CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

August 28, 2002

S. 2134
Terrorism Victim's Access to Compensation Act of 2002

As reported by the Senate Committee on the Judiciary on June 27, 2002

SUMMARY

S. 2134 would give victims of state-sponsored terrorism access to the blocked assets of those states to satisfy judgments for compensatory damages. The blocked assets most immediately affected by S. 2134 are former diplomatic properties of the government of Iran which are covered by the Vienna Conventions on Diplomatic Relations and Consular Relations (the Vienna Conventions). According to the Department of State, attaching these properties to satisfy judgments against Iran would likely lead to a claim by Iran against the United States in an international tribunal and the payment of damages to Iran. In addition, the bill would authorize the payment of a few specific judgments against Iran from existing funds. CBO estimates that enacting the bill would cost $22 million in 2003 and $29 million in 2004. Because S. 2134 would affect direct spending, pay-as-you-go procedures would apply.

S. 2134 contains no intergovernmental or private-sector mandates as defined by the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 2134 is shown in the following table. The estimate assumes enactment of the bill before the end of the current session of Congress. The costs of this legislation fall within budget function 800 (general government).

	By Fiscal Year, in Millions of Dollars					
	2002	2003	2004	2005	2006	2007
CHANGES IN DIRECT SPENDING						
Spending Under Current Law for Payment of Anti-Terrorism Judgments						
Estimated Budget Authority	0	0	0	0	0	0
Estimated Outlays	146	0	0	0	0	0
Proposed Changes						
Estimated Budget Authority	0	0	29	0	0	0
Estimated Outlays	0	22	29	0	0	0
Spending Under S. 2134 for Payment of Anti-Terrorism Judgments						
Estimated Budget Authority	0	0	29	0	0	0
Estimated Outlays	146	22	29	0	0	0

BASIS OF ESTIMATE

In 1996, the Congress amended the Foreign Sovereign Immunities Act (FSIA) to permit U.S. victims of terrorist acts to sue certain countries designated as state sponsors of terrorism. The State Department has designated seven countries as state sponsors of terrorism: Cuba, Iran, Iraq, Libya, North Korea, Syria, and Sudan. Under the FSIA, victims have brought over 50 lawsuits against five of the seven countries with over 80 percent of the cases filed against Iran. While a number of the cases have been adjudicated and judgments awarded, all plaintiffs have experienced difficulty satisfying the judgments.

In 2000, the Congress passed Public Law 106-386, the Victims of Trafficking and Violence Protection Act of 2000 (Victims Protection Act), which directed the Secretary of the Treasury to pay the plaintiffs in 11 specified cases an amount equal to the compensatory damages awarded to them by the courts. That act authorized the Secretary to liquidate blocked assets of the government of Cuba to pay the judgment against that state. To pay the judgments against Iran, the act appropriated $400 million and authorized the liquidation of an escrow account holding $6 million in rental income from Iranian diplomatic properties. (The appropriation was equivalent to the amount remaining in the foreign military sales trust fund to settle disputes arising from the sale of defense articles to Iran before the fall of the Shah in 1979.)

In general, S. 2134 would subject the blocked assets of terrorist states and their agencies or instrumentalities to execution or attachment to satisfy judgments for compensatory damages in terrorism-related cases. The President would be authorized to waive execution or attachment of such assets on an asset-by-asset basis when necessary in the interests of national security. However, the waiver would not apply to property subject to the Vienna Conventions if they have been used by the United States for nondiplomatic purposes. S. 2134 would also provide a special rule for a limited number of plaintiffs who have been awarded judgments in cases against Iran. Under S. 2134, if the appropriation provided in the Victims Protection Act and liquidation of the escrow account are inadequate to pay in full the compensatory damages awarded to each eligible party, the Secretary of the Treasury is to pay a proportionate share of the awards within 60 days of enactment.

Satisfaction of Judgments from Blocked Assets

Using various authorities, the President has blocked the assets of six of the seven terrorist states (Syria is the exception). In most cases, the blocked assets include all property in which the terrorist state is believed to have any interest of any nature, direct or indirect. In many instances, that interest may be partial or fall short of title to the property. Blocking assets denies the owners any benefit or use of those assets. In general, blocking also prohibits any form of judicial attachment or lien on this property. According to the Department of the Treasury's Office of Foreign Assets Control (OFAC), many of the blocked assets are also subject to other claims.

In a few cases involving property in which the interests are not divided and that is not otherwise protected by international agreements, like the Vienna Conventions, attaching property to satisfy judgments would have no immediate budgetary impact. This was the case with the Cuban property under the Victims Protection Act. However, this would not be the case with Iranian property.

According to OFAC, the blocked assets of Iran are primarily properties associated with their former diplomatic mission to the United States. Even though relations with Iran are suspended, the Vienna Conventions obligate the United States to protect Iran's diplomatic property. OFAC estimates the value of that property to be $23 million. Because that property has been used in recent years for nondiplomatic purposes, the exception to the waiver contained in S. 2134 would weaken the President's ability to protect it from court judgments. Iran is the only country whose diplomatic property would be affected by the exception to the waiver in the bill.

Iran has a claim pending with the U.S.-Iran Claims Tribunal for the U.S. government's failure to return Iran's diplomatic property under the Algiers Accords, including the $6 million from rental income in the escrow account. (The Algiers Accords settled the 1980 crisis with Iran). Over the10-year period that this claim has been pending, the U.S. has protected the property in accordance with the Vienna Conventions. Upon enactment of S. 2134, the Iranian diplomatic property would be subject to attachment because that property is ineligible for protection under the Presidential waiver provisions. Because there are several plaintiffs with unsatisfied judgments against Iran, it is highly likely that the property would be attached soon after enactment. Under such circumstances, the State Department believes that Iran would press for an immediate resolution of their property claim, that they would have a high probability of prevailing, and that the U.S. would pay any resulting damages judgment against us. Accordingly, assuming 18 to 24 months for the claims and counter-suits to move through the process, CBO estimates that S. 2134 would result in payments from the Treasury of $29 million in 2004.

Special Rule for Specified Cases Against Iran

S. 2134 would increase the number of plaintiffs eligible to receive payments under the Victims Protection Act. It would require the Secretary of the Treasury to pay the judgments for compensatory damages in cases filed before October 28, 2000—adding the plaintiffs in an additional 10 cases. If amounts available in the appropriation and the escrow account are determined to be inadequate to pay the full amount of compensatory damage judgments awarded as of the date of enactment of S. 2134, the Secretary would be required to pay a proportional share to each eligible plaintiff within 60 days of enactment. The Secretary of the Treasury has paid nine of the 10 original judgments allowed under Public Law 106-386. After paying the last judgment, CBO estimates that the appropriation will have an unobligated balance of $22 million. As of the end of June 2002, five of the 10 new cases had been awarded judgments. The compensatory damages awarded in those five cases total $106 million, thus CBO expects that, under S.2134, the required payments would consume the remaining balances. CBO estimates the $22 million would be paid in 2003.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through fiscal year 2006 are counted.

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	22	29	0	0	0	0	0	0	0	0
Changes in receipts						Not applicable					

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

S. 2134 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Costs: Joseph C. Whitehill
Impact on State, Local, and Tribal Governments: Greg Waring
Impact on the Private Sector: Paige Piper/Bach

ESTIMATE APPROVED BY:

Peter H. Fontaine
Deputy Assistant Director for Budget Analysis