Cheney
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Cleaver
Coffman
Cohen
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Connolly
Conyers
Cook
Cooper
Correa
Costa
Costello (PA)
Courtney
Cramer
Crawford
Crist
Crowley
Cuellar
Culberson
Cummings
Curbelo (FL)
Davidson
Davis (CA)
Davis, Danny
Davis, Rodney
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
Denham
Dent
DeSantis
DeSaulnier
DesJarlais
Deutch
Diaz-Balart
Dingell
Doggett
Donovan
Doyle, Michael F.
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Ellison
Emmer
Engel
Eshoo
Espaillat
Esty
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foster
Foxx
Frankel (FL)
Franks (AZ)
Frelinghuysen
Gabbard
Gaetz
Gallagher
Gallego
Garamendi
Garrett
Gibbs
Gonzalez (TX)
Goodlatte
Gottheimer
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Green, Gene
Grijalva
Guthrie
Gutiérrez
Hanabusa
Harper
Hartzler
Hastings
Heck
Hensarling
Hice, Jody B.
Higgins (LA)
Higgins (NY)
Hill
Himes
Holding
Hollingsworth
Hoyer
Hudson
Huffman
Huizenga
Hultgren
Hurd
Issa
Jayapal
Jeffries
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Joyce (OH)
Kaptur
Katko
Keating
Kelly (MS)
Kelly (PA)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
King (IA)
King (NY)
Kinzinger
Knight
Krishnamoorthi
Kuster (NH)
Kustoff (TN)
LaHood
LaMalfa
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latta
Lawrence
Lawson (FL)
Levin
Lewis (MN)
Lieu, Ted
Lipinski
LoBiondo
Loebsack
Lofgren
Long
Loudermilk
Love
Lowenthal
Lowey
Lucas
Luetkemeyer
Lujan Grisham, M.
Luján, Ben Ray
Lynch
MacArthur
Maloney, Carolyn B.
Maloney, Sean
Marchant
Marino
Marshall
Mast
Matsui
McCarthy
McCaul
McClintock
McCollum
McEachin
McGovern
McHenry
McKinley
McMorris Rodgers
McNerney
McSally
Meadows
Meehan
Meeks
Meng
Messer
Mitchell
Moolenaar
Mooney (WV)
Moulton
Mullin
Murphy (FL)
Murphy (PA)
Napolitano
Neal
Newhouse
Noem
Nolan
Norcross
Nunes
O'Halleran
O'Rourke
Olson
Palazzo
Pallone
Palmer
Panetta
Pascrell
Paulsen
Pearce
Pelosi
Peters
Peterson
Pingree
Pittenger
Pocan
Poliquin
Polis
Posey
Price (NC)
Quigley
Raskin
Ratcliffe
Reed
Reichert
Renacci
Rice (NY)
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Rosen
Roskam
Ross
Rothfus
Rouzer
Roybal-Allard
Royce (CA)
Ruiz
Ruppersberger
Russell
Sánchez
Sarbanes
Scalise
Schakowsky
Schiff
Schneider
Schrader
Schweikert
Scott (VA)
Scott, Austin
Scott, David
Sensenbrenner
Serrano
Sessions
Sewell (AL)
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sinema
Sires
Slaughter
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Smucker
Soto
Speier
Stefanik
Stewart
Stivers
Suozzi
Swalwell (CA)
Takano
Taylor
Tenney
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tipton
Titus
Tonko
Torres
Trott
Tsongas
Turner
Upton
Valadao
Vargas
Veasey
Vela
Velázquez
Visclosky
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Walz
Wasserman Schultz
Weber (TX)
Webster (FL)
Welch
Wenstrup
Westerman
Williams
Wilson (FL)
Wilson (SC)
Wittman
Womack
Woodall
Yarmuth
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NAYS—17

Amash
Brat
Brooks (AL)
Buck
Budd
Gohmert
Gosar
Griffith
Grothman
Hunter
Jones
Jordan
Labrador
Massie
Perry
Poe (TX)
Sanford

