

116TH CONGRESS
1ST SESSION

S. 1044

To impose sanctions with respect to foreign traffickers of illicit opioids,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2019

Mr. SCHUMER (for himself, Mr. COTTON, Mr. BROWN, Mr. RUBIO, Mr. MENENDEZ, Mrs. SHAHEEN, and Mr. TOOMEY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To impose sanctions with respect to foreign traffickers of
illicit opioids, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fentanyl Sanctions Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Sense of Congress.
- Sec. 4. Definitions.

TITLE I—SANCTIONS WITH RESPECT TO FOREIGN OPIOID
TRAFFICKERS

- Sec. 101. Identification of foreign opioid traffickers.
 Sec. 102. Sense of Congress and reporting on international opioid control regime.
 Sec. 103. Imposition of sanctions.
 Sec. 104. Description of sanctions.
 Sec. 105. Waivers.
 Sec. 106. Procedures for judicial review of classified information.
 Sec. 107. Briefings on implementation.

TITLE II—COMMISSION ON COMBATING SYNTHETIC OPIOID
TRAFFICKING

- Sec. 201. Commission on combating synthetic opioid trafficking.

TITLE III—OTHER MATTERS

- Sec. 301. Director of National Intelligence program on use of intelligence resources in efforts to sanction foreign opioid traffickers.
 Sec. 302. Department of Defense funding.
 Sec. 303. Department of State funding.
 Sec. 304. Department of the Treasury funding.
 Sec. 305. Appropriate committees of Congress defined.

1 SEC. 2. FINDINGS.

2 Congress makes the following findings:

3 (1) The Centers for Disease Control and Pre-
 4 vention estimate that from June 2017 through June
 5 2018 more than 48,000 people in the United States
 6 died from an opioid overdose, with synthetic opioids
 7 (excluding methadone), contributing to a record
 8 31,500 overdose deaths. While drug overdose deaths
 9 from methadone, semi-synthetic opioids, and heroin
 10 have decreased in recent months, overdose deaths
 11 from synthetic opioids have continued to increase.

12 (2) The objective of preventing the proliferation
 13 of synthetic opioids through existing multilateral and
 14 bilateral initiatives requires additional efforts to

1 deny illicit actors the financial means to sustain
2 their markets and distribution networks.

3 (3) The People's Republic of China is the
4 world's largest producer of illicit fentanyl, fentanyl
5 analogues, and their immediate precursors. From
6 the People's Republic of China, those substances are
7 shipped primarily through express consignment car-
8 riers or international mail directly to the United
9 States, or, alternatively, shipped directly to transna-
10 tional criminal organizations in Mexico, Canada, and
11 the Caribbean.

12 (4) In 2015, Mexican heroin accounted for 93
13 percent of the total weight of heroin seized in the
14 United States, transported to the United States by
15 transnational criminal organizations that maintain
16 territorial influence over large regions in Mexico and
17 remain the greatest criminal drug threat to the
18 United States.

19 (5) The United States and the People's Repub-
20 lic of China, Mexico, and Canada have made impor-
21 tant strides in combating the illicit flow of opioids
22 through bilateral efforts of their respective law en-
23 forcement agencies.

24 (6) Insufficient regulation of synthetic opioid
25 production and export and insufficient law enforce-

1 ment efforts to combat opioid trafficking in the Peo-
2 ple’s Republic of China and Mexico continue to con-
3 tribute to a flood of opioids into the United States.

4 (7) While the Department of the Treasury used
5 the Foreign Narcotics Kingpin Designation Act (21
6 U.S.C. 1901 et seq.) to sanction the first synthetic
7 opioid trafficking entity in April 2018, precision eco-
8 nomic and financial sanctions policy tools are needed
9 to address the flow of synthetic opioids.

10 **SEC. 3. SENSE OF CONGRESS.**

11 It is the sense of Congress that—

12 (1) the United States should apply economic
13 and other financial sanctions to foreign traffickers of
14 illicit opioids to protect the national security, foreign
15 policy, and economy of the United States; and

16 (2) it is imperative that the People’s Republic
17 of China follow through on the commitments it made
18 to the United States on December 6, 2018, through
19 the Group of Twenty—

20 (A) to schedule the entire category of
21 fentanyl-type substances as controlled sub-
22 stances; and

23 (B) to change its national and provincial
24 laws and increase provincial law enforcement ef-

1 forts to prosecute traffickers of fentanyl sub-
2 stances.

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) ALIEN; NATIONAL; NATIONAL OF THE
6 UNITED STATES.—The terms “alien”, “national”,
7 and “national of the United States” have the mean-
8 ings given those terms in section 101 of the Immi-
9 gration and Nationality Act (8 U.S.C. 1101).

10 (2) APPROPRIATE CONGRESSIONAL COMMIT-
11 TEES AND LEADERSHIP.—The term “appropriate
12 congressional committees and leadership” means—

13 (A) the Committee on Armed Services, the
14 Committee on Banking, Housing, and Urban
15 Affairs, the Committee on Foreign Relations,
16 the Committee on Homeland Security and Gov-
17 ernmental Affairs, the Committee on the Judi-
18 ciary, the Select Committee on Intelligence, and
19 the majority leader and the minority leader of
20 the Senate; and

21 (B) the Committee on Armed Services, the
22 Committee on Financial Services, the Com-
23 mittee on Foreign Affairs, the Committee on
24 Homeland Security, the Committee on the Judi-
25 ciary, the Permanent Select Committee on In-

1 intelligence, and the Speaker and the minority
2 leader of the House of Representatives.

3 (3) CONTROLLED SUBSTANCE; LISTED CHEM-
4 ICAL.—The terms “controlled substance”, “listed
5 chemical”, “narcotic drug”, and “opioid” have the
6 meanings given those terms in section 102 of the
7 Controlled Substances Act (21 U.S.C. 802).

