

115TH CONGRESS
1ST SESSION

S. 1591

To impose sanctions with respect to the Democratic People's Republic of Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2017

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

A BILL

To impose sanctions with respect to the Democratic People's Republic of Korea, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Banking Restrictions Involving North Korea (BRINK)
6 Act of 2017”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.

TITLE I—FINANCIAL REQUIREMENTS AND SANCTIONS RELATING
TO TRANSACTIONS INVOLVING NORTH KOREA

- Sec. 101. Sanctions with respect to financial institutions providing support to the Government of North Korea.
- Sec. 102. Expansion of licensing requirements for transactions in North Korean covered property.
- Sec. 103. Authorization of imposition of sanctions with respect to the provision of specialized financial messaging services to North Korean financial institutions and sanctioned persons.
- Sec. 104. Authorization of imposition of sanctions with respect to governments that fail to comply with United Nations Security Council sanctions against North Korea.
- Sec. 105. Grants to conduct research on financial networks and financial methods of the Government of North Korea.
- Sec. 106. Report on use by the Government of North Korea of beneficial ownership rules to access the international financial system.
- Sec. 107. Sense of Congress on identification and blocking of property of North Korean officials.
- Sec. 108. Sense of Congress regarding the Kaesong Industrial Complex.

TITLE II—DIVESTMENT FROM NORTH KOREA

- Sec. 201. Authority of State and local governments to divest from companies that invest in North Korea.
- Sec. 202. Safe harbor for changes of investment policies by asset managers.
- Sec. 203. Sense of Congress regarding certain ERISA plan investments.
- Sec. 204. Rule of construction.

TITLE III—GENERAL AUTHORITIES

- Sec. 301. Rulemaking.
- Sec. 302. Authority to consolidate reports.
- Sec. 303. Rule of construction.

1 SEC. 2. FINDINGS.

2 Congress finds the following:

3 (1) Since 2006, the United Nations Security
4 Council has approved 5 resolutions imposing sanc-
5 tions against North Korea under chapter VII of the
6 United Nations Charter, which—

7 (A) prohibit the use, development, and pro-
8 liferation of weapons of mass destruction by the
9 Government of North Korea;

1 (B) prohibit the transfer of arms and re-
2 lated materiel to or by the Government of
3 North Korea;

4 (C) prohibit the transfer of luxury goods to
5 North Korea;

6 (D) restrict access by the Government of
7 North Korea to the financial system and re-
8 quire due diligence on the part of financial in-
9 stitutions to prevent the financing of prolifera-
10 tion involving the Government of North Korea;

11 (E) restrict North Korean shipping, includ-
12 ing the reflagging of ships owned or controlled
13 by the Government of North Korea;

14 (F) limit the sale by the Government of
15 North Korea of precious metals, iron, coal, va-
16 nadium, and rare earth minerals; and

17 (G) prohibit the transfer to North Korea
18 of rocket, aviation, or jet fuel.

19 (2) The Government of North Korea has
20 threatened to carry out nuclear attacks against the
21 United States and South Korea and has sent clan-
22 destine agents to kidnap or murder the citizens of
23 foreign countries and murder dissidents in exile.

24 (3) The Federal Bureau of Investigation has
25 determined that the Government of North Korea

1 was responsible for cyberattacks against the United
2 States and South Korea.

3 (4) In February 2016, the Director of National
4 Intelligence reported that the Government of North
5 Korea is “committed to developing a long-range, nu-
6 clear-armed missile that is capable of posing a direct
7 threat to the United States” and some arms control
8 experts have estimated that the Government of
9 North Korea may acquire this capability by 2020.

10 (5) The Government of North Korea tested its
11 5th and largest nuclear device on September 9,
12 2016.

13 (6) The Government of North Korea has in-
14 creased the pace of its missile testing, including the
15 test of a submarine-launched ballistic missile, poten-
16 tially furthering the development of capability to at-
17 tack the United States with a nuclear weapon.

18 (7) Financial transactions and investments that
19 provide financial resources to the Government of
20 North Korea, and that fail to incorporate adequate
21 safeguards against the misuse of those financial re-
22 sources, pose an undue risk of contributing to—

23 (A) weapons of mass destruction programs
24 of that government; and

1 (B) prohibited imports or exports of arms
2 and related materiel, services, or technology by
3 that government.

4 (8) The strict enforcement of sanctions is es-
5 sential to the efforts by the international community
6 to achieve the peaceful, complete, verifiable, and ir-
7 reversible dismantlement of weapons of mass de-
8 struction programs of the Government of North
9 Korea.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) APPLICABLE EXECUTIVE ORDER; APPLICA-
13 BLE UNITED NATIONS SECURITY COUNCIL RESOLU-
14 TION; GOVERNMENT OF NORTH KOREA; NORTH
15 KOREA.—The terms “applicable Executive order”,
16 “applicable United Nations Security Council resolu-
17 tion”, “Government of North Korea”, and “North
18 Korea” have the meanings given those terms in sec-
19 tion 3 of the North Korea Sanctions and Policy En-
20 hancement Act of 2016 (22 U.S.C. 9202).

21 (2) APPROPRIATE CONGRESSIONAL COMMIT-
22 TEES.—The term “appropriate congressional com-
23 mittees” means—

1 (A) the Committee on Banking, Housing,
2 and Urban Affairs and the Committee on For-
3 eign Relations of the Senate; and

4 (B) the Committee on Financial Services
5 and the Committee on Foreign Affairs of the
6 House of Representatives.

7 (3) KNOWINGLY.—The term “knowingly”, with
8 respect to conduct, a circumstance, or a result,
9 means that a person has actual knowledge, or should
10 have known, of the conduct, the circumstance, or the
11 result.

12 (4) NORTH KOREAN COVERED PROPERTY.—

13 (A) IN GENERAL.—The term “North Ko-
14 rean covered property” includes any goods,
15 services, or technology—

16 (i) that are in North Korea;

17 (ii) that are made with significant
18 amounts of North Korean labor, materials,
19 goods, or technology;

20 (iii) in which the Government of
21 North Korea or a North Korean financial
22 institution has a significant interest or ex-
23 ercises significant control; or

1 (iv) in which a designated person has
2 a significant interest or exercises signifi-
3 cant control.

4 (B) DESIGNATED PERSON.—In this para-
5 graph, the term designated person means a per-
6 son who is designated under—

7 (i) an applicable Executive order;

8 (ii) an applicable United Nations Se-
9 curity Council resolution; or

10 (iii) section 104 of the North Korea
11 Sanctions and Policy Enhancement Act of
12 2016 (22 U.S.C. 9204).

13 (5) NORTH KOREAN FINANCIAL INSTITUTION.—
14 The term “North Korean financial institution” in-
15 cludes—

16 (A) any North Korean financial institution,
17 as defined in section 3 of the North Korea
18 Sanctions and Policy Enhancement Act of 2016
19 (22 U.S.C. 9202);

20 (B) any financial agency, as defined in sec-
21 tion 5312 of title 31, United States Code, that
22 is owned or controlled by the Government of
23 North Korea;

24 (C) any money transmitting business, as
25 defined in section 5330(d) of title 31, United

1 States Code, that is owned or controlled by the
2 Government of North Korea; and

3 (D) any financial institution that is a joint
4 venture between any person and the Govern-
5 ment of North Korea.

6 (6) SECRETARY.—Unless otherwise specified,
7 the term “Secretary” means the Secretary of the
8 Treasury.

9 (7) UNITED STATES FINANCIAL INSTITUTION.—
10 The term “United States financial institution”
11 means a financial institution that—

12 (A) is a United States person, regardless
13 of where the person operates; or

14 (B) operates or does business in the
15 United States, including by conducting wire
16 transfers through correspondent banks in the
17 United States.

