

116TH CONGRESS
2D SESSION

H. R. 8342

To require the approval of Congress before explosive nuclear testing may be resumed.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 2020

Mr. HORSFORD (for himself, Mrs. LEE of Nevada, Mr. MCADAMS, Mr. PANNETTA, and Mr. COX of California) introduced the following bill; which was referred to the Committee on Armed Services, 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 approval of Congress before explosive nuclear testing may be resumed.

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 “No Nuclear Testing
5 Without Approval Act”.

1 **SEC. 2. REQUIREMENT FOR APPROVAL OF CONGRESS FOR**
2 **CONDUCT OF EXPLOSIVE NUCLEAR TESTING.**

3 Section 4210(a) of the Atomic Energy Defense Act
4 (50 U.S.C. 2530(a)) is amended to read as follows:

5 “(a) EXPLOSIVE NUCLEAR TESTING.—

6 “(1) IN GENERAL.—No explosive nuclear test-
7 ing may be conducted by the United States after the
8 date of the enactment of the National Defense Au-
9 thorization Act for Fiscal Year 2021, and none of
10 the funds described in paragraph (2) may be obli-
11 gated or expended to conduct such testing, unless—

12 “(A)(i) a foreign state conducts a nuclear
13 test after that date; or

14 “(ii) there is a technical need for such test-
15 ing;

16 “(B) not less than 180 days before the
17 date proposed to conduct such testing, the
18 President submits to Congress a notification de-
19 scribed in paragraph (3) with respect to such
20 testing; and

21 “(C) a joint resolution approving the test-
22 ing with respect to which the notification is
23 submitted under subparagraph (B) is enacted
24 into law—

1 “(i) in the case of testing proposed to
2 be conducted after a foreign state conducts
3 a nuclear test—

4 “(I) without use of expedited pro-
5 cedures under paragraph (4); but

6 “(II) requiring, for passage in
7 the Senate, the affirmative vote of
8 two-thirds of Senators, duly chosen
9 and sworn; or

10 “(ii) in the case of testing proposed to
11 be conducted because there is a technical
12 need for such testing, pursuant to para-
13 graph (4).

14 “(2) FUNDS DESCRIBED.—The funds described
15 in this paragraph are funds—

16 “(A) authorized to be appropriated or oth-
17 erwise made available for fiscal year 2021 or
18 any fiscal year thereafter; or

19 “(B) authorized to be appropriated or oth-
20 erwise made available for any fiscal year before
21 fiscal year 2021 and available for obligation as
22 of the date of the enactment of the National
23 Defense Authorization Act for Fiscal Year
24 2021.

25 “(3) NOTIFICATION DESCRIBED.—

1 “(A) IN GENERAL.—A notification de-
2 scribed in this paragraph with respect to a pro-
3 posal to conduct explosive nuclear testing shall
4 include—

5 “(i) a description of the testing pro-
6 posed to be conducted;

7 “(ii) a statement of the reasons for
8 conducting the testing, including—

9 “(I) whether or not there is a
10 technical need for conducting the test-
11 ing;

12 “(II) if there is a technical need
13 for conducting the testing—

14 “(aa) a description of the
15 technical need;

16 “(bb) an assessment of al-
17 ternative options for addressing
18 the need; and

19 “(cc) an explanation of why
20 those options were not selected;
21 and

22 “(III) if the reason for con-
23 ducting the testing is in response to a
24 geopolitical event under the responsi-
25 bility of the President acting as the

1 Commander in Chief of the Armed
2 Forces, a detailed explanation of why
3 the testing would be in the supreme
4 national interest of the United States;

5 “(iii) an estimate of the timelines and
6 costs of conducting the testing; and

7 “(iv) any other information the Presi-
8 dent considers relevant.

9 “(B) FORM.—A notification described in
10 subparagraph (A) shall be submitted in unclas-
11 sified form but may include a classified annex.

12 “(4) JOINT RESOLUTION OF APPROVAL FOR EX-
13 PLOSIVE NUCLEAR TESTING FOR WHICH THERE IS A
14 TECHNICAL NEED.—

15 “(A) JOINT RESOLUTION OF APPROVAL
16 DEFINED.—In this paragraph, the term ‘joint
17 resolution of approval’ means a joint resolution
18 of either House of Congress the sole matter
19 after the resolving clause of which is the fol-
20 lowing: ‘Congress approves of the proposal of
21 the President to conduct explosive nuclear test-
22 ing for which there is a technical need, notice
23 of which was submitted to Congress under sec-
24 tion 4210(a) of the Atomic Energy Defense Act
25 (50 U.S.C. 2530(a)) on _____.’, with the

1 blank space being filled with the appropriate
2 date.

