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REPORT
110–408

IRAN SANCTIONS ACT OF 2008

JULY 7, 2008.—Ordered to be printed

Mr. BAUCUS, from the Committee on Finance, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 3227]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, having considered an original bill (S. 3227) to impose sanctions on Iran and for other purposes reports favorably thereon without amendment and refers the bill to the full Senate with a recommendation that the bill do pass.

I. BACKGROUND AND GENERAL REASONS FOR THE BILL

The Finance Committee's consideration of the "Iran Sanctions Act of 2008" ("Act") takes place in the context of heightened domestic and international concern over Iran's commitment to continue its uranium enrichment program. Reports, including the 2007 National Intelligence Report entitled "Iran: Nuclear Intentions and Capabilities" ("2007 NIE Report"), suggest that Iran's uranium enrichment program may eventually provide Iran with the ability to create a nuclear weapon. Reports also suggest that members of Iran's government, including its President, Mahmoud Ahmadinejad, are dedicated to ensuring that Iran attains a nuclear weapon. Iran's uranium enrichment program poses a significant threat to the national security of the United States, as well as allied countries around the world. U.S. trade, economic, and other sanctions create a disincentive for Iran to continue its uranium enrichment program.

69–010

A. BACKGROUND OF U.S. SANCTIONS ON IRAN

Since the fall of the Shah of Iran on February 11, 1979, the relationship between the United States and Iran has been limited and strained. On November 4, 1979, Iranian radicals seized the U.S. Embassy in Tehran. The United States broke off relations with Iran in April 1980, and the United States and Iran have had only limited official contact since that time. The U.S. Embassy diplomats were ultimately released on January 20, 1981, but their release did not mark any improvement in U.S.-Iran relations.

Relations between the United States and Iran were minimal throughout the Administrations of Presidents Reagan and George H.W. Bush. In 1984, following the bombing of U.S. Marine barracks in Lebanon, President Reagan designated Iran as a "state sponsor of terrorism," which resulted in the application of sanctions against Iran for repeated support of acts of international terrorism. U.S. sanctions against Iran were strengthened in 1987, when President Reagan imposed an import ban to ensure that the United States would not contribute to the financial support of terrorism through the purchase of Iranian goods. President Clinton took additional steps to sanction and further isolate Iran.

U.S.-Iran relations thawed somewhat with the election of the more liberal Ayatollah Khatami in 1997, and the United States offered to engage in official dialogue with Iran. In 1998, Khatami agreed to participate in "people-to-people" dialogue with the United States, but refused to engage in direct talks with the United States.

In 2000, reformists won control of Iran's parliament, which led to an easing of U.S. trade sanctions with Iran. In 2003, however, conservatives again gained strength with victories in Iran's municipal elections. And in June 2005, Mahmoud Ahmadinejad won a landslide victory in Iran's Presidential elections.

Since entering office, Ahmadinejad has been a controversial President, and U.S.-Iran relations have further deteriorated under his watch. He has reiterated his commitment to continuing Iran's uranium-enrichment program, and ensuring that Iran attains a nuclear weapon. He has also made several remarks indicating his hostility toward the United States and our allies, including Israel.

In the past several years, the United States has pursued unilateral and multilateral efforts to deter Iran's nuclear ambitions. The United States has imposed unilateral sanctions against Iran pursuant to Executive Orders and legislation. The United States has also pursued multilateral sanctions within the United Nations ("UN"), as well as with the European Union ("EU") and other allies.

B. SANCTIONS IMPOSED PURSUANT TO EXECUTIVE ORDER

In an effort to further isolate and contain Iran, Presidents Reagan, Clinton, and George W. Bush issued several Executive Orders that imposed sanctions on Iran.

Executive Order ("EO") 12613, issued on October 29, 1987, bans the importation into the United States of goods or services of Iranian origin.

EO 12957, issued on March 15, 1995, prohibits U.S. persons from entering into contracts that lead to the development of Iran's petroleum sector.

EO 12959, issued on May 6, 1995, bans the importation into the United States of goods or services of Iranian origin. EO 12959 also bans the exportation to Iran of any U.S. origin goods, services, or technology. And EO 12959 banned new investment by U.S. persons, or entities owned or controlled by U.S. persons, in entities owned or controlled by the Government of Iran.

EO 13059, issued on August 19, 1997, further tightened sanctions by prohibiting the direct or indirect exports of U.S. origin products to Iran. EO 13059 also expanded the import prohibition to cover goods or services owned or controlled by the Government of Iran.

EO 13224, issued on September 23, 2001, allows the President to block the assets of persons who commit, threaten to commit, or support terrorism. Several Iranian entities have been designated under this EO.

EO 13382, issued on June 28, 2005, allows the President to block the assets of proliferators of weapons of mass destruction and their supporters. On October 21, 2007, the President designated several Iranian entities, including the Iranian Revolutionary Guard and several Iranian banks, under this EO.

C. LEGISLATIVE SANCTIONS IMPOSED ON IRAN

The Iran-Iraq Arms Nonproliferation Act of 1992 was signed into law on October 23, 1992 (Pub. L. 102–484). It requires denial of license applications for exports to Iran of dual use items, and imposes sanctions on foreign countries that engage in proliferation activities that contribute to Iran's efforts in this area.

The Iran and Libya Sanctions Act of 1996 was signed into law on August 5, 1996 (Pub. L. 104–172). It requires the President to sanction U.S. and foreign companies if the President determines that such companies have invested more than $20,000,000 annually in Iran's petroleum or natural gas sectors. To date, no companies have been sanctioned under this legislation. In 2006, the title of this legislation was changed to the Iran Sanctions Act ("ISA") (Pub. L. 109–293).

The Iran Nonproliferation Act of 2000 was signed into law on March 14, 2000 (Pub. L. 106–178). It imposed sanctions against foreign persons transferring controlled goods to Iran. It was amended in 2005 to include Syria and renamed the Iran and Syria Nonproliferation Act (Pub. L. 109–112). In 2006, it was further amended to include North Korea and renamed the Iran, North Korea, and Syria Nonproliferation Act (Pub. L. 109–353).

The Iran Freedom Support Act ("IFSA") was signed into law on September 30, 2006 (Pub. L. 109–293). It codified certain sanctions imposed under EOs 12957, 12959, and 13059, but provided the President with the discretion to terminate these sanctions if the President notified Congress at least 15 days in advance of termination. The IFSA also provided that the President should initiate investigations upon the receipt of credible information that a U.S. or foreign person is investing in Iran's petroleum or natural gas sector in violation of the ISA. In addition, the IFSA removed Libya from the scope of the Iran and Libya Sanctions Act of 1996, changing the title of the legislation to the Iran Sanctions Act and extending sanctions in the legislation until December 31, 2011.

D. UNITED NATIONS SANCTIONS ON IRAN

The UN Security Council has recently passed several resolutions calling on Iran to suspend its uranium enrichment activities, and has imposed sanctions on Iran due to its failure to comply with such Resolutions.

UN Security Council resolution 1696 ("resolution 1696"), adopted in July 2006, demanded that Iran suspend all its uranium enrichment and reprocessing activities. Resolution 1696 also called on UN Member States to prevent the transfer of goods and services that could assist Iran in its uranium enrichment and reprocessing activities, or ballistic missiles programs.

UN Security Council resolution 1737 ("resolution 1737"), adopted in December 2006, found that Iran had not complied with Resolution 1696, required Member States to take all necessary measures to prevent the supply of certain goods or technologies that could contribute to Iran's uranium enrichment, reprocessing, or heavy water-related activities, or to the development of a nuclear weapon, and prohibited Member States from procuring such products from Iran. Resolution 1737 also required Member States to impose export controls on sensitive goods and technologies not covered by the export ban. The Resolution further required Member States to freeze the assets of certain persons and called upon Member States to exercise vigilance regarding the entry into their territories of persons engaged or associated with providing support for Iran's proliferation of sensitive nuclear activities. And the resolution required Member States to report the entry of certain persons to the UN Security Council.

UN Security Council resolution 1747 ("resolution 1747"), adopted in March 2007, found that Iran had failed to comply with Resolutions 1696 and 1737. It prohibited Member States from procuring arms or related materials from Iran and called on Member States to prevent the export of goods listed on the UN Register on Conventional Arms to Iran. Resolution 1747 further expanded the list of persons whose assets must be frozen by Member States. And resolution 1747 expanded the list of persons whose entry Member States must report to the UN Security Council.

