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THE PENINSULA

Another Failure to Reauthorize the North Korean Human Rights Act, Despite House Approval of the Bill?

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The US House of Representatives adopted the North Korean Human Rights Reauthorization Act on November 20. The original act was first adopted by Congress in 2004, but such legislation is valid for only four or five years. Congress must “reauthorize” or adopt new legislation if the provisions are still needed.

The original North Korean Human Rights Act was adopted by Congress and signed into law in October 2004 by President George W. Bush. The Bush administration stated that the legislation provided the US government with “useful new tools to address the deplorable human rights situation in North Korea by focusing efforts to help both those who flee the regime and those who are trapped inside the country.” The legislation was reauthorized by law in 2008, 2012, and 2018. President Donald Trump signed the reauthorization legislation in 2018, which was approved overwhelmingly by Congress, but Trump failed to abide by its provisions. During his first four years in office, no special envoy was ever appointed.

When the North Korean Human Rights Act expired in 2022, Congress failed to adopt legislation to extend the provisions of the act. At the end of 2022, the Senate voted to extend the legislation, but the House of Representatives, which had adopted an earlier version, failed to act to reconcile the two versions of the legislation.

The legislation was reintroduced in 2023 by the same individuals who introduced the legislation in the previous session of Congress. The legislation was introduced by Senator Marco Rubio (R-FL) in the Senate and by Representative Young Kim (R-CA) in the House of Representatives. Representative Kim's legislation was introduced in mid-2023, but it was finally taken up by the House of Representatives in mid-November 2024. The legislation was debated in the House and approved by a strong vote.

We are in a similar situation in 2024. Congress will be in session for only two or three weeks between Thanksgiving and Christmas, and it will then adjourn permanently. The newly elected Congress will begin a new session on January 3, 2025. The prospects for Senate action on the North Korean Human Rights Act before adjournment in December are not promising. We are seeing turmoil in the Senate resulting from the shift in partisan control.

The impending shift in partisan control does not make the Senate likely to function well before the new session of Congress begins. It is unlikely that non-controversial issues will be resolved before the change in control—such as approval of the North Korean Human Rights Act. There is no identified opposition to approving the legislation. When it was adopted by the Senate in the past, it did not require a recorded vote, and no voice in opposition was raised. Unfortunately, with other contentious issues coming up in the Senate, it may be difficult to get senators to focus, even on non-controversial matters.

The legislation to extend the North Korean Human Rights Act was not approved by the House in 2022, although the Senate voted to approve the legislation during the brief session immediately after the 2022 elections. It could well be a similar situation this December, with the House approving the legislation while the Senate fails to act.

Rubio Introduced Senate Version of the North Korean Human Rights Act

It is noteworthy that the 2023 legislation to extend the North Korean Human Rights Act was introduced by Senator Rubio, who has been nominated by incoming President Trump to be the next secretary of state.

In 2017, Rubio introduced the Senate version of the North Korean Human Rights Act (S. 1118), which was considered and adopted by the Senate in 2018. The House version of the North Korean Human Rights Act (H.R. 2061) was introduced by Representative Ileana Ros-Lehtinen (R-FL). Both Rubio and Ros-Lehtinen are Floridians with a Cuban background, which informs their stances on human rights.

In 2023, when the North Korean Human Rights Act needed to be reauthorized, Rubio again was the member of the Senate Foreign Relations Committee who introduced the Senate legislation, again with the co-sponsorship of Senator Tim Kaine (D-VA). Though this legislation was introduced on March 1, 2023, no action has yet been taken by the Senate Foreign Relations Committee on the bill since its introduction.

Rubio is likely to be easily confirmed as secretary of state by the Senate. He is a member of the Senate "club," and having one of their own as secretary of state should make confirmation relatively easy. Unfortunately, Rubio's leadership on the North Korean

human rights legislation may not get the necessary attention to complete approval before the end of the current Congress because Rubio will likely be focused on his confirmation by his colleagues in the Senate.

Surprisingly High Negative Vote on the House Version of the North Korean Human Rights Act

When the House of Representatives adopted the North Korean Human Rights Act on November 20, 2024, one troubling footnote was the large number of “No” votes on the adoption of the legislation. The final vote was 335 in favor and 37 opposed. It easily passed the House with 90 percent in “Yea” votes, although the procedure under which it was brought up for a vote required two-thirds of those House members present to vote in the affirmative. This 10 percent negative vote was quite unusual because when the North Korean human rights legislation was voted on in the House or Senate in the past, it was usually approved by voice vote with no opposition. On the few occasions when recorded votes have been required, only one or two votes were ever cast against the legislation, which most observers attributed to a congressional member inadvertently or absentmindedly pushing the wrong button when voting.

The 37 “No” votes were all cast by Republican representatives. All Democrats who voted supported the legislation. The legislation was thoroughly bipartisan. Representative Kim (R-CA) introduced the legislation, and the principal cosponsor was Representative Ami Bera (D-CA). The two are chair and ranking member, respectively, on the Asia Subcommittee of the House Foreign Affairs Committee.

The Republican “No” votes were principally from the South and Midwest, with a much smaller sprinkling of negative votes from the two coasts. They are principally numbered among the most conservative representatives, and most are relatively new members. There certainly are no pro-North Korea representatives, though there is support among some members for providing humanitarian aid to North Korea’s under-fed population. The Republican “No” votes cannot be a vote against Democrats because the legislation was introduced by a Republican representative and the cosponsors of the bill were bipartisan.

Concluding Thoughts

Despite the success of the overwhelming House vote to adopt the North Korean Human Rights Reauthorization Act, it appears that the dysfunction of Congress is likely to result in another failure to adopt this important and meaningful legislation rather than disagreement on the provisions and purpose of the legislation.

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