

116TH CONGRESS
1ST SESSION

S. 667

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

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2019

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 “Otto Warmbier Banking Restrictions Involving North
6 Korea Act of 2019”.

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

Sec. 1. Short title; table of contents.

TITLE I—SANCTIONS WITH RESPECT TO NORTH KOREA

- Sec. 101. Findings.
- Sec. 102. Sense of Congress.
- Sec. 103. Definitions.

Subtitle A—Expansion of Sanctions and Related Matters

- Sec. 111. Sanctions with respect to foreign financial institutions that provide financial services to certain sanctioned persons.
- Sec. 112. Codification of Executive orders relating to sanctions with respect to North Korea.
- Sec. 113. Expansion of mandatory designations under North Korea Sanctions and Policy Enhancement Act of 2016.
- Sec. 114. Extension of applicability period of proliferation prevention sanctions.
- Sec. 115. Sense of Congress on identification and blocking of property of North Korean officials.
- Sec. 116. Modification of report on implementation of United Nations Security Council resolutions by other governments.
- Sec. 117. Report on use by the Government of North Korea of beneficial ownership rules to access the international financial system.

Subtitle B—Congressional Review and Oversight

- Sec. 121. Notification of termination or suspension of sanctions.
- Sec. 122. Reports on certain licensing actions.
- Sec. 123. Briefings on implementation and enforcement of sanctions.
- Sec. 124. Report on financial networks and financial methods of the Government of North Korea.
- Sec. 125. Report on countries of concern with respect to transshipment, re-exportation, or diversion of certain items to North Korea.

Subtitle C—General Matters

- Sec. 131. Rulemaking.
- Sec. 132. Authority to consolidate reports.
- Sec. 133. Waivers, exemptions, and termination.
- Sec. 134. Procedures for review of classified information.
- Sec. 135. Briefing on proliferation financing.

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—FINANCIAL INDUSTRY GUIDANCE TO HALT TRAFFICKING

- Sec. 301. Short title.
- Sec. 302. Findings.
- Sec. 303. Sense of Congress.
- Sec. 304. Coordination of human trafficking issues by the Office of Terrorism and Financial Intelligence.
- Sec. 305. Strengthening the role of anti-money laundering and other financial tools in combating human trafficking.
- Sec. 306. Sense of Congress on resources to combat human trafficking.

1 **TITLE I—SANCTIONS WITH**
2 **RESPECT TO NORTH KOREA**

3 **SEC. 101. FINDINGS.**

4 Congress finds the following:

5 (1) Since 2006, the United Nations Security
6 Council has adopted 10 resolutions imposing sanc-
7 tions against North Korea under chapter VII of the
8 United Nations Charter, which—

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

12 (B) prohibit the supply, sale, or transfer of
13 arms and related materiel to or from North
14 Korea;

15 (C) prohibit the transfer of luxury goods to
16 North Korea;

17 (D) restrict access by North Korea to fi-
18 nancial services that could contribute to nu-
19 clear, missile, or other programs related to the
20 development of weapons of mass destruction;

21 (E) restrict North Korean shipping, includ-
22 ing the registration, reflagging, or insuring of
23 North Korean ships;

1 (F) prohibit, with limited exceptions,
2 North Korean exports of coal, precious metals,
3 iron, vanadium, and rare earth minerals;

4 (G) prohibit the transfer to North Korea
5 of rocket, aviation, or jet fuel, as well as gaso-
6 line, condensates, and natural gas liquids;

7 (H) prohibit new work authorization for
8 North Korean laborers and require the repatri-
9 ation of all North Korean laborers by December
10 2019;

11 (I) prohibit exports of North Korean food
12 and agricultural products, including seafood;

13 (J) prohibit joint ventures or cooperative
14 commercial entities or expanding joint ventures
15 with North Korea;

16 (K) prohibit exports of North Korean tex-
17 tiles;

18 (L) require member countries of the
19 United Nations to seize, inspect, and impound
20 any ship in its jurisdiction that is suspected of
21 violating Security Council resolutions with re-
22 spect to North Korea and to interdict and in-
23 spect all cargo heading to or from North Korea
24 by land, sea, or air;

1 (M) limit the transfer to North Korea of
2 refined petroleum products and crude oil;

3 (N) ban the sale or transfer to North
4 Korea of industrial machinery, transportation
5 vehicles, electronics, iron, steel, and other met-
6 als;

7 (O) reduce North Korean diplomatic staff
8 numbers in member countries of the United
9 Nations and expel any North Korean diplomats
10 found to be working on behalf of a person sub-
11 ject to sanctions or assisting in sanctions eva-
12 sion;

13 (P) limit North Korean diplomatic mis-
14 sions abroad with respect to staff size and ac-
15 cess to banking privileges and prohibit com-
16 merce from being conducted out of North Ko-
17 rean consular or diplomatic offices;

18 (Q) require member states of the United
19 Nations to close representative offices, subsidi-
20 aries, and bank accounts in North Korea;

21 (R) prohibit countries from providing or
22 receiving military training to or from North
23 Korea or hosting North Koreans for specialized
24 teaching or training that could contribute to the

1 programs of North Korea related to the devel-
2 opment of weapons of mass destruction;

3 (S) ban countries from granting landing
4 and flyover rights to North Korean aircraft;
5 and

6 (T) prohibit trade in statuary of North Ko-
7 rean origin.

8 (2) The Government of North Korea has
9 threatened to carry out nuclear attacks against the
10 United States, South Korea, and Japan.

11 (3) The Government of North Korea tested its
12 sixth and largest nuclear device on September 3,
13 2017.

14 (4) According to a report by the International
15 Atomic Energy Agency released in August 2018,
16 “The continuation and further development of the
17 DPRK’s nuclear programme and related statements
18 by the DPRK are a cause for grave concern. The
19 DPRK’s nuclear activities, including those in rela-
20 tion to the Yongbyon Experimental Nuclear Power
21 Plant (5 MW(e)) reactor, the use of the building
22 which houses the reported centrifuge enrichment fa-
23 cility and the construction at the light water reactor,
24 as well as the DPRK’s sixth nuclear test, are clear
25 violations of relevant UN Security Council resolu-

1 tions, including resolution 2375 (2017) and are
2 deeply regrettable.”.

3 (5) In July 2018, Secretary of State Mike
4 Pompeo testified to the Committee on Foreign Rela-
5 tions of the Senate that North Korea “continue[s] to
6 produce fissile material” despite public pledges by
7 North Korean leader Kim Jong-un to denuclearize.

8 (6) The 2019 Missile Defense Review conducted
9 by the Department of Defense states that North
10 Korea “continues to pose an extraordinary threat
11 and the United States must remain vigilant. In the
12 past, North Korea frequently issued explicit nuclear
13 missile threats against the United States and allies,
14 all the while working aggressively to field the capa-
15 bility to strike the U.S. homeland with nuclear-
16 armed ballistic missiles. Over the past decade, it has
17 invested considerable resources in its nuclear and
18 ballistic missile programs, and undertaken extensive
19 nuclear and missile testing in order to realize the ca-
20 pability to threaten the U.S. homeland with missile
21 attack. As a result, North Korea has neared the
22 time when it could credibly do so.”.

23 (7) Financial transactions and investments that
24 provide financial resources to the Government of
25 North Korea, and that fail to incorporate adequate

1 safeguards against the misuse of those financial re-
2 sources, pose an undue risk of contributing to—

3 (A) weapons of mass destruction programs
4 of that Government; and

5 (B) efforts to evade restrictions required
6 by the United Nations Security Council on im-
7 ports or exports of arms and related materiel,
8 services, or technology by that Government.

