

In the Senate of the United States,

September 28, 2004.

Resolved, That the bill from the House of Representatives (H.R. 4011) entitled “An Act to promote human rights and freedom in the Democratic People’s Republic of Korea, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “North Korean Human*

3 *Rights Act of 2004”.*

1 **SEC. 2. TABLE OF CONTENTS.**

2 *The table of contents for this Act is as follows:*

- Sec. 1. Short title.*
- Sec. 2. Table of contents.*
- Sec. 3. Findings.*
- Sec. 4. Purposes.*
- Sec. 5. Definitions.*

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

- Sec. 101. Sense of Congress regarding negotiations with North Korea.*
- Sec. 102. Support for human rights and democracy programs.*
- Sec. 103. Radio broadcasting to North Korea.*
- Sec. 104. Actions to promote freedom of information.*
- Sec. 105. United Nations Commission on Human Rights.*
- Sec. 106. Establishment of regional framework.*
- Sec. 107. Special Envoy on Human Rights in North Korea.*

TITLE II—ASSISTING NORTH KOREANS IN NEED

- Sec. 201. Report on United States humanitarian assistance.*
- Sec. 202. Assistance provided inside North Korea.*
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TITLE III—PROTECTING NORTH KOREAN REFUGEES

- Sec. 301. United States policy toward refugees and defectors.*
- Sec. 302. Eligibility for refugee or asylum consideration.*
- Sec. 303. Facilitating submission of applications for admission as a refugee.*
- Sec. 304. United Nations High Commissioner for Refugees.*
- Sec. 305. Annual reports.*

3 **SEC. 3. FINDINGS.**

4 *Congress makes the following findings:*

5 *(1) According to the Department of State, the*
 6 *Government of North Korea is “a dictatorship under*
 7 *the absolute rule of Kim Jong Il” that continues to*
 8 *commit numerous, serious human rights abuses.*

9 *(2) The Government of North Korea attempts to*
 10 *control all information, artistic expression, academic*
 11 *works, and media activity inside North Korea and*
 12 *strictly curtails freedom of speech and access to for-*
 13 *oreign broadcasts.*

1 (3) *The Government of North Korea subjects all*
2 *its citizens to systematic, intensive political and ideo-*
3 *logical indoctrination in support of the cult of person-*
4 *ality glorifying Kim Jong Il and the late Kim Il*
5 *Sung that approaches the level of a state religion.*

6 (4) *The Government of North Korea divides its*
7 *population into categories, based on perceived loyalty*
8 *to the leadership, which determines access to food, em-*
9 *ployment, higher education, place of residence, med-*
10 *ical facilities, and other resources.*

11 (5) *According to the Department of State, “[t]he*
12 *[North Korean] Penal Code is [d]raconian, stipu-*
13 *lating capital punishment and confiscation of assets*
14 *for a wide variety of ‘crimes against the revolution,’*
15 *including defection, attempted defection, slander of*
16 *the policies of the Party or State, listening to foreign*
17 *broadcasts, writing ‘reactionary’ letters, and pos-*
18 *sessing reactionary printed matter”.*

19 (6) *The Government of North Korea executes po-*
20 *litical prisoners, opponents of the regime, some repa-*
21 *triated defectors, some members of underground*
22 *churches, and others, sometimes at public meetings at-*
23 *tended by workers, students, and schoolchildren.*

24 (7) *The Government of North Korea holds an es-*
25 *timated 200,000 political prisoners in camps that its*

1 *State Security Agency manages through the use of*
2 *forced labor, beatings, torture, and executions, and in*
3 *which many prisoners also die from disease, starva-*
4 *tion, and exposure.*

5 *(8) According to eyewitness testimony provided*
6 *to the United States Congress by North Korean camp*
7 *survivors, camp inmates have been used as sources of*
8 *slave labor for the production of export goods, as tar-*
9 *gets for martial arts practice, and as experimental*
10 *victims in the testing of chemical and biological poi-*
11 *sons.*

