation and violence.

18 “(F) Civil society organizations must freely
19 and independently be able to carry out voter
20 and civic education, and to monitor the entire
21 electoral process, including by observing, re-
22 cording, and transmitting public-posted or an-
23 nounced voting results, including at the ward,
24 constituency, and all higher levels of the vote
25 tallying process, including through the conduct

1 of one or more parallel vote tabulation exer-
2 cises.”;

3 (2) by redesignating paragraphs (3) and (5) as
4 paragraphs (7) and (8), respectively;

5 (3) by striking paragraph (4);

6 (4) by inserting after paragraph (2) the fol-
7 lowing new paragraphs:

8 “(3) PRESIDENTIAL ELECTION.—Zimbabwe has
9 held an election that is widely accepted as free, fair,
10 and credible by independent international and do-
11 mestic civil society monitors, and the president-elect
12 is free to assume the duties of the office.

13 “(4) UPDATING STATUTES.—Laws enacted
14 prior to passage of Zimbabwe’s new Constitution in
15 March 2013 that are inconsistent with the new Con-
16 stitution are amended or repealed so that they are
17 consistent with the Constitution.

18 “(5) UPHOLDING THE CONSTITUTION.—The
19 Secretary of State has certified that all elements of
20 the Constitution, including devolution, are being im-
21 plemented.

22 “(6) ECONOMIC REFORMS.—The Government of
23 Zimbabwe has demonstrated a sustained commit-
24 ment to reforming Zimbabwe’s economy in ways that

1 will promote economic growth, address unemploy-
2 ment and underdevelopment, and restore livelihoods.

3 “(7) DIAMOND REVENUES.—The Secretary of
4 State has certified that a transparent and credible
5 accounting for all diamond revenues since 2000 has
6 taken place.”; and

7 (5) in paragraph (7), as redesignated by para-
8 graph (2) of this subsection, by striking “consistent
9 with” and all that follows through “September
10 1998”.

11 **SEC. 7. REMOVAL OF AUTHORITY TO PAY LAND ACQUI-
12 TION COSTS.**

13 Section 5(a)(2) of the Zimbabwe Democracy and
14 Economic Recovery Act of 2001 is amended by striking
15 “, including the payment of costs” and all that follows
16 through “thereto”.

17 **SEC. 8. INCLUSION OF AUSTRALIA IN CONSULTATIONS
18 ABOUT ZIMBABWE.**

19 Section 6 of the Zimbabwe Democracy and Economic
20 Recovery Act of 2001 is amended by inserting “Australia,
21 and the United Kingdom” after “Canada,”.

22 **SEC. 9. SENSE OF CONGRESS ON PAST ATROCITIES AND
23 HUMAN RIGHTS ABUSES.**

24 It is the sense of Congress that the Government of
25 Zimbabwe should take immediate action to—

1 (1) unify the people of Zimbabwe by—

2 (A) acknowledging that human rights have
3 been abused, including during the urban land
4 clearances of Operation Murambatsvina, and
5 the violence perpetrated in the wake of the
6 2008 election against the opposition and citi-
7 zens of Zimbabwe;

8 (B) undertaking a genuine process of na-
9 tional reconciliation up to and including ac-
10 knowledging and apologizing for atrocities in
11 Matabeleland (Gukurahundi); and

12 (C) taking steps to offer redress or com-
13 pensation to victims of abuses identified in sub-
14 paragraphs (A) and (B), in a manner rec-
15 ommended by the Zimbabwe Human Rights
16 Commission and the National Peace and Rec-
17 onciliation Commission; and

18 (2) order an immediate inquiry into the dis-
19 appearance of prominent human rights activists, in-
20 cluding Patrick Nabanyama, Itai Dzamara, and
21 Paul Chizuze.

22 **SEC. 10. SENSE OF CONGRESS ON ENFORCEMENT OF SADC**
23 **TRIBUNAL RULINGS.**

24 It is the sense of Congress that the Government of
25 Zimbabwe and the Southern African Development Com-

1 munity (SADC) should enforce the SADC tribunal rulings
2 from 2007 to 2010, including 18 disputes involving em-
3 ployment, commercial, and human rights cases sur-
4 rounding dispossessed Zimbabwean commercial farmers
5 and agricultural companies.

6 **SEC. 11. SENSE OF CONGRESS ON STEPS THAT MIGHT IN-**
7 **CREASE POSSIBILITY OF INCREASED TIES.**

8 It is the sense of Congress that the United States
9 Government would be more optimistic about the possibility
10 for increased ties with Zimbabwe, including in the areas
11 of trade and investment, if—

12 (1) the government of Zimbabwe takes the
13 steps outlined in section 6 and takes concrete, tan-
14 gible steps outlined in paragraphs (2) through (7) of
15 section 4(d) of the Zimbabwe Democracy and Eco-
16 nomic Recovery Act of 2001, as added by section 6
17 of this Act; and

18 (2) takes concrete, tangible steps towards—

19 (A) good governance, including respect for
20 opposition, rule of law, and human rights; and

21 (B) economic reforms such as respect for
22 contracts and private property rights.