

114TH CONGRESS
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S. CON. RES. 17

Establishing a joint select committee to address regulatory reform.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2015

Mr. ROUNDS (for himself, Mr. MANCHIN, Mr. THUNE, Mr. INHOFE, Mrs. CAPITO, Mr. RISCH, Mr. HOEVEN, and Ms. COLLINS) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration

CONCURRENT RESOLUTION

Establishing a joint select committee to address regulatory reform.

Whereas there are more than 3,500 rules issued every year by more than 50 Federal agencies;

Whereas a rule is defined in section 551 of title 5, United States Code, as “the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy”;

Whereas subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”) established standards for the issuance of rules using formal rulemaking and informal rulemaking procedures;

Whereas informal rulemaking, also known as “notice and comment” rulemaking or “section 553” rulemaking, is the most common type of rulemaking;

Whereas in rulemaking proceedings, formal hearings must be held and interested parties must be given the chance to comment on the proposed rule or regulation, and once adopted, the rule or regulation is required to be published in the Federal Register;

Whereas, according to a 2005 study commissioned by the Small Business Administration, the cost of all rules in effect was approximately \$1,100,000,000,000 per year, more than the people of the United States paid in Federal income taxes in 2009;

Whereas, according to the 2014 Ten Thousand Commandments report by the Competitive Enterprise Institute, the top 6 Federal rulemaking agencies (which, in 2013, were the Departments of the Treasury, Commerce, Interior, Health and Human Services, and Transportation and the Environmental Protection Agency) account for 49.3 percent of all Federal rules;

Whereas, according to the 2014 Ten Thousand Commandments report by the Competitive Enterprise Institute, small businesses pay more in per-employee regulatory costs, and firms with fewer than 20 employees pay an average of \$10,585 per employee, compared to \$7,755 for those with 500 or more employees;

Whereas, according to the 2014 Ten Thousand Commandments report by the Competitive Enterprise Institute, regulatory costs amount to an average of \$14,974 per household, which is 23 percent of the average household

income of \$65,596 and 29 percent of the expenditure budget of \$51,442;

Whereas, according to a 2011 study by the Weidenbaum Center at Washington University, it is estimated that the budgetary cost of administering and enforcing Federal regulations by Federal agencies for fiscal year 2012 amounted to more than \$57 billion (in 2005 dollars), which represents a 10.5-percent increase in 2 years;

Whereas chapter 8 of title 5, United States Code (commonly known as the “Congressional Review Act”) established a mechanism through which Congress could overturn Federal regulations by enacting a joint resolution of disapproval;

Whereas the Congressional Review Act requires that rules that have a \$100,000,000 effect or more on the economy are submitted by agencies to both Houses of Congress and the Government Accountability Office and have a delayed effective date of not less than 60 days to pass a resolution of disapproval rejecting the rule, which must be approved by the President; and

Whereas, since the enactment of the Congressional Review Act in 1996, the procedures under the Act have been used 1 time to overturn a rule: Now, therefore, be it

1 *Resolved by the Senate (the House of Representatives*
2 *concurring),*

3 **SECTION 1. SHORT TITLE.**

4 This resolution may be cited as the “Regulation Sen-
5 sibility Through Oversight Restoration Resolution of
6 2015” or the “RESTORE Resolution of 2015”.

1 **SEC. 2. JOINT SELECT COMMITTEE ON REGULATORY RE-**
 2 **FORM.**

3 There is established a joint select committee to be
 4 known as the Joint Select Committee on Regulatory Re-
 5 form (hereinafter in this concurrent resolution referred to
 6 as the “Joint Select Committee”).

7 **SEC. 3. DUTIES OF JOINT SELECT COMMITTEE.**

8 (a) DEFINITIONS.—In this section, the terms “agen-
 9 cy” and “rule” have the meanings given those terms in
 10 section 551 of title 5, United States Code.