18 (8) UNITED STATES PERSON.—The term
19 “United States person” means—

20 (A) a citizen or resident of the United
21 States or a national of the United States (as
22 defined in section 101(a) of the Immigration
23 and Nationality Act (8 U.S.C. 1101(a))); and

24 (B) an entity that is organized under the
25 laws of the United States or any jurisdiction

1 within the United States, including a foreign
2 subsidiary of such an entity.

3 **TITLE I—FINANCIAL REQUIRE-**
4 **MENTS AND SANCTIONS RE-**
5 **LATING TO TRANSACTIONS**
6 **INVOLVING NORTH KOREA**

7 **SEC. 101. SANCTIONS WITH RESPECT TO FINANCIAL INSTI-**
8 **TUTIONS PROVIDING SUPPORT TO THE GOV-**
9 **ERNMENT OF NORTH KOREA.**

10 (a) REPORT ON NONCOMPLIANT FINANCIAL INSTI-
11 TUTIONS.—

12 (1) IN GENERAL.—Not later than 60 days after
13 the date of the enactment of this Act, and every 180
14 days thereafter, the President shall submit to the
15 appropriate congressional committees and publish in
16 the Federal Register a report that contains a list of
17 any financial institutions that the President has
18 identified as having engaged in, during the one-year
19 period preceding the submission of the report, the
20 following conduct:

21 (A) Dealing in North Korean covered prop-
22 erty.

23 (B) Providing correspondent or interbank
24 services to one or more North Korean financial
25 institutions.

1 (C) Failing to apply enhanced due dili-
2 gence to prevent North Korean financial insti-
3 tutions from gaining access to correspondent or
4 interbank services in the United States or pro-
5 vided by United States persons.

6 (D) Knowingly operating or participating
7 with or on behalf of an offshore United States
8 dollar clearing system that conducts trans-
9 actions involving the Government of North
10 Korea or North Korean covered property.

11 (E) Conducting or facilitating one or more
12 significant transactions in North Korean cov-
13 ered property involving covered goods (as that
14 term is defined in section 1027.100 of title 31,
15 Code of Federal Regulations, or any successor
16 regulation) or the currency of a country other
17 than the country in which the person is oper-
18 ating at the time of the transaction.

19 (2) FORM OF REPORT.—Each report required
20 under paragraph (1) shall be submitted in unclassi-
21 fied form but may contain a classified annex.

22 (b) IMPOSITION OF SANCTIONS.—

23 (1) IN GENERAL.—If the President determines
24 that a financial institution identified under sub-
25 section (a) has knowingly engaged in conduct de-

1 scribed in that subsection, the President shall apply
2 the following sanctions with respect to that financial
3 institution:

4 (A) Prohibit the designation of the finan-
5 cial institution, or the continuation of any prior
6 designation of the financial institution, as a pri-
7 mary dealer in United States Government debt
8 instruments.

9 (B) Prohibit the financial institution from
10 serving as agent of the United States Govern-
11 ment or as a repository for funds of the United
12 States Government.

13 (C) One or more of the following:

14 (i) Prohibit the opening, and prohibit
15 or impose strict conditions on the main-
16 taining, in the United States of any cor-
17 respondent account or payable-through ac-
18 count by the financial institution if the fi-
19 nancial institution is a foreign financial in-
20 stitution.

21 (ii) Prohibit any transactions in for-
22 eign exchange that are subject to the juris-
23 diction of the United States and in which
24 the financial institution has any interest.

1 (iii) In accordance with the Inter-
2 national Emergency Economic Powers Act
3 (50 U.S.C. 1701 et seq.), block and pro-
4 hibit all transactions in all property and
5 interests in property of the financial insti-
6 tution if such property and interests in
7 property are in the United States, come
8 within the United States, or are or come
9 within the possession or control of a
10 United States person.

11 (2) CIVIL PENALTIES.—If the President deter-
12 mines that a financial institution identified under
13 subsection (a) that is a United States financial insti-
14 tution has knowingly engaged in conduct described
15 in that subsection—

16 (A) if the financial institution has taken
17 reasonable steps to prevent a recurrence of con-
18 duct described in that subsection and is cooper-
19 ating fully with the efforts of the President to
20 enforce the provisions of this Act—

21 (i) unless the financial institution is
22 described in clause (ii), the President shall
23 impose a civil penalty not to exceed
24 \$100,000 for each reportable act described
25 in subparagraphs (A) through (E) of sub-

1 section (a)(1) that is knowingly conducted;

2 or

3 (ii) if the financial institution has not
4 previously been reported for similar con-
5 duct under subsection (a), the President
6 shall issue a cautionary letter to that fi-
7 nancial institution; or

8 (B) if the financial institution is not a fi-
9 nancial institution described in subparagraph
10 (A), the President shall impose a civil penalty
11 not to exceed \$250,000 for each reportable act
12 described in subparagraphs (A) through (E) of
13 subsection (a)(1) that is knowingly conducted.

14 (c) SUSPENSION FOR LAW ENFORCEMENT PUR-
15 POSES.—The President may suspend the submission of
16 the reports described in subsection (a) and the application
17 of sanctions and penalties described in subsection (b) for
18 a one-year period if—

19 (1) such reporting and application of sanctions
20 and penalties could compromise an ongoing law en-
21 forcement investigation or prosecution; or

22 (2) a criminal prosecution is pending, or a
23 criminal or civil fine or penalty has been imposed or
24 conditionally deferred, for the conduct reported pur-
25 suant to subsection (a).

1 (d) SUSPENSION AND TERMINATION OF SANCTIONS
2 AND PENALTIES.—

3 (1) SUSPENSION.—The President may suspend
4 the application of any sanctions or penalties under
5 subsection (b) for a period of not more than one
6 year if the President certifies to the appropriate con-
7 gressional committees that the Government of North
8 Korea is taking steps toward—

9 (A) the verification of its compliance with
10 applicable United Nations Security Council Res-
11 olutions; and

12 (B) fully accounting for and repatriating
13 United States citizens and permanent residents
14 (including deceased United States citizens and
15 permanent residents)—

16 (i) abducted or unlawfully held captive
17 by the Government of North Korea; or

18 (ii) detained in violation of the Agree-
19 ment Concerning a Military Armistice in
20 Korea, signed at Panmunjom July 27,
21 1953 (commonly referred to as the “Ko-
22 rean War Armistice Agreement”).

23 (2) RENEWAL OF SUSPENSION.—The President
24 may renew a suspension described in paragraph (1)
25 for additional periods of not more than 180 days if

1 the President certifies to the appropriate congres-
2 sional committees that the Government of North
3 Korea continues to take steps as described in para-
4 graph (1).

5 (3) TERMINATION OF SANCTIONS.—Subject to
6 subsection (f), the President may terminate the ap-
7 plication of any sanctions or penalties under sub-
8 section (b) if the President certifies that the Govern-
9 ment of North Korea has made significant progress
10 towards—

11 (A) completely, verifiably, and irreversibly
12 dismantling all of its nuclear, chemical, biologi-
13 cal, and radiological weapons programs, includ-
14 ing all programs for the development of systems
15 designed in whole or in part for the delivery of
16 such weapons; and

17 (B) fully accounting for and repatriating
18 United States citizens and permanent residents
19 (including deceased United States citizens and
20 permanent residents)—

21 (i) abducted or unlawfully held captive
22 by the Government of North Korea; or

23 (ii) detained in violation of the Agree-
24 ment Concerning a Military Armistice in
25 Korea, signed at Panmunjom July 27,

1 1953 (commonly referred to as the “Ko-
2 rean War Armistice Agreement”).