12 *(9) According to credible reports, including eye-*
13 *witness testimony provided to the United States Con-*
14 *gress, North Korean Government officials prohibit live*
15 *births in prison camps, and forced abortion and the*
16 *killing of newborn babies are standard prison prac-*
17 *tices.*

18 *(10) According to the Department of State,*
19 *“[g]enuine religious freedom does not exist in North*
20 *Korea” and, according to the United States Commis-*
21 *sion on International Religious Freedom, “[t]he*
22 *North Korean state severely represses public and pri-*
23 *vate religious activities” with penalties that report-*
24 *edly include arrest, imprisonment, torture, and some-*
25 *times execution.*

1 (11) *More than 2,000,000 North Koreans are es-*
2 *timated to have died of starvation since the early*
3 *1990s because of the failure of the centralized agricul-*
4 *tural and public distribution systems operated by the*
5 *Government of North Korea.*

6 (12) *According to a 2002 United Nations-Euro-*
7 *pean Union survey, nearly one out of every ten chil-*
8 *dren in North Korea suffers from acute malnutrition*
9 *and four out of every ten children in North Korea are*
10 *chronically malnourished.*

11 (13) *Since 1995, the United States has provided*
12 *more than 2,000,000 tons of humanitarian food as-*
13 *sistance to the people of North Korea, primarily*
14 *through the World Food Program.*

15 (14) *Although United States food assistance has*
16 *undoubtedly saved many North Korean lives and*
17 *there have been minor improvements in transparency*
18 *relating to the distribution of such assistance in*
19 *North Korea, the Government of North Korea con-*
20 *tinues to deny the World Food Program forms of ac-*
21 *cess necessary to properly monitor the delivery of food*
22 *aid, including the ability to conduct random site vis-*
23 *its, the use of native Korean-speaking employees, and*
24 *travel access throughout North Korea.*

1 (15) *The risk of starvation, the threat of persecu-*
2 *tion, and the lack of freedom and opportunity in*
3 *North Korea have caused large numbers, perhaps even*
4 *hundreds of thousands, of North Koreans to flee their*
5 *homeland, primarily into China.*

6 (16) *North Korean women and girls, particu-*
7 *larly those who have fled into China, are at risk of*
8 *being kidnapped, trafficked, and sexually exploited*
9 *inside China, where many are sold as brides or con-*
10 *cubines, or forced to work as prostitutes.*

11 (17) *The Governments of China and North Korea*
12 *have been conducting aggressive campaigns to locate*
13 *North Koreans who are in China without permission*
14 *and to forcibly return them to North Korea, where*
15 *they routinely face torture and imprisonment, and*
16 *sometimes execution.*

17 (18) *Despite China's obligations as a party to*
18 *the 1951 United Nations Convention Relating to the*
19 *Status of Refugees and the 1967 Protocol Relating to*
20 *the Status of Refugees, China routinely classifies*
21 *North Koreans seeking asylum in China as mere "eco-*
22 *nomic migrants" and returns them to North Korea*
23 *without regard to the serious threat of persecution*
24 *they face upon their return.*

1 (19) *The Government of China does not provide*
2 *North Koreans whose asylum requests are rejected a*
3 *right to have the rejection reviewed prior to deporta-*
4 *tion despite its obligations under the 1951 United Na-*
5 *tions Convention Relating to the Status of Refugees*
6 *and the 1967 Protocol Relating to the Status of Refu-*
7 *gees.*

8 (20) *North Koreans who seek asylum while in*
9 *China are routinely imprisoned and tortured, and in*
10 *some cases killed, after they are returned to North*
11 *Korea.*

12 (21) *The Government of China has detained,*
13 *convicted, and imprisoned foreign aid workers at-*
14 *tempting to assist North Korean refugees in pro-*
15 *ceedings that did not comply with Chinese law or*
16 *international standards.*

17 (22) *In January 2000, North Korean agents in-*
18 *side China allegedly abducted the Reverend Kim*
19 *Dong-shik, a United States permanent resident and*
20 *advocate for North Korean refugees, whose condition*
21 *and whereabouts remain unknown.*

