

Calendar No. 499

115TH CONGRESS
2D SESSION

S. 2779

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

IN THE SENATE OF THE UNITED STATES

APRIL 26, 2018

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

JUNE 28, 2018

Reported by Mr. CORKER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.~~

1 **SEC. 2. RECONSTRUCTION AND REBUILDING OF ZIM-**
 2 **BABWE.**

3 Section 2 of the Zimbabwe Democracy and Economic
 4 Recovery Act of 2001 (Public Law 107–99, 22 U.S.C.
 5 2151 note) is amended by striking “and restore the rule
 6 of law” and inserting “restore the rule of law, reconstruct
 7 and rebuild Zimbabwe, and come to terms with the past
 8 through a process of genuine reconciliation in which past
 9 human rights abuses are acknowledged and inquiries into
 10 the disappearance of prominent human rights activists, in-
 11 cluding Patrick Nabanyama, Itai Dzamara, and Paul
 12 Chizuze, are ordered”.

13 **SEC. 3. FINDINGS.**

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

16 (1) in paragraph (1)—

17 (A) by striking “the costly deployment of
 18 troops to the Democratic Republic of the
 19 Congo” and inserting “private appropriation of
 20 public assets”; and

21 (B) by striking “Development and” and in-
 22 serting “Development, International Develop-
 23 ment Association, and, until recently,”; and

24 (2) by adding at the end the following new
 25 paragraph:

1 “(6) In October 2016, the Government of
 2 Zimbabwe cleared its longstanding arrears with the
 3 IMF.”.

4 **SEC. 4. REMOVAL OF PROVISIONS RELATED TO MULTILAT-**
 5 **ERAL DEBT RELIEF AND OTHER FINANCIAL**
 6 **ASSISTANCE.**

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

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

12 (2) by striking paragraph (2).

13 **SEC. 5. ADDITIONAL CERTIFICATION REQUIREMENTS FOR**
 14 **ASSISTANCE.**

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

17 (1) by amending paragraph (2) to read as fol-
 18 lows:

19 “(2) **PRE- AND POST-ELECTION CONDITIONS.—**

20 The following pre- and post-election conditions are
 21 met:

22 “(A) Establishment and public release,
 23 without cost, in digital format, of a provisional
 24 and final biometric voter registration roll that is
 25 endorsed by all political parties represented in

1 the parliament of Zimbabwe and those parties
2 contesting the elections.

3 “(B) The Zimbabwe Electoral Commission
4 is permitted to entirely carry out the functions
5 assigned to it in section 239 of Zimbabwe’s
6 2013 constitution in an entirely independent
7 manner, and the chairperson continues to meet
8 with and consults regularly with representatives
9 of political parties represented in the par-
10 liament of Zimbabwe and those parties con-
11 testing the elections.

12 “(C) Consistent with Zimbabwe’s constitu-
13 tion, the Defense Forces of Zimbabwe are nei-
14 ther permitted to actively participate in cam-
15 paigning for any candidate nor to intimidate
16 voters, and must verifiably and credibly uphold
17 their constitutionally mandated duty to respect
18 the fundamental rights and freedoms of all per-
19 sons and be non-partisan in character, and are
20 not permitted to print, transfer, or control bal-
21 lots or transmit the results of elections.

22 “(D) International observers, including
23 from the United States, the African Union, the
24 Southern African Development Community, the
25 European Union, and others who apply are per-

mitted to observe the entire electoral process prior to, on, and following voting day, including by monitoring polling stations and tabulation centers and are able to independently operate in a manner enabling them to access and analyze vote tallying tabulation and the transmission and content of voting results.

“(E) Candidates are allowed free and full access to state media during the election period as defined in Zimbabwe’s Electoral Act, and must afford time and coverage to all parties contesting the elections in an impartial manner, and candidates are able to campaign in an environment that is free from intimidation and violence.

