

AMENDMENT TO
RULES COMMITTEE PRINT 116-57
OFFERED BY MR. HORSFORD OF NEVADA

At the end of subtitle B of title XXXI, add the following new section:

1 **SEC. 31__ . REQUIREMENT FOR APPROVAL OF CONGRESS**
2 **FOR CONDUCT OF EXPLOSIVE NUCLEAR**
3 **TESTING.**

4 Section 4210(a) of the Atomic Energy Defense Act
5 (50 U.S.C. 2530(a)) is amended to read as follows:

6 “(a) EXPLOSIVE NUCLEAR TESTING.—

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

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

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

17 “(B) not less than 180 days before the
18 date proposed to conduct such testing, the

1 President submits to Congress a notification de-
2 scribed in paragraph (3) with respect to such
3 testing; and

4 “(C) a joint resolution approving the test-
5 ing with respect to which the notification is
6 submitted under subparagraph (B) is enacted
7 into law—

8 “(i) in the case of testing proposed to
9 be conducted after a foreign state conducts
10 a nuclear test—

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

13 “(II) requiring, for passage in
14 the Senate, the affirmative vote of
15 two-thirds of Senators, duly chosen
16 and sworn; or

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

21 “(2) FUNDS DESCRIBED.—The funds described
22 in this paragraph are funds—

23 “(A) authorized to be appropriated or oth-
24 erwise made available for fiscal year 2021 or
25 any fiscal year thereafter; or

1 “(B) authorized to be appropriated or oth-
2 erwise made available for any fiscal year before
3 fiscal year 2021 and available for obligation as
4 of the date of the enactment of the National
5 Defense Authorization Act for Fiscal Year
6 2021.

7 “(3) 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; and

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

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

12 “(iii) an estimate of the timelines and
13 costs of conducting the testing; and

14 “(iv) any other information the Presi-
15 dent considers relevant.

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

19 “(4) JOINT RESOLUTION OF APPROVAL FOR EX-
20 PLOSIVE NUCLEAR TESTING FOR WHICH THERE IS A
21 TECHNICAL NEED.—

22 “(A) JOINT RESOLUTION OF APPROVAL
23 DEFINED.—In this paragraph, the term ‘joint
24 resolution of approval’ means a joint resolution
25 of either House of Congress the sole matter

1 after the resolving clause of which is the fol-
2 lowing: ‘Congress approves of the proposal of
3 the President to conduct explosive nuclear test-
4 ing for which there is a technical need, notice
5 of which was submitted to Congress under sec-
6 tion 4210(a) of the Atomic Energy Defense Act
7 (50 U.S.C. 2530(a)) on _____.’, with the
8 blank space being filled with the appropriate
9 date.

10 “(B) INTRODUCTION; REFERRAL.—A joint
11 resolution of approval—

12 “(i) may be introduced in either
13 House by any member; and

14 “(ii) shall be referred—

15 “(I) in the Senate, to the Com-
16 mittee on Armed Services of the Sen-
17 ate; and

18 “(II) in the House of Represent-
19 atives, to the Committee on Armed
20 Services of the House of Representa-
21 tives.

22 “(C) CONSIDERATION IN HOUSE OF REP-
23 RESENTATIVES.—

24 “(i) REPORTING AND DISCHARGE.—

25 The Committee on Armed Services of the

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

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

1 tion shall be considered as ordered on the
2 motion to its adoption without intervening
3 motion. The motion shall not be debatable.
4 A motion to reconsider the vote by which
5 the motion is disposed of shall not be in
6 order.

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

19 “(D) CONSIDERATION IN SENATE.—

20 “(i) REPORTING AND DISCHARGE.—
21 The Committee on Armed Services of the
22 Senate shall report a joint resolution of ap-
23 proval to the Senate not later than 60 cal-
24 endar days after the date of receipt of the
25 notification submitted under paragraph

1 (1)(B). If the committee fails to report the
2 joint resolution within that period, the
3 committee shall be discharged from further
4 consideration of the joint resolution and
5 the joint resolution shall be placed on the
6 Calendar of Business.

7 “(ii) FLOOR CONSIDERATION.—

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

1 If a motion to proceed to the consider-
2 ation of the resolution is agreed to,
3 the joint resolution shall remain the
4 unfinished business until disposed of.

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

19 “(III) VOTE ON PASSAGE.—The
20 vote on passage shall occur imme-
21 diately following the conclusion of the
22 debate on a joint resolution of ap-
23 proval, and a single quorum call at
24 the conclusion of the debate if re-
25 quested in accordance with the rules

1 of the Senate. Passage of the joint
2 resolution shall require the affirmative
3 vote of two-thirds of Senators, duly
4 chosen and sworn.

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

13 “(E) RULES RELATING TO SENATE AND
14 HOUSE OF REPRESENTATIVES.—

15 “(i) COORDINATION WITH ACTION BY
16 OTHER HOUSE.—If, before the passage by
17 one House of a joint resolution of that
18 House, that House receives from the other
19 House a joint resolution of approval that is
20 identical to the joint resolution of the
21 House receiving the resolution, then the
22 following procedures shall apply:

23 “(I) The joint resolution of the
24 other House shall not be referred to a
25 committee.

1 “(II) With respect to a joint res-
2 olution of the House receiving the res-
3 olution—

4 “(aa) the procedure in that
5 House shall be the same as if no
6 joint resolution had been received
7 from the other House; but

8 “(bb) the vote on passage
9 shall—

10 “(AA) require the af-
11 firmative vote of two-thirds
12 of Senators, duly chosen and
13 sworn, for passage; and

14 “(BB) be on the joint
15 resolution of the other
16 House.

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

24 “(iii) TREATMENT OF COMPANION
25 MEASURES.—If, following passage of the

1 joint resolution in the Senate, the Senate
2 then receives an identical resolution from
3 the House of Representatives, the resolu-
4 tion of the House shall not be debatable.

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

11 “(F) RULES OF HOUSE OF REPRESENTA-
12 TIVES AND SENATE.—This paragraph enacted
13 by the Senate and the House of Representa-
14 tives—

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

24 “(ii) with full recognition of the con-
25 stitutional right of either House to change

1 the rules (so far as relating to the proce-
2 dure of that House) at any time, in the
3 same manner, and to the same extent as in
4 the case of any other rule of that House.

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

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

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

13 “(ii) does not include subcritical ex-
14 periments carried out as part of the stock-
15 pile stewardship program under section
16 4201, laser fusion experiments, or other in-
17 ertial confinement fusion experiments how-
18 ever driven.

19 “(B) TECHNICAL NEED.—The term ‘tech-
20 nical need’, with respect to explosive nuclear
21 testing, means that all officials specified in sec-
22 tion 4205(b) determine that an explosive nu-
23 clear test is necessary to resolve an issue with
24 respect to the safety, reliability, performance, or

1 military effectiveness of a nuclear weapon
2 type.”.

