

FACT SHEET: Background Information on the Veto of the FY08 Defense Bill

SUMMARY: President Bush vetoed the FY08 Defense bill because of concerns over Sec.1083.

LEGISLATIVE HISTORY OF SECTION 1083: During Senate floor consideration, Senator Lautenberg offered this provision as an amendment. It was adopted unanimously by voice vote. The provision builds on 1996 legislation which enabled American victims of state-sponsored terrorism to recover damages against foreign governments that materially support or commit acts of terror against them.

The House-passed bill contained no similar provision. The Conference Report contained an amended version of the Senate provision.

After the Conference Report was passed (House: 370-49, Senate: 90-3) and sent to the President for his signature, White House advisors told Congress that they would advise the President to veto the bill because of section 1083. On December 28, 2007, the President announced that he was withholding his approval of the bill.

The Administration takes the position that this announcement and the delivery of a Memorandum of Disapproval sufficiently constitute a Pocket Veto, which is not subject to Congressional override. The Congress has traditionally taken the position that when the President returns the parchment of the bill with objections, it constitutes a regular veto which is subject to further congressional action.

SUMMARY OF ORIGINAL SECTION 1083:

- Enables Americans, members of the U.S. Armed Services, and employees of the United States Government to sue state sponsors of terrorism for damages in U.S. courts.
- Permits victims of terrorism to identify formally the foreign state's property which may be used to compensate the plaintiffs if a judgment is rendered on their behalf. Also facilitates the ability of plaintiffs who have secured judgments to collect payment from the foreign state.
- Consistent with international legal obligations, continues to protect the diplomatic and consular property of foreign states from being used in any way to satisfy victims' claims.
- Reaffirms the ability of U.S. courts to utilize existing legal mechanisms to protect U.S. commercial interests which are conducting business with former state sponsors of terrorism.
- The Conference agreement clarifies that the provision does not prejudice the legal standing of the former American hostages who were held captive in Iran.

ADMINISTRATION OPPOSITION TO ORIGINAL SECTION 1083: The Administration has expressed opposition to the original Sec.1083 for numerous reasons, including its impact on Iraq. The White House has said that the provision would freeze Iraqi assets held in U.S. financial institutions (approximately \$25 billion), expose the country to new liabilities, and devastate the future of Iraqi reconstruction.

BI-PARTISAN, BICAMERAL COMPROMISE:

- Retains the applicability of this provision for all current and former state-sponsors of terrorism except Iraq.
- President may waive the totality of section 1083 as to claims against Iraq for terrorism acts that occurred before or on the date of enactment of FY08 NDAA.
- President required to make a national security interest determination and other findings before issuing a waiver.
- President must notify Congress within 30 days of issuing waiver or the waiver ceases to be effective.
- Through a Sense of Congress, the President is encouraged to work with the Government of Iraq to compensate meritorious claims of terrorism victims who are not able to satisfy their claims due to the exercise of the waiver.