8 (4) ENTITY.—The term “entity” means a part-
9 nership, joint venture, association, corporation, orga-
10 nization, network, group, or subgroup, or any form
11 of business collaboration.

12 (5) FOREIGN OPIOID TRAFFICKER.—The term
13 “foreign opioid trafficker” means any foreign person
14 that the President determines plays a significant
15 role in opioid trafficking.

16 (6) FOREIGN PERSON.—The term “foreign per-
17 son”—

18 (A) means—

19 (i) any citizen or national of a foreign
20 country; or

21 (ii) any entity not organized under the
22 laws of the United States or a jurisdiction
23 within the United States; and

24 (B) does not include the government of a
25 foreign country.

1 (7) KNOWINGLY.—The term “knowingly”, with
2 respect to conduct, a circumstance, or a result,
3 means that a person has actual knowledge, or should
4 have known, of the conduct, the circumstance, or the
5 result.

6 (8) OPIOID TRAFFICKING.—The term “opioid
7 trafficking” means any illicit activity—

8 (A) to cultivate, produce, manufacture, dis-
9 tribute, sell, or knowingly finance or transport
10 illicit opioids, controlled substances that are
11 opioids, listed chemicals that are opioids, or ac-
12 tive pharmaceutical ingredients or chemicals
13 that are used in the production of controlled
14 substances that are opioids;

15 (B) to attempt to carry out an activity de-
16 scribed in subparagraph (A); or

17 (C) to assist, abet, conspire, or collude
18 with other persons to carry out such an activity.

19 (9) PERSON.—The term “person” means an in-
20 dividual or entity.

21 (10) UNITED STATES PERSON.—The term
22 “United States person” means—

23 (A) any citizen or national of the United
24 States;

1 (B) any alien lawfully admitted for perma-
2 nent residence in the United States;

3 (C) any entity organized under the laws of
4 the United States or any jurisdiction within the
5 United States (including a foreign branch of
6 such an entity); or

7 (D) any person located in the United
8 States.

9 **TITLE I—SANCTIONS WITH RE-**
10 **SPECT TO FOREIGN OPIOID**
11 **TRAFFICKERS**

12 **SEC. 101. IDENTIFICATION OF FOREIGN OPIOID TRAF-**
13 **FICKERS.**

14 (a) PUBLIC REPORT.—

15 (1) IN GENERAL.—The President shall submit
16 to the appropriate congressional committees and
17 leadership, in accordance with subsection (c), a re-
18 port—

19 (A) identifying the foreign persons that the
20 President determines are foreign opioid traf-
21 fickers;

22 (B) detailing progress the President has
23 made in implementing this title; and

24 (C) providing an update on cooperative ef-
25 forts with the Governments of Mexico and the

1 People’s Republic of China with respect to com-
2 bating foreign opioid traffickers.

3 (2) IDENTIFICATION OF ADDITIONAL PER-
4 SONS.—If, at any time after submitting a report re-
5 quired by paragraph (1) and before the submission
6 of the next such report, the President determines
7 that a foreign person not identified in the report is
8 a foreign opioid trafficker, the President shall sub-
9 mit to the appropriate congressional committees and
10 leadership an additional report containing the infor-
11 mation required by paragraph (1) with respect to
12 the foreign person.

13 (3) EXCLUSION.—The President shall not be
14 required to include in a report under paragraph (1)
15 or (2) any persons with respect to which the United
16 States has imposed sanctions before the date of the
17 report under this title or any other provision of law
18 with respect to opioid trafficking.

19 (4) FORM OF REPORT.—

20 (A) IN GENERAL.—Each report required
21 by paragraph (1) or (2) shall be submitted in
22 unclassified form but may include a classified
23 annex.

24 (B) AVAILABILITY TO PUBLIC.—The un-
25 classified portion of a report required by para-

1 graph (1) or (2) shall be made available to the
2 public.

3 (b) CLASSIFIED REPORT.—

4 (1) IN GENERAL.—The President shall submit
5 to the appropriate congressional committees and
6 leadership, in accordance with subsection (c), a re-
7 port, in classified form—

8 (A) describing in detail the status of sanc-
9 tions imposed under this title, including the
10 personnel and resources directed toward the im-
11 position of such sanctions during the preceding
12 fiscal year;

13 (B) providing background information with
14 respect to persons newly identified as foreign
15 opioid traffickers and their illicit activities;

16 (C) describing actions the President in-
17 tends to undertake or has undertaken to imple-
18 ment this title; and

19 (D) providing a strategy for identifying ad-
20 ditional foreign opioid traffickers.

21 (2) EFFECT ON OTHER REPORTING REQUIRE-
22 MENTS.—The report required by paragraph (1) is in
23 addition to the obligations of the President to keep
24 Congress fully and currently informed pursuant to

1 the provisions of the National Security Act of 1947
2 (50 U.S.C. 3001 et seq.).

3 (c) SUBMISSION OF REPORTS.—Not later than 180
4 days after the date of the enactment of this Act, and annu-
5 ally thereafter until the date that is 5 years after such
6 date of enactment, the President shall submit the reports
7 required by subsections (a) and (b) to the appropriate con-
8 gressional committees and leadership.

9 (d) EXCLUSION OF CERTAIN INFORMATION.—

10 (1) INTELLIGENCE.—Notwithstanding any
11 other provision of this section, a report required by
12 subsection (a) or (b) shall not disclose the identity
13 of any person if the Director of National Intelligence
14 determines that such disclosure could compromise an
15 intelligence operation, activity, source, or method of
16 the United States.

