114TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
114–767

PROHIBITING FUTURE RANSOM PAYMENTS TO IRAN ACT

SEPTEMBER 20, 2016.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5931]

[Including cost estimate of the Congressional Budget Office]

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 5931) to provide for the prohibition on cash payments to the Government of 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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59–006

THE AMENDMENT

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prohibiting Future Ransom Payments to Iran Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since 1979, when it held more than 50 United States citizens for 444 days, Iran has repeatedly held United States citizens hostage.

(2) Presidential Policy Directive 30 issued by President Barack Obama on June 24, 2015, states that "It is United States policy to deny hostage-takers the benefits of ransom, prisoner releases, policy changes, or other acts of concession.".

(3) On January 17, 2016, the President announced that Iran would release several United States citizens while the United States would grant clemency to and release seven Iranian nationals serving sentences or awaiting trial in the United States for serious crimes.

(4) Senior officials of the Department of State have acknowledged that these United States citizens were released as part of a "prisoner swap" and Iranian negotiators reportedly asked for a cash payment.

(5) On January 17, 2016, the President also announced that "The United States and Iran are now settling a longstanding Iranian government claim against the United States Government.".

(6) The overall amount of the settlement is approximately $1,700,000,000.

(7) Subsequent reports revealed that $400,000,000 of this $1,700,000,000 settlement was secretly flown to Iran, in cash, simultaneously with the release of these United States citizens.

(8) One of the United States citizens released that night, Pastor Saeed Abedini, has stated that Iranian officials explained a delay in their departure was due to the status of another plane.

(9) Senior officials at the National Security Division of the Department of Justice reportedly objected to the $400,000,000 cash payment, warning that Iran would see it as a ransom.

(10) On August 18, 2016, a Department of State spokesman admitted that the $400,000,000 cash payment was "leverage" to gain the release of Americans held hostage by Iran.

(11) Iranian State Television quoted General Mohammad Reza Naghdi, commander of the Basij militia, as claiming "Taking this much money back was in return for the release of the American spies.".

(12) According to Presidential Policy Directive 30, the United States policy against paying ransom and releasing prisoners "protects United States nationals and strengthens national security by removing a key incentive for hostage-takers to target United States nationals, thereby interrupting the vicious cycle of hostage-takings, and by helping to deny terrorists and other malicious actors the money, personnel, and other resources they need to conduct attacks against the United States, its nationals, and its interests.".

(13) Since the United States released Iranians serving sentences or awaiting trial in the United States for serious crimes and provided Iran with $400,000,000 in cash, Iran has taken several more United States citizens hostage.

(14) On August 22, 2016, the Department of State issued an "Iran Travel Warning" noting that "Iranian authorities continue to unjustly detain and imprison U.S. citizens, particularly Iranian-Americans, including students, journalists, business travelers, and academics, on charges including espionage and posing a threat to national security.".

(15) The Government of the United States has designated Iran as a state sponsor of terrorism since 1984 and a jurisdiction of primary money laundering concern since 2011.

(16) The Department of State's most recent Country Reports on Terrorism makes clear that "Iran continued its terrorist-related activity in 2015, including support for Hizballah, Palestinian terrorist groups in Gaza, and various groups in Iraq and throughout the Middle East.".

(17) In announcing Iran's designation as a jurisdiction of primary money laundering concern, the Department of the Treasury made clear that "any and every financial transaction with Iran poses grave risk of supporting" Iran's ongoing illicit activities, including terrorism.

(18) On March 17, 2016, the Department of State acknowledged in a letter to Congress that there remain some "large claims" pending before the Iran-United States Claims Tribunal, "many of which are against the United States".

SEC. 3. STATEMENT OF POLICY.

It shall be the policy of the United States Government not to pay ransom or release prisoners for the purpose of securing the release of United States citizens taken hostage abroad.

SEC. 4. PROHIBITION ON CASH PAYMENTS TO THE GOVERNMENT OF IRAN.

(a) PROHIBITION.—Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, the United States Government may not provide, directly or indirectly, promissory notes (including currency) issued by the United States Government or promissory notes (including currency) issued by a foreign government, to the Government of Iran.

(b) LICENSING REQUIREMENT.—

(1) IN GENERAL.—Beginning on the date of the enactment of this Act, the conduct of a transaction or payment in connection with an agreement to settle a claim or claims brought before the Iran-United States Claims Tribunal may be made only—

(A) on a case-by-case basis and pursuant to a specific license by the Office of Foreign Assets Control of the Department of the Treasury; and

(B) in a manner that is not in contravention of the prohibition in subsection (a).

(2) PUBLICATION IN FEDERAL REGISTER.—The President shall publish in the Federal Register a list of transactions and payments, including the amount and method of each such transaction and payment, by the United States Government to the Government of Iran in connection with the agreement described in paragraph (1).

(c) TERMINATION.—The prohibition in subsection (a) and the licensing requirement in subsection (b) shall remain in effect until the date on which the President certifies to the appropriate congressional committees that—

(1) the President has rescinded a preliminary draft rule or final rule (as in effect on the day before the date of the enactment of this Act) that provides for the designation of Iran as a jurisdiction of primary money laundering concern pursuant to section 5318A of title 31, United States Code; and

(2) the Secretary of State has removed Iran from the list of countries determined to have repeatedly provided support for acts of international terrorism under section 6(j) of the Export Administration Act of 1979 (as continued in effect pursuant to the International Emergency Economic Powers Act), section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or any other provision of law.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 5. REPORT ON OUTSTANDING CLAIMS BEFORE THE IRAN-UNITED STATES CLAIMS TRIBUNAL.

