

109TH CONGRESS  
2D SESSION

# H. J. RES. 89

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2006

Mr. FRANK of Massachusetts (for himself, Mr. MARKEY, Mr. MCGOVERN, Ms. WATSON, Ms. DELAURO, Mr. DOGETT, and Mr. CAPUANO) 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

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## JOINT RESOLUTION

Requiring the President to notify Congress if the President makes a determination to ignore a duly enacted provision of 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 LAW.**

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

1 dent’s reasons for making the determination, except that  
 2 to the extent that the determination is based upon classi-  
 3 fied material, the President shall submit the report only  
 4 to the congressional intelligence committees (as defined in  
 5 3(7) of the National Security Act of 1947 (50 U.S.C.  
 6 401a(7)).

7 (b) TREATMENT OF PREVIOUSLY ENACTED LAWS.—  
 8 Not later than 30 days after the date of the enactment  
 9 of this joint resolution, the President shall submit to Con-  
 10 gress a report under subsection (a) with respect to each  
 11 law enacted prior to such date during the One Hundred  
 12 Seventh, One Hundred Eighth, or One Hundred Ninth  
 13 Congress for which the President has made a determina-  
 14 tion not to carry out a duly enacted provision of the law  
 15 (as indicated in a statement made by the President at the  
 16 time of enactment or otherwise).

17 **SEC. 2. EXPEDITED PROCEDURES IN HOUSE OF REP-**  
 18 **RESENTATIVES FOR LEGISLATION IN RE-**  
 19 **SPONSE TO DETERMINATION.**

20 (a) AVAILABILITY OF EXPEDITED PROCEDURES.—If  
 21 a Member of the House of Representatives (including a  
 22 Representative, Delegate, or Resident Commissioner to  
 23 the Congress) introduces legislation in response to a re-  
 24 port submitted by the President under section 1(a) in the  
 25 form of a bill bearing the title “To respond to a Presi-

1   dential determination not to carry out a duly enacted pro-  
 2   vision of \_\_\_\_\_,” filling the blank with a cita-  
 3   tion to the enactment concerned, the expedited procedures  
 4   described in this section shall apply.

5       (b) DISCHARGE OF COMMITTEE.—If a committee to  
 6   which a bill described in subsection (a) is referred has not  
 7   reported the bill by the end of the period of 15 legislative  
 8   days beginning with the day of introduction, such com-  
 9   mittee shall be discharged from further consideration of  
 10  the bill, and the bill shall be placed on the appropriate  
 11  calendar.

12       (c) CONSIDERATION OF BILL BY HOUSE.—

13           (1) TREATMENT OF MOTION TO PROCEED.—On  
 14   or after the third calendar day following the date on  
 15   which all committees of referral have reported or  
 16   been discharged from further consideration of a bill  
 17   described in subsection (a), a motion that the House  
 18   proceed to consider the bill—

19                   (A) shall be privileged;

20                   (B) shall not be subject to debate or  
 21   amendment;

22                   (C) shall remain in order even if a motion  
 23   to the same effect was rejected on a previous  
 24   legislative day; and

1 (D) subject to paragraph (3), shall set  
 2 forth both the process for amendment and de-  
 3 bate under which the bill will be considered by  
 4 the House.

5 (2) CRITERIA FOR MEMBER OFFERING MO-  
 6 TION.—A motion that the House proceed to consider  
 7 a bill described in subsection (a) may be offered only  
 8 by a Member, Delegate, or Resident Commissioner  
 9 who favors passage of the bill and who has an-  
 10 nounced on the preceding legislative day an intention  
 11 to offer the motion.

12 (3) PROCEDURES APPLICABLE TO CONSIDER-  
 13 ATION OF BILL.—If a motion described in this sub-  
 14 section is adopted, the House shall proceed imme-  
 15 diately to consider the bill in the House without  
 16 intervention of any point of order against the bill or  
 17 against its consideration. The bill shall be considered  
 18 as read.

19 **SEC. 3. REPORT BY GENERAL COUNSEL OF HOUSE OF PO-**  
 20 **TENTIAL LEGAL ACTIONS TO BE TAKEN BY**  
 21 **MEMBERS.**

22 At the request of any Member of the House of Rep-  
 23 resentatives (including a Delegate or Resident Commis-  
 24 sioner to the Congress), the General Counsel of the House  
 25 shall prepare promptly a report describing any legal action

1 which may be brought to challenge the refusal by the  
2 President to carry out any duly enacted provision of the  
3 law.

