and inject millions of dollars into local economies. Instead, the Canadian Prime Minister announced Canada will sell its oil to China.

Mr. Speaker, I've proudly supported numerous bills that will create American jobs and promote American energy production. Putting the Gulf of Mexico Back to Work Act, Restarting American Offshore Leasing Now Act, Reversing President Obama's Offshore Moratorium Act—these three bills will all promote American energy production and American jobs, and yet they're sitting in the Senate without action.

Let's pass these bills. Let's get them through the Senate. Mr. President, sign these bills and promote American energy production, American energy security, and American jobs.

## GOP NO JOBS AGENDA

(Mr. DEUTCH asked and was given permission to address the House for 1 minute.)

Mr. DEUTCH. Mr. Speaker, we've entered the 12th month of the Republican majority in this House, and if the past 11 are any indication, December will be a continuation of the GOP no jobs agenda.

My colleagues in the majority have shown no interest in tackling America's real economic challenges, no interest in the fact that small business owners say that weak sales, not government regulation, are the main source of their struggle.

No interest in the fact that it is tax relief for middle class families, not tax giveaways to corporations and to billionaires that our economy needs to boost consumer demand, and no interest in preventing the expiration of unemployment benefits for millions of struggling families and the havoc it would wreak on our economy. Mr. Speaker the majority's interest seems focused on one thing: an election still nearly a year away.

Americans wants Congress to work for them. It's time we stand up for the middle class. Working families need us to work for them.

## REGULATORY ACCOUNTABILITY ACT OF 2011

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 3010.

The SPEAKER pro tempore (Mr. DOLD). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 477 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 3010.

□ 0914

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 3010) to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, with Mr. WOMACK in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Texas (Mr. SMITH) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Texas.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Employers across America face an avalanche of unnecessary Federal regulatory costs.

Federal regulations cost our economy $1.7 trillion every year, over $15,000 for each household, according to the Small Business Administration. Yet the Obama administration seeks to add billions more to that cost.

The administration's record-setting issuance of major regulations is particularly troubling. By its own admission, the administration's 2011 regulatory agenda contains 200 regulations that typically will affect the economy by $100 million or more every year.

For employers, the people who create jobs and pay taxes, the impact of these costly regulations is clear. Government regulation has become a barrier to economic growth and job creation. Faced with huge, new, regulatory burdens and uncertainties about what will come next, employers slow down hiring, stop investing, and wait for a bill from the Obama administration.

What enables the administration to issue so many new regulations with so little regard for their costs is the outdated Administrative Procedure Act. Enacted in 1946, the APA's minimal limitations on rulemaking have hardly changed in decades and do nothing to control costs.

The Regulatory Accountability Act fixes this problem by bringing the APA up to date. Under its commonsense provisions, agencies are required to assess the cost and benefits of regulatory alternatives. Unless interest of public health, safety, or welfare requires otherwise, agencies must adopt the least-costly alternative that achieves the regulatory objectives Congress has established.

The Regulatory Accountability Act has bipartisan support in both the House and the Senate, including from a number of House Democrats who have cosponsored the bill. In large part, this is because its provisions are modeled on the Executive orders that presidents Reagan, Clinton, Bush, and Obama have issued to compensate for the APA's weaknesses.

Opponents of the act claim that it requires the benefits of all new regulations to exceed their costs. They argue that as a result the act will prevent Federal agencies from issuing important new public health, safety, and welfare regulations. This is false.

The Regulatory Accountability Act only requires agencies to adopt the lowest cost regulatory alternative that achieves the agency's statutory objectives. This assures that agencies will achieve all of those objectives but with much lower costs.

Opponents also assert that the act's new procedural requirements will halt all Federal rulemaking, but the act primarily codifies existing Executive order principles and practices under which agencies have been able to issue regulations for years.

The act's few additional requirements all are streamlined. They will improve the quality and lower the cost of regulations, but they will not unduly delay them. The act increases the transparency of the rulemaking process with more advance notices of proposed rulemaking, more opportunities for public comment, and more opportunities for public hearings. This will lessen the influence of all special interests.

The Regulatory Accountability Act provides the greatest opportunity yet for Republicans and Democrats to join together and lower the job-killing cost of regulations. And it allows costs to be lowered while it assures that all of Congress' regulatory objectives are, in fact, obtained.

The bill also provides a clear opportunity for the votes of Democrats in Congress to match President Obama's words on regulatory reform. In his State of the Union address, the President said that ''to reduce barriers to growth and investment, when we find rules that put an unnecessary burden on businesses, we will fix them.''

In Executive Order 13563, the President said that ''our regulatory system must promote economic growth, innovation, competitiveness, and job creation; must allow for public participation and an open exchange of ideas; must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends; and must take into account benefits and costs.''

□ 0920

The President was right. And the Regulatory Accountability Act does all those things.

I urge all of my colleagues to support the Regulatory Accountability Act.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
*Washington, DC, November 17, 2011.*

Hon. LAMAR SMITH,
*Chairman, Committee on the Judiciary, Washington, DC.*

DEAR MR. CHAIRMAN: On November 3, 2011, the Committee on the Judiciary ordered H.R. 3010, the ''Regulatory Accountability Act of 2011,'' reported to the House. Thank you for consulting with the Committee on Oversight and Government Reform with regard to H.R. 3010 on those matters within the committee's jurisdiction. I am writing to confirm our mutual understanding with respect to the consideration of H.R. 3010.

The Office of Information and Regulatory Affairs (OIRA) was created by the Paperwork Reduction Act of 1980 (PRA), legislation that originated in the House Committee on Government Operations. The PRA assigned OIRA responsibility for significant areas of the rulemaking process, including information collection request clearance and paperwork control and statistical policy and coordination. Additionally, the PRA's requirements cover rules issued by virtually all agencies, including Cabinet departments, independent agencies, and independent regulatory agencies and commissions.

In the interest of expediting the House's consideration of H.R. 3010, I will not request a sequential referral of the bill. However, I do so only with the understanding that this procedural route will not be construed to prejudice the Committee on Oversight and Government Reform's jurisdictional interest and prerogatives on this bill or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to my Committee in the future.

I respectfully request your support for the appointment of outside conferees from the Committee on Oversight and Government Reform should this bill or a similar bill be considered in a conference with the Senate. I also request that you include our exchange of letters on this matter in the Committee Report on H.R. 3010 and in the Congressional Record during consideration of this bill on the House floor. Thank you for your attention to these matters.

Sincerely,

DARRELL ISSA,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, November 17, 2011.*

Hon. DARRELL ISSA,
*Chairman, Committee on Oversight and Government Reform, Washington, DC.*

DEAR MR. CHAIRMAN ISSA: Thank you for your letter regarding the Committee on Oversight and Government Reform's jurisdictional interest in H.R. 3010, ''Regulatory Accountability Act of 2011,'' and your willingness to forego consideration of H.R. 3010 by your committee.

I agree that the Committee on Oversight and Government Reform has a valid jurisdictional interest in certain provisions of H.R. 3010 and that the Committee's jurisdiction will not be adversely affected by your decision to not request a sequential referral of H.R. 3010. As you have requested, I will support your request for an appropriate appointment of outside conferees from your Committee in the event of a House-Senate conference on this or similar legislation should such a conference be convened.

Finally, I will include a copy of your letter and this response in the Committee Report and in the Congressional Record during the floor consideration of this bill. Thank you again for your cooperation.

Sincerely,

LAMAR SMITH,
*Chairman.*

I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

I want to begin our discussion this morning with the reference that Federal regulations impose an annual cost of $1.75 trillion on business. I would like the Members to know that the reference made to this study is the Crain study. I'd like to use the name so that you can track exactly what is being said about it.

The study was never intended to be used as a decisionmaking tool. Who says this? They said it as a preface to the study itself. And for the benefit of the 433 other Members besides myself and the chairman, I am going to put this in the RECORD and also make it available to all of our colleagues on the Judiciary Committee.

The Crain study was never intended to be used as a decisionmaking tool, and the Congressional Research Service, our own operation, criticized much of the Crain study's methodology and noted that the authors of the Crain study themselves told the Congressional Research Service that their analysis was not to be a decisionmaking tool for lawmakers or Federal regulatory agencies to use in choosing the right level of regulation. So every time somebody mentions this study again on the floor, I am going to refer them to the Congressional Research study, which has never been disputed or declaimed by anybody.

In no place in any of the reports do we imply that our reports should be used for this purpose—that's the Crain study people themselves. That's not the Congressional Research study; that's the authors. And here is the Congressional Research study that I would like to introduce into the RECORD at this time.

[From the Congressional Research Service]

ANALYSIS OF AN ESTIMATE OF THE TOTAL COSTS OF FEDERAL REGULATIONS

(By Curtis W. Copeland, Specialist in American National Government, April 6, 2011)

[CRS Report for Congress, Prepared for Members and Committees of Congress—Congressional Research Service, 7–5700, www.crs.gov, R41763]

SUMMARY

Some policy makers have expressed an interest in measuring total regulatory costs and benefits (e.g., the Congressional Office of Regulatory Analysis Creation and Sunset and Review Act of 2011, H.R. 214, 112th Congress), and estimates of total regulatory costs have been cited in support of regulatory reform legislation (e.g., H.R. 10, the Regulations from the Executive In Need of Scrutiny (REINS) Act, H.R. 10, 112th Congress). However, measuring total costs and benefits is inherently difficult. This report examines one such study to illustrate the complexities of this type of analysis.

A September 2010 report prepared by Nicole V. Crain and W. Mark Crain for the Office of Advocacy within the Small Business Administration (SBA) stated that the annual cost of federal regulations was about $1.75 trillion in 2008. This cost estimate was developed by adding together the estimated costs of four categories or types of regulation: economic regulations (estimated at $1.236 trillion); environmental regulations ($281 billion); tax compliance ($160 billion); and regulations involving occupational safety and health, and homeland security ($75 billion). Some commenters have raised questions about the validity and reliability of this estimate.

For example, Crain and Crain's estimate for economic regulations (which comprises more than 70% of the $1.75 trillion estimate) was developed by using an index of ''regulatory quality.'' One of the authors of the regulatory quality index said that Crain and Crain misinterpreted and misused the index, resulting in an erroneous and overstated cost estimate. Other commenters have also raised concerns about using the index to estimate regulatory costs, and about the regression analysis that the authors used to produce the cost estimate. Crain and Crain said that they believe they interpreted and used the regulatory quality index correctly.

Crain and Crain's estimates for environmental, occupational safety and health, and homeland security regulations were developed by blending together academic studies (some of which are now more than 30 years old) with agencies' estimates of regulatory costs that were developed before the rules were issued (some of which are now 20 years old). Although the agency estimates were typically presented as low-to-high ranges, Crain and Crain used only the highest cost estimates in their report. The Office of Management and Budget has said that estimates of the costs and benefits of regulations issued more than 10 years earlier are of ''questionable relevance.''

Crain and Crain's estimate for the cost of tax paperwork was based on data from the Internal Revenue Service and the Tax Foundation, but OMB data indicate that the number of hours of tax paperwork may be much higher than Crain and Crain's estimate. On the other hand, the authors' assumptions regarding the cost of completing the paperwork may be too high. A threshold question, however, is whether tax paperwork should be considered in the same category as regulatory costs. OMB does not include tax paperwork in its annual reports to Congress.

Crain and Crain said they did not provide estimates of the benefits of regulations, even when the information was readily available, because the SBA Office of Advocacy did not ask them to do so. OMB's reports to Congress have generally indicated that regulatory benefits exceed costs. Crain and Crain said their report was not meant to be a decisionmaking tool for lawmakers or federal regulatory agencies to use in choosing the ''right'' level of regulation. This report will not be updated.

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POLICYMAKING AND THE CRAIN AND CRAIN ESTIMATE

As noted at the beginning of this report, Crain and Crain's estimate that federal regulations cost $1.75 trillion in 2008 has been cited as evidence of the need for regulatory reform legislation. However, Crain and Crain told CRS that their report was ''not meant to be a decision-making tool for lawmakers or federal regulatory agencies to use in choosing the 'right' level of regulation. In no place in any of the reports do we imply that our reports should be used for this purpose. (How could we recommend this use when we make no attempt to estimate the benefits?)''[103]

As Crain and Crain suggest, information on regulatory costs alone, whether for individual rules or for all rules in the aggregate, provides only one piece of information that Congress and other policymakers can use in determining how to proceed. For example, even if all federal regulations did cost $1.75 trillion in 2008 (which at least some commenters believe may not be correct), if the monetized benefits of those regulations were determined to be greater than those costs, then policymakers may conclude that those costs were (in the words of Executive Order 12866) ''justified.'' On the other hand, if the monetized benefits of federal regulations were estimated to be less. than the estimated costs, policymakers may reach another conclusion, or may decide to examine any non-monetized costs and benefits of

[103] E-mail to the author from Nicole V. Crain and W. Mark Crain, March 7, 2011.

those rules. But a valid, reasoned policy decision can only be made after considering information on both costs and benefits.

The Center for Progressive Reform is another study that notes that the $1.75 trillion cumulative burden cited by the study fails to account for any benefits of the regulation. I am going to, at the appropriate time, introduce that into the RECORD.

The Congressional Research Service notes that the study's methodology is seriously flawed with respect to how it calculated economic costs.

So I would urge the Members to be aware of what I am going to do during this debate the next time somebody names this study without naming the name of the study and the fact that it was put together by Mark and Nicole Crain, commonly called the Crain study.

The Congressional Research Service notes that the study's methodology is seriously flawed with respect to how it calculated economic costs. The study relied on international public opinion polling by the World Bank on how friendly a particular country was to business interests and ignored actual data on costs imposed by the Federal regulation in the United States. The Congressional Research Service concluded that a valid, reasoned policy decision can only be made after considering information on both costs and benefits of regulation.

The next thing I would like to do is examine what seems to be a political or legislative strategy that is being used in this debate. You see, there are three bills that are antiregulatory bills—and there's no question or dispute about that—designed to slow or halt rulemaking and give industry more opportunities to disrupt the rulemaking process of the Federal Government. H.R. 3010, which we are taking up today, is one of them. H.R. 527, which we took up yesterday, is another one of them. H.R. 10, the king of all regulatory antiregulatory bills, is coming up next week, the REINS Act, which, for the first time in American history, determines that the Congress must also approve the rules of all the agencies, of which there are some 40 or 50.

And for the benefit of every Member of the Congress, I am getting together every agency that would now be involved and that would have to have their rules—believe it or not, this is not ''Saturday Night Live''—would come through the Congress. Can you imagine what that would do to our schedule?

These bills are blatantly and unhesitatingly designed to slow down and even halt all Federal rulemaking, thereby threatening public health and safety by undermining the agencies' ability to address a whole range of issues.

What about food-borne illnesses? What about toy safety? What about infant formula safety? What about financial security?

All three antiregulatory bills also give industry more opportunities to disrupt the rulemaking process. The bill under consideration now, for example, requires formal rulemaking and expands opportunities to challenge agency action in court. As if they need any help from the corporate lawyers that are all lined up to do their work at the present moment, but no, we want to give them more opportunities to go in court, as if they can't figure it out for themselves.

H.R. 527 of the previous day does this by expanding the use of small business review panels. The measure coming up next week would require Congress to approve all major rules. Not only do we have to do that, but we have to do it within 70 legislative days before they could take effect, effectively, of course, allowing industry to intervene in Congress to stop a rule.

Mr. Chairman, I reserve the balance of my time.

□ 0930

Mr. SMITH of Texas. Mr. Chairman, I yield myself 30 seconds.

Here is another poll that I'm going to cite that will support what this administration's own Small Business Administration has found about the cost of these regulations. This is an article by the Gallup Poll. The article is dated October 24, 2011, just a few weeks ago. Here's the headline on the article: ''Government Regulations at Top of Small-Business Owners' Problem List. One in three small business owners are worried about going out of business.'' The article was written by Dennis Jacobe, chief economist.

Here's the first line and the finding of the Gallup Poll: ''Small-business owners in the United States are most likely to say complying with government regulations, 22 percent, is the most important problem facing them today; followed by consumer confidence in the economy, 15 percent; and lack of consumer demand, 12 percent.''

Mr. Chairman, arguably, the administration is responsible for every one of these problems because of the administration's policies.

I will now yield 5 minutes to the gentleman from North Carolina (Mr. COBLE), who is the chairman of the Courts, Commercial and Administrative Law Subcommittee of the Judiciary Committee.

Mr. COBLE. I thank the gentleman from Texas (Mr. SMITH) for yielding.

Mr. Chairman, I rise in support of H.R. 3010. I reiterate what I said yesterday regarding regulatory legislation, that when critics accuse those of us who support it and furthermore accuse us of being willing to compromise health and safety standards: not guilty. But we are guilty of trying to reduce the number of redundant, excessive regulations—bad, onerous regulations. To that, I do plead guilty.

As I meet with representatives from industries in my congressional district and other districts here in Washington, one message is imminently clear: our regulatory process is out of control. There's enormous uncertainty over what actions agencies will take, there's uncertainty over which agencies have jurisdiction, and there's concern about the actions of independent agencies.

