RSC Republican Study Committee
REP. TOM PRICE, M.D. (R-GA), CHAIRMAN
PAUL TELLER, EXECUTIVE DIRECTOR
424 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
rsc.price.house.gov
ph (202) 226-9717 / fax (202) 226-1633

Legislative Bulletin…….……June 24, 2010

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H.R. 2194 – Conference Report on Comprehensive Iran Sanctions, Accountability, and Divestment Act *(Berman, D-CA)*

Order of Business: The conference report is scheduled to be considered on June 24, 2010 under a motion to suspend the rules and pass the bill.

Summary: The bill amends the Iran Sanctions Act of 1996 to broaden the categories of actions that trigger sanctions, increase the number of sanction that must be imposed, and impose new penalties on financial institutions that have transactions with the Islamic Revolutionary Guard Corps or other Iranian entities that have been blacklisted by the Treasury Department. The bill also sanctions companies that sell refined petroleum to Iran.

Title I: Sanctions.

The title broadens actions that trigger sanctions. It also establishes three new sanctions (in addition to the existing 6). The bill requires the President to impose at least three of the nine sanctions on a company involved in sanctionable activity. The new sanctions are:

1. A prohibition on access to foreign exchange in the U.S.;
2. A prohibition on access to U.S. banking transactions; and
3. A prohibition on access to property transactions.

Among other things, the title would:

- Imposes sanctions on companies that sell refined petroleum to Iran and assist Iran in its domestic refining capacity. Companies engaged in either of these activities are subject to the same sanctions as companies that invest $20 million or more in Iran's energy sector (the original category of sanctionable activity established under ISA).
- Imposes sanctions on companies that provide Iran goods, services, technology, information, or facilitate the maintenance or expansion of Iran's domestic production of refined petroleum products.

- Imposes debarment or suspension from receiving government contracts on companies that engage in sanctionable activity.
- Include an option for a Presidential waiver for certain persons in countries that "cooperate in multilateral efforts with respect to Iran."
- Require a report, no later than 90 days after enactment, for the President to appropriate congressional committees on investments in the energy sector of Iran since January 1, 2006.
- Imposes "strict conditions" on U.S. banks' correspondent relationships with foreign financial institutions that do the following: facilitate the efforts of the Iranian government to get or develop WMDs or provide support for organizations that are designated as foreign terrorist organizations; facilitate the activities of a person subject to financial sanctions pursuant to the UN Security Council Resolution 1737 (2006); engage in money laundering, facilitate the Central Bank of Iran in developing WMDs; or facilitate the ability of Iran's Revolutionary Guard Corps.

According to the joint explanatory statement from the conference committee, the bill also does the following:

- Imposes visa, property, and financial sanctions on Iranians that the President determines to be complicit in serious human rights abuses against other Iranians on or after June 12, 2009, the date of Iran's most recent Presidential election;
- Imposes a ban on U.S. government procurement contracts for any company that exports to Iran technology used to restrict the free flow of information or to disrupt, monitor, or otherwise restrict freedom of speech;
- Establishes an authorization for the President to prescribe regulations for the purpose of implementing Iran-related sanctions in UN Security Council resolutions; and
- Establishes an authorization for FY2011 appropriations of slightly more than $100 million each to the Secretary of the Treasury for the Office of Terrorism and Financial Intelligence; to the Secretary of the Treasury for the Financial Crimes Enforcement Network; and to the Secretary of Commerce for the Bureau of Industry and Security, for the purposes of reinforcing the U.S. trade embargo, combating diversion of sensitive technology to Iran, and preventing the international financial system from being used to support terrorism or develop WMD.

Title II: Divestment from Certain Companies that Invest in Iran.

- Authorizes states and local governments to divest from companies that conduct business in Iran's energy sector.
- Provides safe harbor so that no person may bring a civil, criminal, or administrative action against any investment company based solely on the decision to divest in companies that invest in Iran.

Title III: Prevention of Diversion of Certain Goods, Services, and Technologies to Iran.