(a) REPORT.—The President shall submit to the appropriate congressional committees a report that lists and evaluates each outstanding claim before the Iran-United States Claims Tribunal.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

(1) The total value of each outstanding claim.

(2) The current status of each outstanding claim.

(3) The likelihood that each claim will be resolved in the next 6 months.

(c) SUBMISSION TO CONGRESS.—The report required under subsection (a) shall be submitted to the appropriate congressional committees not later than 30 days after the date of the enactment of this Act and every 180 days thereafter for a period not to exceed 3 years.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Foreign Relations of the Senate.

SEC. 6. NOTIFICATION AND CERTIFICATION RELATING TO SETTLEMENTS OF OUTSTANDING CLAIMS BEFORE THE IRAN-UNITED STATES CLAIMS TRIBUNAL.

(a) NOTIFICATION.—The President shall notify the appropriate congressional committees not later than 30 days prior to conducting a transaction or payment from the Government of the United States to the Government of Iran in connection with an agreement to settle a claim or claims brought before the Iran-United States Claims Tribunal.

(b) MATTERS TO BE INCLUDED.—The notification required under subsection (a) shall include the following:

(1) The total amount of the settlement, including the total principal and interest, and an explanation of the calculation of the interest.

(2) A legal analysis of why the settlement was made, including a detailed description of all claims and counter-claims covered by the settlement.

(3) A certification by the President that the settlement is not a ransom for the release of individuals held hostage by Iran.

(4) An identification of each entity of the Government of Iran that will receive amounts from the settlement.

(5) A certification that the funds provided to Iran under the settlement will not be used to provide support to foreign terrorist organizations, the regime of Bashar al-Assad, or other destabilizing activities.

(6) Whether an equal amount of Iranian funds are available and accessible in the United States to satisfy judgments against Iran by victims of Iranian-sponsored terrorism.

(7) A copy of the settlement agreement.

(8) A description of the disposition of any related claims that have been subrogated to the United States Government.

(9) A certification that the settlement is in the best interest of the United States.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means—

(1) the Committee on Foreign Affairs of the House of Representatives; and

(2) the Committee on Foreign Relations of the Senate.

SEC. 7. EXCLUSION OF CERTAIN ACTIVITIES.

Nothing in this Act shall apply to any activities subject to the reporting requirements of title V of the National Security Act of 1947.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to authorize any payment by the Government of the United States to the Government of Iran.

SEC. 9. DEFINITIONS.

In this Act:

(1) GOVERNMENT OF IRAN.—The term "Government of Iran" means—

(A) the state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof;

(B) any entity owned or controlled directly or indirectly by the foregoing;

(C) any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and

(D) any person or entity identified by the Secretary of the Treasury to be the Government of Iran under part 560 of title 31, Code of Federal Regulations.

(2) IRAN-UNITED STATES CLAIMS TRIBUNAL.—The term "Iran-United States Claims Tribunal" means the tribunal established pursuant to the Algiers Accords on January 19, 1981, to resolve certain claims by nationals of one party against the other party and certain claims between the parties.

SUMMARY AND PURPOSE

H.R. 5931, the *Prohibiting Future Ransom Payments to Iran Act*, is a legislative response to the Obama Administration's action of January 17, 2016. On that day, simultaneous with the release of several Americans who had been detained in Iran, President Obama announced that the United States would pay Tehran $1.7 billion to settle a decades-old dispute over aborted arms sales that pre-dated the Iranian revolution of 1979. This settlement payment

occurred without any consultation with the Committee on Foreign Affairs.

Of the upmost concern to the committee, it was subsequently revealed that this $1.7 billion delivered to the terrorist regime in Tehran was paid in cash. Indeed, according to the Financial Action Task Force—the international body charged with developing policies to combat money laundering and terrorism financing—the "physical transportation of currency" is "one of the main methods used to move criminal assets, launder money and finance terrorism."

H.R. 5931 adheres to longstanding U.S. policy against paying ransom for hostages by prohibiting future cash payments to Iran until it stops sponsoring terrorism and is no longer a primary money laundering concern. It further enhances transparency and oversight by requiring a 30-day Congressional notification and review of any future settlements related to the U.S.-Iran Claims Tribunal. If this legislation had been law, the Obama Administration's dangerous actions of last January could ***not*** have happened.

The committee believes that this piece of legislation strikes the right balance between ending cash payments to a state sponsor of terrorism on the one hand, while ensuring the United can meet its international commitments on the other.

BACKGROUND AND NEED FOR LEGISLATION

Americans Held Hostage by Iran

In 1979, the radicals that still rule Iran took over the country, stormed the U.S. Embassy, and held more than 50 Americans hostage for 444 days. Since that time Iran has repeatedly taken Americans hostage, a policy that continues to this day. Iranian laws are vaguely written and inconsistently applied in support of these politically motivated detentions, and those held are often denied access to legal counsel. Many have been dual nationals of the U.S. and Iran. Iran refuses to recognize their American citizenship, and denies them consular services.

