

117TH CONGRESS
2D SESSION

S. 5253

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

DECEMBER 14, 2022

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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. CERTIFICATION ON WHETHER TO EXTEND CERTAIN**
 2 **PRIVILEGES, EXEMPTIONS, AND IMMUNITIES**
 3 **TO THE HONG KONG ECONOMIC AND TRADE**
 4 **OFFICES IN THE UNITED STATES.**

5 (a) CERTIFICATION 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 President shall submit to the appro-
 11 priate congressional committees a certification 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 certifi-
 21 cation.

22 (b) PRIVILEGES, EXEMPTIONS, AND IMMUNITIES
 23 SPECIFIED.—The privileges, exemptions, and immunities
 24 specified in this subsection are the privileges, exemptions,
 25 and immunities extended and applied to the Hong Kong
 26 Economic and Trade Offices under section 1 of the Act

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

4 (c) EFFECT OF CERTIFICATION.—

5 (1) TERMINATION.—If the President certifies
 6 under subsection (a)(1)(B) that the Hong Kong
 7 Economic and Trade Offices no longer merit exten-
 8 sion and application of the privileges, exemptions,
 9 and immunities specified in subsection (b), the Hong
 10 Kong Economic and Trade Offices shall terminate
 11 operations not later than 180 days after the date on
 12 which that certification is delivered to the appro-
 13 priate congressional committees.

14 (2) CONTINUED OPERATIONS.—If the President
 15 certifies under subsection (a)(1)(A) that the Hong
 16 Kong Economic and Trade Offices merit extension
 17 and application of the privileges, exemptions, and
 18 immunities specified in subsection (b), the Hong
 19 Kong Economic and Trade Offices may continue op-
 20 erations for the one-year period following the date of
 21 that certification or until the next certification re-
 22 quired under section 205(a)(1)(A) of the United
 23 States-Hong Kong Policy Act of 1992 (22 U.S.C.
 24 5725(a)(1)(A)) is submitted, whichever occurs first,

1 unless a disapproval resolution is enacted under sub-
2 section (f).

3 (d) REVOCATION OF EXTENSION AND APPLICATION
4 OF PRIVILEGES, EXEMPTIONS, AND IMMUNITIES.—The
5 President may revoke the extension and application to the
6 Hong Kong Economic and Trade Offices of the privileges,
7 exceptions, and immunities specified in subsection (b).

8 (e) TERMINATION OF CERTIFICATION REQUIRE-
9 MENT.—If the Hong Kong Economic and Trade Offices
10 terminate operations in the United States, whether pursu-
11 ant to subsection (c) or otherwise, the President shall not
12 issue additional certifications under subsection (a)(1) after
13 the date on which those operations terminated.

14 (f) CONGRESSIONAL REVIEW.—

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

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

24 (B) the sole matter after the resolving
25 clause of which is the following: “Congress dis-

1 approves of the certification by the President
2 under section 2(a)(1)(A) of the Hong Kong
3 Economic and Trade Office (HKETO) Certifi-
4 cation Act that the Hong Kong Economic and
5 Trade Offices merit extension and application
6 of certain privileges, exemptions, and immuni-
7 ties, on _____.”, with the blank space being
8 filled with the appropriate date.

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

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

13 (B) in the Senate, by the majority leader
14 (or the majority leader’s designee) or the mi-
15 nority leader (or the minority leader’s des-
16 ignee).

17 (3) FLOOR CONSIDERATION IN HOUSE OF REP-
18 REPRESENTATIVES.—If a committee of the House of
19 Representatives to which a disapproval resolution
20 has been referred has not reported the resolution
21 within 10 legislative days after the date of referral,
22 that committee shall be discharged from further con-
23 sideration of the resolution.

24 (4) CONSIDERATION IN SENATE.—

1 (A) COMMITTEE REFERRAL.—A dis-
2 approval resolution introduced in the Senate
3 shall be referred to the Committee on Foreign
4 Relations.

5 (B) REPORTING AND DISCHARGE.—If the
6 Committee on Foreign Relations of the Senate
7 has not reported the resolution within 10 legis-
8 lative days after the date of referral of the reso-
9 lution, that committee shall be discharged from
10 further consideration of the resolution and the
11 resolution shall be placed on the appropriate
12 calendar.