UN Security Council resolution 1803 ("resolution 1803"), adopted in March 2008, noted that Iran had not fully ceased its uranium enrichment and reprocessing activities. It expanded sanctions by prohibiting the export of additional sensitive goods and technologies to Iran. It also prohibited the entry of certain named individuals into Member States and expanded the list of persons whose assets must be frozen by Member States.

E. PERSISTENCE OF NUCLEAR WEAPONS THREAT

Notwithstanding U.S. and multilateral sanctions against Iran, significant concern remains that Iran continues to enrich uranium in order to develop a nuclear weapon. But Iran continues to insist that it is enriching uranium only for peaceful purposes.

The 2007 NIE Report found that Iran had likely discontinued its nuclear weapons program in 2003. But the NIE Report also stated that Iran's political leadership could reverse that decision at any time. Finally, the 2007 NIE report found that Iran has the sci-

entific, technical, and industrial capacity eventually to produce nuclear weapons if it decides to do so.

In recent months, both the EU and the United States have offered Iran a package of incentives to convince Iran to abandon its uranium enrichment program in exchange for increased official dialogue with both the EU and United States. Iran rejected this offer, and Britain and the EU have announced their intent to apply strengthened financial sanctions against Iran.

F. CONGRESSIONAL ACTION

Congressional action has focused on applying additional sanctions to pressure Iran to abandon its uranium enrichment program.

In the 110th Congress, Members have introduced several bills to strengthen and tighten sanctions on Iran. S. 970 (Smith) and H.R. 1400 (Lantos) would tighten U.S. sanctions on Iran by, in part, removing the President's authority to waive trade and other economic sanctions against Iran. Additionally, H.R. 1400 would attempt to compel third countries, such as Russia, to impose strengthened sanctions against Iran.

H.R. 1357 (Ros-Lehtinen) would require managers of U.S. Government pension plans or thrift savings plans, managers of pension plans maintained in the private sector by plan sponsors in the United States, and managers of mutual funds sold or distributed in the United States to divest assets from those entities that invest more than $20,000,000 annually in Iran's petroleum and natural gas sectors. S. 1430 (Obama) and H.R. 2347 (Frank) would authorize State and local governments to require and enforce the divestment of their assets from entities that invest more than $20,000,000 annually in Iran's petroleum and natural gas sectors. Both S. 1430 and H.R. 2347 would protect mutual fund and other investment companies from shareholder action for losses that occur from such divestment.

II. SUMMARY OF THE BILL

The Act has nineteen sections. It includes provisions (1) tightening trade and financial sanctions on Iran; (2) tightening other sanctions on Iran; (3) eliminating certain tax incentives for U.S. taxpayers that are subject to sanctions for investing in Iran; (4) governing nuclear cooperation between the United States and third countries, and supporting the creation of an international nuclear fuel bank; (5) providing for additional engagement with the people of Iran; (6) requiring the United States to cut its contributions to the World Bank if the World Bank grants new loans to Iran; and (7) imposing reporting requirements on the President and administration. These provisions are described in more detail below.

A. TRADE AND FINANCIAL SANCTIONS

The legislation tightens existing, and imposes additional, trade and financial sanctions on Iran. The legislation would do this by codifying the existing prohibition on direct and indirect (1) exports of United States origin goods to Iran; and (2) imports of Iranian origin goods into the United States. The legislation also provides specific exceptions to the export ban for agricultural commodities, medicine and medical devices, products exported for humanitarian

purposes, and informational materials. The legislation does not provide any specific exceptions for the import prohibition. But the legislation provides that the President may waive the export and import prohibition if the President determines that such a waiver is in the national interest of the United States.

The legislation also prohibits the United States Trade Representative or any other Federal official from taking actions that would grant trade preferences to, or lead to the World Trade Organization ("WTO") accession of, Iran. The President may waive this prohibition if the President determines that such a waiver is in the national interest of the United States.

Further, the legislation freezes the assets of Iranian diplomats and representatives of other government, military, or quasi-governmental institutions of Iran that are subject to sanctions under the President's International Emergency Economic Powers Act ("IEEPA") authorities or any other provision of law. And the legislation freezes the assets of family members or associates of such persons if those family members or associates receive transfers of assets or property from such persons.

B. OTHER ECONOMIC SANCTIONS

The legislation tightens existing U.S. sanctions laws by imposing sanctions on U.S. parent companies if they knowingly participate in violations of U.S. sanctions laws conducted by their foreign entities. And the legislation requires the President to initiate investigations under the Iran Sanctions Act to determine whether companies are investing in Iran's petroleum or natural gas sectors in violation of section 5(a) of that Act.

C. TAX INCENTIVES

The legislation eliminates certain tax incentives for U.S. taxpayers that are subject to sanctions for investing in Iran. Specifically, the legislation includes a tax provision that would require U.S. taxpayers who are subject to certain economic sanctions for investing in Iran, or on whose affiliates such sanctions would have been imposed if such affiliates were U.S. persons, to amortize geological and geophysical costs paid or incurred in connection with the exploration for, or development of, oil or gas within the United States over 10 years.

D. NUCLEAR COOPERATION

The legislation includes provisions that govern U.S. nuclear cooperation with Russia and support the creation of a nuclear fuel bank. The legislation includes a provision that prohibits the United States from entering into a nuclear cooperation agreement with Russia pursuant to section 123 of the Atomic Energy Act of 1954. Further, the legislation prohibits the United States from granting licenses for the direct or indirect export of nuclear-related goods, services, or technologies. And the legislation prohibits the United States from approving the direct or indirect transfer or retransfer to Russia of nuclear-related goods, services, or technologies.

The legislation also expresses the sense of Congress that the President should provide contributions to the International Atomic Energy Agency ("IAEA") for the IAEA's creation of a nuclear fuel

bank to assure a backup supply of low-enriched uranium in nuclear fuel reactors. It further expresses the sense of Congress that in determining whether to make contributions, the President should consider whether other governments or entities have provided pledges to the IAEA for the nuclear fuel bank, whether the IAEA will oversee the nuclear fuel bank, and whether nuclear fuel will be provided only to those countries that comply with IAEA safeguards.

E. EXCHANGE PROGRAMS

The legislation authorizes the President to carry out exchange programs with the people of Iran, especially the young people of Iran.

F. WORLD BANK CONTRIBUTIONS

The legislation requires the United States to make proportional cuts in its contributions to the World Bank for loans granted by the World Bank to Iran after December 31, 2008. The President may waive this requirement if the President determines that such a waiver is in the national interest of the United States.

G. REPORTING REQUIREMENTS

The legislation requires the Secretary of Treasury to report to Congress foreign investments made in Iran's energy sector after January 1, 2008, and the determination of whether such investments are sanctionable offenses under section 5(a) of the ISA.

The legislation also requires the Secretary of Treasury to report to Congress the names of people that operate or conduct business in the United States and also invest in Iran. And it requires the Secretary of Treasury to report to Congress on export credits given by foreign banks to persons that invest in Iran's energy sector, as well as any actions taken by the President to discourage or prevent such export credits.

Further, the legislation requires the President to report on the actions taken by the United States to support the establishment of an international regime for the assured supply of nuclear fuel for peaceful means.

Finally, the legislation expresses the sense of Congress that the Executive Director of the Federal Thrift Savings Board should report to Congress any investments in entities that invest in Iran.

III. GENERAL DESCRIPTION OF THE BILL

Section 1. Short Title

Section 1 entitles the bill the "Iran Sanctions Act of 2008" and provides a table of contents.

Section 2. Findings

Section 2 makes Congressional findings that Iran is seeking to develop a nuclear weapons capability and that such a capability would be detrimental to the national security of the United States and its allies. Section 2 also finds that Iran has refused to comply with UN Security Council Resolutions and that Iran may be close to acquiring the material necessary to make a nuclear weapon. Finally, section 2 finds that the United States should use all political,

economic, and diplomatic tools at its disposal to prevent Iran from acquiring a nuclear weapon.

Section 3. Sense of Congress

Section 3 expresses the sense of Congress regarding UN Security Council Resolutions against Iran and expresses the sense of Congress regarding actions the United States should take to deter Iran from attaining a nuclear weapon.

Section 3(1) expresses the sense of Congress that the United States should restrict Iran's ability to conduct international financial transactions.

Section 3(2) expresses the sense of Congress that Iran should fully comply with UN Security Council Resolutions 1737, 1747, 1803, and any subsequent UN Security Council Resolutions related to Iran's nuclear program.