NOT VOTING—31

Bass
Becerra
Bishop (GA)
Brown (MD)
Butterfield
Clay
Clyburn
Evans
Fudge
Green, Al
Harris
Jackson Lee
Johnson (GA)
Johnson, E. B.
Kelly (IL)
Lee
Lewis (GA)
Moore
Mulvaney
Nadler
Payne
Perlmutter
Pompeo
Price, Tom (GA)
Richmond
Rush
Rutherford
Ryan (OH)
Waters, Maxine
Watson Coleman
Zinke

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1346

So (two-thirds being in the affirmative) the rules were suspended and 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

Mr. BROWN of Maryland. Mr. Speaker, I regrettably was absent from the following votes in order to attend the Senate confirmation hearing for Attorney General nominee Senator SESSIONS. Had I been present, I would have voted "nay" on rollcall No. 32, "nay" on rollcall No. 33, and "yea" on rollcall No. 34.

PERSONAL EXPLANATION

Mr. CLAY. Mr. Speaker, I attended Senate confirmation hearing for U.S. Attorney General in Judiciary Committee. Had I been present, I would have voted "nay" on rollcall No. 32, "nay" on rollcall No. 33, and "yea" on rollcall No. 34.

PERSONAL EXPLANATION

Mr. EVANS. Mr. Speaker, I attended Senate hearing. Had I been present, I would have voted "nay" on rollcall No. 32, "nay" on rollcall No. 33, and "yea" on rollcall No. 34.

PERSONAL EXPLANATION

Ms. JACKSON LEE. Mr. Speaker, on Wednesday, January 11, 2017, I was unavoidably detained attending to representation duties and was not present for rollcall Votes 32 through 34. Had I been present, I would have voted as follows: On rollcall 32, I would have voted "no." On rollcall 33, I would have voted "no." On rollcall 34, I would have voted "aye."

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Brian Pate, one of his secretaries.

REGULATORY ACCOUNTABILITY ACT OF 2017

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore (Mr. ALLEN). Pursuant to House Resolution 33 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. 5.

The Chair appoints the gentleman from Illinois (Mr. BOST) to preside over the Committee of the Whole.

□ 1350

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. 5) to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, to clarify the nature of judicial review of agency interpretations, to ensure complete analysis of potential impacts on small entities of rules, and for other purposes, with Mr. BOST 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 Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

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

Mr. Chairman, it is a new day in America. For 8 years, the Obama administration has brought us one thing in response to the Nation's need for recovery from hard times—failure.

Bold, innovative measures to unleash American freedom, opportunity, and resourcefulness could have brought prosperity's return after the Great Recession, just as under Ronald Reagan following his era's recession.

But the Obama administration responded differently, with measure after overreaching measure, through regulation, taxes, and spending. It was consumed by the folly of trying to force transformation from the American people through command and control from Washington. Everywhere it went, it sought to choose the winners and losers.

When Washington tries to choose the winners and losers, we all lose. And lose we have. We have a national debt of $20 trillion thanks to the outgoing administration's blowout spending. We have an economy that for 8 years has failed to produce enough good, new, full-time jobs to sustain growth and restore dignity to the unemployed. We

have 92 million Americans outside the workforce, a level not seen since the Carter years, and nearly $2 trillion of American wealth is commandeered each year to be spent as Washington bureaucrats see fit, through runaway regulation.

But it is a new day in America. An incoming administration promises a new approach to make America great again. Central to that approach is regulatory reform. The Obama administration abused regulation to force its will on the American people. The assembling Trump administration promises to wipe out abusive regulation, freeing Americans to innovate and prosper once more. Today's legislation will give this new administration the tools.

The heart of today's bill, the Regulatory Accountability Act, title I, restores to the people the true right to be heard by Washington's regulators. It commands Washington bureaucrats to listen to the facts and ideas offered by the people and to follow them when they are better than the bureaucracy's own. It calls on regulatory agencies to achieve the benefits Congress has called on them through statutes to achieve. But it gives the people full opportunities to offer fresh alternatives for doing so and to vet with the agencies the facts and ideas that work and those that don't.

After the public has fully contributed its say, agencies must choose the lowest cost alternative proven to work, achieving the needed benefits but rejecting unneeded costs. That leaves resources free to generate the benefits, create the jobs, and yield the higher wages only the private sector, through hard work and ingenuity, can achieve.