22 (23) *Between 1994 and 2003, South Korea has*
23 *admitted approximately 3,800 North Korean refugees*
24 *for domestic resettlement, a number that is small in*
25 *comparison with the total number of North Korean*

1 *escapees but far greater than the number legally ad-*
2 *mitted in any other country.*

3 *(24) Although the principal responsibility for*
4 *North Korean refugee resettlement naturally falls to*
5 *the Government of South Korea, the United States*
6 *should play a leadership role in focusing inter-*
7 *national attention on the plight of these refugees, and*
8 *formulating international solutions to that profound*
9 *humanitarian dilemma.*

10 *(25) In addition to infringing the rights of its*
11 *own citizens, the Government of North Korea has been*
12 *responsible in years past for the abduction of numer-*
13 *ous citizens of South Korea and Japan, whose condi-*
14 *tion and whereabouts remain unknown.*

15 **SEC. 4. PURPOSES.**

16 *The purposes of this Act are—*

17 *(1) to promote respect for and protection of fun-*
18 *damental human rights in North Korea;*

19 *(2) to promote a more durable humanitarian so-*
20 *lution to the plight of North Korean refugees;*

21 *(3) to promote increased monitoring, access, and*
22 *transparency in the provision of humanitarian assist-*
23 *ance inside North Korea;*

24 *(4) to promote the free flow of information into*
25 *and out of North Korea; and*

1 (5) *to promote progress toward the peaceful re-*
2 *unification of the Korean peninsula under a demo-*
3 *cratic system of government.*

4 **SEC. 5. DEFINITIONS.**

5 *In this Act:*

6 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
7 *TEES.—The term “appropriate congressional commit-*
8 *tees” means—*

9 (A) *the Committee on International Rela-*
10 *tions of the House of Representatives; and*

11 (B) *the Committee on Foreign Relations of*
12 *the Senate.*

13 (2) *CHINA.—The term “China” means the Peo-*
14 *ple’s Republic of China.*

15 (3) *HUMANITARIAN ASSISTANCE.—The term “hu-*
16 *manitarian assistance” means assistance to meet hu-*
17 *manitarian needs, including needs for food, medicine,*
18 *medical supplies, clothing, and shelter.*

19 (4) *NORTH KOREA.—The term “North Korea”*
20 *means the Democratic People’s Republic of Korea.*

21 (5) *NORTH KOREANS.—The term “North Kore-*
22 *ans” means persons who are citizens or nationals of*
23 *North Korea.*

24 (6) *SOUTH KOREA.—The term “South Korea”*
25 *means the Republic of Korea.*

1 **TITLE I—PROMOTING THE**
2 **HUMAN RIGHTS OF NORTH**
3 **KOREANS**

4 **SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS**
5 **WITH NORTH KOREA.**

6 *It is the sense of Congress that the human rights of*
7 *North Koreans should remain a key element in future nego-*
8 *tiations between the United States, North Korea, and other*
9 *concerned parties in Northeast Asia.*

10 **SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY**
11 **PROGRAMS.**

12 *(a) SUPPORT.—The President is authorized to provide*
13 *grants to private, nonprofit organizations to support pro-*
14 *grams that promote human rights, democracy, rule of law,*
15 *and the development of a market economy in North Korea.*
16 *Such programs may include appropriate educational and*
17 *cultural exchange programs with North Korean partici-*
18 *pants, to the extent not otherwise prohibited by law.*

19 *(b) AUTHORIZATION OF APPROPRIATIONS.—*

20 *(1) IN GENERAL.—There are authorized to be ap-*
21 *propriated to the President \$2,000,000 for each of the*
22 *fiscal years 2005 through 2008 to carry out this sec-*
23 *tion.*

24 *(2) AVAILABILITY.—Amounts appropriated pur-*
25 *suant to the authorization of appropriations under*

1 paragraph (1) are authorized to remain available
2 until expended.