It is important to note that these perceptions are not a part of a larger campaign to discredit the Republican or Democratic agendas. They highlight a growing perception that our government is simply out of touch. The process is missing checks and balances, which are the cornerstone of our democracy, while regulators have virtually limitless resources and power. The result has enabled special interests to impose their will on certain areas of our regulatory system after clearing few hoops and low hurdles. This was not the intent of the Administrative Procedures Act and explains a legacy of executive orders requiring that agencies issue narrowly tailored, less costly alternatives that began with the Reagan administration.

Other costs continue to hit close to home, Mr. Chairman. They drive businesses to other countries, costing thousands of jobs. Many will argue that regulations create jobs. That may well be true of good, sound regulations; but ask many of the employers who have relocated their manufacturing facilities, and they will tell you it's in large part due to our regulatory government. Every industry in America is concerned about our regulatory regime, and there is little doubt that bad regulations have driven American jobs to other countries.

The solution is not more regulation, Mr. Chairman. It's better and more effective regulation, which is exactly what H.R. 3010 is intended to create, much like H.R. 527, the small business regulatory reform bill that we approved yesterday.

When the Administrative Procedure Act was implemented, few imagined that our government would issue a regulation that would threaten the viability of an entire industry. Today, unfortunately, many would say this has become the routine practice. Prime examples are the EPA Cement MACT rule, OSHA's Noise Guidance, and HHS's grandfather plan rule. Some describe them as misguided. Others would say they're downright reckless.

H.R. 3010 addresses the situation by implementing new requirements that would give stakeholders a legitimate opportunity to improve regulations as they are proposed, promulgated, and ultimately implemented. In fact, most of the reforms included in this legislation simply codify President Obama's Executive Order 13563, Improving Regulation and Regulatory Review.

Finally, the bill will not change any existing regulatory standard or requirement.

The overwhelming view from my congressional district is that Federal regulations are driving American ingenuity and opportunity to other countries. Improving our regulatory process may be one of the most significant legislative considerations that we can provide

to help preserve our safety and provide economic opportunity for future generations.

Mr. Chairman, we continue to hear, Jobs, jobs, jobs, echoed from shore to shore, border to border. This is a good piece of legislation, and I urge my colleagues to support it.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee, STEVE COHEN, the ranking member of the Subcommittee on Courts, Commercial and Administrative Law.

Mr. COHEN. I want to thank the ranking member for the time.

I have a nice speech that was written by a fantastic staffer that I'm not going to use today because I've used it in the past. Most of the speeches today have been used—or parts of them—on the other bills we've had.

Because of what we've done this week and the wonderful gentlemen on the opposite side—Mr. SMITH and Mr. COBLE are two great, wonderful people who I think dearly of. They just have different philosophies than I have. Different perspectives.

These bills have been bills to basically be anti-government bills. That's what this Congress has been about. It's been about being anti-government, and it's been about defeating the President of the United States. These bills which we've got would destroy the Administrative Procedure Act and destroy the whole process of government that we've known for decades.

The fact is, President Bush had as many, if not more, rules than President Obama; but we didn't hear from the other side anything about the nefarious rulemaking process, the need for reform, the jobs that could be created by eliminating the rulemaking authority or stifling it and changing it, until President Obama became the President. We heard this morning from the other side that it's the administration that's at fault because of all the rules they've produced, and now they say some of rules can change. They say the administration is at fault for all the rules they passed. They made fewer rules than President Bush made. And there was silence on the other side. Silence.

All of a sudden there's a roar. This whole week, when we need jobs, when our economy needs job, when our people need unemployment compensation, unemployment insurance continued for the 99ers—not the 99 percent, although they're part of that—the 99ers in terms of weeks they get unemployment insurance; when we need the doctors and medical folks to get the Medicare fixed that we always put in to make sure that we continue to pay doctors a reasonable rate to treat our Medicare patients, we're not dealing with that. And when we need to be dealing with the payroll tax cut for the middle class, we're not dealing with that. We've spent a whole week on destroying government and being anti-government.

Rick Perry, one of the candidates for President on the other side, has talked about making Congress half time. How could we be half time when we're not accomplishing our jobs and creating jobs full-time?

As Mr. CONYERS talked about, next week we've got the mother of all anti-government bills, the REINS Act, which really is reining in government, a bill that would require every rule to be passed by both the House and the Senate and signed by the President within 70 or 75 days before it goes into effect. That's Star Wars—or anti-Star Wars. It's really a big dark hole out there in the universe where all rules and regulations would go and die and never be seen again and just disappear.

Well, that's not the way government is supposed to work or should work. And if we had that, how could we work half time under President Perry? We'd have to be working time-and-a-half. And we know there's not enough money for overtime. And President Perry doesn't want us to do that. He wants us to get a separate job when we go home. We go back to San Antonio, we serve half time as a Congressman and half time we work at Walmart. That's what he's suggesting.

Who would really love this bill? The tobacco companies. Wouldn't it be great if we didn't have rules and regulations on tobacco and we didn't put little notices on tobacco that smoking can kill you; smoking can cause damage to infants; that pregnant women shouldn't drink or smoke. Tobacco companies would love this. Those rules and regulations, very burdensome, giving notice to people about the dangers of tobacco, which Europe has been doing forever and we need to put an end to because it costs us so much in medical costs and the lost of precious lives.

The polluters would love this. The destroyers and plunderers of our environment, they'd love it, because wow, Olly, Olly, in free, we can do whatever we want. Removal of mountains, drilling; more oil spills, less regulation.

□ 0940

In an emergency, the government can't even respond to clean up the mess. That's what they're talking about. It's all phrased in the tones of small business, small business, small business. Small business is wonderful. We do a lot with small business. Small business is a jobs creator. But this affects big business as well. And it's big business who is behind this, not small business. Small business is the front used to help the polluters, the tobacco companies, and the others that don't want to see regulations that protect the American public's food, air, water, transportation, and other areas.

The issue of judicial review has come up, and in this bill we give the courts more power than they otherwise had. The other side usually talks about the importance of the judicial branch simply being an equal partner; but in this position, the judicial branch could review any rule and regulation and make its own determination of cost-benefit analysis without expertise that the agencies have, and it would be the judiciary that had the final say. So it would give more power to the courts and more power, in fact, to the administration. The OIRA office in the White House would have more power than ever. So it's antithetical to much of which the other side argues about.

This is not a good bill. It's not good government. And I would ask that we all vote against it and we get back to the jobs that we should be for—creating jobs for the American people and getting us out of this deep, dark, long recession.

Mr. SMITH of Texas. Mr. Chairman, I yield myself 1 minute.

Unfortunately, we hear a lot of words that are really irrelevant to the bill that we are considering here today. Once again, let me repeat that the Regulatory Accountability Act only requires agencies to adopt the least-cost regulatory alternative that achieves the agency's statutory objectives. It therefore assures that in all instances agencies will achieve those objectives, whether to protect public health, safety, or welfare or to satisfy some other statutory purpose.

The RAA's key contribution is to require that, once agencies have identified means to achieve their statutory objectives, they will simply choose the means that impose the lowest cost. I don't know how anyone could object to that. This creates a positive cycle in which agencies and regulated entities compete to identify innovative, least-cost means to achieve statutory objectives while they simultaneously produce the most benefits.

I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I am pleased to yield such time as he may consume to the former chairman of the Education and Labor Committee, the ranking member currently, the gentleman from California, GEORGE MILLER.

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, this is a very sad day for America's workers. This country has spent great time and effort, along with the industrial base and the business base in this country, to make sure that when workers go to work every day they will return safely to their home. This legislation begins to bring that to an end because it would needlessly and recklessly expose our Nation's workers to preventable work-related death and injuries. It would do this by obstructing the ability of the Federal agencies to adequately respond to real safety and health concerns of our Nation's workplace.

Under the current law, both the Occupational Safety and Health Administration and the Mine Safety and Health Administration would be tasked to protect workers from exposure to risks or toxins over a working lifetime. However, this legislation would override that task. It would change the nature

of the idea of protecting workers in the workplace to make sure we have the most effective means possible to protect those workers.

It wasn't the dust standards that killed the textile industry in the southeastern part of the United States. The dust standards that were invoked in 1978—that were railed against by the textile industry—in fact extended the life of the textile industry by making it more efficient by bringing in a new generation of technology to that industry. What killed those textile industries were free trade agreements. They were among the most efficient mills in the world. They just couldn't stand up against the unfair competition from the Chinese and their textile industry.

So let's understand what's happening here. This bill would change the standard of providing the most protective standard that is feasible to providing a standard that picks the least costly approach. The least costly approach to protecting your hearing is to cover your ears, to cover your ears while you're working on a ramp at an airline factory, cover your ears while you're putting bags on an airplane. Cover your ears; that's the least costly. Eye protection: close your eyes, cover your eyes; that's the least costly. That doesn't work in the workplaces of America and the employers know it. The employers know it.

What do you say to an ironworker working on a bridge? What do you say to an ironworker working on a skyscraper? Hold on tight? Hold on tight? We saw what happened when they went to the least costly effective restraints on workers working on skyscrapers in Las Vegas. They were killing them—a record rate of killing construction workers—but it was the least costly. They didn't think they should have to string a net three floors down to catch the workers as they fell; they just chose another method, the least costly.

That's the Republican answer to safety in the workplace, stick your fingers in your ear? What do you do about breathing toxins? Get yourself a paper mask?

When we started changing the vinyl chloride standards, not only did it make the workplace more efficient, it protected the workers. It created a byproduct that had great commercial value and expanded the industry by making them more efficient. What they used to waste, they now sell. What they used to waste and injure workers with, they now sell. That's the difference.

This standard, what is it, the least costly approach? Don't tell that to United States Steel in my district. I just went on a safety tour with the workers and with the management, and they told me how they've changed the traffic patterns, the pedestrian patterns, the vehicle codes, all of the changes inside of the steel mill because they want injury-free days, injury-free months, and injury-free years.

Take a tour of the Chevron refinery in my district, Dow Chemical, DuPont. Safety is their number one job daily in that facility, and they take pride in it. They invest a lot of money in it because they know what an unsafe workplace, what a dirty workplace, what a cluttered workplace costs them in lost time and productivity.

This bill goes counter to the best practices in industry, counter to the best practices in small businesses. This just doesn't work in modern industry. This is a throwback to the seventies or the sixties, where miners just assumed they had to consume coal dust and die of black lung; where steelworkers, they fell into open-hearth furnaces in the old mills. Today, you can get run over by a coal roll conveyance system, you can get caught up in a rolling line, but you don't because they invest in your safety. And now the American Government is telling them you won't have to invest in this safety.

I think for most industries they're going to ignore that because they've been to the other side. They know what it was like to have casualties, and they know that that doesn't work. They know they can't stand. You can bankrupt the companies with black lung today and cotton dust.

We still have grain elevators blow up in this country. When I came to Congress, they were blowing up on a daily basis. But we have dust standards now and we saved workers lives, but we still tragically have a few accidents.

You can ignore the standards, as they did on the British Petroleum rig, and you can kill the workers because you avoided the process safety standards on that rig. In Texas City, Texas, you can blow up the workers because you ignore the standards—and they knowingly ignored them. That was the least costly they thought, at British Petroleum, was to ignore the standards. When they went to the boardroom in London and they raised this issue with the board of directors, they chose the least costly approach. They chose the least costly approach. And they had one of the worst safety records in America, British Petroleum, of blowing up their own facilities and killing their workers. They chose the least costly approach.

This legislation imposes—if you want to do something right, it's just delay for delay's sake. And the chairman has pointed that out and Mr. COHEN has pointed that out, how you just turn this over to a litigation process before you ever get around to the question of protecting your workers.

This legislation makes the workplace that our family members go to, that our neighbors go to, that our friends go to less safe than it is today.

□ 0950

It impedes the progress to apply new technology to new knowledge to the workplace to make it safer. That's what this legislation does. That's not what a modern corporation wants; that's not what a modern workplace should be for workers who go into it; and it's not where they want to go to work.

It's just unacceptable that we have this legislation at this time in our history. This legislation is an attack on the workplaces where middle class Americans go to work. These are their workplaces. These are the hot, heavy, dirty workplaces. These are the complex workplaces that pose risk of injury and illness to the workers in our workplaces.

This causes you to fall out of the middle class. Millions of Americans are falling out of the middle class because of the income disparity in this country and the unfairness in this country.

There's another way to fall out of the middle class. You can fall out of the middle class; it's not just a question of lower pay. You can get hurt on the job, you lose your income, you become disabled, you can't go back to your full earnings. You end up on a disability program because you were injured on the job. All you did was show up and go to work. But under this legislation, you're more likely to be hurt.

You can reverse the dramatic downturn in black lung, as we saw in the Massey mines, where they wouldn't clean up the coal dust, and they killed 29 workers in the process. Over thousands of warnings, but the lawyers and the litigators prevented the standards ever from coming into place, the penalties from ever being put into place. They completely gamed the system.

That's how you can fall out of the middle class; or you can die in an explosion, as people did in Tennessee earlier this year, as they did in Georgia earlier this year, because dust standards weren't properly met; or as happened in Connecticut, where they didn't apply the safety standards to disconnecting the natural gas lines. Yes, you can do that and you fall right out of the middle class.

You lose your spouse in a construction site, in an injury, a trench caves in, a worker falls off a skyscraper—that's how you can fall out of the middle class. And it happens, it happens to American families every day.

We made a decision, as a Nation, that we would go in a different direction. We would look out for these workers, we would provide margins of protection, we would improve the safety in the workplace. This legislation undoes that for workers all across the country—the least costly way.

You know, I worked in the refineries in my district, and I saw workers fall face down in the bottom of those huge oil tanks that we were cleaning out because they had no respiratory gear, because it was before OSHA. I saw workers throw up.

I worked on the tankers going out to sea, and I saw workers fall a couple of stories into an empty oil tank on an oil tanker because they weren't connected to the ladders; there was no safety device. You went up the ladders; but if the fumes got you first, you fell. I saw workers that couldn't tell you what

day it was when they came out of those tanks after cleaning them.

I saw workers fall into vats in the canneries when I worked in the canneries.

I saw workers on construction jobs get hit by moving equipment when I worked on a construction job. This isn't speculation. This is what happens to people all across this country every day they go to work.

And yet we stand here, in the Congress of the United States, and we say we want to make sure when a member of your family goes to work, that they return home safely every day. That's not what this legislation does. This legislation makes it more likely that they're not going to return home safely and they're not going to return home at all.

We ought to reject this legislation and understand how far back in the past it takes us. It's against the best business practices of this Nation. It's against all of the success we've had in making the workplace safe for the workers and safe for the employers and safe for the profit measure.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

The AFL–CIO has backed up what the ranking member, Mr. MILLER, of Education and Labor has said. They warn that H.R. 3010 would upend more than 40 years of labor, health, safety and environmental laws, and threaten new needed protections. It would cripple the regulatory process and make protecting workers and the public secondary to limiting costs and impacts on business and corporations.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

*Washington, DC, November 28, 2011.*

DEAR REPRESENTATIVE: When the Congress returns from the Thanksgiving break the House is expected to vote on three ''regulatory reform'' bills—H.R. 10, the Regulations from the Executive in Need of Scrutiny (the REINS Act), H.R. 3010, the Regulatory Accountability Act, and H.R. 527, the Regulatory Flexibility Improvements Act. Each of these bills would up-end the entire regulatory system making it impossible for the government to protect workers and the public from workplace hazards, dirty air and water, unsafe drugs, tainted food and Wall Street abuses. The AFL-CIO strongly urges you to oppose each of these bills.

The Regulatory Accountability Act (RAA)—H.R. 3010—is a particularly harmful measure. It amends the Administrative Procedure Act (APA), but it goes far beyond establishing procedures for rulemaking. The RAA acts as a ''supermandate'' overriding the requirements of landmark legislation such as the Occupational Safety and Health Act and Mine Safety and Health Act. The bill would require agencies to adopt the least costly rule, instead of the most protective rule as is now required by the OSH Act and MSH Act. It would make protecting workers and the public secondary to limiting costs and impacts on businesses and corporations.

The RAA will not improve the regulatory process; it will cripple it. The bill adds dozens of new analytical, procedural, and judicial review requirements to the rulemaking process, which will add years to the process. The development of major workplace safety rules already takes 6–10 years; the RAA will further delay these rules and cost workers their lives.

The RAA substitutes formal rulemaking for the current procedures for public participation for high impact rules and for other major rules upon request. These formal rulemaking procedures will make it more difficult for workers and members of the public to participate, and give greater access and influence to business groups that have the resources to hire lawyers and lobbyists to participate in this complex process. For agencies that already provide for public hearings, such as OSHA and MSHA, the bill would substitute formal rulemaking for the development of all new rules, overriding the effective public participation processes conducted by these agencies.

H.R. 3010 would subject all agencies—including independent agencies like the Securities and Exchange Commission, the National Labor Relations Board (NLRB), Consumer Product Safety Commission (CPSC), and the Consuumer Financial Protection Bureau (CFPB) to these new analytical and procedural requirements. It would be much more difficult for agencies to develop and issue new financial reform rules and consumer protection rules required under recently enacted legislation.

The REINS Act (H.R. 10) would radically alter the regulatory process by requiring Congress to vote to approve all major rules before they can go into effect. Rules not affirmatively acted on by both the House and the Senate within 70 legislative days would die. Under the REINS Act, politics, not scientific judgment or expertise would dictate all regulatory actions. Corporate opposition and influence would swamp the public's interest and block needed protections.