11 (b) DUTIES.—The Joint Select Committee shall—

12 (1) conduct a systematic review of the process
 13 by which rules are promulgated by agencies;

14 (2) hold hearings on the effects of and how to
 15 reduce regulatory overreach in all sectors of the
 16 economy;

17 (3) conduct a review of the Code of Federal
 18 Regulations to identify rules and sets of rules that
 19 should be repealed; and

20 (4) submit to the Senate and the House of Rep-
 21 resentatives—

22 (A) recommendations for legislation—

23 (i) to create a process under which an
 24 agency, before promulgating a rule, shall—

25 (I) seek advice from Congress;

26 (II) publish the proposed rule;

1 (III) hold a public comment pe-
2 riod on the proposed rule;

3 (IV) seek advice from Congress
4 based on the public comments; and

5 (V) hold issuance of the rule
6 until Congress can review the rule for
7 a period of not more than 1 year; and

8 (ii) to create a process to appro-
9 priately sunset as many rules as possible;

10 (B) recommendations for ways to reduce
11 the financial burden placed on the various sec-
12 tors of the economy in order to comply with
13 rules;

14 (C) an analysis of the feasibility of the cre-
15 ation of a permanent Joint Committee on Rules
16 Review in accordance with subsection (c);

17 (D) an analysis of the feasibility of requir-
18 ing each agency to submit each proposed rule of
19 the agency to the appropriate committees of
20 Congress for review in a similar manner as set
21 forth for a permanent Joint Committee on
22 Rules Review under subsection (c); and

23 (E) a list of rules and sets of rules that
24 the Joint Select Committee recommends should
25 be repealed.

1 (c) ANALYSIS OF PERMANENT JOINT COMMITTEE ON
 2 RULES REVIEW.—The Joint Select Committee shall ana-
 3 lyze the feasibility of the creation of a permanent Joint
 4 Committee on Rules Review. The Joint Committee on
 5 Rules Review would—

6 (1) review each proposed rule that an agency
 7 determines is likely to have an annual effect on the
 8 economy of \$50,000,000 or more before the agency
 9 promulgates the final rule;

10 (2) require each agency to submit to the Com-
 11 mittee—

12 (A) the text of each proposed rule of the
 13 agency described in paragraph (1); and

14 (B) an analysis of the economic impact of
 15 the rule on the economy;

16 (3) require each agency to revise a proposed
 17 rule submitted under paragraph (2) if the Com-
 18 mittee determines that the proposed rule—

19 (A) needs to be significantly rewritten to
 20 accomplish the intent of the agency or address
 21 the recommendations or objections of the Com-
 22 mittee;

23 (B) is not a valid exercise of delegated au-
 24 thority from Congress;

25 (C) is not in proper form;

1 (D) is inconsistent with the intent of Con-
 2 gress with respect to the provision of law that
 3 the proposed rule implements; or

4 (E) is not a reasonable implementation of
 5 the law;

6 (4) delay the effective date of a proposed rule
 7 for a period of not more than 1 year beginning on
 8 the date on which the agency submits the proposed
 9 rule under paragraph (2);

10 (5) allow an agency to promulgate a final rule
 11 without any delay in the effective date of the rule if
 12 the agency designates the rule as an emergency rule,
 13 unless the Committee by majority vote determines
 14 that the rule is not an emergency rule; and

15 (6) if applicable, recommend that Congress
 16 should overturn a final rule promulgated by an
 17 agency by enacting a joint resolution of disapproval.

18 **SEC. 4. COMPOSITION OF JOINT SELECT COMMITTEE.**

19 (a) MEMBERSHIP.—

20 (1) IN GENERAL.—The Joint Select Committee
 21 shall be composed of 30 members, of whom—

22 (A) 15 shall be appointed by the majority
 23 and the minority leaders of the Senate from
 24 among Members of the Senate in a manner that
 25 reflects the ratio of the number of Members of

1 the Senate from the majority party to the num-
 2 ber of Members of the Senate from the minority
 3 party on the date of enactment of this Act; and

4 (B) 15 shall be appointed by the Speaker
 5 and the minority leader of the House of Rep-
 6 resentatives among Members of the House of
 7 Representatives in a manner that reflects the
 8 ratio of the number of members of the House
 9 of Representatives from the majority party to
 10 the number of Members of the House of Rep-
 11 resentatives from the minority party on the
 12 date of enactment of this Act.

13 (2) DATE.—The appointments of the members
 14 of the Joint Select Committee shall be made not
 15 later than 30 days after the date of adoption of this
 16 concurrent resolution.

17 (b) VACANCIES.—Any vacancy in the Joint Select
 18 Committee shall not affect its powers, but shall be filled
 19 in the same manner as the original appointment.