3 **SEC. 103. RADIO BROADCASTING TO NORTH KOREA.**

4 (a) *SENSE OF CONGRESS.*—It is the sense of Congress
5 that the United States should facilitate the unhindered dis-
6 semination of information in North Korea by increasing
7 its support for radio broadcasting to North Korea, and that
8 the Broadcasting Board of Governors should increase broad-
9 casts to North Korea from current levels, with a goal of pro-
10 viding 12-hour-per-day broadcasting to North Korea, in-
11 cluding broadcasts by Radio Free Asia and Voice of Amer-
12 ica.

13 (b) *REPORT.*—Not later than 120 days after the date
14 of the enactment of this Act, the Broadcasting Board of Gov-
15 ernors shall submit to the appropriate congressional com-
16 mittees a report that—

17 (1) describes the status of current United States
18 broadcasting to North Korea; and

19 (2) outlines a plan for increasing such broad-
20 casts to 12 hours per day, including a detailed de-
21 scription of the technical and fiscal requirements nec-
22 essary to implement the plan.

1 **SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMA-**
2 **TION.**

3 (a) *ACTIONS.*—*The President is authorized to take*
4 *such actions as may be necessary to increase the avail-*
5 *ability of information inside North Korea by increasing the*
6 *availability of sources of information not controlled by the*
7 *Government of North Korea, including sources such as ra-*
8 *dios capable of receiving broadcasting from outside North*
9 *Korea.*

10 (b) *AUTHORIZATION OF APPROPRIATIONS.*—

11 (1) *IN GENERAL.*—*There are authorized to be ap-*
12 *propriated to the President \$2,000,000 for each of the*
13 *fiscal years 2005 through 2008 to carry out subsection*

14 (a).

15 (2) *AVAILABILITY.*—*Amounts appropriated pur-*
16 *suant to the authorization of appropriations under*
17 *paragraph (1) are authorized to remain available*
18 *until expended.*

19 (c) *REPORT.*—*Not later than 1 year after the date of*
20 *the enactment of this Act, and in each of the 3 years there-*
21 *after, the Secretary of State, after consultation with the*
22 *heads of other appropriate Federal departments and agen-*
23 *cies, shall submit to the appropriate congressional commit-*
24 *tees a report, in classified form, on actions taken pursuant*
25 *to this section.*

1 **SEC. 105. UNITED NATIONS COMMISSION ON HUMAN**
2 **RIGHTS.**

3 *It is the sense of Congress that the United Nations has*
4 *a significant role to play in promoting and improving*
5 *human rights in North Korea, and that—*

6 *(1) the United Nations Commission on Human*
7 *Rights (UNCHR) has taken positive steps by adopt-*
8 *ing Resolution 2003/10 and Resolution 2004/13 on*
9 *the situation of human rights in North Korea, and*
10 *particularly by requesting the appointment of a Spe-*
11 *cial Rapporteur on the situation of human rights in*
12 *North Korea; and*

13 *(2) the severe human rights violations within*
14 *North Korea warrant country-specific attention and*
15 *reporting by the United Nations Working Group on*
16 *Arbitrary Detention, the Working Group on Enforced*
17 *and Involuntary Disappearances, the Special*
18 *Rapporteur on Extrajudicial, Summary, or Arbitrary*
19 *Executions, the Special Rapporteur on the Right to*
20 *Food, the Special Rapporteur on the Promotion and*
21 *Protection of the Right to Freedom of Opinion and*
22 *Expression, the Special Rapporteur on Freedom of*
23 *Religion or Belief, and the Special Rapporteur on Vi-*
24 *olence Against Women.*

1 **SEC. 106. ESTABLISHMENT OF REGIONAL FRAMEWORK.**

2 (a) *FINDINGS.*—*The Congress finds that human rights*
3 *initiatives can be undertaken on a multilateral basis, such*
4 *as the Organization for Security and Cooperation in Eu-*
5 *rope (OSCE), which established a regional framework for*
6 *discussing human rights, scientific and educational co-*
7 *operation, and economic and trade issues.*