H.R. 10 is impractical, unworkable and unnecessary. Congress has neither the time nor expertise to consider and act on detailed, technical and scientific issues. Moreover, Congress already has the authority to disapprove rules through the Congressional Review Act or block their implementation by withholding funding.

H.R. 527, the Regulatory Flexibility Improvements Act, expands the reach and scope of the Regulatory Flexibility Act by covering regulations that may have an indirect effect on small businesses and adding a host of new analytical requirements that will make it even more difficult for agencies to take action to protect workers and the public. Virtually any action an agency proposes even a guidance document designed to help a business comply with a rule could be subject to a lengthy regulatory process. While the bill purports to be focused on small business, it would cover more than 99% of all employers, including firms in some industries with up to 1,500 workers or $35.5 million in annual revenues.

This bill also creates a small business ''czar'' by increasing the powers of the Chief Counsel of Small Business Advocacy. This individual would become a super-regulator, with new powers to review proposed regulations and suggest alternatives. Agencies would be subject to review by both the Office of Management and Budget and the Chief Counsel, adding to regulatory delay.

H.R. 3010, H.R. 10 and H.R. 527 would further tilt the regulatory process in favor of business groups and others who want to stop regulations, and make it much more difficult for the government to protect workers and the public. These are dangerous proposals that will not create one new job or solve any of the pressing problems facing our country.

The AFL-CIO strongly opposes H.R. 3010, H.R. 10 and H.R. 527 and urges you to vote against all three bills.

Sincerely,

WILLIAM SAMUEL,
*Director, Government Affairs Department.*

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself 3 minutes.

I realize some people want to close their eyes and close their ears so they don't see or hear the facts. There's an old adage that none are so blind as those who don't want to see the wisdom of the facts.

Mr. Chairman, despite the sound and fury that we've heard, let me repeat a fact; and the fact I want to repeat is this: that the bill always allows agencies to meet statutory objectives. If, for example, only one rulemaking alternative meets statutory objectives, the agency may adopt that alternative, even if its cost exceeds its benefits.

The bill generally requires agencies to adopt the least costly alternative that meets statutory objectives if more than one alternative meets those objectives. Agencies may adopt more costly alternatives to protect public health, safety and welfare, including workers' safety, however, if the benefits of the more costly alternative justify their costs, and the agency is acting to protect the interest of public health, safety or welfare that are within the scope of the statutory provisions that authorize the rulemaking.

As a result, many workforce safety, Clean Air Act, Clean Water Act and other public health, safety and welfare regulations on the books still could have been adopted under the bill, even if they were not the least costly alternatives.

The difference is agencies would have done a better job of assessing whether those regulations really were the best ones to adopt and would have had a greater incentive to look harder for the alternatives that achieved the most benefits for the lesser costs.

Further, the bill does not invite courts to immerse themselves in the weeds of whether agencies have satisfied every jot and tittle of how best to perform a cost-benefit analysis. Instead, it asks the courts to enforce the bill's least-cost standard, and allows the courts to defer to agency cost-benefit analyses that comply with guidelines from the Office of Information and Regulatory Affairs.

As the DC circuit most recently demonstrated in Business Round Table v. SEC, the courts know well how to enforce requirements that agencies weigh the economic impacts of regulation without immersing themselves in endless arguments over every fine point of economic analysis. So the bill will actually decrease litigation.

Mr. Chairman, this bill is really just a litmus test for all Members of the House as to, not whether they want to implement regulations or not, but whether they want to do so in the least costly manner possible. Again, I don't see how anyone can rationally oppose the objective of this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. I continue to reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota (Mr. PETERSON), who is the ranking member of the Agriculture Committee.

Mr. PETERSON. I thank the gentleman.

I rise today in support of H.R. 3010 because, especially in agriculture, we have been dealing with innumerable problems that have been brought by regulations that are not properly vetted and seem to be from people that have a lack of understanding of exactly what's going on in agriculture.

And it seems like we have some of these bureaucrats that are working on these regulations that they've basically set up, you know, they've claimed there is threat of lawsuits or whatever; and the next thing you know, they're off doing regulations that have been kind of self-fulfilling prophecies on their part.

This legislation gives us an overhaul, I guess, for the first time in 65 years, in the Administrative Procedures Act, to make sure that we have more openness, more transparency, more accountability in these regulations, more time, more analysis, more compilation on how these regulations are developed and how they can—how we can improve this so we can improve the people's confidence in the process, to try to make sure that we're taking into account the costs of what these regulations are going to place, not only on the businesses but, ultimately, on the consumers that are affected by this.

In agriculture, we have all these things that are coming down that I think people have a lack of understanding of just exactly what the effect is going to be. A lot of these regulations are going to have the effect of significantly increasing food costs to consumers in this country, and I just think a lot of these urban folks have no idea what they're doing. And the next thing you know, once, if these regulations got in place, they'd be back in Congress looking for more help for SNAP and for other programs to try to pay for the increased food cost that was put on them by these regulations.

The more we can open up this process, the more we can get people to understand the actual effect of these regulations and what they're going to accomplish if they're put into place, the better the situation is going to be.

I think this is a good step in the right direction. Personally, I would probably go even further than what's in this bill, but it is probably what can be accomplished at this point.

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I am very happy to be here today to support this effort, and I look forward to having a successful outcome.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute.

The distinguished ranking member of Agriculture wasn't here when the ranking member, Mr. MILLER of Education and Labor, was here talking about the agricultural problems and the problems that H.R. 3010 presents to us.

What I would like to just ask the gentleman, yesterday the Food and Drug Administration issued a recall of both grapes and tomatoes for salmonella contamination. Did the gentleman have some reservation or objection to this regulation that the FDA operated on?

I yield to the gentleman from Minnesota.

Mr. PETERSON. I thank the gentleman for yielding.

I think it points out that the regulations we have in place are working.

The CHAIR. The time of the gentleman has expired.

Mr. CONYERS. I yield myself an additional 1 minute.

Mr. PETERSON. In agriculture we only have jurisdiction over meat and about 20 percent of the food safety is under the jurisdiction of the Ag Department. If the FDA was anywhere near as competent as the USDA is in terms of inspections, we wouldn't have these problems. You know, frankly, the FDA should not be regulating this, the Department of Agriculture should be regulating it.

Mr. CONYERS. If you think that this bill should go further, then why would FDA need to have H.R. 3010 be made more likely to kill regulations that control jobs and health?

Mr. PETERSON. We're talking about a bigger issue here.

All this bill does is give folks a better chance to understand what's going on here. This whole food safety issue has been a big problem because people are off on tangents that don't have anything to do with reality. Hopefully with this new procedure, we're going to be able to more fully vet this so the public can understand what's going on here.

Salmonella exists in all kinds of products. It's going to be there, it's always going to be there no matter what you do. What you have to do is have a regime in place so you can determine the salmonella before it gets into the food supply.

I thank the gentleman for yielding.

Mr. SMITH of Texas. Mr. Chairman, first of all, I want to thank the gentleman from Minnesota for his comments.

I now yield 3 minutes to the gentleman from California (Mr. COSTA), also a member of the Ag Committee.

Mr. COSTA. I thank the gentleman for yielding.

Mr. Chairman, I rise today in support of H.R. 3010, the Regulatory Accountability Act of 2011.

As a cosponsor of this legislation, I understand that this is not about eliminating existing regulations; it's about making sure that regulations do not eliminate the ability of businesses to thrive to create jobs in places like the San Joaquin Valley that I represent, especially during these difficult economic times.

Many major regulations can cost upwards of $100 million dollars to the industries affected by the rule. But they also impact consumer costs as well. While business people in my district are carefully watching their bottom line, ill-advised regulations can hamper the ability to create jobs and get our economy going. So this legislation is also about jobs.

This legislation ensures that regulations are fully vetted before they are put in place. Despite the best intentions, we often see bureaucrats proposing rules without any practical knowledge of how they will work in the real world. H.R. 3010 guarantees that the business communities, farmers in my district can know, when regulations are being proposed, that they can have a seat at the table to explain how it would affect their work and be implemented.

This legislation, therefore, is also about transparency and accountability. Agencies would be required to provide information to the public about the potential economic impacts of the proposed regulations.

As the President said this September in his jobs speech, we should have no more regulation than the health and safety and the security of the American people require. Every rule should meet that commonsense test.

This legislation helps us ensure the executive branch regulations will meet that commonsense test. By modernizing our regulatory process, we can guarantee that regulations are enacted that truly are in the best interest of the public, the business, and the American people.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Georgia, HANK JOHNSON, a ranking subcommittee member in Judiciary.

The CHAIR. The gentleman is recognized for 2¼ minutes.

Mr. CONYERS. Would the gentleman yield to me for just a few seconds?

Mr. JOHNSON of Georgia. I yield to the gentleman from Michigan.

Mr. CONYERS. Would the gentleman from California tell me now or at some future time which health regulations he would like to get repealed or withdrawn?

Mr. COSTA. I don't think that I can give you a specific on a health regulation. I think what we're really talking about here is the impact of risk assessment versus risk management to ensure that we provide the best protection for health and safety when we implement regulations.

Mr. CONYERS. So you don't have any complaint against FDA at the present time?

Mr. COSTA. The current proposed rules, I mean some work better than others. Some are implemented better than others.

Mr. CONYERS. But you're okay with them?

Mr. COSTA. I think the current point that you made earlier about the proposed issue with regards to certain commodities show that the current regulatory system is working.

Mr. CONYERS. So you don't want to improve it?

Mr. COSTA. No. I want to ensure that we meet good standards and good tests, and this legislation, I think, does that.

Mr. CONYERS. I thank the gentleman for yielding.

The CHAIR. The gentleman has reclaimed his time.

Does the gentleman from Michigan now yield to the gentleman from Georgia?

Mr. CONYERS. Yes, sir.

The CHAIR. The gentleman from Georgia is now recognized for 1¼ minutes.

Mr. JOHNSON of Georgia. Thank you, Mr. Chairman. I rise in opposition to this bill, the Regulatory Accountability Act.

Instead of creating jobs, the Tea Party Republicans are assaulting the very regulations that keep us safe and promote fairness to consumers. I'm disturbed by this assault on regulations that protect health, safety, and well-being, and the financial well-being of 99 percent of Americans.

This majority, the Tea Party Republicans who, having been elected as a result of all of the secret money received from the Wall Street corporations during the 2008 elections, beyond any reasonable doubt are now clearly doing the bidding of these Wall Street corporate interests. They're doing the bidding of them by this kind of legislation that would remove the kinds of regulations that protect the health, safety, and well-being of 99 percent of the American people.

It's not fair. It's not right. No jobs are being created. This bill is a travesty.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

Our troubled economy forces many Americans to tighten their financial belts as they enter this holiday season. It is especially frustrating that the typical American worked more than 2 months, about 77 days, this year to pay for the cost of government regulations alone.

For the unemployed, the news is even worse. Official unemployment has hovered around 9 percent all year. When the unemployed and underemployed and those who no longer seek employment are counted, the effective unemployment rate reaches almost 16 percent.

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But rather than add much-needed jobs to the economy, the Obama administration has only added job-killing regulations that burden businesses and stifle economic growth.

The administration counted 410 new major rules in its regulatory agendas for 2010 and 2011. Mr. Chairman, that is four times the number of major rules than during the first 2 years of the previous administration. In addition, the White House has reported to Congress that, for most new major rules issued in 2010, the government failed to analyze both the costs and the benefits. Many more major regulations are now in the works, and there is no assurance that the administration will adequately consider their costs and benefits either.

The Regulatory Accountability Act provides the cure for this epidemic of regulatory costs. It is a bipartisan, bicameral piece of legislation that requires agencies to do a better job of determining whether new regulations are really needed; and when regulations are necessary, it requires agencies to find the lowest cost alternative to achieve its goals. In other words, you can still achieve the goals but in the least costly way possible.

The Regulatory Accountability Act will not stop Federal agencies from issuing needed regulations, but it will stop them from imposing unjustified regulatory costs. In conclusion, I urge my colleagues to support the bill, and I look forward to its final passage.

With that, I yield to the ranking member of the Judiciary Committee.

Mr. CONYERS. I thank the chairman for yielding to me because we want to acknowledge the committee's parliamentarian, Allison Halataei, on her last day of service to the committee.

Allie has been an expert on House and committee rules, has ruled fairly on all matters of legislation that fall within the committee's jurisdiction, and has been valuable to all the members on both sides of the aisle. We've come to rely on her excellent judgment and experience.

On behalf of the Democratic members of the committee, we wish her well in her future endeavors.

Mr. SMITH of Texas. Mr. Chairman, reclaiming my time, I will add that Allie Halataei has also served us well on the Judiciary Committee for 6 years. She has been on my personal staff for 2 additional years. She has also been a deputy chief of staff for the full Judiciary Committee in addition to having served previously on the Immigration Subcommittee.

We value all of her expertise, her talents, her dedication, and her conscientiousness. All of those wonderful attributes are going to be missed, but we do wish her well in her next position.

Mr. Chairman, I yield back the balance of my time.

Mr. CARDOZA. Mr. Chairman, I rise today to speak in support of this important legislation that will ensure that regulations governing the businesses in our communities are fair and reasonable.

H.R. 3010 will provide a number of benefits for businesses in our communities, while also protecting public health and safety. It ensures greater transparency in the regulatory process and greater scrutiny of the economic effect of regulation.

We all know how regulations are implemented can have a significant impact on our communities. For example, in my home district, there is a utility company that owns a percentage of a power plant in New Mexico that is subject to a standard on regional haze. The state of New Mexico put together a plan to retrofit this power plant and others within the state to meet the clean air standards using one type of technology. In the meantime, the EPA also put together a plan to meet the exact same standard. However, EPA's plan uses a different kind of technology to meet this standard, one that costs ten times more. If this rule gets published, this plant will be required to use EPA's plan, ultimately costing each of my constituents up to 700 dollars over the life of this project to achieve the exact same standard that New Mexico's plan meets.

Under H.R. 3010, nonsensical requirements like this cannot be made, because it forces the agency to use the least costly alternative to meeting a standard.

While I do have significant concerns with how this bill is paid for, the importance of ensuring that regulations provide more benefit than burden to our citizens leads me to ultimately support it. However, should this bill pass the House today and the Senate consider it, I ask that the Senate change the pay for and ensure that no voters are disenfranchised in return for greater transparency in the regulatory process.

Mr. Chairman, I urge my colleagues to support this bill and ensure a more common sense, transparent and fair regulatory process.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3010

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Regulatory Accountability Act of 2011''.*

***SEC. 2. DEFINITIONS.***

*Section 551 of title 5, United States Code, is amended—*

*(1) in paragraph (13), by striking ''and'' at the end;*

*(2) in paragraph (14), by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*''(15) 'major rule' means any rule that the Administrator of the Office of Information and Regulatory Affairs determines is likely to impose—*

*''(A) an annual cost on the economy of $100,000,000 or more, adjusted annually for inflation;*

*''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, local, or tribal government agencies, or geographic regions;*

*''(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or*

*''(D) significant impacts on multiple sectors of the economy;*

*''(16) 'high-impact rule' means any rule that the Administrator of the Office of Information and Regulatory Affairs determines is likely to impose an annual cost on the economy of $1,000,000,000 or more, adjusted annually for inflation;*

*''(17) 'guidance' means an agency statement of general applicability and future effect, other*

*than a regulatory action, that sets forth a policy on a statutory, regulatory or technical issue or an interpretation of a statutory or regulatory issue;*

*''(18) 'major guidance' means guidance that the Administrator of the Office of Information and Regulatory Affairs finds is likely to lead to—*

*''(A) an annual cost on the economy of $100,000,000 or more, adjusted annually for inflation;*

*''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, local or tribal government agencies, or geographic regions;*

*''(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or*

*''(D) significant impacts on multiple sectors of the economy;*

*''(19) the 'Information Quality Act' means section 515 of Public Law 106–554, the Treasury and General Government Appropriations Act for Fiscal Year 2001, and guidelines issued by the Administrator of the Office of Information and Regulatory Affairs or other agencies pursuant to the Act; and*

*''(20) the 'Office of Information and Regulatory Affairs' means the office established under section 3503 of chapter 35 of title 44 and any successor to that office.''.*

***SEC. 3. RULE MAKING.***

*(a) Section 553(a) of title 5, United States Code, is amended by striking ''(a) This section applies'' and inserting ''(a) APPLICABILITY.—This section applies''.*

*(b) Section 553 of title 5, United States Code, is amended by striking subsections (b) through (e) and inserting the following:*

*''(b) RULE MAKING CONSIDERATIONS.—In a rule making, an agency shall make all preliminary and final factual determinations based on evidence and consider, in addition to other applicable considerations, the following:*

*''(1) The legal authority under which a rule may be proposed, including whether a rule making is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rule making.*

*''(2) Other statutory considerations applicable to whether the agency can or should propose a rule or undertake other agency action.*

*''(3) The specific nature and significance of the problem the agency may address with a rule (including the degree and nature of risks the problem poses and the priority of addressing those risks compared to other matters or activities within the agency's jurisdiction), whether the problem warrants new agency action, and the countervailing risks that may be posed by alternatives for new agency action.*

*''(4) Whether existing rules have created or contributed to the problem the agency may address with a rule and whether those rules could be amended or rescinded to address the problem in whole or part.*

*''(5) Any reasonable alternatives for a new rule or other response identified by the agency or interested persons, including not only responses that mandate particular conduct or manners of compliance, but also—*

