

112TH CONGRESS
1ST SESSION

S. 1180

To authorize the President to confiscate and vest certain property of the Government of Libya and to authorize the use of that property to provide humanitarian relief to and for the benefit of the people of Libya, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2011

Mr. JOHNSON of South Dakota (for himself, Mr. SHELBY, Mr. KERRY, Mr. MCCAIN, Mr. LEVIN, Mr. LIEBERMAN, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize the President to confiscate and vest certain property of the Government of Libya and to authorize the use of that property to provide humanitarian relief to and for the benefit of the people of Libya, 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 “Libyan Assets for Hu-
5 manitarian Relief Act of 2011”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) On February 26, 2011, the United Nations
4 Security Council adopted Resolution 1970, which
5 imposed an asset freeze on Colonel Muammar
6 Qaddafi and members of his family.

7 (2) On March 17, 2011, the United Nations Se-
8 curity Council adopted Resolution 1973, which ex-
9 panded the asset freeze to include the Central Bank
10 of Libya, the Libyan Investment Authority, the Lib-
11 yan Foreign Bank, the Libyan Africa Investment
12 Portfolio, and the Libyan National Oil Corporation.

13 (3) The United Nations Security Council stated
14 in Resolution 1973 that the assets frozen would “at
15 a later stage, as soon as possible, be made available
16 to and for the benefit of the people of the Libyan
17 Arab Jamahiriya”.

18 (4) On March 3, 2011, the President of the
19 United States stated that “Muammar Qaddafi has
20 lost the legitimacy to lead, and he must leave”.

21 (5) On March 29, 2011, the Transitional Na-
22 tional Council of the Libyan Republic issued “A Vi-
23 sion of a Democratic Libya”, which stated that its
24 goal is “building a free and democratic society and
25 ensuring the supremacy of international humani-
26 tarian law and human rights declarations”, and that

1 “[t]his can only be achieved through dialogue, toler-
2 ance, co-operation, national cohesiveness and the ac-
3 tive participation of all citizens”. In that statement,
4 the Transitional National Council pledged itself,
5 without reservation, to the establishment of “a con-
6 stitutional civil and free state” that upholds intellec-
7 tual and political pluralism and the peaceful transfer
8 of power and guarantees full citizenship rights to all
9 Libyans.

10 (6) On April 7, 2011, Ali Aujali, the Official
11 Representative to the United States of the Transi-
12 tional National Council of the Libyan Republic,
13 wrote to the United States Secretary of the Treas-
14 ury and requested “immediate access to some of the
15 frozen Qaddafi regime funds to purchase needed hu-
16 manitarian supplies and to support critical services
17 such as hospitals, water distribution and sanitation”.

18 (7) On May 19, 2011, the President of the
19 United States, referring to the Transitional National
20 Council of the Libyan Republic, stated that “the op-
21 position has organized a legitimate and credible in-
22 terim council”.

1 **SEC. 3. AUTHORIZATION OF CONFISCATION OF PROPERTY**
 2 **OF THE GOVERNMENT OF LIBYA.**

3 (a) IN GENERAL.—The International Emergency
 4 Economic Powers Act (50 U.S.C. 1701 et seq.) is amend-
 5 ed by adding at the end the following:

6 **“SEC. 209. AUTHORIZATION OF CONFISCATION OF PROP-**
 7 **ERTY OF THE GOVERNMENT OF LIBYA.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
 10 TEES.—The term ‘appropriate congressional com-
 11 mittees’ means—

12 “(A) the Committee on Banking, Housing,
 13 and Urban Affairs and the Committee on For-
 14 eign Relations of the Senate; and

15 “(B) the Committee on Financial Services
 16 and the Committee on Foreign Affairs of the
 17 House of Representatives.

18 “(2) EXECUTIVE AGENCY.—The term ‘executive
 19 agency’ has the meaning given that term in section
 20 133 of title 41, United States Code.

21 “(3) GOVERNMENT OF LIBYA.—The term ‘Gov-
 22 ernment of Libya’—

23 “(A) means the Government of Libya on
 24 the date of the enactment of the Libyan Assets
 25 for Humanitarian Relief Act of 2011, including
 26 any agency or instrumentality of that Govern-

1 ment, any entity controlled by that Govern-
2 ment, and the Central Bank of Libya; and

3 “(B) does not include a successor govern-
4 ment of Libya.

