Calendar No. 939

110TH CONGRESS, 2d Session } SENATE { REPORT 110–443

COMPREHENSIVE IRAN SANCTIONS, ACCOUNTABILITY AND DIVESTMENT ACT OF 2008

AUGUST 1, 2008.—Ordered to be printed

Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, submitted the following

R E P O R T

[To accompany S. 3445]

The Committee on Banking, Housing, and Urban Affairs, having had under consideration an original bill (S. 3445) to impose sanctions with respect to Iran, to provide for the divestment of assets in Iran by State and local governments, and to identify countries engaged in transshipment or diversion of certain sensitive items to Iran, having considered the same, reports favorably thereon and recommends that the bill do pass.

I. INTRODUCTION

On July 17, 2008, the Senate Committee on Banking, Housing and Urban Affairs considered a Committee Print, entitled the "Comprehensive Iran Sanctions, Accountability and Divestment Act of 2008," a bill to impose sanctions with respect to Iran; to provide for the divestment of assets in Iran by State and local governments and others; and to identify countries engaged in transshipment or diversion of certain sensitive items to Iran, and for other purposes. The Committee voted 19 to 2 to report the bill to the Senate. The Committee's consideration of the bill comes at a time of heightened international tensions surrounding the government of Iran's uranium enrichment program.

II. PURPOSE

The Comprehensive Iran Sanctions, Accountability and Divestment Act of 2008 (hereafter "the Act") imposes a number of new sanctions on Iran; provides a legal framework by which States, local governments and certain other investors can divest Iran-re-

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lated energy assets from their portfolios, and establishes a mechanism to address concerns about sensitive technologies being diverted to Iran through other countries.

Specifically, the Act tightens the current export and import ban on Iran, while providing for certain exceptions; requires the freezing of assets of certain Iranian persons involved in providing support for terrorism or weapons proliferation, and their associates; imposes a ban on U.S. Government contracts for entities found to be subject to sanctions under the Iran Sanctions Act; expands the definition of persons subject to the Act; and imposes certain additional reporting requirements to increase monitoring of investments in Iran's energy sector. It also allows States and local governments and private asset fund managers, if they so choose, to adopt measures to divest from companies who have invested $20 million or more in the energy sector in Iran. Such measures may be adopted to reduce the financial or reputational risk associated with investments in a country subject to international sanctions. Finally, the Act establishes a system to strengthen and improve U.S. efforts to combat the diversion of sensitive dual use technologies to Iran.

III. BACKGROUND AND NEED FOR LEGISLATION

It is in the national interest of the U.S. for Iran to suspend its non-compliant uranium enrichment program, end its sponsorship of international terrorism, and halt weapons proliferation. The need to complement multilateral initiatives with legislation designed to address these concerns is also clear. It arises from continued threatening statements made by officials of the government of Iran and by Iran's persistent failure to address the concerns of the International Atomic Energy Agency (IAEA) with regard to its nuclear program. Such legislation would enhance current economic sanctions, enable divestment from Iran, and combat the diversion of sensitive technologies to Iran. By these means, this legislation is designed to maximize the economic leverage on Iran's government—from the U.S., our allies, and U.S. and international investors—to bring that government to the negotiating table, to change its behavior, and to constrain its freedom to act in ways inimical to the interests of the international community.

The Committee recognizes that economic and financial sanctions are only one tool of statecraft and, to be effective, must be undertaken as part of a broader diplomatic effort. Sanctions are a means of providing leverage within a more comprehensive, coherent, coordinated diplomatic and political strategy to prompt Iran to cease and forswear all nuclear-related activities that are in contravention of its international agreements and responsibilities, and other behaviors that undermine regional peace and stability.

Multilateral initiatives

The government of Iran has been designated by the United States as a state sponsor of terrorism since 1984 and is a long-time financial supporter of terrorist organizations such as Hezbollah, Hamas, and Palestinian Islamic Jihad. The government of Iran has consistently misled the United Nations and the International Atomic Energy Agency about the objectives and scope of its nuclear activities. For example, IAEA inspections since 2003 have revealed two decades' worth of undeclared nuclear activities in Iran, including uranium enrichment and plutonium separation efforts. Despite a series of agreements to suspend its activities in this area, Iran has persisted in these activities, and the measures adopted thus far by the UN Security Council (UNSC) have proved insufficient to curtail Iran's enrichment activities.

