



AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To require congressional review of certain regulations issued by the Committee on Foreign Investment in the United States.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

**H. R. 5515**

<b>AMENDMENT N<sup>o</sup> 2700</b>		9 for military
By <u>Toomey</u>		and for military
To: <u>Amnt No 2282</u>		inel strengths
Referred to the Committee on _____		_____ and
<u>23</u>		_____
<b>Page(s)</b>		_____ inted
GPO: 2016 22-945 (mac)		
TOOMEY (for himself, Mr. CORKER, and Mr. SASSE) and Mr. Johnson to the amend- ment (No. 2282) proposed by Mr. INHOFE		

Viz:

- 1 At the end of title XVII, add the following:
- 2 **SEC. 1734. CONGRESSIONAL REVIEW OF REGULATIONS.**
- 3 (a) CONGRESSIONAL REVIEW.—
- 4 (1) PUBLICATION AND SUBMISSION TO CON-
- 5 GRESS OF DRAFT REGULATIONS.—
- 6 (A) IN GENERAL.—Notwithstanding any
- 7 other provision of this title, before a regulation
- 8 prescribed by the Committee on Foreign Invest-
- 9 ment in the United States (in this section re-

ferred to as the “Committee”) to carry out this title or any amendment made by this title may take effect, the Committee shall—

(i) publish in the Federal Register a list of information on which the regulation is based, including data, scientific and economic studies, and cost-benefit analyses, and identify how the public can access such information online; and

(ii) submit to each House of Congress and to the Comptroller General of the United States a report containing—

(I) a copy of the regulation;

(II) a concise general statement relating to the regulation;

(III) a classification of the regulation as a major regulation or nonmajor regulation, including an explanation of the classification specifically addressing each criteria for a major regulation contained within subparagraphs (A) through (C) of subsection (c)(1);

(IV) a list of any other related regulatory actions intended to imple-

1                   ment the same provision of or amend-  
2                   ment made by this title, as well as the  
3                   individual and aggregate economic ef-  
4                   fects of those actions; and

5                   (V) the proposed effective date of  
6                   the regulation.

7                   (B) ADDITIONAL SUBMISSIONS.—On the  
8                   date of the submission of the report under sub-  
9                   paragraph (A), the Committee shall submit to  
10                  the Comptroller General and make available to  
11                  each House of Congress—

12                  (i) a complete copy of the cost-benefit  
13                  analysis of the regulation, if any, including  
14                  an analysis of any jobs added or lost, dif-  
15                  ferentiating between public and private  
16                  sector jobs;

17                  (ii) the Committee's actions pursuant  
18                  to sections 603, 604, 605, 607, and 609 of  
19                  title 5, United States Code;

20                  (iii) the Committee's actions pursuant  
21                  to sections 202, 203, 204, and 205 of the  
22                  Unfunded Mandates Reform Act of 1995;  
23                  and

1 (iv) any other relevant information or  
2 requirements under any other Act and any  
3 relevant Executive orders.

4 (C) COPIES TO COMMITTEES OF CON-  
5 GRESS.—Upon receipt of a report submitted  
6 under subparagraph (A), each House shall pro-  
7 vide copies of the report to the chairman and  
8 ranking member of each standing committee  
9 with jurisdiction under the rules of the House  
10 of Representatives or the Senate to report a bill  
11 to amend the provision of law under which the  
12 regulation is issued.

13 (2) REPORT BY GAO.—

14 (A) IN GENERAL.—The Comptroller Gen-  
15 eral of the United States shall provide a report  
16 on each major regulation to the committees of  
17 jurisdiction by the end of 15 calendar days  
18 after the submission or publication date. The  
19 report of the Comptroller General shall include  
20 an assessment of the Committee's compliance  
21 with procedural steps required by paragraph  
22 (1)(B) and an assessment of whether the major  
23 regulation imposes any new limits or mandates  
24 on private-sector activity.

