

110TH CONGRESS
1ST SESSION

S. 1430

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran’s energy sector, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2007

Mr. OBAMA (for himself and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of \$20,000,000 or more in Iran’s energy sector, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Iran Sanctions Ena-
5 bling Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) The Convention on the Prevention and Pun-
 2 ishment of the Crime of Genocide, done at Paris De-
 3 cember 9, 1948 (commonly referred to as the
 4 “Genocide Convention”) defines genocide as, among
 5 other things, the act of killing members of a na-
 6 tional, ethnic, racial, or religious group with the in-
 7 tent to destroy, in whole or in part, the targeted
 8 group. In addition, the Genocide Convention also
 9 prohibits conspiracy to commit genocide, as well as
 10 “[d]irect and public incitement to commit genocide”.

11 (2) 133 member states of the United Nations
 12 have ratified the Genocide Convention and thereby
 13 pledged to prosecute individuals who violate the
 14 Genocide Convention’s prohibition on incitement to
 15 commit genocide, as well as those individuals who
 16 commit genocide directly.

17 (3) On October 27, 2005, at the World Without
 18 Zionism Conference in Tehran, Iran, the President
 19 of Iran, Mahmoud Ahmadinejad, called for Israel to
 20 be “wiped off the map,” described Israel as “a dis-
 21 graceful blot [on] the face of the Islamic world,” and
 22 declared that “[a]nybody who recognizes Israel will
 23 burn in the fire of the Islamic nation’s fury.” Presi-
 24 dent Ahmadinejad has subsequently made similar
 25 types of comments.

1 (4) On December 23, 2006, the United Nations
2 Security Council unanimously approved Resolution
3 1737, which bans the supply of nuclear technology
4 and equipment to Iran and freezes the assets of cer-
5 tain organizations and individuals involved in Iran’s
6 nuclear program, until Iran suspends its enrichment
7 of uranium, as verified by the International Atomic
8 Energy Agency.

9 (5) Following Iran’s failure to comply with Res-
10 olution 1737, on March 24, 2007, the United Na-
11 tions Security Council unanimously approved Reso-
12 lution 1747, to tighten sanctions on Iran, imposing
13 a ban on arms sales and expanding the freeze on as-
14 sets, in response to the country’s uranium-enrich-
15 ment activities.

16 (6) There are now signs of domestic discontent
17 within Iran, and targeted financial and economic
18 measures could produce a change in Iranian policy.
19 According to the Economist Intelligence Unit, the
20 nuclear crisis “is imposing a heavy opportunity cost
21 on Iran’s economic development, slowing down in-
22 vestment in the oil, gas, and petrochemical sectors,
23 as well as in critical infrastructure projects, includ-
24 ing electricity”.

1 (7) Targeted financial measures represent one
2 of the strongest non-military tools available to con-
3 vince the Government of Iran that it can no longer
4 afford to engage in dangerous, destabilizing activi-
5 ties such as its nuclear weapons program and its
6 support for terrorism.

7 (8) Foreign persons that have invested in Iran's
8 energy sector, despite Iran's support of international
9 terrorism and its nuclear program, have provided
10 additional financial means for Iran's activities in
11 these areas, and many United States persons have
12 unknowingly invested in those same foreign persons.

13 (9) There is an increasing interest by States,
14 local governments, educational institutions, and pri-
15 vate institutions to seek to disassociate themselves
16 from companies that directly or indirectly support
17 the Government of Iran's efforts to achieve a nu-
18 clear weapons capability.

19 (10) Policy makers and fund managers may
20 find moral, prudential, or reputational reasons to di-
21 vest assets from persons that accept the business
22 risk of operating in countries that are subject to
23 international economic sanctions or that have busi-
24 ness relationships with countries, governments, or
25 entities with which any United States person would

1 be prohibited from dealing because of economic
2 sanctions imposed by the United States.

3 **SEC. 3. TRANSPARENCY IN UNITED STATES CAPITAL MAR-**
4 **KETS.**

5 (a) LIST OF PERSONS INVESTING IN IRAN ENERGY
6 SECTOR.—

7 (1) PUBLICATION OF LIST.—Not later than 180
8 days after the date of the enactment of this Act, and
9 every 180 days thereafter, the Secretary of the
10 Treasury, in consultation with the Secretary of En-
11 ergy, the Secretary of State, the Securities and Ex-
12 change Commission, and the heads of other appro-
13 priate Federal departments and agencies, shall pub-
14 lish in the Federal Register a list of persons, wheth-
15 er within or outside of the United States, that, as
16 of the date of the publication, have made an invest-
17 ment of more than \$20,000,000 in the energy sector
18 of Iran. The list shall include a description of the in-
19 vestment made by each such person, including the
20 dollar value, intended purpose, and status of the in-
21 vestment, as of the date of the publication of the
22 list.