9 (8) The Federal Bureau of Investigation has
10 determined that the Government of North Korea
11 was responsible for cyberattacks against entities in
12 the United States, South Korea, and around the
13 world.

14 (9) In November 2017, President Donald
15 Trump designated the government of North Korea
16 as a state sponsor of terrorism pursuant to authori-
17 ties under the Export Administration Act of 1979
18 (50 U.S.C. App. 2401 et seq.), as continued in effect
19 at the time under the International Emergency Eco-
20 nomic Powers Act (50 U.S.C. 1701 et seq.), the
21 Foreign Assistance Act of 1961 (22 U.S.C. 2151 et
22 seq.), and the Arms Export Control Act (22 U.S.C.
23 2751 et seq.);

24 (10) On February 22, 2018, the Secretary of
25 State determined that the Government of North

1 Korea was responsible for the lethal nerve agent at-
2 tack in 2017 on Kim Jong Nam, the half-brother of
3 North Korean leader Kim Jong-un, in Malaysia,
4 triggering sanctions required under the Chemical
5 and Biological Weapons Control and Warfare Elimination
6 Act of 1991 (22 U.S.C. 5601 et seq.).

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

13 **SEC. 102. SENSE OF CONGRESS.**

14 It is the sense of Congress that—

15 (1) the United States is committed to working
16 with its allies and partners to halt the nuclear and
17 ballistic missile programs of North Korea through a
18 policy of maximum pressure and diplomatic engage-
19 ment;

20 (2) the imposition of sanctions, including those
21 under this Act, should not be construed to limit the
22 authority of the President to fully engage in diplo-
23 matic negotiations to further the policy objective de-
24 scribed in paragraph (1);

1 (3) the successful use of sanctions to halt the
 2 nuclear and ballistic missile programs of North
 3 Korea is part of a broader diplomatic and economic
 4 strategy that relies on effective coordination among
 5 relevant Federal agencies and officials, as well as
 6 with international partners of the United States; and

7 (4) the coordination described in paragraph (3)
 8 should include proper vetting of external messaging
 9 and communications from all parts of the Executive
 10 branch to ensure that those communications are an
 11 intentional component of and aligned with the strat-
 12 egy of the United States with respect to North
 13 Korea.

14 **SEC. 103. DEFINITIONS.**

15 (a) IN GENERAL.—In this title, the terms “applicable
 16 Executive order”, “applicable United Nations Security
 17 Council resolution”, “appropriate congressional commit-
 18 tees”, “Government of North Korea”, “North Korea”,
 19 and “North Korean financial institution” have the mean-
 20 ings given those terms in section 3 of the North Korea
 21 Sanctions and Policy Enhancement Act of 2016 (22
 22 U.S.C. 9202), as amended by subsection (b).

23 (b) AMENDMENTS TO DEFINITIONS IN NORTH
 24 KOREA SANCTIONS AND POLICY ENHANCEMENT ACT OF
 25 2016.—Section 3 of the North Korea Sanctions and Pol-

1 icy Enhancement Act of 2016 (22 U.S.C. 9202) is amend-
2 ed—

3 (1) in paragraph (1)(A), in the matter pre-
4 ceding clause (i), by striking “Executive Order No.
5 13694” and all that follows through “to the extent
6 that” and inserting the following: “Executive Order
7 13694 (50 U.S.C. 1701 note; relating to blocking
8 the property of certain persons engaging in signifi-
9 cant malicious cyber-enabled activities), Executive
10 Order 13722 (50 U.S.C. 1701 note; relating to
11 blocking the property of the Government of North
12 Korea and the Workers’ Party of Korea, and prohib-
13 iting certain transactions with respect to North
14 Korea), or Executive Order 13810 (82 Fed. Reg.
15 44705; relating to imposing additional sanctions
16 with respect to North Korea), to the extent that”;
17 and

18 (2) in paragraph (2)(A), by striking “or 2321
19 (2016)” and inserting “2321 (2016), 2356 (2017),
20 2371 (2017), 2375 (2017), or 2397 (2017)”.

1 **Subtitle A—Expansion of Sanctions**
 2 **and Related Matters**

3 **SEC. 111. SANCTIONS WITH RESPECT TO FOREIGN FINAN-**
 4 **CIAL INSTITUTIONS THAT PROVIDE FINAN-**
 5 **CIAL SERVICES TO CERTAIN SANCTIONED**
 6 **PERSONS.**

7 (a) IN GENERAL.—Title II of the North Korea Sanc-
 8 tions and Policy Enhancement Act of 2016 (22 U.S.C.
 9 9221 et seq.) is amended by inserting after the item relat-
 10 ing to section 201A the following:

11 **“SEC. 201B. SANCTIONS WITH RESPECT TO FOREIGN FINAN-**
 12 **CIAL INSTITUTIONS THAT PROVIDE FINAN-**
 13 **CIAL SERVICES TO CERTAIN SANCTIONED**
 14 **PERSONS.**

15 “(a) IN GENERAL.—The Secretary of the Treasury
 16 shall impose one or more of the sanctions described in sub-
 17 section (b) with respect to a foreign financial institution
 18 that the Secretary determines, on or after the date that
 19 is 90 days after the date of the enactment of the Otto
 20 Warmbier Banking Restrictions Involving North Korea
 21 Act of 2019, knowingly provides significant financial serv-
 22 ices to any person designated for the imposition of sanc-
 23 tions under—

24 “(1) subsection (a) or (b) of section 104;

25 “(2) an applicable Executive order; or

1 “(3) an applicable United Nations Security
2 Council resolution.

3 “(b) SANCTIONS DESCRIBED.—The sanctions that
4 may be imposed with respect to a foreign financial institu-
5 tion subject to subsection (a) are the following:

6 “(1) ASSET BLOCKING.—The Secretary may
7 block and prohibit, pursuant to the International
8 Emergency Economic Powers Act (50 U.S.C. 1701
9 et seq.), all transactions in all property and interests
10 in property of the foreign financial institution if
11 such property and interests in property are in the
12 United States, come within the United States, or are
13 or come within the possession or control of a United
14 States person.

15 “(2) RESTRICTIONS ON CORRESPONDENT AND
16 PAYABLE-THROUGH ACCOUNTS.—The Secretary may
17 prohibit, or impose strict conditions on, the opening
18 or maintaining in the United States of a cor-
19 respondent account or a payable-through account by
20 the foreign financial institution.

21 “(c) IMPLEMENTATION; PENALTIES.—

22 “(1) IMPLEMENTATION.—The President may
23 exercise all authorities provided under sections 203
24 and 205 of the International Emergency Economic

1 Powers Act (50 U.S.C. 1702 and 1704) to carry out
2 this section.

3 “(2) PENALTIES.—A person that violates, at-
4 tempts to violate, conspires to violate, or causes a
5 violation of this section or any regulation, license, or
6 order issued to carry out this section shall be subject
7 to the penalties set forth in subsections (b) and (c)
8 of section 206 of the International Emergency Eco-
9 nomic Powers Act (50 U.S.C. 1705) to the same ex-
10 tent as a person that commits an unlawful act de-
11 scribed in subsection (a) of that section.

12 “(d) REGULATIONS.—Not later than 120 days after
13 the date of the enactment of the Otto Warmbier Banking
14 Restrictions Involving North Korea Act of 2019, the
15 President shall, as appropriate, prescribe regulations to
16 carry out this section.

17 “(e) DEFINITIONS.—In this section:

18 “(1) ACCOUNT; CORRESPONDENT ACCOUNT;
19 PAYABLE-THROUGH ACCOUNT.—The terms ‘ac-
20 count’, ‘correspondent account’, and ‘payable-
21 through account’ have the meanings given those
22 terms in section 5318A of title 31, United States
23 Code.