The other titles of the bill strongly buttress this reform.

Title II, the Separation of Powers Restoration Act, wipes out judicial deference to agency interpretations of statutes and regulations and restores to our system of checks and balances the rule Justice Marshall declared in Marbury v. Madison that ''it is emphatically the province and duty of the judicial department to say what the law is''—not the bureaucracy. When title II is law, our courts will no more be rubber stamps for runaway regulatory interpretations that burst the bounds of what Congress truly intended through statutes.

Title III, the Small Business Regulatory Flexibility Improvements Act, provides teeth to existing law written to prompt regulatory agencies to tailor flexibility for small businesses into their rules. Small businesses have fewer resources to comply with Washington's mandates. They need flexibility to survive. The terms of existing law for too long have been ignored by Washington bureaucrats. Title III assures the law will no longer be ignored, resulting in freedom and flexibility for America's small businesses, which create the lion's share of new jobs in this country and are pillars of communities across this land.

Title IV prevents one of the most egregious of bureaucrats' regulatory abuses: the promulgation of new rules that impose over a billion dollars in annual compliance costs, which must then be complied with even while meritorious litigation challenging their issuance proceeds in court. Title IV, the REVIEW Act, eliminates this abuse, forcing agencies to stay their billion-dollar rules administratively if they are timely challenged in court.

And in titles V and VI of the bill, the ALERT Act and the Providing Accountability Through Transparency Act, this legislation delivers much-needed, greater transparency for the public about what new regulations agencies are developing and proposing so they can better prepare to comment on what is proposed, shape what is promulgated, and comply with final rules.

With the help of these reforms, we can truly make America more competitive again, put Americans back to work, and free America's entrepreneurs to innovate and launch more exciting new products and services again.

I thank my colleagues, Small Business Committee Chairman CHABOT, Subcommittee Chairman MARINO, Representative RATCLIFFE, and Representative LUETKEMEYER, who have joined me in contributing titles to this legislation.

I urge all of my colleagues to support this bill, and I reserve the balance of my time.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC, January 6, 2017.

Hon. BOB GOODLATTE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: I write concerning H.R. 5, the Regulatory Accountability Act of 2017. As you know, the Committee on the Judiciary received an original referral and the Committee on Oversight and Government Reform a secondary referral when the bill was introduced on January 3, 2017. I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee on Oversight and Government Reform will forego action on the bill.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 5 at this time, we do not waive any jurisdiction over the subject matter contained in this or similar legislation. Further, I request your support for the appointment of conferees from the Committee on Oversight and Government Reform during any House-Senate conference convened on this or related legislation.

Finally, I would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration to memorialize our understanding.

Sincerely,

JASON CHAFFETZ,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON THE JUDICIARY,
Washington, DC, January 6, 2017.

Hon. JASON CHAFFETZ,
Chairman, Committee on Oversight and Government Reform, Washington, DC.

DEAR CHAIRMAN CHAFFETZ: Thank you for consulting with the Committee on the Judiciary and agreeing to be discharged from further consideration of H.R. 5, the ''Regulatory Accountability Act,'' so that the bill may proceed expeditiously to the House floor.

I agree that your foregoing further action on this measure does not in any way diminish or alter the jurisdiction of your committee or prejudice its jurisdictional prerogatives on this bill or similar legislation in the future. I would support your effort to seek appointment of an appropriate number of conferees from your committee to any House-Senate conference on this legislation.

I will seek to place our letters on H.R. 5 into the Congressional Record during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work together as this measure moves through the legislative process.

Sincerely,

BOB GOODLATTE
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON SMALL BUSINESS,
Washington, DC, January 6, 2017.

Hon. BOB GOODLATTE,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR CHAIRMAN GOODLATTE: I am writing to you regarding H.R. 5, the ''Regulatory Accountability Act of 2017.'' The legislation falls within the jurisdiction of the Committee on Small Business pursuant to Rule X, c1.1(q) of the Rules of the House.