The UNSC has acted on various resolutions in recent years, condemning Iran's nuclear activities and urging compliance with its international obligations. For example, on December 23, 2006, UNSC Resolution 1737 was unanimously approved, banning supply of nuclear technology and equipment to Iran and freezing the assets of organizations and individuals involved in Iran's nuclear program, until Iran suspends enrichment of uranium. UNSC Resolution 1747 was unanimously approved on March 24, 2007, imposing a ban on arms sales, expanding the freeze on assets, and setting a deadline for Iranian compliance two months later. Absent compliance, further sanctions were adopted in UNSC Resolution 1803 on March 3, 2008, including a sales ban on dual use items; authorization of inspections of cargo suspected of containing WMD-related goods; an expanded Iranian travel ban list; and a call to ban transactions with Iran's Bank Melli and Bank Saderat.

In addition to UNSC efforts, since 2006 the "Permanent Five Plus 1" (P5+1), comprised of the United States, Russia, China, France, Britain, and Germany, have proposed a blueprint for negotiating with Iran including the following proposed incentives: (1) Negotiations on EU-Iran trade agreements and acceptance of Iran into the World Trade Organization; (2) Easing of U.S. sanctions to permit sales to Iran of commercial aircraft and aircraft parts; (3) Sale to Iran of a light-water nuclear reactor and guarantees of nuclear fuel (including a five-year buffer stock of fuel), and possible sales of light-water research reactors for medicine and agricultural applications; (4) an "energy partnership" between Iran and the European Union, including help for Iran to modernize its oil and gas sector and to build export pipelines; (5) Support for a regional security forum for the Persian Gulf, and support for the objective of a Middle East WMD free zone; (6) the possibility of eventually allowing Iran to resume uranium enrichment if it complies with all outstanding IAEA requirements and proves that its nuclear program is purely for peaceful purposes. The P5+1's proposed sanctions for noncompliance would include: (1) denial of visas for persons involved in Iran's nuclear program and other high-ranking Iranian officials; (2) asset freezes of additional Iranian officials and institutions; a freeze of Iran's governmental assets abroad; and a ban on some financial transactions; (3) a ban on sales of advanced technology, arms, and refined oil products to Iran; and (4) an end to support for Iran's application to the WTO.[1]

On June 14, 2008, a "refreshed" package of P5+1-proposed incentives was formally presented to Iran by EU envoy Javier Solana. At the same time, the European Union has taken steps to impose its own set of targeted financial sanctions, recently announcing a new round of sanctions against critical Iranian financial institutions found to be supporting the financing of weapons proliferation and terrorist activities. The European initiatives are important

[1] Congressional Research Service. RS20871—The Iran Sanctions Act (ISA). July 23, 2008.

steps to increase economic pressure against the Iranian regime to change its proliferation-related behavior.

Nuclear intentions, technology diversion or transshipment

In November 2007, a National Intelligence Estimate entitled "Iran: Nuclear Intentions and Capabilities" was released. This report offered a thorough analysis of Iran's capability and intentions regarding nuclear weapons, taking full account of its dual use uranium fuel cycle and those of its nuclear activities that are at least partly civil in nature. The report concluded with high confidence that Iran had been pursuing a nuclear weapons program, and halted that program in 2003, but noted with moderate-high confidence that Iran is keeping open the option of developing nuclear weapons, and that Iran's uranium enrichment program may ultimately provide Iran with the capability to develop a nuclear weapon. The NIE also noted that the program probably was halted primarily in response to international pressure, suggesting that Iran may be more vulnerable to influence on the issue than the intelligence community had judged previously.