24 “(2) FINANCIAL INSTITUTION.—The term ‘fi-
25 nancial institution’ means a financial institution

1 specified in subparagraph (A), (B), (C), (D), (E),
 2 (F), (G), (H), (I), (J), (M), or (Y) of section
 3 5312(a)(2) of title 31, United States Code.

4 “(3) FOREIGN FINANCIAL INSTITUTION.—The
 5 term ‘foreign financial institution’ shall have the
 6 meaning of that term as determined by the Sec-
 7 retary of the Treasury.

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

13 (b) CLERICAL AMENDMENT.—The table of contents
 14 for the North Korea Sanctions and Policy Enhancement
 15 Act of 2016 is amended by inserting after the item relat-
 16 ing to section 201A the following:

“201B. Sanctions with respect to foreign financial institutions that provide fi-
 nancial services to certain sanctioned persons.”.

17 **SEC. 112. CODIFICATION OF EXECUTIVE ORDERS RELATING**
 18 **TO SANCTIONS WITH RESPECT TO NORTH**
 19 **KOREA.**

20 (a) IN GENERAL.—Section 210 of the North Korea
 21 Sanctions and Policy Enhancement Act of 2016 (22
 22 U.S.C. 9230) is amended—

23 (1) by striking “United States sanctions” and
 24 all that follows through “the date of the enactment

1 of this Act” and inserting “United States sanctions
2 provided for in Executive Order 13687 (50 U.S.C.
3 1701 note; relating to imposing additional sanctions
4 with respect to North Korea), Executive Order
5 13694 (50 U.S.C. 1701 note; relating to blocking
6 the property of certain persons engaging in signifi-
7 cant malicious cyber-enabled activities), Executive
8 Order 13722 (50 U.S.C. 1701 note; relating to
9 blocking the property of the Government of North
10 Korea and the Workers’ Party of Korea, and prohib-
11 iting certain transactions with respect to North
12 Korea), or Executive Order 13810 (82 Fed. Reg.
13 44705; relating to imposing additional sanctions
14 with respect to North Korea), as such Executive Or-
15 ders are in effect on the day before the date of the
16 enactment of the Otto Warmbier Banking Restric-
17 tions Involving North Korea Act of 2019”;

18 (2) by striking “the Government of North
19 Korea, persons acting for or on behalf of that Gov-
20 ernment, and persons owned or controlled, directly
21 or indirectly, by that Government or persons acting
22 for or on behalf of that Government,” and inserting
23 “persons subject to such sanctions”; and

24 (3) by striking “and 2094 (2013)” and insert-
25 ing “2094 (2013), 2270 (2016), 2321 (2016), 2356

1 (2017), 2371 (2017), 2375 (2017), and 2397
 2 (2017)”.

3 (b) CONFORMING AMENDMENT.—Section 210 of the
 4 North Korea Sanctions and Policy Enhancement Act of
 5 2016 (22 U.S.C. 9230) is amended in the section heading
 6 by striking “**SANCTIONS WITH RESPECT TO NORTH**
 7 **KOREAN ACTIVITIES UNDERMINING CYBERSECU-**
 8 **RITY**” and inserting “**EXECUTIVE ORDERS RELATING**
 9 **TO SANCTIONS WITH RESPECT TO NORTH KOREA**”.

10 (c) CLERICAL AMENDMENT.—The table of contents
 11 for the North Korea Sanctions and Policy Enhancement
 12 Act of 2016 is amended by striking the item relating to
 13 section 210 and inserting the following:

“Sec. 210. Codification of Executive orders relating to sanctions with respect
 to North Korea.”.

14 **SEC. 113. EXPANSION OF MANDATORY DESIGNATIONS**
 15 **UNDER NORTH KOREA SANCTIONS AND POL-**
 16 **ICY ENHANCEMENT ACT OF 2016.**

17 (a) IN GENERAL.—Section 104(a) of the North
 18 Korea Sanctions and Policy Enhancement Act of 2016 (22
 19 U.S.C. 9214(a)) is amended—

20 (1) in paragraph (14), by striking “or” at the
 21 end;

22 (2) by redesignating paragraph (15) as para-
 23 graph (24);

1 (3) by inserting after paragraph (14) the fol-
2 lowing:

3 “(15) knowingly, directly or indirectly, pur-
4 chases or otherwise acquires from North Korea sig-
5 nificant quantities of coal, iron, or iron ore;

6 “(16) knowingly, directly or indirectly, provides
7 to North Korea coal, iron, or iron ore;

8 “(17) knowingly, directly or indirectly, pur-
9 chases or otherwise acquires textiles from North
10 Korea;

11 “(18) knowingly facilitates a significant trans-
12 fer of funds or property from North Korea that ma-
13 terially contributes to any violation of an applicable
14 United Nations Security Council resolution;

15 “(19) knowingly, directly or indirectly, pur-
16 chases or otherwise acquires significant types or
17 amounts of seafood from North Korea;

18 “(20) knowingly, directly or indirectly, engages
19 in, facilitates, or is responsible for the exportation of
20 workers from North Korea;

21 “(21) knowingly, directly or indirectly, sells or
22 transfers vessels to North Korea, except as specifi-
23 cally approved by the United Nations Security Coun-
24 cil;

1 “(22) knowingly, directly or indirectly, supplies,
 2 sells, or transfers to North Korea crude oil or re-
 3 fined petroleum products in excess of the aggregate
 4 amounts established in applicable United Nations
 5 Security Council resolutions;

6 “(23) knowingly contributes to—

7 “(A) the bribery of an official of the Gov-
 8 ernment of North Korea or any person acting
 9 for or on behalf of that official;

10 “(B) the misappropriation, theft, or em-
 11 bezzlement of public funds by, or for the benefit
 12 of, an official of the Government of North
 13 Korea or any person acting for or on behalf of
 14 that official; or

15 “(C) the use of any proceeds of any activ-
 16 ity described in subparagraph (A) or (B); or”;
 17 and

18 (4) in paragraph (24), as redesignated by para-
 19 graph (2), by striking “through (14)” and inserting
 20 “through (23)”.

21 (b) CONFORMING AMENDMENTS.—The North Korea
 22 Sanctions and Policy Enhancement Act of 2016 is amend-
 23 ed—

24 (1) in section 104(b)(1) (22 U.S.C.
 25 9214(b)(1))—

1 (A) by striking subparagraphs (B), (D),
2 (E), (F), and (L); and

3 (B) by redesignating subparagraphs (C),
4 (G), (H), (I), (J), (K), (M), and (N) as sub-
5 paragraphs (B), (C), (D), (E), (F), (G), (H),
6 and (I), respectively; and

7 (2) in section 302(b)(3) (22 U.S.C.
8 9241(b)(3)), by striking “section 104(b)(1)(M)” and
9 inserting “section 104(a)(20)”.

10 **SEC. 114. EXTENSION OF APPLICABILITY PERIOD OF PRO-**
11 **LIFERATION PREVENTION SANCTIONS.**

12 Section 203(b)(2) of the North Korea Sanctions and
13 Policy Enhancement Act of 2016 (22 U.S.C. 9223(b)(2))
14 is amended by striking “2 years” and inserting “5 years”.

15 **SEC. 115. SENSE OF CONGRESS ON IDENTIFICATION AND**
16 **BLOCKING OF PROPERTY OF NORTH KOREAN**
17 **OFFICIALS.**

18 It is the sense of Congress that the President
19 should—

20 (1) encourage international collaboration
21 through the Financial Action Task Force and its
22 network of Financial Action Task Force-style re-
23 gional bodies to apply best practices in disrupting
24 money laundering related to kleptocracy and corrup-
25 tion, especially as it relates to North Korea; and

1 (2) prioritize multilateral efforts to identify and
 2 block—

3 (A) any property owned or controlled by a
 4 North Korean official; and

5 (B) any significant proceeds of kleptocracy
 6 by the Government of North Korea or a North
 7 Korean official.

