To expedite the provision of humanitarian assistance, including life-saving medical care, to the people of North Korea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Markey (for himself and Mr. Cardin) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To expedite the provision of humanitarian assistance, including life-saving medical care, to the people of 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 “Enhancing North
5 Korea Humanitarian Assistance Act”.
6 SEC. 2. FINDINGS.
7 Congress makes the following findings:
8 (1) Providing humanitarian assistance, includ-
9 ing to countries subject to sanctions imposed by the
United States, is an expression of American values that furthers United States interests around the world and is consistent with international humanitarian law.

(2) As of February 2020, roughly 10,100,000 people in North Korea are in urgent need of food assistance and roughly 10,400,000 need nutrition support and improved access to basic services, including health care, water, sanitation, and hygiene facilities.

(3) More than 40 percent of people in North Korea are undernourished, and 1 out of every 5 children in the country younger than 5 years of age is stunted in growth.

(4) More than $\frac{1}{3}$ of household drinking water in North Korea is contaminated.

(5) Independent experts have identified severe deficiencies in North Korea’s public health infrastructure, trained medical personnel, ability to communicate important safety information, and commitment to addressing those deficiencies.

(6) North Korea has one of the highest burdens of tuberculosis in the world and humanitarian assistance is critical for countering the spread of deadly infectious diseases such as tuberculosis, HIV/AIDS,

(7) North Korea cannot reliably maintain stocks of drugs to treat diseases such as tuberculosis and HIV/AIDS, posing the risk of interrupted treatments, which can lead to treatment failures and resistance to multiple therapies that make treatment significantly more difficult and costly.

(8) The spread of COVID–19 in North Korea is likely having devastating consequences for the people of that country who are especially vulnerable to a pandemic because of deficiencies in public health infrastructure. The 2019 Global Health Security Index shows North Korea is the third least prepared country in the world to combat a health security crisis.

(9) While the Government of North Korea has not reported any cases of COVID–19 in the country, the true extent and impact of the novel coronavirus inside North Korea is unknown, and government officials have not historically been open or transparent about humanitarian emergencies facing the people of North Korea.

(10) Responses to the COVID–19 crisis, including border closings and quarantines, have caused
economic shock and hampered international efforts
that would otherwise be providing life-saving support
to the people of North Korea.

(11) In its final report published on August 28, 2020, the United Nations Panel of Experts on North Korea found that “there can be little doubt that United Nations sanctions have had unintended effects on the humanitarian situation and aid operations within the Democratic People’s Republic of Korea”.

(12) Barriers to humanitarian access can result from decisions made or delayed by the Government of North Korea, by the governments of other countries, including the governments of the United States and the People’s Republic of China, and by the Committee of the United Nations Security Council established by United Nations Security Council Resolution 1718 (2006) (referred to in this Act as the “1718 Sanctions Committee”).

(13) Nongovernmental organizations that provide humanitarian assistance in North Korea must typically seek simultaneous authorizations from the Department of the Treasury, the Department of State, the Department of Commerce, the 1718 Sanctions Committee, customs officials in the People’s
Republic of China, and the Government of North Korea, adding further delays to humanitarian access.

(14) The 1718 Sanctions Committee issued the document entitled “Implementation Assistance Notice No. 7” on August 6, 2018, to clarify the process for granting requests for humanitarian exemptions by the United Nations and to reaffirm that sanctions are not intended to have adverse humanitarian consequences for civilians in North Korea. That guidance was updated on December 1, 2020, to help streamline permissions for COVID–19-related aid and to extend humanitarian waivers from 6 to 9 months.

(15) United States Government travel restrictions impede the access of United States employees of humanitarian organizations inside North Korea and can complicate the monitoring and evaluation procedures that nongovernmental organizations have used to ensure that aid reaches the most vulnerable populations.