As the Obama Administration negotiated the "Joint Comprehensive Plan of Action" to address Iran's nuclear program, Tehran held several Americans hostage. They included Pastor Saeed Abedini, former U.S. Marine Amir Hekmati, and *Washington Post* correspondent Jason Rezaian. Despite Secretary Kerry's claim that he and other senior officials "repeatedly raised" the cases of "detained or missing U.S. citizens directly with Iranian officials," the Obama Administration rejected calls from Congress to demand the release of these Americans before the nuclear negotiations could continue. As State Department Spokeswoman Marie Harf made clear, the Obama Administration considered that the nuclear negotiations and the Americans held hostage in Iran "really are separate issues."

The fate of another American, Robert Levinson, remains a top concern of the committee. A sixty-seven year old former FBI agent, Levinson went missing after a visit in 2007 to Iran's Kish Island. According to his family, Levinson was researching a cigarette smuggling case as a private investigator. Iran denies knowing his status or location and refuses to assist efforts to obtain his location. In December 2011, Levinson's family released a one-year- old taped

statement by him. On March 9, 2015, the eighth anniversary of Levinson's disappearance, the FBI increased its reward to up to $5 million for "information leading directly to his safe location, recovery, and return."

On June 2, 2015, the committee held a hearing on "Americans Detained in Iran." All four witnesses were close relatives of Americans who were being held in Iran. They included Ali Rezaian, the brother of *Washington Post* correspondent Jason Rezaian; Naghmeh Abedini, the wife of Pastor Saeed Abedini; Sarah Hekmati, the sister of former U.S. Marine Amir Hekmati; and Daniel Levinson, the son of former FBI agent Robert Levinson.

After this hearing, the committee considered H. Res. 233, introduced by Rep. Kildee, "expressing the sense of the House of Representatives that Iran should immediately release the three United States citizens it holds, as well as provide all known information on any United States citizens that have disappeared within its borders." This resolution passed the House on June 15, 2015.

Prisoner Exchange

On January 17, 2016, the day after the nuclear deal was officially implemented, President Obama announced that Iran had released four American hostages: Pastor Abedini, former U.S. Marine Amir Hekmati, *Washington Post* correspondent Jason Rezaian, and Nosratollah Khosravi-Roodsari—about whom little is known.

The President also announced that, "six Iranian–Americans and one Iranian serving sentences or awaiting trial in the United States are being granted clemency" in what he described as "a reciprocal humanitarian gesture." A State Department spokesman has since referred to the events as a "prisoner swap." Critics noted that by exchanging Americans held hostage by Iran for convicted and accused criminals, the President violated longstanding U.S. policy, as laid out in his own Policy Directive, to deny hostage-takers the benefit of "prisoner releases."

While the President claimed that "these individuals were not charged with terrorism or any violent offenses," all had been accused or convicted of serious crimes from sanctions evasion to acquiring equipment for Iran's illegal weapons programs. In addition, *The Wall Street Journal* reported that "The U.S. also agreed to drop the names of 14 Iranian nationals it has been seeking from the watch list of Interpol, the international police agency."

$1.7 Billion Settlement at the Iran-U.S. Claims Tribunal

In the same January 17, 2016, speech in which he announced implementation of the nuclear deal and the prisoner exchange, President Obama also announced that the United States would pay Iran $1.7 billion to settle a decades-old dispute over an aborted arms sale that had been called off after the radicals that still rule Iran seized power in 1979.

The Obama Administration contends that the Iran-U.S. Claims Tribunal, based in The Hague, was poised to rule against the United States in the longstanding contract dispute. This Tribunal was created pursuant to the Algiers Accords, which the United States and Iran reached in 1981. The Tribunal is designed to resolve contractual disputes caused by the abrupt break in relations between the two countries.

The Tribunal is divided into three chambers, each consisting of an American judge, an Iranian judge, and a third-country judge, who serves as the chamber's chair. Prior to the deadline of January 1982, 3,844 private claims were filed, of which 2,795 were "small claims" of less than $250,000. This resulted in payments of $2.5 billion to American claimants—mostly U.S. companies whose business in Iran was interrupted by the revolution. Many of the claims were settled prior to judgment, with the Tribunal approving the terms. Case B1, which is by far the largest and most complex claim, involves a vast number of disputes arising out of Iran's purchase of military equipment prior to the revolution through the Defense Department's Foreign Military Sales (FMS) program—of which Iran was the largest customer at the time.

According to the Administration, Iran received the balance of $400 million that it had deposited in the FMS Trust Fund, as well as roughly $1.3 billion in interest. The Administration maintains that if Iran's claim had gone to decision, the United States would have faced significant exposure in the billions of dollars. However, Administration officials refuse to publicly explain how they determined that a decision by the Tribunal was imminent, that the U.S. would lose that decision, or how the $1.3 billion in interest was calculated—citing ongoing litigation at the Tribunal.

Lack of Transparency at the Iran-U.S. Claims Tribunal

The timing of this announcement, combined with the lack of details, immediately led Members of the committee and other observers to express concern that the settlement was reached to provide a ransom to secure the release of American hostages. In the wake of the prisoner exchange, such a payment would represent a further violation of the longstanding U.S. "no concessions" policy. In the weeks leading up to the President's speech, the Administration had repeatedly briefed the committee on the implementation of the nuclear deal and a wide range of issues related to Iran, including the regime's ongoing sponsorship of terrorism, dangerous ballistic missile and illicit conventional weapons programs, and continued efforts to prop up the murderous Assad regime in Syria. However, despite having ample opportunity to do so, in both unclassified and classified settings, the Obama Administration never raised this potential financial settlement with the committee.

On February 3, 2016, Chairman Royce wrote to Secretary Kerry expressing concern that the dispute over the decades-old arms sale was settled to provide Iran with a *de facto* ransom. The letter included ten questions requesting detailed information on the settlement and its connection to the hostages.