In December 2007, the U.S. Government Accountability Office submitted a report to Congress assessing the effectiveness of sanctions on Iran and concluded, among other things, that the current sanctions regime should be reviewed, and that the current ban on most trade with Iran may be circumvented by the transshipment of United States exports through third countries. Formal surveys conducted by the Commerce Department to assess the verification of U.S. exports' end-use also concluded that technology may be easily diverted to Iran through third parties. Such concerns were further affirmed in recent reports by a reputable American non-governmental organization. Black-market enterprises established through transshipment networks continue to supply dual use products to rogue regimes such as Iran and North Korea, facilitating development of their nuclear technology.[2]

State and local divestment efforts

In the U.S. in recent years, there has been an increasing interest by States, local governments, educational institutions, and private institutions to disassociate themselves from companies that directly or indirectly support the Government of Iran's efforts to achieve a nuclear weapons capability or support international terrorism. Financial advisors, policy makers and fund managers may find prudential or reputational reasons to divest from companies that accept the business risk of operating in countries subject to international economic sanctions or that have business relationships with countries, governments, or entities with which any United States company would be prohibited from dealing because of economic sanctions imposed by the United States.

Notwithstanding the wide range of diplomatic and economic sanctions that have been pursued by the U.S., many States and localities have begun to enact measures restricting their agencies' economic transactions with firms that do business with, or in, Iran. Eleven States have already enacted some form of divestment legis-

[2] Government Accountability Office, Institute for Science and International Security, media reports.

lation, and legislation is pending in additional state legislatures. Other states and localities have taken administrative action to facilitate divestment. Also joining this movement are colleges and universities, large cities, non-profit organizations, and pension and mutual funds.

Legal and constitutional challenges

Constitutional challenges to State measures which touch upon international relations typically take one or more of three forms: (1) that the State measures conflict with and thus are pre-empted by Federal law under the Supremacy Clause; (2) that they violate the "dormant foreign commerce clause"; and (3) that they violate the so-called "dormant foreign affairs doctrine." [3]

With the reporting of this legislation, the Committee has concluded that, with respect to each of these challenges, Congress and the President have the constitutional power to authorize States to enact divestment measures, and Federal consent removes any doubt as to the constitutionality of those measures. Thus the Act explicitly states the sense of Congress that the United States should support the decisions of State and local governments to divest from firms conducting business operations in Iran's energy sector, and clearly authorizes divestment decisions made consistent with the standards the legislation articulates. It also provides "safe harbor" for changes of investment policies by private asset managers, and expresses the sense of Congress that certain divestments, or avoidance of investment, do not constitute a breach of fiduciary duties under the Employee Retirement Income Security Act (ERISA). With regard to pre-emption, the legislation supports State and local efforts to divest from companies conducting business operations in certain sectors in Iran by clearly stating that they are not pre-empted by any Federal law or regulation.

The Committee recognizes that this legislation attempts to balance two important interests. The first is the singular authority of the Federal Government to conduct foreign policy. The second is the ability of State and local governments and other entities to invest or divest their funds as they see fit. The Committee believes it has struck an appropriate balance by targeting state action in such a way that permits state divestment measures based on risks to profitability, economic well-being, and reputations arising from association with investments in a country subject to international sanctions.

IV. DESCRIPTION OF THE BILL

The Act is meant to strengthen all three major categories of U.S. sanctions on Iran: the U.S. trade ban against Iran; restrictions on foreign entities investing over $20 million in Iran's energy sector; and targeted financial measures against entities providing financial support for Iran's proliferation and terrorist activities. The Act would:

- Expand the scope of foreign companies subject to the Iran Sanctions Act (ISA) to include certain financial institutions, subsidiaries, export credit agencies and other entities;

[3] Congressional Research Service. RL33948—State and Local Economic Sanctions: Constitutional Issues. July 2, 2008.

- Require a semi-annual report on qualifying investments in companies sanctionable under ISA;
- Mandate a U.S. government procurement ban against ISA-sanctionable companies, while providing a national interest waiver;
- Codify U.S. export and import bans on Iran, with allowances for food/medicine export licenses, as well as export and import of certain informational materials;
- Require the freezing of assets of Iranian officials supporting terrorism and proliferation;
- Extend sanctions liability of U.S. companies to foreign subsidiaries established to circumvent U.S. sanctions law and invest substantially in Iran's energy sector;
- Authorize appropriations for the Terrorism and Financial Intelligence Office at the Department of the Treasury;
- Authorize States, local governments and private asset managers to divest from Iran- related energy businesses; and
- Combat transshipment of sensitive technology to Iran, by aiding countries to improve export controls and by further restricting U.S. exports to uncooperative countries.

