



Concur in the Senate Amendment to H.R. 757 — North Korea Sanctions Enforcement Act of 2016 (Rep. Royce, R-CA)

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FLOOR SCHEDULE:

Scheduled for consideration on February 12, 2016 suspension of the rules, which requires 2/3 vote for passage.

TOPLINE SUMMARY:

The [Senate amendment to H.R. 757](#) would expand existing sanctions against North Korea, in particular those related to illegal weapons proliferation, human rights abuses, and other illicit activities. The bill would additionally would authorize the appropriation of \$50 million over the 2017-2021 period to assist North Korean refugees and improve broadcasting and access of unfiltered information into the isolated country. The sanctions legislation comes in response to illegal hydrogen nuclear weapons and long-range missile tests conducted by North Korea on January 6, 2016, and February 7, 2016 respectively.

COST:

The Congressional Budget Office (CBO) [estimates](#) that implementing the act would cost \$44 million over the 2016-2021 period, assuming appropriation of the specified and estimated amounts. Because enacting the legislation would affect direct spending and revenues, pay-as-you-go procedures apply; however, those effects would not be significant over the 2016-2026 period. CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2027.

CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

DETAILED SUMMARY AND ANALYSIS:

Title I of H.R. 757 states that it is the policy of Congress to: (1) encourage all states to fully implement [United Nations Security Council Resolution 2094 \(2013\)](#); (2) sanction persons including financial

institutions, that facilitate proliferation, illicit activities, arms trafficking, cyberterrorism, imports of luxury goods, serious human rights abuses, cash smuggling, and censorship by North Korea; (3) authorize the President to sanction persons who fail to exercise due diligence to ensure that such financial institutions and member states do not facilitate proliferation, arms trafficking, kleptocracy, or imports of luxury goods by North Korea; (4) deny North Korea access to the funds it uses to develop or obtain nuclear weapons, ballistic missiles, cyberwarfare capabilities, and luxury goods instead of providing for the needs of its people; and (5) enforce sanctions in a manner that does not significantly hinder or delay the efforts of legitimate United States or foreign humanitarian organizations from providing assistance to meet the needs of civilians facing humanitarian crisis, including access to food, health care, shelter, and clean drinking water, to prevent or alleviate human suffering.

Title I would require the President of the United States to investigate sanctionable conduct involving the North Korean regime, and would require the President to designate entities that facilitate illicit conduct. The President would be authorized to direct the Secretary of State, the Secretary of the Treasury, and the heads of other federal departments to ensign qualified investigators to ensure the effectiveness of the sanctions legislation.

Section 104 of Title I would designate prohibited conduct and entities subject to the sanctions, and would mandate that the President exercise the authorities of the [International Emergency Economic Powers Act](#) to impose criminal and civil penalties on activities that facilitate North Korea's illicit activities. Section 105 would stipulate that real estate or personal property would be subjected to civil forfeiture if involved in any violation or attempted violation of the mandated sanctions in the bill.

Title II of the legislation would mandate that the Secretary of the Treasury determine whether North Korea is a primary money laundering concern. The section would also seek to prohibit North Korean banks from directly or indirectly accessing the U.S. financial system. Title II further expresses a sense of Congress on ensuring the consistent enforcement of United Nations Security Council resolutions and financial restrictions on North Korea.

Section 202 would require the President to direct the Secretary of State to develop a strategy to improve international implementation and enforcement of United Nations North Korea-specific sanctions.

Section 203 of the bill would require a validated license to export any goods or technology to North Korea subject to the [Export Administration Regulations](#). No defense exports would be approved for North Korea. The President would be directed to withhold assistance under the [Foreign Assistance Act of 1961](#) to any country that provides lethal military equipment to, or receives it from North Korea. The President would be granted the authority to waive such restrictions on a case-by-case basis.

The House-passed version of the bill included a section which would have further applied prohibitions and restrictions of the [Arms Export Control Act](#) to any provision of munitions to North Korea, regardless of whether it is designated as a state sponsor of terrorism. The Arms Export Control Act applied to North Korea until it was removed from the list of state sponsors of terrorism in 2008. The Senate-passed version omitted that section.