- No later than 180 days after enactment, the Director of National Intelligence shall submit to the President and specific Secretaries a report that identifies each country that the

Director believes is allowing re-export, trans-shipment, transfer, re-transfer or diversion to Iranians of key goods or services that could be used for nuclear weapons proliferation.
- Based on the information, the President may designate a country a "Destination of Diversion Concern."

Title IV: General Provisions.

- Sets the sunset date of the bill as the time when the President determines that Iran has ceased its support for acts of international terrorism, no longer satisfies the requirements for designation as a state sponsor of terrorism, and that Iran has ceased the pursuit of a nuclear, biological, and chemical weapon and ballistic missiles.

Background: Congress passed the Iran and Libya Sanctions Act in 1996 (now referred to as the "Iran Sanctions Act" or ISA). The law encouraged foreigners to remove themselves from the Iranian market. It has been extended many times. This bill would extend it until 2016. While ISA has been on the books, the U.S. has never sanctioned a foreign country or business for investing in Iran's energy sector.

With regard to multilateral sanctions, the United Nations Security Council has passed many resolutions that urge Iran to halt its nuclear weapons program. The most recent resolution passed on June 9, 2010 (Resolution 1929). Many conservatives believe that these UN sanctions did little to thwart the efforts of the Iranian regime to obtain nuclear weapons.

For more information on the history of sanctions on Iran, see this RSC National Security Working Group Report released on June 21, 2010.

Potential Conservative Concerns: It is RSC's understanding that while each of the GOP conferees signed the conference report, and that they believe the passage of this bill is an important and vital step in the quest to halt Iran's nuclear weapons program, many of their concerns, especially regarding implementation, still remain. Some of the main concerns outlined in a letter sent to Chairman Berman from GOP conferees are listed below.

Crippling sanctions are necessary to compel Iran to halt its nuclear weapons. While this bill does provide for new sanctions, it also allows for a 9(c) waiver, included in the underlying Iran Sanctions Act (ISA), which allows the President to exempt companies from the sanctions if the President deems it necessary to our national security interests.

The conference report also contains waivers for "cooperating countries." If a country voted for the UN Security Council Sanctions, which many conservatives considered weak and insufficient, a company located within that country might not be subject to U.S. sanctions because they have "cooperated" if the President chooses to exercise this waiver. In their letter, they state that they believe Section 4(c) of the underlying ISA is sufficient enough to "address the actions of companies already in the process of divesting from or terminating their investments in Iran's energy sector…"

Many conservatives also might have concerns that the final conference report was not made public until the day before the vote on the House floor. Members, including the conferees

themselves, had little time to examine the conference report and its contents. In addition, there was only one official meeting between the conferees themselves. There were no public meetings and no up or down votes.

Committee Action: The bill was introduced on April 30, 2009, and was referred to the House Foreign Affairs, Financial Services, Oversight and Government Reform, and Ways and Means Committees. A markup was held in the Foreign Affairs and a markup was held on October 28, 2009 and the bill was reported, as amended, by a voice vote. H.R. 2194 passed the House on December 15, 2009 by a roll call vote. The legislation was then referred to the Senate Committee on Banking, Housing, and Urban Affairs and was discharged by unanimous consent. The legislation passed the Senate, with an amendment, by unanimous consent on March 11, 2010. Conference Report 111-512 was signed June 23, 2010.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No comprehensive CBO score for the conference report is available. However, CBO states that the new impact of the mandatory spending and revenue provisions would not increase the deficit.

CBO reported on H.R. 2194 on November 18, 2009 that, "Enacting the bill would not affect direct spending or revenues. However, the bill would increase spending subject to appropriation to cover the costs of employing additional staff to gather and analyze information, provide advisory opinions, write reports, and administer blocked property. Based on information provided by the Department of State, CBO estimates that those costs would be about $2 million a year."

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill increases the number of enforceable sanctions by the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. According to CBO's November 18, 2009 report, "By extending and expanding sanctions under the Iran Sanctions Act, the bill could impose private-sector mandates as defined in UMRA on entities in the United States that engage in transactions with businesses or countries sanctioned under that act."

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: H.R. 2194 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of rule XXI.

RSC Staff Contact: Natalie Farr, natalie.farr@mail.house.gov, (202) 226-0718