

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H. J. RES. 64
OFFERED BY MR. GOHMERT OF TEXAS**

Strike all after the resolving clause and insert the following:

1 SECTION 1. FINDINGS.

2 Congress finds the following:

3 (1) On March 11, 2015, Secretary of State
4 John Kerry, in describing the Administration’s nu-
5 clear negotiations with Iran, clearly stated that it
6 was “not negotiating a legally binding plan” with
7 Iran and therefore it does not have to be submitted
8 to Congress.

9 (2) On August 6, 2015, White House Press
10 Secretary Josh Earnest, at a White House Press
11 Briefing, stated that “we don’t need Congress to ap-
12 prove this [Iran nuclear deal]”.

13 (3) On July 28, 2015, Secretary Kerry, at a
14 hearing before the House Committee on Foreign Af-
15 fairs, stated that “the reason why” the Iran nuclear
16 agreement is not considered a treaty is because “it’s
17 become physically impossible . . . [to] pass a treaty
18 [through the United States Senate] anymore. . . .

1 [I]t's become impossible to . . . schedule. It's become
2 impossible to pass.”.

3 (4) Two days after Secretary Kerry testified
4 that it has become “physically impossible” for the
5 Senate to ratify treaties, the United States formally
6 ratified the Amendment to the Convention on the
7 Physical Protection of Nuclear Material when Henry
8 S. Ensher, the Department of State’s ambassador to
9 the International Atomic Energy Agency (IAEA),
10 delivered the United States’ instrument of ratifica-
11 tion to the IAEA.

12 (5) On June 4, 2015, less than two months be-
13 fore Secretary Kerry testified that it has become
14 “physically impossible” for the Senate to ratify trea-
15 ties, he stated that the Department of State is “pre-
16 paring the instruments of ratification of [several]
17 important treaties” and that he “want[s] to person-
18 ally thank the U.S. Congress . . . for their efforts
19 on” the implementing legislation for the nuclear se-
20 curity treaties.

21 (6) On May 7, 2015, the Senate held a vote on
22 the Iran Nuclear Agreement Review Act of 2015,
23 commonly referred to as the “Corker-Cardin bill,” in
24 which every Senator voted on that bill with the un-
25 derstanding that the Iran nuclear agreement was an

1 executive agreement, and not a treaty, and that
2 United States sanctions on Iran's ballistic missile
3 program remain in place.

4 (7) The Corker-Cardin bill states that “[i]t is
5 the sense of Congress that . . . United States sanc-
6 tions on Iran for . . . ballistic missiles will remain
7 in place under an agreement related to the nuclear
8 program of Iran that includes the United States”.

9 (8) The Corker-Cardin bill was intended as a
10 review of the application of statutory sanctions
11 against only Iran's nuclear program.

12 (9) The Corker-Cardin bill prescribes a process
13 for congressional review only of “Agreements with
14 Iran Related to the Nuclear Program of Iran”.

15 (10) Under subsections (b) and (c) of section
16 135 of the Atomic Energy Act of 1954, as added by
17 the Corker-Cardin bill, lawmakers may resolve to ap-
18 prove, disapprove, or take no action on “Nuclear
19 Agreements with Iran”.

20 (11) Section 135(d) of the Atomic Energy Act
21 of 1954, as added by the Corker-Cardin bill, calls for
22 “Congressional Oversight of Iranian Compliance
23 with Nuclear Agreements”.

24 (12) On July 14, 2015, the Administration fi-
25 nalized the Iran nuclear agreement and referred to

1 it as the “Joint Comprehensive Plan of Action”
2 (JCPOA).

3 (13) On July 19, 2015, the Administration sub-
4 mitted the JCPOA to Congress.

5 (14) The JCPOA is not limited to sanctions en-
6 acted by Congress related to only Iran’s nuclear pro-
7 gram.

8 (15) The JCPOA extends to Iran’s ballistic
9 missiles programs and other weapons activities—in-
10 cluding the lifting of international arms embargoes
11 covering both “any material or technology that
12 might be useful to a ballistic-missile program,” and
13 “battle tanks, armored combat vehicles, large caliber
14 artillery systems, combat aircraft, attack helicopters,
15 warships, missiles, or missile systems”.

16 (16) Congress was informed only after the
17 JCPOA was submitted to Congress that it removed
18 international restrictions on Iran’s ballistic missiles
19 program and conventional arms.

20 (17) Because the terms of the Iran nuclear ne-
21 gotiations changed after Congress voted on the
22 Corker-Cardin bill, the bill does not permit Congress
23 to review or approve agreements on ballistic missiles
24 and other weapons.

1 (18) Until July 22, 2015, more than a week
2 after the Iran nuclear agreement was finalized, Sec-
3 retary Kerry failed to inform Congress of the exist-
4 ence of “side deals” to nuclear agreement between
5 the IAEA and Iran.