8 (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*
9 *that the United States should explore the possibility of a re-*
10 *gional human rights dialogue with North Korea that is*
11 *modeled on the Helsinki process, engaging all countries in*
12 *the region in a common commitment to respect human*
13 *rights and fundamental freedoms.*

14 **SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH**
15 **KOREA.**

16 (a) *SPECIAL ENVOY.*—*The President shall appoint a*
17 *special envoy for human rights in North Korea within the*
18 *Department of State (hereafter in this section referred to*
19 *as the “Special Envoy”). The Special Envoy should be a*
20 *person of recognized distinction in the field of human*
21 *rights.*

22 (b) *CENTRAL OBJECTIVE.*—*The central objective of the*
23 *Special Envoy is to coordinate and promote efforts to im-*
24 *prove respect for the fundamental human rights of the peo-*
25 *ple of North Korea.*

1 (c) *DUTIES AND RESPONSIBILITIES.*—*The Special*
2 *Envoy shall—*

3 (1) *engage in discussions with North Korean of-*
4 *ficials regarding human rights;*

5 (2) *support international efforts to promote*
6 *human rights and political freedoms in North Korea,*
7 *including coordination and dialogue between the*
8 *United States and the United Nations, the European*
9 *Union, North Korea, and the other countries in*
10 *Northeast Asia;*

11 (3) *consult with non-governmental organizations*
12 *who have attempted to address human rights in North*
13 *Korea;*

14 (4) *make recommendations regarding the fund-*
15 *ing of activities authorized in section 102;*

16 (5) *review strategies for improving protection of*
17 *human rights in North Korea, including technical*
18 *training and exchange programs; and*

19 (6) *develop an action plan for supporting imple-*
20 *mentation of the United Nations Commission on*
21 *Human Rights Resolution 2004/13.*

22 (d) *REPORT ON ACTIVITIES.*—*Not later than 180 days*
23 *after the date of the enactment of this Act, and annually*
24 *for the subsequent 5 year-period, the Special Envoy shall*
25 *submit to the appropriate congressional committees a report*

1 *on the activities undertaken in the preceding 12 months*
2 *under subsection (c).*

3 **TITLE II—ASSISTING NORTH**
4 **KOREANS IN NEED**

5 **SEC. 201. REPORT ON UNITED STATES HUMANITARIAN AS-**
6 **SISTANCE.**

7 *(a) REPORT.—Not later than 180 days after the date*
8 *of the enactment of this Act, and in each of the 2 years*
9 *thereafter, the Administrator of the United States Agency*
10 *for International Development, in conjunction with the Sec-*
11 *retary of State, shall submit to the appropriate congres-*
12 *sional committees a report that describes—*

13 *(1) all activities to provide humanitarian assist-*
14 *ance inside North Korea, and to North Koreans out-*
15 *side of North Korea, that receive United States fund-*
16 *ing;*

17 *(2) any improvements in humanitarian trans-*
18 *parency, monitoring, and access inside North Korea*
19 *during the previous 1-year period, including progress*
20 *toward meeting the conditions identified in para-*
21 *graphs (1) through (4) of section 202(b); and*

22 *(3) specific efforts to secure improved humani-*
23 *tarian transparency, monitoring, and access inside*
24 *North Korea made by the United States and United*

1 *States grantees, including the World Food Program,*
2 *during the previous 1-year period.*

3 **(b) FORM.**—*The information required by subsection*
4 **(a)(1) may be provided in classified form if necessary.**

5 **SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.**

6 **(a) HUMANITARIAN ASSISTANCE THROUGH NON-**
7 **GOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS.**—*It*
8 *is the sense of the Congress that—*

9 *(1) at the same time that Congress supports the*
10 *provision of humanitarian assistance to the people of*
11 *North Korea on humanitarian grounds, such assist-*
12 *ance also should be provided and monitored so as to*
13 *minimize the possibility that such assistance could be*
14 *diverted to political or military use, and to maximize*
15 *the likelihood that it will reach the most vulnerable*
16 *North Koreans;*