1 (B) COOPERATION OF FEDERAL AGEN-  
2 CIES.—The Committee shall cooperate with the  
3 Comptroller General by providing information  
4 relevant to the Comptroller General's report  
5 under subparagraph (A).

6 (3) EFFECTIVE DATE OF REGULATIONS.—

7 (A) MAJOR REGULATIONS.—A major regu-  
8 lation relating to a report submitted under sub-  
9 section (a) shall take effect upon enactment of  
10 a joint resolution of approval described in sub-  
11 section (c) or as provided for in the regulation  
12 following enactment of a joint resolution of ap-  
13 proval described in subsection (c), whichever is  
14 later.

15 (B) NONMAJOR REGULATIONS.—A  
16 nonmajor regulation shall take effect as pro-  
17 vided by subsection (d) after submission to  
18 Congress under paragraph (1).

19 (4) PROHIBITION ON SUBSEQUENT CONSIDER-  
20 ATION OF SAME REGULATION.—If a joint resolution  
21 of approval relating to a major regulation is not en-  
22 acted within the period provided in subsection  
23 (b)(2), then a joint resolution of approval relating to  
24 the same regulation may not be considered under

1       this section in the same Congress by either the  
2       House of Representatives or the Senate.

3       (b) EFFECTIVENESS OF REGULATIONS.—

4             (1) IN GENERAL.—A major regulation shall not  
5       take effect unless the Congress enacts a joint resolu-  
6       tion of approval described under subsection (c).

7             (2) EFFECT OF NOT ENACTING JOINT RESOLU-  
8       TION OF APPROVAL.—If a joint resolution of ap-  
9       proval described in subsection (c) is not enacted into  
10      law by the end of 70 session days or legislative days,  
11      as applicable, beginning on the date on which the re-  
12      port referred to in subsection (a)(1)(A) is received  
13      by Congress (excluding days either House of Con-  
14      gress is adjourned for more than 3 days during a  
15      session of Congress), then the regulation described  
16      in that resolution shall be deemed not to be ap-  
17      proved and such regulation shall not take effect.

18            (3) TEMPORARY EFFECTIVENESS.—

19                (A) IN GENERAL.—Notwithstanding any  
20      other provision of this section (except subject to  
21      subparagraph (C)), a major regulation may  
22      take effect for one 90-calendar-day period if the  
23      President makes a determination under sub-  
24      paragraph (B) and submits written notice of  
25      such determination to Congress.

1 (B) DETERMINATION.—Subparagraph (A)  
2 applies to a determination made by the Presi-  
3 dent by Executive order that a major regulation  
4 should take effect because such regulation is—

5 (i) necessary because of an imminent  
6 threat to health or safety or other emer-  
7 gency;

8 (ii) necessary for the enforcement of  
9 criminal laws;

10 (iii) necessary for national security; or

11 (iv) issued pursuant to any statute  
12 implementing an international trade agree-  
13 ment.

14 (C) EFFECT ON OTHER PROVISIONS.—An  
15 exercise by the President of the authority under  
16 this paragraph shall have no effect on the pro-  
17 cedures under subsection (c).

18 (4) CONGRESSIONAL REVIEW AROUND AD-  
19 JOURNMENTS OF CONGRESS.—

20 (A) IN GENERAL.—In addition to the op-  
21 portunity for review otherwise provided under  
22 this section, in the case of any regulation for  
23 which a report was submitted in accordance  
24 with subsection (a)(1)(A) during the period be-  
25 ginning on the date occurring—

1 (i) in the case of the Senate, 60 ses-  
2 sion days, or

3 (ii) in the case of the House of Rep-  
4 resentatives, 60 legislative days,  
5 before the date Congress is scheduled to ad-  
6 journ a session of Congress through the date on  
7 which the same or succeeding Congress first  
8 convenes its next session, subsection (c) or (d)  
9 shall apply to such rule in the succeeding ses-  
10 sion of Congress.