3 “(B) INTRODUCTION; REFERRAL.—A joint
4 resolution of approval—

5 “(i) may be introduced in either
6 House by any member; and

7 “(ii) shall be referred—

8 “(I) in the Senate, to the Com-
9 mittee on Armed Services of the Sen-
10 ate; and

11 “(II) in the House of Represent-
12 atives, to the Committee on Armed
13 Services of the House of Representa-
14 tives.

15 “(C) CONSIDERATION IN HOUSE OF REP-
16 RESENTATIVES.—

17 “(i) REPORTING AND DISCHARGE.—
18 The Committee on Armed Services of the
19 House of Representatives shall report a
20 joint resolution of approval to the House
21 not later than 60 calendar days after the
22 date of receipt of the notification sub-
23 mitted under paragraph (1)(B). If the
24 committee fails to report the joint resolu-
25 tion within that period, the committee shall

1 be discharged from further consideration
2 of the joint resolution and the joint resolu-
3 tion shall be referred to the appropriate
4 calendar.

5 “(ii) PROCEEDING TO CONSIDER-
6 ATION.—After the Committee on Armed
7 Services of the House of Representatives
8 reports the joint resolution of approval to
9 the House or has been discharged from its
10 consideration, it shall be in order, not later
11 than the 120th day after Congress receives
12 the notification submitted under paragraph
13 (1)(B), to move to proceed to consider the
14 joint resolution in the House. All points of
15 order against the motion are waived. Such
16 a motion shall not be in order after the
17 House has disposed of a motion to proceed
18 on the joint resolution. The previous ques-
19 tion shall be considered as ordered on the
20 motion to its adoption without intervening
21 motion. The motion shall not be debatable.
22 A motion to reconsider the vote by which
23 the motion is disposed of shall not be in
24 order.

1 “(iii) CONSIDERATION.—The joint
2 resolution of approval shall be considered
3 as read. All points of order against the
4 joint resolution and against its consider-
5 ation are waived. The previous question
6 shall be considered as ordered on the joint
7 resolution to its passage without inter-
8 vening motion except 24 hours of debate
9 equally divided and controlled by the pro-
10 ponent and an opponent. A motion to re-
11 consider the vote on passage of the joint
12 resolution shall not be in order.

13 “(D) CONSIDERATION IN SENATE.—

14 “(i) REPORTING AND DISCHARGE.—
15 The Committee on Armed Services of the
16 Senate shall report a joint resolution of ap-
17 proval to the Senate not later than 60 cal-
18 endar days after the date of receipt of the
19 notification submitted under paragraph
20 (1)(B). If the committee fails to report the
21 joint resolution within that period, the
22 committee shall be discharged from further
23 consideration of the joint resolution and
24 the joint resolution shall be placed on the
25 Calendar of Business.

1 “(ii) FLOOR CONSIDERATION.—

2 “(I) IN GENERAL.—Notwith-
3 standing Rule XXII of the Standing
4 Rules of the Senate, it is in order at
5 any time after the Committee on
6 Armed Services reports a joint resolu-
7 tion of approval or is discharged from
8 consideration of a joint resolution of
9 approval to move to proceed to the
10 consideration of the joint resolution,
11 and all points of order against the
12 motion to proceed to the joint resolu-
13 tion (and against consideration of the
14 joint resolution) are waived. The mo-
15 tion to proceed is not debatable. The
16 motion is not subject to a motion to
17 postpone. A motion to reconsider the
18 vote by which the motion is agreed to
19 or disagreed to shall not be in order.
20 If a motion to proceed to the consider-
21 ation of the resolution is agreed to,
22 the joint resolution shall remain the
23 unfinished business until disposed of.

24 “(II) CONSIDERATION.—Consid-
25 eration of a joint resolution of ap-

1 proval, and on all debatable motions
2 in connection therewith, shall be lim-
3 ited to not more than 10 hours, which
4 shall be divided equally between the
5 majority and minority leaders or their
6 designees. A motion further to limit
7 debate is in order and not debatable.
8 An amendment to, a motion to post-
9 pone, or a motion to proceed to the
10 consideration of other business, or a
11 motion to recommit the joint resolu-
12 tion is not in order.