17 *(2) significant increases above current levels of*
18 *United States support for humanitarian assistance*
19 *provided inside North Korea should be conditioned*
20 *upon substantial improvements in transparency,*
21 *monitoring, and access to vulnerable populations*
22 *throughout North Korea; and*

23 *(3) the United States should encourage other*
24 *countries that provide food and other humanitarian*
25 *assistance to North Korea to do so through monitored,*

1 *transparent channels, rather than through direct, bi-*
2 *lateral transfers to the Government of North Korea.*

3 *(b) UNITED STATES ASSISTANCE TO THE GOVERN-*
4 *MENT OF NORTH KOREA.—It is the sense of Congress that—*

5 *(1) United States humanitarian assistance to*
6 *any department, agency, or entity of the Government*
7 *of North Korea shall—*

8 *(A) be delivered, distributed, and monitored*
9 *according to internationally recognized humani-*
10 *tarian standards;*

11 *(B) be provided on a needs basis, and not*
12 *used as a political reward or tool of coercion;*

13 *(C) reach the intended beneficiaries, who*
14 *should be informed of the source of the assistance;*
15 *and*

16 *(D) be made available to all vulnerable*
17 *groups in North Korea, no matter where in the*
18 *country they may be located; and*

19 *(2) United States nonhumanitarian assistance to*
20 *North Korea shall be contingent on North Korea's*
21 *substantial progress toward—*

22 *(A) respect for the basic human rights of the*
23 *people of North Korea, including freedom of reli-*
24 *gion;*

1 (B) providing for family reunification be-
 2 tween North Koreans and their descendants and
 3 relatives in the United States;

4 (C) fully disclosing all information regard-
 5 ing citizens of Japan and the Republic of Korea
 6 abducted by the Government of North Korea;

7 (D) allowing such abductees, along with
 8 their families, complete and genuine freedom to
 9 leave North Korea and return to the abductees'
 10 original home countries;

11 (E) reforming the North Korean prison and
 12 labor camp system, and subjecting such reforms
 13 to independent international monitoring; and

14 (F) decriminalizing political expression and
 15 activity.

16 (c) *REPORT.*—Not later than 180 days after the date
 17 of the enactment of this Act, the Administrator of the Agen-
 18 cy for International Development shall submit to the appro-
 19 priate congressional committees a report describing compli-
 20 ance with this section.

21 **SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH**
 22 **KOREA.**

23 (a) *ASSISTANCE.*—The President is authorized to pro-
 24 vide assistance to support organizations or persons that
 25 provide humanitarian assistance to North Koreans who are

1 *outside of North Korea without the permission of the Gov-*
2 *ernment of North Korea.*

3 (b) *TYPES OF ASSISTANCE.*—*Assistance provided*
4 *under subsection (a) should be used to provide—*

5 (1) *humanitarian assistance to North Korean*
6 *refugees, defectors, migrants, and orphans outside of*
7 *North Korea, which may include support for refugee*
8 *camp*s or temporary settlements; and

9 (2) *humanitarian assistance to North Korean*
10 *women outside of North Korea who are victims of*
11 *trafficking, as defined in section 103(14) of the Traf-*
12 *ficking Victims Protection Act of 2000 (22 U.S.C.*
13 *7102(14)), or are in danger of being trafficked.*

14 (c) *AUTHORIZATION OF APPROPRIATIONS.*—

15 (1) *IN GENERAL.*—*In addition to funds otherwise*
16 *available for such purposes, there are authorized to be*
17 *appropriated to the President \$20,000,000 for each of*
18 *the fiscal years 2005 through 2008 to carry out this*
19 *section.*

20 (2) *AVAILABILITY.*—*Amounts appropriated pur-*
21 *suant to the authorization of appropriations under*
22 *paragraph (1) are authorized to remain available*
23 *until expended.*

1 **TITLE III—PROTECTING NORTH**
2 **KOREAN REFUGEES**

3 **SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND**
4 **DEFECTORS.**

5 (a) *REPORT.*—Not later than 120 days after the date
6 of the enactment of this Act, the Secretary of State, in con-
7 sultation with the heads of other appropriate Federal de-
8 partments and agencies, shall submit to the appropriate
9 congressional committees and the Committees on the Judici-
10 ary of the House of Representatives and the Senate a report
11 that describes the situation of North Korean refugees and
12 explains United States Government policy toward North
13 Korean nationals outside of North Korea.