(16) Humanitarian exceptions in comprehensive sanctions programs, such as the exceptions under section 510.512 of the North Korea Sanctions Regulations, are not effective unless the persons who pro-
vide assistance along with their financial institutions, suppliers, shippers, and other entities can make practical use of the exceptions.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the interagency review mandated by the national security memorandum issued by President Joseph R. Biden, Jr., on January 21, 2021, and entitled “National Security Memorandum on United States Global Leadership to Strengthen the International COVID–19 Response and to Advance Global Health Security and Biological Preparedness”, offers an opportunity to make appropriate adjustments to United States and multilateral sanctions to ensure that such sanctions do not inadvertently hinder humanitarian access to the people of North Korea;

(2) national governments and multilateral authorities must take action to mitigate documented delays and ensure that sanctions imposed with respect to North Korea do not hinder efforts to provide humanitarian relief, including life-saving medical care to combat COVID–19, to the people of North Korea;
(3) the Department of the Treasury should provide timely and meaningful responses to requests for specific licenses given that humanitarian organizations typically have a limited time to execute projects that must be approved by multiple United States Government agencies and foreign governments;

(4) because humanitarian assistance is unlikely to enable large-scale sanctions evasion and revenue generation, sanctions enforcement should focus on ongoing North Korean activities, including ship-to-ship transfers of coal and other goods, cyberattacks, and the use of forced labor abroad, all highlighted in reports issued by the United Nations Panel of Experts on North Korea and other authoritative sources;

(5) financial institutions should recognize and consider the reputational and practical costs of impeding legitimate efforts to deliver life-saving aid to North Korea; and

(6) as of February 2021, the Department of State’s travel ban for humanitarian missions to North Korea, introduced in 2017, is inconsistent with the intent of the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. 9201
et seq.), which explicitly exempted work related to
the repatriation of the remains of United States vet-

ers.

SEC. 4. ENHANCING EXEMPTIONS FROM UNITED STATES
SANCTIONS.

(a) IN GENERAL.—Not later than 90 days after the
date of the enactment of this Act, the Secretary of Treas-
ury, acting through the Director of the Office of Foreign
Assets Control, shall take 1 or more of the following ac-
tions:

(1) Modify the humanitarian exception under
section 510.512 of the North Korea Sanctions Regu-
lations to cover, in addition to the food and medicine
already exempted, goods and other items that are
not subject to the Export Administration Regula-
tions and that support humanitarian projects to
meet basic human needs in North Korea so that no
specific license is required for such items.

(2)(A) Modify the North Korea Sanctions Reg-
ulations to exempt from a requirement for a specific
license a published list of nonsensitive items, in addi-
tion to the food and medicine already covered by sec-
tion 510.512 of the North Korea Sanctions Regula-
tions, used in humanitarian operations in North
Korea in furtherance of the purposes set forth in
section 4 of the North Korean Human Rights Act of 2004 (22 U.S.C. 7802);

(B) ensure that the list reflects the relevant recommendations included in the final report, published on February 7, 2020, of the Panel of Experts established pursuant to United Nations Security Council Resolution 1874 (2009); and

(C) review and republish the list, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, every 180 days and in response to requests by nongovernmental organizations that have previously engaged in authorized humanitarian activities in North Korea.

(3) Modify the North Korea Sanctions Regulations so that—

(A) a specific license from the Office of Foreign Assets Control of the Department of the Treasury is not required for partnerships and partnership agreements between nongovernmental organizations and persons owned or controlled by the Government of North Korea that are necessary for nongovernmental organizations to provide otherwise authorized
services related to humanitarian activity in North Korea; and

(B) a specific license is still required for any partnerships and partnership agreements with persons on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control.

(b) BRIEFING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Treasury shall provide to the appropriate congressional committees a briefing—

(1) for each action described in subsection (a), describing whether the action was taken and providing a justification for the decision to take or not take the action; and

(2) detailing the benefits and risks associated with establishing a category of recognized non-governmental organizations that would be exempt from requirements for specific licenses related to dealings with the Government of North Korea or persons on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control for purposes of transactions involving goods other than food or medicine to sup-
port authorized humanitarian activities in North Korea.

(c) Modification to North Korea Sanctions Regulations.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall modify the North Korea Sanctions Regulations so that personal computers and related peripherals that support authorized humanitarian activities by nongovernmental organizations are not considered to be “luxury goods”.

