

117TH CONGRESS
1ST SESSION

S. 2129

To promote freedom of information and counter censorship and surveillance
in North Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2021

Mr. PORTMAN (for himself, Mr. BROWN, and Mr. COONS) introduced the fol-
lowing bill; which was read twice and referred to the Committee on For-
eign Relations

A BILL

To promote freedom of information and counter censorship
and surveillance in North 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.**

4 This Act may be cited as the “Otto Warmbier Coun-
5 tering North Korean Censorship and Surveillance Act of
6 2021”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress makes the following find-
9 ings:

1 (1) The information landscape in North Korea
2 is the most repressive in the world, consistently
3 ranking last or near-last in the annual World Press
4 Freedom Index.

5 (2) Under the brutal rule of Kim Jung Un, the
6 country's leader since 2012, the North Korean re-
7 gime has tightened controls on access to informa-
8 tion, as well as enacted harsh punishments for con-
9 sumers of outside media, including sentencing to
10 time in a concentration camp and a maximum pen-
11 alty of death.

12 (3) Such repressive and unjust laws sur-
13 rounding information in North Korea resulted in the
14 death of 22-year-old United States citizen and uni-
15 versity student Otto Warmbier, who had traveled to
16 North Korea in December 2015 as part of a guided
17 tour.

18 (4) Otto Warmbier was unjustly arrested, sen-
19 tenced to 15 years of hard labor, and severely mis-
20 treated at the hands of North Korean officials.
21 While in captivity, Otto Warmbier suffered a serious
22 medical emergency that placed him into a comatose
23 state. Otto Warmbier was comatose upon his release
24 in June 2017 and died 6 days later.

1 (5) Despite increased penalties for possession
2 and viewership of foreign media, the people of North
3 Korean have increased their desire for foreign media
4 content, according to a survey of 200 defectors con-
5 cluding that 90 percent had watched South Korean
6 or other foreign media before defecting.

7 (6) On March 23, 2021, in an annual resolu-
8 tion, the United Nations General Assembly con-
9 demned “the long-standing and ongoing systematic,
10 widespread and gross violations of human rights in
11 the Democratic People’s Republic of Korea” and ex-
12 pressed grave concern at, among other things, “the
13 denial of the right to freedom of thought, conscience,
14 and religion . . . and of the rights to freedom of
15 opinion, expression, and association, both online and
16 offline, which is enforced through an absolute mo-
17 nopoly on information and total control over orga-
18 nized social life, and arbitrary and unlawful state
19 surveillance that permeates the private lives of all
20 citizens”.

21 (7) In 2018, Typhoon Yutu caused extensive
22 damage to 15 broadcast antennas used by the
23 United States Agency for Global Media in Asia, re-
24 sulting in reduced programming to North Korea.

1 The United States Agency for Global Media has re-
2 built 5 of the 15 antenna systems as of June 2021.

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

5 (1) in the event of a crisis situation, particu-
6 larly where information pertaining to the crisis is
7 being actively censored or a false narrative is being
8 put forward, the United States should be able to
9 quickly increase its broadcasting capability to deliver
10 fact-based information to audiences, including those
11 in North Korea; and

12 (2) the United States International Broad-
13 casting Surge Capacity Fund is already authorized
14 under section 316 of the United States International
15 Broadcasting Act of 1994 (22 U.S.C. 6216), and ex-
16 panded authority to transfer unobligated balances
17 from expired accounts of the United States Agency
18 for Global Media would enable the Agency to more
19 nimbly respond to crises.

20 **SEC. 3. STATEMENT OF POLICY.**

21 It is the policy of the United States—

22 (1) to provide the people of North Korea with
23 access to a diverse range of fact-based information;

24 (2) to develop and implement novel means of
25 communication and information sharing to ensure

1 that audiences in North Korea can safely create, ac-
2 cess, and share digital and non-digital news without
3 fear of repressive censorship, surveillance, or pen-
4 alties under law; and

5 (3) to foster and innovate new technologies to
6 counter North Korea's state-sponsored repressive
7 surveillance and censorship by advancing internet
8 freedom tools, technologies, and new approaches.

9 **SEC. 4. UNITED STATES STRATEGY TO COMBAT NORTH KO-**
10 **REA'S REPRESSIVE INFORMATION ENVIRON-**
11 **MENT.**

12 (a) IN GENERAL.—Not later than 180 days after the
13 date of the enactment of this Act, the President shall de-
14 velop and submit to Congress a strategy on combating
15 North Korea's repressive information environment.

