Suspend the Rules and Pass the Bill, H. R. 1103, With an Amendment

(The amendment strikes all after the enacting clause and inserts a complete new text)

118TH CONGRESS
2D SESSION

H. R. 1103

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 HOUSE OF REPRESENTATIVES

FEBRUARY 17, 2023

Mr. SMITH of New Jersey (for himself and Mr. MCGOVERN) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Hong Kong Economic and Trade Office (HKETO) Certification Act”.

SEC. 2. DETERMINATION ON WHETHER TO EXTEND CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES TO THE HONG KONG ECONOMIC AND TRADE OFFICES IN THE UNITED STATES.

(a) Determination Required.—Not later than 30 days after the date of the enactment of this Act, and thereafter as part of each certification required by the Secretary of State under section 205(a)(1)(A) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5725(a)(1)(A)), the Secretary of State shall, as part of such certification, include a separate determination that—

(1) the Hong Kong Economic and Trade Offices—

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

(B) no longer merit extension and application of the privileges, exemptions, and immunities specified in subsection (b); and

(2) a detailed report justifying that determination, which may include considerations related to United States national security interests.
(b) PRIVILEGES, EXEMPTIONS, AND IMMUNITIES SPECIFIED.—The privileges, exemptions, and immunities specified in this subsection are the privileges, exemptions, and immunities extended and applied to the Hong Kong Economic and Trade Offices under section 1 of the Act entitled “An Act to extend certain privileges, exemptions, and immunities to Hong Kong Economic and Trade Offices”, approved June 27, 1997 (22 U.S.C. 288k).

(c) EFFECT OF DETERMINATION.—

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

(2) CONTINUED OPERATIONS.—If the Secretary of State determines under subsection (a)(1)(A) that the Hong Kong Economic and Trade Offices merit extension and application of the privileges, exemp-
tions, and immunities specified in subsection (b), the
Hong Kong Economic and Trade Offices may con-
tinue operations for the one-year period following
the date of the certification that includes that deter-
mination or until the next certification required
under section 205(a)(1)(A) of the United States-
5725(a)(1)(A)) is submitted, whichever occurs first,
unless a disapproval resolution is enacted under sub-
section (d).

(d) CONGRESSIONAL REVIEW.—

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

(A) the title of which is the following: “A
joint resolution disapproving the certification by
the President that the Hong Kong Economic
and Trade Offices continue to merit extension
and application of certain privileges, exemp-
tions, and immunities.”; and

(B) the sole matter after the resolving
clause of which is the following: “Congress dis-
approves of the certification by the President
under section 2(a)(1)(A) of the Hong Kong
Economic and Trade Office (HKETO) Certifi-
cation Act that the Hong Kong Economic and Trade Offices merit extension and application of certain privileges, exemptions, and immunities, on ______.’’, with the blank space being filled with the appropriate date.

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

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

(B) in the Senate, by the majority leader (or the majority leader’s designee) or the minority leader (or the minority leader’s designee).

(3) FLOOR CONSIDERATION IN HOUSE OF REPRESENTATIVES.—If a committee of the House of Representatives to which a disapproval resolution has been referred has not reported the resolution within 10 legislative days after the date of referral, that committee shall be discharged from further consideration of the resolution.

(4) CONSIDERATION IN SENATE.—

(A) COMMITTEE REFERRAL.—A disapproval resolution introduced in the Senate shall be referred to the Committee on Foreign Relations.
(B) REPORTING AND DISCHARGE.—If the Committee on Foreign Relations of the Senate has not reported the resolution within 10 legislative days after the date of referral of the resolution, that committee shall be discharged from further consideration of the resolution and the resolution shall be placed on the appropriate calendar.

(C) PROCEEDING TO CONSIDERATION.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time after the Committee on Foreign Relations reports a disapproval resolution to the Senate or has been discharged from consideration of such a resolution (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.
(D) Rulings of the Chair on Procedure.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a disapproval resolution shall be decided without debate.

