

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.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2011

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

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## 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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