*''(A) the alternative of no Federal response;*

*''(B) amending or rescinding existing rules;*

*''(C) potential regional, State, local, or tribal regulatory action or other responses that could be taken in lieu of agency action; and*

*''(D) potential responses that—*

*''(i) specify performance objectives rather than conduct or manners of compliance;*

*''(ii) establish economic incentives to encourage desired behavior;*

*''(iii) provide information upon which choices can be made by the public; or*

*''(iv) incorporate other innovative alternatives rather than agency actions that specify conduct or manners of compliance.*

*''(6) Notwithstanding any other provision of law—*

*''(A) the potential costs and benefits associated with potential alternative rules and other responses considered under section 553(b)(5), including direct, indirect, and cumulative costs and benefits and estimated impacts on jobs, economic growth, innovation, and economic competitiveness;*

*''(B) means to increase the cost-effectiveness of any Federal response; and*

*''(C) incentives for innovation, consistency, predictability, lower costs of enforcement and compliance (to government entities, regulated entities, and the public), and flexibility.*

*''(c) ADVANCE NOTICE OF PROPOSED RULE MAKING FOR MAJOR RULES, HIGH-IMPACT RULES, AND RULES INVOLVING NOVEL LEGAL OR POLICY ISSUES.—In the case of a rule making for a major rule or high-impact rule or a rule that involves a novel legal or policy issue arising out of statutory mandates, not later than 90 days before a notice of proposed rule making is published in the Federal Register, an agency shall publish advance notice of proposed rule making in the Federal Register. In publishing such advance notice, the agency shall—*

*''(1) include a written statement identifying, at a minimum—*

*''(A) the nature and significance of the problem the agency may address with a rule, including data and other evidence and information on which the agency expects to rely for the proposed rule;*

*''(B) the legal authority under which a rule may be proposed, including whether a rule making is required by statute, and if so, whether by a specific date, or whether the agency has discretion to commence a rule making;*

*''(C) preliminary information available to the agency concerning the other considerations specified in subsection (b); and*

*''(D) in the case of a rule that involves a novel legal or policy issue arising out of statutory mandates, the nature of and potential reasons to adopt the novel legal or policy position upon which the agency may base a proposed rule;*

*''(2) solicit written data, views or argument from interested persons concerning the information and issues addressed in the advance notice; and*

*''(3) provide for a period of not fewer than 60 days for interested persons to submit such written data, views, or argument to the agency.*

*''(d) NOTICES OF PROPOSED RULE MAKING; DETERMINATIONS OF OTHER AGENCY COURSE.—(1) Before it determines to propose a rule, and following completion of procedures under subsection (c), if applicable, the agency shall consult with the Administrator of the Office of Information and Regulatory Affairs. If the agency thereafter determines to propose a rule, the agency shall publish a notice of proposed rule making, which shall include—*

*''(A) a statement of the time, place, and nature of public rule making proceedings;*

*''(B) reference to the legal authority under which the rule is proposed;*

*''(C) the terms of the proposed rule;*

*''(D) a description of information known to the agency on the subject and issues of the proposed rule, including but not limited to—*

*''(i) a summary of information known to the agency concerning the considerations specified in subsection (b);*

*''(ii) a summary of additional information the agency provided to and obtained from interested persons under subsection (c);*

*''(iii) a summary of any preliminary risk assessment or regulatory impact analysis performed by the agency; and*

*''(iv) information specifically identifying all data, studies, models, and other evidence or information considered or used by the agency in connection with its determination to propose the rule;*

*''(E)(i) a reasoned preliminary determination of need for the rule based on the information described under subparagraph (D); and*

*''(ii) an additional statement of whether a rule is required by statute;*

*''(F) a reasoned preliminary determination that the benefits of the proposed rule meet the relevant statutory objectives and justify the costs of the proposed rule (including all costs to be considered under subsection (b)(6)), based on the information described under subparagraph (D);*

*''(G) a discussion of—*

*''(i) the alternatives to the proposed rule, and other alternative responses, considered by the agency under subsection (b);*

*''(ii) the costs and benefits of those alternatives (including all costs to be considered under subsection (b)(6));*

*''(iii) whether those alternatives meet relevant statutory objectives; and*

*''(iv) why the agency did not propose any of those alternatives; and*

*''(H)(i) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule; and*

*''(ii) if so, whether or not the agency proposes to amend or rescind any such rules, and why.*

*All information provided to or considered by the agency, and steps to obtain information by the agency, in connection with its determination to propose the rule, including any preliminary risk assessment or regulatory impact analysis prepared by the agency and all other information prepared or described by the agency under subparagraph (D) and, at the discretion of the President or the Administrator of the Office of Information and Regulatory Affairs, information provided by that Office in consultations with the agency, shall be placed in the docket for the proposed rule and made accessible to the public by electronic means and otherwise for the public's use when the notice of proposed rule making is published.*

*''(2)(A) If the agency undertakes procedures under subsection (c) and determines thereafter not to propose a rule, the agency shall, following consultation with the Office of Information and Regulatory Affairs, publish a notice of determination of other agency course. A notice of determination of other agency course shall include information required by paragraph (1)(D) to be included in a notice of proposed rule making and a description of the alternative response the agency determined to adopt.*

*''(B) If in its determination of other agency course the agency makes a determination to amend or rescind an existing rule, the agency need not undertake additional proceedings under subsection (c) before it publishes a notice of proposed rule making to amend or rescind the existing rule.*

*All information provided to or considered by the agency, and steps to obtain information by the agency, in connection with its determination of other agency course, including but not limited to any preliminary risk assessment or regulatory impact analysis prepared by the agency and all other information that would be required to be prepared or described by the agency under paragraph (1)(D) if the agency had determined to publish a notice of proposed rule making and, at the discretion of the President or the Administrator of the Office of Information and Regulatory Affairs, information provided by that Office in consultations with the agency, shall be placed in the docket for the determination and made accessible to the public by electronic means and otherwise for the public's use when the notice of determination is published.*

*''(3) After notice of proposed rule making required by this section, the agency shall provide interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation, except that—*

*''(A) if a hearing is required under paragraph (4)(B) or subsection (e), opportunity for oral presentation shall be provided pursuant to that requirement; or*

''(B) when other than under subsection (e) of this section rules are required by statute or at the discretion of the agency to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply, and paragraph (4), the requirements of subsection (e) to receive comment outside of the procedures of sections 556 and 557, and the petition procedures of subsection (e)(6) shall not apply.

The agency shall provide not fewer than 60 days for interested persons to submit written data, views, or argument (or 120 days in the case of a proposed major or high-impact rule).

''(4)(A) Within 30 days of publication of notice of proposed rule making, a member of the public may petition for a hearing in accordance with section 556 to determine whether any evidence or other information upon which the agency bases the proposed rule fails to comply with the Information Quality Act.

''(B)(i) The agency may, upon review of the petition, determine without further process to exclude from the rule making the evidence or other information that is the subject of the petition and, if appropriate, withdraw the proposed rule. The agency shall promptly publish any such determination.

''(ii) If the agency does not resolve the petition under the procedures of clause (i), it shall grant any such petition that presents a prima facie case that evidence or other information upon which the agency bases the proposed rule fails to comply with the Information Quality Act, hold the requested hearing not later than 30 days after receipt of the petition, provide a reasonable opportunity for cross-examination at the hearing, and decide the issues presented by the petition not later than 60 days after receipt of the petition. The agency may deny any petition that it determines does not present such a prima facie case.

''(C) There shall be no judicial review of the agency's disposition of issues considered and decided or determined under subparagraph (B)(ii) until judicial review of the agency's final action. There shall be no judicial review of an agency's determination to withdraw a proposed rule under subparagraph (B)(i) on the basis of the petition.

''(D) Failure to petition for a hearing under this paragraph shall not preclude judicial review of any claim based on the Information Quality Act under chapter 7 of this title.

''(e) HEARINGS FOR HIGH-IMPACT RULES.—Following notice of a proposed rule making, receipt of comments on the proposed rule, and any hearing held under subsection (d)(4), and before adoption of any high-impact rule, the agency shall hold a hearing in accordance with sections 556 and 557, unless such hearing is waived by all participants in the rule making other than the agency. The agency shall provide a reasonable opportunity for cross-examination at such hearing. The hearing shall be limited to the following issues of fact, except that participants at the hearing other than the agency may waive determination of any such issue:

''(1) Whether the agency's asserted factual predicate for the rule is supported by the evidence.

''(2) Whether there is an alternative to the proposed rule that would achieve the relevant statutory objectives at a lower cost (including all costs to be considered under subsection (b)(6)) than the proposed rule.

''(3) If there is more than one alternative to the proposed rule that would achieve the relevant statutory objectives at a lower cost than the proposed rule, which alternative would achieve the relevant statutory objectives at the lowest cost.

''(4) Whether, if the agency proposes to adopt a rule that is more costly than the least costly alternative that would achieve the relevant statutory objectives (including all costs to be considered under subsection (b)(6)), the additional benefits of the more costly rule exceed the additional costs of the more costly rule.

''(5) Whether the evidence and other information upon which the agency bases the proposed rule meets the requirements of the Information Quality Act.

''(6) Upon petition by an interested person who has participated in the rule making, other issues relevant to the rule making, unless the agency determines that consideration of the issues at the hearing would not advance consideration of the rule or would, in light of the nature of the need for agency action, unreasonably delay completion of the rule making. An agency shall grant or deny a petition under this paragraph within 30 days of its receipt of the petition.

No later than 45 days before any hearing held under this subsection or sections 556 and 557, the agency shall publish in the Federal Register a notice specifying the proposed rule to be considered at such hearing, the issues to be considered at the hearing, and the time and place for such hearing, except that such notice may be issued not later than 15 days before a hearing held under subsection (d)(4)(B).

''(f) FINAL RULES.—(1) The agency shall adopt a rule only following consultation with the Administrator of the Office of Information and Regulatory Affairs to facilitate compliance with applicable rule making requirements.

''(2) The agency shall adopt a rule only on the basis of the best reasonably obtainable scientific, technical, economic, and other evidence and information concerning the need for, consequences of, and alternatives to the rule.

''(3)(A) Except as provided in subparagraph (B), the agency shall adopt the least costly rule considered during the rule making (including all costs to be considered under subsection (b)(6)) that meets relevant statutory objectives.

''(B) The agency may adopt a rule that is more costly than the least costly alternative that would achieve the relevant statutory objectives only if the additional benefits of the more costly rule justify its additional costs and only if the agency explains its reason for doing so based on interests of public health, safety or welfare that are clearly within the scope of the statutory provision authorizing the rule.

''(4) When it adopts a final rule, the agency shall publish a notice of final rule making. The notice shall include—

''(A) a concise, general statement of the rule's basis and purpose;

''(B) the agency's reasoned final determination of need for a rule to address the problem the agency seeks to address with the rule, including a statement of whether a rule is required by statute and a summary of any final risk assessment or regulatory impact analysis prepared by the agency;

''(C) the agency's reasoned final determination that the benefits of the rule meet the relevant statutory objectives and justify the rule's costs (including all costs to be considered under subsection (b)(6));

''(D) the agency's reasoned final determination not to adopt any of the alternatives to the proposed rule considered by the agency during the rule making, including—

''(i) the agency's reasoned final determination that no alternative considered achieved the relevant statutory objectives with lower costs (including all costs to be considered under subsection (b)(6)) than the rule; or

''(ii) the agency's reasoned determination that its adoption of a more costly rule complies with subsection (f)(3)(B);

''(E) the agency's reasoned final determination—

''(i) that existing rules have not created or contributed to the problem the agency seeks to address with the rule; or

''(ii) that existing rules have created or contributed to the problem the agency seeks to address with the rule, and, if so—

''(I) why amendment or rescission of such existing rules is not alone sufficient to respond to the problem; and

''(II) whether and how the agency intends to amend or rescind the existing rule separate from adoption of the rule;

''(F) the agency's reasoned final determination that the evidence and other information upon which the agency bases the rule complies with the Information Quality Act; and

''(G)(i) for any major rule or high-impact rule, the agency's plan for review of the rule no less than every ten years to determine whether, based upon evidence, there remains a need for the rule, whether the rule is in fact achieving statutory objectives, whether the rule's benefits continue to justify its costs, and whether the rule can be modified or rescinded to reduce costs while continuing to achieve statutory objectives.

''(ii) review of a rule under a plan required by clause (i) of this subparagraph shall take into account the factors and criteria set forth in subsections (b) through (f) of section 553 of this title.

All information considered by the agency in connection with its adoption of the rule, and, at the discretion of the President or the Administrator of the Office of Information and Regulatory Affairs, information provided by that Office in consultations with the agency, shall be placed in the docket for the rule and made accessible to the public for the public's use no later than when the rule is adopted.

''(g) EXCEPTIONS FROM NOTICE AND HEARING REQUIREMENTS.—(1) Except when notice or hearing is required by statute, the following do not apply to interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice:

''(A) Subsections (c) through (e).

''(B) Paragraphs (1) through (3) of subsection (f).

''(C) Subparagraphs (B) through (H) of subsection (f)(4).

''(2)(A) When the agency for good cause, based upon evidence, finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that compliance with subsection (c), (d), or (e) or requirements to render final determinations under subsection (f) of this section before the issuance of an interim rule is impracticable or contrary to the public interest, including interests of national security, such subsections or requirements to render final determinations shall not apply to the agency's adoption of an interim rule.

''(B) If, following compliance with subparagraph (A) of this paragraph, the agency adopts an interim rule, it shall commence proceedings that comply fully with subsections (d) through (f) of this section immediately upon publication of the interim rule, shall treat the publication of the interim rule as publication of a notice of proposed rule making and shall not be required to issue supplemental notice other than to complete full compliance with subsection (d). No less than 270 days from publication of the interim rule (or 18 months in the case of a major rule or high-impact rule), the agency shall complete rule making under subsections (d) through (f) of this subsection and take final action to adopt a final rule or rescind the interim rule. If the agency fails to take timely final action, the interim rule will cease to have the effect of law.

''(C) Other than in cases involving interests of national security, upon the agency's publication of an interim rule without compliance with subsections (c), (d), or (e) or requirements to render final determinations under subsection (f) of this section, an interested party may seek immediate judicial review under chapter 7 of this title of the agency's determination to adopt such interim rule. The record on such review shall include all documents and information considered by the agency and any additional information presented by a party that the court determines necessary to consider to assure justice.

''(3) When the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued)

*that notice and public procedure thereon are unnecessary, including because agency rule making is undertaken only to correct a de minimis technical or clerical error in a previously issued rule or for other noncontroversial purposes, the agency may publish a rule without compliance with subsections (c), (d), (e), or (f)(1)-(3) and (f)(4)(B)-(F). If the agency receives significant adverse comment within 60 days after publication of the rule, it shall treat the notice of the rule as a notice of proposed rule making and complete rule making in compliance with subsections (d) and (f).*

*''(h) ADDITIONAL REQUIREMENTS FOR HEARINGS.—When a hearing is required under subsection (e) or is otherwise required by statute or at the agency's discretion before adoption of a rule, the agency shall comply with the requirements of sections 556 and 557 in addition to the requirements of subsection (f) in adopting the rule and in providing notice of the rule's adoption.*

*''(i) DATE OF PUBLICATION OF RULE.—The required publication or service of a substantive final or interim rule shall be made not less than 30 days before the effective date of the rule, except—*

*''(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;*

*''(2) interpretive rules and statements of policy; or*

*''(3) as otherwise provided by the agency for good cause found and published with the rule.*

*''(j) RIGHT TO PETITION.—Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.*

*''(k) RULE MAKING GUIDELINES.—(1)(A) The Administrator of the Office of Information and Regulatory Affairs shall establish guidelines for the assessment, including quantitative and qualitative assessment, of the costs and benefits of proposed and final rules and other economic issues or issues related to risk that are relevant to rule making under this title. The rigor of cost-benefit analysis required by such guidelines shall be commensurate, in the Administrator's determination, with the economic impact of the rule.*

*''(B) To ensure that agencies use the best available techniques to quantify and evaluate anticipated present and future benefits, costs, other economic issues, and risks as accurately as possible, the Administrator of the Office of Information and Regulatory Affairs shall regularly update guidelines established under paragraph (1)(A) of this subsection.*

*''(2) The Administrator of the Office of Information and Regulatory Affairs shall also issue guidelines to promote coordination, simplification and harmonization of agency rules during the rule making process and otherwise. Such guidelines shall assure that each agency avoids regulations that are inconsistent or incompatible with, or duplicative of, its other regulations and those of other Federal agencies and drafts its regulations to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.*

*''(3) To ensure consistency in Federal rule making, the Administrator of the Office of Information and Regulatory Affairs shall—*

*''(A) issue guidelines and otherwise take action to ensure that rule makings conducted in whole or in part under procedures specified in provisions of law other than those of subchapter II of this title conform to the fullest extent allowed by law with the procedures set forth in section 553 of this title; and*

*''(B) issue guidelines for the conduct of hearings under subsections 553(d)(4) and 553(e) of this section, including to assure a reasonable opportunity for cross-examination. Each agency shall adopt regulations for the conduct of hearings consistent with the guidelines issued under this subparagraph.*

*''(4) The Administrator of the Office of Information and Regulatory Affairs shall issue guidelines pursuant to the Information Quality Act to apply in rule making proceedings under sections 553, 556, and 557 of this title. In all cases, such guidelines, and the Administrator's specific determinations regarding agency compliance with such guidelines, shall be entitled to judicial deference.*