20 (c) CHAIRPERSON AND VICE CHAIRPERSON.—

21 (1) CHAIRPERSON.—The members of the Joint
 22 Select Committee shall elect a Chairperson for the
 23 Joint Select Committee by majority vote from each
 24 of—

1 (A) the members of the majority party of
2 the Senate; and

3 (B) the members of the majority party of
4 the House of Representatives.

5 (2) VICE CHAIRPERSON.—The members of the
6 Joint Select Committee shall elect a Vice Chair-
7 person for the Joint Select Committee by majority
8 vote from each of—

9 (A) the members of the minority party of
10 the Senate; and

11 (B) the members of the minority party of
12 the House of Representatives.

13 (d) QUORUM.—A majority of the members of the
14 Joint Select Committee each from the Senate and the
15 House of Representatives shall constitute a quorum for
16 the purpose of conducting the business of the Joint Select
17 Committee.

18 **SEC. 5. RULES AND PROCEDURES.**

19 (a) GOVERNANCE UNDER STANDING RULES OF THE
20 SENATE.—Except as otherwise specifically provided in
21 this resolution, the investigations and hearings conducted
22 by the Joint Select Committee shall be governed by the
23 Standing Rules of the Senate.

24 (b) ADDITIONAL RULES AND PROCEDURES.—The
25 Joint Select Committee may adopt such additional rules

1 or procedures if the Chairperson and Vice Chairperson
 2 agree, or if the Joint Select Committee by majority vote
 3 so decides, that such additional rules or procedures are
 4 necessary or advisable to conduct the duties of the Joint
 5 Select Committee.

6 **SEC. 6. AUTHORITY OF JOINT SELECT COMMITTEE.**

7 (a) IN GENERAL.—The Joint Select Committee may
 8 exercise all of the powers and responsibilities of a com-
 9 mittee under rule XXVI of the Standing Rules of the Sen-
 10 ate.

11 (b) POWERS.—The Joint Select Committee may, for
 12 the purpose of carrying out this resolution—

13 (1) hold such hearings, sit and act at such
 14 times and places, take such testimony, receive such
 15 evidence, and administer such oaths as the Joint Se-
 16 lect Committee considers advisable; and

17 (2) authorize and require, by issuance of sub-
 18 poena or otherwise, the attendance and testimony of
 19 witnesses and the preservation and production of
 20 books, records, correspondence, memoranda, papers,
 21 documents, tapes, and any other materials in what-
 22 ever form the Joint Select Committee considers ad-
 23 visable.

24 (c) SUBPOENAS.—Subpoenas authorized by the Joint
 25 Select Committee—

1 (1) may be issued with the joint concurrence of
2 the Chairperson and Vice Chairperson;

3 (2) shall bear the signature of the Chairperson
4 and Vice Chairperson, or the designee of the Chair-
5 person or Vice Chairperson; and

6 (3) shall be served by any person or class of
7 persons designated by the Chairperson and Vice
8 Chairperson for that purpose anywhere within or
9 without the borders of the United States to the full
10 extent provided by law.

11 (d) ACCESS TO INFORMATION.—The Joint Select
12 Committee shall have, to the fullest extent permitted by
13 law, access to any such information or materials obtained
14 by any other department or agency of the Federal Govern-
15 ment or by any other governmental department, agency,
16 or body investigating the matters described in section
17 3(b).

18 (e) COOPERATION OF OTHER COMMITTEES.—In car-
19 rying out the duties of the Joint Select Committee, the
20 Joint Select Committee may obtain the input and coopera-
21 tion of any other standing committee of the Senate or the
22 House of Representatives.

23 **SEC. 7. REPORTS.**

24 (a) IN GENERAL.—Not later than 90 days after the
25 date on which the Joint Select Committee terminates, the

1 Joint Select Committee shall submit to the Senate and
 2 the House of Representatives a report, which shall con-
 3 tain—

4 (1) the results and findings of the reviews and
 5 hearings carried out by the Joint Select Committee
 6 pursuant to this resolution; and

7 (2) any information required to be submitted
 8 under section 3(b)(4).

9 (b) INTERIM REPORTS.—The Joint Select Committee
 10 may submit to the Senate and the House of Representa-
 11 tives such interim reports as the Joint Select Committee
 12 considers appropriate.

