

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5208  
OFFERED BY MR. POE OF TEXAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “North Korea State  
3 Sponsor of Terrorism Designation Act of 2016”.

**4 SEC. 2. REPORT ON DESIGNATION OF GOVERNMENT OF  
5 NORTH KOREA AS A STATE SPONSOR OF TER-  
6 RORISM.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The Government of North Korea was des-  
9 ignated a state sponsor of terrorism on January 20,  
10 1988, for repeatedly providing support of acts of  
11 international terrorism.

12 (2) However, on October 11, 2008, North Ko-  
13 rea’s designation as a state sponsor of terrorism was  
14 rescinded, following commitments by the Govern-  
15 ment of North Korea to completely, verifiably, and  
16 irreversibly dismantle its nuclear weapons program,  
17 yet North Korea has failed to live up to these com-  
18 mitments and is continuing to produce ever greater

1 quantities of fissile material for nuclear weapons and  
2 periodically conduct testing of nuclear explosive de-  
3 vices.

4 (3) Consequences of a state sponsors of ter-  
5 rorism designation include a ban on arms-related ex-  
6 ports and sales; restrictions on exports of dual-use  
7 items; restrictions on foreign assistance; financial  
8 sanctions against transactions with the designated  
9 government; imposition of miscellaneous trade and  
10 other restrictions; and potential liability in United  
11 States courts for acts that fall within the terrorism  
12 exception of the Foreign Sovereign Immunities Act.  
13 The criminal code also prohibits financial trans-  
14 actions by United States persons with any govern-  
15 ment designated as a state sponsor of terrorism.  
16 Issuers of securities must disclose in their public fil-  
17 ings any investments in states whose governments  
18 sponsor terrorism. Finally, a designation requires  
19 United States representatives to oppose any benefits  
20 or extensions of credit to any designated government  
21 by international financial institutions.

22 (4) On October 22, 2015, Ambassador Sung  
23 Kim, Special Representative for North Korea Policy  
24 with the U.S. Department of State, testified before  
25 the House Foreign Affairs Subcommittee on Ter-

1       rorism, Nonproliferation, and Trade that North Ko-  
2       rea’s “conduct poses a growing threat to the United  
3       States, our friends in the region, and the global non-  
4       proliferation regime” and Ms. Hilary Batjer John-  
5       son, Deputy Coordinator for Homeland Security,  
6       Screening, and Designations with the U.S. Depart-  
7       ment of State noted that “weapons transfers that  
8       violate nonproliferation or missile control regimes  
9       could be a relevant factor for consideration, depend-  
10      ing on the circumstances, consistent with the statu-  
11      tory criteria for designation as a state sponsor of  
12      terrorism”.

13           (5) The Government of North Korea has har-  
14      bored members of the Japanese Red Army since a  
15      1970 hijacking and continues to harbor the sur-  
16      viving hijackers to this day.

17           (6) On July 16, 2010, in the case of *Calderon-*  
18      *Cardona v. Democratic People’s Republic of Korea*  
19      (case number 08–01367), the United States District  
20      Court for the District of Puerto Rico found that the  
21      Government of North Korea provided material sup-  
22      port to the Japanese Red Army, designated as a for-  
23      eign terrorist organization between 1997 and 2001,  
24      in furtherance of a 1972 terrorist attack at Lod Air-

1 port, Israel that killed 26 people, including 17  
2 Americans.

3 (7) On April 18, 2013, Michael Flynn, the Di-  
4 rector of the Defense Intelligence Agency testified  
5 that Syria's liquid-propellant missile program de-  
6 pends on essential foreign equipment and assistance,  
7 primarily from North Korean entities. Further state-  
8 ments by United States Government officials report  
9 that North Korea helped Syria build the Al Kibar  
10 nuclear reactor, which Israel reportedly destroyed in  
11 2007, and could have been used to produce pluto-  
12 nium for nuclear weapons.

13 (8) Of the three foreign governments currently  
14 designated as state sponsors of terrorism, the gov-  
15 ernments of Iran and Syria are designated as state  
16 sponsors of terrorism for their support of Hamas  
17 and Hezbollah. The Department of State's 2005,  
18 2007, 2010, 2012, and 2013 "Country Reports" all  
19 cited Iran and Syria for supplying weapons to  
20 Hezbollah through Syrian territory, and most of  
21 them also cited Iran's training of Hezbollah.