5 “(4) SUCCESSOR GOVERNMENT OF LIBYA.—The
6 term ‘successor government of Libya’ means a suc-
7 cessor government to the Government of Libya (as
8 defined in paragraph (3)) that is recognized as the
9 legitimate governing authority of Libya by the Gov-
10 ernment of the United States.

11 “(b) STATEMENT OF POLICY.—It is the policy of the
12 United States to provide humanitarian relief to and for
13 the benefit of the people of Libya and to support the aspi-
14 rations of the people of Libya for democratic self-govern-
15 ment.

16 “(c) AUTHORIZATION OF CONFISCATION OF PROP-
17 ERTY OF THE GOVERNMENT OF LIBYA.—

18 “(1) IN GENERAL.—The President—

19 “(A) may confiscate and vest, through in-
20 structions or licenses or in such other manner
21 as the President determines appropriate, funds
22 and other property of the Government of Libya
23 that are subject to the jurisdiction of the
24 United States in the amounts specified in sub-
25 section (f);

1 “(B) may liquidate or sell any of such
2 property; and

3 “(C) shall deposit any funds confiscated
4 and vested under subparagraph (A) and any
5 funds resulting from the liquidation or sale of
6 property under subparagraph (B) in the ac-
7 count established under subsection (d).

8 “(2) VESTING.—All right, title, and interest in
9 funds and other property confiscated under para-
10 graph (1) shall vest in the Government of the United
11 States.

12 “(d) ESTABLISHMENT OF ACCOUNT FOR CON-
13 FISCATED PROPERTY.—

14 “(1) IN GENERAL.—The President shall estab-
15 lish a non-interest-bearing account to consist of the
16 funds deposited into the account under subsection
17 (e)(1)(C).

18 “(2) USE OF FUNDS.—The funds in the ac-
19 count established under paragraph (1) shall be avail-
20 able to be used only as specified in subsection (e)(1).

21 “(e) USE OF CONFISCATED PROPERTY TO PROVIDE
22 HUMANITARIAN RELIEF TO THE PEOPLE OF LIBYA.—

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 the President may transfer funds from the account
25 established under subsection (d)—

1 “(A) to such executive agencies and, sub-
2 ject to paragraph (3), such other persons as the
3 President determines appropriate, to be used
4 only for costs related to providing humanitarian
5 relief to and for the benefit of the people of
6 Libya, consistent with the purposes of United
7 Nations Security Council Resolutions 1970
8 (2011) and 1973 (2011); and

9 “(B) on and after the date on which a suc-
10 cessor government of Libya is recognized by the
11 Government of the United States, to the suc-
12 cessor government of Libya.

13 “(2) LIMITATIONS ON TRANSFER OF FUNDS.—

14 “(A) LIMITATIONS ON TRANSFER TO CER-
15 TAIN PERSONS AND ORGANIZATIONS.—None of
16 the funds transferred under this subsection may
17 knowingly be provided to—

18 “(i) an organization designated as a
19 foreign terrorist organization under section
20 219(a) of the Immigration and Nationality
21 Act (8 U.S.C. 1189(a));

22 “(ii) a person that provides support
23 for acts of international terrorism or for
24 an organization described in clause (i);

1 “(iii) a person whose property or in-
2 terests in property are blocked pursuant to
3 this Act, unless the transfer is authorized
4 by the Secretary of the Treasury; or

5 “(iv) a person the President deter-
6 mines is responsible for violations of inter-
7 nationally recognized human rights.

8 “(B) PROHIBITION ON USE OF FUNDS FOR
9 MILITARY PURPOSES.—None of the funds trans-
10 ferred under this subsection may be used to
11 purchase weapons or military equipment of ei-
12 ther a lethal or nonlethal nature.

13 “(3) CERTIFICATIONS BY CERTAIN PERSONS.—
14 The President may not transfer funds to any person,
15 other than an executive agency, under paragraph
16 (1)(A) unless that person certifies to the President
17 that the person—

18 “(A) will use such funds only for the costs
19 described in paragraph (1)(A); and

20 “(B) will not—

21 “(i) transfer any of such funds to a
22 person or organization described in para-
23 graph (2)(A); or

1 “(ii) use any of such funds to pur-
2 chase weapons or military equipment of ei-
3 ther a lethal or nonlethal nature.

4 “(4) TERMS AND CONDITIONS.—If the Presi-
5 dent exercises the authority provided under this sec-
6 tion, the President shall impose such additional
7 terms and conditions as the President determines
8 appropriate with respect to the transfer of funds
9 under this subsection and with respect to the use of
10 such funds.

