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 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.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enhancing North Korea Humanitarian Assistance Act”.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Providing humanitarian assistance, including 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 humani-
tarian law.

(2) As of February 2020, roughly 10,100,000
people in North Korea are in urgent need of food assis-
tance and roughly 10,400,000 need nutrition sup-
port 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 in 5 children in
the country under the age of 5 is stunted in growth.

(4) More than 1/3 of household drinking water
in North Korea is contaminated.

(5) Independent experts have identified severe
deficiencies in North Korea’s public health infra-
structure, trained medical personnel, ability to com-
municate important safety information, and commit-
ment to addressing those deficiencies.

(6) North Korea has one of the highest burdens
of tuberculosis in the world and humanitarian assist-
ance is critical for countering the spread of deadly
infectious diseases such as tuberculosis and the
coronavirus disease 2019 (commonly known as
“COVID–19”).
(7) North Korea cannot reliably maintain a stock of drugs to treat and cure tuberculosis, posing the risk of interrupted treatments, which can lead to multi-drug-resistant and extensively drug-resistant strains of tuberculosis that are significantly more difficult and costly to treat.

(8) The spread of COVID-19 in North Korea would likely have devastating consequences for the people of that country who are especially vulnerable to a pandemic because of deficiencies in public health infrastructure.

(9) While the Government of North Korea has not reported any cases of COVID–19 in the country, the extent and results of testing are 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 that may extend through the planting season, have impeded international efforts that would otherwise be providing life-saving support to the people of North Korea.

(11) In its final report published on March 5, 2019, the United Nations Panel of Experts on North Korea found that “United Nations agencies
and humanitarian organizations continue to experience unintended consequences on their humanitarian programmes that make it impossible to operate normally in 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) (in this Act referred to 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 No-
tice 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.

(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 provide 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) 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 pro-
vide humanitarian relief, including life-saving medical care, to the people of North Korea;

(2) 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;

(3) 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; and

(4) financial institutions should recognize and consider the reputational and practical costs of impeding legitimate efforts to deliver life-saving aid to North Korea.
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 Treasury, acting through the Director of the Office of Foreign Assets Control, shall take one or more of the following actions:

(1) Modify the humanitarian exception under section 510.512 of the North Korea Sanctions Regulations to cover, in addition to the food and medicine already exempted, goods and other items that are not subject to the Export Administration Regulations 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 Regulations to exempt from a requirement for a specific license a published list of nonsensitive items, in addition to the food and medicine already covered by section 510.512 of the North Korea Sanctions Regulations, 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, pub-
lished on March 5, 2019, of the Panel of Experts est-
established pursuant to United Nations Security
Council Resolution 1874 (2009); and

(C) review and republish the list, in consulta-
tion with the Secretary of State and the Adminis-
trator of the United States Agency for International
Development, every 180 days and in response to re-
quests by nongovernmental organizations that have
previously engaged in authorized humanitarian ac-
tivities in North Korea.

(3) Modify the North Korea Sanctions Regula-
tions 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 non-
governmental 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 Treas-
ury shall provide to the appropriate congressional commit-
tees a briefing—

(1) for each action described in subsection (a),
describing whether the action was taken and pro-
viding 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, shall submit to the appropriate congressional committees a report—

(1) a list of specific licenses related to humanitarian assistance in North Korea issued by the Of-
office of Foreign Assets Control in the 120 days pre-
ceeding 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 in the 120
days preceding submission of the report, with expla-
nations 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 of the report, with explanations for the delays;
and

(4) 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.

SEC. 5. ENHANCING MULTILATERAL SANCTIONS EXEMP-
TIONS.

(a) In General.—The Secretary of State shall di-
rect 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 ex-
ceptions 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 re-
port, 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; and
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 COMMITTEES.—The term “appropriate congressional committees” 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 regulations.