

117TH CONGRESS
1ST SESSION

S. 860

To develop and deploy firewall circumvention tools for the people of Hong Kong after the People’s Republic of China violated its agreement under the Joint Declaration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. LANKFORD (for himself and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To develop and deploy firewall circumvention tools for the people of Hong Kong after the People’s Republic of China violated its agreement under the Joint Declaration, 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.**

4 This Act may be cited as the “Safeguarding Internet
5 Freedom in Hong Kong Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The People’s Republic of China has repeat-
2 edly violated its obligations under the Joint Declara-
3 tion by suppressing the basic rights and freedoms of
4 Hongkongers.

5 (2) On June 30, 2020 the National People’s
6 Congress passed a “National Security Law” that
7 further erodes Hong Kong’s autonomy and enables
8 authorities to suppress dissent.

9 (3) The Government of the People’s Republic of
10 China continues to utilize the National Security Law
11 to undermine the fundamental rights of the Hong
12 Kong people through suppression of the freedom of
13 speech, assembly, religion, and the press.

14 (4) Article 9 of the National Security Law au-
15 thORIZES unprecedented regulation and supervision of
16 internet activity in Hong Kong, including expanded
17 police powers to force internet service providers to
18 censor content, hand over user information, and
19 block access to platforms.

20 (5) On January 13, 2021, the Hong Kong
21 Broadband Network blocked public access to
22 HKChronicles, a website promoting pro-democracy
23 viewpoints, under the authorities of the National Se-
24 curity Law.

1 (6) On January 28, 2021, the Hong Kong
2 Internet Registration Corporation Limited enacted a
3 revised “acceptable use” policy that enables authori-
4 ties to require the rejection of website registration
5 requests that may “incite ‘illegal acts’”.

6 (7) On February 4, 2021, Carrie Lam ex-
7 pressed support for implementing additional laws to
8 increase internet censorship.

9 (8) On February 12, 2021, internet service pro-
10 viders blocked access to the Taiwan Transitional
11 Justice Commission website in Hong Kong.

12 (9) Major tech companies including Facebook,
13 Twitter, WhatsApp and Google have stopped review-
14 ing requests for user data from Hong Kong authori-
15 ties.

16 (10) On February 28, 2021, 47 pro-democracy
17 activists in Hong Kong were arrested charged under
18 the National Security Law on the charge of “con-
19 spiracy to commit subversion”.

20 **SEC. 3. SENSE OF CONGRESS.**

21 It is the sense of Congress that the United States
22 should—

23 (1) support the ability of the people of Hong
24 Kong to maintain their freedom to access informa-
25 tion online; and

1 (2) focus on investments in technologies that
2 facilitate the unhindered exchange of information in
3 Hong Kong in advance of any future efforts by the
4 Chinese Communist Party—

5 (A) to suppress internet access;

6 (B) to increase online censorship; or

7 (C) to inhibit online communication and
8 content-sharing by the people of Hong Kong.

9 **SEC. 4. DEFINITIONS.**

10 In this Act:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on Foreign Relations of
15 the Senate;

16 (B) the Committee on Appropriations of
17 the Senate;

18 (C) the Select Committee on Intelligence of
19 the Senate;

20 (D) the Committee on Foreign Affairs of
21 the House of Representatives;

22 (E) the Committee on Appropriations of
23 the House of Representatives; and

24 (F) the Permanent Select Committee on
25 Intelligence of the House of Representatives.

1 (2) INTERAGENCY WORKING GROUP.—The term
2 “interagency working group” means—

3 (A) the Under Secretary of State for Civil-
4 ian Security, Democracy, and Human Rights;

5 (B) the Assistant Secretary of State for
6 East Asian and Pacific Affairs;

7 (C) the Chief Executive Officer of the
8 Open Technology Fund; and

9 (D) the Administrator of the United States
10 Agency for International Development.