17 (2) LAW ENFORCEMENT.—Notwithstanding any
18 other provision of this section, a report required by
19 subsection (a) or (b) shall not disclose the identity
20 of any person if the Attorney General, in coordina-
21 tion, as appropriate, with the Director of the Fed-
22 eral Bureau of Investigation, the Administrator of
23 the Drug Enforcement Administration, the head of
24 any other appropriate Federal law enforcement
25 agency, and the Secretary of the Treasury, deter-

1 mines that such disclosure could reasonably be ex-
2 pected—

3 (A) to compromise the identity of a con-
4 fidential source, including a State, local, or for-
5 eign agency or authority or any private institu-
6 tion that furnished information on a confiden-
7 tial basis;

8 (B) to jeopardize the integrity or success
9 of an ongoing criminal investigation or prosecu-
10 tion;

11 (C) to endanger the life or physical safety
12 of any person; or

13 (D) to cause substantial harm to physical
14 property.

15 (3) NOTIFICATION REQUIRED.—If the Director
16 of National Intelligence makes a determination
17 under paragraph (1) or the Attorney General makes
18 a determination under paragraph (2), the Director
19 or the Attorney General, as the case may be, shall
20 notify the appropriate congressional committees and
21 leadership of the determination and the reasons for
22 the determination.

23 (e) PROVISION OF INFORMATION REQUIRED FOR RE-
24 PORTS.—The Secretary of the Treasury, the Attorney
25 General, the Secretary of Defense, the Secretary of State,

1 the Secretary of Homeland Security, and the Director of
2 National Intelligence shall consult among themselves and
3 provide to the President and the Director of the Office
4 of National Drug Control Policy the appropriate and nec-
5 essary information to enable the President to submit the
6 reports required by subsection (a).

7 **SEC. 102. SENSE OF CONGRESS AND REPORTING ON INTER-**
8 **NATIONAL OPIOID CONTROL REGIME.**

9 (a) SENSE OF CONGRESS.—It is the sense of Con-
10 gress that, in order to apply economic and other financial
11 sanctions to foreign traffickers of illicit opioids to protect
12 the national security, foreign policy, and economy of the
13 United States—

14 (1) the President should instruct the Secretary
15 of State to commence immediately diplomatic ef-
16 forts, both in appropriate international fora such as
17 the United Nations, the Group of Seven, the Group
18 of Twenty, trilaterally and bilaterally with partners
19 of the United States, to establish a multilateral
20 sanctions regime against foreign opioid traffickers;
21 and

22 (2) the Secretary of State, in consultation with
23 the Secretary of the Treasury, may consider forming
24 a new coalition of countries to establish a multilat-
25 eral sanctions regime against foreign opioid traf-

1 fickers if certain countries in existing multilateral
2 fora fail to cooperate with respect to establishing
3 such a regime.

4 (b) REPORTS TO CONGRESS.—

5 (1) IN GENERAL.—The President shall include,
6 in each report required by section 101(b), an assess-
7 ment conducted by the Secretary of State, in con-
8 sultation with the Secretary of the Treasury, of the
9 extent to which any diplomatic efforts described in
10 subsection (a) have been successful.

11 (2) ELEMENTS.—Each assessment required by
12 paragraph (1) shall include an identification of—

13 (A) the countries the governments of which
14 have agreed to undertake measures to apply
15 economic or other financial sanctions to foreign
16 traffickers of illicit opioids and a description of
17 those measures; and

18 (B) the countries the governments of which
19 have not agreed to measures described in sub-
20 paragraph (A), and, with respect to those coun-
21 tries, other measures the Secretary of State rec-
22 ommends that the United States take to apply
23 economic and other financial sanctions to for-
24 eign traffickers of illicit opioids.

1 **SEC. 103. IMPOSITION OF SANCTIONS.**

2 The President shall impose five or more of the sanc-
3 tions described in section 104 with respect to each foreign
4 person that is an entity, and four or more of such sanc-
5 tions with respect to each foreign person that is an indi-
6 vidual, that—

7 (1) is identified as a foreign opioid trafficker in
8 a report submitted under section 101(a); or

9 (2) the President determines is owned, con-
10 trolled, directed by, supplying or sourcing precursors
11 for, or acting for or on behalf of, such a foreign
12 opioid trafficker.

13 **SEC. 104. DESCRIPTION OF SANCTIONS.**

14 (a) IN GENERAL.—The sanctions that may be im-
15 posed with respect to a foreign person under section 103
16 are the following:

17 (1) LOANS FROM UNITED STATES FINANCIAL
18 INSTITUTIONS.—The United States Government
19 may prohibit any United States financial institution
20 from making loans or providing credits to the for-
21 eign person.

22 (2) PROHIBITIONS ON FINANCIAL INSTITU-
23 TIONS.—The following prohibitions may be imposed
24 with respect to a foreign person that is a financial
25 institution:

1 (A) PROHIBITION ON DESIGNATION AS
2 PRIMARY DEALER.—Neither the Board of Gov-
3 ernors of the Federal Reserve System nor the
4 Federal Reserve Bank of New York may des-
5 ignate, or permit the continuation of any prior
6 designation of, the financial institution as a pri-
7 mary dealer in United States Government debt
8 instruments.

9 (B) PROHIBITION ON SERVICE AS A RE-
10 POSITORY OF GOVERNMENT FUNDS.—The fi-
11 nancial institution may not serve as agent of
12 the United States Government or serve as re-
13 pository for United States Government funds.

14 The imposition of either sanction under subpara-
15 graph (A) or (B) shall be treated as one sanction for
16 purposes of section 103, and the imposition of both
17 such sanctions shall be treated as 2 sanctions for
18 purposes of that section.

19 (3) PROCUREMENT BAN.—The United States
20 Government may not procure, or enter into any con-
21 tract for the procurement of, any goods or services
22 from the foreign person.