11 (B) SPECIAL RULES.—

12 (i) IN GENERAL.—In applying sub-  
13 sections (c) and (d) for purposes of such  
14 additional review, a regulation described in  
15 subparagraph (A) shall be treated as  
16 though—

17 (I) such regulation were pub-  
18 lished in the Federal Register on—

19 (aa) in the case of the Sen-  
20 ate, the 15th session day, or

21 (bb) in the case of the  
22 House of Representatives, the  
23 15th legislative day,  
24 after the succeeding session of Con-  
25 gress first convenes; and

1 (II) a report on such regulation  
2 were submitted to Congress under  
3 subsection (a)(1) on such date.

4 (ii) RULE OF CONSTRUCTION.—Noth-  
5 ing in this paragraph shall be construed to  
6 affect the requirement under subsection  
7 (a)(1) that a report shall be submitted to  
8 Congress before a regulation can take ef-  
9 feet.

10 (C) EFFECT IN ACCORDANCE WITH LAW.—  
11 A regulation described in subparagraph (A)  
12 shall take effect as otherwise provided by law  
13 (including any other provision of this section).

14 (c) CONGRESSIONAL APPROVAL PROCEDURE FOR  
15 MAJOR REGULATIONS.—

16 (1) JOINT RESOLUTIONS.—

17 (A) JOINT RESOLUTION DEFINED.—For  
18 purposes of this subsection, the term “joint res-  
19 olution” means only a joint resolution address-  
20 ing a report classifying a regulation as a major  
21 regulation pursuant to subsection  
22 (a)(1)(A)(i)(III) that—

23 (i) bears no preamble;

24 (ii) bears the following title (with  
25 blanks filled as appropriate): “Approving

1 the regulation submitted by the Committee  
2 on Foreign Investment in the United  
3 States relating to \_\_\_\_.”;

4 (iii) includes after its resolving clause  
5 only the following (with blanks filled as ap-  
6 propriate): “That Congress approves the  
7 regulation submitted by the Committee on  
8 Foreign Investment in the United States  
9 relating to \_\_\_\_.”; and

10 (iv) is introduced pursuant to sub-  
11 paragraph (B).

12 (B) INTRODUCTION.—After a House of  
13 Congress receives a report classifying a regula-  
14 tion as a major regulation pursuant to sub-  
15 section (a)(1)(A)(i)(III), the majority leader of  
16 that House (or his or her respective designee)  
17 shall introduce (by request, if appropriate) a  
18 joint resolution described in subparagraph  
19 (A)—

20 (i) in the case of the House of Rep-  
21 resentatives, within 3 legislative days, and

22 (ii) in the case of the Senate, within  
23 3 session days.

24 (C) PROHIBITION ON AMENDMENTS.—A  
25 joint resolution described in subparagraph (A)

1           shall not be subject to amendment at any stage  
2           of proceeding.

3           (2) REFERRAL.—A joint resolution described in  
4           paragraph (1) shall be referred in each House of  
5           Congress to the committees having jurisdiction over  
6           the provision of law under which the regulation is  
7           issued.

8           (3) DISCHARGE IN SENATE.—In the Senate, if  
9           the committee or committees to which a joint resolu-  
10          tion described in paragraph (1) has been referred  
11          have not reported it at the end of 15 session days  
12          after its introduction, such committee or committees  
13          shall be automatically discharged from further con-  
14          sideration of the resolution and it shall be placed on  
15          the calendar. A vote on final passage of the resolu-  
16          tion shall be taken on or before the close of the 15th  
17          session day after the resolution is reported by the  
18          committee or committees to which it was referred, or  
19          after such committee or committees have been dis-  
20          charged from further consideration of the resolution.

21          (4) FLOOR CONSIDERATION IN SENATE.—

22                 (A) MOTIONS TO PROCEED.—In the Sen-  
23                 ate, when the committee or committees to which  
24                 a joint resolution is referred have reported, or  
25                 when a committee or committees are discharged

(under paragraph (3)) from further consideration of a joint resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

(B) DEBATE.—In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not

1           debatable. An amendment to, or a motion to  
2           postpone, or a motion to proceed to the consid-  
3           eration of other business, or a motion to recom-  
4           mit the joint resolution is not in order.