V. SECTION-BY-SECTION ANALYSIS OF BILL

Section 1.—Short Title: This section establishes the short title of the bill as the "Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008".

Title I.—Sanctions

Section 101.—Definitions: This section defines terms used in this title including: agricultural commodity, executive agency, appropriate Congressional Committees, information and informational materials, investment, medical device, and medicine.

Section 102.—Definition of Person and Petroleum Resources under the Iran Sanctions Act: This section expands key definitions within the Iran Sanctions Act (ISA). ISA recognizes the dominant role of Iran's oil and gas industry in generating revenue for the regime's proliferation and international terrorism activities, and requires the President to impose at least two out of a menu of several sanctions on foreign "persons" that make an "investment" of more than $20 million annually in Iran's energy sector. The sanctions (Section 6) include (1) denial of Export-Import Bank loans, credits, or credit guarantees for U.S. exports to the sanctioned entity; (2) denial of licenses for the U.S. export of military or militarily-useful technology to the entity; (3) denial of U.S. bank loans exceeding $10 million in one year to the entity; (4) if the entity is a financial institution, a prohibition on its service as a primary dealer in U.S. government bonds; and/or a prohibition on its serving as a repository for U.S. government funds (each counts as one sanction); (5) prohibition on U.S. government procurement from the entity; and (6) restriction on imports from the entity, in accordance with the International Emergency Economic Powers Act (IEEPA, 50 U.S.C. 1701). The President may waive the sanctions on Iran if the parent country of the violating firm agrees to impose economic sanctions on Iran (Section 4(c)), or if the President certifies that doing so is important to the U.S. national interest (Section 9(c)). Section 102 of the Act would clarify that foreign companies subject to ISA include financial institutions, subsidiaries, and other entities, and that the relevant investments in Iran's energy industry involve not only petroleum and oil or liquefied gas, but also certain means of shipping such products, such as tankers and pipelines.

Section 103.—Economic Sanctions Relating to Iran: This section codifies critical restrictions on imports from and exports to Iran, currently authorized by the President in accordance with IEEPA. Consistent with IEEPA, exceptions to the import ban are made for informational materials that may be used, for example, in the conduct of news reporting, or in mapping for air travel over land. Similarly, exceptions to the export ban include food, medicine, humanitarian assistance, informational materials, and goods used to ensure safety of flight for U.S.-made aircraft. Consistent with his authority under Executive Order 13059, the President is authorized to, and shall, as necessary, issue such regulations, orders, and licenses to implement these provisions. In addition, this section requires asset freezes for persons, including officials of Iranian agencies specified in ISA, that have engaged in activities such as terrorism or weapons proliferation under IEEPA sanction. To limit sanctioned persons' ability to evade U.S. scrutiny and penalty, this section further stipulates that the assets freeze should extend to those assets which sanctioned persons transfer to family members or associates. The Committee recognizes that agencies involved in implementing these measures will require time to prepare appropriate evidentiary materials before executing corresponding sanctions, which this section requires to be imposed immediately. This section would also prohibit U.S. or foreign firms from entering into procurement contracts with the federal government if the entity meets the criteria for sanctions under ISA. Finally, the provisions of this section may be waived if such a waiver is deemed by the President to be in the national interest.

Section 104.—Liability of Parent Companies for Sanctions Violations by Foreign Subsidiaries: This section strengthens U.S. law by holding parent companies liable for activities conducted by foreign subsidiaries that were established for the purpose of circumventing U.S. sanctions statutes and who engage in activities which, if committed in the U.S. or by a U.S. person, would violate U.S. sanctions law. The President may waive the provisions of this section on national interest grounds.

Section 105.—Increased Capacity for Efforts to Combat Unlawful or Terrorist Financing: This section authorizes full funding for the Office of Terrorism and Financial Intelligence of the Department of the Treasury consistent with the President's budget request for fiscal year 2009.