8 **SEC. 116. MODIFICATION OF REPORT ON IMPLEMENTATION**
 9 **OF UNITED NATIONS SECURITY COUNCIL**
 10 **RESOLUTIONS BY OTHER GOVERNMENTS.**

11 Section 317 of the Korean Interdiction and Mod-
 12 ernization of Sanctions Act (title III of Public Law 115–
 13 44; 131 Stat. 950) is amended—

14 (1) in subsection (a)—

15 (A) in the matter preceding paragraph (1),
 16 by striking “Not later than 180 days after the
 17 date of the enactment of this Act, and annually
 18 thereafter for 5 years,” and inserting “Not
 19 later than 180 days after the date of the enact-
 20 ment of the Otto Warmbier Banking Restric-
 21 tions Involving North Korea Act of 2019, and
 22 annually thereafter for 5 years,”;

23 (B) in paragraph (3), by striking “; or”
 24 and inserting a semicolon;

1 (C) by redesignating paragraph (4) as
2 paragraph (8); and

3 (D) by inserting after paragraph (3) the
4 following:

5 “(4) prohibit, in the territories of such coun-
6 tries or by persons subject to the jurisdiction of such
7 governments, the opening of new joint ventures or
8 cooperative entities with North Korean persons or
9 the expansion of existing joint ventures through ad-
10 ditional investments, whether or not for or on behalf
11 of the Government of North Korea, unless such joint
12 ventures or cooperative entities have been approved
13 by the Committee of the United Nations Security
14 Council established by United Nations Security
15 Council Resolution 1718 (2006);

16 “(5) prohibit the unauthorized clearing of funds
17 by North Korean financial institutions through fi-
18 nancial institutions subject to the jurisdiction of
19 such governments;

20 “(6) prohibit the unauthorized conduct of com-
21 mercial trade with North Korea that is prohibited
22 under applicable United Nations Security Council
23 resolutions;

24 “(7) prevent the provision of financial services
25 to North Korean persons or the transfer of financial

1 services to North Korean persons to, through, or
 2 from the territories of such countries or by persons
 3 subject to the jurisdiction of such governments; or”;
 4 and

5 (2) by amending subsection (c) to read as fol-
 6 lows:

7 “(c) DEFINITIONS.—In this section:

8 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
 9 TEES AND LEADERSHIP.—The term ‘appropriate
 10 congressional committees and leadership’ means—

11 “(A) the Committee on Foreign Relations,
 12 the Committee on Banking, Housing, and
 13 Urban Affairs, and the majority and minority
 14 leaders of the Senate; and

15 “(B) the Committee on Foreign Affairs,
 16 the Committee on Financial Services, the Com-
 17 mittee on Ways and Means, and the Speaker,
 18 the majority leader, and the minority leader of
 19 the House of Representatives.

20 “(2) APPLICABLE UNITED NATIONS SECURITY
 21 COUNCIL RESOLUTION; NORTH KOREAN FINANCIAL
 22 INSTITUTION; NORTH KOREAN PERSON.—The terms
 23 ‘applicable United Nations Security Council resolu-
 24 tion’, ‘North Korean financial institution’, and
 25 ‘North Korean person’ have the meanings given

1 those terms in section 3 of the North Korea Sanc-
2 tions and Policy Enhancement Act of 2016 (22
3 U.S.C. 9202).”.

4 **SEC. 117. REPORT ON USE BY THE GOVERNMENT OF**
5 **NORTH KOREA OF BENEFICIAL OWNERSHIP**
6 **RULES TO ACCESS THE INTERNATIONAL FI-**
7 **NANCIAL SYSTEM.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of the enactment of this Act, the Secretary of the
10 Treasury shall submit to the appropriate congressional
11 committees a report setting forth the findings of the Sec-
12 retary regarding how the Government of North Korea is
13 exploiting laws with respect to the beneficial owner of an
14 entity in order to access the international financial system.

15 (b) ELEMENTS.—The Secretary shall include in the
16 report required under subsection (a) proposals for such
17 legislative and administrative action as the Secretary con-
18 siders appropriate to combat the abuse by the Government
19 of North Korea of shell companies and other similar enti-
20 ties to avoid or evade sanctions.

21 (c) FORM.—The report required by subsection (a)
22 shall be submitted in unclassified form but may include
23 a classified annex.

24 (d) BENEFICIAL OWNER DEFINED.—

1 (1) IN GENERAL.—In this section, the term
2 “beneficial owner”—

3 (A) means, with respect to an entity, each
4 natural person who, directly or indirectly—

5 (i) exercises control over the entity
6 through ownership interests, voting rights,
7 agreements, or otherwise; or

8 (ii) has an interest in or receives sub-
9 stantial economic benefits from the assets
10 of the entity; and

11 (B) does not include, with respect to an
12 entity—

13 (i) a minor child;

14 (ii) a person acting as a nominee,
15 intermediary, custodian, or agent on behalf
16 of another person;

17 (iii) a person acting solely as an em-
18 ployee of the entity and whose control over
19 or economic benefits from the entity de-
20 rives solely from the employment status of
21 the person;

22 (iv) a person whose only interest in
23 the entity is through a right of inheritance,
24 unless the person otherwise meets the defi-

1 nition of a beneficial owner under this sub-
 2 section; and

3 (v) a creditor of the entity, unless the
 4 creditor otherwise meets the definition of a
 5 beneficial owner under this subsection.

6 (2) ANTI-ABUSE RULE.—The exceptions under
 7 paragraph (1)(B) shall not apply if used for the pur-
 8 pose of evading, circumventing, or abusing laws de-
 9 scribed in subsection (a).

10 **Subtitle B—Congressional Review** 11 **and Oversight**

12 **SEC. 121. NOTIFICATION OF TERMINATION OR SUSPENSION** 13 **OF SANCTIONS.**

14 Not less than 15 days before taking any action to
 15 terminate or suspend the application of sanctions under
 16 this title or an amendment made by this title, the Presi-
 17 dent shall notify the appropriate congressional committees
 18 of the President’s intent to take the action and the reasons
 19 for the action.

20 **SEC. 122. REPORTS ON CERTAIN LICENSING ACTIONS.**

21 (a) IN GENERAL.—Not later than 180 days after the
 22 date of the enactment of this Act, and every 180 days
 23 thereafter, the President shall submit to the appropriate
 24 congressional committees a report on the operation of the
 25 system for issuing licenses for transactions under covered

1 regulatory provisions during the preceding 180-day period
2 that includes—

3 (1) the number and types of such licenses ap-
4 plied for during that period;

5 (2) the number and types of such licenses
6 issued during that period; and

7 (3) a summary of all general and specific li-
8 censes issued with respect to North Korea.

9 (b) COVERED REGULATORY PROVISION DEFINED.—

10 In this section, the term “covered regulatory provision”
11 means any of the following provisions, as in effect on the
12 day before the date of the enactment of this Act and as
13 such provisions relate to North Korea:

14 (1) Part 743, 744, or 746 of title 15, Code of
15 Federal Regulations.

16 (2) Part 510 of title 31, Code of Federal Regu-
17 lations.

18 (3) Any other provision of title 31, Code of
19 Federal Regulations.

20 (c) FORM.—Each report required by subsection (a)
21 shall be submitted in unclassified form but may include
22 a classified annex.