When the State Department failed to provide a substantive response, Chairman Royce wrote a second letter reiterating his questions and specifically asking how the settlement was paid to Iran.

The $400 Million Cash Payment

On August 3, 2016, *The Wall Street Journal* reported that the $400 million held in the FMS Trust Fund was sent to Iran in cash. As testimony from a senior Treasury Department official later confirmed, the $400 million was transferred from the United States to a European central bank, withdrawn in the banknotes of a European currency, and turned over to an official from the Central

Bank of Iran at a European airport on January 17. Closely coordinated, a Swiss military aircraft arrived in Geneva with the American prisoners.

In the days following the announcement of the settlement payment and the hostage release, the State Department denied the connection between the two. Specifically, Department Spokesman John Kirby maintained that "the negotiations over the settlement were completely separate from the discussions about returning our American citizens home."

The Administration also rejected any accusations that the settlement amounted to a ransom payment. On February 3, 2016, the committee wrote to the Department expressing concern that the timing of the settlement could be viewed as such. The Department responded on March 17, stating that the "timing [of the settlement] was particularly critical, as hearings on this claim were then being considered for scheduling by the Tribunal." This suggested the timing was unrelated to the prisoner exchange. However, after reports of the $400 million cash payment surfaced in early August, the State Department reversed itself and confirmed that the payment was used as "leverage" to secure the American hostages.

Justice Department Warns about Ransom

According to press reports, Assistant Attorney General John Carlin, head of the National Security Division of the Justice Department was among several senior officials who believed that the plan to deliver a cash payment to Iran would be viewed as a ransom payment. Justice Department officials didn't object to the size of the settlement, but rather to the fact that a cash payment could send the wrong signal to Iran and the rest of the world about a change in U.S. ransom policy.

The timing and manner of the payment raised alarms at the Justice Department: "People knew what it was going to look like, and there was concern the Iranians probably did consider it a ransom payment," said one of those familiar with the discussions. A Justice Department spokesman said the agency "fully supported the ultimate outcome of the Administration's resolution of several issues with Iran," including the settlement of the long-running case at a tribunal in The Hague, "as well as the return of U.S. citizens detained in Iran."

Though the Obama Administration has clearly stated "We do not pay ransom for hostages," the committee is deeply concerned that the consequences will be the same if Iran and other actors viewed the payment as such. Indeed, since these cash payments were made, Iran has detained several more Americans, as well as French, British, and Canadian citizens. The committee is concerned that—bolstered by the Obama Administration's payment –Tehran will demand cash for their release.

$1.3 Billion More in Cash from the Judgment Fund

The $1.7 billion settlement included $1.3 billion in interest on the underlying $400 million claim. This amount, according to the Administration, was a "compromise" on the interest initially sought by Iran, and that "the United States could well have faced significant exposure in the billions of dollars." The State Department also informed the committee that the settlement avoided "the potential

for a much larger Tribunal award against us, saving the U.S. taxpayers a significant amount of money." Past precedent indicates, however, that our maximum exposure could have been much lower. The $1.3 billion was paid from the U.S. Government's Judgement Fund, a permanent appropriation available to pay final money judgments and awards against the United States in which no other appropriated funds are available.

According to testimony from a senior Treasury Department official, the $1.3 billion was transferred to a second European central bank and withdrawn in the banknotes of a second European currency. Given the amount of physical cash involved, the $1.3 billion was broken up into two payments which were turned over to officials from the Central Bank of Iran at a second European airport on two separate dates, January 22 and February 5.

The Administration asserts that cash was necessary to facilitate payment to Iran given continuing U.S. sanctions. Yet earlier this year, the Obama Administration was able to facilitate the purchase of Iran's heavy water for nearly $10 million through the formal financial system.

Likewise, during the interim agreement on Iran's nuclear program, the Administration was able to facilitate $700 million back to Tehran each month through international banking relationships.

Further, explicit provisions in existing regulations *allow* financial institutions to provide payments to Iran, through conventional banking channels, when those payments are made pursuant to a settlement agreement under the Iran-U.S. Claims Tribunal. The exemptions in the "Iran Transactions Sanctions Regime" for Tribunal settlements would shield any entity involved in such a transaction from liability under U.S. law.

Use of Cash Raises Concerns

The committee is deeply concerned that the Obama Administration conducted its $1.7 billion payment to Iran in cash. The United States has designated Iran as a "jurisdiction of primary money laundering concern" since 2011. In announcing this designation the Treasury Department made clear that "any and every financial transaction with Iran poses grave risk of supporting" Iran's ongoing illicit activities. The State Department's 2015 *Country Reports on Terrorism* cites Hezbollah, Hamas, and other radical Shia groups in Iraq, Afghanistan, and Pakistan as recipients of arms, financing, and training from the Iranian Government.

Organizations can use a variety of money laundering methods to disguise funds that were gained though legal or illegal means to facilitate illicit activities. Cash, however, makes the funding of these illicit activities that much easier. Because cash does not have an electronic signature, the number of steps needed for the money to become completely untraceable is drastically reduced. This is problematic for law enforcement agencies and other organizations that attempt to monitor and track the funding sources of illegal activities such as terrorism. Indeed, the Financial Action Task Force—the international body charged with developing policies to combat money laundering and terrorism financing—warns that "physical transportation of currency" is "one of the main methods used to move criminal assets, launder money and finance terrorism."