11 “(5) USE BY EXECUTIVE AGENCIES.—Notwith-
12 standing any other provision of law, any funds
13 transferred to an executive agency under this sub-
14 section—

15 “(A) shall remain available until expended;

16 “(B) shall be used only for the costs de-
17 scribed in paragraph (1)(A);

18 “(C) may be distributed in such manner as
19 the head of the executive agency determines ap-
20 propriate to accomplish the purposes of this
21 section, including through grants and contribu-
22 tions; and

23 “(D) may be transferred among executive
24 agencies.

1 “(f) INITIAL AND SUBSEQUENT AUTHORIZATIONS OF
2 CONFISCATION OF PROPERTY.—

3 “(1) AUTHORITY.—The authority of the Presi-
4 dent to confiscate and vest funds and other property
5 under subsection (c) shall be limited as follows:

6 “(A) INITIAL LIMITATION.—Effective on
7 and after the date of the enactment of the Lib-
8 yan Assets for Humanitarian Relief Act of
9 2011, the President may confiscate and vest
10 not more than \$4,000,000,000 under subsection
11 (c).

12 “(B) CONFISCATION AND VESTING OF AD-
13 DITIONAL AMOUNTS.—

14 “(i) IN GENERAL.—If, at any one
15 time after the date of the enactment of the
16 Libyan Assets for Humanitarian Relief Act
17 of 2011, the President submits to Congress
18 the notification described in clause (ii), ef-
19 fective on and after the day after the end
20 of the 30-day period beginning on the date
21 on which that notification is submitted, the
22 President may confiscate and vest not
23 more than an additional \$4,000,000,000
24 under subsection (c) over the amount au-
25 thorized to be confiscated and vested under

1 subparagraph (A), unless a joint resolution
2 of disapproval described in paragraph (2)
3 is enacted within the 30-day period after
4 the notification is submitted.

5 “(ii) NOTIFICATION DESCRIBED.—
6 The notification described in this clause is
7 a notification—

8 “(I) that the President intends to
9 confiscate and vest the additional
10 amount specified in clause (i) to be
11 used for the costs described in sub-
12 section (e)(1)(A); and

13 “(II) submitted with a report—

14 “(aa) describing the neces-
15 sity of confiscating and vesting
16 that additional amount; and

17 “(bb) detailing the plan of
18 the President with respect to the
19 use of that additional amount.

20 “(C) EMERGENCY CERTIFICATION; CONFIS-
21 CATION AND VESTING TO ADDRESS EMERGENCY
22 HUMANITARIAN NEEDS.—

23 “(i) IN GENERAL.—If, at any one
24 time after the date of the enactment of the
25 Libyan Assets for Humanitarian Relief Act

1 of 2011, the President submits to Congress
2 the certification described in clause (ii), ef-
3 fective on and after the date on which that
4 certification is submitted, the President
5 may confiscate and vest not more than an
6 additional \$2,000,000,000 under sub-
7 section (e) over the amounts otherwise au-
8 thorized to be confiscated and vested under
9 this paragraph.

10 “(ii) CERTIFICATION DESCRIBED.—

11 The certification described in this clause is
12 a certification by the President that it is
13 necessary to confiscate and vest the addi-
14 tional amount specified in clause (i) to ad-
15 dress an emergency need for additional hu-
16 manitarian assistance.

17 “(2) JOINT RESOLUTION OF DISAPPROVAL.—

18 “(A) JOINT RESOLUTION OF DIS-
19 APPROVAL.—In this paragraph, the term ‘joint
20 resolution of disapproval’ means only a joint
21 resolution of the 2 Houses of Congress, the sole
22 matter after the resolving clause of which is as
23 follows: ‘That Congress disapproves of the con-
24 fiscation and vesting of the amount of funds or
25 other property specified in section

1 209(f)(1)(B)(i) of the International Emergency
2 Economic Powers Act.’.

3 “(B) PROCEDURES FOR CONSIDERING RES-
4 OLUTIONS.—

5 “(i) INTRODUCTION.—A joint resolu-
6 tion of disapproval—

7 “(I) may be introduced in the
8 House of Representatives or the Sen-
9 ate during the 10-day period begin-
10 ning on the date on which a notifica-
11 tion described in paragraph (1)(B)(ii)
12 is submitted;

13 “(II) in the House of Represent-
14 atives, may be introduced by any
15 Member of the House of Representa-
16 tives;

17 “(III) in the Senate, may be in-
18 troduced by any Member of the Sen-
19 ate; and

20 “(IV) may not be amended.