Section 3(3) expresses the sense of Congress that the UN Security Council should take further measures to tighten sanctions on Iran, as long as Iran fails to comply with the international community's demand to halt its uranium enrichment program.

Section 3(4) expresses the sense of Congress that the United States should encourage foreign governments to require state-owned and private entities to cease investments in Iran's energy sector, and cease exports to and imports from Iran of refined petroleum products.

Section 3(5) expresses the sense of Congress that Federal and State pension administrators should divest all assets from foreign companies that invest, or have invested, in Iran's energy sector.

Section 4. Construction with Respect to use of Military Force

Section 4 states that nothing in the "Iran Sanctions Act of 2008" shall be construed as giving the President the authority to use military force against Iran.

Section 5. Definitions

Section 5 defines several terms that are used throughout the Act.

Section 6. Expansion of Definition of Person in the Iran Sanctions Act of 1996

Section 6 amends the definition of "Person" in the Iran Sanctions Act of 1996 to include a financial institution, insurer, underwriter, guarantor, and any other business organization, including any foreign subsidiary, parent, or affiliate of one of the foregoing. Section 6 also clarifies that a governmental entity operating as a business enterprise may include an export credit agency.

Section 7. Russia Nuclear Cooperation

The provisions of section 7, which fall within the jurisdiction of the Senate Foreign Relations Committee, govern nuclear cooperation between the United States and Russia.

Section 7(a) provides that certain policies shall apply to Russia until such time as the President makes the certification to Congress described in section 7(c).

Section 7(b) sets out the policies that apply to Russia. First, it provides that the United States may not enter into a nuclear cooperation agreement with Russia pursuant to section 123 of the

Atomic Energy Act of 1954 ("a 123 Agreement"). Second, it provides that the United States may not issue licenses for the direct or indirect export to Russia of any nuclear goods, services, or technology that would be subject to a 123 Agreement. Third, it prohibits the United States from approving the direct or indirect transfer or retransfer of nuclear goods, services, or technology that would be subject to a 123 Agreement.

Section 7(c) provides that the President may only make a certification to Congress under this section if the President determines that (1) Russia has suspended nuclear assistance and transfers of advanced conventional weapons and missiles to Iran; or (2) Iran has completely, verifiably, and irreversibly dismantled all nuclear enrichment-related and reprocessing-related programs.

Section 7(d) provides that the policies in section 7(b) shall remain in effect until such time as the President makes a certification to Congress as described in section 7(c).

Section 8. Economic Sanctions Relating to Iran

Section 8 codifies existing, and imposes additional, trade and financial sanctions against Iran.

Section 8(a) provides that the sanctions set forth in section 8 shall enter into force 15 days after enactment of the Act.

Section 8(b) imposes trade-related and financial sanctions. There are three trade-related sanctions imposed by section 8(b). First, section 8(b) provides that no articles of Iranian origin may be imported directly or indirectly into the United States, and no articles of United States origin may be exported directly or indirectly to Iran. Second, section 8(b) sets forth several exceptions that permit the direct or indirect exportation of (1) agricultural commodities; (2) medicine or medical devices; and (3) articles that provide humanitarian assistance to the Iranian people and (4) information materials to Iran. Third, section 8(b) prohibits the United States Trade Representative or any other Federal official from taking any action that would extend trade preferences—such as those afforded under our Generalized System of Preferences program—to, or lead to the World Trade Organization accession of, Iran.

The financial sanctions included in section 8(b) require the President to freeze the assets of Iranian diplomats and representatives of other government and military or quasi-governmental institutions of Iran that are subject to sanctions ("sanctioned Iranian persons") imposed under the President's International Emergency Economic Powers Act authorities or any other provision of law. Section 8(b) also requires the President to freeze the assets of family members or associates of sanctioned Iranian persons if those family members or associates receive transfers of assets or property from such sanctioned persons. Section 8(b) requires the President to report to Congress the names of any individuals sanctioned under this section. And section 8(b) prohibits the head of a U.S. executive agency from entering into a procurement contract from a person that is sanctioned under section 5(a) of the Iran Sanctions Act of 1996.

Section 9. Liability of parent companies for violation of sanctions by foreign entities

Section 9(a) subjects U.S. parent companies to penalties if the parent company knowingly participates in violations of U.S. sanctions laws carried out by its foreign subsidiaries. This section is intended to close a loophole that allows U.S. companies to establish foreign subsidiaries to circumvent U.S. sanctions law.

Section 9(b) provides that penalties shall be imposed for violations of section 9 only for acts that are commenced on or after the date of enactment, or ongoing on the date of enactment. Section 9(b) excepts U.S. parent companies from liability under this section if the parent divests or terminates its business with the foreign subsidiary not later than 90 days after the date of enactment of this Act. Section 9(b) ensures that section 9 does not have retroactive effect.

Section 9(c) defines terms used in Section 9.

Section 10. Mandatory investigations into the imposition of sanctions

Section 10(a) amends section 4(f) of the Iran Sanctions Act of 1996 to require the President to initiate investigations to determine whether companies are investing in Iran's petroleum or natural gas sectors in violation of section 5(a) of the Iran Sanctions Act of 1996. Section 10(a) also provides that the President may extend the time period for making a determination under this section if the President is unable to make such a determination in the initial 180 day period.

Section 10(b) provides that this section shall apply only to investigations that are based on information received on or after 90 days after the date of enactment of the Act.

Section 11. Elimination of certain tax incentives for oil companies investing in Iran

PRESENT LAW

Geological and geophysical expenditures ("G&G costs") are incurred by a taxpayer for the purpose of obtaining and accumulating data that will serve as the basis for the acquisition and retention of mineral properties by taxpayers exploring for minerals. G&G costs incurred by independent producers and smaller integrated oil[1] companies in connection with oil and gas exploration in the United States may generally be amortized over two years.[2] Major integrated oil companies are required to amortize all G&G costs over seven years.[3] For these purposes, a major integrated oil company, with respect to any taxable year, is a producer of crude oil which has an average daily worldwide production of crude oil of at least 500,000 barrels for the taxable year, had gross receipts in excess of $1 billion for its last taxable year ending during the calendar year 2005, and generally has an ownership interest in a crude oil refiner of 15 percent or more.[4]

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[1] Generally, an integrated oil company is a producer of crude oil that engages in the refining or retail sale of petroleum products in excess of certain threshold amounts.

[2] Sec. 167(h)(1).

[3] Sec. 167(h)(5).

[4] Id.

In the case of abandoned property, any remaining basis may not be recovered in the year of abandonment as all basis is recovered over the applicable amortization period.

DESCRIPTION OF PROPOSAL

Section 11 provides that for taxpayers on whom certain economic sanctions for investing in Iran are imposed, or on whose affiliates such sanctions would have been imposed if such affiliates were U.S. persons, G&G costs paid or incurred in connection with the exploration for, or development of, oil or gas within the United States must be amortized over 10 years. For this purpose, the economic sanctions requiring the extended G&G amortization consist of (1) sanctions under section 5(a) of the Iran Sanction Act of 1996 and (2) sanctions described in Executive Orders 12959[5] or 13059,[6] or under any other prohibition on transactions with respect to Iran imposed under the authority of the International Emergency Economic Power Act.[7] For purposes of this provision, an affiliate is defined as a member of an affiliated group under section 1504(a) determined using a 50 percent (instead of 80 percent) voting and value test and including insurance companies, foreign corporations, and corporations with respect to which an election under section 936 is in effect.

If the sanctions with respect to the taxpayer are lifted (either because the taxpayer comes into compliance or because the sanctions regime terminates), the taxpayer may elect to treat any remaining unamortized G&G costs incurred prior to or during the sanction period as incurred on the date the sanctions are lifted and amortize them over the period described in section 167(h)(1) or (h)(5), as the case may be. Taxpayers not making an election must continue to amortize those expenses over the ten year period. The provision terminates five years after the date of enactment.

Example 1

Taxpayer A, a domestic corporation with a foreign parent, FP, incurs $5 million of G&G costs in Year 1 and begins amortizing the costs over seven years under section 167(h)(5). In Year 2, FP invests in Iran and sanctions under section 5(a) of the Iran Sanctions Act of 1996 would be imposed if Foreign Parent were a domestic company. As a result, Taxpayer A must amortize any remaining unamortized G&G costs that were incurred in Year 1 over a 10 year period beginning in Year 2 (applying the half-year convention rule of section 167(h)(2)).

In Year 4, FP abandons its investment in Iran and is no longer subject to sanctions. Taxpayer A may either continue to amortize the costs over the remaining 10 years or treat the remaining costs as incurred in Year 4 and recover the costs over seven years under section 167(h)(5).

