



**Legislative Bulletin.....May 8, 2002**

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**H.J.Res. 84—Disapproving the action taken by the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 5, 2002**  
*(Jefferson)*

**Order of Business:** The resolution is scheduled to come to the floor on Wednesday, May 8<sup>th</sup>, subject to a rule (H.Res. 414). **The rule, if it passes, would lay H.J.Res. 84 on the table and would therefore prevent any consideration of H.J.Res. 84.** If the rule fails, a motion to consider H.J.Res. 84 as a privileged matter would be in order. The resolution would then be debatable for two hours and would not be amendable.

**“Yea” vote on H.Res. 414 (the rule) = A vote AGAINST consideration of H.J.Res. 84**

**“Nay” vote on H.Res. 414 (the rule) = A vote FOR consideration of H.J.Res. 84**

**Note:** A vote for H.J.Res. 84, should it become available for debate, is NOT a vote against steel tariffs or quotas, as explained below.

**Summary:** H.J.Res. 84 states that “Congress does not approve the action taken by, or the determination of, the President under section 203 of the Trade Act of 1974 transmitted to the Congress on March 5, 2002.” Section 203 of the Trade Act of 1974 authorizes certain trade relief action to be taken by the President after receiving an affirmative finding regarding serious injury, or threat of serious injury, to a domestic industry in order to facilitate efforts by the domestic industry to make a positive adjustment to import competition. In this case, the trade relief action was to protect the domestic steel industry.

United States Trade Representative Robert Zoellick requested on June 22, 2001, that the International Trade Commission (ITC) conduct a section 201 (of the Trade Act of 1974) investigation of the effect of steel imports on the U.S. steel industry. In such an investigation, if the ITC makes a determination that imports are injuring or threatening to injure a domestic industry producing a like product, the ITC then recommends to the President actions that would remedy or prevent the injury and facilitate the industry's ability to compete with the imports.

On October 22, 2001, the ITC made an affirmative determination of injury caused by steel imports and transmitted its remedy recommendations to the President on December 19, 2001. According to the Committee on Ways & Means, the imported steel products covered by the ITC's remedy recommendations (tariffs and quotas) in the year 2000 accounted for 27 million tons of steel (74 percent of the imports under investigation) valued at \$10.7 billion.

The President makes the final decision on whether and how to provide relief to the U.S. industry.

On March 5, 2002, President Bush announced trade remedies (tariffs and quotas) for all products on which the ITC had found substantial injury except two specialty categories (tool steel and stainless steel flanges and fittings). Though President Bush's maximum tariff is 50% higher than the ITC's recommended maximum tariff, and though most of the President's individual tariffs are higher than the ITC's, the President's tariffs end after three years, while the ITC's tariffs continue for a fourth year. Further, the President's tariff schedule contains many exemptions, while the ITC's tariff schedule has far fewer exemptions.

According to the Trade Subcommittee of the Ways & Means Committee, on balance **the ITC-recommended tariffs and quotas are more stringent than are the President's tariffs and quotas** in force as of March 20, 2002.

Since the President's remedy action differs from the ITC's remedy recommendation, the Congress may enact a joint resolution within 90 days (excluding recesses and weekends) to disapprove the President's remedy and instead enact the ITC's remedy.

If this resolution passes both houses of Congress and is signed by the President, the effect would be to enact instead the remedy recommendations of the ITC transmitted to the President on December 19, 2001. **A vote for this resolution is not a vote against steel tariffs/quotas or against all tariffs/quotas generally.**

**“Yea” vote on H.J.Res. 84 = A vote for the steel remedies recommended by the ITC**

**“Nay” vote on H.J.Res. 84 = A vote for the President's steel remedies currently in force**

On April 24, 2002, the Committee on Ways & Means reported H.J.Res. 84 adversely by voice vote. The Committee is required to report such a resolution of disapproval (either favorably or unfavorably) within 30 calendar days after its introduction (excluding weekends and recess—i.e. by May 6<sup>th</sup> in this case) or be subject to discharge. Similar requirements exist in the Senate.

**Additional Background:**

- To read the details of the President's steel tariffs and quotas currently in force, go to this website: <http://www.whitehouse.gov/news/releases/2002/03/20020305-7.html>
- To read the ITC's recommendations for steel tariffs and quotas, go to these websites: <http://www.usitc.gov/er/nl2001/er1207y1c1.pdf> (chart)  
<http://www.usitc.gov/steel/i1220y1.pdf> (text)
- For more information about the ITC's steel investigation (including the raw data) and other background information, go to this website: <http://www.usitc.gov/steel/>

**Cost to Taxpayers:** A revenue estimate is unavailable.

**Does the Bill Create New Federal Programs or Rules?:** The resolution, if passed by Congress and signed by the President, would implement trade remedies (tariffs and quotas) on several steel products in addition to those already covered by President Bush's steel tariffs and quotas.