13 **SEC. 8. ADMINISTRATIVE PROVISIONS.**

14 (a) STAFF.—

15 (1) IN GENERAL.—The Joint Select Committee
 16 may employ in accordance with paragraph (2) a
 17 staff composed of such clerical, investigatory, legal,
 18 technical, and other personnel as the Joint Select
 19 Committee considers necessary or appropriate.

20 (2) APPOINTMENT OF STAFF.—

21 (A) IN GENERAL.—The Joint Select Com-
 22 mittee shall appoint a staff for the majority, a
 23 staff for the minority, and a nondesignated
 24 staff.

1 (B) MAJORITY STAFF.—The majority staff
 2 shall be appointed, and may be removed, by the
 3 Chairperson and shall work under the general
 4 supervision and direction of the Chairperson.

5 (C) MINORITY STAFF.—The minority staff
 6 shall be appointed, and may be removed, by the
 7 Vice Chairperson and shall work under the gen-
 8 eral supervision and direction of the Vice Chair-
 9 person.

10 (D) NONDESIGNATED STAFF.—Nondes-
 11 ignated staff shall be appointed, and may be re-
 12 moved, jointly by the Chairperson and Vice
 13 Chairperson, and shall work under the joint
 14 general supervision and direction of the Chair-
 15 person and Vice Chairperson.

16 (b) COMPENSATION.—

17 (1) MAJORITY STAFF.—The Chairperson shall
 18 fix the compensation of all personnel of the majority
 19 staff of the Joint Select Committee.

20 (2) MINORITY STAFF.—The Vice Chairperson
 21 shall fix the compensation of all personnel of the mi-
 22 nority staff of the Joint Select Committee.

23 (3) NONDESIGNATED STAFF.—The Chairperson
 24 and Vice Chairperson shall jointly fix the compensa-

1 tion of all nondesignated staff of the Joint Select
2 Committee.

3 (4) PAY AND BENEFITS.—All employees of the
4 Joint Select Committee shall be treated as employ-
5 ees of the Senate for purposes of disbursing pay and
6 processing benefits.

7 (c) FACILITIES.—The Joint Select Committee may
8 use, with the prior consent of the chair of any other com-
9 mittee of the Senate or the House of Representatives or
10 the chair of any subcommittee of any committee of the
11 Senate or the House of Representatives, the facilities of
12 any other committee of the Senate or the House of Rep-
13 resentatives, whenever the Joint Select Committee or the
14 Chairperson and Vice Chairperson consider that such ac-
15 tion is necessary or appropriate to enable the Joint Select
16 Committee to carry out the responsibilities, duties, or
17 functions of the Joint Select Committee under this resolu-
18 tion.

19 (d) DETAIL OF EMPLOYEES.—The Joint Select Com-
20 mittee may use on a reimbursable basis, with the prior
21 consent of the head of the department or agency of the
22 Federal Government concerned and the approval of the
23 Committee on Rules and Administration of the Senate, the
24 services of personnel of the department or agency.

1 (e) TEMPORARY AND INTERMITTENT SERVICES.—

2 The Joint Select Committee may procure the temporary
3 or intermittent services of individual consultants or orga-
4 nizations.

5 (f) ETHICS.—The Joint Select Committee shall es-
6 tablish ethical rules for the members and employees of the
7 Joint Select Committee, which shall, to the extent prac-
8 ticable, be comparable to the ethical rules that apply to
9 employees of the Senate.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—For the
11 expenses of the Joint Select Committee, there are author-
12 ized to be appropriated \$3,000,000 for fiscal year 2016,
13 to remain available until expended.

14 **SEC. 9. EFFECTIVE DATE; TERMINATION.**

15 (a) EFFECTIVE DATE.—This resolution shall take ef-
16 fect on the date of adoption of this concurrent resolution.

17 (b) TERMINATION.—The Joint Select Committee
18 shall terminate on the date that is 1 year after the ap-
19 pointment of the members of the Joint Select Committee.

20 (c) DISPOSITION OF RECORDS.—Upon termination of
21 the Joint Select Committee, the records of the Joint Select
22 Committee shall become the records of any committee or
23 committees designated by the majority leader of the Sen-
24 ate and the Speaker of the House of Representatives, with

- 1 the concurrence of the minority leader of the Senate and
- 2 the House of Representatives.