Example 2

Assume the same facts as Example 1, except that instead of FP abandoning its investment in Iran, the sanctions are no longer in effect in Year 6 due to the termination of the Iran Counter-Pro-

[5] 60 Fed. Reg. 24,757 (May 9, 1995).
[6] 62 Fed. Reg. 44,531 (Aug. 21, 1997).
[7] 50 U.S.C. sec. 1701 et seq.

liferation Act of 2008. In this case, Taxpayer A may either continue to amortize the costs over the remaining 10 years or treat the costs as incurred in Year 6 and recover the costs over seven years under section 167(h)(5).

Example 3

Taxpayer B, a domestic corporation, and Taxpayer C, a foreign corporation, have a common foreign parent. In Year 1, Taxpayer C invests in Iran and sanctions under section 5(a) of the Iran Sanctions Act of 1996 would be imposed if Taxpayer C were a domestic company. In Year 3, Taxpayer B incurs $5 million of G&G costs and absent this proposal would amortize the costs over two years under section 167(h)(1). Under the proposal, Taxpayer B must amortize the G&G costs over a 10 year period beginning in Year 3 (applying the half-year convention rule of section 167(h)(2)).

In Year 4, Taxpayer C abandons its investment in Iran and is no longer subject to sanctions. Taxpayer B may either continue to amortize the costs over the remaining 10 years or treat the remaining costs as incurred in Year 4 and recover the costs over two years under section 167(h)(1).

EFFECTIVE DATE

The proposal is effective for G&G costs paid or incurred on or after January 1, 2009.

Section 12. World Bank loans to Iran

Section 12(a) requires the Secretary of Treasury to submit to the Senate Finance, Banking, and Foreign Relations Committees and House of Representatives Ways and Means, Financial Services and Foreign Affairs Committees ("appropriate congressional committees") a report on (1) the number of loans provided by the World Bank to entities in Iran and for projects or activities in Iran; (2) the dollar amount of such loans; and (3) the voting record of each member of the World Bank on such loans.

Section 12(b) requires the United States to reduce its contributions to the World Bank for loans made by the Bank to Iran after December 31, 2008. The United States must reduce its contribution by an amount that is proportional to the total amount of loans provided by the World Bank to Iran in the preceding year.

Section 13. Increased capacity for efforts to combat unlawful or terrorist financing

Section 13(a) finds that the Office of Terrorism and Financial Intelligence of the Department of Treasury, which includes the Office of Foreign Assets Control and the Financial Crime Enforcement Network, is critical to ensuring that the international financial system is not used to support terrorism or develop weapons of mass destruction.

Section 13(b) authorizes $61,712,000 for fiscal year ("FY") 2009, and whatever sums may be necessary for FY 2010 and 2011 to the Secretary of Treasury for the Office of Terrorism and Financial Intelligence.

Section 13(c) authorizes $91,335,000 for FY 2008, and such sums as may be necessary for FY 2010 and 2011 for the Financial Crimes Enforcement Network.

Section 14. Exchange programs with the people of Iran

Section 14(a) expresses the sense of Congress that the United States should seek to enhance its friendship with the people of Iran, particularly by identifying young Iranian people to come to the United States to participate in exchange programs.

Section 14(b) authorizes the President to carry out exchange programs with the people of Iran, particularly young people. Section 14(b) also states that such exchange programs should be carried out in a manner consistent with the requirements for eligibility specified in section 302(b) of the Iran Freedom Support Act.

Section 14(c) authorizes $15,000,000 to be appropriated to the President from title IV of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 to carry out section 14.

Section 15. Sense of Congress on radio broadcasting to Iran

Section 15 expresses the sense of Congress that the Broadcasting Board of Governors should devote a greater proportion of Radio Farda's programming to programs offering news and analysis.

Section 16. Sense of Congress regarding the international regime for the assured supply of nuclear fuel for peaceful means

Section 16(a) states that it is the policy of the United States to support the establishment of an international regime, under a multilateral authority, to assure the supply of nuclear fuel for peaceful means.

Section 16(b) expresses the sense of Congress that: (1) the Concept for a Multilateral Mechanism for Reliable Access to Nuclear fuel is welcome and should be expanded upon; (2) the proposal by the Russian Government to bring one of its uranium enrichment facilities under international management and oversight is welcome and should be encouraged by the United States; (3) the offer by the Nuclear Threat Initiative to provide $50,000,000 to support the creation of a nuclear fuel bank by the IAEA is welcome, and the United States and other IAEA members should pledge an additional $100,000,000 to support the creation of a nuclear fuel bank; and (4) the Global Nuclear Energy Partnership is intended to provide reliable fuel supply throughout the fuel cycle and promote the nonproliferation goals of the United States.

Section 16(c) expresses the sense of Congress that the President should contribute to IAEA to establish a nuclear fuel bank. Specifically, section 16(c) expresses the sense of Congress that: (1) the President should determine the appropriateness of making voluntary contributions to the IAEA for the creation of a nuclear fuel bank that would maintain backup supplies of low-enriched uranium for the production of reactor fuel; (2) the President should consider the following when determining whether to make voluntary contributions for the creation of a nuclear fuel bank: whether (a) the IAEA has received pledges of not less than $100,000,000 for other governments or entities for the creation of the nuclear fuel bank; (b) the IAEA or another multilateral authority will oversee the nuclear fuel bank; and (c) the nuclear fuel bank will provide nuclear reactor fuel to countries only if the country is in compliance with IAEA safeguards and the country does not operate uranium enrichment or spent-fuel reprocessing facilities of any

scale. Section 16(c) also authorizes the appropriation of $50,000,000 for FY 2009 to carry out this section, and provides that amounts appropriated should remain available until September 30, 2011.

Section 17. Reporting requirements

Section 17 sets forth several reporting requirements.

Section 17(a) requires the Secretary of Treasury to submit to the appropriate congressional committees 180 days after enactment of this Act and every 180 days thereafter a report on (1) any foreign investments made in Iran's energy sector on or after January 1, 2008; and (2) the President's determination on whether such investments qualify as a sanctionable offense under section 5(a) of the Iran Sanctions Act of 1996.

Section 17(b) requires the Secretary of Treasury to submit to the appropriate congressional committees 180 days after the enactment of this Act and annually thereafter the names of persons that have operations or conduct business in the United States that also have invested in Iran, and the dollar amount of such investment.

Section 17(c) requires the President to submit to the Senate Foreign Relations and House of Representatives Foreign Affairs Committees not later than 180 days after the enactment of this Act a report on the activities of the United States to support the establishment of an international regime for the assured supply of nuclear fuel for peaceful means.

Section 17(d) requires the Secretary of Treasury to report to the appropriate congressional committees not later than 90 days after the date of enactment of this Act and every 90 days thereafter a report on the export credits granted by foreign banks to persons investing in Iran's energy sector, and any fines, restrictions, or other action taken by the President to discourage or prevent the issuance of such export credits.

Section 17(e) expresses the sense of Congress that the Executive Director of the Federal Retirement Thrift Investment Board should report to the appropriate congressional committees not later than 180 days after the date of enactment of this Act and annually thereafter any investments in entities that invest in Iran.

Section 18. Waiver Authority

Section 18 grants the President the authority to waive sanctions required pursuant to sections 8, 9, or 12 of this Act if the President (1) determines that such a waiver is in the national interest of the United States and (2) submits to the appropriate congressional committees a report describing the reasons for the President's determination to waive such sanctions.

Section 19. Termination

Section 19 provides that except as provided in section 7, the provisions of and amendments made by this Act shall terminate on the earlier of (1) the date on which the President determines and certifies to the appropriate congressional committees that Iran has completely, verifiably, and irreversibly dismantled all uranium enrichment-related and reprocessing-related programs; or (2) the date that is 5 years after the date of enactment of this Act.

IV. HEARINGS

The Finance Committee held a hearing on a substantially similar bill, S. 970, the Iran Counter-Proliferation Act of 2007, on April 8, 2008. The hearing discussed international trade concerns raised by the bill, the role of the bill in a broader multilateral sanctions regime, and the humanitarian impact of the bill.

V. VOTES

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning roll call votes in the Committee's consideration of the "Iran Sanctions Act of 2008."

