

119TH CONGRESS
2D SESSION

S. _____

To require the President to remove the extension of certain privileges, exemptions, and immunities to the Hong Kong Economic and Trade Offices if Hong Kong no longer enjoys a high degree of autonomy from the People's Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY (for himself, Mr. SULLIVAN, Mr. CURTIS, and Mr. Kaine) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the President to remove the extension of certain privileges, exemptions, and immunities to the Hong Kong Economic and Trade Offices if Hong Kong no longer enjoys a high degree of autonomy from the People's Republic of China, 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 “Hong Kong Economic
5 and Trade Office (HKETO) Certification Act”.

1 **SEC. 2. DETERMINATION ON WHETHER TO EXTEND CER-**
2 **TAIN PRIVILEGES, EXEMPTIONS, AND IMMU-**
3 **NITIES TO THE HONG KONG ECONOMIC AND**
4 **TRADE OFFICES IN THE UNITED STATES.**

5 (a) DETERMINATION REQUIRED.—Not later than 30
6 days after the date of the enactment of this Act, and
7 thereafter as part of each certification required by the Sec-
8 retary of State under section 205(a)(1)(A) of the United
9 States-Hong Kong Policy Act of 1992 (22 U.S.C.
10 5725(a)(1)(A)), the Secretary of State shall, as part of
11 such certification, include a separate determination that—

12 (1) the Hong Kong Economic and Trade Of-
13 fices—

14 (A) merit extension and application of the
15 privileges, exemptions, and immunities specified
16 in subsection (b); or

17 (B) no longer merit extension and applica-
18 tion of the privileges, exemptions, and immuni-
19 ties specified in subsection (b); and

20 (2) a detailed report justifying that determina-
21 tion, which may include considerations related to
22 United States national security interests.

23 (b) PRIVILEGES, EXEMPTIONS, AND IMMUNITIES
24 SPECIFIED.—The privileges, exemptions, and immunities
25 specified in this subsection are the privileges, exemptions,
26 and immunities extended and applied to the Hong Kong

1 Economic and Trade Offices under section 1 of the Act
2 entitled “An Act to extend certain privileges, exemptions,
3 and immunities to Hong Kong Economic and Trade Of-
4 fices”, approved June 27, 1997 (22 U.S.C. 288k).

5 (c) EFFECT OF DETERMINATION.—

6 (1) TERMINATION.—If the Secretary of State
7 determines under subsection (a)(1)(B) that the
8 Hong Kong Economic and Trade Offices no longer
9 merit extension and application of the privileges, ex-
10 emptions, and immunities specified in subsection (b),
11 the Hong Kong Economic and Trade Offices shall
12 terminate operations not later than 180 days after
13 the date on which that determination is delivered to
14 the appropriate congressional committees, as part of
15 the certification required under section 205(a)(1)(A)
16 of the United States-Hong Kong Policy Act of 1992
17 (22 U.S.C. 5725(a)(1)(A)).

18 (2) CONTINUED OPERATIONS.—If the Secretary
19 of State determines under subsection (a)(1)(A) that
20 the Hong Kong Economic and Trade Offices merit
21 extension and application of the privileges, exemp-
22 tions, and immunities specified in subsection (b), the
23 Hong Kong Economic and Trade Offices may con-
24 tinue operations for the one-year period following
25 the date of the certification under section

1 205(a)(1)(A) of the United States-Hong Kong Pol-
2 icy Act of 1992 (22 U.S.C. 5725(a)(1)(A)) that in-
3 cludes that determination or until the next certifi-
4 cation required under such section is submitted,
5 whichever occurs first, unless a disapproval resolu-
6 tion is enacted under subsection (d).

7 (d) CONGRESSIONAL REVIEW.—

8 (1) DISAPPROVAL RESOLUTION.—In this sub-
9 section, the term “disapproval resolution” means
10 only a joint resolution of either House of Congress—

11 (A) the title of which is the following: “A
12 joint resolution disapproving the determination
13 by the Secretary of State that the Hong Kong
14 Economic and Trade Offices continue to merit
15 extension and application of certain privileges,
16 exemptions, and immunities.”; and

17 (B) the sole matter after the resolving
18 clause of which is the following: “Congress dis-
19 approves of the determination by the Secretary
20 of State under section 2(a)(1)(A) of the Hong
21 Kong Economic and Trade Office (HKETO)
22 Certification Act that the Hong Kong Economic
23 and Trade Offices merit extension and applica-
24 tion of certain privileges, exemptions, and im-

1 munities, on _____.”, with the blank space
2 being filled with the appropriate date.

3 (2) INTRODUCTION.—A disapproval resolution
4 may be introduced—

5 (A) in the House of Representatives, by
6 the majority leader or the minority leader; and

7 (B) in the Senate, by the majority leader
8 (or the majority leader’s designee) or the mi-
9 nority leader (or the minority leader’s des-
10 ignee).

11 (3) FLOOR CONSIDERATION IN HOUSE OF REP-
12 RESENTATIVES.—If a committee of the House of
13 Representatives to which a disapproval resolution
14 has been referred has not reported the resolution
15 within 10 legislative days after the date of referral,
16 that committee shall be discharged from further con-
17 sideration of the resolution.