5           (C) VOTE ON FINAL PASSAGE.—In the  
6           Senate, immediately following the conclusion of  
7           the debate on a joint resolution described in  
8           paragraph (1), and a single quorum call at the  
9           conclusion of the debate if requested in accord-  
10          ance with the rules of the Senate, the vote on  
11          final passage of the joint resolution shall occur.

12          (D) APPEALS FROM DECISIONS OF  
13          CHAIR.—Appeals from the decisions of the  
14          Chair relating to the application of the rules of  
15          the Senate to the procedure relating to a joint  
16          resolution described in paragraph (1) shall be  
17          decided without debate.

18          (5) CONSIDERATION IN HOUSE OF REPRESENT-  
19          ATIVES.—In the House of Representatives, if any  
20          committee to which a joint resolution described in  
21          paragraph (1) has been referred has not reported it  
22          to the House at the end of 15 legislative days after  
23          its introduction, such committee shall be discharged  
24          from further consideration of the joint resolution,  
25          and it shall be placed on the appropriate calendar.

1       On the second and fourth Thursdays of each month  
2       it shall be in order at any time for the Speaker to  
3       recognize a Member who favors passage of a joint  
4       resolution that has appeared on the calendar for at  
5       least 5 legislative days to call up that joint resolu-  
6       tion for immediate consideration in the House with-  
7       out intervention of any point of order. When so  
8       called up a joint resolution shall be considered as  
9       read and shall be debatable for 1 hour equally di-  
10      vided and controlled by the proponent and an oppo-  
11      nent, and the previous question shall be considered  
12      as ordered to its passage without intervening mo-  
13      tion. It shall not be in order to reconsider the vote  
14      on passage. If a vote on final passage of the joint  
15      resolution has not been taken by the third Thursday  
16      on which the Speaker may recognize a Member  
17      under this subsection, such vote shall be taken on  
18      that day.

19               (6) PROCEDURES UPON RECEIPT OF RESOLU-  
20      TION FROM OTHER HOUSE.—

21               (A) IN GENERAL.—If, before passing a  
22      joint resolution described in paragraph (1), one  
23      House receives from the other a joint resolution  
24      having the same text, then—

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1 (i) the joint resolution of the other  
2 House shall not be referred to a com-  
3 mittee; and

4 (ii) the procedure in the receiving  
5 House shall be the same as if no joint res-  
6 olution had been received from the other  
7 House until the vote on passage, when the  
8 joint resolution received from the other  
9 House shall supplant the joint resolution of  
10 the receiving House.

11 (B) REVENUE MEASURES.—This para-  
12 graph shall not apply to the House of Rep-  
13 resentatives if the joint resolution received from  
14 the Senate is a revenue measure.

15 (7) FINAL VOTE.—If either House has not  
16 taken a vote on final passage of the joint resolution  
17 by the last day of the period described in subsection  
18 (b)(2), then such vote shall be taken on that day.

19 (8) RULES OF HOUSE OF REPRESENTATIVES  
20 AND SENATE.—This subsection and subsection (d)  
21 are enacted by Congress—

22 (A) as an exercise of the rulemaking power  
23 of the Senate and House of Representatives, re-  
24 spectively, and as such are deemed to be part  
25 of the rules of each House, respectively, but ap-

1           plicable only with respect to the procedure to be  
2           followed in that House in the case of a joint  
3           resolution described in paragraph (1) and su-  
4           perseding other rules only where explicitly so;  
5           and

6                   (B) with full recognition of the constitu-  
7           tional right of either House to change the rules  
8           (so far as they relate to the procedure of that  
9           House) at any time, in the same manner and  
10          to the same extent as in the case of any other  
11          rule of that House.