*''(l) INCLUSION IN THE RECORD OF CERTAIN DOCUMENTS AND INFORMATION.—The agency shall include in the record for a rule making, and shall make available by electronic means and otherwise, all documents and information prepared or considered by the agency during the proceeding, including, at the discretion of the President or the Administrator of the Office of Information and Regulatory Affairs, documents and information communicated by that Office during consultation with the Agency.*

*''(m) MONETARY POLICY EXEMPTION.—Nothing in subsection (b)(6), subparagraphs (F) and (G) of subsection (d)(1), subsection (e), subsection (f)(3), and subparagraphs (C) and (D) of subsection (f)(5) shall apply to rule makings that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.*

***SEC. 4. AGENCY GUIDANCE; PROCEDURES TO ISSUE MAJOR GUIDANCE; PRESIDENTIAL AUTHORITY TO ISSUE GUIDELINES FOR ISSUANCE OF GUIDANCE.***

*(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 553 the following new section:*

***''§ 553a. Agency guidance; procedures to issue major guidance; authority to issue guidelines for issuance of guidance***

*''(a) Before issuing any major guidance, or guidance that involves a novel legal or policy issue arising out of statutory mandates, an agency shall—*

*''(1) make and document a reasoned determination that—*

*''(A) assures that such guidance is understandable and complies with relevant statutory objectives and regulatory provisions (including any statutory deadlines for agency action);*

*''(B) summarizes the evidence and data on which the agency will base the guidance;*

*''(C) identifies the costs and benefits (including all costs to be considered during a rule making under section 553(b) of this title) of conduct conforming to such guidance and assures that such benefits justify such costs; and*

*''(D) describes alternatives to such guidance and their costs and benefits (including all costs to be considered during a rule making under section 553(b) of this title) and explains why the agency rejected those alternatives; and*

*''(2) confer with the Administrator of the Office of Information and Regulatory Affairs on the issuance of such guidance to assure that the guidance is reasonable, understandable, consistent with relevant statutory and regulatory provisions and requirements or practices of other agencies, does not produce costs that are unjustified by the guidance's benefits, and is otherwise appropriate.*

*Upon issuing major guidance, or guidance that involves a novel legal or policy issue arising out of statutory mandates, the agency shall publish the documentation required by subparagraph (1) by electronic means and otherwise.*

*''(b) Agency guidance—*

*''(1) is not legally binding and may not be relied upon by an agency as legal grounds for agency action;*

*''(2) shall state in a plain, prominent and permanent manner that it is not legally binding; and*

*''(3) shall, at the time it is issued or upon request, be made available by the issuing agency to interested persons and the public by electronic means and otherwise.*

*Agencies shall avoid the issuance of guidance that is inconsistent or incompatible with, or duplicative of, the agency's governing statutes or regulations, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.*

*''(c) The Administrator of the Office of Information and Regulatory Affairs shall have authority to issue guidelines for use by the agencies in the issuance of major guidance and other guidance. Such guidelines shall assure that each agency avoids issuing guidance documents that are inconsistent or incompatible with, or duplicative of, the law, its other regulations, or the regulations of other Federal agencies and drafts its guidance documents to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following new item:*

*''553a. Agency guidance; procedures to issue major guidance; authority to issue guidelines for issuance of guidance.'''.*

***SEC. 5. HEARINGS; PRESIDING EMPLOYEES; POWERS AND DUTIES; BURDEN OF PROOF; EVIDENCE; RECORD AS BASIS OF DECISION.***

*Section 556 of title 5, United States Code, is amended by striking subsection (e) and inserting the following:*

*''(e)(1) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 and shall be made available to the parties and the public by electronic means and, upon payment of lawfully prescribed costs, otherwise. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.*

*''(2) Notwithstanding paragraph (1) of this subsection, in a proceeding held under this section pursuant to section 553(d)(4) or 553(e), the record for decision shall also include any information that is part of the record of proceedings under section 553.*

*''(f) When an agency conducts rule making under this section and section 557 directly after concluding proceedings upon an advance notice of proposed rule making under section 553(c), the matters to be considered and determinations to be made shall include, among other relevant matters and determinations, the matters and determinations described in subsections (b) and (f) of section 553.*

*''(g) Upon receipt of a petition for a hearing under this section, the agency shall grant the petition in the case of any major rule, unless the agency reasonably determines that a hearing would not advance consideration of the rule or would, in light of the need for agency action, unreasonably delay completion of the rule making. The agency shall publish its decision to grant or deny the petition when it renders the decision, including an explanation of the grounds for decision. The information contained in the petition shall in all cases be included in the administrative record. This subsection shall not apply to rule makings that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.*

***SEC. 6. ACTIONS REVIEWABLE.***

*Section 704 of title 5, United States Code, is amended—*

*(1) by striking ''Agency action made'' and inserting ''(a) Agency action made''; and*

*(2) by adding at the end the following: ''Denial by an agency of a correction request or, where administrative appeal is provided for, denial of an appeal, under an administrative mechanism described in subsection (b)(2)(B) of the Information Quality Act, or the failure of an agency within 90 days to grant or deny such*

*request or appeal, shall be final action for purposes of this section.*

*''(b) Other than in cases involving interests of national security, notwithstanding subsection (a) of this section, upon the agency's publication of an interim rule without compliance with section 553(c), (d), or (e) or requirements to render final determinations under subsection (f) of section 553, an interested party may seek immediate judicial review under this chapter of the agency's determination to adopt such rule on an interim basis. Review shall be limited to whether the agency abused its discretion to adopt the interim rule without compliance with section 553(c), (d), or (e) or without rendering final determinations under subsection (f) of section 553.''.*

***SEC. 7. SCOPE OF REVIEW.***

*Section 706 of title 5, United States Code is amended—*

*(1) by striking ''To the extent necessary'' and inserting ''(a) To the extent necessary'';*

*(2) in paragraph (2)(A) of subsection (a) (as designated by paragraph (1) of this section), by inserting after ''in accordance with law'' the following: ''(including the Information Quality Act)''; and*

*(3) by adding at the end the following:*

*''(b) The court shall not defer to the agency's—*

*''(1) interpretation of an agency rule if the agency did not comply with the procedures of section 553 or sections 556-557 of chapter 5 of this title to issue the interpretation;*

*''(2) determination of the costs and benefits or other economic or risk assessment of the action, if the agency failed to conform to guidelines on such determinations and assessments established by the Administrator of the Office of Information and Regulatory Affairs under section 553(k);*

*''(3) determinations made in the adoption of an interim rule; or*

*''(4) guidance.*

*''(c) The court shall review agency denials of petitions under section 553(e)(6) or any other petition for a hearing under sections 556 and 557 for abuse of agency discretion.''.*

***SEC. 8. ADDED DEFINITION.***

*Section 701(b) of title 5, United States Code, is amended—*

*(1) in paragraph (1), by striking ''and'' at the end;*

*(2) in paragraph (2), by striking the period at the end, and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(3) 'substantial evidence' means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of the record considered as a whole, taking into account whatever in the record fairly detracts from the weight of the evidence relied upon by the agency to support its decision.''.*

***SEC. 9. EFFECTIVE DATE.***

*The amendments made by this Act to—*

*(1) sections 553, 556, and 704 of title 5, United States Code;*

*(2) subsection (b) of section 701 of such title;*

*(3) paragraphs (2) and (3) of section 706(b) of such title; and*

*(4) subsection (c) of section 706 of such title;*

*shall not apply to any rule makings pending or completed on the date of enactment of this Act.*

The CHAIR. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part B of House Report 112–296. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MS. MOORE

The CHAIR. It is now in order to consider amendment No. 1 printed in part B of House Report 112–296.

Ms. MOORE. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 6, after line 20, insert the following and redesignate provisions accordingly:

''(4) Whether the problem the agency may address with agency action disproportionately impacts certain vulnerable subpopulations including individuals whose income is below 200% of the poverty line, individuals who are aged 65 and older, and individuals who are veterans, and whether that impact would be mitigated through new agency action.''.

The CHAIR. Pursuant to House Resolution 477, the gentlewoman from Wisconsin (Ms. MOORE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Wisconsin.

Ms. MOORE. Mr. Chair, my amendment to H.R. 3010 is quite simple. It would ensure that an executive agency takes into account the needs of our Nation's most vulnerable, at-risk subpopulations, including veterans, low-income individuals, and the elderly, when considering new action. This so-called Regulatory Accountability Act would undermine at least 25 health and safety rules, which would have a disparate impact on the subpopulations.

The authors of this bill continue this sideshow by bringing bill after bill to this House floor, claiming that they will create jobs by limiting the size and scope and reach of government and by repealing regulations that help and protect millions of Americans—balancing profit over people. Like magicians, they try to convince the American public with sleight of hand and deception that the cost to industry far outweighs the cost of health and safety protections.

Once we get past all of the flashing lights, smoke, and glitter, we see that this bill, like others, that we're considering today is just no different, Mr. Chair.

H.R. 3010 would do far more than simply ''modify'' the executive rulemaking process. It would require agencies to adopt the least costly regulations—a race to the bottom—instead of taking the most protective steps necessary to ensure the health and safety of Americans, especially those who are most vulnerable. It would add dozens of new procedural hurdles without any promise of additional resources. It would tie up agency action for years when we know that so many Americans desperately need help right now.

These tough economic times are hard for everyone, especially those who are disproportionately affected by the economic crisis. We no longer have times for tricks, illusions, or silly gags. Study after study shows us that low-income communities live in the most toxic areas of our country. We must stop this bribery, trickery, and we must come back to reality.

We must agree that it is good policy for executive agencies to consider our Nation's veterans, who, according to the Bureau of Labor Statistics, face an 11.7 percent unemployment rate, substantially higher than the national average. We must consider the disproportionately damaging health effects that air pollutants have on our low-income communities, on people who can't afford to move to wealthier areas, as the EPA considers implementing provisions in the bipartisan Clean Air Act. We also must agree that the executive branch take into account the needs of our Nation's seniors, who have become the subject of a dangerous debate in Washington over the future of entitlement programs.

It's time to put down the magic wands, to pick up our voting cards and support legislation that protects the least of these.

I would urge my colleagues to support this amendment, and I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. I am prepared to close; so I reserve the balance of my time.

The CHAIR. The Chair recognizes the gentlewoman from Wisconsin.

Ms. MOORE. Thank you.

President Obama has really curtailed more regulations than George W. Bush, so it is really mistaken that this President has not taken into account the needs of industry; but I think that when you get to a point at which you just want to abolish all regulations in favor of the so-called bottom line, then someone has to draw the line. I think that this amendment draws the line at subjecting those people who are particularly vulnerable—seniors, veterans, and those of low-income—to air pollutants.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

This amendment, regrettably, seeks special consideration in rulemaking for a handful of groups; but the bill seeks to declare no favorites and gives no special policy treatment to any group. Instead, the bill creates an even-handed procedural reform that benefits all groups with greater transparency, accountability, and public participation in rulemaking.

Perhaps the amendment is motivated by a concern that regulatory outcomes not shortchange the needs of seniors, veterans, and lower income families; but the bill already assures that these groups and all others will obtain the protection they need.

The bill always allows agencies to achieve the regulatory objectives that Congress has set. Generally, if an agency can reach the goal with a lower cost

regulation, though, of course it should; but if a costlier regulation is needed to protect the public health, safety, or welfare, including protecting seniors, veterans, and low-income families, the agency can adopt that regulation.

□ 1020

The agency just needs to show that the benefits justify the additional costs and the interests protected fall within the scope of the statutory provision that authorizes the rule.

In this reasonable, balanced way, the bill guarantees statutory objectives will be met while we at least achieve real regulatory cost control. That is a win/win solution for everyone in every group.

The Federal Government does not always need to do something more costly for special groups. It needs to always do something more cost-effective for everyone. I urge my colleagues to oppose this amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Wisconsin (Ms. MOORE).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. MOORE. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Wisconsin will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. OLSON

The CHAIR. It is now in order to consider amendment No. 2 printed in part B of House Report 112–296.

Mr. OLSON. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 3, insert after ''estimated impacts on jobs'' the following: ''(including an estimate of the net gain or loss in domestic jobs)''.

The CHAIR. Pursuant to House Resolution 477, the gentleman from Texas (Mr. OLSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. OLSON. Mr. Chairman, I yield myself such time as I may consume.

My amendment clarifies one of the provisions in H.R. 3010 regarding rulemaking.

The bill before the House states that when making a rule, an agency shall consider potential costs and benefits associated with proposed rules, including direct, indirect, cumulative costs and benefits, and estimated impacts on American jobs.

My commonsense amendment specifies that the agency proposing the rule shall, and this is a quote from the amendment, ''estimate the net gain or loss in domestic jobs'' in their jobs impact analysis.

My amendment will ensure that the public has a full understanding of the real impact to American workers before the proposed rule becomes effective. At a time of record unemployment, we must properly balance Federal regulations to minimize job losses before these jobs leave our shores.

This will not, will not, stop Federal agencies from issuing needed regulations, but it will stop them from imposing unjustified and unintended regulatory costs without informing the American people how these regulations will impact jobs right here in the United States of America.

While regulations are necessary, when they are necessary my amendment requires agencies to find the lowest-cost alternative to achieve the regulatory goals.

I thank my fellow Texan, Chairman SMITH, for his support of my amendment, and I ask my colleagues to support it as well.

I reserve the balance of my time.

Ms. JACKSON LEE of Texas. Mr. Chairman, I claim time in opposition.

The CHAIR. The gentlewoman is recognized for 5 minutes.

Ms. JACKSON LEE of Texas. My good friend from Texas has introduced an amendment that I wish all of us could have joined with, as well as Mr. JOHNSON's amendment that was not allowed in order.

We've made a complaint not necessarily on one amendment but on this underlying bill. And the amendment now adds yet another analytical requirement to the already numerous analytical requirements of H.R. 3010.

I would have liked to have joined Mr. OLSON on making this just a job creation amendment, or a job creation bill. But part of the bill's super mandate overrides existing statutes like the Clean Water Act, the Clean Air Act, and the Occupational Safety and Health Act, all of which reflect bipartisan legislative agreement to prohibit or limit consideration of costs in the rulemaking process.

While I certainly agree with the idea of net job creation, H.R. 3010 does absolutely nothing to create jobs with or without the addition of this analytical requirement.

We can't cure this bill, and we might have been able to do so with an amendment by Mr. JOHNSON that exempts all rules that result in job growth. After all, it was allowed for H.R. 527, the other bill that we are considering today. I don't know why we can't come together, as some would say, and put forward bipartisan amendments that talk about creating jobs.

With that, I yield back the balance of my time.

Mr. OLSON. Mr. Chairman, I appreciate the comments of my colleague from Houston, Texas.

I wish this amendment was not necessary, but with the current administration, the regulatory environment has gotten out of control. The best example is the Environmental Protection Agency and all the rules and regulations they have imposed upon the oil and gas industry and the power industry in the State of Texas.

The best example of that is testimony from the administrator herself right here on Capitol Hill. When asked if she can survey the sort of job loss and impact on jobs from the regulations, she said no, not our business.

That's wrong. If the agency is going to propose changes to some regulatory rule, they need to let the American people how it's going to impact the jobs right here at home.

Again, it's a commonsense amendment. I urge my colleagues to support it.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. OLSON).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON LEE OF TEXAS

The CHAIR. It is now in order to consider amendment No. 3 printed in part B of House Report 112–296.

Ms. JACKSON LEE of Texas. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 8, line 19, strike ''shall'' and insert ''may, if the agency determines appropriate,''.

The CHAIR. Pursuant to House Resolution 477, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I wish today was spent really dealing with job creation rather than diminishing the social safety net for the American people, something that we fought long and hard for.

But let me give you some good news. The unemployment has dropped to approximately 8.9 percent, I believe, or a little bit less. It means the country's economy is going in the right direction, and the time that we're spending on the floor on these bills is a job killer.

We'd much rather have spent our time passing the American Jobs Act, putting money in investment and infrastructure, rehiring firefighters, teachers, and law enforcement officers, and certainly we don't need to jeopardize this little baby's future with thwarting the opportunity for making sure food safety regulations are unfettered on behalf of the American people.

My amendment is a simple clarification. The way the rules exist today is that the agency, in its wisdom, thinking about the safety and security of the American people, food safety, the environment, clean air, clean water, has the right, the discretion to give preliminary 90-day notice.

What do we do in this bill? We demand that the agency give a 90-day notice in order to propose a rule, and

prior to having it published in the Federal Register. My friends, there is no doubt that rulemaking is complex, but in many times rulemaking requires quick action. All my amendment does is put back in the discretion of the agency to determine whether they can have a 90-day notice.

The GOP claims that slashing regulations is the way to create jobs. Well, let me tell you what President Reagan and what President G.H.W. Bush said. As for the idea that cutting regulations will lead to significant job growth, Bruce Bartlett said in an interview, it's just nonsense, it's just made up.

Bruce Bartlett was the economic adviser under Presidents Reagan and G.H.W. Bush. Indeed, as BLS data show, in 2010, only 0.3 percent of people who lost their jobs in layoffs were let go because of government regulation, intervention. But I will tell you this, this little one's life will be in jeopardy because of the intrusive and excessive 60-step process that these legislative initiatives are requiring.

