

109TH CONGRESS
2D SESSION

H. J. RES. 87

Requiring the President to notify Congress if the President makes a determination at the time of signing a bill into law to ignore a duly enacted provision of such newly enacted law, establishing expedited procedures for the consideration of legislation in the House of Representatives in response to such a determination, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2006

Mr. FRANK of Massachusetts (for himself, Mr. MARKEY, Mr. MCGOVERN, Mr. BERMAN, Ms. WATSON, and Ms. MCKINNEY) introduced the following joint resolution; which was referred to the Committee on the Judiciary, 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

JOINT RESOLUTION

Requiring the President to notify Congress if the President makes a determination at the time of signing a bill into law to ignore a duly enacted provision of such newly enacted law, establishing expedited procedures for the consideration of legislation in the House of Representatives in response to such a determination, and for other purposes.

Whereas the Constitution requires that Presidents “take Care that the Laws be faithfully executed”;

Whereas the Constitution does not grant Presidents authority to choose which duly enacted provisions of laws they will obey;

Whereas the practice of selective enforcement of the laws is inconsistent with our constitutional form of government;

Whereas several previous Presidents have made signing statements signaling their intention to ignore provisions of laws duly enacted by Congress on constitutional grounds;

Whereas President George W. Bush has asserted his intent to ignore such provisions more than all other Presidents combined; and

Whereas the President's assertion of the right to ignore a duty violates our constitutional framework by substituting an unchecked presidential prerogative for the role of Congress and the constitutional veto procedure: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*

2 *of the United States of America in Congress assembled,*

3 **SECTION 1. REQUIRING NOTIFICATION TO CONGRESS OF**

4 **PRESIDENTIAL DETERMINATION TO IGNORE**

5 **PROVISION OF NEWLY ENACTED LAW.**

6 (a) NOTIFICATION.—If at the time of enactment of
7 a law the President makes a determination not to carry
8 out any duly enacted provision of the law (as indicated
9 in a statement made by the President at the time of enact-
10 ment or otherwise), not later than 10 days after the enact-
11 ment of the law, the President shall submit a report to
12 Congress informing Congress of the determination and in-

cluding the President's reasons for making the determination, except that to the extent that the determination is based upon classified material, the President shall submit the report only to the congressional intelligence committees (as defined in 3(7) of the National Security Act of 1947) (50 U.S.C. 401a(7)).

(b) TREATMENT OF PREVIOUSLY ENACTED LAWS.— Not later than 30 days after the date of the enactment of this joint resolution, the President shall submit to Congress a report under subsection (a) with respect to each law enacted prior to such date during the One Hundred Seventh, One Hundred Eighth, and One Hundred Ninth Congress for which the President has made a determination not to carry out a duly enacted provision of the law (as indicated in a statement made by the President at the time of enactment or otherwise).

SEC. 2. EXPEDITED PROCEDURES IN HOUSE OF REPRESENTATIVES FOR LEGISLATION IN RESPONSE TO DETERMINATION.

(a) PRIVILEGED TREATMENT.—If a Member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) introduces legislation in response to a report submitted by the President under section 1(a)—

1 (1) a report on the legislation which is filed by
 2 any committee to which the legislation is referred
 3 may be called up as a privileged question by direc-
 4 tion of the committee; and

5 (2) if a committee to which the legislation is re-
 6 ferred does not file a report on the legislation prior
 7 to the expiration of the 30-legislative day period
 8 which begins on the date the legislation is intro-
 9 duced, a motion to discharge the committee from its
 10 consideration of the legislation shall be privileged.

11 (b) CONFORMING AMENDMENT REGARDING WAIVER
 12 OF MINIMUM PERIOD FOR AVAILABILITY OF COMMITTEE
 13 REPORTS PRIOR TO CONSIDERATION IN HOUSE.—Clause
 14 4(a)(2) of rule XIII of the Rules of the House of Rep-
 15 resentatives is amended—

16 (1) by striking “and” at the end of subdivision
 17 (D);

18 (2) by striking the period at the end of subdivi-
 19 sion (E) and inserting “; and”

20 (3) by adding at the end the following new sub-
 21 division:

22 “(F) a measure responding to a report sub-
 23 mitted by the President informing Congress of a de-
 24 termination not to carry out any duly enacted provi-
 25 sion of law.”.

1 **SEC. 3. REPORT BY GENERAL COUNSEL OF HOUSE OF PO-**
2 **TENTIAL LEGAL ACTIONS TO BE TAKEN BY**
3 **MEMBERS.**

4 At the request of any Member of the House of Rep-
5 resentatives (including a Delegate or Resident Commis-
6 sioner to the Congress), the General Counsel of the House
7 shall prepare promptly a report describing any legal action
8 which may be brought by the Member to challenge the
9 refusal by the President to carry out any duly enacted pro-
10 vision of the law.

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