Section 106.—Reporting Requirement to Increase Monitoring of Investment in Iran: ISA requires the President to impose sanctions on a U.S. or foreign natural person if the President determines that the person invested $20,000,000 or more in Iran's petroleum or natural gas sectors, but the President has for years failed to do so even though foreign companies have invested more than the specified amount.[4] The measure requires the President, within 180 days of enactment of the bill and every 180 days thereafter, to report to the appropriate Congressional Committees on eligible foreign in-

[4] Congressional Research Service. RS20871—The Iran Sanctions Act (ISA). July 23, 2008.

vestments made in Iran's energy sector since January 1, 2008 and the determination of the President on whether such investments qualify as sanctionable offenses. To address any national security concerns about the impact of publicizing certain parts of this report, this section allows for a classified annex.

Title II.—Divestment

Section 201.—Definitions: This section defines terms used in this title including: energy sector, financial institution, Iran, person, state, and State or local government.

Section 202.—Authority of State and Local Governments to Divest from Certain Companies that Invest in Iran: This section authorizes States and localities to divest from companies involved in investments of $20 million or more in Iran's energy sector and sets standards for them to do so. While not mandating divestment, this section authorizes State and local governments, if they so choose, to divest public assets from certain companies doing business in Iran. In its formulation of this section, the Committee recognized that divestment actions are being taken by investors for prudential and economic reasons, as expressed in subsection (a), including to address concerns over reputational and financial risks associated with investment in Iran and to sever indirect business ties to a government that is subject to international sanctions.

The Committee requires that a State or local government provide notice to the Department of Justice when it enacts an Iran-related divestment law. Companies are to be informed in writing by the State or local government before divestment. Companies then have at least 90 days to comment on that decision.

Section 203.—Safe Harbor for Changes in Investment Policies by Asset Managers: This section adds to measures authored by the Committee and enacted last year authorizing divestment from Sudan-related assets (Public Law 110–174), allowing private asset managers, if they so choose, to divest from the securities of companies investing $20 million or more in Iran's energy sector, and provides a "safe harbor" for divestment decisions made in accordance with the Act. A major concern inhibiting divestment has been the possibility of a breach of fiduciary responsibility by asset managers who decide to divest. The Committee thus finds that fund managers may have financial or reputational reasons to divest from companies that accept the business risk of operating in countries subject to international economic sanctions. Fund managers will still be required to observe all other normal fiduciary responsibilities. The Securities and Exchange Commission is required to promulgate rules as necessary that require fund managers to disclose their divestment decisions made pursuant to Section 203 of this legislation in regular periodic reports filed with the Commission.

Section 204.—Sense of Congress Regarding Certain ERISA Plan Investments: This section expresses the sense of Congress affirming pension managers' rights to divest from companies investing $20 million or more in Iran's energy sector in accordance with an interpretative bulletin issued by the Department of Labor in 1994, and printed in the Code of Federal Regulations in section 2509.94–1 of title 29. Under the regulations, making such "economically targeted investment" (ETI) decisions is allowed under sections 403 and 404 of the Employee Retirement Income Security Act of 1974

(ERISA), as long as the fiduciary making such a decision has diversified his portfolio adequately and made the decisions in the interest of the plan's participants and beneficiaries.

Title III.—Prevention of Transshipment, Reexportation or Diversion

Section 301.—Definitions: This section defines terms used in this title including: end-user, entity owned or controlled by the Government of Iran, Export Administration Regulations, government, Iran, state sponsor of terrorism, as well as transshipment, reexportation, or diversion.

Section 302.—Transshipment, Reexportation or Diversion to Iran: This section responds to concerns that companies and black market proliferation networks are circumventing the U.S. trade ban on Iran by shipping major weapons components through one or more foreign countries or by deceiving foreign customs agencies with false information regarding the items' country of origin. This section requires the Director of National Intelligence to identify countries where sensitive U.S. technology is being illegally transshipped to Iran via other countries, and to report annually to the Secretaries of Commerce, State and the Treasury, as well as to Congress.