23 (4) FOREIGN EXCHANGE.—The President may,
24 pursuant to such regulations as the President may
25 prescribe, prohibit any transactions in foreign ex-

1 change that are subject to the jurisdiction of the
2 United States and in which the foreign person has
3 any interest.

4 (5) BANKING TRANSACTIONS.—The President
5 may, pursuant to such regulations as the President
6 may prescribe, prohibit any transfers of credit or
7 payments between financial institutions or by,
8 through, or to any financial institution, to the extent
9 that such transfers or payments are subject to the
10 jurisdiction of the United States and involve any in-
11 terest of the foreign person.

12 (6) PROPERTY TRANSACTIONS.—The President
13 may, pursuant to such regulations as the President
14 may prescribe, prohibit any person from—

15 (A) acquiring, holding, withholding, using,
16 transferring, withdrawing, transporting, import-
17 ing, or exporting any property that is subject to
18 the jurisdiction of the United States and with
19 respect to which the foreign person has any in-
20 terest;

21 (B) dealing in or exercising any right,
22 power, or privilege with respect to such prop-
23 erty; or

24 (C) conducting any transaction involving
25 such property.

1 (7) BAN ON INVESTMENT IN EQUITY OR DEBT
2 OF SANCTIONED PERSON.—The President may, pur-
3 suant to such regulations or guidelines as the Presi-
4 dent may prescribe, prohibit any United States per-
5 son from investing in or purchasing significant
6 amounts of equity or debt instruments of the foreign
7 person.

8 (8) EXCLUSION OF CORPORATE OFFICERS.—
9 The President may direct the Secretary of State to
10 deny a visa to, and the Secretary of Homeland Secu-
11 rity to exclude from the United States, any alien
12 that the President determines is a corporate officer
13 or principal of, or a shareholder with a controlling
14 interest in, the foreign person.

15 (9) SANCTIONS ON PRINCIPAL EXECUTIVE OF-
16 FICERS.—The President may impose on the prin-
17 cipal executive officer or officers of the foreign per-
18 son, or on individuals performing similar functions
19 and with similar authorities as such officer or offi-
20 cers, any of the sanctions described in paragraphs
21 (1) through (8) that are applicable.

22 (b) PENALTIES.—A person that violates, attempts to
23 violate, conspires to violate, or causes a violation of any
24 regulation, license, or order issued to carry out subsection
25 (a) shall be subject to the penalties set forth in subsections

1 (b) and (c) of section 206 of the International Emergency
2 Economic Powers Act (50 U.S.C. 1705) to the same ex-
3 tent as a person that commits an unlawful act described
4 in subsection (a) of that section.

5 (c) EXCEPTIONS.—

6 (1) INTELLIGENCE ACTIVITIES.—Sanctions
7 under this section shall not apply with respect to
8 any activity subject to the reporting requirements
9 under title V of the National Security Act of 1947
10 (50 U.S.C. 3091 et seq.) or to any authorized intel-
11 ligence activities of the United States.

12 (2) EXCEPTION RELATING TO IMPORTATION OF
13 GOODS.—The authority to impose sanctions under
14 subsection (a)(6) shall not include the authority to
15 impose sanctions on the importation of goods.

16 (3) EXCEPTION TO COMPLY WITH UNITED NA-
17 TIONS HEADQUARTERS AGREEMENT.—Sanctions
18 under subsection (a)(8) shall not apply to an alien
19 if admitting the alien into the United States is nec-
20 essary to permit the United States to comply with
21 the Agreement regarding the Headquarters of the
22 United Nations, signed at Lake Success June 26,
23 1947, and entered into force November 21, 1947,
24 between the United Nations and the United States,
25 the Convention on Consular Relations, done at Vi-

1 enna April 24, 1963, and entered into force March
2 19, 1967, or other applicable international obliga-
3 tions.

4 (d) IMPLEMENTATION; REGULATORY AUTHORITY.—

5 (1) IMPLEMENTATION.—The President may ex-
6 ercise all authorities provided under sections 203
7 and 205 of the International Emergency Economic
8 Powers Act (50 U.S.C. 1702 and 1704) to carry out
9 this section.

10 (2) REGULATORY AUTHORITY.—The President
11 shall issue such regulations, licenses, and orders as
12 are necessary to carry out this section.

13 **SEC. 105. WAIVERS.**

14 (a) WAIVER FOR STATE-OWNED FINANCIAL INSTI-
15 TUTIONS IN COUNTRIES THAT COOPERATE IN MULTILAT-
16 ERAL ANTI-TRAFFICKING EFFORTS.—

17 (1) IN GENERAL.—The President may, on a
18 case-by-case basis, waive for a period of not more
19 than 12 months the application of sanctions under
20 this title with respect to a financial institution that
21 is owned or controlled, directly or indirectly, by a
22 foreign government or any political subdivision,
23 agency, or instrumentality of a foreign government,
24 if the President, not less than 30 days before the
25 waiver is to take effect, certifies to the appropriate

1 congressional committees and leadership that the
2 foreign government is closely cooperating with the
3 United States in efforts to prevent opioid trafficking.

4 (2) CERTIFICATION.—The President may cer-
5 tify under paragraph (1) that a foreign government
6 is closely cooperating with the United States in ef-
7 forts to prevent opioid trafficking if that government
8 is—

9 (A) implementing domestic laws to sched-
10 ule all fentanyl analogues as controlled sub-
11 stances; and

12 (B) doing two or more of the following:

13 (i) Implementing substantial improve-
14 ments in regulations involving the chemical
15 and pharmaceutical production and export
16 of illicit opioids.

17 (ii) Implementing substantial improve-
18 ments in judicial regulations to combat
19 transnational criminal organizations that
20 traffic opioids.

21 (iii) Increasing efforts to prosecute
22 foreign opioid traffickers.

