

119TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Ms. CORTEZ MASTO (for herself and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on

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”.

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

8 Section 4210(a) of the Atomic Energy Defense Act
9 (50 U.S.C. 2530(a)) is amended to read as follows:

10 “(a) EXPLOSIVE NUCLEAR TESTING.—

1 two-thirds of Senators, duly chosen
2 and sworn; or

3 “(ii) in the case of testing proposed to
4 be conducted because there is a technical
5 need for such testing, pursuant to para-
6 graph (3).

7 “(2) NOTIFICATION DESCRIBED.—

8 “(A) IN GENERAL.—A notification de-
9 scribed in this paragraph with respect to a pro-
10 posal to conduct explosive nuclear testing shall
11 include—

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

14 “(ii) a statement of the reasons for
15 conducting the testing, including—

16 “(I) whether or not there is a
17 technical need for conducting the test-
18 ing;

19 “(II) if there is a technical need
20 for conducting the testing—

21 “(aa) a description of the
22 technical need;

23 “(bb) an assessment of al-
24 ternative options for addressing
25 the need;

1 “(cc) an explanation of why
2 those options were not selected;
3 and

4 “(dd) a description of en-
5 gagement with the Governor of
6 the State in which explosive nu-
7 clear testing would occur; and

8 “(III) if the reason for con-
9 ducting the testing is in response to a
10 geopolitical event under the responsi-
11 bility of the President acting as the
12 Commander in Chief of the Armed
13 Forces, a detailed explanation of why
14 the testing would be in the supreme
15 national interest of the United States;

16 “(iii) an estimate of the timelines and
17 costs of conducting the testing; and

18 “(iv) any other information the Presi-
19 dent considers relevant.

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

23 “(3) JOINT RESOLUTION OF APPROVAL FOR EX-
24 PLOSIVE NUCLEAR TESTING FOR WHICH THERE IS A
25 TECHNICAL NEED.—

1 “(A) JOINT RESOLUTION OF APPROVAL
2 DEFINED.—In this paragraph, the term ‘joint
3 resolution of approval’ means a joint resolution
4 of either House of Congress the sole matter
5 after the resolving clause of which is the fol-
6 lowing: ‘Congress approves of the proposal of
7 the President to conduct explosive nuclear test-
8 ing for which there is a technical need, notice
9 of which was submitted to Congress under sec-
10 tion 4210(a) of the Atomic Energy Defense Act
11 (50 U.S.C. 2530(a)) on _____.’, with the
12 blank space being filled with the appropriate
13 date.

14 “(B) INTRODUCTION; REFERRAL.—A joint
15 resolution of approval—

16 “(i) may be introduced in either
17 House by any member; and

18 “(ii) shall be referred—

19 “(I) in the Senate, to the Com-
20 mittee on Armed Services of the Sen-
21 ate; and

22 “(II) in the House of Represent-
23 atives, to the Committee on Armed
24 Services of the House of Representa-
25 tives.

1 “(C) CONSIDERATION IN HOUSE OF REP-
2 REPRESENTATIVES.—

3 “(i) REPORTING AND DISCHARGE.—

4 The Committee on Armed Services of the
5 House of Representatives shall report a
6 joint resolution of approval to the House
7 not later than 60 calendar days after the
8 date of receipt of the notification sub-
9 mitted under paragraph (1)(B). If the
10 committee fails to report the joint resolu-
11 tion within that period, the committee shall
12 be discharged from further consideration
13 of the joint resolution and the joint resolu-
14 tion shall be referred to the appropriate
15 calendar.

16 “(ii) PROCEEDING TO CONSIDER-
17 ATION.—After the Committee on Armed
18 Services of the House of Representatives
19 reports the joint resolution of approval to
20 the House or has been discharged from its
21 consideration, it shall be in order, not later
22 than the 120th day after Congress receives
23 the notification submitted under paragraph
24 (1)(B), to move to proceed to consider the
25 joint resolution in the House. All points of

1 order against the motion are waived. Such
2 a motion shall not be in order after the
3 House has disposed of a motion to proceed
4 on the joint resolution. The previous ques-
5 tion shall be considered as ordered on the
6 motion to its adoption without intervening
7 motion. The motion shall not be debatable.
8 A motion to reconsider the vote by which
9 the motion is disposed of shall not be in
10 order.

11 “(iii) CONSIDERATION.—The joint
12 resolution of approval shall be considered
13 as read. All points of order against the
14 joint resolution and against its consider-
15 ation are waived. The previous question
16 shall be considered as ordered on the joint
17 resolution to its passage without inter-
18 vening motion except 24 hours of debate
19 equally divided and controlled by the pro-
20 ponent and an opponent. A motion to re-
21 consider the vote on passage of the joint
22 resolution shall not be in order.

23 “(D) CONSIDERATION IN SENATE.—

24 “(i) REPORTING AND DISCHARGE.—
25 The Committee on Armed Services of the

1 Senate shall report a joint resolution of ap-
2 proval to the Senate not later than 60 cal-
3 endar days after the date of receipt of the
4 notification submitted under paragraph
5 (1)(B). If the committee fails to report the
6 joint resolution within that period, the
7 committee shall be discharged from further
8 consideration of the joint resolution and
9 the joint resolution shall be placed on the
10 Calendar of Business.