16 (b) ELEMENTS.—The strategy required by subsection
17 (a) shall include the following:

18 (1) An assessment of the challenges to the free
19 flow of information into North Korea created by the
20 censorship and surveillance technology apparatus of
21 the Government of North Korea.

22 (2) A detailed description of the agencies and
23 other government entities, key officials, and security
24 services responsible for the implementation of North

1 Korea's repressive laws regarding foreign media con-
2 sumption.

3 (3) A detailed description of the agencies and
4 other government entities and key officials of foreign
5 governments that assist, facilitate, or aid North Ko-
6 rea's repressive censorship and surveillance state.

7 (4) An assessment of the feasibility of new pub-
8 lic-private sponsorships to increase free expression,
9 circumvent censorship, and obstruct repressive sur-
10 veillance in North Korea.

11 (5) A description of and funding levels required
12 for current United States Government programs and
13 activities to provide access for the people of North
14 Korea to a diverse range of fact-based information.

15 (6) Guidance for the relevant Federal agencies,
16 including the Department of State, on how agencies
17 should work together and with other federally fund-
18 ed entities like the United States Agency for Global
19 Media, to combat North Korea's repressive censor-
20 ship and surveillance apparatus by utilizing all avail-
21 able means.

22 (7) A detailed assessment of how the United
23 States International Broadcasting Surge Capacity
24 Fund authorized under section 316 of the United
25 States International Broadcasting Act of 1994 (22

1 U.S.C. 6216) has operated to respond to crisis situa-
2 tions in the past, and how authority to transfer un-
3 obligated balances from expired accounts would help
4 the United States Agency for Global Media in crisis
5 situations in the future.

6 (8) A detailed plan for how the authorization of
7 appropriations under section 6 will operate alongside
8 and augment existing programming from the rel-
9 evant Federal agencies and facilitate the develop-
10 ment of new tools to assist that programming.

11 (c) FORM OF STRATEGY.—The strategy required by
12 subsection (a) shall be submitted in unclassified form, but
13 may include the matters required by paragraphs (2) and
14 (3) of subsection (b) in a classified annex.

15 **SEC. 5. IMPOSITION OF SANCTIONS WITH RESPECT TO PER-**
16 **SONS RESPONSIBLE FOR NORTH KOREA'S RE-**
17 **PRESSIVE CENSORSHIP AND SURVEILLANCE**
18 **STATE.**

19 (a) IN GENERAL.—The President may impose the
20 following sanctions with respect to each person identified
21 under paragraph (2) or (3) of section 4(b):

22 (1) BLOCKING OF PROPERTY.—The exercise of
23 all powers granted to the President by the Inter-
24 national Emergency Economic Powers Act (50
25 U.S.C. 1701 et seq.) to the extent necessary to block

1 and prohibit all transactions in all property and in-
2 terests in property of the person if such property
3 and interests in property are in the United States,
4 come within the United States, or are or come with-
5 in the possession or control of a United States per-
6 son.

7 (2) INELIGIBILITY FOR VISAS, ADMISSION, OR
8 PAROLE.—

9 (A) VISAS, ADMISSION, OR PAROLE.—In
10 the case of an alien, the alien may be—

11 (i) inadmissible to the United States;

12 (ii) ineligible to receive a visa or other
13 documentation to enter the United States;

14 and

15 (iii) otherwise ineligible to be admitted
16 or paroled into the United States or to re-
17 ceive any other benefit under the Immigra-
18 tion and Nationality Act (8 U.S.C. 1101 et
19 seq.).

20 (B) CURRENT VISAS REVOKED.—

21 (i) IN GENERAL.—An alien described
22 in subparagraph (A) may be subject to rev-
23 ocation of any visa or other entry docu-
24 mentation regardless of when the visa or

1 other entry documentation is or was
2 issued.

3 (ii) EFFECT.—A revocation under
4 clause (i) shall—

5 (I) take effect consistent with
6 section 221 of the Immigration and
7 Nationality Act (8 U.S.C. 1201); and

8 (II) cancel any other valid visa or
9 entry documentation that is in the
10 alien's possession.

11 (b) IMPLEMENTATION; PENALTIES.—

12 (1) IMPLEMENTATION.—The President may ex-
13 ercise all authorities provided under sections 203
14 and 205 of the International Emergency Economic
15 Powers Act (50 U.S.C. 1702 and 1704) to carry out
16 this section.

17 (2) PENALTIES.—A person that violates, at-
18 tempts to violate, conspires to violate, or causes a
19 violation of subsection (a)(1) or any regulation, li-
20 cense, or order issued to carry out that subsection
21 shall be subject to the penalties set forth in sub-
22 sections (b) and (c) of section 206 of the Inter-
23 national Emergency Economic Powers Act (50
24 U.S.C. 1705) to the same extent as a person that

1 commits an unlawful act described in subsection (a)
2 of that section.