23 (iv) Increasing intelligence sharing
24 and law enforcement cooperation with the

1 United States with respect to opioid traf-
2 ficking.

3 (3) SUBSEQUENT RENEWAL OF WAIVER.—The
4 President may renew a waiver under paragraph (1)
5 for subsequent periods of not more than 6 months
6 each if, not less than 30 days before the renewal is
7 to take effect, the Director of National Intelligence
8 certifies to the appropriate congressional committees
9 and leadership that the government of the country
10 to which the waiver applies has effectively imple-
11 mented and is effectively enforcing the measures
12 that formed the basis for the certification under
13 paragraph (2).

14 (b) WAIVERS FOR NATIONAL SECURITY AND ACCESS
15 TO PRESCRIPTION MEDICATIONS.—

16 (1) IN GENERAL.—The President may waive
17 the application of sanctions under this title with re-
18 spect to a person if the President determines that
19 the application of such sanctions with respect to that
20 person would significantly harm—

21 (A) the national security of the United
22 States; or

23 (B) subject to paragraph (2), the access of
24 United States persons to prescription medica-
25 tions.

1 (2) MONITORING.—The President shall estab-
2 lish a monitoring program to verify that a person re-
3 ceiving a waiver under paragraph (1)(B) is not traf-
4 ficking illicit opioids.

5 (3) NOTIFICATION.—Not later than 21 days
6 after making a determination under paragraph (1)
7 with respect to a person, the President shall notify
8 the appropriate congressional committees and lead-
9 ership of the determination and the reasons for the
10 determination.

11 (c) HUMANITARIAN WAIVER.—The President may
12 waive, for renewable periods of 180 days, the application
13 of the sanctions under this title if the President certifies
14 to the appropriate congressional committees and leader-
15 ship that the waiver is necessary for the provision of hu-
16 manitarian assistance.

17 **SEC. 106. PROCEDURES FOR JUDICIAL REVIEW OF CLASSI-**
18 **FIED INFORMATION.**

19 (a) IN GENERAL.—If a finding under this title, or
20 a prohibition, condition, or penalty imposed as a result
21 of any such finding, is based on classified information (as
22 defined in section 1(a) of the Classified Information Pro-
23 cedures Act (18 U.S.C. App.)) and a court reviews the
24 finding or the imposition of the prohibition, condition, or

1 penalty, the President may submit such information to the
2 court ex parte and in camera.

3 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion shall be construed to confer or imply any right to judi-
5 cial review of any finding under this title, or any prohibi-
6 tion, condition, or penalty imposed as a result of any such
7 finding.

8 **SEC. 107. BRIEFINGS ON IMPLEMENTATION.**

9 Not later than 90 days after the date of the enact-
10 ment of the Fentanyl Sanctions Act, and every 180 days
11 thereafter until the date that is 5 years after such date
12 of enactment, the President, acting through the Secretary
13 of State, in coordination with the Secretary of the Treas-
14 ury, shall provide to the appropriate congressional com-
15 mittees and leadership a comprehensive briefing on efforts
16 to implement this title.

17 **TITLE II—COMMISSION ON COM-**
18 **BATING SYNTHETIC OPIOID**
19 **TRAFFICKING**

20 **SEC. 201. COMMISSION ON COMBATING SYNTHETIC OPIOID**
21 **TRAFFICKING.**

22 (a) **ESTABLISHMENT.**—

23 (1) **IN GENERAL.**—There is established a com-
24 mission to develop a consensus on a strategic ap-

1 proach to combating the flow of synthetic opioids
2 into the United States.

3 (2) DESIGNATION.—The commission estab-
4 lished under paragraph (1) shall be known as the
5 “Commission on Synthetic Opioid Trafficking” (in
6 this section referred to as the “Commission”).

7 (b) MEMBERSHIP.—

8 (1) COMPOSITION.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B), the Commission shall be composed
11 of the following members:

12 (i) The Administrator of the Drug
13 Enforcement Administration.

14 (ii) The Secretary of Homeland Secu-
15 rity.

16 (iii) The Secretary of Defense.

17 (iv) The Secretary of the Treasury.

18 (v) The Secretary of State.

19 (vi) Two members appointed by the
20 majority leader of the Senate, one of whom
21 shall be a Member of the Senate and one
22 of whom shall not be.

23 (vii) Two members appointed by the
24 minority leader of the Senate, one of whom

1 shall be a Member of the Senate and one
2 of whom shall not be.

3 (viii) Two members appointed by the
4 Speaker of the House of Representatives,
5 one of whom shall be a Member of the
6 House of Representatives and one of whom
7 shall not be.

8 (ix) Two members appointed by the
9 minority leader of the House of Represent-
10 atives, one of whom shall be a Member of
11 the House of Representatives and one of
12 whom shall not be.

13 (B)(i) The members of the Commission
14 who are not Members of Congress and who are
15 appointed under clauses (vi) through (ix) of
16 subparagraph (A) shall be individuals who are
17 nationally recognized for expertise, knowledge,
18 or experience in—

19 (I) transnational criminal organiza-
20 tions conducting synthetic opioid traf-
21 ficking;

22 (II) the production, manufacturing,
23 distribution, sale, or transportation of syn-
24 thetic opioids; or

25 (III) relations between—

1 (aa) the United States; and

2 (bb) the People's Republic of
3 China, Mexico, or any other country
4 of concern with respect to trafficking
5 in synthetic opioids.

6 (ii) An official who appoints members of
7 the Commission may not appoint an individual
8 as a member of the Commission if the indi-
9 vidual possesses any personal or financial inter-
10 est in the discharge of any of the duties of the
11 Commission.