Longstanding U.S policy against Paying Ransom and Releasing Prisoners

The United States has long maintained a "no concessions" policy when responding to American citizens taken hostage while abroad. Unofficially this dates back to Thomas Jefferson's belief that the tribute demands by the Barbary States would never end, which led to the cessation of this payment policy and the subsequent War with Tripoli. More formally, it wasn't until the Nixon Administration when Palestinian terrorists kidnapped two senior U.S. diplomats in Khartoum, Sudan that this policy was solidified. President Nixon in response stated, "We will do everything we can to get them released but we will not pay blackmail."

President Obama himself embraced this policy in June 2015, when the White House released *Presidential Policy Directive 30.* PPD–30 "reaffirms our longstanding commitment to make no concessions to individuals or groups holding U.S. nationals hostage. This policy protects U.S. nationals and strengthens national security by removing a key incentive for hostage-takers to target U.S. nationals and by helping to deny terrorists and other malicious actors the resources they need to conduct attacks against the United States, its nationals, its allies, and its interests."

By Law, Money Was Supposed to Leverage Reimbursement for U.S. Terror Victims

In past decades, Americans directly harmed by Iranian terrorism had sued Iran in U.S. courts and won, but hadn't seen a penny because Iran avoided paying those judgments.

In response, in 2000, Congress passed a law (Sec. 2002 of Public Law 106–386) that authorized funding to pay those judgments, in an amount equal to the assets then frozen in Iran's Foreign Military Sales (FMS) account held by the U.S.—around 400 million dollars—the very amounts recently handed over to Iran.

When the American victims accepted those payments, their claims were subrogated to the United States, meaning that their claims against Iran became the United States Government's claims against Iran. Although the immediate funding came from American taxpayers, Congress required the President to go after Iran for reimbursement of those hundreds of millions of taxpayer dollars, using the FMS balance as leverage.

Section 2002(c) of Public Law106–386 clearly states that "no funds shall be paid to Iran, or released to Iran . . . from the Foreign Military Sales Fund, until such subrogated claims have been dealt with to the satisfaction of the United States." However the Administration appears to have wiped away the claims against Iran for those funds as part of this settlement, letting Iran off the hook for those hundreds of millions of dollars.

HEARINGS

During the 114th Congress, the committee has continued its active oversight regarding Iran, including numerous hearings related to Iran's support for terrorism, regional destabilization, proliferation and missile activities, and detention of American citizens, including but not limited to:

May 12, 2016—Full Committee: "Terrorism, Missiles, and Corruption: The Risks of Economic Engagement with Iran." Hon. Juan C. Zarate, Chairman, Financial Integrity Network; Mr. Mark Dubowitz, Executive Director, Foundation for the Defense of Democracies; Ms. Elizabeth Rosenberg, Senior Fellow and Director, Energy, Economics, and Security Program, Center for a New American Security.

February 11, 2016—Full Committee: "Iran Nuclear Deal Oversight: Implementation and Its Consequences." Hon. Stephen D. Mull, Lead Coordinator for Iran Nuclear Implementation, U.S. Department of State; Mr. John Smith, Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

December 2, 2015—Full Committee: "Iran's Islamic Revolutionary Guard Corps: Fueling Middle East Turmoil." Mr. Ali Alfoneh, Senior Fellow, Foundation Defense of Democracies; Mr. Scott Modell, Managing Director, The Rapidan Group; Mr. Daniel Benjamin, Norman E. McCulloch Jr. Director, The John Sloan Dickey Center for International Understanding, Dartmouth College (former Ambassador-at-Large and Coordinator for Counterterrorism, U.S. Department of State).

July 28, 2015—Full Committee: "Iran Nuclear Agreement: The Administration's Case." The Honorable John F. Kerry, Secretary of State, U.S. Department of State; The Honorable Jacob Lew, Secretary of the Treasury, U.S. Department of the Treasury; The Honorable Ernest Moniz, Secretary of Energy, U.S. Department of Energy.

June 2, 2015—Full Committee: "Americans Detained in Iran." Mr. Ali Rezaian (brother of Jason Rezaian); Mrs. Naghmeh Abedini (wife of Saeed Abedini); Ms. Sarah Hekmati (sister of Amir Hekmati); Mr. Daniel Levinson (son of Robert Levinson).

June 9, 2016—Joint Hearing: Subcommittee on Terrorism, Nonproliferation, and Trade and the Committee on Armed Services' Subcommittee on Emerging Threats and Capabilities: "Stopping the Money Flow: The War on Terror Finance." Hon. Daniel Glaser, Assistant Secretary for Terrorist Financing, U.S. Department of the Treasury; Mr. Andrew Keller, Deputy Assistant Secretary for Counter Threat Finance and Sanctions, Bureau of Economic and Business Affairs, U.S. Department of State; Ms. Theresa Whelan, Acting Assistant Secretary for Special Operations/Low Intensity Conflict, U.S. Department of Defense; Mr. William Woody, Chief of Law Enforcement, U.S. Fish and Wildlife Service.

March 22, 2016—Subcommittee on the Middle East and North Africa: "Hezbollah's Growing Threat Against U.S. National Security Interests in the Middle East." Matthew Levitt, Ph.D., Director, Stein Program on Counterterrorism and Intelligence, Washington Institute for Near East Policy; Mr. Tony Badran, Research Fellow, Foundation for Defense of Democracies; Daniel L. Byman, Ph.D., Professor, Security Studies Program, Edmund A. Walsh School of Foreign Service, Georgetown University.