□ 1030

Someone would say hogwash. The GOP claim that there has been a tsunami of regulations under President Obama is also a myth. It is simply a myth.

I ask my colleagues to support the amendment.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. I am prepared to close; so I reserve the balance of my time.

The CHAIR. The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. Let me just expand on this point regarding President Obama.

This administration has approved fewer regulations than the predecessor, George W. Bush, at this same point in their tenures. Furthermore, Bloomberg finds that the average annual cost of regulations under President Obama at about $7 billion to $10 billion is close to the average around the costs from 1981 to 2008.

This GOP bill kills rulemaking in favor of special interests. Sixty new analytical steps, can you imagine? You will be bogged down spending money and using government time and using the taxpayers' dollars to keep from protecting them; to keep from protecting this innocent child; to keep from protecting children with asthma; to keep from protecting people who need to have clean water; to keep from protecting those who need to have, if you will, a food safety requirement that keeps them from being impacted by E. coli.

How ''unsensible,'' if I can use a word in quotes, is that? As the Coalition for Sensible Safeguards says, which includes Consumer Federation of America, this bill will make it virtually impossible for Federal agencies to ensure that American families are protected from tainted food, unsafe drugs, predatory financial schemes, dirty air and water, and dangerous workplaces.

Give us a break. Let us follow in the footsteps of President Bush, President Reagan, and our predecessor President Bush and realize that this regulatory scheme is broken.

Pass the Jackson Lee amendment and save lives, and let's celebrate that unemployment is going down and find a way to create jobs.

Mr. Chair, I rise today in support of my amendment to H.R. 3010 the ''Regulatory Accountability Act of 2011,'' which would amend the Administrative Procedure Act. This bill would require all agencies to adopt the least costly rule by formally codifying the cost benefit analysis process. The bill also overrides existing statutory standards in laws such as the Clean Air Act, Clean Water Act, and the Occupational Safety and Health Act. In addition, this measure will significantly slow the regulatory process, increase costs, and burden an already taxed judicial system.

My amendment would allow a federal agency to use their discretion to determine whether to provided advanced notice, not later than 90 days, of a proposed rule prior to it being published in the Federal Register. As it has not been found that agencies have been dilatory in using their discretion. And in fact, there are times when it would be unnecessary.

My colleagues on the other side of the aisle have provided no solid justification for the bill's inflexible mandate that would require an agency to issue an advance notice of proposed rulemaking, ANPRM, as part of the rulemaking proceeding for any major rule or high-impact rule. Agencies are in the best position to be able to determine the relative benefits and burdens of utilizing ANPRMs. I ask will this new rule create jobs?

As my Republican colleagues are often raising concerns about the never ending bureaucracy in Washington. This bill adds more than 60 new procedural and analytical requirements to the agency rulemaking process. This would include currently nonexempt rulemaking. In addition, the bill extends the timeframe required to complete legal consideration of an agency proposed rule. This measure is a blatant attempt to delay the rulemaking process and the final implementation of agency rules. Well if as many jobs were created as red tape will be created by this piece of legislation then every American would have a job and one waiting in reserve.

This measure calls for Judicial Review of every significant Executive Branch activity and functions. I have been serving as member of this governing body since 1995, and oversight of the Executive Branch is exactly what Congress does. In fact, one of the primary functions of a Congressional Committee is to provide oversight.

If the Judicial Branch were required to proactively approve every federal rule, it would be extremely time consuming. The Administrative agencies are made up of experts in their respective fields. Many of the regulations that administrative agencies enact are very specific and require a high level of familiarity with the minute details of certain issues. The time it would take members of the Judiciary to become adequately acquainted with each issue being proposed by each Federal agency would certainly be more productive if channeled into efforts to effect the change that Americans want.

As we consider this rule, it is important that we not forget that federal agencies have their own oversight process in place to ensure that proposed regulations are thoroughly vetted. For every proposed regulation, agencies are required to issue a notice of proposed rulemakings to the industry and market over which they regulate. Those entities then comment on the rules, and they go through many rounds of changes before a final order is enacted.

Rulemaking takes years, and input from all relevant stakeholders is regularly solicited and received. Delays during the rulemaking process are already created by stakeholders and other branches of government. The reality is that the rulemaking process is already hampered by those whose sole intent is to water down or prevent rules they oppose. Additional delays only hurt Americans.

According to a recent report by the Public Citizen delays of OSHA regulations contributed to 100,000 work place injuries, 10,000 cases of work-related illness, and hundreds of workplace fatalities. Promulgating regulations save lives

Furthermore, rules enacted by Federal agencies are subject to Congressional oversight and review, and must meet standards of Judicial review. Arguably, rules and regulation issued by Federal agencies go through just as much, if not more, review as bills considered and passed by this body.

Implementing this rule would create an expanded use of formal rulemaking that will effectively prevent needed public health and safety rules, in addition to an expanded and less deferential judicial review process that will lead to endless litigation without enhancing due process. Instead of debating about oversight authority that Congress already has, we should be focusing on the issues that most concern the American people, particularly, creating jobs.

Collectively, the procedural and analytical requirements added by this bill would be enormously burdensome. The task of deliberating on, seeking consensus on, and drafting the numerous recitals that would be added to the rulemaking process would draw heavily on agency resources—a matter that should be of special concern at the present moment, when agencies are facing and will continue to face severe budget pressures. Increasing the time needed to accomplish rulemaking would not only be costly but also would tend to leave stakeholders (including businesses large and small) less able to plan effectively for the future. Not only new regulations, but amendments or rescissions of rules could be deterred by the additional expense and complexity that would be added to the process.

Enforcement of these requirements on judicial review is available to regulatory proponents and regulatory opponents alike, adding to the burden of defensive lawyering agencies must carry. Thus, both affirmative regulation and deregulation may be impeded. As our country rebounds from one of most severe economic downturns in our history, it is imperative that we make decisions that will enable our economy to grow and, most importantly, create jobs.

We should be using our judgment in a manner that would create American jobs by comprehensively reforming our broken immigration system. We should be working to implement an orderly process for immigration that eases the burden on employers, improves documentation, and compliments our enforcement efforts to make them more effective.

Healthy market competition not only protects consumers, but will help our economy to prosper. Congress should be examining the consolidation taking place in certain industries to ensure healthy competition is alive and thriving. America is a free enterprise society, and small businesses are part of the backbone of our economy, employing a vast portion of Americans. We should be ensuring that any consolidation taking place in the marketplace does not push out small businesses and render them unable to compete.

In the last couple of years, some sweeping mergers and acquisitions have taken place. Just recently, it was reported that 500 jobs are being cut as a result of last year's United—Continental merger. As we face a high unemployment rate, and Americans struggle to make ends meet, every job counts. We should be investigating the outcomes of mergers such as United—Continental, amongst others, to ensure that no more precious jobs are being lost.

Many of my colleagues on the other side of the aisle have stood up here and emphasized the importance of jobs for American workers—especially in the context of immigration debates. However, one of the largest contributors to the lack of employment opportunities here in American is the outsourcing of jobs to other countries where the labor is less expensive. We should be focusing our efforts on ways to return outsourced jobs to American soil.

In addition to jobs, the safety of the American people should be a priority. We should be spending time ensuring our prisons are safe. According to the Federal Bureau of Prisons, federal prisons now house more convicted international and domestic terrorists than the Guantanamo Bay detainment camp. To ensure the safety and security of our prisons, the ratio of employees to inmates is key. Hiring freezes within the Federal Bureau of Prisons coupled with rising inmate populations has the potential to negatively affect this critical ratio, and therefore threaten the safety and security of our prisons. By addressing the employee to inmate ratio, we are securing our Nation and creating more jobs for America.

Bottom line, the judicial branch has a large responsibility. They carry on their shoulders the needs of the American people. We should not further burden the Judiciary with the work that an entire branch of government has already been commissioned to do, especially since Congress still has oversight authority.

For each one of us, the needs of the constituents in our districts should be our priority. The needs of the American people as a whole should be our priority. And for these reasons, I urge my colleagues to support my amendment to H.R. 3010.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

One problem in rulemaking is the practice of agencies to negotiate regulations behind closed doors with a few interested parties, then propose and adopt a predetermined rule.

To help cure this problem, the bill requires advanced notice of major and high-impact rules that agencies may propose. These are the rules that cost $100 million or $1 billion or more respectively.

The advance notice requirement ensures that those who bear the costs of these high-cost regulations have an opportunity to shape agency decisions before they become entrenched in predetermined rulemaking proposals. It also dramatically increases the transparency of the most important agency rulemakings; and, of course, if emergency rules were needed, advance notice may be waived.

The amendment, on the other hand, makes advance notice discretionary, not mandatory, with the agencies. That guarantees that advance notice will rarely be used. It eliminates much needed transparency, and it only helps those who negotiate rules behind closed doors, then ram deals through the rulemaking process, ignoring public comment.

The amendment may arise from a concern that advance notice not unduly slow down emergency rules. If that is the case, there is no need for concern. Like the existing Administrative Procedure Act, the bill allows agencies to issue emergency rules before they complete ordinary procedure.

I urge my colleagues to oppose the amendment. It hurts the bill. It hurts the process.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

It is the Chair's understanding that amendment No. 4 will not be offered.

AMENDMENT NO. 5 OFFERED BY MR. CONNOLLY OF VIRGINIA

The CHAIR. It is now in order to consider amendment No. 5 printed in part B of House Report 112–296.

Mr. CONNOLLY of Virginia. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 34, insert after line 19 the following, and redesignate provisions accordingly:

**SEC. 9. EXEMPTION FOR CERTAIN RULES AND GUIDANCE.**

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 553a (as inserted by section 4 of this Act) the following new section:

**"§ 553b. Exemption for certain rules and guidance**

''Sections 551, 553, 556, 701(b), 704, and 706, as amended by the Regulatory Accountability Act of 2011, and section 553a shall not apply in the case of any proposed rule, final rule, or guidance that relates to the safety of food, the safety of the workplace, air quality, the safety of consumer products, or water quality. Sections 551, 553, 556, 701(b), 704, and 706, as in effect before the enactment of the Regulatory Accountability Act of 2011, shall continue to apply, after such enactment, to any such proposed rule, final rule, or guidance, as appropriate.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following new item:

''553b. Exemption for certain rules and guidance.''.

The CHAIR. Pursuant to House Resolution 477, the gentleman from Virginia (Mr. CONNOLLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. CONNOLLY of Virginia. Thank you, Mr. Chairman.

H.R. 3010, seductively titled the Regulatory Accountability Act, would block every single new or pending Federal regulation, including those regulations which Congress has already directed agencies to write. This bill would neuter the Dodd-Frank Wall Street reforms protecting consumers; it would block tougher food safety oversight responding to last year's salmonella outbreak; and it would gut public health laws, jeopardizing clean air and water and workplace safety. It would effectively repeal 25 separate public health, consumer protection, and environmental laws Congress has already passed. No wonder the Statement of Administration Policy noted that the President would veto the bill if passed.

With this legislation, the House Republican leadership has now attempted to pass more than 170 pieces of legislation, riders and amendments to attack public health and the environment; but H.R. 3010's impacts would not stop here.

The Consumer Financial Protection Bureau and Securities and Exchange Commission would not be able to implement consumer protections mandated by law, including commonsense rules like prohibiting investment banks from betting against their own clients on the stock market. The EPA would not be able to complete the toxic air pollution control rule which Congress directed it to implement 21 years ago. Our regulatory system already is so slow that this critical public health standard, which would reduce mercury and arsenic pollution, has been taking since 1990 to develop. Apparently taking two decades to limit mercury pollution is much too fast for the sponsors of this bill.

This bill uses seemingly innocuous requirements to create a tangle of red tape so thick that it would be impossible for any Federal agency, frankly, to issue meaningful regulations ever again.

This bill uses several clever provisions to create regulatory gridlock. The first seems harmless. It requires

agencies to use the lowest-cost requirement when issuing regulations. It directs agencies to consider alternative regulatory approaches proposed by industry. This model emulates the structure of the Toxic Substances Control Act, which provides a case study for failed environmental legislation. Like this bill, the Toxic Substances Act requires regulations to adhere to the lowest-cost solution. What's wrong with that?

For this reason, polluters have been successful in challenging almost every proposed regulation on the premise that there are lower-cost alternatives. For example, asbestos. Despite its well-documented health hazard as a known carcinogen, it's still legal to use asbestos in America unlike in 50 other advanced countries, because asbestos manufacturers challenged the EPA's ban on asbestos and won the case in court when they showed that prohibiting asbestos was not the lowest-cost regulatory option.

The Toxic Substances Act is so ineffective that in its 35 years, a mere five of 22,000 potentially toxic chemicals have actually been regulated under its authority. This bill would require regulatory agencies to analyze every single alternative proposed by industry—a Sisyphean task that would effectively preclude any new regulation from ever again being issued against recalcitrant polluters.

The other clever provision of this bill which also appears innocuous is the requirement that agencies perform a cost-benefit analysis for every regulatory alternative, even spurious ones, proposed by industry. Of course, Congress wants agencies to consider both the cost and benefits of regulations. That's why agencies already do provide full cost-benefit analyses of proposed regulations. Requiring agencies to waste time analyzing every, even spurious, industry alternatives indefinitely delays any additional regulation.

There are only two differences between this bill and the majority's previous attacks on the environment. First, because of its broad scope, this bill would be more destructive; and, second, its clever language conceals how thoroughly it would eviscerate regulatory agencies.

That is why I have introduced this amendment, Mr. Chairman, to exempt public health and safety laws from the purview of this bill. The Republican leadership claims it supports public health and safety. Well, let's give them the opportunity to prove it.

I urge my colleagues to support this commonsense amendment to protect public health and safety. Without this change, this so-called Regulatory Accountability Act guts the important public health, safety, and consumer protection standards we have long counted on in this country; and it would, in fact, not hold industry accountable for any of its future actions.

With that, Mr. Chairman, I yield back the balance of my time.

□ 1040

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. The amendment carves out of the bill essential sectors or regulation and guidance. These include all rules and guidance documents on food safety, workplace safety, consumer product safety, clean water, and clean air. In many cases, these are precisely the agency actions that impose the most cost without producing enough benefits. A good example is the Environmental Protection Agency's recent proposal to control mercury emissions from coal- and oil-fired power plants. EPA estimated that the rule would cost $11 billion annually to achieve; at most, just $6 million in total mercury reduction benefits. That's a cost-to-benefit ratio of almost 1,200:1.

Proponents of regulation have nothing to fear from the bill's provisions to prevent excessively costly rules like this. The bill always allows agencies to achieve the statutory objectives Congress has set. Those objectives include protection of food, workplace, and consumer safety, as well as of clean air and clean water. All the bill requires is that agencies consider the cost and benefits of regulatory alternatives and, wherever possible, adopt the least-cost regulation that achieves that goal.

If a costlier rule's benefits justify its additional cost and the rule is needed to protect public health, safety, and welfare, the agency may adopt it. The agency just needs to show that the public health, safety, and welfare interest it seeks to protect are within the scope of the statutory provision that authorizes the regulation itself.

That is balanced reform that protects public health, safety, and welfare and the American economy and the American taxpayers and the small business owners of America.

I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. CONNOLLY).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. NADLER

The CHAIR. It is now in order to consider amendment No. 6 printed in part B of House Report 112–296.

Mr. NADLER. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 34, insert after line 20 the following, and redesignate provisions accordingly:

**SEC. 9. EXEMPTION FOR CERTAIN RULES AND GUIDANCE.**

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 553a (as inserted by section 4 of this Act) the following new section:

**"§ 553b. Exemption for certain rules and guidance**

"Sections 551, 553, 556, 701(b), 704, and 706, as amended by the Regulatory Accountability Act of 2011, and section 553a shall not apply in the case of any proposed rule, final rule, or guidance made by the Nuclear Regulatory Commission under the Atomic Energy Act (42 U.S.C. 2011, et seq.). Sections 551, 553, 556, 701(b), 704, and 706, as in effect before the enactment of the the Regulatory Accountability Act of 2011, shall apply to such proposed rules, final rules, or guidance, as appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following new item:

"553b. Exemption for certain rules.".

The CHAIR. Pursuant to House Resolution 477, the gentleman from New York (Mr. NADLER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. NADLER. Mr. Chairman, I yield myself 4 minutes.

My amendment would exempt rules proposed by the Nuclear Regulatory Commission from the new impediments to the regulations in this bill.

Mr. Chairman, there they go again. The right-wing Republican House majority is practicing more voodoo economics. This time it's the belief that overregulation is the cause of our slow economic growth and high unemployment rate. There is no evidence to support this position—none. In actuality, according to the Economic Policy Institute, "economy-wide studies do not find a significant decline in employment from regulatory policies." And some regulations actually create jobs due to regulatory compliance.

More broadly, findings from the Office of Management and Budget in both Republican and Democratic administrations show the benefits of regulations far outweigh their costs. Most recently, OMB found that the benefits from major rules issued between 2001 and 2010 yielded benefits ranging from $136 billion to $651 billion and imposed costs of between $44 billion and $62 billion.

Despite these facts, the right-wing Republican House leadership presses ahead with what it calls regulatory reform. Today's bill, H.R. 3010, in the name of so-called reform, adds over 60 new procedural and analytical hoops agencies and departments must jump through before a regulation can be issued. The result is to impede, obstruct, and delay the attempt of government to accomplish one of its most basics functions—protecting the health and welfare of our people.