Section 303.—Destinations of Possible Diversion Concern and of Diversion Concern: This section establishes incentives for countries to improve their export control regimes. First, it requires the Administration to initiate government-to-government contact with countries of "possible diversion concern." Such contact would include technical assistance to develop or strengthen export control systems, facilitate export control enforcement, improve information sharing, support legitimate trade in high-technology goods, and prevent terrorists and state sponsors of terrorism from obtaining nuclear, biological, and chemical weapons, defense technology, and components of improvised explosive devices.

If countries fail to cooperate with such initiatives, then, under subsection (b), the Administration would be required to designate a country as a "Destination of Diversion Concern," consistent with the Department of Commerce's proposed rule, which was published as 15 CFR Part 740 [Docket No. 0612242560–7024–01], but never implemented. Such a measure would stop transshipment flows that, according to the Department of Commerce, are augmenting the capabilities of terrorists and state sponsors of terrorism, and significantly undermining international counterproliferation efforts. The Department of Commerce stated in its proposed rule that in recent years, diversions have contributed to a number of major cases involving the violation of U.S. export control laws for dual use goods. Under this section, exports to a country designated as a "Destination of Diversion Concern" would be subject to additional licensure requirements; more stringent license review, which could result in fewer approvals or more conditions on licenses; delayed authorizations due to increased end-user checks; and finally, a decrease in authorizations due to diversion risks for such countries. This section provides 45 days for the Secretary of Commerce to assemble a list of controlled items, which should include items already on an existing Commerce Control List linked to Iranian terrorist activities as well as products from the Control List developed for restricting North Korea's proliferation activities. Licensing requirements under this section are required within 180 days after the date of the Act's enactment. The President may waive the imposition of the licensing requirement on national interest grounds.

Section 304.—Report on Expanding Diversion Concern System to Countries Other than Iran: This section requires the Director of National Intelligence to report to Congress on whether or not to extend the measures in this title to countries that allow diversion to other countries seeking weapons of mass destruction or supporting international terrorism.

Title IV.—Effective date and sunset

Section 401.—This section sets an effective date for the Act 120 days after the date of the enactment of this Act. It also describes the circumstances under which the provisions of the Act will terminate, including certification by the President that Iran has ceased to provide support for acts of international terrorism, and stopped the pursuit, acquisition, and development of weapons of mass destruction.

VI. HEARINGS

On March 21, 2007, the Committee on Banking, Housing, and Urban Affairs held a public hearing entitled "Minimizing Potential Threats from Iran: Assessing the Effectiveness of Current U.S. Sanctions on Iran." Witnesses included: Honorable R. Nicholas Burns, Under Secretary for Political Affairs, Department of State; Honorable Stuart Levey, Under Secretary for Terrorism and Financial Intelligence, Department of the Treasury; and Mr. Mark Foulon, Acting Under Secretary for Export Administration, Department of Commerce.

VII. COMMITTEE CONSIDERATION

The Committee on Banking, Housing, and Urban Affairs met in open session on July 17, 2008, and by a vote of 19–2 ordered the bill reported, as amended.

JULY 31, 2008.

Hon. CHRISTOPHER J. DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

PETER R. ORSZAG.

Enclosure.

VIII. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE AND REGULATORY IMPACT STATEMENT

Section 11(b) of the Standing Rules of the Senate, and Section 403 of the Congressional Budget Impoundment and Control Act, require that each committee report on a bill contain a statement estimating the cost and regulatory impact of the proposed legislation.

The Congressional Budget Office has provided the following cost estimate and regulatory impact statement.

Summary: Comprehensive Iran Sanctions, Accountability and Divestment Act of 2008.

The bill would authorize appropriations for two programs in the Department of the Treasury that combat financial crimes, and for the Bureau of Industry Security (BIS) within the Department of Commerce, which helps certain countries improve their controls over exports. This legislation also would limit trade with Iran and allow the President to impose sanctions on certain individuals. Finally, the bill would allow state and local governments to divest their assets from entities that make certain investments in Iran's energy sector.