11 (3) JOINT DECLARATION.—The term “Joint
12 Declaration” means the Joint Declaration of the
13 Government of the United Kingdom of Great Britain
14 and Northern Ireland and the Government of the
15 People’s Republic of China on the Question of Hong
16 Kong, done at Beijing on December 19, 1984.

17 **SEC. 5. HONG KONG INTERNET FREEDOM PROGRAM.**

18 (a) IN GENERAL.—The Secretary of State is author-
19 ized to establish an interagency working group to develop
20 a strategy to bolster internet resiliency and online access
21 in Hong Kong. The Secretary shall establish a Hong Kong
22 Internet Freedom Program in the Bureau of Democracy,
23 Human Rights, and Labor at the Department of State.
24 Additionally, the Chief Executive Officer of the Open
25 Technology Fund is authorized to establish a Hong Kong

1 Internet Freedom Program. These programs shall operate
2 independently, but in strategic coordination with other en-
3 tities in the interagency working group.

4 (b) INDEPENDENCE.—During the period beginning
5 on the date of the enactment of this Act and ending on
6 September 30, 2023, the Program shall be carried out
7 independent from the mainland China internet freedom
8 portfolios in order to focus on supporting liberties pres-
9 ently enjoyed by the people of Hong Kong.

10 (c) CONSOLIDATION OF DEPARTMENT OF STATE
11 PROGRAM.—Beginning on October 1, 2023, the Secretary
12 of State may—

13 (1) consolidate the Program with the mainland
14 China initiatives in the Bureau of Democracy,
15 Human Rights, and Labor; or

16 (2) continue to carry out the Program in ac-
17 cordance with subsection (b).

18 (d) CONSOLIDATION OF OPEN TECHNOLOGY FUND
19 PROGRAM.—Beginning on October 1, 2023, the CEO of
20 the Open Technology Fund may—

21 (1) consolidate the Program with the mainland
22 China initiatives in the Open Technology Fund; or

23 (2) continue to carry out the Program in ac-
24 cordance with subsection (b).

1 **SEC. 6. SUPPORT FOR INFORMATION PROGRAMS.**

2 (a) GRANTS AUTHORIZED.—

3 (1) IN GENERAL.—The Secretary of State,
4 working through the Open Technology Fund and the
5 Bureau of Democracy, Human Rights, and Labor, is
6 authorized to award grants to private organizations
7 to support and develop programs in Hong Kong that
8 promote or expand—

9 (A) online information access;

10 (B) freedom of the press;

11 (C) disruptive technologies that bypass
12 internet blocking, filtering, and other censorship
13 techniques;

14 (D) virtual private networks;

15 (E) firewall circumvention tools;

16 (F) distributed denial of service mitigation
17 techniques;

18 (G) digital security capacity building for
19 internet users; or

20 (H) digital resiliency for international or-
21 ganizations, pro-democracy activists, and other
22 civil society actors in Hong Kong, including
23 emergency support.

24 (2) GOALS.—The goals of the programs devel-
25 oped with grants authorized under paragraph (1)
26 should be—

1 (A) to make the technologies described in
2 paragraph (1) available in Hong Kong;

3 (B) to increase the number of the tools in
4 the circumvention technology portfolio;

5 (C) to promote the availability of such
6 technologies and tools in Hong Kong;

7 (D) to encourage the adoption of such
8 technologies and tools by the people of Hong
9 Kong;

10 (E) to scale up the distribution of such
11 technologies and tools throughout Hong Kong;

12 (F) to prioritize the development of tools,
13 components, code, and technologies that are
14 fully open source, to the extent practicable;

15 (G) to conduct research on repressive tac-
16 tics that undermine internet freedom in Hong
17 Kong; and

18 (H) to engage American private industry,
19 including e-commerce firms and social net-
20 working companies, on the importance of pre-
21 serving internet access in Hong Kong.