Not surprisingly, groups who care about protecting public safety, health, and the environment, such as the Natural Resource Defense Council, Public

Citizen, Defenders of Wildlife, and U.S. PIRG, oppose this bill. According to the Coalition for Sensible Safeguards, which represents a coalition of many such groups, this bill ''will grind to a halt the rulemaking process'' and ''is nothing less than an attempt to roll back critical public safeguards and promote industry interests ahead of protecting American citizens.''

Americans should rightfully be scared that this bill will put their health and safety at risk. One example that highlights this is the subject of this amendment—nuclear power. The risks and dangers of nuclear power were made all the more clear this year. In Japan, we all watched in horror when that country was devastated by a meltdown of the Fukushima nuclear power plant. We are now told that over 10 percent of the land of that country will be unusable for decades. Later, Virginia was struck by a relatively rare but strong earthquake felt up and down the eastern seaboard. It caused a nuclear power plant near the epicenter to have to go offline.

Because of the catastrophes that can result from disasters, be they natural or manmade, at nuclear power plants, prevention of meltdowns is the key. That's why I'm a cosponsor of H.R. 1242, the Nuclear Power Plant Safety Act of 2011, sponsored by Representative MARKEY, which is designed to help do that. Among other changes, it would require the NRC to impose rules requiring plants to upgrade to withstand severe events, like earthquakes, and to have enough backup power so as to avoid a meltdown for a significant length of time.

The NRC must have the ability and flexibility to impose new regulations quickly to safeguard the health and well-being of Americans. Impeding the Nuclear Regulatory Agency's ability to regulate will not save one job, but it might cost millions of lives in the event of a disaster. Sadly, this bill makes the ability to regulate nuclear power plants all but impossible.

For me, this concern hits close to home. A nuclear power plant at Indian Point about which many people, including myself, have had concerns for years lies less than 40 miles from the center of New York City, in my district. There are 20 million people living within a 50-mile radius around the plant, the same radius used by the NRC as the basis for the evacuation recommended after the Fukushima disaster. Indian Point sits near two earthquake fault lines and according to NRC is the most likely nuclear power plant in the country to experience more damage due to an earthquake.

To keep my constituents and, indeed, all Americans safe, I'm offering this amendment today. It would exempt the Nuclear Regulatory Commission from the onerous new requirements for rulemaking imposed by this bill. With this amendment, the NRC would have the ability to safeguard public health and safety as it should. We must pass this amendment so that rulemaking for nuclear disaster is not impeded.

I urge the passage of this amendment, and I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, does the gentleman from New York have any time remaining?

The CHAIR. The gentleman has 1 minute remaining.

Mr. SMITH of Texas. I am prepared to close; so I reserve the balance of my time.

The CHAIR. The Chair recognizes the gentleman from New York.

Mr. NADLER. Mr. Chairman, the argument for this amendment is very simple. This bill would make it almost impossible—by putting 60 new requirements in the way of agencies to make new rules, would make it almost impossible for rulemaking and, in fact, especially for emergency or safety rulemaking in the event that we perceive the necessity for such a thing.

At least for nuclear power plants, the potential for disaster, the potential for killing mass numbers of people, we have seen. We've seen it at Chernobyl. We've seen it at Three Mile Island. We've seen it at Fukushima. At least for that situation, allow the government rulemaking agency to continue to have the power to protect our people.

A vote for this amendment is a vote to continue to have the government have the power to protect our people. A vote against this amendment and for this bill is a vote to put the lives of all our people at risk and to prevent the government from protecting the lives of our people, and it would be almost an immoral vote.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

The amendment creates a special carve-out from the legislation's requirements for regulations and guidance of the Nuclear Regulatory Commission. Regulation of the nuclear power industry, however, should go through the same rulemaking process as other regulations. In this way, all interested parties will have the best opportunity to test their assumptions about nuclear power and nuclear waste.

Perhaps the amendment is motivated by a concern that the legislation could prevent the Nuclear Regulatory Commission from issuing emergency rules and guidance or rules that adequately protect public safety. That concern, however, is unfounded. The legislation preserves agencies' ability to make interim-final rules for ''good cause.'' This exception certainly would cover emergency rules from the Commission.

The bill also allows agencies to adopt alternatives to least-cost regulations if interests of public health, safety, or welfare require costlier rules. Only two conditions need to be satisfied: First, the costlier rule must produce benefits that justify the additional cost; second, the benefits must serve public health, safety, or welfare interests within the scope of the statutory provision that authorizes the regulation.

□ 1050

Surely the Nuclear Regulatory Commission and any other agency can adequately protect public health, safety, and welfare within those conditions.

I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 7 OFFERED BY MS. JACKSON LEE OF TEXAS

The CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 112–296.

Ms. JACKSON LEE of Texas. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 34, insert after line 20 the following, and redesignate provisions accordingly:

**SEC. 9. EXEMPTION FOR CERTAIN RULES AND GUIDANCE.**

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by inserting after section 553a (as inserted by section 4 of this Act) the following new section:

**''§ 553b. Exemption for certain rules and guidance**

''Sections 551, 553, 556, 701(b), 704, and 706, as amended by the Regulatory Accountability Act of 2011, and section 553a shall not apply in the case of any proposed rule, final rule, or guidance made by the Secretary of Homeland Security. Sections 551, 553, 556, 701(b), 704, and 706, as in effect before the enactment of the the Regulatory Accountability Act of 2011, shall apply to such proposed rules, final rules, or guidance, as appropriate.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 5, United States Code, is amended by inserting after the item relating to section 553 the following new item:

''553b. Exemption for certain rules.''.

The CHAIR. Pursuant to House Resolution 477, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. I thank the chairman very much.

I think it's important to reinforce to our colleagues that many of us are on the floor of the House this morning as these bills have come through the Judiciary Committee, and I am just struck

by the fact that I'm trying to reflect on the vast reach that these bills have taken up. We even have another bill just like this next week. And I'm, for the life of me, trying to reflect on where the data is that these bills are going to create jobs or that there is a problem. And that is what the task of the Members of the United States Congress is. This body and the other body, we are to come as part of the people's House and solve problems.

For example, I am going to be calling for hearings on the heinous actions of sexual abuse against our children in institutions such as Penn State and Syracuse and places around this country that are probably yet uncovered and yet undiscovered. That is a problem, our children being abused, sexually abused, and the vileness of the coverup.

We're sent here to solve problems. And frankly, I am concerned that H.R. 3010 does not solve a problem. I'd rather be addressing the vileness of sexual abuse as an epidemic across this Nation. But today we are here with a regulatory bill and no evidence that anybody has been disturbed by the regulations that have been put in place to save the lives of the American people.

So my amendment is a simple one again. Having been on Homeland Security since its origins—meaning the committee—and before the Department was even created as a member of the Select Committee on Homeland Security, having gone to Ground Zero, and as I reflect seeing the smoke still billowing from the ashes and looking at the rescue and recovery teams—they had not yet stopped seeking to recover those who tragically were in the midst of this hellish quagmire of terrorism. How can you not see the reason in waiving this bill or exempting all rules promulgated by the Department of Homeland Security? It is the newest department. It has the greatest scrutiny in place for the kinds of regulations that are involved.

Since the creation of the Department of Homeland Security in 2002, we have overhauled the government in ways never done before. Steps have been taken to ensure that the communication failures that led to 9/11 do not happen again. The Department of Homeland Security has helped push the United States forward in being innovative in protecting our Nation. Don't stifle that. Don't block us from stopping Times Square bombers and shoe bombers and Christmas day bombers that would impact the American people. Don't stop us from helping the Coast Guard do its duty, dealing with the travails of the waterways of America, the many huge ports that would open their doors to heinous acts with cargo. That's what they're telling us to do by making sure homeland security, securing the Nation has to be subjected to these amendments.

I know about the vulnerabilities in security firsthand. We see these all the time. There are 350 major ports. They need to do their work. They don't need to be stifled by a legislative scheme that puts in place 60 new provisions to get a regulation out. How insane.

Help us secure America. I'm asking my colleagues to support my amendment.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. I am prepared to close; so I reserve the balance of my time.

The CHAIR. The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. What does my amendment do? It simply says that if it is a regulation dealing with the securing of the American people, it is exempted from 60 barriers, look-sees, delaying tactics, long-windedness that would prevent that regulation from coming through to help the likes of the Coast Guard do its job, Customs and Border Patrol do its job, ICE do its job, the TSA, dealing with aviation security, do its job.

How clearer do we need to be? With cities and towns across the Nation facing threats indeed every day, ensuring the security of the homeland requires the interaction of multiple departments and agencies as well as operational collaboration across Federal, State, local, tribal and territorial governments, nongovernmental organizations, and the private sector. How in the world can we do our job and protect the American people? How can we provide small businesses with the opportunity for new technology procurement by layering and layering their ability to get this done?

I ask my colleagues to stand with me in supporting the homeland and Homeland Security. Vote for the Jackson Lee amendment that exempts Homeland Security regulations. But once and for all, let's be bipartisan on securing and protecting the American people.

Mr. Chair, I rise today in support of my amendment to H.R. 3010 the "Regulatory Accountability Act of 2011," which would amend the Administrative Procedure Act. This measure would require that all agencies default to the least costly rule unless it can demonstrate that the additional benefits of the more costly rule justify the additional costs, and the agency offers a public health, safety, environmental, or welfare justification clearly drawn from the authorizing statute.

The Regulatory Accountablity Act of 2011 (RAA) formally codifies the cost-benefit analysis process. The bill overrides existing statutory standards in laws such as the Clean Air Act, Clean Water Act, and the Occupational Safety and Health Act. In addition, this measure will significantly slow the regulatory process, increase costs, and burden an already taxed judicial system.

As a Senior Member of the Homeland Security and Ranking Member of the Transportation Security Subcommittee, I am very concerned about any legislation that would hinder the Department of Homeland Security's ability to respond to an emergency, which is why the Department of Homeland Security (DHS) should be exempt from this legislation.

This bill delays the promulgation of federal regulations, and delays a federal agency's ability to issue regulations when responding to an emergency and grants the Small Business Administration's (SBA) Office of Advocacy additional authority to intervene in agency rulemaking, without providing additional funding. Further, H.R. 3010 repeals an agency's authority to waive regulatory analysis during an emergency.

The bill would add new review requirements to an already long and complicated process, allowing special interest lobbyists to second-guess the work of respected scientists and staff through legal challenges, sparking a wave of litigation that would add more costs and delays to the rulemaking process, potentially putting the lives, health and safety of millions of Americans at risk.

The Department of Homeland Security simply does not have the time to be hindered by frivolous and unnecessary litigation, especially when the safety and security of the American people are at risk.

According to a study conducted by the Economic Policy Institute, public protections and regulations "do not tend to significantly impede job creation," and furthermore, over the course of the last several decades, the benefits of federal regulations have significantly outweighed their costs.

There is no need for this legislation, aside from the need of some of my colleagues to protect corporate interests. This bill would make it more difficult for the government to protect its citizens, and in the case of the Department of Homeland Security, it endangers the lives of our citizens.

In our post 9/11 climate, homeland security continues to be a top priority for our nation. As we continue to face threats from enemies foreign and domestic, we must ensure that we are doing all we can to protect our country. The Department of Homeland Security cannot react to the constantly changing threat landscape effectively if they are subject to this bill.

Since the creation of the Department of Homeland Security in 2002, we have overhauled the government in ways never done before. Steps have been taken to ensure that the communication failures that led to 9/11 do not happen again. The Department of Homeland Security has helped push the United States forward in how to protect our nation. Continuing to make advances in Homeland Security and intelligence is the best way to combat the threats we still face.

Hindering the ability of DHS to make changes to rules and regulations puts the entire country at risk. As the Representative for the 18th District of Texas, I know about vulnerabilities in security firsthand. The Coast Guard, under the directive of the Department of Homeland Security, is tasked with protecting our ports of entry. Of the 350 major ports in America, the Port of Houston is the one of the busiest.

More than 220 million tons of cargo moved through the Port of Houston in 2010, and the port ranked first in foreign waterborne tonnage for the 15th consecutive year. The port links Houston with over 1,000 ports in 203 countries, and provides 785,000 jobs throughout the State of Texas. Maritime ports are centers of trade, commerce, and travel along our nation's coastline, protected by the Coast Guard, under the direction of DHS.

If Coast Guard intelligence has evidence of a potential attack on the port of Houston, I want the Department of Homeland Security to be able to protect my constituents, by issuing the regulations needed without being subject to the constraints of this bill.

The Department of Homeland Security deserves an exemption not only because they may need to quickly change regulations in response to new information or threats, but also because they are tasked with emergency preparedness and response.

There are many challenges our communities face when we are confronted with a catastrophic event or a domestic terrorist attack. It is important for people to understand that our capacity to respond to a terrorist attack in Texas or New York, an earthquake in California, or a nationwide pandemic flu outbreak is crucial to the security of the American people.

On any given day the City of Houston and cities across the United States face a widespread and ever-changing array of threats, such as terrorism, organized crime, natural disasters and industrial accidents.

Cities and towns across the nation face these and other threats. Indeed, every day, ensuring the security of the homeland requires the interaction of multiple Federal departments and agencies, as well as operational collaboration across Federal, State, local, tribal, and territorial governments, nongovernmental organizations, and the private sector. We can hinder the Department of Homeland Security's ability to protect the safety and security of the American people.

This bill expands the review that agencies must conduct before issuing new regulations and the review they must conduct of existing rules to include an evaluation of the ''indirect'' costs of regulations, and grants the SBA authority to intervene in agency rulemaking. The measure also expands the ability of small businesses and other small entities impacted by an agency's regulations to challenges to those rules in court.

Under current law, the process already takes as long as eight years to complete. Given the nature of its mission, the Department of Homeland Security is the last agency that needs to be subject to more levels of regulation and scrutiny. Some advocates groups also have expressed concern that by extending the rule-making process, regulatory uncertainty could increase, which may make it more cost effective for agencies to seek enforcement through the courts, and thereby reduce the public's ability to participate in the process.

These costs add to the cost of doing business with the Department of Homeland Security, and eat away at the profits of our businesses, particularly our small businesses which often are not as equipped to absorb additional costs. Moreover, many businesses dealing with national security have higher costs because of expensive equipment, and as such are already working with lower profit margins.

The prolonged or indefinite delay of these life saving regulations threaten the security, stability, and the delivery of vital services to the American people. I cannot speak for my colleagues on the other side of the aisle, but I certainly do not want to slow the promulgation of regulations to a drip.

I have offered this amendment to mitigate the uncertainty regarding federal laws and rulemaking in the area of national security because of the increased urgency when dealing with these often sensitive matters. The Department of Homeland Security is the newest federal agency, and as such already is subject to pioneering levels of oversight and scrutiny.

I urge the Committee to make my amendment in order to ensure that life saving regulations promulgated by the Department of Homeland Security are not unnecessarily delayed by this legislation.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

This amendment seeks to shield the Department of Homeland Security from the bill's urgently needed rulemaking reforms. There is no good reason to provide that shield.

For example, take the Department's rules to extend compliance deadlines for States to issue secure drivers' licenses under the Real ID Act. Ten years after 9/11 hijackers used fraudulent licenses to board airplanes used to murder 3,000 innocent Americans, the Department of Homeland Security continues to extend the deadline. Clearly, the Department of Homeland Security should not be exempt from the bill's provisions.

I urge my colleagues to oppose the amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. JACKSON LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part B of House Report 112–296 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Ms. MOORE of Wisconsin.

Amendment No. 3 by Ms. JACKSON LEE of Texas.

Amendment No. 5 by Mr. CONNOLLY of Virginia.

Amendment No. 6 by Mr. NADLER of New York.

Amendment No. 7 by Ms. JACKSON LEE of Texas.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MS. MOORE

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Wisconsin (Ms. MOORE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 187, noes 232, not voting 14, as follows:

[Roll No. 882]

AYES—187

Ackerman
Altmire
Andrews
Baldwin
Barrow
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Dold
Donnelly (IN)
Doyle
Edwards
Ellison
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gibson
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Ross (AR)
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Webster
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—232

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Austria
Bachus
Barletta
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher

Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Harper
Harris
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—14

Baca
Bachmann
Braley (IA)
Emerson
Engel
Filner
Giffords
Hanna
Hartzler
Labrador
Paul
Schilling
Sessions
Young (AK)

□ 1126

Ms. HERRERA BEUTLER and Mr. GOODLATTE changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chair, on rollcall 882, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted ''aye.''

AMENDMENT NO. 3 OFFERED BY MS. JACKSON LEE OF TEXAS

The Acting CHAIR (Mr. BASS of New Hampshire). The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 162, noes 250, not voting 21, as follows:

[Roll No. 883]

AYES—162

Ackerman
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—250

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Amodei
Austria
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Chandler
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costa
Cravaack
Crawford
Crenshaw
Critz
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Harper
Harris
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Holden
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kissell
Kline
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Rahall
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—21

Baca
Bachmann
Bachus
Braley (IA)
Clay
Emerson
Engel
Filner
Giffords
Hanna
Hartzler
Johnson (GA)
Labrador
Paul
Perlmutter
Schakowsky
Schilling
Sessions
Terry
Waters
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1130

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chair, on rollcall 883, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted ''aye.''

