

Manager's Substitute Amendment

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 4216

To reauthorize the North Korean Human Rights Act of 2004, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “North Korean Human
5 Rights Reauthorization Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The North Korean Human Rights Act of
9 2004 (Public Law 108–333; 22 U.S.C. 7801 et seq.)
10 and subsequent reauthorizations of such Act were
11 the product of broad, bipartisan consensus regarding
12 the promotion of human rights, documentation of

1 human rights violations, transparency in the delivery
2 of humanitarian assistance, and the importance of
3 refugee protection.

4 (2) The human rights and humanitarian condi-
5 tions within North Korea remain deplorable and
6 have been intentionally perpetuated against the peo-
7 ple of North Korea through policies endorsed and
8 implemented by Kim Jong-un and the Workers'
9 Party of Korea.

10 (3) According to a 2014 report released by the
11 United Nations Human Rights Council's Commis-
12 sion of Inquiry on Human Rights in the Democratic
13 People's Republic of Korea, between 80,000 and
14 120,000 children, women, and men were being held
15 in political prison camps in North Korea, where they
16 were subjected to deliberate starvation, forced labor,
17 executions, torture, rape, forced abortion, and infan-
18 ticide.

19 (4) North Korea continues to hold a number of
20 South Koreans and Japanese abducted after the
21 signing of the Agreement Concerning a Military Ar-
22 mistice in Korea, signed at Panmunjom July 27,
23 1953 (commonly referred to as the "Korean War
24 Armistice Agreement") and refuses to acknowledge
25 the abduction of more than 100,000 South Koreans

1 during the Korean War in violation of the Geneva
2 Convention.

3 (5) Human rights violations in North Korea,
4 which include forced starvation, sexual violence
5 against women and children, restrictions on freedom
6 of movement, arbitrary detention, torture, execu-
7 tions, and enforced disappearances, amount to
8 crimes against humanity according to the United
9 Nations Commission of Inquiry on Human Rights in
10 the Democratic People's Republic of Korea.

11 (6) The effects of the COVID-19 pandemic and
12 North Korea's strict lockdown of its borders and
13 crackdowns on informal market activities and small
14 entrepreneurship have drastically increased food in-
15 security for its people and given rise to famine con-
16 ditions in parts of the country.

17 (7) North Korea's COVID-19 border lockdown
18 measures also include shoot-to-kill orders that have
19 resulted in the killing of—

20 (A) North Koreans attempting to cross the
21 border; and

22 (B) at least 1 South Korean citizen in Sep-
23 tember 2020.

24 (8) The Chinese Communist Party and the
25 Government of the People's Republic of China are

1 aiding and abetting in crimes against humanity by
2 forcibly repatriating North Korean refugees to
3 North Korea where they are sent to prison camps,
4 harshly interrogated, and tortured or executed.

5 (9) The forcible repatriation of North Korean
6 refugees violates the People's Republic of China's
7 freely undertaken obligation to uphold the principle
8 of non-refoulement, under the Convention Relating
9 to the Status of Refugees, done at Geneva July 28,
10 1951 (and made applicable by the Protocol Relating
11 to the Status of Refugees, done at New York Janu-
12 ary 31, 1967 (19 UST 6223)).

13 (10) North Korea continues to bar freedom of
14 religion and persecute religious minorities, especially
15 Christians. Eyewitnesses report that Christians in
16 North Korea have been tortured, forcibly detained,
17 and even executed for possessing a Bible or pro-
18 fessing Christianity.

19 (11) United States and international broad-
20 casting operations into North Korea—

21 (A) serve as a critical source of outside
22 news and information for the North Korean
23 people; and

24 (B) provide a valuable service for coun-
25 tering regime propaganda and false narratives.

1 (12) The position of Special Envoy on North
2 Korean Human Rights Issues has been vacant since
3 January 2017, even though the President is required
4 to appoint a Senate-confirmed Special Envoy to fill
5 this position in accordance with section 107 of the
6 North Korean Human Rights Act of 2004 (22
7 U.S.C. 7817).