CBO estimates that implementing the bill would cost $121 million in 2009 and $496 million over the 2009–2013 period, assuming appropriation of the necessary amounts. In addition, CBO estimates that enacting the bill would reduce revenues by about $6 million over the 2009–2018 period. Enacting the legislation also could increase revenues and direct spending because additional criminal penalties might be imposed, but we expect that any such increase would not be significant because of the relatively small number of cases likely to be involved.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

The legislation would impose private-sector mandates, as defined in UMRA, by prohibiting imports from and exports to Iran. It also could impose mandates by freezing the assets of certain individuals under conditions specified in the bill. In addition, the bill would require financial institutions that hold the funds and other assets of the individuals subject to the sanction to report such information. Finally, the bill could impose a mandate on exporters by specifying additional license requirements on exports to certain countries that are designated by the Secretary of Commerce as Destinations of Possible Diversion Concern. The cost of complying with those mandates is uncertain because it would depend on whether and how some measures would be applied and because CBO lacks information on the value of lost profits to importers and exporters under the trade ban. Therefore, CBO cannot determine whether the aggregate cost to comply with the mandates in the bill would exceed the annual threshold for private-sector mandates established in UMRA ($136 million in 2008, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget functions 150 (international affairs), 370 (commerce and housing credit), and 800 (general government).

	By fiscal year in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION [1]						
Department of the Treasury Programs:						
Estimated Authorization Level	153	158	163	0	0	474
Estimated Outlays	117	156	161	38	0	472

	By fiscal year in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
Department of Commerce Programs:						
Estimated Authorization Level	3	3	3	3	3	15
Estimated Outlays	2	3	3	3	3	14
Reports:						
Estimated Authorization Level	2	2	2	2	2	10
Estimated Outlays	2	2	2	2	2	10
Total Changes:						
Estimated Authorization Level	158	163	168	5	5	499
Estimated Outlays	121	161	166	43	5	496

[1] Enacting this legislation also would reduce revenues by $2 million over the 2009–2013 period and $6 million over the 2009–2018 period.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2009 and that spending will follow historical patterns for similar programs.

Spending subject to appropriation

The bill would authorize appropriations for programs within the Department of the Treasury and the Department of Commerce. In total, CBO estimates that implementing those programs would cost $496 million over the 2009–2013 period, assuming appropriation of the necessary amounts.

Department of the Treasury Programs. Section 105 would authorize the appropriation of $153 million for 2009 and such sums as may be necessary for 2010 and 2011 for the Office of Financial Terrorism and Financial Intelligence and the Financial Crimes Enforcement Network. Based on information from the Department of the Treasury, CBO expects that $153 million, adjusted for anticipated inflation, would be sufficient for fiscal years 2010 and 2011 to continue the additional efforts of those offices to ensure the international financial system is not used to support terrorism. Under that assumption, CBO estimates that implementing section 105 would cost $472 million over the 2009–2013 period.

Department of Commerce Programs. Title III would establish new programs within BIS to improve controls over certain domestic exports to an end-user that cannot be identified or to an entity that is owned or controlled by the government of Iran. The bill would require the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Treasury, to identify a list of countries that have inadequate export and reexport controls and fail to control exports that divert U.S. goods to unknown parties.

BIS would be authorized to help those countries strengthen their systems to control exports. If, after one year, a country on the list fails to cooperate with efforts to improve its export control system or is found to be involved in the illegal diversion of U.S. exports, it would be subject to additional export licensing requirements for certain technologies.

Based on information from BIS, CBO estimates that about 20 staff members would be needed to track export enforcement trends, to monitor activities within the countries of concern, to help such countries improve their export control systems, and to meet the new licensing requirements. CBO estimates that implementing those provisions would cost $2 million in 2009 and $14 million over the 2009–2013 period.

Reports. Several sections would require the Department of the Treasury and the President to provide the Congress with a variety of reports about Iran, including details of investments in Iran by the United States and other countries. The bill also would require a report on international efforts to promote the peaceful uses of nuclear fuel. Based on the costs to prepare similar reports, CBO estimates that preparing those reports would cost about $2 million annually.