1 **SEC. 123. BRIEFINGS ON IMPLEMENTATION AND ENFORCE-**
2 **MENT OF SANCTIONS.**

3 Not later than 90 days after the date of the enact-
4 ment of this Act, and every 180 days thereafter, the Sec-
5 retary of the Treasury shall provide to the appropriate
6 congressional committees a briefing on efforts relating to
7 the implementation and enforcement of United States
8 sanctions with respect to North Korea, including appro-
9 priate updates on the efforts of the Department of the
10 Treasury to address compliance with such sanctions by
11 foreign financial institutions.

12 **SEC. 124. REPORT ON FINANCIAL NETWORKS AND FINAN-**
13 **CIAL METHODS OF THE GOVERNMENT OF**
14 **NORTH KOREA.**

15 (a) REPORT REQUIRED.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act, and an-
18 nually thereafter through 2025, the President shall
19 submit to the appropriate congressional committees
20 a report on sources of external support for the Gov-
21 ernment of North Korea that includes—

22 (A) a description of the methods used by
23 the Government of North Korea to deal in,
24 transact in, or conceal the ownership, control,
25 or origin of goods and services exported by
26 North Korea;

1 (B) an assessment of the relationship be-
2 tween the proliferation of weapons of mass de-
3 struction by the Government of North Korea
4 and the financial industry or financial institu-
5 tions;

6 (C) an assessment of the relationship be-
7 tween the acquisition by the Government of
8 North Korea of military expertise, equipment,
9 and technology and the financial industry or fi-
10 nancial institutions;

11 (D) a description of the export by any per-
12 son to the United States of goods, services, or
13 technology that are made with significant
14 amounts of North Korean labor, material, or
15 goods, including minerals, manufacturing, sea-
16 food, overseas labor, or other exports from
17 North Korea;

18 (E) an assessment of the involvement of
19 any person in human trafficking involving citi-
20 zens or nationals of North Korea;

21 (F) a description of how the President
22 plans to address the flow of funds generated by
23 activities described in subparagraphs (A)
24 through (E), including through the use of sanc-
25 tions or other means;

1 (G) an assessment of the extent to which
2 the Government of North Korea engages in
3 criminal activities, including money laundering,
4 to support that Government;

5 (H) information relating to the identifica-
6 tion, blocking, and release of property described
7 in section 201B(b)(1) of the North Korea Sanc-
8 tions and Policy Enhancement Act of 2016, as
9 added by section 111;

10 (I) a description of the metrics used to
11 measure the effectiveness of law enforcement
12 and diplomatic initiatives of Federal, State, and
13 foreign governments to comply with the provi-
14 sions of applicable United Nations Security
15 Council resolutions; and

16 (J) an assessment of the effectiveness of
17 programs within the financial industry to en-
18 sure compliance with United States sanctions,
19 applicable United Nations Security Council res-
20 olutions, and applicable Executive orders.

21 (2) FORM.—Each report required by paragraph
22 (1) shall be submitted in unclassified form but may
23 include a classified annex.

24 (b) INTERAGENCY COORDINATION.—The President
25 shall ensure that any information collected pursuant to

1 subsection (a) is shared among the Federal departments
2 and agencies involved in investigations described in section
3 102(b) of the North Korea Sanctions and Policy Enhance-
4 ment Act of 2016 (22 U.S.C. 9212(b)).

5 **SEC. 125. REPORT ON COUNTRIES OF CONCERN WITH RE-**
6 **SPECT TO TRANSSHIPMENT, REEXPOR-**
7 **TATION, OR DIVERSION OF CERTAIN ITEMS**
8 **TO NORTH KOREA.**

9 (a) IN GENERAL.—Not later than 180 days after the
10 date of the enactment of this Act, and annually thereafter
11 through 2023, the Director of National Intelligence shall
12 submit to the President, the Secretary of Defense, the Sec-
13 retary of Commerce, the Secretary of State, the Secretary
14 of the Treasury, and the appropriate congressional com-
15 mittees a report that identifies all countries that the Di-
16 rector determines are of concern with respect to trans-
17 shipment, reexportation, or diversion of items subject to
18 the provisions of the Export Administration Regulations
19 under subchapter C of chapter VII of title 15, Code of
20 Federal Regulations, to an entity owned or controlled by
21 the Government of North Korea.

22 (b) FORM.—Each report required by subsection (a)
23 shall be submitted in unclassified form but may include
24 a classified annex.

1 **Subtitle C—General Matters**

2 **SEC. 131. RULEMAKING.**

3 The President shall prescribe such rules and regula-
4 tions as may be necessary to carry out this title and
5 amendments made by this title.

6 **SEC. 132. AUTHORITY TO CONSOLIDATE REPORTS.**

7 (a) IN GENERAL.—Any and all reports required to
8 be submitted to the appropriate congressional committees
9 under this title or an amendment made by this title that
10 are subject to a deadline for submission consisting of the
11 same unit of time may be consolidated into a single report
12 that is submitted pursuant to that deadline.

13 (b) CONTENTS.—Any reports consolidated under sub-
14 section (a) shall contain all information required under
15 this title or an amendment made by this title and any
16 other elements that may be required by existing law.

17 **SEC. 133. WAIVERS, EXEMPTIONS, AND TERMINATION.**

18 (a) APPLICATION AND MODIFICATION OF EXEMP-
19 TIONS AND WAIVERS FROM NORTH KOREA SANCTIONS
20 AND POLICY ENHANCEMENT ACT OF 2016.—Section 208
21 of the North Korea Sanctions and Policy Enhancement
22 Act of 2016 (22 U.S.C. 9228) is amended—

23 (1) by inserting “201B,” after “201A,” each
24 place it appears; and

1 (2) in subsection (c), by inserting “, not less
2 than 15 days before the waiver takes effect,” after
3 “if the President”.

4 (b) EXCEPTION RELATING TO IMPORTATION OF
5 GOODS.—

6 (1) IN GENERAL.—No provision affecting sanc-
7 tions under this title or an amendment made by this
8 title shall apply to sanctions on the importation of
9 goods.

10 (2) GOOD DEFINED.—In this subsection, the
11 term “good” means any article, natural or man-
12 made substance, material, supply or manufactured
13 product, including inspection and test equipment,
14 and excluding technical data.

15 (c) SUSPENSION.—

16 (1) IN GENERAL.—Subject to section 121, any
17 requirement to impose sanctions under this title or
18 the amendments made by this title, and any sanc-
19 tions imposed pursuant to this title or any such
20 amendment, may be suspended for up to one year if
21 the President makes the certification described in
22 section 401 of the North Korea Sanctions and Policy
23 Enhancement Act of 2016 (22 U.S.C. 9251) to the
24 appropriate congressional committees.

1 (2) RENEWAL.—A suspension under paragraph
2 (1) may be renewed in accordance with section
3 401(b) of the North Korea Sanctions and Policy En-
4 hancement Act of 2016 (22 U.S.C. 9251(b)).

5 (d) TERMINATION.—Subject to section 121, any re-
6 quirement to impose sanctions under this title or the
7 amendments made by this title, and any sanctions imposed
8 pursuant to this title or any such amendment, shall termi-
9 nate on the date on which the President makes the certifi-
10 cation described in section 402 of the North Korea Sanc-
11 tions and Policy Enhancement Act of 2016 (22 U.S.C.
12 9252).

