

112TH CONGRESS
1ST SESSION

H. R. 2287

To assess the impact of the North American Free Trade Agreement (NAFTA), to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2011

Ms. KAPTUR introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To assess the impact of the North American Free Trade Agreement (NAFTA), to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met.

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 “NAFTA Accountability
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) RISING DEFICITS IN UNITED STATES TRADE
2 ACCOUNTS.—One of the purposes of the North
3 American Free Trade Agreement (NAFTA), as stat-
4 ed in the preamble, is to “create an expanded and
5 secure market” for goods and services. Instead, the
6 NAFTA has resulted in a spiraling United States
7 trade deficit with Mexico and Canada that exceeded
8 \$93,000,000,000 in 2010, and more than
9 \$1,300,000,000,000 since the agreement’s inception.
10 Rather than continuous development and expansion
11 as envisioned and growing trade surpluses for the
12 United States, the NAFTA has resulted in United
13 States job losses and escalating trade deficits.

14 (2) EROSION OF THE UNITED STATES MANU-
15 FACTURING BASE.—One of the purposes of the
16 NAFTA is to enhance the competitiveness of firms
17 in the global market. However, rather than increase
18 the ability of the manufacturing sector in the United
19 States to compete in the world market, the NAFTA
20 has facilitated and accelerated the outsourcing of
21 United States manufacturing facilities and jobs to
22 lower-wage Mexico. Conservatively, NAFTA has led
23 to nearly 1,000,000 American job losses. Conversely,
24 Mexico has become an export platform displacing
25 United States production. An unprecedented flood of

1 imports of manufactured and agricultural goods now
2 enter the United States. Further, Mexico has experi-
3 enced an outsourcing of productivity to even lower-
4 wage China, as Chinese imports to Mexico have
5 grown and are imported into the United States.

6 (3) NAFTA SHOULD NOT BE EXPANDED.—The
7 Congress approved the NAFTA in order to achieve
8 economic, social, and environmental benefits for the
9 people of the United States. Based on currently
10 available information, the goals and objectives of the
11 NAFTA are not being achieved. Therefore, the
12 NAFTA should not be expanded to include any
13 other country.

14 (4) NAFTA TO BE RENEGOTIATED AND BENE-
15 FITS CERTIFIED.—Based on the experience with the
16 NAFTA since its implementation, it has become evi-
17 dent that further negotiation is required to resolve
18 fundamental inadequacies within the NAFTA with
19 respect to trade balances, currency differentials,
20 health and environmental conditions, agricultural
21 provisions, systems of justice, and illegal immigra-
22 tion. If the NAFTA is to continue, Congress must
23 require certification of specific measures of eco-
24 nomic, social, legal, and environmental progress.

1 Otherwise Congress has no choice but to withdraw
2 its approval of the NAFTA.

3 **SEC. 3. CONDITIONS FOR CONTINUED PARTICIPATION IN**
4 **THE NAFTA.**

5 (a) IN GENERAL.—

6 (1) WITHDRAWAL OF APPROVAL.—Notwith-
7 standing any other provision of law, unless each of
8 the conditions described in paragraph (2) is met—

9 (A) the approval of the NAFTA by the
10 Congress provided for in section 101(a) of the
11 North American Free Trade Agreement Imple-
12 mentation Act (19 U.S.C. 3311(a)) shall cease
13 to be effective beginning on the date that is 365
14 days after the date of the enactment of this
15 Act; and

16 (B) not later than 200 days after the date
17 of the enactment of this Act, the President
18 shall provide written notice of withdrawal to the
19 Governments of Canada and Mexico in accord-
20 ance with Article 2205 of the NAFTA.

21 (2) CONDITIONS FOR CONTINUING PARTICIPA-
22 TION IN NAFTA.—The conditions described in this
23 paragraph are met if, not later than 120 days after
24 the date of the enactment of this Act—

25 (A) the President—

1 (i) renegotiates the terms of the
2 NAFTA in accordance with paragraphs
3 (1), (2), and (3) of subsection (b); and

4 (ii) provides the certification to the
5 Congress described in subsection (b)(8);

6 (B) the Secretary of Labor and the Sec-
7 retary of Agriculture provide the certification
8 described in subsection (b)(4);

9 (C) the Secretary of Commerce and the
10 Secretary of Agriculture provide the certifi-
11 cation described in subsection (b)(5);

12 (D) the Secretary of Agriculture and the
13 Administrator of the Food and Drug Adminis-
14 tration provide the certification described in
15 subsection (b)(6)(A);

16 (E) the Administrator of the Environ-
17 mental Protection Agency submits the certifi-
18 cation described in subsection (b)(6)(B); and

19 (F) the Attorney General of the United
20 States provides the certification described in
21 subsection (b)(7).

22 (b) AREAS OF RENEGOTIATION AND CERTIFI-
23 CATION.—The areas of renegotiation and certification de-
24 scribed in this subsection are as follows:

1 (1) RENEGOTIATE THE NAFTA TO CORRECT
2 TRADE DEFICITS.—The President is authorized and
3 directed to confer with the Governments of Canada
4 and Mexico and to renegotiate the terms of the
5 NAFTA to provide for implementation of emergency
6 adjustments of tariffs, quotas, and other measures
7 to stabilize and balance the flow of trade among the
8 NAFTA Parties when the United States has an an-
9 nual deficit in trade of goods and services with an-
10 other NAFTA Party that—

11 (A) exceeds 10 percent of United States
12 exports to that Party; or

13 (B) equals or exceeds \$500,000,000 for 3
14 or more consecutive years.