“(F) Civil society organizations are able to freely and independently carry out voter and civic education, and to monitor the entire electoral process, including by observing, recording, and transmitting public-posted or announced voting results, including at the ward, constituency, and all higher levels of the vote tallying process, including through the conduct of one or more sample based observation exercises.”;

1 (2) by redesignating paragraphs (3) and (5) as
2 paragraphs (8) and (9), respectively;

3 (3) by striking paragraph (4);

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

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

11 “(4) ~~UPDATING STATUTES.~~—Laws enacted
12 prior to passage of Zimbabwe’s new constitution in
13 March 2013 that are inconsistent with the new con-
14 stitution are amended or repealed so that they are
15 consistent with the constitution, especially through
16 the Electoral Amendments Bill and the repeal of the
17 Public Order and Security Act, and the Access to
18 Information and Protection of Privacy Act.

19 “(5) ~~UPHOLDING THE CONSTITUTION.~~—All ele-
20 ments of the constitution are being implemented.

21 “(6) ~~ECONOMIC REFORMS.~~—The Government of
22 Zimbabwe has demonstrated a sustained commit-
23 ment to reforming Zimbabwe’s economy in ways that
24 will promote economic growth, address unemploy-
25 ment and underdevelopment, and restore livelihoods.

1 ~~“(7) ROLE OF TRADITIONAL LEADERS.—~~Tradi-
 2 tional leaders of Zimbabwe observe section 281 of
 3 the Constitution and are not using humanitarian as-
 4 sistance provided by outside donor organizations or
 5 countries in a politicized manner to intimidate or
 6 pressure voters during the campaign period.”; and

7 ~~(5) in paragraph (8), 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. 6. REMOVAL OF AUTHORITY TO PAY LAND ACQUISI-**
 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. 7. INCLUSION OF AUSTRALIA AND THE UNITED KING-**
 18 **DOM IN CONSULTATIONS 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. 8. 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. 9. SENSE OF CONGRESS ON THE UNITED STATES-**
 7 **ZIMBABWE BILATERAL RELATIONSHIP.**

8 It is the sense of Congress that the United States
 9 Government is optimistic about the possibility for a
 10 stronger bilateral relationship with Zimbabwe, including
 11 in the areas of trade and investment, if—

12 (1) the Government of Zimbabwe takes con-
 13 crete, tangible steps outlined in paragraphs (2)
 14 through (6) of section 4(d) of the Zimbabwe Democ-
 15 racy and Economic Recovery Act of 2001, as added
 16 by section 5 of this Act; and

17 (2) takes concrete, tangible steps towards—

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

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

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the “Zimbabwe Democracy*
 24 *and Economic Recovery Amendment Act of 2018”.*

1 **SEC. 2. RECONSTRUCTION AND REBUILDING OF ZIMBABWE.**

2 *Section 2 of the Zimbabwe Democracy and Economic*
 3 *Recovery Act of 2001 (Public Law 107–99; 22 U.S.C. 2151*
 4 *note) is amended by inserting “to enable Zimbabweans to*
 5 *reconstruct and rebuild Zimbabwe and come to terms with*
 6 *the past through a process of genuine reconciliation that*
 7 *acknowledges past human rights abuses and orders inquir-*
 8 *ies into disappearances, including the disappearance of*
 9 *human rights activists, such as Patrick Nabanyama, Itai*
 10 *Dzamara, and Paul Chizuze” before the period at the end.*

11 **SEC. 3. FINDINGS.**

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

14 *(1) in paragraph (1), by striking “costly deploy-*
 15 *ment of troops to the Democratic Republic of the*
 16 *Congo” and inserting “private appropriation of pub-*
 17 *lic assets”; and*

18 *(2) by adding at the end the following:*

19 *“(6) In October 2016, the Government of*
 20 *Zimbabwe cleared a small hurdle in its longstanding*
 21 *public sector arrears with the IMF.”.*

22 **SEC. 4. PROVISIONS RELATED TO MULTILATERAL DEBT RE-**
 23 **LIEF AND OTHER FINANCIAL ASSISTANCE.**

24 *Section 4(b)(2) of the Zimbabwe Democracy and Eco-*
 25 *nomic Recovery Act of 2001 is amended—*

1 (1) in subparagraph (A), by striking “to propose
 2 that the bank should undertake a review of the feasi-
 3 bility of restructuring, rescheduling, or eliminating
 4 the sovereign debt of Zimbabwe held by that bank”
 5 and inserting “to support efforts to reevaluate plans
 6 to restructure, rebuild, reschedule, or eliminate
 7 Zimbabwe’s sovereign debt held by that bank and pro-
 8 vide an analysis based on reasonable financial op-
 9 tions to achieve those goals”; and

10 (2) in subparagraph (B), by striking “dollar”
 11 and inserting “currency”.