3 (e) WAIVER.—Subject to subsection (f), the President
4 may waive the application of sanctions or penalties under
5 subsection (b) with respect to a financial institution if the
6 President determines that the waiver is in the national se-
7 curity interest of the United States.

8 (f) CONGRESSIONAL REVIEW OF PROPOSED ACTIONS
9 TO WAIVE OR TERMINATE SANCTIONS.—

10 (1) SUBMISSION TO CONGRESS OF PROPOSED
11 ACTION.—

12 (A) IN GENERAL.—Notwithstanding any
13 other provision of law, before taking any action
14 described in subparagraph (B), the President
15 shall submit to the appropriate congressional
16 committees and leadership a report that de-
17 scribes the proposed action and the reasons for
18 that action.

19 (B) ACTIONS DESCRIBED.—An action de-
20 scribed in this subparagraph is—

21 (i) an action to suspend, renew a sus-
22 pension, or terminate under subsection (d)
23 the application of sanctions or penalties
24 under subsection (b); or

1 (ii) with respect to sanctions or pen-
2 alties under subsection (b) imposed by the
3 President with respect to a person, an ac-
4 tion to waive under subsection (e) the ap-
5 plication of those sanctions or penalties
6 with respect to that person.

7 (C) DESCRIPTION OF TYPE OF ACTION.—

8 Each report submitted under subparagraph (A)
9 with respect to an action described in subpara-
10 graph (B) shall include a description of whether
11 the action—

12 (i) is not intended to significantly
13 alter United States foreign policy with re-
14 gard to North Korea; or

15 (ii) is intended to significantly alter
16 United States foreign policy with regard to
17 North Korea.

18 (D) INCLUSION OF ADDITIONAL MAT-

19 TER.—

20 (i) IN GENERAL.—Each report sub-
21 mitted under subparagraph (A) that re-
22 lates to an action that is intended to sig-
23 nificantly alter United States foreign policy
24 with regard to North Korea shall include a
25 description of—

1 (I) the significant alteration to
 2 United States foreign policy with re-
 3 gard to North Korea;

4 (II) the anticipated effect of the
 5 action on the national security inter-
 6 ests of the United States; and

7 (III) the policy objectives for
 8 which the sanctions affected by the
 9 action were initially imposed.

10 (ii) REQUESTS FROM BANKING AND
 11 FINANCIAL SERVICES COMMITTEES.—The
 12 Committee on Banking, Housing, and
 13 Urban Affairs of the Senate or the Com-
 14 mittee on Financial Services of the House
 15 of Representatives may request the sub-
 16 mission to the Committee of the matter de-
 17 scribed in subclauses (II) and (III) of
 18 clause (i) with respect to a report sub-
 19 mitted under subparagraph (A) that re-
 20 lates to an action that is not intended to
 21 significantly alter United States foreign
 22 policy with regard to North Korea.

23 (2) PERIOD FOR REVIEW BY CONGRESS.—

24 (A) IN GENERAL.—During the period of
 25 30 calendar days beginning on the date on

1 which the President submits a report under
2 paragraph (1)(A)—

3 (i) in the case of a report that relates
4 to an action that is not intended to signifi-
5 cantly alter United States foreign policy
6 with regard to North Korea, the Com-
7 mittee on Banking, Housing, and Urban
8 Affairs of the Senate and the Committee
9 on Financial Services of the House of Rep-
10 resentatives should, as appropriate, hold
11 hearings and briefings and otherwise ob-
12 tain information in order to fully review
13 the report; and

14 (ii) in the case of a report that relates
15 to an action that is intended to signifi-
16 cantly alter United States foreign policy
17 with regard to North Korea, the Com-
18 mittee on Foreign Relations of the Senate
19 and the Committee on Foreign Affairs of
20 the House of Representatives should, as
21 appropriate, hold hearings and briefings
22 and otherwise obtain information in order
23 to fully review the report.

24 (B) EXCEPTION.—The period for congres-
25 sional review under subparagraph (A) of a re-

1 port required to be submitted under paragraph
2 (1)(A) shall be 60 calendar days if the report
3 is submitted on or after July 10 and on or be-
4 fore September 7 in any calendar year.

5 (C) LIMITATION ON ACTIONS DURING INI-
6 TIAL CONGRESSIONAL REVIEW PERIOD.—Not-
7 withstanding any other provision of law, during
8 the period for congressional review provided for
9 under subparagraph (A) of a report submitted
10 under paragraph (1)(A) proposing an action de-
11 scribed in paragraph (1)(B), including any ad-
12 ditional period for such review as applicable
13 under the exception provided in subparagraph
14 (B), the President may not take that action un-
15 less a joint resolution of approval with respect
16 to that action is enacted in accordance with
17 paragraph (3).

18 (D) LIMITATION ON ACTIONS DURING
19 PRESIDENTIAL CONSIDERATION OF A JOINT
20 RESOLUTION OF DISAPPROVAL.—Notwith-
21 standing any other provision of law, if a joint
22 resolution of disapproval relating to a report
23 submitted under paragraph (1)(A) proposing an
24 action described in paragraph (1)(B) passes
25 both Houses of Congress in accordance with

1 paragraph (3), the President may not take that
2 action for a period of 12 calendar days after the
3 date of passage of the joint resolution of dis-
4 approval.

5 (E) LIMITATION ON ACTIONS DURING CON-
6 GRESSIONAL RECONSIDERATION OF A JOINT
7 RESOLUTION OF DISAPPROVAL.—Notwith-
8 standing any other provision of law, if a joint
9 resolution of disapproval relating to a report
10 submitted under paragraph (1)(A) proposing an
11 action described in paragraph (1)(B) passes
12 both Houses of Congress in accordance with
13 paragraph (3), and the President vetoes the
14 joint resolution, the President may not take
15 that action for a period of 10 calendar days
16 after the date of the President’s veto.

17 (F) EFFECT OF ENACTMENT OF A JOINT
18 RESOLUTION OF DISAPPROVAL.—Notwith-
19 standing any other provision of law, if a joint
20 resolution of disapproval relating to a report
21 submitted under paragraph (1)(A) proposing an
22 action described in paragraph (1)(B) is enacted
23 in accordance with paragraph (3), the President
24 may not take that action.

1 (3) JOINT RESOLUTIONS OF DISAPPROVAL OR
2 APPROVAL.—

3 (A) JOINT RESOLUTIONS OF DISAPPROVAL
4 OR APPROVAL DEFINED.—In this paragraph:

5 (i) JOINT RESOLUTION OF AP-
6 PROVAL.—The term “joint resolution of
7 approval” means only a joint resolution of
8 either House of Congress—

9 (I) the title of which is as fol-
10 lows: “A joint resolution approving
11 the President’s proposal to take an
12 action relating to the application of
13 certain sanctions with respect to
14 North Korea.”; and

15 (II) the sole matter after the re-
16 solving clause of which is the fol-
17 lowing: “Congress approves of the ac-
18 tion relating to the application of
19 sanctions imposed with respect to
20 North Korea proposed by the Presi-
21 dent in the report submitted to Con-
22 gress under section 101(f)(1)(A) of
23 the Banking Restrictions Involving
24 North Korea (BRINK) Act of 2017
25 on _____ relating to

1 _____.”, with the first
 2 blank space being filled with the ap-
 3 propriate date and the second blank
 4 space being filled with a short descrip-
 5 tion of the proposed action.