12 (iii)(I) All members of the Commission de-
13 scribed in clause (i) shall possess an appro-
14 priate security clearance in accordance with ap-
15 plicable provisions of law concerning the han-
16 dling of classified information.

17 (II) For the purpose of facilitating the ac-
18 tivities of the Commission, the Director of Na-
19 tional Intelligence shall expedite to the fullest
20 degree possible the processing of security clear-
21 ances that are necessary for members of the
22 Commission.

23 (2) CO-CHAIRS.—

24 (A) IN GENERAL.—The Commission shall
25 have 2 co-chairs, selected from among the mem-

1 bers of the Commission, one of whom shall be
2 a member of the majority party and one of
3 whom shall be a member of the minority party.

4 (B) SELECTION.—The individuals who
5 serve as the co-chairs of the Commission shall
6 be jointly agreed upon by the President, the
7 majority leader of the Senate, the minority
8 leader of the Senate, the Speaker of the House
9 of Representatives, and the minority leader of
10 the House of Representatives.

11 (c) DUTIES.—The duties of the Commission are as
12 follows:

13 (1) To define the core objectives and priorities
14 of the strategic approach described in subsection
15 (a)(1).

16 (2) To weigh the costs and benefits of various
17 strategic options to combat the flow of synthetic
18 opioids from the People’s Republic of China, Mexico,
19 and other countries.

20 (3) To evaluate whether the options described
21 in paragraph (2) are exclusive or complementary,
22 the best means for executing such options, and how
23 the United States should incorporate and implement
24 such options within the strategic approach described
25 in subsection (a)(1).

1 (4) To review and make determinations on the
2 difficult choices present within such options, among
3 them what norms-based regimes the United States
4 should seek to establish to encourage the effective
5 regulation of dangerous synthetic opioids.

6 (5) To report on efforts by actors in the Peo-
7 ple's Republic of China to subvert United States
8 laws and to supply illicit synthetic opioids to persons
9 in the United States, including up-to-date estimates
10 of the scale of illicit synthetic opioids flows from the
11 People's Republic of China.

12 (6) To report on the deficiencies in the regula-
13 tion of pharmaceutical and chemical production of
14 controlled substances and export controls with re-
15 spect to such substances in the People's Republic of
16 China and other countries that allow opioid traf-
17 fickers to subvert such regulations and controls to
18 traffic illicit opioids into the United States.

19 (7) To report on the scale of contaminated or
20 counterfeit drugs originating from the People's Re-
21 public of China and India.

22 (8) To report on how the United States could
23 work more effectively with provincial and local offi-
24 cials in the People's Republic of China and other

1 countries to combat the illicit production of synthetic
2 opioids.

3 (9) In weighing the options for defending the
4 United States against the dangers of trafficking in
5 synthetic opioids, to consider possible structures and
6 authorities that need to be established, revised, or
7 augmented within the Federal Government.

8 (d) FUNCTIONING OF COMMISSION.—The provisions
9 of subsections (c), (d), (e), (g), (h), (i), and (m) of section
10 1652 of the John S. McCain National Defense Authoriza-
11 tion Act for Fiscal Year 2019 (Public Law 115–232) shall
12 apply to the Commission to the same extent and in the
13 same manner as such provisions apply to the commission
14 established under that section, except that—

15 (1) subsection (c)(1) of that section shall be ap-
16 plied and administered by substituting “30 days” for
17 “45 days”;

18 (2) subsection (g)(4)(A) of that section shall be
19 applied and administered by inserting “and the At-
20 torney General” after “Secretary of Defense”; and

21 (3) subsections (h)(2)(A) and (i)(1)(A) of that
22 section shall be applied and administered by sub-
23 stituting “level V of the Executive Schedule under
24 section 5316” for “level IV of the Executive Sched-
25 ule under section 5315”.

1 (e) TREATMENT OF INFORMATION RELATING TO NA-
2 TIONAL SECURITY.—

3 (1) RESPONSIBILITY OF DIRECTOR OF NA-
4 TIONAL INTELLIGENCE.—The Director of National
5 Intelligence shall assume responsibility for the han-
6 dling and disposition of any information related to
7 the national security of the United States that is re-
8 ceived, considered, or used by the Commission under
9 this section.

10 (2) INFORMATION PROVIDED BY CONGRESS.—
11 Any information related to the national security of
12 the United States that is provided to the Commis-
13 sion by the appropriate congressional committees
14 and leadership may not be further provided or re-
15 leased without the approval of the chairperson of the
16 committee, or the Member of Congress, as the case
17 may be, that provided the information to the Com-
18 mission.

19 (3) ACCESS AFTER TERMINATION OF COMMIS-
20 SION.—Notwithstanding any other provision of law,
21 after the termination of the Commission under sub-
22 section (h), only the members and designated staff
23 of the appropriate congressional committees and
24 leadership, the Director of National Intelligence (and
25 the designees of the Director), and such other offi-

1 cials of the executive branch as the President may
2 designate shall have access to information related to
3 the national security of the United States that is re-
4 ceived, considered, or used by the Commission.

5 (f) REPORTS.—The Commission shall submit to the
6 appropriate congressional committees and leadership—

7 (1) not later than 270 days after the date of
8 the enactment of this Act, an initial report on the
9 activities and recommendations of the Commission
10 under this section; and

11 (2) not later than 270 days after the submis-
12 sion of the initial report under paragraph (1), a final
13 report on the activities and recommendations of the
14 Commission under this section.

15 (g) LIMITATION ON FUNDING.—Of amounts made
16 available under sections 302, 303, and 304 to carry out
17 this Act, not more than \$5,000,000 shall be available to
18 the Commission in any of fiscal years 2020 through 2025.

19 (h) TERMINATION.—

20 (1) IN GENERAL.—The Commission, and all the
21 authorities of this section, shall terminate at the end
22 of the 120-day period beginning on the date on
23 which the final report required by subsection (f)(2)
24 is submitted to the appropriate congressional com-
25 mittees and leadership.