13 **SEC. 134. PROCEDURES FOR REVIEW OF CLASSIFIED IN-**
14 **FORMATION.**

15 (a) IN GENERAL.—If a finding under this title or an
16 amendment made by this title, a prohibition, condition, or
17 penalty imposed as a result of any such finding, or a pen-
18 alty imposed under this title or an amendment made by
19 this title, is based on classified information (as defined
20 in section 1(a) of the Classified Information Procedures
21 Act (18 U.S.C. App.)) and a court reviews the finding or
22 the imposition of the prohibition, condition, or penalty, the
23 Secretary of the Treasury may submit such information
24 to the court ex parte and in camera.

1 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
 2 tion shall be construed to confer or imply any right to judi-
 3 cial review of any finding under this title or an amendment
 4 made by this title, any prohibition, condition, or penalty
 5 imposed as a result of any such finding, or any penalty
 6 imposed under this title or an amendment made by this
 7 title.

8 **SEC. 135. BRIEFING ON PROLIFERATION FINANCING.**

9 (a) IN GENERAL.—Not later than 60 days after the
 10 date of the enactment of this Act, the Secretary of the
 11 Treasury shall provide to the appropriate congressional
 12 committees a briefing on addressing proliferation finance.

13 (b) ELEMENTS.—The briefing required by subsection
 14 (a) shall include the following:

15 (1) The Department of the Treasury’s defini-
 16 tion and description of an appropriate risk-based ap-
 17 proach to combating financing of the proliferation of
 18 weapons of mass destruction.

19 (2) An assessment of—

20 (A) Federal financial regulatory agency
 21 oversight, including by the Financial Crimes
 22 Enforcement Network, of United States finan-
 23 cial institutions and the adoption by their for-
 24 eign subsidiaries, branches, and correspondent

1 institutions of a risk-based approach to pro-
2 liferation financing; and

3 (B) whether financial institutions in for-
4 eign jurisdictions known by the United States
5 intelligence and law enforcement communities
6 to be jurisdictions through which North Korea
7 moves substantial sums of licit and illicit fi-
8 nance are applying a risk-based approach to
9 proliferation financing, and if that approach is
10 comparable to the approach required by United
11 States financial institution supervisors.

12 (3) A survey of the technical assistance the Of-
13 fice of Technical Assistance of the Department of
14 the Treasury, and other appropriate Executive
15 branch offices, currently provide foreign institutions
16 on implementing counter-proliferation financing best
17 practices.

18 (4) An assessment of the ability of foreign sub-
19 sidiaries, branches, and correspondent institutions of
20 United States financial institutions to implement a
21 risk-based approach to proliferation financing.

TITLE II—DIVESTMENT FROM NORTH KOREA

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

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should support the decision of any State or local government made for moral, prudential, or reputational reasons, to divest from, or prohibit the investment of assets of the State or local government in, a person that engages in investment activities described in subsection (c) if North Korea is subject to economic sanctions imposed by the United States or the United Nations Security Council.

(b) AUTHORITY TO DIVEST.—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities described in subsection (c).

(c) INVESTMENT ACTIVITIES DESCRIBED.—Investment activities described in this subsection are activities

1 of a value of more than \$10,000 relating to an investment
2 in North Korea or in goods or services originating in
3 North Korea that are not conducted pursuant to a license
4 issued by the Department of the Treasury.

5 (d) REQUIREMENTS.—Any measure taken by a State
6 or local government under subsection (b) shall meet the
7 following requirements:

8 (1) NOTICE.—The State or local government
9 shall provide written notice to each person with re-
10 spect to which a measure under this section is to be
11 applied.

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

17 (3) OPPORTUNITY TO DEMONSTRATE COMPLI-
18 ANCE.—

19 (A) IN GENERAL.—The State or local gov-
20 ernment shall provide to each person with re-
21 spect to which a measure is to be applied under
22 this section an opportunity to demonstrate to
23 the State or local government that the person
24 does not engage in investment activities de-
25 scribed in subsection (c).

1 (B) NONAPPLICATION.—If a person with
 2 respect to which a measure is to be applied
 3 under this section demonstrates to the State or
 4 local government under subparagraph (A) that
 5 the person does not engage in investment activi-
 6 ties described in subsection (c), the measure
 7 shall not apply to that person.

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

13 (A) made every effort to avoid erroneously
 14 targeting the person; and

15 (B) verified that the person engages in in-
 16 vestment activities described in subsection (c).

17 (e) NOTICE TO DEPARTMENT OF JUSTICE.—Not
 18 later than 30 days before a State or local government ap-
 19 plies a measure under this section, the State or local gov-
 20 ernment shall notify the Attorney General of that meas-
 21 ure.

22 (f) AUTHORIZATION FOR PRIOR APPLIED MEAS-
 23 URES.—

24 (1) IN GENERAL.—Notwithstanding any other
 25 provision of this section or any other provision of

1 law, a State or local government may enforce a
 2 measure (without regard to the requirements of sub-
 3 section (d), except as provided in paragraph (2)) ap-
 4 plied by the State or local government before the
 5 date of the enactment of this Act that provides for
 6 the divestment of assets of the State or local govern-
 7 ment from, or prohibits the investment of the assets
 8 of the State or local government in, any person that
 9 the State or local government determines, using
 10 credible information available to the public, engages
 11 in investment activities described in subsection (c)
 12 that are identified in that measure.

13 (2) APPLICATION OF NOTICE REQUIRE-
 14 MENTS.—A measure described in paragraph (1)
 15 shall be subject to the requirements of paragraphs
 16 (1), (2), and (3)(A) of subsection (d) on and after
 17 the date that is 2 years after the date of the enact-
 18 ment of this Act.

19 (g) NO PREEMPTION.—A measure applied by a State
 20 or local government that is consistent with subsection (b)
 21 or (f) is not preempted by any Federal law.

22 (h) DEFINITIONS.—In this section:

23 (1) ASSET.—

24 (A) IN GENERAL.—Except as provided in
 25 subparagraph (B), the term “asset” means

1 public monies, and includes any pension, retire-
 2 ment, annuity, endowment fund, or similar in-
 3 strument, that is controlled by a State or local
 4 government.

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

9 (2) INVESTMENT.—The term “investment” in-
 10 cludes—

11 (A) a commitment or contribution of funds
 12 or property;

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

14 (C) the entry into or renewal of a contract
 15 for goods or services.

16 (i) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Except as provided in para-
 18 graph (2) and subsection (f), this section applies to
 19 measures applied by a State or local government be-
 20 fore, on, or after the date of the enactment of this
 21 Act.

22 (2) NOTICE REQUIREMENTS.—Except as pro-
 23 vided in subsection (f), subsections (d) and (e) apply
 24 to measures applied by a State or local government
 25 on or after the date of the enactment of this Act.

1 **SEC. 202. SAFE HARBOR FOR CHANGES OF INVESTMENT**
 2 **POLICIES BY ASSET MANAGERS.**

3 Section 13(c)(1) of the Investment Company Act of
 4 1940 (15 U.S.C. 80a–13(c)(1)) is amended—

5 (1) in subparagraph (A), by striking “or” at
 6 the end;

7 (2) in subparagraph (B), by striking the period
 8 and inserting “; or”; and

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

10 “(C) engage in investment activities de-
 11 scribed in section 201(c) of the Otto Warmbier
 12 Banking Restrictions Involving North Korea
 13 Act of 2019.”.