21 “(ii) REFERRAL TO COMMITTEES.—A
22 joint resolution of disapproval introduced
23 in the Senate shall be referred to the Com-
24 mittee on Banking, Housing, and Urban
25 Affairs and a joint resolution of dis-

1 approval introduced in the House of Rep-
2 resentatives shall be referred to the Com-
3 mittee on Foreign Affairs.

4 “(iii) COMMITTEE DISCHARGE AND
5 FLOOR CONSIDERATION.—The provisions
6 of subsections (c) through (f) of section
7 152 of the Trade Act of 1974 (19 U.S.C.
8 2192) (relating to committee discharge and
9 floor consideration of certain resolutions in
10 the House of Representatives and the Sen-
11 ate) apply to a resolution of disapproval
12 under this paragraph to the same extent as
13 such subsections apply to joint resolutions
14 under such section 152, except that—

15 “(I) subsection (c)(1) of such
16 section 152 shall be applied and ad-
17 ministered by substituting ‘10 days’
18 for ‘30 days’; and

19 “(II) subsection (f)(1)(A)(i) of
20 such section 152 shall be applied and
21 administered by substituting ‘Com-
22 mittee on Banking, Housing, and
23 Urban Affairs’ for ‘Committee on Fi-
24 nance’.

1 “(C) RULES OF HOUSE OF REPRESENTA-
2 TIVES AND SENATE.—This paragraph is en-
3 acted by Congress—

4 “(i) as an exercise of the rulemaking
5 power of the Senate and the House of Rep-
6 resentatives, respectively, and as such is
7 deemed a part of the rules of each House,
8 respectively, but applicable only with re-
9 spect to the procedure to be followed in
10 that House in the case of a joint resolu-
11 tion, and it supersedes other rules only to
12 the extent that it is inconsistent with such
13 rules; and

14 “(ii) with full recognition of the con-
15 stitutional right of either House to change
16 the rules (so far as relating to the proce-
17 dure of that House) at any time, in the
18 same manner and to the same extent as in
19 the case of any other rule of that House.

20 “(g) RECORDKEEPING.—

21 “(1) IN GENERAL.—The President may, in ex-
22 ercising the authority provided under this section,
23 require any person to keep a full record of—

24 “(A) any act or transaction carried out
25 pursuant to any regulation, instruction, license,

1 order, or direction issued under this section, ei-
2 ther before, during, or after the completion of
3 the act or transaction;

4 “(B) any property in which any foreign
5 country or any national of a foreign country
6 has or has had any interest; and

7 “(C) any other information the President
8 determines necessary to carry out the provisions
9 of this section.

10 “(2) PRODUCTION OF INFORMATION.—The
11 President may require any person—

12 “(A) to provide any information required
13 to be kept by the person under paragraph (1)
14 under oath and in the form of reports or any
15 other form; and

16 “(B) to produce any books of account,
17 records, contracts, letters, memoranda, or other
18 papers in the custody or control of the person
19 that relate to any information required to be
20 kept under paragraph (1).

21 “(h) REPORTS ON USE OF FUNDS.—

22 “(1) IN GENERAL.—Not later than 90 days
23 after the President first confiscates and vests funds
24 or other property under subsection (c), and every 90
25 days thereafter, the President shall submit to the

1 appropriate congressional committees a report de-
2 tailing, for the 90-day period preceding the submis-
3 sion of the report—

4 “(A) the amount of funds and other prop-
5 erty confiscated and transferred under this sec-
6 tion;

7 “(B) the executive agencies and other per-
8 sons to which such funds were transferred;

9 “(C) the manner in which such funds were
10 used; and

11 “(D) the amount remaining in the account
12 established under subsection (d) at the end of
13 the 90-day period.

14 “(2) SPECIAL RULE WITH RESPECT TO REPORT
15 RELATING TO AUTHORIZATION OF CONFISCATION OF
16 ADDITIONAL AMOUNTS.—If, after the date on which
17 a report is required to be submitted by paragraph
18 (1) and before the next such report is required to be
19 submitted, the President submits to the appropriate
20 congressional committees the report described in
21 subsection (f)(1)(B)(ii)(II), the President—

22 “(A) shall include in the report described
23 in subsection (f)(1)(B)(ii)(II) the information
24 required to be included in the report required
25 by paragraph (1) for the period that—

1 “(i) begins on the date on which the
2 last report required by paragraph (1) was
3 required to be submitted; and

4 “(ii) ends on the date on which the
5 President submits the report described in
6 subsection (f)(1)(B)(ii)(II); and

7 “(B) may include in the next report re-
8 quired by paragraph (1) only the information
9 required by paragraph (1) for the period—

10 “(i) beginning on the date on which
11 the report described in subsection
12 (f)(1)(B)(ii)(II) is submitted; and

13 “(ii) ending on the date on which the
14 report required by paragraph (1) is re-
15 quired to be submitted.