**Constitutional Authority:** Though no committee report citing constitutional authority is available, Article I, Section 8, Clause 1 gives Congress the power to "lay and collect Taxes, Duties, Imposts and Excises...."

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**H.J. Res. 87 —Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel. (Barton)**

**Order of Business:** The joint resolution is scheduled to be considered under expedited procedures on Wednesday, May 8, 2002.

**Summary:** The full text of H.J. Res. 87 is as follows:

Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there hereby is approved the site at Yucca Mountain, Nevada, for a repository, with respect to which a notice of disapproval was submitted by the Governor of the State of Nevada on April 8, 2002.*

H.J. Res. 87 would allow the Department of Energy (DOE) to apply for a license with the Nuclear Regulatory Commission to construct a nuclear waste storage facility on the approved site.

## **Background:**

The Nuclear Waste Policy Act of 1982 (NWPA) (sponsored by the late Rep. Morris Udall) enacted a system for the federal government to establish a deep underground “geologic repository” for permanent storage of radioactive waste from civilian nuclear power plants.

- In **December 1998**, President Clinton’s Secretary of Energy Bill Richardson determined that Yucca Mountain was viable for further development as a repository site.
- On **January 10, 2002**, following the completion of site characterization activities and a series of hearings held in Nevada, President Bush’s Secretary of Energy Spencer Abraham recommended the development of the Yucca Mountain site to the President.
- On **February 15, 2002**, President Bush transmitted his recommendation to Congress recommending the Yucca Mountain site. The NWPA provides that when the President recommends a repository site, the state in which it is located may within 60 days submit to Congress a notice of disapproval.
- On **April 8, 2002**, Nevada’s Governor submitted to the Speaker of the House a notice of disapproval and a statement of reasons why the Governor disapproved the recommended repository site. Under the Act if the Governor vetoes the site, the site shall be disapproved *unless* Congress passes and the President signs a resolution of repository-siting approval within 90 legislative days (estimated to be at the end of July in this case).

For more information, see Congressional Research Service papers at

[http://www.congress.gov/cgi-lis/web\\_fetch\\_doc?dataset=erp\\_prd.dst&db=ib&doc\\_id=xIB92059](http://www.congress.gov/cgi-lis/web_fetch_doc?dataset=erp_prd.dst&db=ib&doc_id=xIB92059)

[http://www.congress.gov/cgi-lis/web\\_fetch\\_doc?dataset=erp\\_prd.dst&db=rl&doc\\_id=xRL31135](http://www.congress.gov/cgi-lis/web_fetch_doc?dataset=erp_prd.dst&db=rl&doc_id=xRL31135)

The DOE Environmental Impact Assessment that analyzes the impact of the proposed action to transport and dispose of radioactive wastes at Yucca Mountain may be obtained electronically at [www.ymp.gov/new/secondpage.htm](http://www.ymp.gov/new/secondpage.htm)

**Additional Information:** According to the Committee, approximately 45,000 metric tons of spent nuclear fuel from past and ongoing commercial nuclear power operations are currently stored at 72 sites throughout the country. An additional 2,000 metric tons of spent nuclear fuel are generated annually by operating nuclear power plants. The total amount of commercial spent nuclear fuel is expected to reach approximately 60,000 metric tons by the year 2010. The U.S. government’s high-level radioactive waste inventories are stored at five sites nationwide and include 2,500 metric tons of spent fuel from U.S. Naval Operations and defense production activities, weapons-usable surplus plutonium, and over 100 million gallons of high-level radioactive wastes from DOE defense production activities.

**Cost to Taxpayers:** CBO estimates that implementing H.J. Res. 87 would require the appropriation of about \$12 billion over the 2003-2012 period, subject to appropriations, to pay for licensing, construction, and waste transportation activities over that period.

H.J. Res. 87 could increase the costs that Nevada and some local governments would incur to comply with certain existing federal requirements. CBO estimates that the annual direct costs

incurred by state and local governments over the next five years would total significantly less than the \$58 million unfunded mandate threshold.

CBO further notes that spending on nuclear waste disposal activities would very likely continue in the absence of H.J. Res. 87, but CBO has no basis for estimating the likely level of such spending. If H.J. Res. 87 were not enacted, spending on the nuclear waste program could be higher or lower than estimated, depending on how the program might be restructured. If Yucca Mountain is not used as a nuclear waste repository, such spending might include funding for interim storage, further study of alternative disposal sites, or other program options.

