AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

118TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPT. 118–270
Part 1

NO FUNDS FOR IRANIAN TERRORISM ACT

NOVEMBER 9, 2023.—Ordered to be printed

Mr. MCCAUL, from the Committee on Foreign Affairs, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5961]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 5961) to freeze certain Iranian funds involved in the 2023 hostage deal between the United States and Iran, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

At the end of section 2, add the following:

(5) President Biden reached an agreement with the Iranian regime to bring home Siamak Namazi, Morad Tahbaz, Emad Shargi, and two additional American hostages all of whom were wrongfully detained in Iran.

SUMMARY AND PURPOSE

H.R. 5961, the No Funds for Iranian Terrorism Act, describes Iran's history of supporting the Foreign Terrorist Organizations Hamas and Palestinian Islamic Jihad, which launched a massive, unprovoked war on Israel on October 7, 2023. H.R. 5961 requires the President to impose property blocking sanctions on any foreign financial institution or international financial institution that processes, participates in, or facilitates a transaction using or involving the $6 billion in Iranian funds transferred from South Korea to Qatar as part of the 2023 hostage deal wherein 5 U.S. citizen hostages held by Iran were freed. The purpose of this legislation is to prevent Iran from accessing the $6 billion. Money is fungible, and as noted in the findings, Iran has a long history of providing significant support to terrorism. Were Iran to access these funds, it would make available more Iranian funds to be spent supporting murderous terrorist groups.

Throughout August and September 2023, it became apparent that the Biden Administration and the Iranian regime had reached an agreement to free five American citizens held hostage by Iran. Under this deal, the United States freed five Iranian criminals and waived sanctions to facilitate the transfer of $6 billion in Iranian funds from banks in South Korea to banks in Qatar. Disturbingly, the waiver was transmitted to Congress on the anniversary of the September 11 terrorist attacks.

The freed American hostages arrived in the United States on September 19. The Committee notes that the five innocent Americans held hostage by Iran endured years of false allegations, wretched conditions, and separation from their loved ones simply because the regime believed it could profit from them. The Committee is relieved that these American citizens have been reunited with their families.

The Iranian regime, the world's number one state sponsor of terror, utilizes hostage-taking as a negotiating tactic and funding mechanism. Allowing Iran to utilize $6 billion in exchange for innocent Americans has created a direct incentive for future hostage-taking by U.S. adversaries, especially Iran. This deal followed a dangerous precedent set by the Obama Administration, which settled a $1.7 billion claim by Iran, including a $400 million payment in pallets of cash, at the same time that Iran released four U.S. hostages, even as some U.S. government officials reportedly warned this could be seen as ransom. If the United States government continues to pay for hostages, Iran will keep taking them, and may demand a higher price every time.

In addition to incentivizing hostage-taking, allowing Iran to access these funds would free up an additional $6 billion for the regime to finance its military program, terrorist proxies, nuclear activities, and repression. Assurances that the money will be spent on humanitarian goods are insufficient because money is fungible.

Iran has also previously lied about such humanitarian transactions. The Department of Justice has charged a bank for "facilitating transactions fraudulently designed to appear to be purchases of food and medicine by Iranian customers, in order to appear to fall within the so-called 'humanitarian exception' to certain sanctions against the Government of Iran, when in fact no purchases of food or medicine actually occurred." Even worse, Iranian President Raisi taunted the world by proclaiming that Iran would spend the $6 billion "wherever we need it."

The Foreign Terrorist Organization Hamas is a longtime beneficiary of Iran's support for terrorism, with unclassified U.S. government reports stating that Iran has historically provided up to $100 million annually in combined support to Hamas and other Palestinian terrorist groups. On October 7, 2023, these Iran-backed terrorists unleashed a gruesome terrorist rampage on southern Israel, slaughtering over 1,400 people, including more than 30 Americans, and taking over 240 hostages, including young children and the elderly. The atrocities Hamas committed on October 7 are war crimes reminiscent of ISIS' worst attacks, including beheadings, rapes, and burning people alive. On October 10, National Security Advisor Jake Sullivan stated, "Iran is complicit in this attack in a broad sense because they have provided the lion's share of the funding for the military wing of Hamas, they have provided training, they have provided capabilities, they have provided support, and they have had engagement and contact with Hamas over years and years." As of the date of this report, the war Hamas started with Israel is ongoing, with over 8,000 rockets launched by Hamas into Israel since the war began.