18 (4) CONSIDERATION IN SENATE.—

19 (A) COMMITTEE REFERRAL.—A dis-
20 approval resolution introduced in the Senate
21 shall be referred to the Committee on Foreign
22 Relations.

23 (B) REPORTING AND DISCHARGE.—If the
24 Committee on Foreign Relations of the Senate
25 has not reported a disapproval resolution within

1 10 legislative days after the date of referral of
2 the resolution, that committee shall be dis-
3 charged from further consideration of the reso-
4 lution and the resolution shall be placed on the
5 appropriate calendar.

6 (C) PROCEEDING TO CONSIDERATION.—
7 Notwithstanding Rule XXII of the Standing
8 Rules of the Senate, it is in order at any time
9 after the Committee on Foreign Relations re-
10 ports a disapproval resolution to the Senate or
11 has been discharged from consideration of such
12 a resolution (even though a previous motion to
13 the same effect has been disagreed to) to move
14 to proceed to the consideration of the resolu-
15 tion, and all points of order against the resolu-
16 tion (and against consideration of the resolu-
17 tion) are waived. The motion to proceed is not
18 debatable. The motion is not subject to a mo-
19 tion to postpone. A motion to reconsider the
20 vote by which the motion is agreed to or dis-
21 agreed to shall not be in order.

22 (D) RULINGS OF THE CHAIR ON PROCE-
23 DURE.—Appeals from the decisions of the Chair
24 relating to the application of the rules of the
25 Senate, as the case may be, to the procedure re-

1 lating to a disapproval resolution shall be de-
2 cided without debate.

3 (E) CONSIDERATION OF VETO MES-
4 SAGES.—Debate in the Senate of any veto mes-
5 sage with respect to a disapproval resolution,
6 including all debatable motions and appeals in
7 connection with the resolution, shall be limited
8 to 10 hours, to be equally divided between, and
9 controlled by, the majority leader and the mi-
10 nority leader or their designees.

11 (5) RULES RELATING TO SENATE AND HOUSE
12 OF REPRESENTATIVES.—

13 (A) TREATMENT OF SENATE RESOLUTION
14 IN HOUSE.—In the House of Representatives,
15 the following procedures shall apply to a dis-
16 approval resolution received from the Senate
17 (unless the House has already passed a resolu-
18 tion relating to the same proposed action):

19 (i) The resolution shall be referred to
20 the appropriate committees.

21 (ii) If a committee to which a resolu-
22 tion has been referred has not reported the
23 resolution within 10 legislative days after
24 the date of referral, that committee shall

1 be discharged from further consideration
2 of the resolution.

3 (iii) Beginning on the third legislative
4 day after each committee to which a reso-
5 lution has been referred reports the resolu-
6 tion to the House or has been discharged
7 from further consideration thereof, it shall
8 be in order to move to proceed to consider
9 the resolution in the House. All points of
10 order against the motion are waived. Such
11 a motion shall not be in order after the
12 House has disposed of a motion to proceed
13 on the resolution. The previous question
14 shall be considered as ordered on the mo-
15 tion to its adoption without intervening
16 motion. The motion shall not be debatable.
17 A motion to reconsider the vote by which
18 the motion is disposed of shall not be in
19 order.

20 (iv) The resolution shall be considered
21 as read. All points of order against the res-
22 olution and against its consideration are
23 waived. The previous question shall be con-
24 sidered as ordered on the resolution to
25 final passage without intervening motion

1 except 2 hours of debate equally divided
2 and controlled by the offeror of the motion
3 to proceed (or a designee) and an oppo-
4 nent. A motion to reconsider the vote on
5 passage of the resolution shall not be in
6 order.

7 (B) TREATMENT OF HOUSE RESOLUTION
8 IN SENATE.—

9 (i) RECEIVED BEFORE PASSAGE OF
10 SENATE RESOLUTION.—If, before the pas-
11 sage by the Senate of a disapproval resolu-
12 tion, the Senate receives an identical reso-
13 lution from the House of Representatives,
14 the following procedures shall apply:

15 (I) That resolution shall not be
16 referred to a committee.

17 (II) With respect to that resolu-
18 tion—

19 (aa) the procedure in the
20 Senate shall be the same as if no
21 resolution had been received from
22 the House of Representatives;
23 but

1 (bb) the vote on passage
2 shall be on the resolution from
3 the House of Representatives.

4 (ii) RECEIVED AFTER PASSAGE OF
5 SENATE RESOLUTION.—If, following pas-
6 sage of a disapproval resolution in the Sen-
7 ate, the Senate receives an identical resolu-
8 tion from the House of Representatives,
9 that resolution shall be placed on the ap-
10 propriate Senate calendar.

11 (iii) NO SENATE COMPANION.—If a
12 disapproval resolution is received from the
13 House of Representatives, and no com-
14 panion resolution has been introduced in
15 the Senate, the Senate procedures under
16 this subsection shall apply to the resolution
17 from the House of Representatives.

18 (C) APPLICATION TO REVENUE MEAS-
19 URES.—The provisions of this paragraph shall
20 not apply in the House of Representatives to a
21 disapproval resolution that is a revenue meas-
22 ure.