In the May 2001 report, DOE estimated the future cost to conduct the nuclear waste program to be about \$50 billion (in constant 2000 dollars) from 2001 through closure and decommissioning of Yucca Mountain in 2119. According to DOE, about \$9 billion has been spent since 1983 studying nuclear waste disposal sites and preparing a recommendation for use of the Yucca Mountain site.

**Does the Bill Create New Federal Programs or Rules?:** H.J. Res. 87 would allow the Department of Energy to apply for a license with the Nuclear Regulatory Commission to construct a nuclear waste storage facility on the approved site. Enacting H.J. Res. 87 would not alter the contractual relationship between DOE and nuclear power plants regarding the disposal of nuclear waste in exchange for the payment of annual fees.

**Constitutional Authority:** The Committee on Energy and Commerce (in Report # 107-425) finds constitutional authority in Article I, Section 8, Clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

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## **Rolled Vote: H.R. 3525—Enhanced Border Security and Visa Entry Reform Act (Concur in Senate Amendment) (Sensenbrenner)**

**Order of Business:** The bill as amended by the Senate was considered on Tuesday, May 7, 2002, under a motion to suspend the rules and pass the bill. The House will take the recorded vote on Wednesday, May 8.

**Additional Information:** H.R. 3525 passed the House as a stand-alone bill by voice vote on December 19, 2001, and on May 21, 2001, as part of H.R. 1885 (245(i) Extension) by a vote of 336 to 43. The bill under consideration today is the stand-alone bill (H.R. 3525) as it passed the House, plus several Senate amendments, as indicated below.

**Summary (New Senate amendments are underlined in red bold):**

Funding

- Directs the Attorney General, during each of FY 2002 through 2006, to increase the number of Immigration and Naturalization (INS) investigators and inspectors by at least 200 full-time employees (for each category) over the number authorized by the USA PATRIOT ACT
- Waives INS personnel limits
- Authorizes “such sums as may be necessary” to increase INS staff
- Authorizes “such sums as may be necessary” to increase the annual rate of basic pay for certain INS staffers
- Authorizes “such sums as may be necessary” to train INS staffers on an ongoing basis
- Authorizes “such sums as may be necessary” for the State Department to implement enhanced security measures for the review of visa applicants
- Authorizes an additional \$150 million to the INS for improvements in technology and infrastructure for border security
- Allows an increase in land border fees to help offset technology costs
- Authorizes “such sums as may be necessary” for facility improvements and expansions for the INS and the State Department
- Sets machine-readable visa fees charged by the State Department and allows additional service fees to be charged. Collected fees would be credited as an offset to State Department appropriations.

#### Interagency Information Sharing

- Directs U.S. law enforcement and intelligence entities to share alien admissibility- and deportation-related information with the INS and the Department of State until implementation of the new information-sharing plan (described below)
- Directs the President to: (1) issue a report on admission- and deportation-related law enforcement and intelligence information needed by the INS and the State Department, and (2) develop a related information-sharing plan within one year of enactment of the USA PATRIOT ACT
- Requires such plan to provide source and privacy protections and provides criminal penalties for information misuse
- Directs the INS to fully integrate its databases and data systems
- Directs the President to develop and implement an “interoperable law enforcement and intelligence electronic data system” (with name-matching and linguistic capacity, including at least four priority languages) for visa, admissibility, or deportation determination purposes, which shall include the INS integrated system. This system would be known as “Chimera” (after a mythical, lion-headed, serpent-tailed monster).
- **Delays (up to one year) various deadlines regarding the development and implementation of the interoperable electronic data system required by this section. The waiver of federal acquisition rules for this system, as contained in the Senate-passed bill, will be struck by an enrolling resolution that the Senate will pass today. Therefore, the development of “Chimera” would be subject to federal acquisition rules.**
- Authorizes appropriations of “such sums as are necessary” for the name-matching, linguistic, and reporting activities in this section

- Directs the President to establish the Commission on Interoperable Data Sharing, which shall: (1) monitor information misuse protections under the alien screening plan; (2) provide oversight of the interoperable data sharing system; and (3) report annually to Congress
- Authorizes appropriations of “such sums as may be necessary” for the Commission