14 **SEC. 203. SENSE OF CONGRESS REGARDING CERTAIN**
 15 **ERISA PLAN INVESTMENTS.**

16 It is the sense of Congress that—

17 (1) a fiduciary of an employee benefit plan, as
 18 defined in section 3(3) of the Employee Retirement
 19 Income Security Act of 1974 (29 U.S.C. 1002(3)),
 20 may divest plan assets from, or avoid investing plan
 21 assets in, any person the fiduciary determines en-
 22 gages in investment activities described in section
 23 201(c), if—

24 (A) the fiduciary makes that determination
 25 using credible information that is available to
 26 the public; and

1 (B) the fiduciary prudently determines
 2 that the result of that divestment or avoidance
 3 of investment would not be expected to provide
 4 the employee benefit plan with—

5 (i) a lower rate of return than alter-
 6 native investments with commensurate de-
 7 grees of risk; or

8 (ii) a higher degree of risk than alter-
 9 native investments with commensurate
 10 rates of return; and

11 (2) by divesting assets or avoiding the invest-
 12 ment of assets as described in paragraph (1), the fi-
 13 duciary is not breaching the responsibilities, obliga-
 14 tions, or duties imposed upon the fiduciary by sub-
 15 paragraph (A) or (B) of section 404(a)(1) of the
 16 Employee Retirement Income Security Act of 1974
 17 (29 U.S.C. 1104(a)(1)).

18 **SEC. 204. RULE OF CONSTRUCTION.**

19 Nothing in this title, an amendment made by this
 20 title, or any other provision of law authorizing sanctions
 21 with respect to North Korea shall be construed to affect
 22 or displace—

23 (1) the authority of a State or local government
 24 to issue and enforce rules governing the safety,

1 soundness, and solvency of a financial institution
2 subject to its jurisdiction; or

3 (2) the regulation and taxation by the several
4 States of the business of insurance, pursuant to the
5 Act of March 9, 1945 (59 Stat. 33, chapter 20; 15
6 U.S.C. 1011 et seq.) (commonly known as the
7 “McCarran-Ferguson Act”).

8 **TITLE III—FINANCIAL INDUSTRY**
9 **GUIDANCE TO HALT TRAF-**
10 **FICKING**

11 **SEC. 301. SHORT TITLE.**

12 This title may be cited as the “Financial Industry
13 Guidance to Halt Trafficking Act” or the “FIGHT Act”.

14 **SEC. 302. FINDINGS.**

15 Congress finds the following:

16 (1) The terms “human trafficking” and “traf-
17 ficking in persons” are used interchangeably to de-
18 scribe crimes involving the exploitation of a person
19 for the purposes of compelled labor or commercial
20 sex through the use of force, fraud, or coercion.

21 (2) According to the International Labour Or-
22 ganization, there are an estimated 24,900,000 peo-
23 ple worldwide who are victims of forced labor, in-
24 cluding human trafficking victims in the United
25 States.

1 (3) Human trafficking is perpetrated for finan-
2 cial gain.

3 (4) According to the International Labour Or-
4 ganization, of the estimated \$150,000,000,000 or
5 more in global profits generated annually from
6 human trafficking—

7 (A) approximately $\frac{2}{3}$ are generated by
8 commercial sexual exploitation, exacted by
9 fraud or by force; and

10 (B) approximately $\frac{1}{3}$ are generated by
11 forced labor.

12 (5) Most purchases of commercial sex acts are
13 paid for with cash, making trafficking proceeds dif-
14 ficult to identify in the financial system. Nonethe-
15 less, traffickers rely heavily on access to financial in-
16 stitutions as destinations for trafficking proceeds
17 and as conduits to finance every step of the traf-
18 ficking process.

19 (6) Under section 1956 of title 18, United
20 States Code (relating to money laundering), human
21 trafficking is a “specified unlawful activity” and
22 transactions conducted with proceeds earned from
23 trafficking people, or used to further trafficking op-
24 erations, can be prosecuted as money laundering of-
25 fenses.

1 **SEC. 303. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) the President should aggressively apply, as
4 appropriate, existing sanctions for human trafficking
5 authorized under section 111 of the Trafficking Vic-
6 tims Protection Act of 2000 (22 U.S.C. 7108);

7 (2) the Financial Crimes Enforcement Network
8 of the Department of the Treasury should con-
9 tinue—

10 (A) to monitor reporting required under
11 subchapter II of chapter 53 of title 31, United
12 States Code (commonly known as the “Bank
13 Secrecy Act”) and to update advisories, as war-
14 ranted;

15 (B) to periodically review its advisories to
16 provide covered financial institutions, as appro-
17 priate, with a list of new “red flags” for identi-
18 fying activities of concern, particularly human
19 trafficking;

20 (C) to encourage entities covered by the
21 advisories described in subparagraph (B) to in-
22 corporate relevant elements provided in the
23 advisories into their current transaction and ac-
24 count monitoring systems or in policies, proce-
25 dures, and training on human trafficking to en-

1 able financial institutions to maintain ongoing
2 efforts to examine transactions and accounts;

3 (D) to use geographic targeting orders, as
4 appropriate, to impose additional reporting and
5 recordkeeping requirements under section
6 5326(a) of title 31, United States Code, to
7 carry out the purposes of, and prevent evasions
8 of the Bank Secrecy Act; and

9 (E) to utilize the Bank Secrecy Act Advi-
10 sory Group and other relevant entities to iden-
11 tify opportunities for nongovernmental organi-
12 zations to share relevant actionable information
13 on human traffickers' use of the financial sector
14 for nefarious purposes;

15 (3) Federal banking regulators, the Department
16 of the Treasury, relevant law enforcement agencies,
17 and the Human Smuggling and Trafficking Center,
18 in partnership with representatives from the United
19 States financial community, should adopt regular
20 forms of sharing information to disrupt human traf-
21 ficking, including developing protocols and proce-
22 dures to share actionable information between and
23 amongst covered institutions, law enforcement, and
24 the United States intelligence community;

1 (4) training front line bank and money service
2 business employees, school teachers, law enforcement
3 officers, foreign service officers, counselors, and the
4 general public is an important factor in identifying
5 trafficking victims;

6 (5) the Department of Homeland Security's
7 Blue Campaign, training by the BEST Employers
8 Alliance, and similar efforts by industry, human
9 rights, and nongovernmental organizations focused
10 on human trafficking provide good examples of cur-
11 rent efforts to educate employees of critical sectors
12 to save victims and disrupt trafficking networks;

13 (6) the President should intensify diplomatic ef-
14 forts, bilaterally and in appropriate international
15 fora, such as the United Nations, to develop and im-
16 plement a coordinated, consistent, multilateral strat-
17 egy for addressing the international financial net-
18 works supporting human trafficking; and

19 (7) in deliberations between the United States
20 Government and any foreign country, including
21 through participation in the Egmont Group of Fi-
22 nancial Intelligence Units, regarding money laun-
23 dering, corruption, and transnational crimes, the
24 United States Government should—

1 (A) encourage cooperation by foreign gov-
2 ernments and relevant international fora in
3 identifying the extent to which the proceeds
4 from human trafficking are being used to facili-
5 tate terrorist financing, corruption, or other il-
6 licit financial crimes;

7 (B) encourage cooperation by foreign gov-
8 ernments and relevant international fora in
9 identifying the nexus between human traf-
10 ficking and money laundering;

11 (C) advance policies that promote the co-
12 operation of foreign governments, through in-
13 formation sharing, training, or other measures,
14 in the enforcement of this title;

15 (D) encourage the Financial Action Task
16 Force to update its July 2011 typology reports
17 entitled, “Laundering the Proceeds of Corrup-
18 tion” and “Money Laundering Risks Arising
19 from Trafficking in Human Beings and Smug-
20 gling of Migrants”, to identify the money laun-
21 dering risk arising from the trafficking of
22 human beings; and

23 (E) encourage the Egmont Group of Fi-
24 nancial Intelligence Units to study the extent to
25 which human trafficking operations are being

1 used for money laundering, terrorist financing,
2 or other illicit financial purposes.