A. MOTION TO REPORT THE BILL

The original bill was ordered favorably reported, as amended by the Chairman's modification, by a roll call vote of 19 ayes and 2 nays on June 18, 2008. The vote, with a quorum present, was as follows:

Ayes—Baucus, Conrad, Kerry (proxy), Lincoln (proxy), Wyden, Schumer, Stabenow, Cantwell, Salazar, Grassley, Hatch (proxy), Snowe, Kyl, Smith, Bunning, Crapo, Roberts, Ensign (proxy), Sununu

Nays—Rockefeller, Bingaman

B. VOTES ON OTHER AMENDMENTS

(1) An amendment by Senator Bingaman to delete the section of the "Iran Sanctions Act of 2008" pertaining to Russia nuclear cooperation in its entirety failed by a roll call vote of 4 ayes and 15 nays.

Ayes—Rockefeller, Bingaman, Lincoln (proxy), Cantwell

Nays—Baucus, Wyden, Schumer, Stabenow, Salazar, Grassley, Hatch (proxy), Snowe, Kyl, Smith, Bunning, Crapo, Roberts, Ensign (proxy), Sununu

(2) An amendment by Senator Bunning to amend the "Iran Sanctions Act of 2008" to require the President to initiate investigations into violations of section 5(a) of the Iran Sanctions Act of 1996 when the President receives credible information that such a violation has occurred passed by voice vote.

VI. BUDGETARY IMPACT OF THE BILL

Iran Sanctions Act of 2008

Summary: The Iran Sanctions Act of 2008 would authorize appropriations for two programs within the Department of Treasury relating to financial crimes, an exchange program with Iran, and U.S. contributions to the International Atomic Energy Agency (IAEA). The bill also would limit trade with Iran and allow the President to impose sanctions on certain individuals. Finally, the bill would prohibit the United States from entering into a nuclear energy agreement with Russia and would prevent the transfer of certain nuclear materials, components, or technologies to Russia until it has suspended nuclear assistance to Iran.

CBO estimates that implementing the bill would cost $173 million in 2009 and $600 million over the 2009–2013 period, assuming

appropriation of the specified and estimated amounts. In addition, CBO and the Joint Committee on Taxation (JCT) estimate that enacting the bill would increase revenues by about $1 million in 2009, $24 million over the 2009–2013 period, and $45 million over the 2009–2018 period. Enacting the legislation also could increase direct spending as a result of additional civil and criminal penalties. CBO estimates this 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 impose no costs on state, local, or tribal governments.

The bill 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 family members and associates of Iranian government officials subject to sanctions as designated by the President; some of those individuals may reside in the United States. Finally, the bill would impose mandates by requiring 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 the number of people and the value of assets to be frozen are currently unknown and because CBO lacks information on the value of lost profits to importers and exporters. 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 summarized in Table 1. The costs of this legislation fall within budget functions 150 (international affairs), 750 (administration of justice), and 800 (general government).

TABLE 1. ESTIMATED BUDGETARY IMPACT OF THE IRAN SANCTIONS ACT OF 2008 [1]

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	220	175	181	18	18	612
Estimated Outlays	173	174	179	56	18	600
CHANGES IN REVENUES						
Estimated Revenues	1	3	5	6	9	24

[1] In addition to the amounts shown above, implementing the bill would increase revenues by $45 million over the 2009–2018 period (see Table 3).

Basis of estimate: For the purposes of this estimate, CBO assumes that the bill will be enacted before 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 specific programs within both the Department of the Treasury and the Department of State. In total, CBO estimates that implementing those programs would cost $600 million over the 2009–2013 period, assum-

ing appropriation of the specified and estimated amounts (see Table 2).

TABLE 2.—COMPONENTS OF THE ESTIMATED CHANGES IN SPENDING SUBJECT TO APPROPRIATION UNDER THE IRAN SANCTIONS ACT OF 2008

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
Department of Treasury Programs:						
Estimated Authorization Level	153	158	163	0	0	474
Estimated Outlays	117	156	161	38	0	472
Exchange Programs:						
Estimated Authorization Level	15	15	16	16	16	78
Estimated Outlays	8	13	15	16	16	68
Contribution to the IAEA:						
Estimated Authorization Level	50	0	0	0	0	50
Estimated Outlays	46	3	1	0	0	50
Other Reports:						
Estimated Authorization Level	2	2	2	2	2	10
Estimated Outlays	2	2	2	2	2	10
Total Changes:						
Estimated Authorization Level	220	175	181	18	18	612
Estimated Outlays	173	174	179	56	18	600

Note: IAEA = International Atomic Energy Agency.

Department of Treasury Programs. In total, section 13 would authorize the appropriation of $153 million in 2009 and such sums as may be necessary for 2010 and 2011. (The 2009 authorization consists of $62 million for the Office of Financial Terrorism and Financial Intelligence and $91 million for the Financial Crimes Enforcement Network, both of which are in the Department of Treasury.) Based on information from the Department of Treasury, CBO expects that $153 million, adjusted for inflation, would be sufficient for fiscal years 2010 and 2011. Accordingly, CBO estimates that implementing section 13 would cost $472 million over the 2009–2013 period.

Exchange Programs. Section 14 would authorize the President to implement exchange programs with Iran, particularly for Iranian youth, and would authorize the appropriation of $15 million in 2009 for those purposes. Because the exchange program has a permanent authorization, CBO estimates that the bill also would authorize funding for fiscal years 2010 through 2013 equal to the $15 million authorized for 2009, adjusted for inflation. Thus, CBO estimates that implementing section 14 would cost $68 million over the 2009–2013 period, assuming appropriation of the specified and estimated amounts.

Contribution to the International Atomic Energy Agency (IAEA). Section 16 would authorize the appropriation of $50 million in 2009 for a voluntary contribution to the IAEA. The funds would be used to establish an international nuclear fuel bank that could be used in the event of market disruptions in the supply of reactor fuel. CBO estimates that implementing section 16 would cost $50 million over the 2009–2013 period, assuming appropriation of the specified amount.

Other Reports. Several sections would require the Department of 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 those reports would cost about $2 million annually.

Revenues and direct spending

Prohibition on Imports. Section 8 would prohibit the importation of any product from Iran. This prohibition would expire five years after enactment of the bill. CBO expects that the aggregate trade volume subject to customs duties would decrease, thus reducing revenues by an estimated $2 million over the 2009–2018 period.

Modified Tax Treatment. Section 11 would modify the income tax treatment of geological and geophysical (G&G) costs for oil companies on which certain economic sanctions for investing in Iran have been imposed. Under the bill, any G&G costs incurred by such a company after 2008 in connection with the exploration and development of oil or gas supplies within the United States would be amortized over 10 years rather than the two- or seven-year periods allowed under current law. This modified treatment would terminate after five years. JCT estimates that the provision would increase revenues by $47 million over the 2009–2018 period.

Civil and Criminal Penalties. The bill would impose civil and criminal penalties for violations of the new sanctions and could result in additional federal revenues. 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.

TABLE 3. ESTIMATED CHANGES IN REVENUES UNDER THE IRAN SANCTIONS ACT OF 2008

	By fiscal year, in millions of dollars—											
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2009–2013	2009–2018
Prohibition on Imports	*	*	*	−1	−1	0	0	0	0	0	−2	−2
Modified Tax Treatment	1	3	5	7	10	10	10	7	1	−7	26	47
Total Changes	1	3	5	6	9	10	10	7	1	−7	24	45

Note: * = revenue loss of less than $500,000.

Estimated impact on state, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimated impact on the private sector: The bill 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. Finally, 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.

Previous CBO estimates: 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. Both bills contain provisions for the exchange programs and Department of Treasury programs discussed above. H.R. 1400, however, would have authorized lower appropriations for those programs. In addition, the earlier bill did not include an authorization for the U.S. contribution to IAEA that is authorized in the Iran Sanctions Act of 2008. H.R. 1400 also contained 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. The differences in CBO's estimate of the costs of the two bills reflect differences in the legislative language.

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 6 and 9 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.

Estimate prepared by: Federal spending: International Affairs—Neil Hood; Exchange Programs and IAEA Contribution—Sunita D'Monte; Department of Treasury Programs and Reports—Matthew Pickford; Federal revenues: Zachary Epstein; Impact on state, local, and tribal governments: Neil Hood; Impact on the private sector: MarDestinee Perez.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis; G. Thomas Woodward, Assistant Director for Tax Analysis.