12 **SEC. 5. ADDITIONAL CERTIFICATION REQUIREMENTS FOR**
 13 **ASSISTANCE.**

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

16 (1) by amending paragraph (2) to read as fol-
 17 lows:

18 “(2) *PRE- AND POST-ELECTION CONDITIONS.*—
 19 The following pre- and post-election conditions are
 20 met:

21 “(A) *Establishment and public release,*
 22 *without cost, of a provisional and a final voter*
 23 *registration roll.*

24 “(B) *The Zimbabwe Electoral Commission*
 25 *is permitted to entirely carry out the functions*

1 *assigned to it in section 239 of Zimbabwe’s 2013*
 2 *Constitution in an independent manner, and the*
 3 *chairperson meets with and consults regularly*
 4 *with representatives of political parties rep-*
 5 *resented in the parliament of Zimbabwe and*
 6 *those parties contesting the elections.*

7 *“(C) Consistent with Zimbabwe’s 2013 Con-*
 8 *stitution, the Defence Forces of Zimbabwe—*

9 *“(i) are neither permitted to actively*
 10 *participate in campaigning for any can-*
 11 *didate nor to intimidate voters;*

12 *“(ii) are required to verifiably and*
 13 *credibly uphold their Constitutionally man-*
 14 *dated duty to respect the fundamental*
 15 *rights and freedoms of all persons and to be*
 16 *nonpartisan in character; and*

17 *“(iii) are not permitted to print,*
 18 *transfer, or control ballots or transmit the*
 19 *results of elections.*

20 *“(D) International observers, including*
 21 *from the United States, the African Union, the*
 22 *Southern African Development Community, and*
 23 *the European Union—*

24 *“(i) are permitted to observe the entire*
 25 *electoral process prior to, on, and following*

1 *voting day, including by monitoring polling*
 2 *stations and tabulation centers; and*

3 “(ii) *are able to independently access*
 4 *and analyze vote tallying tabulation and*
 5 *the transmission and content of voting re-*
 6 *sults.*

7 “(E) *Candidates are allowed access to pub-*
 8 *lic broadcasting media during the election pe-*
 9 *riod, as provided in Zimbabwe’s Electoral Act,*
 10 *and candidates are able to campaign in an envi-*
 11 *ronment that is free from intimidation and vio-*
 12 *lence.*

13 “(F) *Civil society organizations are able to*
 14 *freely and independently carry out voter and*
 15 *civic education, and to monitor the entire elec-*
 16 *toral process, including by observing, recording,*
 17 *and transmitting publicly-posted or announced*
 18 *voting results, including at the ward, constitu-*
 19 *ency, and all higher levels of the vote tallying*
 20 *process.”;*

21 (2) *by redesignating paragraphs (3) and (5) as*
 22 *paragraphs (8) and (9), respectively;*

23 (3) *by striking paragraph (4);*

24 (4) *by inserting after paragraph (2) the fol-*
 25 *lowing:*

1 “(3) *PRESIDENTIAL ELECTION.*—*Zimbabwe has*
 2 *held an election that is widely accepted as free, fair,*
 3 *and credible by independent international and domes-*
 4 *tic civil society monitors, and the president-elect is*
 5 *free to assume the duties of the office.*

6 “(4) *UPDATING STATUTES.*—*Laws enacted prior*
 7 *to passage of Zimbabwe’s March 2013 Constitution*
 8 *that are inconsistent with the new Constitution are*
 9 *amended or repealed or are subject to a formal process*
 10 *for review and correction so that such laws are con-*
 11 *sistent with the new Constitution.*