13 (C) PROCEEDING TO CONSIDERATION.—
14 Notwithstanding Rule XXII of the Standing
15 Rules of the Senate, it is in order at any time
16 after the Committee on Foreign Relations re-
17 ports a disapproval resolution to the Senate or
18 has been discharged from consideration of such
19 a resolution (even though a previous motion to
20 the same effect has been disagreed to) to move
21 to proceed to the consideration of the resolu-
22 tion, and all points of order against the resolu-
23 tion (and against consideration of the resolu-
24 tion) are waived. The motion to proceed is not
25 debatable. The motion is not subject to a mo-

1 tion to postpone. A motion to reconsider the
 2 vote by which the motion is agreed to or dis-
 3 agreed to shall not be in order.

4 (D) RULINGS OF THE CHAIR ON PROCE-
 5 DURE.—Appeals from the decisions of the Chair
 6 relating to the application of the rules of the
 7 Senate, as the case may be, to the procedure re-
 8 lating to a disapproval resolution shall be de-
 9 cided without debate.

10 (E) CONSIDERATION OF VETO MES-
 11 SAGES.—Debate in the Senate of any veto mes-
 12 sage with respect to a disapproval resolution,
 13 including all debatable motions and appeals in
 14 connection with the resolution, shall be limited
 15 to 10 hours, to be equally divided between, and
 16 controlled by, the majority leader and the mi-
 17 nority leader or their designees.

18 (5) RULES RELATING TO SENATE AND HOUSE
 19 OF REPRESENTATIVES.—

20 (A) TREATMENT OF SENATE RESOLUTION
 21 IN HOUSE.—In the House of Representatives,
 22 the following procedures shall apply to a dis-
 23 approval resolution received from the Senate
 24 (unless the House has already passed a resolu-
 25 tion relating to the same proposed action):

1 (i) The resolution shall be referred to
2 the appropriate committees.

3 (ii) If a committee to which a resolu-
4 tion has been referred has not reported the
5 resolution within 10 legislative days after
6 the date of referral, that committee shall
7 be discharged from further consideration
8 of the resolution.

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

(iv) The resolution shall be considered as read. All points of order against the resolution 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—

1 (aa) the procedure in the
 2 Senate shall be the same as if no
 3 resolution had been received from
 4 the House of Representatives;
 5 but

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

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

16 (iii) NO SENATE COMPANION.—If a
 17 disapproval resolution is received from the
 18 House of Representatives, and no com-
 19 panion resolution has been introduced in
 20 the Senate, the Senate procedures under
 21 this subsection shall apply to the resolution
 22 from the House of Representatives.

23 (C) APPLICATION TO REVENUE MEAS-
 24 URES.—The provisions of this subparagraph
 25 shall not apply in the House of Representatives

1 to a disapproval resolution that is a revenue
2 measure.

3 (6) RULES OF HOUSE OF REPRESENTATIVES
4 AND SENATE.—This paragraph is enacted by Con-
5 gress—

6 (A) as an exercise of the rulemaking power
7 of the Senate and the House of Representa-
8 tives, respectively, and as such is deemed a part
9 of the rules of each House, respectively, and su-
10 persedes other rules only to the extent that it
11 is inconsistent with such rules; and

12 (B) with full recognition of the constitu-
13 tional right of either House to change the rules
14 (so far as relating to the procedure of that
15 House) at any time, in the same manner, and
16 to the same extent as in the case of any other
17 rule of that House.

18 (g) DEFINITIONS.—In this section:

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—The term “appropriate congressional com-
21 mittees” means the Committee on Foreign Relations
22 of the Senate and the Committee on Foreign Affairs
23 of the House of Representatives.

24 (2) HONG KONG ECONOMIC AND TRADE OF-
25 FICES.—The term “Hong Kong Economic and

1 Trade Offices” has the meaning given that term in
 2 section 1(c) of the Act entitled “An Act to extend
 3 certain privileges, exemptions, and immunities to
 4 Hong Kong Economic and Trade Offices”, approved
 5 June 27, 1997 (22 U.S.C. 288k).

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

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

14 (1) the President has submitted to the Com-
 15 mittee on Foreign Relations of the Senate and the
 16 Committee on Foreign Affairs of the House of Rep-
 17 resentatives a certification under section 2(a)(1)(A)
 18 that the Hong Kong Economic and Trade Offices
 19 merit extension and application of certain privileges,
 20 exemptions, and immunities; and

21 (2) a disapproval resolution under section 2(f)
 22 is not enacted during the 90-day period following the
 23 submission of that certification.