12          (d) CONGRESSIONAL DISAPPROVAL PROCEDURE FOR  
13          NONMAJOR REGULATIONS.—

14               (1) JOINT RESOLUTION DEFINED.—For pur-  
15          poses of this section, the term “joint resolution”  
16          means only a joint resolution introduced in the pe-  
17          riod beginning on the date on which the report re-  
18          ferred to in subsection (a)(1)(A) is received by Con-  
19          gress and ending 60 days thereafter (excluding days  
20          either House of Congress is adjourned for more than  
21          3 days during a session of Congress), the matter  
22          after the resolving clause of which is as follows:  
23          “That Congress disapproves the nonmajor regulation  
24          submitted by the Committee on Foreign Investment  
25          in the United States relating to \_\_\_\_\_, and such

1 regulation shall have no force or effect.” (The blank  
2 spaces being appropriately filled in).

3 (2) REFERRAL.—A joint resolution described in  
4 paragraph (1) shall be referred to the committees in  
5 each House of Congress with jurisdiction.

6 (3) DISCHARGE IN SENATE.—In the Senate, if  
7 the committee to which is referred a joint resolution  
8 described in paragraph (1) has not reported such  
9 joint resolution (or an identical joint resolution) at  
10 the end of 15 session days after the date of intro-  
11 duction of the joint resolution, such committee may  
12 be discharged from further consideration of such  
13 joint resolution upon a petition supported in writing  
14 by 30 Members of the Senate, and such joint resolu-  
15 tion shall be placed on the calendar.

16 (4) FLOOR CONSIDERATION IN THE SENATE.—

17 (A) MOTIONS TO PROCEED.—In the Sen-  
18 ate, when the committee to which a joint resolu-  
19 tion is referred has reported, or when a com-  
20 mittee is discharged (under paragraph (3))  
21 from further consideration of a joint resolution  
22 described in paragraph (1), it is at any time  
23 thereafter in order (even though a previous mo-  
24 tion to the same effect has been disagreed to)  
25 for a motion to proceed to the consideration of

1 the joint resolution, and all points of order  
2 against the joint resolution (and against consid-  
3 eration of the joint resolution) are waived. The  
4 motion is not subject to amendment, or to a  
5 motion to postpone, or to a motion to proceed  
6 to the consideration of other business. A motion  
7 to reconsider the vote by which the motion is  
8 agreed to or disagreed to shall not be in order.  
9 If a motion to proceed to the consideration of  
10 the joint resolution is agreed to, the joint reso-  
11 lution shall remain the unfinished business of  
12 the Senate until disposed of.

13 (B) DEBATE.—In the Senate, debate on  
14 the joint resolution, and on all debatable mo-  
15 tions and appeals in connection therewith, shall  
16 be limited to not more than 10 hours, which  
17 shall be divided equally between those favoring  
18 and those opposing the joint resolution. A mo-  
19 tion to further limit debate is in order and not  
20 debatable. An amendment to, or a motion to  
21 postpone, or a motion to proceed to the consid-  
22 eration of other business, or a motion to recom-  
23 mit the joint resolution is not in order.

24 (C) VOTE ON FINAL PASSAGE.—In the  
25 Senate, immediately following the conclusion of

1 the debate on a joint resolution described in  
2 paragraph (1), and a single quorum call at the  
3 conclusion of the debate if requested in accord-  
4 ance with the rules of the Senate, the vote on  
5 final passage of the joint resolution shall occur.

6 (D) APPEALS FROM DECISIONS OF THE  
7 CHAIR.—Appeals from the decisions of the  
8 Chair relating to the application of the rules of  
9 the Senate to the procedure relating to a joint  
10 resolution described in subsection (a) shall be  
11 decided without debate.

12 (5) SPECIAL RULE IN SENATE.—In the Senate,  
13 the procedure specified in paragraph (3) or (4) shall  
14 not apply to the consideration of a joint resolution  
15 respecting a nonmajor regulation—

16 (A) after the expiration of the 60 session  
17 days beginning with the applicable submission  
18 or publication date; or

19 (B) if the report under subsection  
20 (a)(1)(A) was submitted during the period re-  
21 ferred to in subsection (b)(2), after the expira-  
22 tion of the 60 session days beginning on the  
23 15th session day after the succeeding session of  
24 Congress first convenes.