6 (ii) JOINT RESOLUTION OF DIS-
 7 APPROVAL.—The term “joint resolution of
 8 disapproval” means only a joint resolution
 9 of either House of Congress—

10 (I) the title of which is as fol-
 11 lows: “A joint resolution disapproving
 12 the President’s proposal to take an
 13 action relating to the application of
 14 certain sanctions with respect to
 15 North Korea.”; and

16 (II) the sole matter after the re-
 17 solving clause of which is the fol-
 18 lowing: “Congress disapproves of the
 19 action relating to the application of
 20 sanctions imposed with respect to
 21 North Korea proposed by the Presi-
 22 dent in the report submitted to Con-
 23 gress under section 101(f)(1)(A) of
 24 the Banking Restrictions Involving
 25 North Korea (BRINK) Act of 2017

1 on _____ relating to
2 _____.”, with the first
3 blank space being filled with the ap-
4 propriate date and the second blank
5 space being filled with a short descrip-
6 tion of the proposed action.

7 (B) INTRODUCTION.—During the period of
8 30 calendar days provided for under paragraph
9 (2)(A), including any additional period as appli-
10 cable under the exception provided in paragraph
11 (2)(B), a joint resolution of approval or joint
12 resolution of disapproval may be introduced—

13 (i) in the House of Representatives,
14 by the majority leader or the minority
15 leader; and

16 (ii) in the Senate, by the majority
17 leader (or the majority leader’s designee)
18 or the minority leader (or the minority
19 leader’s designee).

20 (C) FLOOR CONSIDERATION IN HOUSE OF
21 REPRESENTATIVES.—

22 (i) REPORTING AND DISCHARGE.—If
23 a committee of the House of Representa-
24 tives to which a joint resolution of approval
25 or joint resolution of disapproval has been

1 referred has not reported the joint resolu-
2 tion within 10 calendar days after the date
3 of referral, that committee shall be dis-
4 charged from further consideration of the
5 joint resolution.

6 (ii) PROCEEDING TO CONSIDER-
7 ATION.—Beginning on the third legislative
8 day after each committee to which a joint
9 resolution of approval or joint resolution of
10 disapproval has been referred reports the
11 joint resolution to the House or has been
12 discharged from further consideration of
13 the joint resolution, it shall be in order to
14 move to proceed to consider the joint reso-
15 lution in the House. All points of order
16 against the motion are waived. Such a mo-
17 tion shall not be in order after the House
18 has disposed of a motion to proceed on the
19 joint resolution. The previous question
20 shall be considered as ordered on the mo-
21 tion to its adoption without intervening
22 motion. The motion shall not be debatable.
23 A motion to reconsider the vote by which
24 the motion is disposed of shall not be in
25 order.

1 (iii) CONSIDERATION.—The joint reso-
 2 lution of approval or joint resolution of dis-
 3 approval shall be considered as read. All
 4 points of order against the joint resolution
 5 and against its consideration are waived.
 6 The previous question shall be considered
 7 as ordered on the joint resolution to final
 8 passage without intervening motion except
 9 2 hours of debate equally divided and con-
 10 trolled by the sponsor of the joint resolu-
 11 tion (or a designee) and an opponent. A
 12 motion to reconsider the vote on passage of
 13 the joint resolution shall not be in order.

14 (D) CONSIDERATION IN THE SENATE.—

15 (i) COMMITTEE REFERRAL.—A joint
 16 resolution of approval or joint resolution of
 17 disapproval introduced in the Senate shall
 18 be—

19 (I) referred to the Committee on
 20 Banking, Housing, and Urban Affairs
 21 if the joint resolution relates to a re-
 22 port submitted under paragraph
 23 (1)(A) with respect to an action that
 24 is not intended to significantly alter

1 United States foreign policy with re-
2 gard to North Korea; and

3 (II) referred to the Committee on
4 Foreign Relations if the joint resolu-
5 tion relates to a report submitted
6 under paragraph (1)(A) with respect
7 to an action that is intended to sig-
8 nificantly alter United States foreign
9 policy with respect to North Korea.

10 (ii) REPORTING AND DISCHARGE.—If
11 the committee to which a joint resolution
12 of approval or joint resolution of dis-
13 approval was referred has not reported the
14 joint resolution within 10 calendar days
15 after the date of referral of the joint reso-
16 lution, that committee shall be discharged
17 from further consideration of the joint res-
18 olution and the joint resolution shall be
19 placed on the appropriate calendar.

20 (iii) PROCEEDING TO CONSIDER-
21 ATION.—Notwithstanding Rule XXII of
22 the Standing Rules of the Senate, it is in
23 order at any time after the Committee on
24 Banking, Housing, and Urban Affairs or
25 the Committee on Foreign Relations, as

1 the case may be, reports a joint resolution
 2 of approval or joint resolution of dis-
 3 approval to the Senate or has been dis-
 4 charged from consideration of such a joint
 5 resolution (even though a previous motion
 6 to the same effect has been disagreed to)
 7 to move to proceed to the consideration of
 8 the joint resolution, and all points of order
 9 against the joint resolution (and against
 10 consideration of the joint resolution) are
 11 waived. The motion to proceed is not de-
 12 batable. The motion is not subject to a mo-
 13 tion to postpone. A motion to reconsider
 14 the vote by which the motion is agreed to
 15 or disagreed to shall not be in order.

16 (iv) RULINGS OF THE CHAIR ON PRO-
 17 CEDURE.—Appeals from the decisions of
 18 the Chair relating to the application of the
 19 rules of the Senate, as the case may be, to
 20 the procedure relating to a joint resolution
 21 of approval or joint resolution of dis-
 22 approval shall be decided without debate.

23 (v) CONSIDERATION OF VETO MES-
 24 SAGES.—Debate in the Senate of any veto
 25 message with respect to a joint resolution

1 of approval or joint resolution of dis-
 2 approval, including all debatable motions
 3 and appeals in connection with the joint
 4 resolution, shall be limited to 10 hours, to
 5 be equally divided between, and controlled
 6 by, the majority leader and the minority
 7 leader or their designees.

8 (E) RULES RELATING TO SENATE AND
 9 HOUSE OF REPRESENTATIVES.—

10 (i) COORDINATION WITH ACTION BY
 11 OTHER HOUSE.—If, before the passage by
 12 one House of a joint resolution of approval
 13 or joint resolution of disapproval of that
 14 House, that House receives an identical
 15 joint resolution from the other House, the
 16 following procedures shall apply:

17 (I) The joint resolution of the
 18 other House shall not be referred to a
 19 committee.

20 (II) With respect to the joint res-
 21 olution of the House receiving the
 22 joint resolution from the other
 23 House—

24 (aa) the procedure in that
 25 House shall be the same as if no

1 joint resolution had been received
2 from the other House; but

3 (bb) the vote on passage
4 shall be on the joint resolution of
5 the other House.

6 (ii) TREATMENT OF A JOINT RESOLU-
7 TION OF OTHER HOUSE.—If one House
8 fails to introduce a joint resolution of ap-
9 proval or joint resolution of disapproval, a
10 joint resolution of approval or joint resolu-
11 tion of disapproval of the other House
12 shall be entitled to expedited procedures in
13 that House under this subsection.

14 (iii) TREATMENT OF HOUSE JOINT
15 RESOLUTION IN SENATE.—If, following
16 passage of a joint resolution of approval or
17 joint resolution of disapproval in the Sen-
18 ate, the Senate receives an identical joint
19 resolution from the House of Representa-
20 tives, that joint resolution shall be placed
21 on the appropriate Senate calendar.

22 (iv) APPLICATION TO REVENUE MEAS-
23 URES.—The provisions of this subpara-
24 graph shall not apply in the House of Rep-
25 resentatives to a joint resolution of ap-

1 proval or joint resolution of disapproval
2 that is a revenue measure.