24 (b) CERTIFICATION.—

1 (1) EXISTING AGREEMENTS AND PARTNER-
2 SHIPS.—Not later than 100 days after the date of
3 the enactment of this Act, any entity of the United
4 States Government or any entity that holds a cur-
5 rent Federal contract with the United States Gov-
6 ernment that has in effect an agreement or partner-
7 ship with the Hong Kong Economic and Trade Of-
8 fices, shall submit to the Secretary of State and the
9 Administrator of the General Services Administra-
10 tion a certification described in paragraph (3) with
11 respect to each such agreement or partnership.

12 (2) NEW AGREEMENTS AND PARTNERSHIPS.—
13 Not later than 15 days after entering into an agree-
14 ment or partnership with the Hong Kong Economic
15 and Trade Offices, an entity of the United States
16 Government or an entity that holds a current Fed-
17 eral contract with the United States Government
18 shall submit to the Secretary of State and the Ad-
19 ministrator of the General Services Administration a
20 certification described in paragraph (3) with respect
21 to that agreement or partnership.

22 (3) CERTIFICATION DESCRIBED.—With respect
23 to an agreement or partnership with the Hong Kong
24 Economic and Trade Offices, a certification de-
25 scribed in this paragraph is a certification that the

1 agreement or partnership does not promote efforts
 2 by the Government of the Hong Kong Special Ad-
 3 ministrative Region and the Government of the Peo-
 4 ple’s Republic of China—

5 (A) to justify the dismantling of the auton-
 6 omy of Hong Kong and the freedoms and rule
 7 of law guaranteed by the Sino-British Joint
 8 Declaration of 1984; or

9 (B) to portray within the United States
 10 the Government of the Hong Kong Special Ad-
 11 ministrative Region or the Government of the
 12 People’s Republic of China as protecting the
 13 rule of law or the human rights and civil lib-
 14 erties of the people of Hong Kong.

15 (c) HONG KONG ECONOMIC AND TRADE OFFICES
 16 DEFINED.—In this section, the term “Hong Kong Eco-
 17 nomic and Trade Offices” has the meaning given that
 18 term in section 1(c) of the Act entitled “An Act to extend
 19 certain privileges, exemptions, and immunities to Hong
 20 Kong Economic and Trade Offices”, approved June 27,
 21 1997 (22 U.S.C. 288k).

22 **SEC. 4. POLICY OF UNITED STATES ON PROMOTION OF AU-**
 23 **TONOMY OF GOVERNMENT OF THE HONG**
 24 **KONG SPECIAL ADMINISTRATIVE REGION.**

25 It is the policy of the United States—

1 (1) to ensure that entities of the United States
2 Government do not knowingly assist in the pro-
3 motion of Hong Kong as a free and autonomous city
4 or the Government of the Hong Kong Special Ad-
5 ministrative Region as committed to protecting the
6 human rights of the people of Hong Kong or fully
7 maintaining the rule of law required for human
8 rights and economic prosperity as long as the Sec-
9 retary of State continues to certify under section
10 205(a)(1) of the United States-Hong Kong Policy
11 Act of 1992 (22 U.S.C. 5725(a)(1)) that Hong
12 Kong does not enjoy a high degree of autonomy
13 from the People's Republic of China and does not
14 warrant treatment under the laws of the United
15 States in the same manner as those laws were ap-
16 plied to Hong Kong before July 1, 1997;

17 (2) to recognize that promotion of Hong Kong
18 as described in paragraph (1) should be considered
19 propaganda for the efforts of the People's Republic
20 of China to dismantle rights and freedom guaran-
21 teed to the residents of Hong Kong by the Inter-
22 national Covenant on Civil and Political Rights and
23 the Sino-British Joint Declaration of 1984;

24 (3) to ensure that entities of the United States
25 Government do not engage in or assist with propa-

1 ganda of the People's Republic of China regarding
2 Hong Kong; and
3 (4) to engage with the Government of the Hong
4 Kong Special Administrative Region, through all rel-
5 evant entities of the United States Government,
6 seeking the release of political prisoners, the end of
7 arbitrary detentions, the resumption of a free press
8 and fair and free elections open to all candidates,
9 and the restoration of an independent judiciary.

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