23 (2) PRIOR NOTICE TO PERSONS.—Not later
24 than 30 days before the list is published under para-
25 graph (1), the Secretary of the Treasury shall notify

1 each person that the Secretary intends to include on
2 the list.

3 (3) DELAY IN INCLUDING PERSONS ON THE
4 LIST.—After notifying a person under paragraph (2)
5 that the Secretary intends to include such person on
6 the list, the Secretary may delay including such per-
7 son on the list for not more than 60 days if the Sec-
8 retary determines and certifies to Congress that
9 such person has taken specific and effective actions
10 to divest or terminate the investment in the energy
11 sector of Iran that resulted in the notification under
12 paragraph (2).

13 (4) REMOVAL OF PERSONS FROM THE LIST.—
14 The Secretary of the Treasury may remove a person
15 from the list under paragraph (1) before the next
16 publication of the list if the Secretary, in consulta-
17 tion with, as appropriate, the Secretary of Energy,
18 the Secretary of State, the Securities and Exchange
19 Commission, and the heads of other Federal depart-
20 ments and agencies, determines that the person has
21 divested or terminated the investment in the energy
22 sector of Iran that resulted in the Secretary includ-
23 ing such person on the list.

24 (b) PUBLICATION ON WEBSITE.—The Secretary of
25 the Treasury shall maintain on the website of the Depart-

1 ment of the Treasury the names of the persons on the
 2 list published under subsection (a)(1), updating the list
 3 as necessary to take into account any person removed
 4 from the list under subsection (a)(4).

5 (c) DEFINITION.—In this section, the term “invest-
 6 ment” has the meaning given that term in section 14(9)
 7 of the Iran Sanctions Act (50 U.S.C. 1701 note).

8 **SEC. 4. AUTHORITY OF STATE AND LOCAL GOVERNMENTS**
 9 **TO DIVEST ASSETS FROM CERTAIN COMPA-**
 10 **NIES INVESTED IN IRAN’S ENERGY SECTOR.**

11 (a) AUTHORITY TO DIVEST.—

12 (1) IN GENERAL.—Notwithstanding any other
 13 provision of law, a State or local government may
 14 adopt and enforce measures to divest the assets of
 15 the State or local government from, or prohibit in-
 16 vestment of the assets of the State or local govern-
 17 ment in, persons that are included on the most re-
 18 cent list published under section 3(a)(1), as modified
 19 under section 3(a)(4).

20 (2) APPLICABILITY.—This subsection applies to
 21 measures adopted by a State or local government be-
 22 fore, on, or after the date of the enactment of this
 23 Act.

24 (3) DEFINITIONS.—In this subsection:

1 (A) INVESTMENT OF THE ASSETS OF THE
 2 STATE OR LOCAL GOVERNMENT.—The term
 3 “investment of the assets of the State or local
 4 government” includes—

5 (i) a commitment or contribution of
 6 assets; and

7 (ii) a loan or other extension of credit
 8 of assets.

9 (B) ASSETS.—The term “assets” refers to
 10 public monies and includes any pension, retire-
 11 ment, annuity, or endowment fund, or similar
 12 instrument, that is controlled by a State or
 13 local government.

14 (b) PREEMPTION.—A measure of a State or local
 15 government that is authorized by subsection (a) is not pre-
 16 empted by any Federal law or regulation except to the ex-
 17 tent that a person is unable to comply with both the meas-
 18 ure and the Federal law or regulation.

19 **SEC. 5. SAFE HARBOR FOR CHANGES OF INVESTMENT**
 20 **POLICIES BY MUTUAL FUNDS.**

21 Section 13 of the Investment Company Act of 1940
 22 (15 U.S.C. 80a–13) is amended by adding at the end the
 23 following new subsection:

24 “(c) SAFE HARBOR FOR CHANGES IN INVESTMENT
 25 POLICIES.—Notwithstanding any other provision of Fed-

1 eral or State law, no person may bring any civil, criminal,
 2 or administrative action against any registered investment
 3 company or person providing services to such registered
 4 investment company (including its investment adviser), or
 5 any employee, officer, or director thereof, based upon the
 6 investment company divesting from, or avoiding investing
 7 in, securities issued by companies that are included on the
 8 most recent list published under section 3(a)(1) of the
 9 Iran Sanctions Enabling Act, as modified under section
 10 3(a)(4) of that Act. For purposes of this subsection the
 11 term ‘person’ shall include the Federal government and
 12 any State or political subdivision of a State.”.