VII. Regulatory Impact and Other Matters

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. No. 104–04). The Committee has reviewed the provisions the "Iran Sanctions Act of 2008" as approved by the Committee on June 18, 2008. In accordance with the requirements of Pub. L. No. 104–04, the Committee has determined that the bill contains no intergovernmental mandates, as defined in the UMRA, and will not affect the budgets of State, local, or tribal governments. The bill contains private-sector mandates, as defined in UMRA, by (1) banning all imports from and exports to Iran, with the exception of agricultural commodities, medicine, medical devices, certain informational materials, and other humanitarian assistance; (2) 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; and (3) requiring financial institutions that hold funds and other assets of persons subject to sanctions to report such information. The Committee 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).

VIII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Pursuant to the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

IRAN SANCTIONS ACT OF 1996

* * * * * * *

SEC. 4. MULTILATERAL REGIME.

(a) * * *

* * * * * * *

(f) INVESTIGATIONS.—

(1) IN GENERAL.—The President [should] *shall* initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section.

(2) DETERMINATION AND NOTIFICATION.—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President [should] *shall* determine, pursuant to section 5(a), if a person has engaged in investment activity in Iran as described in such section and shall notify the appropriate congressional committees of the basis for any such determination.

(3) EXTENSION OF TIME FOR INVESTIGATIONS.—The President may extend the time period for making a determination under paragraph (2) by not more than an additional 180 days if the President determines that the President will be unable to make a determination during the time period required under paragraph (2).

* * * * * * *

SEC. 14. DEFINITIONS.

As used in this Act:

(1) * * *

* * * * * * *

(13) PERSON.—The term "person" means—

(A) a natural person;

[(B) a corporation, business association, partnership, society, trust, any other nongovernmental entity, organiza-

tion, or group, and any governmental entity operating as a business enterprise; and]

(B)(i)(I) a corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, or any other business organization, including any foreign subsidiary, parent, or affiliate of one of the foregoing; or

(II) any other nongovernmental entity, organization, or group; and

(ii) any governmental entity operating as a business enterprise, including an export credit agency; and

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TITLE 31, UNITED STATES CODE

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Subtitle I—General

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CHAPTER 3—DEPARTMENT OF THE TREASURY

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SUBCHAPTER I—ORGANIZATION

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§ 310. Financial Crimes Enforcement Network

(a) * * *

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(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for FinCEN [such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005] *$91,335,000 for fiscal year 2009 and such sums as may be necessary for each of the fiscal years 2010 and 2011.*

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SECTION 167, INTERNAL REVENUE CODE OF 1986

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Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

SUBCHAPTER B—COMPUTATION OF TAXABLE INCOME

PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

* * * * * * *

SEC. 167. DEPRECIATION.

(a) * * *

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(h) AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.

(a) * * *

* * * * * * *

(6) LONGER AMORTIZATION PERIOD WHEN IRAN SANCTIONS IN EFFECT.—

(A) IN GENERAL.—In the case of geological and geophysical expenses paid or incurred during any taxable year ending during a sanction period with respect to the taxpayer—

(i) paragraphs (1) and (4) shall be applied by substituting "10-year" for "24-month", and

(ii) paragraph (5)(A) shall be applied by substituting "10-year" for "7-year".

(B) SPECIAL RULE FOR UNAMORTIZED EXPENSES AS OF BEGINNING OF SANCTION PERIOD.—In the case of geological and geophysical expenses paid or incurred after December 31, 2008, and remaining unamortized as of the beginning of the first taxable year ending during a sanction period with respect to the taxpayer, such unamortized expenses shall be treated as having been paid or incurred during such first taxable year for purposes of applying subparagraph (A).

(C) SPECIAL RULE FOR UNAMORTIZED EXPENSES AS OF END OF SANCTION PERIOD.—In the case of geological and geophysical expenses paid or incurred after December 31, 2008, and remaining unamortized as of the beginning of the first taxable year ending after the last day of a sanction period, the taxpayer may elect to treat such unamortized expenses as having been paid or incurred during such first taxable year for purposes of applying this subsection.

(D) SANCTION PERIOD.—For purposes of this paragraph, the term "sanction period" means, with respect to any taxpayer, any period during which sanctions under section 5(a) of the Iran Sanctions Act of 1996 or section 8 of the Iran Sanctions Act of 2008 (relating to sanctions with respect to the development of petroleum resources of Iran)—

(i) are imposed on the taxpayer, or

(ii) are imposed on any other member of the expanded affiliated group which includes the taxpayer, or would be so imposed if such other member were a domestic corporation.

(E) EXPANDED AFFILIATED GROUP.—For purposes of this paragraph—

(i) IN GENERAL.—The term "expanded affiliated group" means an affiliated group as defined in section 1504(a), determined—

(I) by substituting "more than 50 percent" for "at least 80 percent" each place it appears, and

(II) without regard to paragraphs (2), (3), and (4) of section 1504(b).

(ii) OTHER AFFILIATED ENTITIES.—Under regulations prescribed by the Secretary, the term "expanded affiliated group" shall include entities other than corporations which, based on principles similar to the principles which apply in the case of clause (i), are members of the same affiliated group.

* * * * * * *

IX. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATORS BINGAMAN AND ROCKEFELLER

We respectfully submit these additional views to express our strong opposition to Section 7 of the Iran Sanctions Act of 2008. This section would prohibit the United States from entering into a civilian nuclear energy cooperation agreement—known as a "Section 123" agreement, after the provision of the Atomic Energy Act that authorizes civilian nuclear cooperation agreements—with the Russian Federation. Passing this legislation with the present language of Section 7 would be contrary to our national interest.

On May 6, 2008, the United States signed a Section 123 agreement with Russia. This agreement would bring about a significant deepening of the cooperative nuclear relationship between the United States and Russia that began with the Nunn-Lugar Cooperative Threat Reduction program, which aimed to dismantle weapons of mass destruction and their associated infrastructure in the former Soviet Union. Section 7 of the Iran Sanctions Act would, in its present form, halt civilian nuclear cooperation with Russia. It makes no sense to backslide on the Nunn-Lugar program at the moment when we are poised to enter into a long-term agreement that will consolidate the counterproliferation gains that we have made since the collapse of the Soviet Union.

We oppose the present Section 7 language for three fundamental reasons. First, it undermines our efforts at containing Iran's nuclear program, lessens our leverage with Russia on counterproliferation matters, and effectively gives Iran control over American civilian nuclear cooperation with Russia. Second, the Finance Committee is voting on this legislation hastily, without having considered crucial intelligence as to how the Section 123 agreement provides useful leverage with Russia in our counterproliferation efforts vis-à-vis Iran. Third, the Finance Committee has marked up Section 7 without consulting the Foreign Relations Committee, which—by virtue of its jurisdiction over civilian nuclear cooperation agreements—has the technical expertise necessary to evaluate the Section 123 agreement properly.

We will elaborate on each of these points in turn.

I. Section 7 undermines our efforts at containing Iran's nuclear program, lessens our leverage with Russia on counterproliferation matters, and effectively gives Iran control over American civilian nuclear cooperation with Russia

Russia is an important, even indispensable, partner in our global counterproliferation efforts, and U.S. nuclear cooperation with Russia has produced tangible and substantive results in the effort to

stop Iran from developing nuclear weapons. To halt these efforts categorically, as Section 7 would do, would thwart, rather than advance, our counterproliferation goals with respect to Iran, to the detriment of our national interests, as well as to the interests of Russia, Israel, and moderate Arab states.

We harbor no illusions that the interests of the U.S. and Russia are perfectly aligned. We have grave concerns about Russia's energy diplomacy in Europe, and we believe that Russia's state oil and gas companies are too often instrumentalities of Russian foreign policy. But these facts should not stop our nation from cooperating with Russia when it is in our national interest to do so.

Russia certainly has not been as helpful as it could be on Iran. Most notably, in the 1990s, when Germany stopped work on the Bushehr reactor in Iran because of counterproliferation concerns, Russia completed its construction, and it shipped nuclear fuel there. It does not follow, however, that Russia has been entirely unhelpful. And in our opinion, Russia has contributed to our counterproliferation goals in at least four ways.

First, Russia now has an agreement in perpetuity to take back all spent fuel from Bushehr, so that it cannot be weaponized.

Second, Russia has proposed the creation of an international enrichment facility at Angarsk, where countries can enrich uranium for civilian purposes, on Russian territory and under International Atomic Energy Agency (IAEA) supervision. This facility would rob Iran and other proliferators of any pretext that they must enrich to develop a domestic civilian nuclear energy industry.