Following Hamas' horrifying assault, the transfer of $6 billion in Iranian funds from South Korea to Qatar, facilitated by the Administration's waiver of sanctions, came under even more intense scrutiny. Secretary of State Antony Blinken stated on October 8 regarding the $6 billion, "As of now, not a single dollar has been spent from that account." The purpose of H.R. 5961 is to ensure the $6 billion in Iranian funds currently held in Qatar remains permanently off limits to the Iranian regime. At this moment of stark moral clarity, the United States must take all available actions to guarantee that hostage-taking does not pay and to prevent any further Iranian support to Hamas and other terrorist groups and proxies.

HEARINGS

In compliance with clause 3(c)(6) of rule XIII of the rules of the House of Representatives, the Committee held the following hearings related to—and used to develop—the text of H.R. 5961 that was favorably reported by the Committee:

- On September 14, 2024, the Subcommittee on the Middle East, North Africa, and Central Asia held a hearing on "Iran's Escalating Threats: Assessing U.S. Policy Toward Iran's Malign Activities." The recent hostage deal, and waiver of sanctions to allow the transfer of $6 billion, was a major focus of the hearing.
- The September 28, 2023 full Committee hearing on "Reclaiming Congress" Article I Powers: Counterterrorism AUMF Reform," with Undersecretary of State for Political Affairs Victoria Nuland, included discussion of the hostage deal and the $6 billion made

available to Iran, providing an important record of the Biden Administration's position on the deal.

COMMITTEE CONSIDERATION AND VOTES

The Committee considered H.R. 5961 pursuant to notice, in open session, at a markup on November 7, 2023. The following amendments were considered by the Committee:

- Titus amendment #14 (*Adding a finding naming the wrongfully detained American hostages brought home*) was adopted by voice vote.
- Meeks Amendment #9 (*Adding a waiver to the bill*) was not adopted, by a record vote of 19 ayes and 25 noes.
  - Ayes (19): Meeks, Connolly, Bera, Castro, Titus, Wild, Allred, Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, Jackson (IL), Kamlager-Dove, Costa, Crow, Schneider.
  - Noes (25): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, Jackson (TX), Kim (CA), Salazar, Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, James, Self, Sherman.
- Cherfilus-McCormick Amendment #16 (*Adding a finding supporting humanitarian assistance for the people of Iran*) was not adopted, by a record vote of 20 ayes and 24 noes.
  - Ayes (20): Meeks, Sherman, Connolly, Bera, Castro, Titus, Wild, Allred, Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, Jackson (IL), Kamlager-Dove, Costa, Crow, Schneider.
  - Noes (24): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, Jackson (TX), Kim (CA), Salazar, Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, James, Self.
- Crow Amendment #7 (*Adding an exception for humanitarian transactions*) was not adopted, by a record vote of 19 ayes and 25 noes.
  - Ayes (19): Meeks, Connolly, Bera, Castro, Titus, Wild, Allred, Kim (NJ), Jacobs, Manning, Cherfilus-McCormick, Stanton, Dean, Moskowitz, Jackson (IL), Kamlager-Dove, Costa, Crow, Schneider.
  - Noes (25): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, Jackson (TX), Kim (CA), Salazar, Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, James, Self, Sherman.
- Jackson (of Illinois) Amendment #12 (*Adding a five-year sunset*) was not adopted, by a record vote of 15 ayes and 29 noes.
  - Ayes (15): Meeks, Connolly, Bera, Castro, Titus, Allred, Kim (NJ), Jacobs, Cherfilus-McCormick, Stanton, Dean, Jackson (IL), Kamlager-Dove, Costa, Crow.
  - Noes (29): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, Jackson (TX), Kim (CA), Salazar, Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, James, Self, Sherman, Wild, Manning, Moskowitz, Schneider.
- Kamlager-Dove Amendment #13 to H.R. 5961 (*Explicitly excluding the $6 billion transferred in September from the sanctions*

in the bill) was not adopted, by a record vote of 13 ayes and 31 noes.

- Ayes (13): Meeks, Connolly, Bera, Castro, Titus, Kim (NJ), Jacobs, Cherfilus-McCormick, Dean, Moskowitz, Jackson (IL), Kamlager-Dove, Crow.
- Noes (31): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, Jackson (TX), Kim (CA), Salazar, Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, James, Self, Sherman, Wild, Allred, Manning, Stanton, Costa, Schneider.

H.R. 5961 was ordered favorably reported to the House, as amended, by a record vote of 29 ayes and 15 noes.