13 **SEC. 6. SAFE HARBOR FOR CHANGES OF INVESTMENT**
 14 **POLICIES BY EMPLOYEE BENEFIT PLANS.**

15 Section 502 of the Employee Retirement Income Se-
 16 curity Act of 1974 (29 U.S.C. 1132) is amended by adding
 17 at the end the following new subsection:

18 “(n) DIVESTMENT OF ASSETS IN FIDUCIARIES IN-
 19 VESTING IN IRAN.—No person shall be treated as breach-
 20 ing any of the responsibilities, obligations, or duties im-
 21 posed upon fiduciaries by this title, and no action may
 22 be brought under this section against any person, for di-
 23 vesting plan assets from, or avoiding investing plan assets
 24 in, persons that are included on the most recent list pub-

1 lished under section 3(a)(1) of the Iran Sanctions Ena-
 2 bling Act, as modified under section 3(a)(4) of such Act.”.

3 **SEC. 7. SENSE OF CONGRESS REGARDING THRIFT SAVINGS**

4 **PLAN.**

5 It is the sense of the Congress that—

6 (1) the Federal Retirement Thrift Investment
 7 Board should initiate efforts to provide a terror-free
 8 international investment option among the funds of
 9 the Thrift Savings Fund that would invest in stocks
 10 in which the International Stock Index Investment
 11 Fund may invest under section 8438(b)(4) of title 5,
 12 United States Code, other than the stock of compa-
 13 nies that do business in any country the government
 14 of which the Secretary of State has determined is a
 15 government that has repeatedly provided support for
 16 acts of international terrorism, for purposes of sec-
 17 tion 40 of the Arms Export Control Act (22 U.S.C.
 18 2780), section 620A of the Foreign Assistance Act
 19 of 1961 (22 U.S.C. 2371), section 6(j) of the Export
 20 Administration Act of 1979 (50 U.S.C. App.
 21 2405(j)), as continued in effect pursuant to the
 22 International Emergency Economic Powers Act (50
 23 U.S.C. 1701 et seq.), or any other provision of law
 24 relating to governments that provide support for
 25 acts of international terrorism; and

1 (2) the Federal Retirement Thrift Investment
2 Board should initiate efforts similar to those de-
3 scribed in paragraph (1) to provide a genocide-free
4 international investment option.

5 **SEC. 8. DEFINITIONS.**

6 In this Act:

7 (1) IRAN.—The term “Iran” includes any agen-
8 cy or instrumentality of the Government of Iran.

9 (2) ENERGY SECTOR.—The term “energy sec-
10 tor” refers to activities to develop petroleum or nat-
11 ural gas resources.

12 (3) PERSON.—The term “person” means a nat-
13 ural person as well as a corporation, business asso-
14 ciation, partnership, society, trust, any other non-
15 governmental entity, organization, or group, and any
16 governmental entity or instrumentality of a govern-
17 ment.

18 (4) STATE.—The term “State” includes the
19 District of Columbia, the Commonwealth of Puerto
20 Rico, the Virgin Islands, Guam, American Samoa,
21 and the Commonwealth of the Northern Mariana Is-
22 lands.

23 (5) STATE OR LOCAL GOVERNMENT.—The term
24 “State or local government” includes—

1 (A) any State and any agency or instru-
2 mentality thereof;

3 (B) any local government within a State,
4 and any agency or instrumentality thereof; and

5 (C) any public institution of higher edu-
6 cation, as defined in section 102 of the Higher
7 Education Act of 1965 (20 U.S.C. 1002).

8 **SEC. 9. SUNSET.**

9 The provisions of this Act shall terminate 30 days
10 after the date on which the President has certified to Con-
11 gress that—

12 (1) the Government of Iran has ceased pro-
13 viding support for acts of international terrorism
14 and no longer satisfies the requirements for designa-
15 tion as a state sponsor of terrorism for purposes of
16 section 40 of the Arms Export Control Act (22
17 U.S.C. 2780), section 620A of the Foreign Assist-
18 ance Act of 1961 (22 U.S.C. 2371), section 6(j) of
19 the Export Administration Act of 1979 (50 U.S.C.
20 App. 2405(j)), as continued in effect pursuant to the
21 International Emergency Economic Powers Act (50
22 U.S.C. 1701 et seq.), or any other provision of law
23 relating to governments that provide support for
24 acts of international terrorism;

1 (2) the Government of Iran has ceased the pur-
2 suit, acquisition, and development of nuclear, bio-
3 logical, and chemical weapons and ballistic missiles
4 and ballistic missile launch technology; and

5 (3) the Government of Iran has retracted the
6 statements of the President of Iran, Mahmoud
7 Ahmadinejad, calling for the destruction of Israel.

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