1 (2) WINDING UP OF AFFAIRS.—The Commis-
2 sion may use the 120-day period described in para-
3 graph (1) for the purposes of concluding its activi-
4 ties, including providing testimony to Congress con-
5 cerning the final report required by subsection (f)(2)
6 and disseminating the report.

7 **TITLE III—OTHER MATTERS**

8 **SEC. 301. DIRECTOR OF NATIONAL INTELLIGENCE PRO-** 9 **GRAM ON USE OF INTELLIGENCE RE-** 10 **SOURCES IN EFFORTS TO SANCTION FOR-** 11 **EIGN OPIOID TRAFFICKERS.**

12 (a) PROGRAM REQUIRED.—

13 (1) IN GENERAL.—The Director of National In-
14 telligence shall, with the concurrence of the Director
15 of the Office of National Drug Control Policy, carry
16 out a program to allocate and enhance use of re-
17 sources of the intelligence community, including in-
18 telligence collection and analysis, to assist the Sec-
19 retary of the Treasury and the Administrator of the
20 Drug Enforcement Administration in efforts to iden-
21 tify and impose sanctions with respect to foreign
22 opioid traffickers under title I.

23 (2) FOCUS ON ILLICIT FINANCE.—To the ex-
24 tent practicable, efforts described in paragraph (1)
25 shall—

1 (A) take into account specific illicit finance
2 risks related to narcotics trafficking; and

3 (B) be developed in consultation with the
4 Undersecretary of the Treasury for Terrorism
5 and Financial Crimes, appropriate officials of
6 the Office of Intelligence and Analysis of the
7 Department of the Treasury, the Director of
8 the Financial Crimes Enforcement Network,
9 and appropriate Federal law enforcement agen-
10 cies.

11 (b) REVIEW OF COUNTERNARCOTICS EFFORTS OF
12 THE INTELLIGENCE COMMUNITY.—The Director of Na-
13 tional Intelligence shall, in coordination with the Director
14 of the Office of National Drug Control Policy, carry out
15 a comprehensive review of the current intelligence collec-
16 tion priorities of the intelligence community for counter-
17 narcotics purposes in order to identify whether such prior-
18 ities are appropriate and sufficient in light of the number
19 of lives lost in the United States each year due to use
20 of illegal drugs.

21 (c) REPORTS.—

22 (1) QUARTERLY REPORTS ON PROGRAM.—Not
23 later than 90 days after the date of the enactment
24 of this Act, and every 90 days thereafter, the Direc-
25 tor of National Intelligence and the Director of the

1 Office of National Drug Control Policy shall jointly
2 submit to the appropriate congressional committees
3 and leadership a report on the status and accom-
4 plishments of the program required by subsection
5 (a) during the 90-day period ending on the date of
6 the report. The first report under this paragraph
7 shall also include a description of the amount of
8 funds devoted by the intelligence community to the
9 efforts described in subsection (a) during each of fis-
10 cal years 2017 and 2018.

11 (2) REPORT ON REVIEW.—Not later than 120
12 days after the date of the enactment of this Act, the
13 Director of National Intelligence and the Director of
14 the Office of National Drug Control Policy shall
15 jointly submit to the appropriate congressional com-
16 mittees and leadership a comprehensive description
17 of the results of the review required by subsection
18 (b), including whether the priorities described in
19 that subsection are appropriate and sufficient in
20 light of the number of lives lost in the United States
21 each year due to use of illegal drugs. If the report
22 concludes that such priorities are not so appropriate
23 and sufficient, the report shall also include a de-
24 scription of the actions to be taken to modify such

1 priorities in order to assure that such priorities are
2 so appropriate and sufficient.

3 (d) INTELLIGENCE COMMUNITY DEFINED.—In this
4 section, the term “intelligence community” has the mean-
5 ing given that term in section 3(4) of the National Secu-
6 rity Act of 1947 (50 U.S.C. 3003(4)).

7 **SEC. 302. DEPARTMENT OF DEFENSE FUNDING.**

8 (a) SOURCE OF FUNDS.—Subject to subsection (b),
9 amounts authorized to be appropriated for each of fiscal
10 years 2020 through 2025 for the Department of Defense
11 for operation and maintenance shall be available for oper-
12 ations and activities described in subsection (c).

13 (b) LIMITATION ON AMOUNT AVAILABLE.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 the amount available under subsection (a) in a fiscal
16 year to carry out operations and activities described
17 in subsection (c) may not exceed the following:

18 (A) In fiscal year 2020, \$25,000,000.

19 (B) In each of fiscal years 2021 through
20 2025, \$35,000,000.

21 (2) EXCLUSION OF FUNDS FOR US SOUTHCOM
22 FROM LIMITATION.—Amounts authorized to be ap-
23 propriated for a fiscal year for operation and main-
24 tenance and available for such fiscal year for the
25 United States Southern Command for operations

1 and activities described in subsection (c)(2) shall not
2 count toward the limitation applicable to such fiscal
3 year under paragraph (1).

4 (c) OPERATIONS AND ACTIVITIES.—The operations
5 and activities described in this subsection are the fol-
6 lowing:

7 (1) The operations and activities of any depart-
8 ment or agency of the United States Government
9 (other than the Department of Defense) in carrying
10 out this Act.

11 (2) The operations and activities of the Depart-
12 ment of Defense in support of any other department
13 or agency of the United States Government in car-
14 rying out this Act.

15 (d) TRANSFER AUTHORITY.—

16 (1) IN GENERAL.—The Secretary of Defense
17 may transfer funds authorized to be appropriated
18 for the Department of Defense as described in sub-
19 section (a) to any other department or agency of the
20 United States Government to carry out this Act.