- Ayes (29): McCaul, Smith, Wilson, Issa, Wagner, Mast, Buck, Burchett, Green, Barr, Jackson (TX), Kim (CA), Salazar, Huizenga, Hill, Davidson, Baird, Waltz, Kean, Lawler, Mills, McCormick, James, Self, Sherman, Manning, Stanton, Costa, Schneider.
- Noes (15): Meeks, Connolly, Bera, Castro, Titus, Wild, Allred, Kim (NJ), Jacobs, Cherfilus-McCormick, Dean, Moskowitz, Jackson (IL), Kamlager-Dove, Crow.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

In compliance with Clause 3(c)(1) of rule XIII of the rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under Clause 2(b)(1) of rule X of the House of Representatives, are incorporated in the "Summary and Purpose" section of this report, above.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

Clause 3(c)(2) of House rule XIII is inapplicable because this bill does not provide new budget authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 5961, No Funds for Iranian Terrorism Act
As ordered reported by the House Committee on Foreign Affairs on November 7, 2023

By Fiscal Year, Millions of Dollars	2024	2024-2028	2024-2033
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	0	0	0

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2034?	< $2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

* = between zero and $500,000.

H.R. 5961 would direct the Administration to sanction any foreign or international financial institution that facilitates the transfer of $6 billion in Iranian assets that were released from sanctions in September 2023. Those funds are currently being held and monitored in a bank in Qatar. In October 2023, the Administration indicated that the Iranian government would no longer have access to those released funds.

Under the bill, if a financial institution facilitates the transfer of those funds, the Administration would be required to block any transactions involving assets owned by that institution that are in the United States or that come under the control of a person of the United States. That requirement would increase the number of people subject to civil or criminal monetary penalties for violating those sanctions. Such penalties are recorded as revenues, and a portion can be spent without further appropriation.

Using data about similar sanctions, CBO estimates that any additional blocked transactions would affect a small number of people; thus, enacting H.R. 5961 would have insignificant effects on revenues and direct spending, and would, on net, reduce deficits by insignificant amounts over the 2024–2033 period.

H.R. 5961 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). Sanctions would prohibit individuals or entities in the United States from engaging in transactions involving assets and property that have been frozen. Those transactions are otherwise permitted under current law. The cost of the mandate would be any income lost because of the prohibition. CBO expects that because a small number of people or entities would be affected, the loss of income from any incremental increase in restrictions imposed by the bill would be small as well. CBO estimates that the cost of the mandate would fall well below the annual threshold established in UMRA for private-sector mandates ($198 million in 2023, adjusted annually for inflation).

H.R. 5961 contains no intergovernmental mandates as defined in UMRA.

The CBO staff contacts for this estimate are Emma Uebelhor (for federal costs) and Brandon Lever (for mandates). The estimate was reviewed by Christina Hawley Anthony, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the Congressional Budget Office cost estimate on this measure.

FEDERAL MANDATES

The Committee adopts as its own the identification, description, and assessment of federal mandates contained in the Congressional Budget Office cost estimate on this measure.

NON-DUPLICATION OF FEDERAL PROGRAMS

Clause 3(c)(5) of House rule XIII is not applicable to this measure, as it is not a bill or joint resolution that establishes or reauthorizes a federal program.

PERFORMANCE GOALS AND OBJECTIVES

The goal of H.R. 5961 is to prevent Iran from accessing the $6 billion in funds sitting in banks in Qatar by imposing sanctions on any financial institution that processes, participates in, or facilitates a transaction using such funds.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 5961 does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

NEW ADVISORY COMMITTEES

H.R. 5961 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 5961 contains no congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of House rule XXI.

SECTION-BY-SECTION ANALYSIS

Sec 1. Short Title. The short title of this bill is the No Funds for Iranian Terrorism Act.

Sec 2. Findings. Congress finds that on October 7, 2023, the foreign terrorist organization Hamas launched a massive, unprovoked war on Israel, killing over 1,300 people. This section also finds that Iran is complicit in this attack by funding and supporting Hamas.

Sec 3. Imposition of Sanctions With Respect to Covered Iranian Assets. This section requires the President to impose property blocking sanctions on foreign financial institutions and international financial institutions that process, participate in, or facilitate transactions using or involving the Iranian funds that were transferred from accounts in the Republic of Korea to Qatar pursuant to or under the authority or guaranty of a waiver, license, assurance letter, or other guidance issued by the Biden Administration as part of the September 2023 hostage deal. The section states that sanctions will terminate when Iran no longer provides support for international terrorism and has ceased its nuclear, biological, and chemical weapons programs and its ballistic missile program.

Sec. 4. Definitions. This section defines key terms used in this bill.

CHANGES IN EXISTING LAW

The bill, as reported, does not propose to repeal or amend a statute or part thereof.