8 **SEC. 3. SENSE OF CONGRESS.**

9 It is the sense of Congress that—

10 (1) promoting information access in North
11 Korea continues to be a successful method of coun-
12 tering North Korean propaganda;

13 (2) the United States Government should con-
14 tinue to support efforts described in paragraph (1),
15 including by enacting and implementing the Otto
16 Warmbier North Korean Censorship and Surveil-
17 lance Act of 2021, which was introduced by Senator
18 Portman on June 17, 2021;

19 (3) because refugees among North Koreans
20 fleeing into China face severe punishments upon
21 their forcible return, the United States should urge
22 the Government of the People’s Republic of China—

23 (A) to immediately halt its forcible repatri-
24 ation of North Koreans;

1 (B) to allow the United Nations High
2 Commissioner for Refugees (referred to in this
3 section as “UNHCR”) unimpeded access to
4 North Koreans within China to determine
5 whether they are refugees and require assist-
6 ance;

7 (C) to fulfill its obligations under the Con-
8 vention Relating to the Status of Refugees,
9 done at Geneva July 28, 1951 (and made appli-
10 cable by the Protocol Relating to the Status of
11 Refugees, done at New York January 31, 1967
12 (19 UST 6223) and the Agreement on the up-
13 grading of the UNHCR Mission in the People’s
14 Republic of China to UNHCR branch office in
15 the People’s Republic of China, done at Geneva
16 December 1, 1995;

17 (D) to address the concerns of the United
18 Nations Committee Against Torture by incor-
19 porating into domestic legislation the principle
20 of non-refoulement; and

21 (E) to recognize the legal status of North
22 Korean women who marry or have children with
23 Chinese citizens and ensure that all such moth-
24 ers and children are granted resident status
25 and access to education and other public serv-

1 ices in accordance with Chinese law and inter-
2 national standards;

3 (4) the United States Government should con-
4 tinue to promote the effective and transparent deliv-
5 ery and distribution of any humanitarian aid pro-
6 vided in North Korea to ensure that such aid
7 reaches its intended recipients to the point of con-
8 sumption or utilization by cooperating closely with
9 the Government of the Republic of Korea and inter-
10 national and nongovernmental organizations;

11 (5) the Department of State should continue to
12 take steps to increase public awareness about the
13 risks and dangers of travel by United States citizens
14 to North Korea, including by continuing its policy of
15 blocking United States passports from being used to
16 travel to North Korea without a special validation
17 from the Department of State;

18 (6) the United Nations, which has a significant
19 role to play in promoting and improving human
20 rights in North Korea, should press for access for
21 the United Nations Special Rapporteur and the
22 United Nations High Commissioner for Human
23 Rights on the situation of human rights in North
24 Korea;

1 (7) the Special Envoy for North Korean
2 Human Rights Issues should be appointed without
3 delay—

4 (A) to properly promote and coordinate
5 North Korean human rights and humanitarian
6 issues; and

7 (B) to participate in policy planning and
8 implementation with respect to refugee issues;

9 (8) the United States should urge North Korea
10 to repeal the Reactionary Thought and Culture De-
11 nunciation Law and other draconian laws, regula-
12 tions, and decrees that manifestly violate the free-
13 dom of opinion and expression and the freedom of
14 thought, conscience, and religion;

15 (9) the United States should urge North Korea
16 to ensure that any restrictions on addressing the
17 COVID–19 pandemic are necessary, proportionate,
18 nondiscriminatory, time-bound, transparent, and
19 allow international staff to operate inside the North
20 Korea to provide international assistance based on
21 independent needs assessments;

22 (10) the United States should expand the Re-
23 wards for Justice program to be open to North Ko-
24 rean officials who can provide evidence of crimes

1 against humanity being committed by North Korean
2 officials;

3 (11) the United States should continue to seek
4 cooperation from all foreign governments—

5 (A) to allow the UNHCR access to process
6 North Korean refugees overseas for resettlement; and
7

8 (B) to allow United States officials access
9 to process refugees for possible resettlement in
10 the United States; and

11 (12) the Secretary of State, through diplomacy
12 by senior officials, including United States ambassadors to Asia-Pacific countries, and in close cooperation with South Korea, should make every effort to promote the protection of North Korean refugees, escapees, and defectors.

17 **SEC. 4. REAUTHORIZATIONS.**

18 (a) SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY
19 PROGRAMS.—Section 102(b)(1) of the North Korean
20 Human Rights Act of 2004 (22 U.S.C. 7812(b)(1)) is
21 amended by striking “2022” and inserting “2027”.