14 (b) *CONTENTS.*—The report shall include—

15 (1) *an assessment of the circumstances facing*
16 *North Korean refugees and migrants in hiding, par-*
17 *ticularly in China, and of the circumstances they face*
18 *if forcibly returned to North Korea;*

19 (2) *an assessment of whether North Koreans in*
20 *China have effective access to personnel of the United*
21 *Nations High Commissioner for Refugees, and of*
22 *whether the Government of China is fulfilling its obli-*
23 *gations under the 1951 Convention Relating to the*
24 *Status of Refugees, particularly Articles 31, 32, and*
25 *33 of such Convention;*

1 (3) *an assessment of whether North Koreans*
 2 *presently have unobstructed access to United States*
 3 *refugee and asylum processing, and of United States*
 4 *policy toward North Koreans who may present them-*
 5 *selves at United States embassies or consulates and*
 6 *request protection as refugees or asylum seekers and*
 7 *resettlement in the United States;*

8 (4) *the total number of North Koreans who have*
 9 *been admitted into the United States as refugees or*
 10 *asylees in each of the past five years;*

11 (5) *an estimate of the number of North Koreans*
 12 *with family connections to United States citizens;*
 13 *and*

14 (6) *a description of the measures that the Sec-*
 15 *retary of State is taking to carry out section 303.*

16 (c) *FORM.—The information required by paragraphs*
 17 *(1) through (5) of subsection (b) shall be provided in unclas-*
 18 *sified form. All or part of the information required by sub-*
 19 *section (b)(6) may be provided in classified form, if nec-*
 20 *essary.*

21 **SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSID-**
 22 **ERATION.**

23 (a) *PURPOSE.—The purpose of this section is to clarify*
 24 *that North Koreans are not barred from eligibility for ref-*
 25 *ugee status or asylum in the United States on account of*

1 *any legal right to citizenship they may enjoy under the*
2 *Constitution of the Republic of Korea. It is not intended*
3 *in any way to prejudice whatever rights to citizenship*
4 *North Koreans may enjoy under the Constitution of the Re-*
5 *public of Korea, or to apply to former North Korean nation-*
6 *als who have availed themselves of those rights.*

7 (b) *TREATMENT OF NATIONALS OF NORTH KOREA.—*
8 *For purposes of eligibility for refugee status under section*
9 *207 of the Immigration and Nationality Act (8 U.S.C.*
10 *1157), or for asylum under section 208 of such Act (8*
11 *U.S.C. 1158), a national of the Democratic People’s Repub-*
12 *lic of Korea shall not be considered a national of the Repub-*
13 *lic of Korea.*

14 **SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS**
15 **FOR ADMISSION AS A REFUGEE.**

16 *The Secretary of State shall undertake to facilitate the*
17 *submission of applications under section 207 of the Immi-*
18 *gration and Nationality Act (8 U.S.C. 1157) by citizens*
19 *of North Korea seeking protection as refugees (as defined*
20 *in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).*

21 **SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REF-**
22 **UGEES.**

23 (a) *ACTIONS IN CHINA.—It is the sense of Congress*
24 *that—*

1 (1) *the Government of China has obligated itself*
2 *to provide the United Nations High Commissioner for*
3 *Refugees (UNHCR) with unimpeded access to North*
4 *Koreans inside its borders to enable the UNHCR to*
5 *determine whether they are refugees and whether they*
6 *require assistance, pursuant to the 1951 United Na-*
7 *tions Convention Relating to the Status of Refugees,*
8 *the 1967 Protocol Relating to the Status of Refugees,*
9 *and Article III, paragraph 5 of the 1995 Agreement*
10 *on the Upgrading of the UNHCR Mission in the Peo-*
11 *ple’s Republic of China to UNHCR Branch Office in*
12 *the People’s Republic of China (referred to in this sec-*
13 *tion as the “UNHCR Mission Agreement”);*