3 (F) RULES OF HOUSE OF REPRESENTA-
4 TIVES AND SENATE.—This paragraph is en-
5 acted by Congress—

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

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

23 (g) BRIEFING REQUIRED.—Not later than 180 days
24 after the date of the enactment of this Act, and every 180
25 days thereafter, the President shall brief the appropriate

1 congressional committees on the status of efforts by the
 2 President to prevent conduct described in subparagraphs
 3 (A) through (E) of subsection (a)(1).

4 (h) RULE OF CONSTRUCTION.—Nothing in this sec-
 5 tion shall be construed to prohibit any person from, or
 6 authorize or require the imposition of sanctions with re-
 7 spect to any person for, conducting or facilitating any
 8 transaction for the sale or donation of agricultural com-
 9 modities, food, medicine, or medical devices.

10 (i) APPROPRIATE CONGRESSIONAL COMMITTEES AND
 11 LEADERSHIP DEFINED.—In this section, the term “ap-
 12 propriate congressional committees and leadership”
 13 means—

14 (1) the Committee on Banking, Housing, and
 15 Urban Affairs, the Committee on Foreign Relations,
 16 and the majority and minority leaders of the Senate;
 17 and

18 (2) the Committee on Financial Services, the
 19 Committee on Foreign Affairs, and the Speaker, the
 20 majority leader, and the minority leader of the
 21 House of Representatives.

22 **SEC. 102. EXPANSION OF LICENSING REQUIREMENTS FOR**
 23 **TRANSACTIONS IN NORTH KOREAN COVERED**
 24 **PROPERTY.**

25 (a) LICENSE REQUIRED.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), not later than 180 days after the date of
3 the enactment of this Act, the President shall pre-
4 scribe regulations prohibiting any transaction involv-
5 ing the manufacture, sale, purchase, transfer, im-
6 port, or export of North Korean covered property by
7 a United States person or conducted in the United
8 States.

9 (2) EXCEPTION.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the Secretary may grant li-
12 censes and permits for the following purposes:

13 (i) For any purpose covered by an ex-
14 emption or waiver under section 208 of the
15 North Korea Sanctions and Policy En-
16 hancement Act of 2016 (22 U.S.C. 9228),
17 including humanitarian, diplomatic, con-
18 sular, law enforcement, and other pur-
19 poses.

20 (ii) To import food products into
21 North Korea if such food products are not
22 defined as luxury goods.

23 (iii) To meet an urgent and compel-
24 ling humanitarian need.

1 (iv) For activities to promote human
 2 rights in North Korea, the development of
 3 private agriculture and markets in North
 4 Korea, and the free flow of information to,
 5 from, and within North Korea.

6 (v) To import agricultural products,
 7 medicine, or medical devices into North
 8 Korea if such products, medicine, or de-
 9 vices are classified as designated “EAR
 10 99” under subchapter C of chapter VII of
 11 title 15, Code of Federal Regulations, or
 12 any successor regulations (commonly
 13 known as the “Export Administration Reg-
 14 ulations”), and not controlled under—

15 (I) the Export Administration
 16 Act of 1979 (50 U.S.C. App. 2401 et
 17 seq.), as continued in effect under the
 18 International Emergency Economic
 19 Powers Act (50 U.S.C. 1701 et seq.);

20 (II) the Arms Export Control Act
 21 (22 U.S.C. 2751 et seq.);

22 (III) part B of title VIII of the
 23 Nuclear Proliferation Prevention Act
 24 of 1994 (22 U.S.C. 6301 et seq.); or

1 (IV) the Chemical and Biological
2 Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5601
3 et seq.).
4

5 (B) EXCEPTION.—The Secretary may not
6 grant a license or permit under subparagraph
7 (A) for an activity described in section 104(a)
8 of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9214(a)).
9

10 (b) PENALTIES.—

11 (1) IN GENERAL.—A person shall be fined not
12 more than \$5,000,000, imprisoned for not more
13 than 20 years, or both, if the person knowingly—

14 (A) engages in a transaction described in
15 subsection (a)(1), except pursuant to a license
16 or permit granted under this section or regulations prescribed pursuant to this section; or
17

18 (B) evades a requirement to obtain a license or permit under this section or a regulation prescribed pursuant to this section.
19
20

21 (2) FORFEITURE OF PROPERTY.—Any property,
22 real or personal, that is involved in a transaction
23 that is a violation of subsection (a)(1), is involved in
24 an attempt to conduct such a transaction, or constitutes or is derived from proceeds traceable to such
25

1 a transaction, is subject to forfeiture to the United
2 States.

3 (c) REPORT REQUIRED.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of the enactment of this Act, and an-
6 nually thereafter, the President shall submit to the
7 appropriate congressional committees a report listing
8 any licenses or permits granted under subsection
9 (a).

10 (2) FORM.—Each report required under para-
11 graph (1) shall be submitted in unclassified form but
12 may include a classified annex.

13 (3) PUBLIC AVAILABILITY.—Not later than 30
14 days after the submission of a report under para-
15 graph (1), the Secretary of the Treasury and the
16 Secretary of State shall each publish the unclassified
17 part of the report on a publicly available Internet
18 website of the Department of the Treasury and the
19 Department of State, as the case may be.

20 (d) TERMINATION OF REQUIREMENTS.—The Presi-
21 dent may terminate the prohibition on transactions de-
22 scribed in subsection (a) and the imposition of penalties
23 under subsection (b) if the President submits to the appro-
24 priate congressional committees the certification described

1 in section 402 of the North Korea Sanctions and Policy
2 Enhancement Act of 2016 (22 U.S.C. 9252).

3 (e) MODIFICATION OF DEFINITION OF SPECIFIED
4 UNLAWFUL ACTIVITY FOR MONEY LAUNDERING PUR-
5 POSES.—Section 1956(c)(7)(D) of title 18, United States
6 Code, is amended—

7 (1) by striking “or section 104(a) of” and in-
8 serting “section 104(a) of”; and

9 (2) by inserting before the semicolon at the end
10 the following: “, or section 102(b) of the Banking
11 Restrictions Involving North Korea (BRINK) Act of
12 2017 (relating to transactions in certain North Ko-
13 rean property)”.

14 **SEC. 103. AUTHORIZATION OF IMPOSITION OF SANCTIONS**
15 **WITH RESPECT TO THE PROVISION OF SPE-**
16 **CIALIZED FINANCIAL MESSAGING SERVICES**
17 **TO NORTH KOREAN FINANCIAL INSTITU-**
18 **TIONS AND SANCTIONED PERSONS.**

19 (a) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that—

21 (1) providers of specialized financial messaging
22 services have been used as a critical link between the
23 Government of North Korea and the international fi-
24 nancial system;

1 (2) the Financial Action Task Force has re-
2 peatedly called for jurisdictions to apply counter-
3 measures to protect the financial system from the
4 risks of money laundering and proliferation financ-
5 ing emanating from North Korea;

6 (3) credible published reports have implicated
7 the Government of North Korea in stealing approxi-
8 mately \$81,000,000 from the Bangladesh Bank and
9 attempting to steal another \$951,000,000 from
10 other banks using a financial messaging service; and

11 (4) directly providing specialized financial mes-
12 saging services to, or enabling or facilitating direct
13 or indirect access to such messaging services for,
14 any financial institution designated by the United
15 Nations Security Council is inconsistent with appli-
16 cable United Nations Security Council resolutions.