September 17, 2015—Subcommittee on the Middle East and North Africa: "Major Beneficiaries of the Iran Deal: IRGC and

Hezbollah." Emanuele Ottolenghi, Ph.D., Senior Fellow, Foundation for Defense of Democracies; Matthew Levitt, Ph.D., Fromer-Wexler Fellow, Director, Stein Program on Counterterrorism and Intelligence, Washington Institute for Near East Policy; Suzanne Maloney, Ph.D., Interim Deputy Director, Center for Middle East Policy, The Brookings Institution.

July 28, 2015—Joint Hearing: Subcommittee on Asia and the Pacific, Subcommittee on Terrorism, Nonproliferation, and Trade, and Subcommittee on the Middle East and North Africa: "The Iran-North Korea Strategic Alliance." Mr. Ilan Berman, Vice President, American Foreign Policy Council; Ms. Claudia Rosett, Journalist-in-Residence, Foundation for Defense of Democracies; Larry Niksch, Ph.D., Senior Associate, Center for Strategic and International Studies; Jim Walsh, Ph.D., Research Associate, Security Studies Program, Massachusetts Institute of Technology.

June 10, 2015—Joint Hearing: Committee on Foreign Affairs, Subcommittee on the Middle East and North Africa and Committee on Armed Services, Subcommittee on Strategic Forces: "Iran's Enduring Ballistic Missile Threat." Lieutenant General Michael T. Flynn, USA, Retired (former Director, Defense Intelligence Agency); The Honorable Robert Joseph, Ph.D., Senior Scholar, National Institute for Public Policy (former Under Secretary of State for Arms Control and International Security); David A. Cooper, Ph.D., James V. Forrestal Professor and Chair of the Department of National Security Affairs, U.S. Naval War College; Anthony H. Cordesman, Ph.D., Arleigh A. Burke Chair in Strategy, Center for Strategic and International Studies.

March 18, 2015—Joint Hearing: Subcommittee on the Middle East and North Africa and Subcommittee on the Western Hemisphere: "Iran and Hezbollah in the Western Hemisphere." Mr. Joseph Humire, Author; Mr. Dardo Lopez-Dolz (former Vice Minister of Interior of Peru); Mr. Scott Modell, Senior Advisor, The Rapidan Group; and Mr. Michael Shifter, President, Inter-American Dialogue.

February 11, 2015—Subcommittee on Terrorism, Nonproliferation, and Trade: "State Sponsor of Terror: The Global Threat of Iran." Frederick W. Kagan, Ph.D., Christopher DeMuth Chair and Director, Critical Threats Project, American Enterprise Institute; Mr. Ilan I. Berman, Vice President, American Foreign Policy Council; Mr. Tony Badran, Research Fellow, Foundation for Defense of Democracies; and Daniel L. Byman, Ph.D., Professor, Security Studies Program, Edmund A. Walsh School of Foreign Service, Georgetown University.

COMMITTEE CONSIDERATION

On September 14, 2016, the Committee on Foreign Affairs marked up H.R. 5931 in open session, pursuant to notice.

1) Rep. Engel offered an amendment, Engel 291 (in the nature of a substitute), which was not agreed to, by a roll call vote of 16 ayes and 21 noes.

Voting YES: Engel, Sherman, Meeks, Sires, Connolly, Higgins, Keating, Grayson, Bera, Lowenthal, Meng, Frankel, Gabbard, Castro, Kelly, Boyle.

Voting NO: Royce, Smith (NJ), Ros-Lehtinen, Chabot, Wilson, McCaul, Salmon, Issa, Marino, Duncan, Brooks, Cook, Weber, Perry, DeSantis, Meadows, Yoho, Ribble, Trott, Zeldin, Donovan.

2) Rep. Zeldin offered an amendment, Zeldin 46 (augmenting reporting requirements for future U.S. settlements with Iran), which was agreed to by voice vote.

H.R. 5931, as amended, was agreed to by a roll call vote of 21 ayes and 16 noes.

Voting YES: Royce, Smith (NJ), Ros-Lehtinen, Chabot, Wilson, McCaul, Salmon, Issa, Marino, Duncan, Brooks, Cook, Weber, Perry, DeSantis, Meadows, Yoho, Ribble, Trott, Zeldin, Donovan.

Voting NO: Engel, Sherman, Meeks, Sires, Connolly, Higgins, Keating, Grayson, Bera, Lowenthal, Meng, Frankel, Gabbard, Castro, Kelly, Boyle.

H.R. 5931, as amended, was ordered favorably reported to the House, by voice vote.

PERFORMANCE GOALS AND OBJECTIVES

The performance goals and objectives of H.R. 5931 are:

- To prohibit the payment of ransom to Iran to secure the release of hostages;
- To prohibit the United States Government from making payments to Iran in cash or other hard to trace, cash-like forms of exchange, such as bearer bonds, so long as Iran remains designated as a state sponsor of terrorism or primary money laundering concern;
- To ensure that Congress has greater insight and transparency regarding outstanding claims and likely settlements before the Iran-United States Claims Tribunal;
- To ensure that Congress receives substantial advance notice of: future settlement payments to Iran; claims, counter-claims, and subrogated claims affected by such settlements; and recipients of settlement payments; and
- To ensure that future settlement payments to Iran are in the best interests of the United States.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of rules of the House of Representatives, the committee reports that findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of House Rule X, are incorporated in the descriptive portions of this report, particularly in the "Background and Purpose" and "Section-by-Section Analysis" sections.