22 (b) ACTIONS TO PROMOTE FREEDOM OF INFORMATION.—Section 104 of the North Korean Human Rights
23 Act of 2004 (22 U.S.C. 7814) is amended—
24

1 (1) in subsection (b)(1), by striking “2022”
2 and inserting “2027”; and

3 (2) in subsection (c), by striking “2022” and
4 inserting “2027”.

5 (c) REPORT BY SPECIAL ENVOY ON NORTH KOREAN
6 HUMAN RIGHTS ISSUES.—Section 107(d) of the North
7 Korean Human Rights Act of 2004 (22 U.S.C. 7817(d))
8 is amended by striking “2022” and inserting “2027”.

9 (d) REPORT ON UNITED STATES HUMANITARIAN AS-
10 SISTANCE.—Section 201(a) of the North Korean Human
11 Rights Act of 2004 (22 U.S.C. 7831(a)) is amended, in
12 the matter preceding paragraph (1), by striking “2022”
13 and inserting “2027”.

14 (e) ASSISTANCE PROVIDED OUTSIDE OF NORTH
15 KOREA.—Section 203(c)(1) of the North Korean Human
16 Rights Act of 2004 (22 U.S.C. 7833(c)(1)) is amended
17 by striking “2018 through 2022” and inserting “2023
18 through 2027”.

19 (f) ANNUAL REPORTS.—Section 305(a) of the North
20 Korean Human Rights Act of 2004 (22 U.S.C. 7845(a))
21 is amended, in the matter preceding paragraph (1) by
22 striking “2022” and inserting “2027”.

1 **SEC. 5. ACTIONS TO PROMOTE FREEDOM OF INFORMA-**
2 **TION.**

3 Title I of the North Korean Human Rights Act of
4 2004 (22 U.S.C. 7811 et seq.) is amended—

5 (1) in section 103(a), by striking “Broadcasting
6 Board of Governors” and inserting “United States
7 Agency for Global Media”; and

8 (2) in section 104(a)—

9 (A) by striking “Broadcasting Board of
10 Governors” each place such term appears and
11 inserting “United States Agency for Global
12 Media”;

13 (B) in paragraph (7)(B)—

14 (i) in the matter preceding clause (i),
15 by striking “5 years” and inserting “10
16 years”;

17 (ii) by redesignating clauses (i)
18 through (iii) as clauses (ii) through (iv),
19 respectively;

20 (iii) by inserting before clause (ii) the
21 following:

22 “(i) an update of the plan required
23 under subparagraph (A);”; and

24 (iv) in clause (iii), as redesignated, by
25 striking “pursuant to section 403” and in-
26 serting “to carry out this section”.

1 **SEC. 6. SPECIAL ENVOY FOR NORTH KOREAN HUMAN**
2 **RIGHTS ISSUES.**

3 Section 107 of the North Korean Human Rights Act
4 of 2004 (22 U.S.C. 7817) is amended by adding at the
5 end the following:

6 “(e) REPORT ON APPOINTMENT OF SPECIAL
7 ENVOY.—Not later than 180 days after the date of the
8 enactment of this subsection and annually thereafter
9 through 2027 if the position of Special Envoy remains va-
10 cant, the Secretary of State shall submit a report to the
11 appropriate congressional committees that describes the
12 efforts being taken to appoint the Special Envoy.”.

13 **SEC. 7. SUPPORT FOR NORTH KOREAN REFUGEES.**

14 (a) IN GENERAL.—The Secretary of State and the
15 Secretary of Homeland Security should collaborate with
16 faith-based and Korean-American organizations to resettle
17 North Korean participants in the United States Refugee
18 Admissions Program in areas with existing Korean-Amer-
19 ican communities to mitigate trauma and mental health
20 considerations of refugees, as appropriate.

21 (b) RESETTLEMENT OFFICE FOR NORTH KOREAN
22 REFUGEES.—The Secretary of State shall ensure that a
23 program officer in the Bureau of Population, Refugees,
24 and Migration of the Department of State—

25 (1) is stationed in a country in Southeast Asia
26 or East Asia; and

1 (2) is principally responsible for facilitating the
2 processing and onward relocation of North Koreans
3 eligible for the United States Refugee Admissions
4 Program or resettlement in South Korea.