23 (6) RULES OF HOUSE OF REPRESENTATIVES
24 AND SENATE.—This subsection is enacted by Con-
25 gress—

1 (A) as an exercise of the rulemaking power
2 of the Senate and the House of Representa-
3 tives, respectively, and as such is deemed a part
4 of the rules of each House, respectively, and su-
5 persedes other rules only to the extent that it
6 is inconsistent with such rules; and

7 (B) with full recognition of the constitu-
8 tional right of either House to change the rules
9 (so far as relating to the procedure of that
10 House) at any time, in the same manner, and
11 to the same extent as in the case of any other
12 rule of that House.

13 (e) DEFINITIONS.—In this section:

14 (1) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term “appropriate congressional com-
16 mittees” means the Committee on Foreign Relations
17 of the Senate and the Committee on Foreign Affairs
18 of the House of Representatives.

19 (2) HONG KONG ECONOMIC AND TRADE OF-
20 FICES.—The term “Hong Kong Economic and
21 Trade Offices” has the meaning given that term in
22 section 1(c) of the Act entitled “An Act to extend
23 certain privileges, exemptions, and immunities to
24 Hong Kong Economic and Trade Offices”, approved
25 June 27, 1997 (22 U.S.C. 288k).

1 **SEC. 3. LIMITATION ON CONTRACTING RELATING TO HONG**
2 **KONG ECONOMIC AND TRADE OFFICES.**

3 (a) IN GENERAL.—On and after the date of the en-
4 actment of this Act, an entity of the United States Gov-
5 ernment may enter into an agreement or partnership with
6 the Hong Kong Economic and Trade Offices to promote
7 tourism, culture, business, or other matters relating to
8 Hong Kong only if—

9 (1) the Secretary of State has submitted to the
10 Committee on Foreign Relations of the Senate and
11 the Committee on Foreign Affairs of the House of
12 Representatives a determination under section
13 2(a)(1)(A) that the Hong Kong Economic and
14 Trade Offices merit extension and application of cer-
15 tain privileges, exemptions, and immunities;

16 (2) a disapproval resolution under section 2(d)
17 is not enacted during the 90-day period following the
18 submission of that determination; and

19 (3) the agreement or partnership does not pro-
20 mote efforts by the Government of the Hong Kong
21 Special Administrative Region and the Government
22 of the People’s Republic of China—

23 (A) to justify the dismantling of the auton-
24 omy of Hong Kong and the freedoms and rule
25 of law guaranteed by the Sino-British Joint
26 Declaration of 1984; and

1 (B) to portray within the United States
2 the Government of the Hong Kong Special Ad-
3 ministrative Region or the Government of the
4 People's Republic of China as protecting the
5 rule of law or the human rights and civil lib-
6 erties of the people of Hong Kong.

7 (b) HONG KONG ECONOMIC AND TRADE OFFICES
8 DEFINED.—In this section, the term “Hong Kong Eco-
9 nomic and Trade Offices” has the meaning given that
10 term in section 1(c) of the Act entitled “An Act to extend
11 certain privileges, exemptions, and immunities to Hong
12 Kong Economic and Trade Offices”, approved June 27,
13 1997 (22 U.S.C. 288k).

14 **SEC. 4. POLICY OF UNITED STATES ON PROMOTION OF AU-**
15 **TONOMY OF GOVERNMENT OF THE HONG**
16 **KONG SPECIAL ADMINISTRATIVE REGION.**

17 It is the policy of the United States—

18 (1) to ensure that entities of the United States
19 Government do not knowingly assist in the pro-
20 motion of Hong Kong as a free and autonomous city
21 or the Government of the Hong Kong Special Ad-
22 ministrative Region as committed to protecting the
23 human rights of the people of Hong Kong or fully
24 maintaining the rule of law required for human
25 rights and economic prosperity as long as the Sec-

1 retary of State continues to determine under section
2 205(a)(1) of the United States-Hong Kong Policy
3 Act of 1992 (22 U.S.C. 5725(a)(1)) that Hong
4 Kong does not enjoy a high degree of autonomy
5 from the People's Republic of China and does not
6 warrant treatment under the laws of the United
7 States in the same manner as those laws were ap-
8 plied to Hong Kong before July 1, 1997;

9 (2) to recognize that promotion of Hong Kong
10 as described in paragraph (1) should be considered
11 propaganda for the efforts of the People's Republic
12 of China to dismantle rights and freedom guaran-
13 teed to the residents of Hong Kong by the Inter-
14 national Covenant on Civil and Political Rights and
15 the Sino-British Joint Declaration of 1984;

16 (3) to ensure that entities of the United States
17 Government do not engage in or assist with propa-
18 ganda of the People's Republic of China regarding
19 Hong Kong; and

20 (4) to engage with the Government of the Hong
21 Kong Special Administrative Region, through all rel-
22 evant entities of the United States Government,
23 seeking the release of political prisoners, the end of
24 arbitrary detentions, the resumption of a free press

- 1 and fair and free elections open to all candidates,
- 2 and the restoration of an independent judiciary.