(E) Consideration of Veto Messages.—Debate in the Senate of any veto message with respect to a disapproval resolution, including all debatable motions and appeals in connection with the resolution, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(5) Rules Relating to Senate and House of Representatives.—

(A) Treatment of Senate Resolution in House.—In the House of Representatives, the following procedures shall apply to a disapproval resolution received from the Senate (unless the House has already passed a resolution relating to the same proposed action):

(i) The resolution shall be referred to the appropriate committees.
(ii) If a committee to which a resolution has been referred has not reported the resolution within 10 legislative days after the date of referral, that committee shall be discharged from further consideration of the resolution.

(iii) Beginning on the third legislative day after each committee to which a resolution has been referred reports the resolution to the House or has been discharged from further consideration thereof, it shall be in order to move to proceed to consider the resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(iv) The resolution shall be considered as read. All points of order against the res-
olution and against its consideration are waived. The previous question shall be considered as ordered on the resolution to final passage without intervening motion except 2 hours of debate equally divided and controlled by the offeror of the motion to proceed (or a designee) and an opponent. A motion to reconsider the vote on passage of the resolution shall not be in order.

(B) TREATMENT OF HOUSE RESOLUTION IN SENATE.—

(i) RECEIVED BEFORE PASSAGE OF SENATE RESOLUTION.—If, before the passage by the Senate of a disapproval resolution, the Senate receives an identical resolution from the House of Representatives, the following procedures shall apply:

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

(II) With respect to that resolution—

(aa) the procedure in the Senate shall be the same as if no resolution had been received from
the House of Representatives;

but

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

(ii) Received after passage of Senate resolution.—If, following passage of a disapproval resolution in the Senate, the Senate receives an identical resolution from the House of Representatives, that resolution shall be placed on the appropriate Senate calendar.

(iii) No Senate companion.—If a disapproval resolution is received from the House of Representatives, and no companion resolution has been introduced in the Senate, the Senate procedures under this subsection shall apply to the resolution from the House of Representatives.

(C) Application to revenue measures.—The provisions of this subparagraph shall not apply in the House of Representatives to a disapproval resolution that is a revenue measure.
(6) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This paragraph is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

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

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

(a) IN GENERAL.—On and after the date of the enactment of this Act, an entity of the United States Government may enter into an agreement or partnership with the Hong Kong Economic and Trade Offices to promote tourism, culture, business, or other matters relating to Hong Kong only if—

(1) the Secretary of State has submitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a determination under section 2(a)(1)(A) that the Hong Kong Economic and Trade Offices merit extension and application of certain privileges, exemptions, and immunities;

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

(3) the agreement or partnership does not promote efforts by the Government of the Hong Kong Special Administrative Region and the Government of the People’s Republic of China—
(A) to justify the dismantling of the autonomy of Hong Kong and the freedoms and rule of law guaranteed by the Sino-British Joint Declaration of 1984; and

(B) to portray within the United States the Government of the Hong Kong Special Administrative Region or the Government of the People’s Republic of China as protecting the rule of law or the human rights and civil liberties of the people of Hong Kong.

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

SEC. 4. POLICY OF UNITED STATES ON PROMOTION OF AUTONOMY OF GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION.

It is the policy of the United States—

(1) to ensure that entities of the United States Government do not knowingly assist in the promotion of Hong Kong as a free and autonomous city or the Government of the Hong Kong Special Ad-
ministrative Region as committed to protecting the human rights of the people of Hong Kong or fully maintaining the rule of law required for human rights and economic prosperity as long as the Secretary of State continues to determine under section 205(a)(1) of the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5725(a)(1)) that Hong Kong does not enjoy a high degree of autonomy from the People’s Republic of China and does not warrant treatment under the laws of the United States in the same manner as those laws were applied to Hong Kong before July 1, 1997;

(2) to recognize that promotion of Hong Kong as described in paragraph (1) should be considered propaganda for the efforts of the People’s Republic of China to dismantle rights and freedom guaranteed to the residents of Hong Kong by the International Covenant on Civil and Political Rights and the Sino-British Joint Declaration of 1984;

(3) to ensure that entities of the United States Government do not engage in or assist with propaganda of the People’s Republic of China regarding Hong Kong; and

(4) to engage with the Government of the Hong Kong Special Administrative Region, through all rel-
event entities of the United States Government,
seeking the release of political prisoners, the end of
arbitrary detentions, the resumption of a free press
and fair and free elections open to all candidates,
and the restoration of an independent judiciary.