1           (6) RECEIPT OF RESOLUTION FROM OTHER  
2     HOUSE.—If, before the passage by one House of a  
3     joint resolution of that House described in para-  
4     graph (1), that House receives from the other House  
5     a joint resolution described in paragraph (1), then  
6     the following procedures shall apply:

7           (A) The joint resolution of the other House  
8     shall not be referred to a committee.

9           (B) With respect to a joint resolution de-  
10    scribed in paragraph (1) of the House receiving  
11    the joint resolution—

12           (i) the procedure in that House shall  
13    be the same as if no joint resolution had  
14    been received from the other House; but

15           (ii) the vote on final passage shall be  
16    on the joint resolution of the other House.

17    (c) DEFINITIONS.—In this section:

18           (1) MAJOR REGULATION.—The term “major  
19    regulation” means any regulation, including an in-  
20    terim final rule, that the Administrator of the Office  
21    of Information and Regulatory Affairs of the Office  
22    of Management and Budget finds has resulted in or  
23    is likely to result in—

24           (A) an annual effect on the economy of  
25    \$100 million or more;

1 (B) a major increase in costs or prices for  
2 consumers, individual industries, Federal,  
3 State, or local government agencies, or geo-  
4 graphic regions; or

5 (C) significant adverse effects on competi-  
6 tion, employment, investment, productivity, in-  
7 novation, or the ability of United States-based  
8 enterprises to compete with foreign-based enter-  
9 prises in domestic and export markets.

10 (2) NONMAJOR REGULATION.—The term  
11 “nonmajor regulation” means any regulation that is  
12 not a major regulation.

13 (3) REGULATION.—The term “regulation” has  
14 the meaning given the term “rule” in section 551 of  
15 title 5, United States Code, except that such term  
16 does not include—

17 (A) any rule of particular applicability, in-  
18 cluding a rule that approves or prescribes for  
19 the future rates, wages, prices, services, or al-  
20 lowances therefore, corporate or financial struc-  
21 tures, reorganizations, mergers, or acquisitions  
22 thereof, or accounting practices or disclosures  
23 bearing on any of the foregoing;

24 (B) any rule relating to agency manage-  
25 ment or personnel; or

1 (C) any rule of agency organization, proce-  
2 dure, or practice that does not substantially af-  
3 fect the rights or obligations of non-agency par-  
4 ties.

5 (4) SUBMISSION OF PUBLICATION DATE.—The  
6 term “submission or publication date”, except as  
7 otherwise provided in this section, means—

8 (A) in the case of a major regulation, the  
9 date on which Congress receives the report sub-  
10 mitted under subsection (a)(1); and

11 (B) in the case of a nonmajor regulation,  
12 the later of—

13 (i) the date on which the Congress re-  
14 ceives the report submitted under sub-  
15 section (a)(1); and

16 (ii) the date on which the nonmajor  
17 regulation is published in the Federal Reg-  
18 ister, if so published.

19 (f) JUDICIAL REVIEW.—

20 (1) IN GENERAL.—No determination, finding,  
21 action, or omission under this section shall be sub-  
22 ject to judicial review.

23 (2) DETERMINATION OF COMPLIANCE WITH RE-  
24 QUIREMENTS.—Notwithstanding subsection (a), a  
25 court may determine whether the Committee on For-

1       eign Investment in the United States has completed  
2       the necessary requirements under this section for a  
3       regulation described in subsection (a)(1)(A) to take  
4       effect.

5           (3) EFFECT.—The enactment of a joint resolu-  
6       tion of approval under subsection (c) shall not be in-  
7       terpreted to serve as a grant or modification of stat-  
8       utory authority by Congress for the promulgation of  
9       a regulation, shall not extinguish or affect any claim,  
10      whether substantive or procedural, against any al-  
11      leged defect in a regulation, and shall not form part  
12      of the record before the court in any judicial pro-  
13      ceeding concerning a regulation except for purposes  
14      of determining whether or not the regulation is in  
15      effect.