6 (19) Recent news reports indicate the IAEA
7 has a secret agreement which would allow Iran to
8 use its own experts to inspect a site allegedly used
9 to develop nuclear arms, directly contradicting the
10 intended effect of Corker-Cardin bill by bypassing
11 congressional oversight.

12 (20) The Administration failed to follow the
13 Corker-Cardin bill which required it to provide Con-
14 gress with all nuclear agreement documents, includ-
15 ing all “annexes, appendices, codicils, side agree-
16 ments, implementing materials, documents, and
17 guidance, technical or other understandings and any
18 related agreements, whether entered into or imple-
19 mented prior to the agreement or to be entered into
20 or implemented in the future”.

21 (21) The Administration failed to comply with
22 the Corker-Cardin bill by not transmitting the nu-
23 clear agreement, “including all materials,” to Con-
24 gress by “September 7, 2015”.

1 (22) The JCPOA grants Iran’s Quds Force
2 commander Qasem Soleimani, Defense Minister
3 Mostafa Mohammad Najjar, who trained and com-
4 manded Hezbollah fighters in Lebanon at the time
5 of the Beirut barracks bombing, and Hossein Sa-
6 lami, the current second-in-command of the Iranian
7 Islamic Revolutionary Guard Corps, individual relief
8 from international sanctions.

9 (23) The JCPOA amends Article I of the Trea-
10 ty on the Non-Proliferation of Nuclear Weapons
11 (commonly referred to as the “Nuclear Non-Pro-
12 liferation Treaty” or “NPT”) to which the United
13 States is a signatory, and under which the United
14 States is obligated “not in any way to assist, encour-
15 age, or induce . . . [Iran] to acquire nuclear weapons
16 or other nuclear explosive devices, or control over
17 such weapons or explosive devices”.

18 (24) The JCOPA amends Article II of the NPT
19 under which Iran is responsible not to acquire, di-
20 rectly or indirectly, nuclear weapons or capabilities
21 of controlling nuclear weapons.

22 (25) The JCPOA and the various secret side
23 agreements to the JCPOA amend Article III of the
24 NPT regarding international inspectors in Iran
25 “who shall have access at all times to all places and

1 data and to any person who by reason of his occupa-
2 tion deals with materials, equipment, or facilities
3 which are required by this Statute to be safe-
4 guarded”.

5 (26) The JCPOA amends the NPT outside of
6 the prescribed method of amendment in Article VIII
7 of the NPT.

8 (27) On July 31, 2015, the non-partisan Con-
9 gressional Research Service released a study estab-
10 lishing that Iran’s defense budget ranges anywhere
11 from \$14 to \$30 billion a year, with much of that
12 money going to fund terrorist proxy groups and
13 rebel fighters across the Middle East, including in
14 Yemen, Syria, Lebanon, and the Gaza Strip.

15 (28) It is evident that the JCPOA is fundamen-
16 tally different from the “international agreement”
17 described by the Administration when Congress
18 passed the Corker-Cardin bill.

19 (29) It is evident that the Corker-Cardin bill
20 does not reach many of the parts of the finalized nu-
21 clear agreement with Iran, and that the JCPOA
22 thoroughly marginalized the Corker-Cardin bill.

23 (30) The Corker-Cardin bill is designed to ad-
24 dress an international agreement that is fundamen-
25 tally different from the JCPOA and not a treaty.

1 (31) It is now evident the JCPOA is of suffi-
2 cient magnitude that it rises to the level of a treaty.

3 **SEC. 2. DECLARATIONS OF POLICY.**

4 Congress makes the following declarations of policy:

5 (1) The Iran Nuclear Agreement Review Act of
6 2015, commonly referred to as the “Corker-Cardin
7 bill”, does not apply to the Joint Comprehensive
8 Plan of Action (JCPOA) regarding Iran because the
9 JCPOA is fundamentally different from the agree-
10 ment as represented to Congress by the Administra-
11 tion and that the Corker-Cardin bill is only applica-
12 ble to an agreement that is not a treaty.

13 (2) Article II of the U.S. Constitution declares
14 that the President “shall have Power, by and with
15 the Advice and Consent of the Senate, to make
16 Treaties,” but only if “two thirds of the Senators
17 present concur”.

18 (3) The JCPOA is a treaty and, pursuant to
19 Article II of the U.S. Constitution, the Senate must
20 give its advice and consent to ratification if the
21 JCPOA is to be effective and binding upon the
22 United States.

23 (4) Not later than 30 days after the date of the
24 adoption of this resolution, the Senate should sched-

- 1 ule and consider a resolution of ratification with re-
- 2 spect to the JCPOA.

Amend the title so as to read: “Joint Resolution declaring that the Iran Nuclear Agreement Review Act of 2015 does not apply to the Joint Comprehensive Plan of Action regarding Iran and submitted to Congress on July 19, 2015, because the Joint Comprehensive Plan of Action is a treaty and, pursuant to Article II of the U.S. Constitution, the Senate must give its advice and consent to ratification if the Joint Comprehensive Plan of Action is to be effective and binding upon the United States.”.