AMENDMENT NO. 5 OFFERED BY MR. CONNOLLY OF VIRGINIA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. CONNOLLY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 171, noes 242, not voting 20, as follows:

[Roll No. 884]

AYES—171

Ackerman
Altmire
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—242

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Austria
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—20

Baca
Bachmann
Berg
Braley (IA)
Ellison
Emerson
Engel
Filner
Giffords
Hartzler
Honda
Marchant
Paul
Perlmutter
Ribble
Rigell
Schilling
Sessions
Sires
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining in this vote.

□ 1133

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chair, on rollcall 884, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "aye."

Stated against:

Mr. BERG. Mr. Chair, on rollcall No. 884, had I been present, I would have voted "no."

AMENDMENT NO. 6 OFFERED BY MR. NADLER

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 174, noes 247, not voting 12, as follows:

[Roll No. 885]

AYES—174

Ackerman
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kinzinger (IL)
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—247

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Amodei
Austria
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costa
Cravaack
Crawford

Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—12

Baca
Bachmann
Braley (IA)
Emerson
Engel
Filner
Giffords
Hartzler
Paul
Schilling
Sessions
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There is 1 minute remaining.

□ 1138

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chair, on rollcall No. 885, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "aye."

AMENDMENT NO. 7 OFFERED BY MS. JACKSON LEE OF TEXAS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 175, noes 247, not voting 11, as follows:

[Roll No. 886]

AYES—175

Ackerman
Altmire
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gibson
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Shuler
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—247

Adams
Aderholt
Akin
Alexander
Amash
Amodei
Austria
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costa
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Perlmutter
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schrader
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (FL)
Young (IN)

NOT VOTING—11

Baca
Bachmann
Braley (IA)
Emerson
Filner
Giffords
Hartzler
Paul
Schilling
Sessions
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (Mr. WESTMORELAND) (during the vote). There is 1 minute remaining.

□ 1142

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chair, on rollcall 886, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "aye."

The Acting CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The Acting CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BASS

of New Hampshire) having assumed the chair, Mr. WESTMORELAND, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 3010) to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, and, pursuant to House Resolution 477, reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. BOSWELL. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BOSWELL. I am opposed in its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Boswell moves to recommit the bill H.R. 3010 to the Committee on the Judiciary with instructions to report the same back to the House forthwith, with the following amendment:

Add at the end of the bill the following:

**SECTION ____. GUARANTEEING THE LOWEST PRESCRIPTION DRUG PRICES FOR SENIORS.**

This Act and the amendments made by this Act shall not apply to new regulations or the revision of existing regulations that reduce costs or increase coverage for pharmaceuticals and other health services for seniors, or efforts by the Secretaries of Health and Human Services, Veterans Administration, and Defense to negotiate lower prescription drug prices.

The SPEAKER pro tempore. The gentleman from Iowa is recognized for 5 minutes.

Mr. BOSWELL. Thank you, Mr. Speaker.

My motion to recommit will provide both parties with the opportunity to come together to save hundreds of millions of dollars, rein in Federal spending, and support America's seniors, America's troops, and America's veterans.

Let me be clear. The passage of this amendment will not prevent the passage of the underlying bill. If it's adopted, my amendment will be incorporated into the bill and the bill will be immediately voted upon.

The amendment is direct and incredibly important. Simply put, it will prevent the underlying bill from creating regulatory hurdles for low-cost drugs. Day in and day out, we talk about spending in this country and, particularly, in this Congress. Well, my amendment gives the Chamber the chance to rein in one of the greatest culprits of our out-of-control spending—health care.

Today, health care spending is more than 17 percent of our Nation's GDP, a number so massive that a 5-point reduction would save Americans $870 billion. Medicare part D covers 29.5 million Medicare beneficiaries. So how do we pay for prescription drugs? Eighty-three percent of Medicare part D funds come from our Nation's general revenue, and CBO has estimated that America's Medicare part D spending will total approximately $53 billion in 2012. That's quite an incentive to pay for drugs wisely and efficiently. This amendment helps us do just that.

First, it protects current and future regulations that lower the cost of pharmaceuticals from being hindered by the underlying bill. We have done too much to support America's seniors and improve health care today to let regulations increase costs on our citizens or jeopardize their access to care.

Nationwide, we have provided greater access to health services for Medicare beneficiaries and reduced their costs by allowing access to discounted drugs in Medicare part D. We sent checks to seniors this year who hit the part D doughnut hole, and we made a commitment to close it by 2020. We must continue to aid our seniors and reduce the cost of their medicine, but we must also reduce this cost for our Nation.

The second part of the amendment ensures that this bill will not prevent the Secretaries of Defense, Veterans Affairs, or Health and Human Services from negotiating for lower drug prices. Military health care covers the needs of more than 9 million individuals, ranging from Active Duty, their families, and veterans. Fortunately, the Secretaries of the Department of Defense and the VA have the authority to negotiate with companies on the price of drugs. We must protect their ability to serve the millions of needs of military members—Active Duty and retired—and their families who have served our Nation.

Not only will this amendment defend the right of these agencies to ensure the best prices for our veterans and military families, it will protect any future provision that would provide the Secretary of Health and Human Services that same power to serve nearly 30 million Medicare part D beneficiaries and make medicine more affordable.

Our constituents know what a driving force health costs are in our Nation's spending crisis. They feel it every day in their own homes and do all they can to get by.

My own constituent, Jan, in Des Moines, recently wrote to tell me that she is ''concerned about the prices of medicine in our country, as it's often the biggest part of most citizens' out-of-pocket health care costs.''

Echoing her concerns in a small town, Donna wrote, ''Countless Americans can't afford to buy medications in the U.S. and yet cannot afford to go without them.''

These constituents and many more told me that if we could pass legislation to lower the cost of medicine that ''it would be extremely popular with your constituents, and it would be easy to garner bipartisan support.''

I agree with my constituents. We should do this. I hope that you will support this, bring it back, and let's pass it, and let's be sure that we do the best we can to help our seniors, our military with military families, and our veterans.

I yield back the balance of my time.

Mr. GRIFFIN of Arkansas. I rise in opposition to the motion, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. GRIFFIN of Arkansas. Thank you.

Eleven months ago on the floor of this House, the President of the United States promised the American people to ''reduce barriers to growth and investment. When we find rules that put an unnecessary burden on businesses, we will fix them.''

Those are the words of the President of the United States in this body. I couldn't agree more. That very month, the President issued an Executive order that said, ''Our regulatory system must promote economic growth, innovation, competitiveness, and job creation.''

□ 1150

I couldn't agree with the President more. The President said our regulatory system ''must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends,'' and that it ''must take into account benefits and costs.''

I couldn't agree with the President more. He was right. The President's words were correct. He was right when he spoke here. When our regulatory system doesn't meet this standard—the President's supposed standard—it kills jobs, suppresses economic growth, and locks us ever further into stagnation.

We see the evidence all around us. I recently hosted a jobs conference in Little Rock, in my district, at the President Clinton Library, which brought together a diverse group of over 60 private sector job creators. They were there to discuss how Federal policies affect their ability to succeed in the marketplace. The job creators that I heard from in Little Rock that day overwhelmingly agreed and were of one voice, almost unanimous: the Obama administration's over-regulation of the private sector injects uncertainty into the market, which stifles job creation.

One of my constituents, Susan Gunaca, a constituent of mine who owns a number of International House

of Pancakes restaurants, said this, ''As a business owner today, I am in a constant posture of defense.''

Let me be more specific. Some of the jobs conference participants worked for companies that provide low-cost electricity to Arkansas families and businesses, but even their mission is under siege by the Obama administration's EPA, which is intent on forcing some power plants offline. The compressed timeline for many recently issued regulations requires too much in too short a timeframe for these electricity providers to comply.

Sandra Hochstetter Byrd of the Arkansas Electric Cooperatives put it this way: ''As a for instance, the two most prominent rules, Utility MACT and the Clean Air Visibility Rule, could actually cause us to have to shut down our coal plants if they're not extended.'' If plants get shut down, electricity costs will go up and more jobs will be lost.

We will not sit idly by and watch as this administration kills jobs in Arkansas or in any other State in this great country. The President hasn't been to Arkansas in a long, long time; but I would be happy to show him the impact of over-regulation firsthand.

Republicans in Congress took the President at his word on regulatory reform to heart. We said, Hey, you're right, Mr. President. We're going to do something about it. We saw the evidence of overly burdensome regulations all around us. So what did we do? We got to work. We wrote a bill, the Regulatory Accountability Act, to reform a regulatory system so that it does exactly what the President said it should do.

We built the bill on the very terms of President Obama's Executive order. It calls on agencies to consider the benefits and the costs before they regulate. It calls on agencies to use the best reasonably available science. It calls on agencies to ''use the best, most innovative, and least burdensome tools for achieving regulatory ends.'' And it does so while ensuring that agencies will achieve every single statutory objective Congress sets before them.

Recognizing the soundness and goodwill of this effort, several of our Democratic colleagues joined us to cosponsor this bill. A bipartisan group of Senators introduced companion legislation in the Senate.

It's time to adopt this legislation. It's time for the President to match his actions to his words by signing this bill.

But today, when this legislation comes before us, we hear a different story from too many on the other side of the aisle. When legislation comes to the floor of this House that will at one and the same time protect the American public and free business from unnecessary shackles on job creation, we hear a different tune.

When it's time to really take action to help America's job creators, many of my colleagues on the other side of the aisle run from their responsibilities to protect a regulatory status quo that is killing job creation as we speak. Mr. Speaker, if you want to know how to create jobs, then just ask job creators. If you want to know what's stifling job growth, ask the job creators. They know. It's their job to know. They will tell you to pass this bill now.

When we have the opportunity to pass regulatory reform, President Obama shows his true colors: All talk, and no action. What a shame. He threatens to veto a bill that is built directly on the terms of his own executive order on regulation. He threatens to veto the very bill that would make his own words permanent for the benefit of the Nation.

And this political motion to recommit is laid before us in an attempt to assure that the President doesn't have to do what he promised. And it makes no sense because our bill addresses the precise issue of reducing drug costs raised by the minority.

Luckily, the majority of this House will vote to pass this bill. I urge all of my colleagues to support this bill, reject this motion to recommit, and show America that Congress can act for the good of job creators and the Americans who desperately want those jobs.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOSWELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 186, noes 233, not voting 14, as follows:

[Roll No. 887]

AYES—186

Ackerman
Altmire
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Critz
Crowley
Cuellar
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kildee
Kind
Kissell
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Latham
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree (ME)
Polis
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Richmond
Ross (AR)
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schiff
Schrader
Schwartz
Scott (VA)
Scott, David
Serrano
Sewell
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOES—233

Adams
Akin
Alexander
Amash
Amodei
Austria
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Carter
Cassidy
Chabot
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cravaack
Crawford
Crenshaw
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kline
Labrador
Lamborn
Lance
Landry
Lankford
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Palazzo
Paulsen
Pearce
Pence
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton

Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

NOT VOTING—14

Aderholt
Baca
Bachmann
Braley (IA)
Emerson
Filner
Franks (AZ)
Giffords
Hartzler
Paul
Sanchez, Loretta
Schilling
Sessions
Smith (NJ)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1212

Mr. MATHESON changed his vote from ''aye'' to ''no.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall 887, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "aye."

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 253, noes 167, not voting 13, as follows:

[Roll No. 888]

AYES—253

Adams
Aderholt
Akin
Alexander
Altmire
Amash
Amodei
Austria
Bachus
Barletta
Barrow
Bartlett
Barton (TX)
Bass (NH)
Benishek
Berg
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Black
Blackburn
Bonner
Bono Mack
Boren
Boustany
Brady (TX)
Brooks
Broun (GA)
Buchanan
Bucshon
Buerkle
Burgess
Burton (IN)
Calvert
Camp
Campbell
Canseco
Cantor
Capito
Cardoza
Carter
Cassidy
Chabot
Chaffetz
Coffman (CO)
Cole
Conaway
Costa
Cravaack
Crawford
Crenshaw
Cuellar
Culberson
Davis (KY)
Denham
Dent
DesJarlais
Diaz-Balart
Dold
Donnelly (IN)
Dreier
Duffy
Duncan (SC)
Duncan (TN)
Ellmers
Farenthold
Fincher
Fitzpatrick
Flake
Fleischmann
Fleming
Flores
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gardner
Garrett
Gerlach
Gibbs
Gibson
Gingrey (GA)
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (MO)
Griffin (AR)
Griffith (VA)
Grimm
Guinta
Guthrie
Hall
Hanna
Harper
Harris
Hastings (FL)
Hastings (WA)
Hayworth
Heck
Hensarling
Herger
Herrera Beutler
Huelskamp
Huizenga (MI)
Hultgren
Hunter
Hurt
Issa
Jenkins
Johnson (IL)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Kelly
King (IA)
King (NY)
Kingston
Kinzinger (IL)
Kissell
Kline
Labrador
Lamborn
Lance
Landry
Lankford
Latham
LaTourette
Latta
Lewis (CA)
LoBiondo
Long
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marino
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McKinley
McMorris Rodgers
Meehan
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mulvaney
Murphy (PA)
Myrick
Neugebauer
Noem
Nugent
Nunes
Nunnelee
Olson
Owens
Palazzo
Paulsen
Pearce
Pence
Peterson
Petri
Pitts
Platts
Poe (TX)
Pompeo
Posey
Price (GA)
Quayle
Rahall
Reed
Rehberg
Reichert
Renacci
Ribble
Rigell
Rivera
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rokita
Rooney
Ros-Lehtinen
Roskam
Ross (AR)
Ross (FL)
Royce
Runyan
Ryan (WI)
Scalise
Schmidt
Schock
Schrader
Schweikert
Scott (SC)
Scott, Austin
Sensenbrenner
Sewell
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Southerland
Stearns
Stivers
Stutzman
Sullivan
Terry
Thompson (PA)
Thornberry
Tiberi
Tipton
Turner (NY)
Turner (OH)
Upton
Walberg
Walden
Walsh (IL)
Webster
West
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Womack
Woodall
Yoder
Young (AK)
Young (FL)
Young (IN)

NOES—167

Ackerman
Andrews
Baldwin
Bass (CA)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Brown (FL)
Butterfield
Capps
Capuano
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Cicilline
Clarke (MI)
Clarke (NY)
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Critz
Crowley
Cummings
Davis (CA)
Davis (IL)
DeFazio
DeGette
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Edwards
Ellison
Engel
Eshoo
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Hahn
Hanabusa
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hochul
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kildee
Kind
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meeks
Michaud
Miller (NC)
Miller, George
Moore
Moran
Murphy (CT)
Nadler
Napolitano
Neal
Olver
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Peters
Pingree (ME)
Polis
Price (NC)
Quigley
Rangel
Reyes
Richardson
Richmond
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sarbanes
Schakowsky
Schiff
Schwartz
Scott (VA)
Scott, David
Serrano
Sherman
Sires
Slaughter
Smith (WA)
Speier
Stark
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz (MN)
Wasserman Schultz
Waters
Watt
Waxman
Welch
Wilson (FL)
Woolsey
Yarmuth

NOT VOTING—13

Baca
Bachmann
Braley (IA)
Carnahan
Coble
Emerson
Filner
Giffords
Hartzler
Paul
Sanchez, Loretta
Schilling
Sessions

□ 1223

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. HARTZLER. Mr. Speaker, today, I was unable to vote due to a conflicting obligation in my district. Had I been present, I would have voted as follows:

On rollcall No. 882, "no"; on rollcall No. 883, "no"; on rollcall No. 884, "no"; on rollcall No. 885, "no"; on rollcall No. 886, "no"; on rollcall No. 887, "no"; on rollcall No. 888, "aye."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall 888, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "no."

Mr. HASTINGS of Florida. Mr. Speaker, I mistakenly cast a vote in favor of H.R. 3010, the Regulatory Accountability Act. I would like the Record to reflect that my intent was to vote against this bill.

PERSONAL EXPLANATION

Mr. BRALEY of Iowa. Mr. Speaker, I regret missing floor votes on Friday, December 2, 2011. Had I registered my vote, I would have voted:

"Aye" on rollcall 882, On Agreeing to the Amendment to H.R. 3010—Moore of Wisconsin Amendment;

"Aye" on rollcall 883, On Agreeing to the Amendment to H.R. 3010—Jackson Lee of Texas Amendment;

"Aye" on rollcall 884, On Agreeing to the Amendment to H.R. 3010—Connolly of Virginia Amendment;

"Aye" on rollcall 885, On Agreeing to the Amendment to H.R. 3010—Nadler of New York Amendment;

"Aye" on rollcall 886, On Agreeing to the Amendment to H.R. 3010—Jackson Lee of Texas Amendment;

"Aye" on rollcall 887, On Motion to Recommitment with Instructions, Regulatory Accountability Act; and

"No" on rollcall 888, On Passage Regulatory Accountability Act.

## IN MEMORY OF CONGRESSMAN CARLOS MOORHEAD

(Mr. SCHIFF asked and was given permission to address the House for 1 minute.)

Mr. SCHIFF. Mr. Speaker, I rise to recognize the passing of former Congressman Carlos J. Moorhead.

Carlos Moorhead represented the cities of Pasadena, Burbank, and Glendale for 24 years, from 1972 until 1996.

Prior to coming to Congress, he served for 6 years in the California State Assembly and before that as an attorney in private practice in the city