DISSENTING VIEWS

COMMITTEE REPORT ON H.R. 5961, NO FUNDS FOR IRANIAN TERRORISM ACT

We believe President Biden did the right thing—he brought five Americans home who were rotting in Iran's notorious Evan prison. Every member of Congress who was aware of these cases wanted our fellow citizens to come home. With a bipartisan voice we promised their families we'd fight to bring them home. We were all calling on the President to make it happen.

President Biden succeeded in doing what his predecessors could not. No hostage agreement with an enemy is pleasant or easy. And no deal with Iran, a murderous and corrupt regime, is pleasant or easy. But thanks to this agreement, five American families are now whole again, and Iran has lost the leverage of holding these Americans hostage.

H.R. 5961 would sanction parties that carry out the financial terms of the hostage agreement in question. Let us consider the facts:

Billions of Iran's own profits from oil sales were sitting in a restricted account in South Korea, established by the Trump Administration, for Iran to make approved humanitarian purchases. The United States had no control over this account.

The agreement moved that $6 billion from the restricted account in South Korea, converted it to Euros, and relocated it into a restricted account in Qatar—which now has United States visibility. Not a single penny has moved into Iran.

Under the terms of the agreement, Iran can use the money in Qatar to make approved humanitarian purchases to acquire medicine, medical equipment, agricultural goods, and food. Iran will never touch this money. The entirety of the transaction occurs outside of Iran and Iran only receives the vetted humanitarian goods. Thus far, Iran has not made any requests of this humanitarian fund. Again, nothing has been gained by Iran.

All of the money remains in the account; an account the United States can watch. We have leverage over that account due to our relationships with the correspondent banks in Europe that would help process any transactions. In other words, we now have more control over this money than we did when it was in Korea. In fact, this account provides us with leverage, not the other way around.

Furthermore, following the horrific attacks in Israel on October 7th, the United States and Qatar froze the humanitarian fund. No humanitarian purchases will be approved anytime soon. Again, nothing has changed, the money remains in the account, and we continue to have leverage.

But if H.R. 5961 is passed into law, that leverage will be gone. We will also lose our ability to conduct diplomacy with Iran and

others in the future. If we blow up this agreement by passing this bill, we, the United States, will be the ones breaking yet another sensitive negotiated agreement with Iran. Our word and integrity will no longer be good in negotiations.

The United States must continue to address Iran's backing of groups like Hezbollah and Hamas. The Iranian-supported Hamas terrorists unleased pure evil when they broke a ceasefire in the attacks of October 7th. The population of Gaza would not be engulfed in war were it not for Hamas.

But we must also remain sober and serious about the challenge of Iran's nefarious nuclear program. None of the bad options we possess to stop Iran's nuclear ambitions are better than the diplomatic track, which has already proven successful. It was the United States who violated the JCPOA, not Iran. Pulling out of this hostage agreement will be the second time we violated an agreement with Iran's leaders. Passage of this bill would mean potentially slamming the door closed on future diplomacy, leaving us only with dangerous and highly risky options of confronting Iran's nuclear program.

The prisoner swap confirms to the Iranian regime that the U.S. is a reliable negotiation partner. This is a crucial basis for the reopening of formal nuclear negotiations in the future. We must keep this possibility alive.

To conclude, the agreement has freed five Americans who were suffering in an Iranian prison. It shifted Iran's own money from an account in Korea we did not control, to one where we play a role. Not a single penny has left the account or entered Iran. And this fund remains frozen indefinitely by the U.S. and Qatar. There is no reason to jeopardize future negotiations or further enflame an already dangerous situation by passing this bill.

Democratic Members offered a suite of amendments that would have made this bill more reasonable. Sanctions laws without waivers, sunsets, or key exceptions are virtually unheard of for a reason. Waivers give the President the flexibility to account for America's myriad national security interests around the globe. Exceptions for basic humanitarian goods have been widely agreed upon in a bipartisan way in the past and ensure that the United States' sanctions programs carry moral credibility. And a sunset provision ensures that Congress rethinks the issue as the world changes and preserves Article I prerogatives. But the Republican majority rejected five Democratic amendments that would have inserted these types of commonsense additions into their bill.

Committee Democrats don't want Iran's leaders to benefit from our actions in any way. As this hostage agreement stands today, we don't believe they have. Unfortunately, this legislation will shoot American global credibility in the foot without even touching Iranian regime leaders. We encourage this House not to rush into

passing this bill and to keep the door open on future nuclear diplomacy with Iran.

Sincerely,

GREGORY W. MEEKS,
Ranking Member.

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