Revenues and direct spending

Prohibition on Imports. The bill would prohibit the importation to the United States of any product of Iran. Based on the composition of recent imports from Iran, CBO expects that the aggregate trade volume subject to customs duties would decrease, reducing revenues by an estimated $2 million over the 2009–2013 period and $6 million over the 2009–2018 period.

Civil and Criminal Penalties. The bill would impose civil and criminal penalties for violations of the new sanctions. Collections of civil penalties are recorded in the budget as revenues. Collections of criminal penalties also are recorded in the budget as revenues, deposited in the Crime Victims Fund, and later spent without further appropriation. CBO estimates that any additional revenues and direct spending that would result from those penalties would not be significant because of the relatively small number of cases likely to be involved.

Estimated impact on state, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: The legislation contains private-sector mandates, as defined in UMRA. However, CBO cannot determine whether the aggregate cost to comply with those mandates would exceed the annual threshold for private-sector mandates established in UMRA ($136 million in 2008, adjusted annually for inflation).

The bill would impose mandates on certain businesses by banning all imports from and exports to Iran, with the exception of agricultural commodities, medicine, medical devices, certain informational materials, and other humanitarian assistance. According to the Department of Commerce, in 2007, the United States imported from Iran approximately $173 million in goods, mostly carpets and foodstuffs, and exported $146 million in goods, mostly items that would be excluded from the export ban. The cost of the ban is uncertain because CBO lacks information on the value of lost profits to importers and exporters.

The bill also could impose private-sector mandates by directing the President to freeze the funds and other assets of certain Iranian government officials, and the assets of their family members and associates to whom such officials have transferred assets on or after January 1, 2008. Some of those individuals may reside in the United States. Because the Iranian government officials who would be subject to sanctions have not been named, the cost of that mandate also is uncertain. The bill also would impose a mandate on financial institutions that hold funds and other assets of persons subject to sanctions by requiring them to report such information.

CBO expects the cost to comply with this reporting requirement would be small.

Finally, by imposing new license requirements on exporters of certain products, conditioned upon whether the country where exports are sent has been designated as a Destination of Possible Diversion Concern, the bill could impose a mandate. Because of uncertainty about what countries would be designated, if any, and what products would be subject to additional licensing requirements for export to those countries, the cost of complying with the mandate is unknown.

Previous CBO estimates: On June 26, 2008, CBO transmitted a cost estimate for the Iran Sanctions Act of 2008 as ordered reported by the Senate Committee on Finance on June 18, 2006. Both bills contain provisions for the Department of the Treasury programs and the prohibition of imports from Iran. The Iran Sanctions Act of 2008 contained provisions for exchange programs with Iran and contributions to the International Atomic Energy Agency, as well as modified tax treatment for certain costs incurred by oil companies after the imposition of the sanctions that are not included in this bill. The Finance Committee's bill would require a ban on trade with Iran. It also would require the President to freeze the assets of certain family members and associates of Iranian government officials subject to sanctions, and would require any financial institution that holds funds and other assets of any designated person to report such information. The cost of complying with those mandates is uncertain because of a lack of information about import markets and the assets that would be subject to the sanction. The differences in CBO's estimates of the costs of the two bills reflect differences in the legislative language.

On July 11, 2007, CBO transmitted a cost estimate for a similar bill, H.R. 1400, the Iran Counter-Proliferation Act of 2007, as ordered reported by the House Committee on Foreign Affairs on June 26, 2007. H.R. 1400 contained similar language authorizing programs of the Department of the Treasury. H.R. 1400 also imposed private-sector mandates by requiring sanctions on certain imports and exports with Iran, but CBO expected that the direct cost of complying with those mandates would fall below UMRA's annual threshold.

On February 27, 2007, CBO transmitted a cost estimate for H.R. 957, a bill to amend the Iran Sanctions Act of 1996 to expand and clarify the entities against which sanctions may be imposed, as ordered reported by the House Committee on Foreign Affairs on February 15, 2007. That bill is similar to sections 102 and 104 of this legislation, and the estimated costs for those sections are the same. CBO determined that H.R. 957 contained no new mandates as defined in UMRA.

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