22 (9) In the case of *Chaim Kaplan v. Hezbollah*  
23 (case number 09-646), a United States district  
24 court found in 2014 that North Korea materially  
25 supported terrorist attacks by Hezbollah, a des-

1       ignated foreign terrorist organization, against Israel  
2       in 2006.

3               (10) In December 2009, a North Korean arms  
4       shipment aboard an Ilyushin Il-76 cargo plane was  
5       discovered and seized by authorities of the Govern-  
6       ment of Thailand. The cargo, which was marked as  
7       consisting of oil-drilling equipment, contained 35  
8       tons of rockets, surface-to-air missiles (MANPADS),  
9       explosives, rocket-propelled grenades, and other  
10      weaponry. A similar shipment was impounded in the  
11      United Arab Emirates a few months earlier in July  
12      2009. A third shipment was intercepted by the  
13      Israeli government in the Eastern Mediterranean in  
14      November 2009. According to published media re-  
15      ports, United States and Israeli intelligence agencies  
16      concluded that the shipments were destined for Ira-  
17      nian-backed terrorists, including Hezbollah, Hamas,  
18      and the Quds Force. Another large quantity of ship-  
19      ments to both Hamas and Hezbollah, is believed to  
20      have been transferred unnoticed.

21              (11) In June 2010, Major Kim Myong-ho and  
22      Major Dong Myong-gwan of North Korea's Recon-  
23      naissance General Bureau pled guilty in a South Ko-  
24      rean court to attempting to assassinate Hwang  
25      Jang-yop, a North Korean dissident in exile, on the

1 orders of Lieutenant General Kim Yong-chol, the  
2 head of North Korea's Reconnaissance General Bu-  
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4 years in prison.

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13 years in prison.

14 (13) In July 2014, press reports indicated that  
15 militants from Hamas, a designated foreign terrorist  
16 organization, attempted to negotiate a new arms  
17 deal with North Korea for missiles and communica-  
18 tions equipment that would have allowed the mili-  
19 tants to maintain their armed terrorist attacks  
20 against Israel. Security officials announced that the  
21 deal between Hamas and North Korea was worth  
22 hundreds of thousands of dollars and was handled  
23 by a Lebanese-based trading company.

24 (14) On November 24, 2014, a hacker group  
25 that identified itself as the "Guardians of Peace"

1 leaked confidential data from the film studio Sony  
2 Pictures Entertainment. The data included personal  
3 information about Sony Pictures employees, e-mails  
4 between employees, information about executive sala-  
5 ries at the company, copies of then-unreleased Sony  
6 films, and other information.

7 (15) On December 16, 2015, the “Guardians of  
8 Peace” sent a message to Sony Pictures, to “clearly  
9 show it to you at the very time and places ‘The  
10 Interview’ be shown . . . how bitter fate those who  
11 seek fun in terror should be doomed to”. The mes-  
12 sage further stated, “The world will be full of fear”,  
13 “[. . .] Remember the 11th of September 2001”,  
14 and “We recommend you to keep yourself distant  
15 from the places at that time.”. The threat caused  
16 theaters across the United States to cancel showings  
17 of “The Interview” and caused Sony Pictures to  
18 cancel the release of the film in theaters.

19 (16) On December 19, 2015, the Federal Bu-  
20 reau of Investigation concluded that North Korea  
21 was responsible for the cyber attack on Sony Pic-  
22 tures Entertainment and the threat against the  
23 movie theaters, and that the “Guardians of Peace”  
24 was a unit of North Korea’s Reconnaissance General  
25 Bureau, its foreign intelligence service.

1           (17) In March 2015, the South Korean govern-  
2           ment publicly accused North Korea of responsibility  
3           for a December 2014 cyber attack against multiple  
4           nuclear power plants in South Korea, stated that the  
5           attacks were intended to cause a malfunction at the  
6           plants' reactors, and described the attacks as acts of  
7           “cyber-terror targeting our country”.