12 “(5) *UPHOLDING THE CONSTITUTION.*—*The Gov-*
 13 *ernment of Zimbabwe—*

14 “(A) *has made significant progress on the*
 15 *implementation of all elements of the new Con-*
 16 *stitution; and*

17 “(B) *has demonstrated its commitment to*
 18 *sustain such efforts in achieving full implemen-*
 19 *tation of the new Constitution.*

20 “(6) *ECONOMIC REFORMS.*—*The Government of*
 21 *Zimbabwe has demonstrated a sustained commitment*
 22 *to reforming Zimbabwe’s economy in ways that will*
 23 *promote economic growth, address unemployment and*
 24 *underdevelopment, and restore livelihoods, including*
 25 *significant progress toward monetary policy reform,*

1 *particularly with the Reserve Bank of Zimbabwe, and*
 2 *currency exchange reforms.*

3 “(7) *ROLE OF TRADITIONAL LEADERS.*—*Tradi-*
 4 *tional leaders of Zimbabwe observe section 281 of the*
 5 *2013 Constitution and are not using humanitarian*
 6 *assistance provided by outside donor organizations or*
 7 *countries in a politicized manner to intimidate or*
 8 *pressure voters during the campaign period.”; and*

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

12 **SEC. 6. REMOVAL OF AUTHORITY TO PAY LAND ACQUISI-**
 13 **TION COSTS.**

14 *Section 5(a) of the Zimbabwe Democracy and Eco-*
 15 *nomics Recovery Act of 2001 is amended—*

16 *(1) in paragraph (2), by striking “, including*
 17 *the payment of costs” and all that follows through*
 18 *“thereto; and” and inserting a semicolon;*

19 *(2) in paragraph (3), by striking the period at*
 20 *the end and inserting “; and”; and*

21 *(3) by adding at the end the following:*

22 *“(4) identify and recover stolen public assets.”.*

1 **SEC. 7. INCLUSION OF AUSTRALIA AND THE UNITED KING-**
 2 **DOM IN CONSULTATIONS ABOUT ZIMBABWE.**

3 *Section 6 of the Zimbabwe Democracy and Economic*
 4 *Recovery Act of 2001 is amended by inserting “Australia,*
 5 *the United Kingdom,” after “Canada,”.*

6 **SEC. 8. SENSE OF CONGRESS ON ENFORCEMENT OF SOUTH-**
 7 **ERN AFRICAN DEVELOPMENT COMMUNITY**
 8 **TRIBUNAL RULINGS.**

9 *It is the sense of Congress that the Government of*
 10 *Zimbabwe and the Southern African Development Commu-*
 11 *nity (referred to in this section as “SADC”) should enforce*
 12 *the SADC tribunal rulings from 2007 to 2010, including*
 13 *18 disputes involving employment, commercial, and human*
 14 *rights cases surrounding dispossessed Zimbabwean commer-*
 15 *cial farmers and agricultural companies.*

16 **SEC. 9. SENSE OF CONGRESS ON THE UNITED STATES-**
 17 **ZIMBABWE BILATERAL RELATIONSHIP.**

18 *It is the sense of Congress that the United States Gov-*
 19 *ernment is optimistic about the possibility for a stronger*
 20 *bilateral relationship with Zimbabwe, including in the*
 21 *areas of trade and investment, if—*

22 *(1) the Government of Zimbabwe takes concrete,*
 23 *tangible steps outlined in paragraphs (2) through (6)*
 24 *of section 4(d) of the Zimbabwe Democracy and Eco-*
 25 *nomics Recovery Act of 2001, as amended by section*
 26 *5 of this Act; and*

- 1 (2) *takes concrete, tangible steps towards—*
- 2 (A) *good governance, including respect for*
- 3 *the opposition, rule of law, and human rights;*
- 4 (B) *economic reforms such as respect for*
- 5 *contracts and private property rights; and*
- 6 (C) *identification and recovery of stolen*
- 7 *private and public assets within Zimbabwe and*
- 8 *abroad.*

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A BILL

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

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