17 (b) AUTHORIZATION OF IMPOSITION OF SANC-
18 TIONS.—The President may impose sanctions pursuant to
19 the International Emergency Economic Powers Act (50
20 U.S.C. 1701 et seq.) with respect to a person if, on or
21 after the date that is 90 days after the date of the enact-
22 ment of this Act, the person knowingly and directly pro-
23 vides specialized financial messaging services to, or know-
24 ingly enables or facilitates direct or indirect access to such
25 messaging services for—

1 (1) a North Korean financial institution;

2 (2) a person, including a financial institution,
3 that is designated pursuant to—

4 (A) an applicable Executive order;

5 (B) an applicable United Nations Security
6 Council resolution; or

7 (C) section 104 of the North Korea Sanc-
8 tions and Policy Enhancement Act of 2016 (22
9 U.S.C. 9214); or

10 (3) a person subject to sanctions under this
11 Act.

12 (c) ENABLING OR FACILITATING ACCESS TO SPE-
13 CIALIZED FINANCIAL MESSAGING SERVICES.—For pur-
14 poses of this section, enabling or facilitating direct or indi-
15 rect access to specialized financial messaging services to
16 a person described in paragraph (1) or (2) of subsection
17 (b) includes doing so by serving as an intermediary finan-
18 cial institution with access to such messaging services.

19 (d) SUSPENSION AND TERMINATION OF SANC-
20 TIONS.—

21 (1) SUSPENSION.—The President may suspend
22 the application of any sanctions under subsection (b)
23 for a period of not more than one year if the Presi-
24 dent certifies to the appropriate congressional com-

1 mittees that the Government of North Korea is tak-
2 ing steps toward—

3 (A) the verification of its compliance with
4 applicable United Nations Security Council Res-
5 olutions; and

6 (B) fully accounting for and repatriating
7 United States citizens and permanent residents
8 (including deceased United States citizens and
9 permanent residents)—

10 (i) abducted or unlawfully held captive
11 by the Government of North Korea; or

12 (ii) detained in violation of the Agree-
13 ment Concerning a Military Armistice in
14 Korea, signed at Panmunjom July 27,
15 1953 (commonly referred to as the “Ko-
16 rean War Armistice Agreement”).

17 (2) RENEWAL OF SUSPENSION.—The President
18 may renew a suspension described in paragraph (1)
19 for additional periods of not more than 180 days if
20 the President certifies to the appropriate congres-
21 sional committees that the Government of North
22 Korea continues to take steps as described in para-
23 graph (1).

24 (3) TERMINATION OF SANCTIONS.—The Presi-
25 dent may terminate the application of any sanctions

1 under subsection (b) if the President certifies that
2 the Government of North Korea has made signifi-
3 cant progress towards—

4 (A) completely, verifiably, and irreversibly
5 dismantling all of its nuclear, chemical, biologi-
6 cal, and radiological weapons programs, includ-
7 ing all programs for the development of systems
8 designed in whole or in part for the delivery of
9 such weapons; and

10 (B) fully accounting for and repatriating
11 United States citizens and permanent residents
12 (including deceased United States citizens and
13 permanent residents)—

14 (i) abducted or unlawfully held captive
15 by the Government of North Korea; or

16 (ii) detained in violation of the Agree-
17 ment Concerning a Military Armistice in
18 Korea, signed at Panmunjom July 27,
19 1953 (commonly referred to as the “Ko-
20 rean War Armistice Agreement”).

1 **SEC. 104. AUTHORIZATION OF IMPOSITION OF SANCTIONS**
2 **WITH RESPECT TO GOVERNMENTS THAT FAIL**
3 **TO COMPLY WITH UNITED NATIONS SECU-**
4 **RITY COUNCIL SANCTIONS AGAINST NORTH**
5 **KOREA.**

6 (a) BRIEFING REQUIRED.—Not later than 90 days
7 after the date of the enactment of this Act, the President
8 shall brief the appropriate congressional committees re-
9 garding each government of a foreign country that the
10 President has identified as failing to—

11 (1) close the branches, subsidiaries, or rep-
12 resentative offices of North Korean financial institu-
13 tions in that country;

14 (2) expel representatives of North Korean fi-
15 nancial institutions;

16 (3) close the representative offices and expel the
17 representatives of persons designated under applica-
18 ble United Nations Security Council resolutions;

19 (4) prohibit joint ventures with North Korean
20 financial institutions;

21 (5) deregister any vessel that constitutes North
22 Korean covered property; or

23 (6) expel North Korean nationals, including
24 diplomats, working on behalf of persons designated
25 under applicable United Nations Security Council
26 resolutions.

1 (b) PUBLICATION.—The Secretary of the Treasury
2 shall publish in the Federal Register the names of each
3 foreign country that has failed to carry out the activities
4 described in paragraphs (1) through (6) of subsection (a).

5 (c) SANCTIONS AUTHORIZED.—With respect to any
6 government of a foreign country included in the briefing
7 under subsection (a), the President may, until such time
8 as the President determines that the government has
9 taken substantial steps to terminate conduct described in
10 that subsection, impose one or more of the following sanc-
11 tions with respect to that government:

12 (1) Prohibit or curtail the export of any goods
13 or technology to that foreign country pursuant to
14 the authorities provided in section 6 of the Export
15 Administration Act of 1979 (50 U.S.C. 4605) (as
16 continued in effect pursuant to the International
17 Emergency Economic Powers Act (50 U.S.C. 1701
18 et seq.)).

19 (2) Withhold assistance under the Foreign As-
20 sistance Act of 1961 (22 U.S.C. 2151 et seq.) to
21 that government.

22 (3) Instruct the United States executive direc-
23 tor at each international financial institution (as de-
24 fined in section 1701(c) of the International Finan-
25 cial Institutions Act (22 U.S.C. 262r(c))) to use the

1 voice and vote of the United States to oppose the
 2 provision of loans, benefits, or other use of the funds
 3 of the institution to that government.

4 (d) RULE OF CONSTRUCTION.—This section shall not
 5 be construed to limit the use of other sanctions authorities
 6 available to the President in response to conduct described
 7 in subsection (a).

8 **SEC. 105. GRANTS TO CONDUCT RESEARCH ON FINANCIAL**
 9 **NETWORKS AND FINANCIAL METHODS OF**
 10 **THE GOVERNMENT OF NORTH KOREA.**

11 (a) GRANTS AUTHORIZED.—

12 (1) IN GENERAL.—The President, acting
 13 through the Attorney General, the Secretary of
 14 State, the Secretary of the Treasury, or the Director
 15 of National Intelligence, may award grants to, and
 16 enter into cooperative agreements with, States, units
 17 of local government, nongovernmental organizations,
 18 and relevant international organizations to further
 19 the purposes of this title and provide data to address
 20 the issues identified in section 2.

21 (2) RESEARCH INITIATIVES.—Grants awarded
 22 and cooperative agreements entered into under para-
 23 graph (1) shall include grants and agreements for
 24 the purpose of conducting research initiatives on the
 25 following:

1 (A) The methods used by the Government
2 of North Korea to deal in, transact in, or con-
3 ceal the ownership, control, or origin of North
4 Korean covered property.

5 (B) The relationship between proliferation
6 by the Government of North Korea and the fi-
7 nancial industry or financial institutions.

8 (C) The export by any person to the
9 United States of North Korean covered prop-
10 erty.

11 (D) The involvement of any person in
12 human trafficking involving citizens or nation-
13 als of North Korea.

14 (E) Information relating to transactions
15 described in section 102(a).

16 (F) Information relating to activities de-
17 scribed in section 104(a).

18 (G) Information relating to the identifica-
19 tion, blocking, and release of property or pro-
20 ceeds described in section 107(a).

21 (H) The effectiveness of law enforcement
22 and diplomatic initiatives of Federal, State, and
23 foreign governments to comply with the provi-
24 sions of applicable United Nations Security
25 Council resolutions.

1 (I) The effectiveness of compliance pro-
2 grams within the financial industry to ensure
3 compliance with applicable United Nations Se-
4 curity Council resolutions.