Third, the U.S. and Russia have also proposed the creation of an international spent fuel storage facility. This facility could accept spent nuclear fuel from both the U.S. and other countries, which reduces incentives for countries like Iran to have their own nuclear reprocessing facilities. At Sochi on April 8, 2008, the United States and Russia agreed to proceed with this international fuel bank program. Last year, the Congress even appropriated $50 million to establish the international fuel bank program, a fact recognized in the Iran Sanctions Act.

The United States needs the Section 123 agreement to continue with the international enrichment facility, the spent fuel bank, and collaboration in the development of proliferation resistant nuclear tchnologies—as well as R&D in areas such as fast neutron reactors and advanced fuel cycle technologies.

Fourth, Russia has supported four resolutions in the United Nations Security Council aimed squarely at stopping Iran's nuclear ambitions. These are Resolution 1696 of 2006, Resolution 1737 of 2006, Resolution 1747 of 2007, and Resolution 1803 of 2008.

These resolutions impose progressively tougher sanctions on Iran—and Russia is a part of those sanctions. Under these resolutions, Iran must suspend all enrichment-related and reprocessing activities, and states must take necessary measures to prevent the sale or transfer of all goods and technology that could contribute to Iran's enrichment activities. This is not advisory language. It is a mandate from the international community, including Russia, to place broad-based sanctions on Iran.

If Congress now repudiates the Section 123 agreement with Russia, Russia will be far less likely to cooperate with the United

States on counterproliferation matters, whether in the United Nations Security Council, bilaterally with Iran, or in the context of the Nunn-Lugar Cooperative Threat Reduction program. That would be a grave setback for the United States and contrary to its national security interests.

The United States needs Russia as a partner to contain Iran's nuclear weapons ambitions. The Section 123 agreement is an effective way to secure a partnership with Russia, to provide incentives for Russian cooperation on Iran, and to discourage bad behavior on the part of Russia. The agreement allows the U.S. to maintain flexibility in its relations with Russia. Although it provides a roadmap for future cooperation on civilian nuclear energy, the agreement does not open the floodgates to untrammeled technology transfer. Instead, it regulates how such cooperation will proceed. For instance, the executive branch must issue a license for each and every shipment of civilian nuclear technology to Russia pursuant to the Section 123 agreement. Therefore, it is incorrect to suggest, as some of our colleagues have, that the agreement would force the U.S. to ship sensitive nuclear technology to Russia were our relations with Moscow to deteriorate.

Because the Section 123 agreement memorializes the nuclear non-proliferation commitments that Russia has made, it provides a mechanism for monitoring Russia's counterproliferation behavior—including in Iran. Conversely, repudiating the agreement would remove Russia's incentives to cooperate with the United States on counterproliferation matters.

Furthermore, Section 7 effectively makes continued civilian nuclear cooperation with Russia contingent on Iranian, rather than Russian, behavior. Section 7(c) would allow civilian nuclear cooperation with Russia only if the President certifies that (1) Russia has suspended all nuclear assistance to Iran *and* all transfers of advanced conventional weapons and missiles to Iran, or (2) Iran has completely, verifiably, and irreversibly dismantled all of its nuclear enrichment and reprocessing programs.

Because intelligence concerning nuclear assistance and arms transfers between two large countries can never be perfect or complete, it is unrealistic to expect that the President could ever make an unequivocal certification based on the first prong of Section 7(c). Therefore, for practical purposes, the second prong—the complete, verifiable, and irreversible dismantling *by Iran* of its nuclear enrichment and reprocessing programs—is the criterion for any presidential certification. This language effectively makes civilian nuclear cooperation with Russia contingent on the actions of our adversary, Iran. This situation is unacceptable.

Finally, Iran has not procured its enrichment technology from Russia—most of it has come from Pakistan. It is misguided to link Russia's Section 123 agreement to Iranian enrichment behavior when Russia has nothing to do with Iran's enrichment program.

II. The Finance Committee is voting on this legislation hastily, without having considered crucial intelligence as to how the Section 123 agreement provides useful leverage with Russia in our counterproliferation efforts vis-à-vis Iran.

The Finance Committee has reported the Iran Sanctions Act without having considered crucial intelligence as to how the Section 123 agreement is helpful in our counterproliferation efforts vis-à-vis Iran. The classified annex of the agreement contains discussion detailing the positive effects the Section 123 negotiations appear to have had on Russia's role in nonproliferation issues in general, and on its influence on Iran's nuclear program in particular. We urge every member of the Senate to seek out a classified briefing before voting to stop this accord with Russia.

In 2003, the Senate voted to give the President authority to go to war in Iraq without a full understanding of all aspects of the relevant intelligence. This experience should remind all senators that when considering critical matters of national security, it is imperative that we be fully briefed on the relevant intelligence *before* votes take place. The Finance Committee has not been fully briefed on Russia's counterproliferation efforts vis-à-vis Iran; thus, it is inappropriate that the Committee should legislate on the subject at this point.

III. The Finance Committee has marked up Section 7 without consulting the Foreign Relations Committee, which—by virtue of its jurisdiction over civilian nuclear cooperation agreements—has the technical expertise necessary to evaluate the Section 123 agreement properly.

The Finance Committee is not the place to have a debate over U.S. policy on international civilian nuclear cooperation. Section 123 of the Atomic Energy Act of 1954 gives the Foreign Relations Committee jurisdiction over Section 123 agreements in the Senate.

The Foreign Relations Committee staff has deep expertise on Section 123 agreements. To date, Congress has approved civilian nuclear cooperation agreements with every major civilian nuclear power other than the Russian Federation. These agreements are highly complex and involve lengthy hearings by members and staff steeped in the details and processes of such agreements. The Finance Committee, while highly competent in matters of its jurisdiction, such as trade sanctions, is the wrong venue in which to consider language barring a civilian nuclear cooperation agreement with Russia.

Before pronouncing judgment on the Section 123 agreement, we urge senators to avail themselves of the technical expertise necessary to understand the agreement.

In conclusion, Senators Nunn and Lugar, two of the most highly respected figures in the non-proliferation community, recently wrote an op-ed article in the *New York Times* in which they stated, "One goal of [the Section 123] agreement is to prevent more countries from following Iran's path to becoming a nuclear power. We should not sacrifice our most promising long-term nonproliferation strategy in pursuit of short-term leverage that is likely to backfire." The Bush administration, as well as Senators Biden and Lugar in their capacity as chairman and ranking member of the Foreign Re-

lations Committee, have also written in opposition to Section 7 of the Iran Sanctions Act for this reason.

We heartily endorse their words. For this reason, Senator Bingaman offered an amendment to strike the harmful Section 7 and replace it with a resolution expressing the sense of the Senate that the Section 123 agreement should be reviewed carefully in light of Russia's past and present actions with respect to Iran and as a mechanism by which the U.S. and Russia can work on preventing proliferation to countries such as Iran. This amendment would have highlighted the need for the Committee of jurisdiction, and eventually the whole Senate, to take a close look at this important agreement. This is a critical matter of national security, one that we must not get wrong.

For these reasons, we must oppose the Iran Sanctions Act in its present form.

JEFF BINGAMAN.
JOHN D. ROCKEFELLER IV.

ADDITIONAL VIEWS OF SENATOR CANTWELL

I am concerned about the impact of Section 7 on the ability of U.S. aviation companies to obtain "safety of flight" licenses from the Treasury Department's Office of Foreign Assets Control. Safety of flight licenses can cover domestic or foreign fleet (if the foreign fleet incorporates U.S. parts) repairs that are mandated by a Federal Aviation Administration Airworthiness Directive, airplane-on-the-ground situations, other urgent parts replacement or repair needs, or airplane crash investigations.

Under current law (the Iran-Iraq Sanctions Act of 1992) and regulation (the Iran Transactions Regulations), safety of flight activity that did not require a license prior to 1992 does not require a Presidential waiver. Activity that did require a license prior to 1992 does require a Presidential waiver and S. 970 would not change the treatment of these licenses—a waiver from the President would still be required. But for activities that do not currently require a Presidential waiver, the bill would now require one.

The reason for this current bifurcated treatment lies in the differences in the level of significance of a particular request for export approval for a safety of flight activity. Requests for export approvals related to safety of flight may require no transfer of information/technology to Iran, and the parts involved may be insignificant, i.e., the export does not rise to a level that would pose either a national security or foreign policy concern.

For example, a license to export the data map of an Iran Air 747 flight data recorder in support of a third country investigation of a nose wheel collapse which the plane experienced while landing outside of Iran in 2004 did not require a presidential waiver. On the other hand, the export of wing strut modification kits for 747 aircraft operated by Iran Air required a presidential waiver because that could improve the airworthiness of the aircraft. It should be noted that, in this case, the parts and related technology were exported to Germany and that Lufthansa performed the repairs, not Iran.