22 (3) GRANT RECIPIENTS.—Grants authorized
23 under this subsection shall be distributed to multiple
24 vendors and suppliers through an open, fair, com-
25 petitive, and evidence-based decision process—

1 (A) to diversify the technical base; and

2 (B) to reduce the risk of mitigation by bad
3 actors.

4 (4) SECURITY AUDITS.—New technologies de-
5 veloped using grants from this subsection shall un-
6 dergo comprehensive security audits to ensure that
7 such technologies are secure and have not been com-
8 promised in a manner detrimental to the interests of
9 the United States or to individuals or organizations
10 benefitting from programs supported by the Open
11 Technology Fund.

12 (b) FUNDING SOURCE.—The Secretary of State is
13 authorized to expend funds from the Human Rights and
14 Democracy Fund of the Bureau of Democracy, Human
15 Rights, and Labor of the Department of State during fis-
16 cal year 2020 for grants authorized under subsection (a)
17 at any entity in the interagency working group.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—

19 (1) OPEN TECHNOLOGY FUND.—In addition to
20 the funds authorized to be expended pursuant to
21 subsection (b), there are authorized to be appro-
22 priated to the Open Technology Fund \$5,000,000
23 for each of the fiscal years 2021 through 2023 to
24 carry out this section.

1 (2) BUREAU OF DEMOCRACY, HUMAN RIGHTS,
2 AND LABOR.—In addition to the funds authorized to
3 be expended pursuant to subsection (b), there are
4 authorized to be appropriated to the Office of Inter-
5 net Freedom Programs in the Bureau of Democracy,
6 Human Rights, and Labor of the Department of
7 State \$10,000,000 for each of the fiscal years 2021
8 through 2023 to carry out this section.

9 (3) AVAILABILITY.—Amounts appropriated pur-
10 suant to paragraphs (1) and (2) shall remain avail-
11 able until expended.

12 **SEC. 7. STRATEGIC PLANNING REPORT.**

13 Not later than 120 days after the date of the enact-
14 ment of this Act, the Secretary of State and the inter-
15 agency working group shall submit a classified report to
16 the appropriate congressional committees that—

17 (1) describes the Federal Government’s plan to
18 bolster and increase the availability of firewall cir-
19 cumvention technology in Hong Kong during fiscal
20 year 2021, including—

21 (A) secure private messaging tools;

22 (B) secure file storage and sharing plat-
23 forms;

24 (C) virtual private networks;

25 (D) satellite internet;

- 1 (E) proxies;
- 2 (F) refraction routing;
- 3 (G) pluggable transports; and
- 4 (H) other secure communication mecha-
- 5 nisms and anti-censorship technologies;
- 6 (2) outlines a plan for—
- 7 (A) supporting the preservation of an
- 8 open, interoperable, reliable, and secure internet
- 9 in Hong Kong;
- 10 (B) increasing the supply of the technology
- 11 referred to in paragraph (1);
- 12 (C) accelerating the dissemination of such
- 13 technology;
- 14 (D) promoting the availability of such
- 15 technology in Hong Kong;
- 16 (E) utilizing presently available tools in the
- 17 mainland China portfolio for further use in the
- 18 unique context of Hong Kong;
- 19 (F) expanding the portfolio of tools in
- 20 order to diversify and strengthen the effective-
- 21 ness and resiliency of the circumvention efforts;
- 22 and
- 23 (G) providing training for high-risk groups
- 24 and individuals in Hong Kong;

1 (3) includes a detailed description of the tech-
2 nical and fiscal steps necessary to implement the
3 plans referred to in paragraphs (1) and (2), includ-
4 ing an analysis of the market conditions in Hong
5 Kong;

6 (4) describes the Federal Government's plans
7 for awarding grants to private organizations for the
8 purposes described in section 6(a)(1);

9 (5) outlines the interagency working group's
10 consultations regarding the implementation of this
11 Act to ensure that all Federal efforts are aligned
12 and well coordinated; and

13 (6) outlines the Department of State's strategy
14 to influence global internet legal standards at inter-
15 national organizations and multilateral fora.

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