NEW BUDGET AUTHORITY, TAX EXPENDITURES, AND FEDERAL MANDATES

In compliance with clause 3(c)(2) of House Rule XIII and the Unfunded Mandates Reform Act (P.L. 104–4), the committee adopts as its own the estimate of new budget authority, entitlement authority, tax expenditure or revenues, and Federal mandates contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 16, 2016.

Hon. EDWARD R. ROYCE, *Chairman,*
Committee on Foreign Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5931, the Prohibiting Future Ransom Payments to Iran Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226–2840.

Sincerely,

KEITH HALL.

Enclosure

cc: Honorable Eliot L. Engel
Ranking Member

H.R. 5931—Prohibiting Future Ransom Payments to Iran Act.

As reported by the House Committee on Foreign Affairs on September 14, 2016.

H.R. 5931 would prohibit the Government of the United States from making payments to the Government of Iran through promissory notes (including currency) issued by the United States or any foreign government. In addition, the bill would require that payments to settle any claim being considered by the special tribunal to resolve disputes between Iran and the United States be made pursuant to a license from the Department of the Treasury and after providing certain notifications to the Congress. Finally, the legislation would require the President to report to the Congress on outstanding claims before the tribunal.

Based on an analysis of information from the Department of State, CBO expects that there will be no payments made to Iran in the near future resulting from cases being considered by the tribunal. However, it is possible that payments related to such cases might be made later in the 2017–2026 period; those payments would be treated as direct spending. Enacting the bill would impose limitations on the ability of the Federal Government to make such payments to Iran and thus could reduce direct spending; therefore, pay-as-you-go procedures apply. However, CBO has no

basis for estimating the timing or amounts of those effects, if any. Enacting the bill would not affect revenues.

In addition, CBO estimates that implementing the reporting and notification requirements under H.R. 5931 would cost less than $500,000 over the 2017–2021 period; such spending would be subject to the availability of appropriated funds.

CBO estimates that enacting H.R. 5931 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

H.R. 5931 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Sunita D'Monte. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

DIRECTED RULE MAKING

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(i) of H. Res. 5 during the 114th Congress, the committee notes that H.R. 5931 contains no directed rule-making provisions.

NON-DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c) of House Rule XIII, as modified by section 3(g)(2) of H. Res. 5 during the 114th Congress, the committee states that no provision of this bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 5931 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. 5931 does not establish or authorize any new advisory committees.

EARMARK IDENTIFICATION

H.R. 5931 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

Section 1. Short Title. The "Prohibiting Future Ransom Payments to Iran Act."

Section 2. Findings. Cites concerns that the Obama Administration violated longstanding U.S. policy by releasing prisoners and paying ransom for the return of Americans held hostage by Iran,

a designated state sponsor of terrorism and primary money laundering concern.

Section 3. Statement of Policy. States that it remains U.S. policy not to pay ransom or release prisoners in order to obtain the release of U.S. citizens taken hostage abroad.

Section 4. Prohibition on Cash Payments to the Government of Iran. Prohibits the U.S. Government from making any direct or indirect payments to Iran in U.S. or foreign currency, as well as cash-like forms of exchange, such as bearer bonds.

Provides for greater transparency by requiring that any payment to fulfill claims brought before the Iran-U.S. Claims Tribunal be made in accordance with the prohibition on cash payments, and be made pursuant to a specific license by the Department of Treasury, with the payment amount and method published in the Federal Register.

Maintains these restrictions until Iran is no longer designated as a state sponsor of terrorism or primary money laundering concern.

Section 5. Report on Outstanding Claims before the Iran-United States Claims Tribunal. Requires the Administration to regularly report to Congress on the status of any claims pending before the Iran-U.S. Claims Tribunal, including the likelihood that the claims will be resolved.

Section 6. Notification and Certification Relating to Settlements of Outstanding Claims before the Iran-United States Claims Tribunal. Requires the President to notify Congress at least 30 days before making a payment to Iran to settle a claim brought before the tribunal.

The notification must include: (1) the total amount of the payment and how any interest on the payment was calculated, (2) a legal analysis of why the settlement was agreed to, and description of all the claims and counter-claims it covers, (3) a certification that the payment is not a ransom to secure the release of hostages held by Iran, (4) an identification of the Iranian Government entity that will receive the payment, (5) a certification that the payment will not support foreign terrorist organizations or the regime of Bashar al-Assad in Syria, (6) whether an equal amount of Iranian funds are available in the U.S. to satisfy judgments against Iran by victims of Iranian-sponsored terrorism, (7) a copy of the settlement agreement, (8) a description of the disposition of any related claims that had been subrogated to the U.S. Government, and (9) a certification that the settlement is in the best interests of the United States.

Section 7. Exclusion of Certain Activities. Ensures that this Act does not negatively impact the work of U.S. intelligence agencies.

Section 8. Rules of Construction. Clarifies that nothing in this Act should be construed to authorize any payment by the Government of the United States to the Government of Iran.

Section 9. Definitions. Defines "Government of Iran" and "Iran-United States Claims Tribunal."

DISSENTING VIEWS

H.R. 5931, the Prohibiting Future Ransom Payments to Iran Act, continues the Majority's false narrative that the United States Government paid a ransom for four American prisoners who were held in Iran. Moreover, several of the "findings" are inaccurate and the key provision is inappropriate.