11 “(ii) FLOOR CONSIDERATION.—

12 “(I) IN GENERAL.—Notwith-
13 standing Rule XXII of the Standing
14 Rules of the Senate, it is in order at
15 any time after the Committee on
16 Armed Services reports a joint resolu-
17 tion of approval or is discharged from
18 consideration of a joint resolution of
19 approval to move to proceed to the
20 consideration of the joint resolution,
21 and all points of order against the
22 motion to proceed to the joint resolu-
23 tion (and against consideration of the
24 joint resolution) are waived. The mo-
25 tion to proceed is not debatable. The

1 motion is not subject to a motion to
2 postpone. A motion to reconsider the
3 vote by which the motion is agreed to
4 or disagreed to shall not be in order.
5 If a motion to proceed to the consider-
6 ation of the resolution is agreed to,
7 the joint resolution shall remain the
8 unfinished business until disposed of.

9 “(II) CONSIDERATION.—Consid-
10 eration of a joint resolution of ap-
11 proval, and on all debatable motions
12 in connection therewith, shall be lim-
13 ited to not more than 10 hours, which
14 shall be divided equally between the
15 majority and minority leaders or their
16 designees. A motion further to limit
17 debate is in order and not debatable.
18 An amendment to, a motion to post-
19 pone, or a motion to proceed to the
20 consideration of other business, or a
21 motion to recommit the joint resolu-
22 tion is not in order.

23 “(III) VOTE ON PASSAGE.—The
24 vote on passage shall occur imme-
25 diately following the conclusion of the

1 debate on a joint resolution of ap-
2 proval, and a single quorum call at
3 the conclusion of the debate if re-
4 quested in accordance with the rules
5 of the Senate. Passage of the joint
6 resolution shall require the affirmative
7 vote of two-thirds of Senators, duly
8 chosen and sworn.

9 “(IV) RULINGS OF THE CHAIR
10 ON PROCEDURE.—Appeals from the
11 decisions of the Chair relating to the
12 application of the rules of the Senate,
13 as the case may be, to the procedure
14 relating to a joint resolution of ap-
15 proval shall be decided without de-
16 bate.

17 “(E) RULES RELATING TO SENATE AND
18 HOUSE OF REPRESENTATIVES.—

19 “(i) COORDINATION WITH ACTION BY
20 OTHER HOUSE.—If, before the passage by
21 one House of a joint resolution of that
22 House, that House receives from the other
23 House a joint resolution of approval that is
24 identical to the joint resolution of the

1 House receiving the resolution, then the
2 following procedures shall apply:

3 “(I) The joint resolution of the
4 other House shall not be referred to a
5 committee.

6 “(II) With respect to a joint res-
7 olution of the House receiving the res-
8 olution—

9 “(aa) the procedure in that
10 House shall be the same as if no
11 joint resolution had been received
12 from the other House; but

13 “(bb) the vote on passage
14 shall—

15 “(AA) require the af-
16 firmative vote of two-thirds
17 of Senators, duly chosen and
18 sworn, for passage; and

19 “(BB) be on the joint
20 resolution of the other
21 House.

22 “(ii) TREATMENT OF JOINT RESOLU-
23 TION OF OTHER HOUSE.—If one House
24 fails to introduce or consider a joint resolu-
25 tion under this section, the joint resolution

1 of the other House shall be entitled to ex-
2 pedited floor procedures under this para-
3 graph.

4 “(iii) TREATMENT OF COMPANION
5 MEASURES.—If, following passage of the
6 joint resolution in the Senate, the Senate
7 then receives an identical resolution from
8 the House of Representatives, the resolu-
9 tion of the House shall not be debatable.

10 “(iv) CONSIDERATION OF VETO MES-
11 SAGES.—If the President vetoes a joint
12 resolution of approval, debate on a veto
13 message in the Senate shall be 1 hour
14 equally divided between the majority and
15 minority leaders or their designees.

16 “(F) RULES OF HOUSE OF REPRESENTA-
17 TIVES AND SENATE.—This paragraph enacted
18 by the Senate and the House of Representa-
19 tives—

20 “(i) as an exercise of the rulemaking
21 power of the Senate and House, respec-
22 tively, and as such it is deemed a part of
23 the rules of each House, respectively, but
24 applicable only with respect to the proce-
25 dure to be followed in that House in the

1 case of a joint resolution of approval, and
2 it supersedes other rules only to the extent
3 that it is inconsistent with such rules; and

4 “(ii) with full recognition of the con-
5 stitutional right of either House to change
6 the rules (so far as relating to the proce-
7 dure of that House) at any time, in the
8 same manner, and to the same extent as in
9 the case of any other rule of that House.

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

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

13 “(i) means testing involving the explo-
14 sive compression or assembly of fissile ma-
15 terial to exceed critical mass with the at-
16 tendant release of any nuclear energy from
17 fission processes; and

18 “(ii) does not include subcritical ex-
19 periments carried out as part of the stock-
20 pile stewardship program under section
21 4201, laser fusion experiments, or other in-
22 ertial confinement fusion experiments how-
23 ever driven.

24 “(B) TECHNICAL NEED.—The term ‘tech-
25 nical need’, with respect to explosive nuclear

1 testing, means that all officials specified in sec-
2 tion 4205(b) determine that an explosive nu-
3 clear test is necessary to resolve an issue with
4 respect to the safety, reliability, performance, or
5 military effectiveness of a nuclear weapon
6 type.”.