21 (2) NOTICE REQUIREMENTS.—Any transfer
22 under this subsection shall not be subject to any re-
23 programming requirements under law. However, a
24 notice on any such transfer shall be provided to the
25 appropriate committees of Congress.

1 (3) INAPPLICABILITY OF TRANSFER LIMITA-
2 TIONS.—Any transfer under this subsection in a fis-
3 cal year shall not count toward or apply against any
4 limitation on amounts transferrable by the Depart-
5 ment of Defense in such fiscal year, including any
6 limitation specified in an annual defense authoriza-
7 tion Act for such fiscal year.

8 **SEC. 303. DEPARTMENT OF STATE FUNDING.**

9 (a) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated to the Secretary of State
11 to carry out the operations and activities described in sub-
12 section (b)—

- 13 (1) \$25,000,000 for fiscal year 2020; and
14 (2) \$35,000,000 for each of fiscal years 2021
15 through 2025.

16 (b) OPERATIONS AND ACTIVITIES DESCRIBED.—The
17 operations and activities described in this subsection are
18 the following:

19 (1) The operations and activities of any depart-
20 ment or agency of the United States Government
21 (other than the Department of State) in carrying
22 out this Act.

23 (2) The operations and activities of the Depart-
24 ment of State in support of any other department or

1 agency of the United States Government in carrying
2 out this Act.

3 (c) NOTIFICATION REQUIREMENT.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), amounts authorized to be appropriated by
6 subsection (a) may not be obligated until 15 days
7 after the date on which the President notifies the
8 appropriate committees of Congress of the Presi-
9 dent's intention to obligate such funds.

10 (2) WAIVER.—

11 (A) IN GENERAL.—The Secretary of State
12 may waive the notification requirement under
13 paragraph (1) if the Secretary determines that
14 such a waiver is in the national security inter-
15 ests of the United States.

16 (B) NOTIFICATION REQUIREMENT.—If the
17 Secretary exercises the authority provided
18 under subparagraph (A) to waive the notifica-
19 tion requirement under paragraph (1), the Sec-
20 retary shall notify the appropriate committees
21 of Congress of the President's intention to obli-
22 gate amounts authorized to be appropriated by
23 subsection (a) as soon as practicable, but not
24 later than 3 days after obligating such funds.

25 (d) TRANSFER AUTHORITY.—

1 (1) IN GENERAL.—The Secretary of State may
2 transfer funds authorized to be appropriated by sub-
3 section (a) to any other department or agency of the
4 United States Government to carry out this Act.

5 (2) NOTICE REQUIREMENTS.—Any transfer
6 under this subsection shall not be subject to any re-
7 programming requirements under law. However, a
8 notice on any such transfer shall be provided to the
9 appropriate committees of Congress.

10 **SEC. 304. DEPARTMENT OF THE TREASURY FUNDING.**

11 (a) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to the Secretary of the
13 Treasury to carry out the operations and activities de-
14 scribed in subsection (b)—

15 (1) \$25,000,000 for fiscal year 2020; and

16 (2) \$35,000,000 for each of fiscal years 2021
17 through 2025.

18 (b) OPERATIONS AND ACTIVITIES DESCRIBED.—The
19 operations and activities described in this subsection are
20 the following:

21 (1) The operations and activities of any depart-
22 ment or agency of the United States Government
23 (other than the Department of the Treasury) in car-
24 rying out this Act.

1 (2) The operations and activities of the Depart-
2 ment of the Treasury in support of any other de-
3 partment or agency of the United States Govern-
4 ment in carrying out this Act.

5 (c) NOTIFICATION REQUIREMENT.—

6 (1) IN GENERAL.—Except as provided in para-
7 graph (2), amounts authorized to be appropriated by
8 subsection (a) may not be obligated until 15 days
9 after the date on which the President notifies the
10 appropriate committees of Congress of the Presi-
11 dent’s intention to obligate such funds.

12 (2) WAIVER.—

13 (A) IN GENERAL.—The Secretary of the
14 Treasury may waive the notification require-
15 ment under paragraph (1) if the Secretary de-
16 termines that such a waiver is in the national
17 security interests of the United States.

18 (B) NOTIFICATION REQUIREMENT.—If the
19 Secretary exercises the authority provided
20 under subparagraph (A) to waive the notifica-
21 tion requirement under paragraph (1), the Sec-
22 retary shall notify the appropriate committees
23 of Congress of the President’s intention to obli-
24 gate amounts authorized to be appropriated by

1 subsection (a) as soon as practicable, but not
2 later than 3 days after obligating such funds.

3 (d) TRANSFER AUTHORITY.—

4 (1) IN GENERAL.—The Secretary of the Treas-
5 ury may transfer funds authorized to be appro-
6 priated by subsection (a) to any other department or
7 agency of the United States Government to carry
8 out this Act.

9 (2) NOTICE REQUIREMENTS.—Any transfer
10 under this subsection shall not be subject to any re-
11 programming requirements under law. However, a
12 notice on any such transfer shall be provided to the
13 appropriate committees of Congress.

14 **SEC. 305. APPROPRIATE COMMITTEES OF CONGRESS DE-**
15 **FINED.**

16 In this title, the term “appropriate committees of
17 Congress” means—

18 (1) the Committee on Armed Services, the
19 Committee on Banking, Housing, and Urban Af-
20 fairs, the Committee on Foreign Relations, the Se-
21 lect Committee on Intelligence, and the Committee
22 on Appropriations of the Senate; and

23 (2) the Committee on Armed Services, the
24 Committee on Financial Services, the Committee on
25 Foreign Affairs, the Permanent Select Committee on

- 1 Intelligence, and the Committee on Appropriations
- 2 of the House of Representatives.