5 (b) INTERAGENCY COORDINATION.—The President
6 shall ensure that any information collected pursuant to
7 subsection (a) is shared among the agencies involved in
8 investigations described in section 102(b) of the North
9 Korea Sanctions and Policy Enhancement Act of 2016 (22
10 U.S.C. 9212).

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated for each of fiscal years 2018
13 through 2021 such sums as may be necessary to carry
14 out this section.

15 **SEC. 106. REPORT ON USE BY THE GOVERNMENT OF**
16 **NORTH KOREA OF BENEFICIAL OWNERSHIP**
17 **RULES TO ACCESS THE INTERNATIONAL FI-**
18 **NANCIAL SYSTEM.**

19 (a) IN GENERAL.—Not later than November 11,
20 2018, the Director of the Financial Crimes Enforcement
21 Network of the Department of the Treasury shall submit
22 to the appropriate congressional committees and publish
23 in the Federal Register a report setting forth the findings
24 of the Director regarding how the Government of North

1 Korea is using laws regarding beneficial ownership of
2 property to access the international financial system.

3 (b) ELEMENTS.—The Director shall include in the re-
4 port required under subsection (a) proposals for such leg-
5 islative and administrative action as the Director considers
6 appropriate.

7 **SEC. 107. SENSE OF CONGRESS ON IDENTIFICATION AND**
8 **BLOCKING OF PROPERTY OF NORTH KOREAN**
9 **OFFICIALS.**

10 (a) IN GENERAL.—It is the sense of Congress that
11 the President should collaborate with the Stolen Asset Re-
12 covery Initiative of the World Bank Group and the United
13 Nations Office on Drugs and Crime to prioritize the iden-
14 tification, blocking, and release for humanitarian purposes
15 of—

16 (1) any property owned or controlled by a
17 North Korean official; or

18 (2) any significant proceeds of kleptocracy by
19 the Government of North Korea or a North Korean
20 official.

21 (b) NORTH KOREAN OFFICIAL DEFINED.—In this
22 section, the term “North Korean official” includes—

23 (1) the individuals described in section
24 304(a)(2)(B) of the North Korea Sanctions and Pol-

1 icy Enhancement Act of 2016 (22 U.S.C.
2 9243(a)(2)(B)); and

3 (2) such additional officials as the President
4 may determine to be officials of the Government of
5 North Korea.

6 **SEC. 108. SENSE OF CONGRESS REGARDING THE KAESONG**
7 **INDUSTRIAL COMPLEX.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) On October 14, 2006, the United Nations
10 Security Council adopted Resolution 1718, para-
11 graph 8(d) of which requires member states of the
12 United Nations to ensure that persons under their
13 jurisdiction prevent any funds, financial assets, and
14 economic resources from being used by persons or
15 entities engaged in or providing support for the nu-
16 clear, chemical, or biological weapons programs of
17 North Korea or the ballistic missile programs of
18 North Korea.

19 (2) On April 11, 2011, the President signed
20 Executive Order 13570 (50 U.S.C. 1701 note; relat-
21 ing to prohibiting certain transactions with respect
22 to North Korea), which prohibits the importation
23 into the United States, directly or indirectly, of any
24 goods, services, or technology from North Korea, ex-
25 cept as provided in statute or in licenses, regula-

1 tions, orders, or directives that may be issued pursu-
2 ant to that Executive order.

3 (3) In April 2013, the Under Secretary of the
4 Treasury for Terrorism and Financial Intelligence
5 said, in reference to the Kaesong Industrial Com-
6 plex, “Precisely what North Koreans do with earn-
7 ings from Kaesong, I think, is something that we
8 are concerned about.”.

9 (4) In February 2016, on announcing the sus-
10 suspension of operations at the Kaesong Industrial
11 Complex, the Unification Ministry of the Republic of
12 Korea stated that the Government of North Korea
13 may have used the proceeds from the Kaesong In-
14 dustrial Complex to finance its nuclear weapons pro-
15 gram.

16 (5) On November 30, 2016, the United States
17 Security Council approved Resolution 2321, para-
18 graph 32 of which requires member states of the
19 United Nations to prohibit public and private finan-
20 cial support for trade with North Korea from within
21 their territories or by persons subject to their juris-
22 diction, including the granting of export credits,
23 guarantees, or insurance to persons involved in such
24 trade, except as approved in advance by a committee

1 appointed by the Security Council on a case-by-case
2 basis.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) the United States stands in solidarity with
6 its ally in the Republic of Korea, and has expressed
7 that solidarity with the sacrifice of 36,914 people of
8 the United States and with the continued presence
9 of 29,500 members of the Armed Forces of the
10 United States in the Republic of Korea;

11 (2) the nuclear weapons program of North
12 Korea poses a grave and imminent threat to the
13 freedom and security of both the United States and
14 the Republic of Korea;

15 (3) the Kaesong Industrial Complex yielded
16 few, if any, apparent benefits with regard to the re-
17 form, liberalization, or disarmament of North Korea;

18 (4) the unconditional provision of revenue from
19 the Kaesong Industrial Complex to the Government
20 of North Korea undermines the financial pressure
21 necessary to strict and effective enforcement of
22 United Nations Security Council sanctions;

23 (5) the strict and effective enforcement of
24 United Nations Security Council sanctions is the last
25 plausible option to achieve the complete, verifiable,

1 irreversible, and peaceful nuclear disarmament of
2 North Korea; and

3 (6) the Kaesong Industrial Complex should not
4 be reopened until the Government of North Korea
5 has completely, verifiably, and irreversibly disman-
6 tled all of its nuclear, chemical, biological, and radio-
7 logical weapons programs, including all programs for
8 the development of systems designed in whole or in
9 part for the delivery of such weapons.

10 **TITLE II—DIVESTMENT FROM** 11 **NORTH KOREA**

12 **SEC. 201. AUTHORITY OF STATE AND LOCAL GOVERN-** 13 **MENTS TO DIVEST FROM COMPANIES THAT** 14 **INVEST IN NORTH KOREA.**

15 (a) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that the United States should support the decision
17 of any State or local government, for moral, prudential,
18 or reputational reasons, to divest from, or prohibit the in-
19 vestment of assets of the State or local government in,
20 a person that engages in investment activities involving
21 North Korean covered property if North Korea is subject
22 to economic sanctions imposed by the United States or
23 the United Nations Security Council.

24 (b) AUTHORITY TO DIVEST.—Notwithstanding any
25 other provision of law, a State or local government may

1 adopt and enforce measures that meet the requirements
2 of subsection (c) to divest the assets of the State or local
3 government from, or prohibit investment of the assets of
4 the State or local government in, any person that the
5 State or local government determines, using credible infor-
6 mation available to the public, engages in investment ac-
7 tivities involving North Korean covered property of a value
8 of more than \$10,000.

9 (c) REQUIREMENTS.—Any measure taken by a State
10 or local government under subsection (b) shall meet the
11 following requirements:

12 (1) NOTICE.—The State or local government
13 shall provide written notice to each person with re-
14 spect to which a measure under this section is to be
15 applied.

16 (2) TIMING.—The measure applied under this
17 section shall apply to a person not earlier than the
18 date that is 90 days after the date on which written
19 notice under paragraph (1) is provided to the per-
20 son.

21 (3) OPPORTUNITY TO DEMONSTRATE COMPLI-
22 ANCE.—

23 (A) IN GENERAL.—The State or local gov-
24 ernment shall provide to each person with re-
25 spect to which a measure is to be applied under

1 this section an opportunity to demonstrate to
2 the State or local government that the person
3 does not engage in investment activities in
4 North Korean covered property.