This concern may be addressed by simply allowing the President to delegate his waiver authority for activities that do not currently require a waiver to the Secretary of the Treasury and/or to the Secretary of State.

MARIA CANTWELL.

ADDITIONAL VIEWS OF SENATOR KYL

It is critical that the United States strengthen and focus our diplomatic and economic resources to persuade Iran to comply with U.N. Security Council Resolutions. This bill is vitally important to our nation's effort to increase pressure on the Iranian regime.

I support Section 7 of this bill. While the committee's 15 to 4 vote in favor of this section and the House of Representatives' 397 to 16 vote in favor of legislation—the Senate companion of which has 72 cosponsors—containing a nearly identical provision clearly indicate the broad consensus behind efforts to promote a sensible policy toward Russia, the merits of this section warrant thorough review.

Open and classified intelligence documents Russia's history of cooperation and assistance to Iran.

In support of Iran's effort to master nuclear technology, Moscow has provided critical aid in the construction and operation of the Bushehr nuclear reactor; Iran has paid about $800 million for these services. Russia has also made at least seven shipments of nuclear fuel to Iran and trained at least 700 Iranian nuclear engineers. I am aware of no limitation as to what these Iranian engineers will do with that training.

Since the 1990s, Russia has sold Iran billions in military equipment, such as submarines, aircraft, tanks, helicopters, and advanced air defense systems, which, according to open source reporting, likely includes the capable SA–20 missile system, modeled after the U.S. Patriot system.

Additionally, a March 1, 2007 letter from the Office of the Director of National Intelligence stated, "We assess that Russian entities continue to provide assistance to Iran's ballistic missile programs. We judge that Russian-entity assistance, along with assistance from entities in China and North Korea, has helped move toward self-sufficiency in the production of ballistic missiles."

It is, therefore, clear that, in addition to preventing meaningful action with regard to Iran in the United Nations Security Council, Russia has provided Iran with nuclear assistance, and sold and delivered to Iran advanced conventional weapons and ballistic missile material. Entering into a close nuclear technology partnership with Russia would signal U.S. approval of these activities and does not promote U.S. objectives with regard to Iran.

Section 7 of this bill prevents the United States from entering into a nuclear cooperation agreement or undertaking transactions pursuant to such an agreement with Russia unless the President has certified that Russia has suspended all nuclear, conventional weapon, and ballistic missile assistance to Iran; or, that Iran has verifiably dismantled all nuclear programs. This is an appropriate response to Russia's cooperation with Iran.

In addition to the overwhelming disapproval of the nuclear cooperation plan expressed in the House of Representatives and Sen-

ate Finance Committee, Congresswoman Ileana Ros-Lehtinen, the ranking member of the House Foreign Affairs Committee, along with several other House members, recently sent a letter to President Bush asking him to withdraw the 123 Agreement, citing Russian assistance to rogue states and "Russia's continuing sale of advanced conventional weapons to Iran." The letter further suggests a contradiction in the Administration's request for a waiver of sanctions required under the Iran, North Korea, Syria Sanctions Act. Pursuant to the provision of the Act, the President is required to certify to Congress that the Russian government has acted sufficiently to prevent the proliferation of weapons of mass destruction and the enabling technology. Such a certification has never been made since the Act's passage in 2000.

Congressman John Dingell, Chairman of the House Energy and Commerce Committee, and Congressman Stupak have also requested that the GAO investigate whether the Administration's classified and unclassified assessment—known as an NPAS—that a 123 Agreement with Russia would be consistent with the nonproliferation program, policies, and objectives of the United States is fully supported in light of Russia's nuclear cooperation and weapons proliferation to Iran.

Several arguments have been put forward in an effort to prop up the 123 Agreement. Proponents of the 123 Agreement assert that withholding approval of the proposed cooperation plan will undercut the disarmament and non-proliferation plans and objectives of the United States, by interfering with the Nunn-Lugar Cooperative Threat Reduction program. But, programs funded by "Nunn-Lugar" are not dependent in any way on the approval of the Russia 123 Agreement. Those programs are functioning today, without the Agreement, and will continue to function, regardless of the 123 Agreement's fate.

Nor will withholding U.S. approval of the 123 Agreement endanger independent Russian proposals, such as the creation of an International Enrichment Center to provide nuclear fuel to developing nations. This project is completely unrelated to the approval of the 123 Agreement.

Some also argue that Russia is our partner in addressing Iran's threatening behavior and that withholding support for the 123 Agreement will make Russia less likely to support U.S. objectives with regard to Iran. However, the documented cooperation between Russia and Iran clearly does not represent the actions and commitment of a strong partner. A nuclear-armed Iran is not in Russia's interest, and the U.S. should not act as if compelled to make a "down payment" on Russia's will good by approving a nuclear agreement that country very much desires.

It is incumbent upon Russia to join the rest of the international community and use its close ties with Tehran to foster meaningful dialogue and bring Iran within compliance of the U.N. Security Council's resolutions. A nuclear-armed Iran is not in Russia's interest. It is illogical to suggest—as some proponents of the 123 Agreement do—that Russia would expand its cooperation with Iran simply due to a foreign policy disagreement with the United States.

The U.S. should not accept partial cooperation as sufficient, especially cooperation that does not rise above the level of demarches

and diplomatic niceties. Rather, we should reserve our assets and accolades for those nations that sincerely avail themselves in pursuit of a more peaceful world. While Russia has supported some efforts to restrain and penalize Iran's destabilizing behavior, it has also profited from it. The United States should work with Russia to end military assistance to Iran before entering into a nuclear cooperation deal. Section 7 merely codifies that commonsense policy.

JON KYL.

ADDITIONAL VIEWS OF SENATOR SMITH

The Chairman's mark, which builds on legislation (S. 970) that Senator Durbin and I wrote, is an important step in the advancement of a diplomatic solution to prevent Iran's development of a closed nuclear cycle.

The United States, in conjunction with our European partners, is solidly committed to preventing nuclear proliferation. In the Middle East, our success in achieving this goal is critical.

If Iran is allowed to perfect a closed nuclear cycle and build nuclear armaments, it will not be long before other regional powers follow suit. In addition, Iran's hostility to Israel's existence and bellicose rhetoric make the long-term destabilizing influence of a nuclear Iran intolerable. The world urgently needs intensified diplomacy, consisting of carrots and targeted sticks, to encourage Iran to abandon its nuclear ambitions.

I am confident that this legislation will be an important part of that diplomacy, complimenting efforts already underway to apply pressure to enablers and abettors of the regime. These steps, which include the sanctioning of major Iranian banks and senior officials involved with the nuclear program and terrorism, have significantly increased the cost of nuclear enrichment for Iran, without disproportionately harming the Iranian people.

We have no grievance with the Iranian people, who live in an autocracy and are isolated from much of the decision-making by their leaders. Indeed, to help build ties with the Iranian people, this legislation will authorize educational and cultural exchange programs in the United States. These programs will help counter the Iranian regime's propaganda and help eventually draw a peaceful, democratic Iran into partnership with the United States and the rest of the free world.

Iran is not building its nuclear program in a vacuum, and the international community must be an integral part of the sanctions process. Unfortunately, certain nations like Russia are continuing to assist in Iranian nuclear and weapons programs, while paying lip service to the need for nonproliferation. In light of this fact, a key provision of this legislation would ban Russia from obtaining a so-called 123 nuclear agreement with the United States until it halts cooperation with Iran's nuclear, advanced weapons, and missile programs, or until Iran dismantles its enrichment facilities. We must make clear to Russia that it cannot continue to deal lethal technologies to Iran and still reap the benefits of civilian nuclear cooperation with the United States.

Key to the success of the diplomatic process is bold action by the United Nations Security Council (UNSC), which to date has adopted three sanctions resolutions in response to Iran's continuing enrichment of uranium. I am pleased with the steps taken so far, but much more needs to be done. To this end, the UNSC should con-

tinue to take the lead in negotiating an end to Iran's nuclear program.

I do support unilateral sanctions lightly. However, the case before us in Iran is pressing and distinctive enough that unilateral sanctions can be very useful. They can help buttress UNSC sanctions resolutions, while choking off Iranian activities in international banking and high technology. These steps are critical to an engaged, international diplomatic effort, and vital to a peaceful resolution of the current impasse.

GORDON H. SMITH.

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