3 **SEC. 304. COORDINATION OF HUMAN TRAFFICKING ISSUES**
4 **BY THE OFFICE OF TERRORISM AND FINAN-**
5 **CIAL INTELLIGENCE.**

6 (a) **FUNCTIONS.**—Section 312(a)(4) of title 31,
7 United States Code, is amended—

8 (1) by redesignating subparagraphs (E), (F),
9 and (G) as subparagraphs (F), (G), and (H), respec-
10 tively; and

11 (2) by inserting after subparagraph (D) the fol-
12 lowing:

13 “(E) combating illicit financing relating to
14 human trafficking;”.

15 (b) **INTERAGENCY COORDINATION.**—Section 312(a)
16 of such title is amended by adding at the end the fol-
17 lowing:

18 “(8) **INTERAGENCY COORDINATION.**—The Sec-
19 retary of the Treasury, after consultation with the
20 Undersecretary for Terrorism and Financial Crimes,
21 shall designate an office within the OTFI that shall
22 coordinate efforts to combat the illicit financing of
23 human trafficking with—

24 “(A) other offices of the Department of the
25 Treasury;

1 “(B) other Federal agencies, including—
 2 “(i) the Office to Monitor and Combat
 3 Trafficking in Persons of the Department
 4 of State; and
 5 “(ii) the Interagency Task Force to
 6 Monitor and Combat Trafficking;
 7 “(C) State and local law enforcement agen-
 8 cies; and
 9 “(D) foreign governments.”.

10 **SEC. 305. STRENGTHENING THE ROLE OF ANTI-MONEY**
 11 **LAUNDERING AND OTHER FINANCIAL TOOLS**
 12 **IN COMBATING HUMAN TRAFFICKING.**

13 (a) INTERAGENCY TASK FORCE RECOMMENDATIONS
 14 TARGETING MONEY LAUNDERING RELATED TO HUMAN
 15 TRAFFICKING.—

16 (1) IN GENERAL.—Not later than 270 days
 17 after the date of the enactment of this Act, the
 18 Interagency Task Force to Monitor and Combat
 19 Trafficking shall submit to the Committee on Bank-
 20 ing, Housing, and Urban Affairs, the Committee on
 21 Foreign Relations, and the Committee on the Judici-
 22 ary of the Senate, the Committee on Financial Serv-
 23 ices, the Committee on Foreign Affairs, and the
 24 Committee on the Judiciary of the House of Rep-

1 representatives, the Secretary of the Treasury, and each
2 appropriate Federal banking agency—

3 (A) an analysis of anti-money laundering
4 efforts of the United States Government,
5 United States financial institutions, and multi-
6 lateral development banks related to human
7 trafficking; and

8 (B) appropriate legislative, administrative,
9 and other recommendations to strengthen ef-
10 forts against money laundering relating to
11 human trafficking.

12 (2) REQUIRED RECOMMENDATIONS.—The rec-
13 ommendations under paragraph (1) shall include—

14 (A) best practices based on successful anti-
15 human trafficking programs currently in place
16 at domestic and international financial institu-
17 tions that are suitable for broader adoption;

18 (B) feedback from stakeholders, including
19 victims of severe trafficking in persons, advo-
20 cates of persons at risk of becoming victims of
21 severe forms of trafficking in persons, the
22 United States Advisory Council on Human
23 Trafficking, civil society organizations, and fi-
24 nancial institutions on policy proposals derived
25 from the analysis conducted by the task force

1 referred to in paragraph (1) that would enhance
2 the efforts and programs of financial institu-
3 tions to detect and deter money laundering re-
4 lated to human trafficking, including any rec-
5 ommended changes to internal policies, proce-
6 dures, and controls related to human traf-
7 ficking;

8 (C) any recommended changes to training
9 programs at financial institutions to better
10 equip employees to deter and detect money
11 laundering related to human trafficking; and

12 (D) any recommended changes to expand
13 human trafficking-related information sharing
14 among financial institutions and between such
15 financial institutions, appropriate law enforce-
16 ment agencies, and appropriate Federal agen-
17 cies.

18 (b) ADDITIONAL REPORTING REQUIREMENT.—Sec-
19 tion 105(d)(7) of the Trafficking Victims Protection Act
20 of 2000 (22 U.S.C. 7103(d)(7)) is amended—

21 (1) in the matter preceding subparagraph (A)—

22 (A) by inserting “the Committee on Finan-
23 cial Services,” after “the Committee on Foreign
24 Affairs”; and

1 (B) by inserting “the Committee on Bank-
 2 ing, Housing, and Urban Affairs,” after “the
 3 Committee on Foreign Relations,”;

4 (2) in subparagraph (Q)(vii), by striking “;
 5 and” and inserting a semicolon;

6 (3) in subparagraph (R), by striking the period
 7 at the end and inserting “; and”; and

8 (4) by adding at the end the following:

9 “(S) the efforts of the United States to
 10 eliminate money laundering related to human
 11 trafficking and the number of investigations,
 12 arrests, indictments, and convictions in money
 13 laundering cases with a nexus to human traf-
 14 ficking.”.

15 (c) REQUIRED REVIEW OF PROCEDURES.—Not later
 16 than 180 days after the date of the enactment of this Act,
 17 the Federal Financial Institutions Examination Council,
 18 in consultation with the Secretary of the Treasury, victims
 19 of severe forms of trafficking in persons, advocates of per-
 20 sons at risk of becoming victims of severe forms of traf-
 21 ficking in persons, the United States Advisory Council on
 22 Trafficking, civil society organizations, the private sector,
 23 and appropriate law enforcement agencies, shall—

24 (1) review and enhance training and examina-
 25 tions procedures to improve the surveillance capabili-

1 ties of anti-money laundering and countering the fi-
2 nancing of terrorism programs to detect human traf-
3 ficking-related financial transactions;

4 (2) review and enhance procedures for referring
5 potential human trafficking cases to the appropriate
6 law enforcement agency; and

7 (3) determine, as appropriate, whether require-
8 ments for financial institutions and covered financial
9 institutions are sufficient to detect and deter money
10 laundering related to human trafficking.

11 (d) LIMITATIONS.—Nothing in this section shall be
12 construed to—

13 (1) grant rulemaking authority to the Inter-
14 agency Task Force to Monitor and Combat Traf-
15 ficking; or

16 (2) authorize financial institutions to deny serv-
17 ices to or violate the privacy of victims of trafficking,
18 victims of severe forms of trafficking, or individuals
19 not responsible for promoting severe forms of traf-
20 ficking in persons.

21 **SEC. 306. SENSE OF CONGRESS ON RESOURCES TO COMBAT**
22 **HUMAN TRAFFICKING.**

23 It is the sense of Congress that—

24 (1) adequate funding should be provided for
25 critical Federal efforts to combat human trafficking;

1 (2) the Department of the Treasury should
2 have the appropriate resources to vigorously inves-
3 tigate human trafficking networks under section 111
4 of the Trafficking Victims Protection Act of 2000
5 (22 U.S.C. 7108) and other relevant statutes and
6 Executive orders;

7 (3) the Department of the Treasury and the
8 Department of Justice should each have the capacity
9 and appropriate resources to support technical as-
10 sistance to develop foreign partners' ability to com-
11 bat human trafficking through strong national anti-
12 money laundering and countering the financing of
13 terrorism programs;

14 (4) each United States Attorney's Office should
15 be provided appropriate funding to increase the
16 number of personnel for community education and
17 outreach and investigative support and forensic anal-
18 ysis related to human trafficking; and

19 (5) the Department of State should be provided
20 additional resources, as necessary, to carry out the
21 Survivors of Human Trafficking Empowerment Act
22 (section 115 of Public Law 114–22; 129 Stat. 243).

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