13 “(III) VOTE ON PASSAGE.—The
14 vote on passage shall occur imme-
15 diately following the conclusion of the
16 debate on a joint resolution of ap-
17 proval, and a single quorum call at
18 the conclusion of the debate if re-
19 quested in accordance with the rules
20 of the Senate. Passage of the joint
21 resolution shall require the affirmative
22 vote of two-thirds of Senators, duly
23 chosen and sworn.

24 “(IV) RULINGS OF THE CHAIR
25 ON PROCEDURE.—Appeals from the

1 decisions of the Chair relating to the
2 application of the rules of the Senate,
3 as the case may be, to the procedure
4 relating to a joint resolution of ap-
5 proval shall be decided without de-
6 bate.

7 “(E) RULES RELATING TO SENATE AND
8 HOUSE OF REPRESENTATIVES.—

9 “(i) COORDINATION WITH ACTION BY
10 OTHER HOUSE.—If, before the passage by
11 one House of a joint resolution of that
12 House, that House receives from the other
13 House a joint resolution of approval that is
14 identical to the joint resolution of the
15 House receiving the resolution, then the
16 following procedures shall apply:

17 “(I) The joint resolution of the
18 other House shall not be referred to a
19 committee.

20 “(II) With respect to a joint res-
21 olution of the House receiving the res-
22 olution—

23 “(aa) the procedure in that
24 House shall be the same as if no

1 joint resolution had been received
2 from the other House; but

3 “(bb) the vote on passage
4 shall—

5 “(AA) require the af-
6 firmative vote of two-thirds
7 of Senators, duly chosen and
8 sworn, for passage; and

9 “(BB) be on the joint
10 resolution of the other
11 House.

12 “(ii) TREATMENT OF JOINT RESOLU-
13 TION OF OTHER HOUSE.—If one House
14 fails to introduce or consider a joint resolu-
15 tion under this section, the joint resolution
16 of the other House shall be entitled to ex-
17 pedited floor procedures under this para-
18 graph.

19 “(iii) TREATMENT OF COMPANION
20 MEASURES.—If, following passage of the
21 joint resolution in the Senate, the Senate
22 then receives an identical resolution from
23 the House of Representatives, the resolu-
24 tion of the House shall not be debatable.

1 “(iv) CONSIDERATION OF VETO MES-
2 SAGES.—If the President vetoes a joint
3 resolution of approval, debate on a veto
4 message in the Senate shall be 1 hour
5 equally divided between the majority and
6 minority leaders or their designees.

7 “(F) RULES OF HOUSE OF REPRESENTA-
8 TIVES AND SENATE.—This paragraph enacted
9 by the Senate and the House of Representa-
10 tives—

11 “(i) as an exercise of the rulemaking
12 power of the Senate and House, respec-
13 tively, and as such it is deemed a part of
14 the rules of each House, respectively, but
15 applicable only with respect to the proce-
16 dure to be followed in that House in the
17 case of a joint resolution of approval, and
18 it supersedes other rules only to the extent
19 that it is inconsistent with such rules; and

20 “(ii) with full recognition of the con-
21 stitutional right of either House to change
22 the rules (so far as relating to the proce-
23 dure of that House) at any time, in the
24 same manner, and to the same extent as in
25 the case of any other rule of that House.

1 “(5) DEFINITIONS.—In this subsection:

2 “(A) EXPLOSIVE NUCLEAR TESTING.—The
3 term ‘explosive nuclear testing’—

4 “(i) means testing involving the explo-
5 sive compression or assembly of fissile ma-
6 terial to exceed critical mass with the at-
7 tendant release of any nuclear energy from
8 fission processes; and

9 “(ii) does not include subcritical ex-
10 periments carried out as part of the stock-
11 pile stewardship program under section
12 4201, laser fusion experiments, or other in-
13 ertial confinement fusion experiments how-
14 ever driven.

15 “(B) TECHNICAL NEED.—The term ‘tech-
16 nical need’, with respect to explosive nuclear
17 testing, means that all officials specified in sec-
18 tion 4205(b) determine that an explosive nu-
19 clear test is necessary to resolve an issue with
20 respect to the safety, reliability, performance, or
21 military effectiveness of a nuclear weapon
22 type.”.

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