For those of us who are deeply concerned about Iran, there is a need to clarify and strengthen the Congressional oversight role regarding United States policy toward Iran. Unfortunately, this partisan bill, about which Democrats were never consulted during the drafting, does not meet that need.

In December 2015, the United States Government settled a longstanding claim with the Government of Iran regarding weapons sales to Iran which were never delivered due to the 1979 Iranian revolution. The principal of the claim was $400 million, and in the recent settlement the parties agreed that the United States would also pay $1.3 billion in accrued interest (for a total of $1.7 billion).The settlement was announced on January 17, 2016.

The 1981 Algiers Accords, which freed 52 American hostages trapped in Iran for 444 days, created the U.S.-Iran Claims Tribunal to resolve outstanding claims between the two countries. There are still over one thousand Iranian claims that have yet to be resolved at the Tribunal. All U.S. citizen claims against Iran that were registered under the Algiers Accords have been resolved, resulting in approximately $2.5 billion in payments to Americans.

Payment of the $1.7 billion to Iran under the settlement coincided with Implementation Day (January 16, 2016), the day that the International Atomic Energy Agency (IAEA) concluded that Iran had implemented the JCPOA nuclear deal and the United States and others would lift nuclear-related sanctions on Iran. The payment also coincided with the release of four Iranian-American prisoners.

The Administration has categorically denied that this payment was a ransom (which would, almost by definition, be a payment of U.S. money, not Iranian money in exchange for the 4 American detainees). The Administration acknowledges that it used the payment that the U.S. owed Iran as leverage to ensure that the prisoner release went smoothly.

Last month, a Wall Street Journal article revealed that the payment was made in cash. Although the Administration had, indeed, briefed Congressional leaders about the $1.7 billion settlement, the modality of the payment—in cash—was not made clear at the time that the payment was made in January. A cash transaction was not required in this settlement; however the settlement reportedly required immediate payment, which would have been exceedingly difficult to execute by wire transfer, considering the slow pace of Iranian access to banks, even to its own assets.

Further, the Administration argues that Iran is having difficulty using its financial assets due to fear within the banking sector of running afoul of U.S. sanctions. Members of Congress on both sides of the aisle are concerned about cash transactions with Iran because Iran is a state sponsor of terrorism and a jurisdiction of primary money laundering concern. However, it is important to note that after Iran takes possession of the money—whether provided in cash, check or wire transfer—it is impossible to know where and how the money is allocated, so it could be argued that the type of transaction is immaterial.

Additionally, the bill does not accomplish what it sets out to do. It does not restrict cash payments to Iran. Section 4 of the bill prohibits the United States from providing directly or indirectly "promissory notes" including currency issued by the U.S. Government or a foreign government to the Government of Iran. The term "promissory note" is not defined in this legislation. It could be defined as a written agreement between two parties that relates to the payment of an obligation. A promissory note contains the names of parties, an amount due, an interest rate to be applied and a payment schedule.

Although the United States did not give Iran a promissory note in this instance, nevertheless the definition of "promissory note" in this legislation could be interpreted broadly as including cash, wire transfer or check, or it could be interpreted so narrowly as to not even include cash—the purported purpose of the bill. If applied broadly, the prohibition would bar virtually any payment from the United States to the Government of Iran, thus putting the United States in violation of the Algiers Accords.

The bill would effectively remove the President's ability to settle Hague Tribunal claims with Iran for the foreseeable and indefinite future by requiring certification and notifications that the President cannot realistically make. Under the bill, payments pursuant to a settlement would only be allowed if the President certified that that, among other things, the settlement is not a ransom for individuals held hostage by Iran and that the funds provided by the settlement would not be used to fund terrorism or support the Assad regime. The President would also be required to identify whether an equal amount of Iranian funds would be available and accessible in the United States to satisfy judgments against Iran by victims of Iranian-sponsored terrorism. Not only does this saddle settlements or judgments reached under the Algiers Accords with a heavy new burden, preventing settlements with Iran is, in many cases, to Iran's benefit, since settling prevents cases from going to judgment, where the U.S. taxpayer could face even greater liability.

We remain deeply concerned about Iran's behavior. According to the State Department, Iran remains the leading State Sponsor of Terrorism. President Obama said in August 2015, "We have no illusions about the Iranian Government, or the significance of the Revolutionary Guard and the Quds Force. Iran supports terrorist organizations like Hezbollah. It supports proxy groups that threaten our interests and the interests of our allies—including proxy groups who killed our troops in Iraq. They try to destabilize our Gulf partners." Our focus must remain at preventing and con-

fronting Iran's malign activities. However, this bill is not a serious effort at affecting U.S. policy toward Iran. Without any input from the minority, we are left to conclude that this is a partisan stunt.

Therefore, we are opposing this bill with the hopes that the Majority will return Iran policy and foreign policy back to its bipartisan roots. Our country is stronger when we work together to affect change in these urgent national security issues.

ELIOT L. ENGEL.
BRAD SHERMAN.
GREGORY W. MEEKS.
ALBIO SIRES.
GERALD E. CONNOLLY.
THEODORE E. DEUTCH.
BRIAN HIGGINS.
KAREN BASS.
WILLIAM KEATING.
DAVID CICILLINE.
ALAN GRAYSON.
AMI BERA.
ALAN S. LOWENTHAL.
GRACE MENG.
LOIS FRANKEL.
TULSI GABBARD.
JOAQUIN CASTRO.
ROBIN L. KELLY.
BRENDAN F. BOYLE.

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