Section 204 would prohibit the U.S. government from procuring, or entering into any contract for the procurement of, any goods or services from any designated person under the bill. The Federal Acquisition Regulation issued pursuant to [section 1303 of title 41, United States Code](#), would be revised

to require a certification from each prospective contractor that such person does not engage in any of the illicit conduct designated in the bill. The Administrator of General Services would be required to include, on the [List of Parties Excluded from Federal Procurement and Nonprocurement Programs](#), each person that is debarred, suspended, by the head of an executive agency on the basis of a determination of a false contract certification.

Section 205 would require the President to submit to Congress a report that identifies foreign ports and airports at which inspections of ships, aircraft, and conveyances originating in North Korea, carrying North Korean property, or operated by the Government of North Korea are not sufficient to effectively prevent the facilitation of any of the sanctionable activities listed in the bill. The Secretary of Homeland Security (DHS) would be authorized to conduct enhanced screening inspections of any goods entering the United States that have been transported through a port or airport identified by the President. A vessel, aircraft, or conveyance used to facilitate any of the described illicit activities related to the violation of certain sanctions that comes within the jurisdiction of the United States may be seized and forfeited.

Section 206 would authorize the Secretary of State or the Secretary of Homeland Security may deny entry into the United States of any alien who is a designated sanctionable person; a corporate officer of a designated person; or a principal shareholder with a controlling interest in a designated person. Section 207 would require the Secretary of State to expand the scope and frequency of issuance of travel warnings for all United States citizens to North Korea.

Title II would further require a report to Congress on significant activities undermining cyber security conducted, or otherwise ordered by North Korea. Section 210 would codify existing executive orders imposing sanctions on persons located in North Korea that undermine cybersecurity.

The House-passed bill contained a requirement for a report on cooperation between North Korea and Iran on their nuclear programs, including the identity of Iranian and North Korean persons that have knowingly engaged in or directed the provision of material support between North Korea and Iran on their respective nuclear programs. The Senate-passed version omitted this report requirement.

Title III would amend the [North Korean Human Rights Act of 2004](#) by requiring the President to submit a classified report to Congress that sets forth a detailed plan for making unrestricted, unmonitored, and inexpensive electronic mass communications available to the people of North Korea. Title III would require the Secretary of State to submit a report to Congress that details a United States strategy to promote initiatives to enhance international awareness of and to address the human rights situation in North Korea.

Title III would further require a report to Congress on [each political prison camp in North Korea](#), and a report detailing the identity of each person responsible for serious human rights abuses or censorship in North Korea, along with a description of those abuses or censorship. Title III would further designate each person responsible for serious human rights abuses as sanctionable under the bill.

Title IV would specify the specific circumstances and mechanisms for the sanctions stipulated in H.R. 757 to be suspended. Section 403 would authorize to be appropriated for each of fiscal years 2017 through 2021, \$3,000,000 for radio broadcasting into North Korea, \$3,000,000 and \$2,000,000 to promote freedom and access of information in the country, and \$2,000,000 to provide humanitarian assistance to North Korean refugees.

The RSC's legislative bulletin for the House-passed H.R. 757 can be found [here](#). A section-by-section on the House-passed H.R. 757 provided by the House Foreign Affairs Committee can be found [here](#). A similar bill, [H.R. 1771](#) passed the House in the 113th Congress on July 28, 2014 by voice vote. The RSC's legislative bulletin for H.R. 1771 can be found [here](#).

COMMITTEE ACTION:

H.R. 757 was introduced on February 5, 2015 and was referred to the House Committees on Foreign Affairs, on Financial Services, on Ways and Means, Judiciary, and Oversight and Government Reform. On February 27, 2015, the bill was ordered to be reported in the nature of a substitute (amended) by voice vote by the House Committee on Foreign Affairs. On January 12, 2016, H.R. 757 passed the House under suspension of the rules by the yeas and nays: [418 – 2](#). The bill was then referred to the Senate Committee on Foreign Relations on February 2, 2016 with an amendment in the nature of a substitute. On February 10, 2016, the bill passed the Senate with an amendment by yea-nay vote: [96 – 0](#).

ADMINISTRATION POSITION:

A Statement of Administration Policy is not available.

CONSTITUTIONAL AUTHORITY:

According to the sponsor: "Congress has the power to enact this legislation pursuant to the following: Article I, section 8 of the Constitution of the United States." No specific enumerating clause was included.

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