3 (c) NATIONAL SECURITY WAIVER.—The President
4 may waive the imposition of sanctions under subsection
5 (a) with respect to a person if the President—

6 (1) determines that such a waiver is in the na-
7 tional security interests of the United States; and

8 (2) submits to the appropriate congressional
9 committees a notification of the waiver and the rea-
10 sons for the waiver.

11 (d) EXCEPTIONS.—

12 (1) INTELLIGENCE ACTIVITIES.—This section
13 shall not apply with respect to activities subject to
14 the reporting requirements under title V of the Na-
15 tional Security Act of 1947 (50 U.S.C. 3091 et seq.)
16 or any authorized intelligence activities of the United
17 States.

18 (2) LAW ENFORCEMENT ACTIVITIES.—Sanc-
19 tions under this section shall not apply with respect
20 to any authorized law enforcement activities of the
21 United States.

22 (3) EXCEPTION TO COMPLY WITH INTER-
23 NATIONAL AGREEMENTS.—Subsection (a)(2) shall
24 not apply with respect to the admission of an alien
25 to the United States if such admission is necessary

1 to comply with the obligations of the United States
2 under the Agreement regarding the Headquarters of
3 the United Nations, signed at Lake Success June
4 26, 1947, and entered into force November 21,
5 1947, between the United Nations and the United
6 States, under the Convention on Consular Relations,
7 done at Vienna April 24, 1963, and entered into
8 force March 19, 1967, or under other international
9 agreements.

10 (4) EXCEPTION RELATING TO IMPORTATION OF
11 GOODS.—

12 (A) IN GENERAL.—The authority or a re-
13 quirement to impose sanctions under this sec-
14 tion shall not include the authority or a require-
15 ment to impose sanctions on the importation of
16 goods.

17 (B) GOOD DEFINED.—In this paragraph,
18 the term “good” means any article, natural or
19 manmade substance, material, supply, or manu-
20 factured product, including inspection and test
21 equipment, and excluding technical data.

22 (e) DEFINITIONS.—In this section:

23 (1) ADMISSION; ADMITTED; ALIEN.—The terms
24 “admission”, “admitted”, and “alien” have the

1 meanings given those terms in section 101 of the
2 Immigration and Nationality Act (8 U.S.C. 1101).

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Relations,
7 the Committee on Banking, Housing, and
8 Urban Affairs, and the Select Committee on In-
9 telligence of the Senate; and

10 (B) the Committee on Foreign Affairs, the
11 Committee on Financial Services, and the Per-
12 manent Select Committee on Intelligence of the
13 House of Representatives.

14 (3) UNITED STATES PERSON.—The term
15 “United States person” means—

16 (A) a United States citizen or an alien law-
17 fully admitted to the United States for perma-
18 nent residence; or

19 (B) an entity organized under the laws of
20 the United States or any jurisdiction within the
21 United States.

1 **SEC. 6. PROMOTING FREEDOM OF INFORMATION AND**
2 **COUNTERING CENSORSHIP AND SURVEIL-**
3 **LANCE IN NORTH KOREA.**

4 (a) **AUTHORIZATION OF APPROPRIATIONS.**—There
5 are authorized to be appropriated to the United States
6 Agency for Global Media \$10,000,000 for each of fiscal
7 years 2022 through 2026 to provide increased broad-
8 casting and grants for the following purposes:

9 (1) To promote the development of internet
10 freedom tools, technologies, and new approaches, in-
11 cluding both digital and non-digital means of infor-
12 mation sharing related to North Korea.

13 (2) To explore public-private partnerships to
14 counter North Korea’s repressive censorship and
15 surveillance state.

16 (3) To develop new means to protect the pri-
17 vacy and identity of individuals receiving media from
18 the United States Agency for Global Media and
19 other outside media outlets from within North
20 Korea.

21 (4) To bolster existing programming from the
22 United States Agency for Global Media by restoring
23 the broadcasting capacity of damaged antennas
24 caused by Typhoon Yutu in 2018.

25 (b) **ANNUAL REPORTS.**—Not later than one year
26 after the date of the enactment of this Act, and annually

1 thereafter for the following 4 years, the Secretary of State,
2 in consultation with the Chief Executive Officer of the
3 United States Agency for Global Media, shall submit to
4 Congress a report that describes the activities carried out
5 using amounts authorized to be appropriated under sub-
6 section (a) during the year preceding submission of the
7 report.

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