5 (c) RESETTLEMENT LOCATION ASSISTANCE EDU-
6 CATION.—The Secretary of State shall publicly dissemi-
7 nate guidelines and information relating to resettlement
8 options in the United States or South Korea for eligible
9 North Korean refugees, with a particular focus on mes-
10 saging to North Koreans.

11 (d) MECHANISMS.—The guidelines and information
12 described in subsection (c)—

13 (1) shall be published on a publicly available
14 website of the Department of State;

15 (2) shall be broadcast into North Korea
16 through radio broadcasting operations funded or
17 supported by the United States Government; and

18 (3) shall be distributed through brochures or
19 electronic storage devices.

20 **SEC. 8. AUTHORIZATION OF SANCTIONS FOR FORCED RE-**
21 **PATRIATION OF NORTH KOREAN REFUGEES.**

22 (a) DISCRETIONARY DESIGNATIONS.—Section
23 104(b)(1) of the North Korea Sanctions and Policy En-
24 hancement Act of 2016 (22 U.S.C. 9214) is amended—

1 (1) in subparagraph (M), by striking “or” after
2 the semicolon;

3 (2) in subparagraph (N), by striking the period
4 at the end and inserting “; or”; and

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

6 “(O) knowingly, directly or indirectly,
7 forced the repatriation of North Korean refu-
8 gees to North Korea.”.

9 (b) EXEMPTIONS.—Section 208(a)(1) of the North
10 Korea Sanctions and Policy Enhancement Act of 2016 (22
11 U.S.C. 9228(a)(1)) is amended by inserting “, the Repub-
12 lic of Korea, and Japan” before the period at the end.

13 **SEC. 9. REPORT ON HUMANITARIAN EXEMPTIONS TO SANC-**
14 **TIONS IMPOSED WITH RESPECT TO NORTH**
15 **KOREA.**

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

18 (1) the continued pursuit by the North Korean
19 regime of weapons of mass destruction (including
20 nuclear, chemical, and biological weapons), in addi-
21 tion to its ballistic missile program, along with the
22 regime’s gross violations of human rights, have led
23 the international community to impose sanctions
24 with respect to North Korea, including sanctions im-
25 posed by the United Nations Security Council;

1 (2) authorities should grant exemptions for hu-
2 manitarian assistance to the people of North Korea
3 consistent with past United Nations Security Coun-
4 cil resolutions; and

5 (3) humanitarian assistance intended to provide
6 humanitarian relief to the people of North Korea
7 must not be exploited or misdirected by the North
8 Korean regime to benefit the military or elites of
9 North Korea.

10 (b) REPORTS REQUIRED.—

11 (1) DEFINED TERM.—In this subsection, the
12 term “covered period” means—

13 (A) in the case of the first report required
14 to be submitted under paragraph (2), the pe-
15 riod beginning on January 1, 2018, and ending
16 on the date that is 90 days after the date of the
17 enactment of this Act; and

18 (B) in the case of each subsequent report
19 required to be submitted under paragraph (2),
20 the 1-year period preceding the date by which
21 the report is required to be submitted.

22 (2) IN GENERAL.—Not later than 180 days
23 after the date of the enactment of this Act, and an-
24 nually thereafter for the following 2 years, the Sec-

1 retary of State shall submit a report to Congress
2 that—

3 (A) describes—

4 (i) how the North Korean regime has
5 previously exploited humanitarian assist-
6 ance from the international community to
7 benefit elites and the military in North
8 Korea;

9 (ii) the most effective methods to pro-
10 vide humanitarian relief, including mecha-
11 nisms to facilitate humanitarian assistance,
12 to the people of North Korea, who are in
13 dire need of such assistance;

14 (iii) any requests to the Committee of
15 the United Nations Security Council estab-
16 lished by United Nations Security Council
17 Resolution 1718 (2006) (referred to in this
18 section as the “1718 Sanctions Com-
19 mittee”) for humanitarian exemptions from
20 sanctions known to have been denied dur-
21 ing the covered period or known to have
22 been in process for more than 30 days as
23 of the date of the report; and

1 (iv) any known explanations for the
2 denials and delays referred to in clause
3 (iii); and

4 (B) details any action by a foreign govern-
5 ment during the covered period that has de-
6 layed or impeded humanitarian assistance that
7 was approved by the 1718 Sanctions Com-
8 mittee.