(d) Guidance.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury, acting through the Director of the Office of Foreign Assets Control, shall issue plainly worded guidance intended for financial institutions, shipping companies, foreign customs officials, and others involved in transactions related to humanitarian assistance that—

(1) clarifies the applicability of the humanitarian exception under the North Korea Sanctions Regulations; and

(2) describes best practices for ensuring that activities are consistent with that exception.

(e) Report Required.—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter, the Secretary of the Treasury, acting
through the Director of the Office of Foreign Assets Control and in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report that includes—

(1) a list of specific licenses related to humanitarian assistance in North Korea issued by the Office of Foreign Assets Control during the 120-day period immediately preceding the submission of the report;

(2) a list of requests for specific licenses related to humanitarian assistance in North Korea denied by the Office of Foreign Assets Control during such 120-day period, including explanations for the denials;

(3) a list of requests for specific licenses related to humanitarian assistance in North Korea that have been pending for 30 days or more as of the date on which the report is submitted, including explanations for the delays;

(4) a list of requests by non-United States persons for sanctions waivers related to humanitarian assistance in North Korea that have been pending for 30 days or more as of the date on which the report is submitted, including explanations for the delays; and
(5) a description of recent efforts to streamline the process by which nongovernmental organizations engaged in humanitarian activity in North Korea apply for and are granted specific licenses or waivers.

SEC. 5. ENHANCING MULTILATERAL SANCTIONS EXEMPTIONS.

(a) In General.—The Secretary of State shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States to urge the United Nations—

(1) to extend the period for humanitarian exemptions from the 1718 Sanctions Committee to 1 year and remove the limitation on exemption applications per organization per year;

(2) to apply lessons learned from expedited approvals of requests for humanitarian exemptions during the COVID–19 pandemic to speed approval at the 1718 Sanctions Committee of other critical exemption requests, such as requests that would address urgent needs identified in the annual reports of the United Nations on needs and priorities for North Korea; and

(3) to modify applications for humanitarian exemptions from the 1718 Sanctions Committee to be
less burdensome for nongovernmental organizations, drawing as appropriate on successes in approaches taken by other United Nations sanctions committees.

(b) REPORTING.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit to the appropriate congressional committees a report—

(1) describing any requests for humanitarian exemptions to the 1718 Sanctions Committee known to have been denied in the 180 days preceding submission of the report or known to have been in process for more than 30 days as of the date of the report, and any known explanations for such denials and delays;

(2) detailing any action by a foreign government in the 180 days preceding submission of the report that has delayed or impeded humanitarian assistance approved by the 1718 Sanctions Committee, including the status of obstacles to humanitarian assistance posed by customs officials in the People’s Republic of China; and

(3) describing efforts in the 180 days preceding submission of the report to establish or maintain an
approved banking channel for transactions related to
humanitarian assistance for North Korea.

SEC. 6. STREAMLINING HUMANITARIAN TRAVEL AUTHORIZATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall provide to the appropriate congressional committees a briefing—

(1) detailing the benefits and risks associated with issuing a “multi-entry special validation passport” to individuals employed by a nongovernmental organization known to be engaged in authorized humanitarian activity in North Korea, with the purpose of reducing costs and delays associated with repeated passport applications;

(2) detailing plans to expand eligibility for special validation to travel to North Korea related to repatriation of United States veterans remains from the Korean War and appropriate people-to-people exchanges related to conflict reduction or family reunification; and

(3) setting forth a strategy to otherwise expedite and simplify the process to obtain a special travel permit to travel to North Korea on behalf of a humanitarian organization or to travel to North
Korea using a United States passport to deliver or 
oversee humanitarian assistance.

SEC. 7. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMIT- 
TEES.—The term “appropriate congressional com-
mittees” means the Committee on Foreign Relations 
of the Senate and the Committee on Foreign Affairs 
of the House of Representatives.

(2) EXPORT ADMINISTRATION REGULATIONS.—
The term “Export Administration Regulations” 
means the regulations set forth in subchapter C of 
chapter VII of title 15, Code of Federal Regulations, 
or successor regulations.

(3) NORTH KOREA SANCTIONS REGULATIONS.—
The term “North Korea Sanctions Regulations” 
means the regulations set forth in part 510 of title 
31, Code of Federal Regulations, or successor regu-
lations.