14 (2) *the United States, other UNHCR donor gov-*
15 *ernments, and UNHCR should persistently and at the*
16 *highest levels continue to urge the Government of*
17 *China to abide by its previous commitments to allow*
18 *UNHCR unimpeded access to North Korean refugees*
19 *inside China;*

20 (3) *the UNHCR, in order to effectively carry out*
21 *its mandate to protect refugees, should liberally em-*
22 *ploy as professionals or Experts on Mission persons*
23 *with significant experience in humanitarian assist-*
24 *ance work among displaced North Koreans in China;*

1 (4) *the UNHCR, in order to effectively carry out*
2 *its mandate to protect refugees, should liberally con-*
3 *tract with appropriate nongovernmental organiza-*
4 *tions that have a proven record of providing humani-*
5 *tarian assistance to displaced North Koreans in*
6 *China;*

7 (5) *the UNHCR should pursue a multilateral*
8 *agreement to adopt an effective “first asylum” policy*
9 *that guarantees safe haven and assistance to North*
10 *Korean refugees; and*

11 (6) *should the Government of China begin ac-*
12 *tively fulfilling its obligations toward North Korean*
13 *refugees, all countries, including the United States,*
14 *and relevant international organizations should in-*
15 *crease levels of humanitarian assistance provided in-*
16 *side China to help defray costs associated with the*
17 *North Korean refugee presence.*

18 (b) *ARBITRATION PROCEEDINGS.—It is further the*
19 *sense of Congress that—*

20 (1) *if the Government of China continues to*
21 *refuse to provide the UNHCR with access to North*
22 *Koreans within its borders, the UNHCR should ini-*
23 *tiate arbitration proceedings pursuant to Article XVI*
24 *of the UNHCR Mission Agreement and appoint an*
25 *arbitrator for the UNHCR; and*

1 (2) because access to refugees is essential to the
2 UNHCR mandate and to the purpose of a UNHCR
3 branch office, a failure to assert those arbitration
4 rights in present circumstances would constitute a
5 significant abdication by the UNHCR of one of its
6 core responsibilities.

7 **SEC. 305. ANNUAL REPORTS.**

8 (a) *IMMIGRATION INFORMATION.*—Not later than 1
9 year after the date of the enactment of this Act, and every
10 12 months thereafter for each of the following 5 years, the
11 Secretary of State and the Secretary of Homeland Security
12 shall submit a joint report to the appropriate congressional
13 committees and the Committees on the Judiciary of the
14 House of Representatives and the Senate on the operation
15 of this title during the previous year, which shall include—

16 (1) the number of aliens who are nationals or
17 citizens of North Korea who applied for political asy-
18 lum and the number who were granted political asy-
19 lum; and

20 (2) the number of aliens who are nationals or
21 citizens of North Korea who applied for refugee status
22 and the number who were granted refugee status.

23 (b) *COUNTRIES OF PARTICULAR CONCERN.*—The
24 President shall include in each annual report on proposed
25 refugee admission pursuant to section 207(d) of the Immi-

1 *gration and Nationality Act (8 U.S.C. 1157(d)), informa-*
2 *tion about specific measures taken to facilitate access to the*
3 *United States refugee program for individuals who have*
4 *fled countries of particular concern for violations of reli-*
5 *gious freedom, identified pursuant to section 402(b) of the*
6 *International Religious Freedom Act of 1998 (22 U.S.C.*
7 *6442(b)). The report shall include, for each country of par-*
8 *ticular concern, a description of access of the nationals or*
9 *former habitual residents of that country to a refugee deter-*
10 *mination on the basis of—*

11 (1) *referrals by external agencies to a refugee ad-*
12 *judication;*

13 (2) *groups deemed to be of special humanitarian*
14 *concern to the United States for purposes of refugee*
15 *resettlement; and*

16 (3) *family links to the United States.*

Attest:

Secretary.

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2^D SESSION

H. R. 4011

AMENDMENT