16 “(i) GOVERNMENT ACCOUNTABILITY OFFICE RE-
17 PORT.—Not later than 180 days after the date of the en-
18 actment of the Libyan Assets for Humanitarian Relief Act
19 of 2011, and every 180 days thereafter, the Comptroller
20 General of the United States shall submit to the appro-
21 priate congressional committees a report assessing the
22 confiscation and vesting of funds and other property under
23 subsection (c) and the use of funds under subsection (e).

24 “(j) PENALTIES.—The penalties provided for in sub-
25 sections (b) and (c) of section 206 shall apply to a person

1 that violates, attempts to violate, conspires to violate, or
2 causes a violation of this section or any regulation, in-
3 struction, license, order, or direction issued under this sec-
4 tion to the same extent that such penalties apply to a per-
5 son that commits an unlawful act described in section
6 206(a).

7 “(k) JUDICIAL REVIEW.—

8 “(1) SAFE HARBOR.—A person that complies
9 fully with a regulation, instruction, license, order, or
10 direction issued under this section may not be held
11 liable for a violation of this section.

12 “(2) GOOD FAITH COMPLIANCE.—A person may
13 not be held liable in any court for or with respect
14 to any act or omission done in good faith in connec-
15 tion with the administration of, or pursuant to and
16 in reliance on, this section, or any regulation, in-
17 struction, license, order, or direction issued under
18 this section.

19 “(3) NO LEGAL PROCESS WITH RESPECT TO
20 CONFISCATED PROPERTY.—Any funds or other prop-
21 erty confiscated and vested under subsection (c), in-
22 cluding any proceeds from the liquidation or sale of
23 such property, shall be immune from any legal proc-
24 ess or attachment.

1 “(4) ACTIONS TAKEN UNDER THIS SECTION.—

2 No action taken under this section, other than the
3 imposition of penalties with respect to a person
4 under subsection (j), shall be reviewable in any court
5 in the United States.

6 “(5) RULE OF CONSTRUCTION.—This section
7 does not create any right or benefit, substantive or
8 procedural, that is enforceable at law or in equity by
9 any party against the United States, any agency of
10 the United States, any officer or employee of the
11 United States, or any other person.

12 “(1) TERMINATION.—

13 “(1) IN GENERAL.—Except to the extent nec-
14 essary to carry out the plan required by paragraph
15 (2), the provisions of this section (other than sub-
16 sections (a), (g), (j), (k), and (m)) shall terminate
17 on the date described in paragraph (3).

18 “(2) PLAN FOR DISTRIBUTION OF REMAINING
19 AMOUNTS.—On the date described in paragraph (3),
20 the President shall submit to the appropriate con-
21 gressional committees a report describing the plan of
22 the President for using any funds remaining of the
23 amounts confiscated and vested under this section
24 that—

1 “(A) describes how any of such funds that
2 are obligated as of that date will be expended;
3 and

4 “(B) provides for the distribution of any of
5 such funds that are unobligated as of that date
6 to a successor government of Libya.

7 “(3) DATE DESCRIBED.—The date described in
8 this paragraph is the date on which the national
9 emergency declared by the President with respect to
10 Libya pursuant to section 202 expires and is not
11 continued by the President.

12 “(m) REGULATIONS.—The President shall prescribe
13 such regulations as may be necessary to carry out the pro-
14 visions of this section.”.

15 (b) CLERICAL AMENDMENT.—Section 204 of the
16 International Emergency Economic Powers Act (50
17 U.S.C. 1703) is amended—

18 (1) in subsection (b), by striking “Whenever”
19 and inserting “Except as provided in subsection (e),
20 whenever”; and

21 (2) by adding at the end the following:

22 “(e) REPORTS RELATING TO CONFISCATION OF AS-
23 SETS OF THE GOVERNMENT OF LIBYA.—If the President
24 exercises the authority provided under section 209, the

1 President shall submit reports in accordance with sub-
2 section (h) of that section.”.

○