5 (B) NONAPPLICATION.—If a person with
6 respect to which a measure is to be applied
7 under this section demonstrates to the State or
8 local government under subparagraph (A) that
9 the person does not engage in investment activi-
10 ties in North Korean covered property, the
11 measure shall not apply to that person.

12 (4) SENSE OF CONGRESS ON AVOIDING ERRO-
13 NEOUS TARGETING.—It is the sense of Congress
14 that a State or local government should not adopt
15 a measure under subsection (b) with respect to a
16 person unless the State or local government has—

17 (A) made every effort to avoid erroneously
18 targeting the person; and

19 (B) verified that the person engages in in-
20 vestment activities in North Korean covered
21 property.

22 (d) NOTICE TO DEPARTMENT OF JUSTICE.—Not
23 later than 30 days after a State or local government ap-
24 plies a measure under this section, the State or local gov-

1 ernment shall notify the Attorney General of that meas-
2 ure.

3 (e) AUTHORIZATION FOR PRIOR APPLIED MEAS-
4 URES.—

5 (1) IN GENERAL.—Notwithstanding any other
6 provision of this section or any other provision of
7 law, a State or local government may enforce a
8 measure (without regard to the requirements of sub-
9 section (c), except as provided in paragraph (2)) ap-
10 plied by the State or local government before the
11 date of the enactment of this Act that provides for
12 the divestment of assets of the State or local govern-
13 ment from, or prohibits the investment of the assets
14 of the State or local government in, any person that
15 the State or local government determines, using
16 credible information available to the public, engages
17 in investment activities in North Korean covered
18 property that are identified in that measure.

19 (2) APPLICATION OF NOTICE REQUIRE-
20 MENTS.—A measure described in paragraph (1)
21 shall be subject to the requirements of paragraphs
22 (1), (2), and (3)(A) of subsection (c) on and after
23 the date that is two years after the date of the en-
24 actment of this Act.

1 (f) NO PREEMPTION.—A measure applied by a State
 2 or local government authorized under subsection (b) or (e)
 3 is not preempted by any Federal law.

4 (g) DEFINITIONS.—In this section:

5 (1) ASSET.—

6 (A) IN GENERAL.—Except as provided in
 7 subparagraph (B), the term “asset” means
 8 public monies, and includes any pension, retire-
 9 ment, annuity, endowment fund, or similar in-
 10 strument, that is controlled by a State or local
 11 government.

12 (B) EXCEPTION.—The term “asset” does
 13 not include employee benefit plans covered by
 14 title I of the Employee Retirement Income Se-
 15 curity Act of 1974 (29 U.S.C. 1001 et seq.).

16 (2) INVESTMENT.—The term “investment” in-
 17 cludes—

18 (A) a commitment or contribution of funds
 19 or property;

20 (B) a loan or other extension of credit; and

21 (C) the entry into or renewal of a contract
 22 for goods or services.

23 (h) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Except as provided in para-
 25 graph (2) and subsection (e), this section applies to

1 measures applied by a State or local government be-
 2 fore, on, or after the date of the enactment of this
 3 Act.

4 (2) NOTICE REQUIREMENTS.—Except as pro-
 5 vided in subsection (h), subsections (c) and (d) apply
 6 to measures applied by a State or local government
 7 on or after the date of the enactment of this Act.

8 **SEC. 202. SAFE HARBOR FOR CHANGES OF INVESTMENT**
 9 **POLICIES BY ASSET MANAGERS.**

10 (a) IN GENERAL.—Section 13(c)(1) of the Invest-
 11 ment Company Act of 1940 (15 U.S.C. 80a–13(c)(1)) is
 12 amended—

13 (1) in subparagraph (A) by striking “or” at the
 14 end;

15 (2) in subparagraph (B) by striking the period
 16 and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(C) engage in investment activities involv-
 19 ing North Korean covered property, as defined
 20 in section 3 of the Banking Restrictions Involv-
 21 ing North Korea (BRINK) Act of 2017.”.

22 (b) SECURITIES AND EXCHANGE COMMISSION REGU-
 23 LATIONS.—Not later than 120 days after the date of the
 24 enactment of this Act, the Securities and Exchange Com-
 25 mission shall issue any revisions the Securities and Ex-

1 change Commission determines to be necessary to the reg-
 2 ulations requiring disclosure by each registered investment
 3 company that divests itself of securities in accordance with
 4 section 13(c) of the Investment Company Act of 1940 (15
 5 U.S.C. 80a–13(c)), including in accordance with para-
 6 graph (1)(C) of that section, as added by subsection
 7 (a)(3).

8 **SEC. 203. SENSE OF CONGRESS REGARDING CERTAIN**
 9 **ERISA PLAN INVESTMENTS.**

10 It is the sense of Congress that—

11 (1) a fiduciary of an employee benefit plan, as
 12 defined in section 3(3) of the Employee Retirement
 13 Income Security Act of 1974 (29 U.S.C. 1002(3)),
 14 may divest plan assets from, or avoid investing plan
 15 assets in, any person the fiduciary determines en-
 16 gages in investment activities involving North Ko-
 17 rean covered property, if—

18 (A) the fiduciary makes that determination
 19 using credible information that is available to
 20 the public; and

21 (B) the fiduciary prudently determines
 22 that the result of that divestment or avoidance
 23 of investment would not be expected to provide
 24 the employee benefit plan with—

1 (i) a lower rate of return than alter-
 2 native investments with commensurate de-
 3 grees of risk; or

4 (ii) a higher degree of risk than alter-
 5 native investments with commensurate
 6 rates of return; and

7 (2) by divesting assets or avoiding the invest-
 8 ment of assets as described in paragraph (1), the fi-
 9 duciary is not breaching the responsibilities, obliga-
 10 tions, or duties imposed upon the fiduciary by sub-
 11 paragraph (A) or (B) of section 404(a)(1) of the
 12 Employee Retirement Income Security Act of 1974
 13 (29 U.S.C. 1104(a)(1)).

14 **SEC. 204. RULE OF CONSTRUCTION.**

15 Nothing in this Act or any other provision of law au-
 16 thorizing sanctions with respect to North Korea shall be
 17 construed to affect or displace—

18 (1) the authority of a State or local government
 19 to issue and enforce rules governing the safety,
 20 soundness, and solvency of a financial institution
 21 subject to its jurisdiction; or

22 (2) the regulation and taxation by the several
 23 States of the business of insurance, pursuant to the
 24 Act of March 9, 1945 (59 Stat. 34, chapter 20; 15

1 U.S.C. 1011 et seq.) (commonly known as the
2 “McCarran-Ferguson Act”).

3 **TITLE III—GENERAL**
4 **AUTHORITIES**

5 **SEC. 301. RULEMAKING.**

6 The President may prescribe such rules and regula-
7 tions as may be necessary to carry out this Act.

8 **SEC. 302. AUTHORITY TO CONSOLIDATE REPORTS.**

9 (a) IN GENERAL.—Any and all reports required to
10 be submitted to the appropriate congressional committees
11 under this Act that are subject to a deadline for submis-
12 sion consisting of the same unit of time may be consoli-
13 dated into a single report that is submitted pursuant to
14 that deadline.

15 (b) CONTENTS.—Any reports consolidated under sub-
16 section (a) shall contain all information required under
17 this Act and any other elements that may be required by
18 existing law.

19 **SEC. 303. RULE OF CONSTRUCTION.**

20 Nothing in this Act shall be construed to limit the
21 authority or obligation of the President—

22 (1) to apply the sanctions described in section
23 104 of the North Korea Sanctions and Policy En-
24 hancement Act of 2016 (22 U.S.C. 9214) with re-

- 1 gard to persons that meet the criteria for designa-
2 tion under such section; or
3 (2) to exercise any other law enforcement au-
4 thorities available to the President.