8           (b) SENSE OF CONGRESS.—It is the sense of the  
9           Congress that the Government of North Korea likely  
10          meets the criteria for designation as a state sponsor of  
11          terrorism and, if so, should be so designated. North Korea  
12          has failed to live up to its 2008 commitments to verifiably  
13          dismantle its nuclear weapons program and appears to  
14          have continued to support acts of international terrorism  
15          after its removal from the list of state sponsors of ter-  
16          rorism in October 2008.

17          (c) REPORT; DETERMINATION OR JUSTIFICATION.—

18                 (1) IN GENERAL.—Not later than 90 days after  
19                 the date of the enactment of this Act, the Secretary  
20                 of State shall submit to the appropriate congress-  
21                 sional committees a report that finds whether—

22                         (A)(i) with respect to each of the acts de-  
23                         scribed in paragraphs (5) through (16) or sub-  
24                         section (a), the Government of North Korea, in-  
25                         cluding any agents or instrumentalities of the



1 Government of North Korea, directly or indi-  
2 rectly, committed, conspired to commit, at-  
3 tempted, aided, or abetted such act; and

4 (ii) since October 2008, the Government of  
5 North Korea, including any agents or instru-  
6 mentalities of the Government of North Korea,  
7 directly or indirectly, committed, conspired to  
8 commit, attempted, aided, or abetted any other  
9 act of international terrorism, including  
10 through—

11 (I) support for any organization des-  
12 ignated as a foreign terrorist organization,  
13 any entity designated pursuant to Execu-  
14 tive Order 13224, or any entity that other-  
15 wise supports acts of international ter-  
16 rorism;

17 (II) direct sponsorship of acts of  
18 international terrorism; or

19 (III) the provision of armaments or  
20 other controlled goods, services, or tech-  
21 nology to any country the government of  
22 which is designated as a state sponsor of  
23 terrorism; and

24 (B) such act constitutes support for inter-  
25 national terrorism.

1           (2) DETERMINATION OR JUSTIFICATION.—If  
2           the Secretary of State finds that the Government of  
3           North Korea, including any agents or instrumental-  
4           ities of the Government of North Korea, directly or  
5           indirectly, committed, conspired to commit, at-  
6           tempted, aided, or abetted any act described in  
7           clause (i) or (ii) of paragraph (1)(A) and such act  
8           constitutes support for international terrorism under  
9           paragraph (1)(B), the Secretary shall make a deter-  
10          mination of whether, based on the information in the  
11          report and all other relevant sources, the Govern-  
12          ment of North Korea meets the criteria for designa-  
13          tion as a state sponsor or terrorism, and in the  
14          event the Secretary does not decide to designate the  
15          Government of North Korea a state sponsor of ter-  
16          rorism, the Secretary shall provide a detailed jus-  
17          tification for why the Government of North Korea  
18          should not be designated a state sponsor of ter-  
19          rorism.

20          (d) FORM.—The report required by subsection (c)(1)  
21          shall be submitted in unclassified form, but may include  
22          a classified annex, if appropriate.

23       **SEC. 3. DEFINITIONS.**

24          In this Act:

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

4                   (A) the Committee on Foreign Relations of  
5           the Senate; and

6                   (B) the Committee on Foreign Affairs of  
7           the House of Representatives.

8           (2) FOREIGN TERRORIST ORGANIZATION.—The  
9           term “foreign terrorist organization” means an or-  
10          ganization designated by the Secretary of State as a  
11          foreign terrorist organization under section 219 of  
12          the Immigration and Nationality Act (8 U.S.C.  
13          1189).

14          (3) NORTH KOREA.—The term “North Korea”  
15          means the Democratic People’s Republic of Korea.

16          (4) STATE SPONSOR OF TERRORISM.—The term  
17          “state sponsor of terrorism” means a country the  
18          government of which the Secretary of State has de-  
19          termined, for purposes of section 6(j) of the Export  
20          Administration Act of 1979 (50 U.S.C. 4605(j)) (as  
21          in effect pursuant to the International Emergency  
22          Economic Powers Act), section 620A of the Foreign  
23          Assistance Act of 1961 (22 U.S.C. 2371), section 40  
24          of the Arms Export Control Act (22 U.S.C. 2780),  
25          or any other provision of law, is a government that

1       has repeatedly provided support for acts of inter-  
2       national terrorism.