#### Visa Issuance

- Requires the Secretary of State, upon issuance of an alien visa, to provide the INS with an electronic version of the alien's visa file prior to the alien's U.S. entry
- Sets forth technology standards and interoperability requirements respecting the development and implementation of the integrated entry and exit data system (as required by Public Law 106-215) and related tamper-resistant, machine-readable documents containing biometric identifiers (operational by October 26, 2004)
- Requires a visa-waiver country, in order to maintain program participation, to certify by October 26, 2004, that it has a program to issue to its nationals qualifying machine-readable passports that are tamper-proof and contain biometric identifiers (**originally October 26, 2003 in the House-passed bill**)
- Authorizes appropriations of “such sums as may be necessary” to carry out these visa-issuance requirements, “including reimbursement to international and domestic standards organizations”
- Authorizes “such sums as may be necessary” for the Secretary of State to: (1) establish a Terrorist Lookout Committee at each U.S. mission; (2) provide consular staff with visa screening training; and (3) provide for the use of terrorist-related intelligence in such activities' performance
- Prohibits the admission of an alien from a country designated to be a state sponsor of international terrorism unless the Secretary has determined that such individual does not pose a risk or security threat to the United States
- Conditions participation in the visa waiver program upon a country's timely reporting to the United States of its stolen blank passports.
- Requires the INS to perform a check of lookout databases prior to permitting an alien's U.S. admission
- Directs the Secretary and the Attorney General, as appropriate, within 72 hours of notification of a lost or stolen U.S. or foreign passport, to enter such passport's identification number into the interoperable data system. Provides for similar procedures for previous lost or stolen passports and for the transition period to the new interoperable data system.
- Directs the Attorney General to ensure that refugees and aliens being granted asylum are issued work authorizations that contain fingerprint and photo identification

#### Admission and Inspection of Aliens

- Authorizes “such sums as may be necessary” for the President to study the feasibility of establishing a North American National Security Program (among United States, Canada, Mexico), including consideration of alien pre-clearance and pre-inspection.
- **Authorizes joint U.S.-Canada border inspection projects**

- Requires commercial aircraft or vessels arriving at, or departing from, the United States to provide immigration officers with specified passenger, other occupant, and crew manifest information
- Prohibits air carrier entry until such information has been provided
- Provides monetary and non-entry penalties for noncompliance
- Requires electronic manifest transmission beginning January 1, 2003;
- Allows the Attorney General the ability to waive the manifest requirements
- Directs the President to conduct a feasibility study regarding such provisions' extension to commercial land carriers
- Directs INS to adequately staff ports of entry (so that no passenger waits more than 45 minutes for inspection).

#### Foreign Students and Exchange Visitors

- Instructs the Attorney General to develop an electronic means of verifying and monitoring the foreign student and exchange visitor information program, including aspects of: (1) documentation and visa issuance, (2) U.S. admission, (3) institution notification, (4) documentation transmittal, and (5) registration and enrollment
- Requires an institution to notify the INS of the failure of a foreign student or exchange visitor to enroll within 30 days of the registration deadline
- Increases student data collection requirements
- Sets forth transitional foreign student monitoring requirements, including: (1) restrictions on visa issuance, (2) INS notification of visa issuance, (3) institution notification of U.S. entry, and (4) INS notification (by the institution) of failure to enroll
- Directs the Attorney General to provide the Secretary of State with a list of institutions approved to accept foreign students or exchange visitors
- Authorizes appropriations of “such sums as may be necessary” for the new requirements for foreign students and exchange visitors
- Provides for INS and Department of State review **(every two years)** of institutions authorized to enroll or sponsor foreign students and exchange visitors and establishes punishments for failure to comply with requirements

#### Miscellaneous Provisions

- Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to extend by one year the deadline for presentation of biometric border crossing identification cards
- Directs the Comptroller General to determine the feasibility of requiring each nonimmigrant alien to report annually his or her address and employer's address to the INS
- Directs the Secretary of State and the INS to study various approaches for encouraging or requiring Mexico, Canada, and visa waiver countries to develop an intergovernmental network of interoperable international electronic data systems
- Maintains that this bill shall not be construed to impose requirements that are inconsistent with the North American Free Trade Agreement, or to require additional documents for certain nonimmigrant emergency or in-transit-aliens for whom documentary requirements are waived



- Directs the Attorney General to report annually respecting aliens who fail to appear at removal proceedings after release on their own recognizance
- Directs the Department of State to retain every nonimmigrant visa application in judicially and administratively admissible form for a period of seven years from the date of application
- Directs the appropriate authorities to study and report to Congress on several matters addressed in this bill (**--several report-requirements added by Senate amendments**)

**Cost to Taxpayers:** A CBO cost estimate prepared especially for RSC Chairman John Shadegg showed that H.R. 3525 would authorize appropriations of **\$264.0 million** in the first year and **\$1.211 billion** over five years. (The 245(i) provisions from H.R. 1885 would not authorize any significant expenditure.) The composite bill would not have a significant impact on mandatory spending.

**Does the Bill Create New Federal Programs or Rules?:** Yes, as detailed above.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

**Special Note – Vote Recommendation:** Rep. Tom Tancredo is recommending a "yes" vote today on H.R. 3525. The bill, as passed by the Senate, does not contain a 245(i) extension.

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