15 (2) RENEGOTIATE THE NAFTA TO CORRECT
16 CURRENCY DISTORTIONS.—The President is author-
17 ized and directed to confer with the Governments of
18 Canada and Mexico and to renegotiate the terms of
19 the NAFTA to provide for the implementation of
20 emergency adjustments of tariffs, quotas, and other
21 measures to mitigate the adverse effects of rapid or
22 substantial changes in exchange rates between the
23 United States dollar and the currency of another
24 NAFTA Party.

1 (3) RENEGOTIATE THE NAFTA TO CORRECT AG-
2 RICULTURAL PROVISIONS.—The President is author-
3 ized and directed to confer with the Governments of
4 Canada and Mexico and to renegotiate the terms of
5 the NAFTA to establish and strengthen provisions
6 to prevent imports of agricultural commodities from
7 any NAFTA Party from unfairly displacing United
8 States production, to provide improved mechanisms
9 for relief for United States producers that are ad-
10 versely impacted by such imports, and to address the
11 serious and growing problem of Mexico’s displaced
12 ejido peasant farmers and crime associated with law-
13 lessness in the United States–Mexico border zone.

14 (4) CERTIFICATION OF GAINS IN UNITED
15 STATES JOBS AND LIVING STANDARDS.—If the Sec-
16 retary of Labor and the Secretary of Agriculture,
17 after consultation with appropriate government
18 agencies and citizen organizations, determine that—

19 (A) the number of jobs resulting from in-
20 creased exports of United States goods and
21 services to other NAFTA Parties exceeds the
22 number of jobs lost because of imports of goods
23 and services from other NAFTA Parties since
24 January 1, 1994; and

1 (B) the purchasing power of wage-earners
2 in the United States has increased since Janu-
3 ary 1, 1994,

4 the Secretaries shall so certify to the Congress.

5 (5) CERTIFICATION OF INCREASED DOMESTIC
6 MANUFACTURING.—If the Secretary of Commerce
7 and the Secretary of Agriculture, after consultation
8 with the appropriate government agencies and cit-
9 izen organizations, determine that the export of
10 United States manufactured and agricultural goods
11 to the NAFTA Parties exceeds the imports of manu-
12 factured and agricultural goods from the NAFTA
13 Parties, the Secretaries shall so certify to the Con-
14 gress. In making the determination, the Secretaries
15 shall not include any goods originating outside the
16 United States that are exported to another NAFTA
17 Party, nor imports from another NAFTA Party that
18 are destined for other countries.

19 (6) CERTIFICATION RELATING TO HEALTH AND
20 ENVIRONMENTAL STANDARDS.—

21 (A) IN GENERAL.—If the Secretary of Ag-
22 riculture and the Administrator of the Food
23 and Drug Administration, after consultation
24 with appropriate government agencies and cit-
25 izen organizations, determine, with respect to

1 imports from NAFTA Parties, that since Janu-
2 ary 1, 1994, there has been a reduced incidence
3 of contaminated and adulterated food, food con-
4 taining additives or pesticide residues exceeding
5 United States standards, or food containing ad-
6 ditives or pesticide residues which cannot be le-
7 gally used in the United States, the Secretary
8 and Administrator shall so certify to the Con-
9 gress. In making this determination, all foods
10 and food products, including fruits, vegetables,
11 grains, oilseeds, and meats, both fresh and
12 processed, shall be reviewed.

13 (B) BORDER AREA POLLUTION.—If the
14 Administrator of the Environmental Protection
15 Agency determines that conditions affecting
16 public health in the United States–Mexico bor-
17 der zone have not worsened since January 1,
18 1994, the Administrator shall so certify to the
19 Congress.

20 (7) CERTIFICATION RELATING TO ILLEGAL
21 DRUGS.—If the Attorney General of the United
22 States determines, after a review by the Drug En-
23 forcement Administration and consultation with ap-
24 propriate government agencies and citizen organiza-
25 tions, that increased imports from the NAFTA Par-

1 ties are not resulting in an increase in crime with il-
2 legal drugs or other controlled substances from Mex-
3 ico or Canada, the Attorney General shall so certify
4 to the Congress.

5 (8) CERTIFICATION RELATING TO DEMOCRACY
6 AND HUMAN FREEDOMS.—If the President, after
7 consultation with appropriate government agencies,
8 international organizations, and citizen organiza-
9 tions, determines that the Government of Mexico—

10 (A) is elected in free and fair elections;

11 (B) protects the rights of its citizens to or-
12 ganize into political parties;

13 (C) protects the rights of its citizens to
14 free speech and the right of the news media to
15 operate without fear of government control or
16 reprisal;

17 (D) protects the rights of its citizens to as-
18 semble and to organize associations to advance
19 human rights and economic opportunities; and

20 (E) receives fair and impartial litigation of
21 suits and trials according to the rule of law in
22 a transparent justice system,

23 the President shall so certify to the Congress.

1 **SEC. 4. SENSE OF CONGRESS THAT NAFTA NOT BE EX-**
2 **PANDED.**

3 Until such time as the conditions described in section
4 3(b) are met, it is the sense of the Congress that the Presi-
5 dent should not engage in negotiations to expand the
6 NAFTA to include other countries and that trade pro-
7 motion authority should not be renewed with respect to
8 the approval of any such expansion of the NAFTA.

9 **SEC. 5. DEFINITIONS.**

10 In this Act:

11 (1) **NAFTA.**—The term “NAFTA” means the
12 North American Free Trade Agreement entered into
13 between the United States, Canada, and Mexico on
14 December 17, 1992.

15 (2) **NAFTA PARTY.**—The term “NAFTA
16 Party” means the United States, Canada, or Mexico.

17 (3) **UNITED STATES–MEXICO BORDER ZONE.**—
18 The term “United States–Mexico border zone”
19 means the area that comprises the 12-mile zone on
20 the Mexican side of the United States–Mexico border
21 and the counties within any State of the United
22 States that are contiguous with Mexico.

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