In the interest of permitting the Committee on the Judiciary to proceed expeditiously to consideration of H.R. 5 on the House floor, I agree that the Committee on Small Business be discharged from further consideration of the bill. I do so with the understanding that by waiving consideration of the bill, the Committee on Small Business does not waive any future jurisdictional claim over the subject matters contained in the bill which fall within its Rule X jurisdiction. I request that you urge the Speaker to name members of the Committee on Small Business to any House-Senate conference that may be convened on this legislation.

Finally, I would appreciate your response to this letter and would ask that a copy our exchange of letters be included in the Congressional Record during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this issue and others between our respective committees.

Sincerely,

STEVE CHABOT,
Chairman.

CONGRESS OF THE UNITED STATES,
Washington, DC, January 6, 2017.

Hon. STEVE CHABOT,
Chairman, Committee on Small Business.

DEAR CHAIRMAN CHABOT: Thank you for consulting with the Committee on the Judiciary and agreeing to be discharged from further consideration of H.R. 5, the ''Regulatory Accountability Act,'' so that the bill may proceed expeditiously to the House floor.

I agree that your foregoing further action on this measure does not in any way diminish or alter the jurisdiction of your committee or prejudice its jurisdictional prerogatives on this bill or similar legislation in

the future. I would support your effort to seek appointment of an appropriate number of conferees from your committee to any House-Senate conference on this legislation.

I will seek to place our letters on H.R. 5 into the Congressional Record during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work together as this measure moves through the legislative process.

Sincerely,

BOB GOODLATTE,
Chairman.

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

I rise in opposition, of course, to H.R. 5, the so-called Regulatory Accountability Act.

Under the guise of improving the regulatory process, H.R. 5 will, in truth, undermine that process and jeopardize the ability of government agencies to safeguard public health and safety, the environment, workplace safety, and consumer financial protections.

It is not a pleasant picture. The ways in which this legislation accomplishes this result are almost too numerous to list here, but, of course, I will mention a few.

For example, title I of the bill would impose more than 70 new analytical requirements that will add years to the rulemaking process.

Is that what we want to do? I don't think so.

Worse yet, many of these new requirements are intended to facilitate the ability of regulated entities—such as well-funded corporate interests—to intervene and derail regulatory protections they oppose. And it would function as a ''super-mandate,'' overriding critical laws that Congress specifically intended to prohibit agencies from considering costs when American lives are at stake.

Additionally, the bill creates numerous procedural hurdles in the rulemaking process, further endangering American lives through years of delay and increasing the likelihood of regulatory capture.

□ 1400

For example, H.R. 5 dramatically expands the use of formal rulemaking, a time- and resource-intensive process, requiring formal, trial-like hearings for certain rules. Formal rulemaking has long been roundly rejected for good cause as being excessively costly and ill-suited for complex policy issues.

The administrative section of the American Bar Association noted that ''these provisions run directly contrary to a virtual consensus in the administrative law community that the Administrative Procedure Act formal rulemaking procedure is obsolete.''

I am also concerned that H.R. 5 would impose an arbitrary, one-size-fits-all, 6-month delay on virtually every new rule. Specifically, title V of the bill will prohibit agency rules from becoming effective until the information required by the bill has been available online for 6 months with only limited exception.

Clearly, H.R. 5 fails to take into account a vast array of time-sensitive rules ranging from the mundane, such as the frequent United States Coast Guard bridge closings regulations, to those that protect public health and safety, such as forthcoming updates to the Lead and Copper Rule by the Environmental Protection Agency to reduce the lead in public drinking water.

Finally, title II of H.R. 5 would eliminate judicial deference to agencies and require Federal courts to review all agency rulemakings and interpretations of statutes on a de novo basis. The unfortunate result of this requirement is that the bill would empower a generalist court to override the determinations of agency experts, regardless of the judge's technical knowledge and understanding of the underlying subject matter.

By eliminating any deference to agencies, H.R. 5 would force agencies to adopt even more detailed factual records and explanations, which would further delay the finalization of critical lifesaving regulatory protections.

The Supreme Court has recognized that Federal courts simply lack the subject-matter expertise of agencies, are politically unaccountable, and should not engage in making substantive determinations from the bench. It is ironic that those who have long decried judicial activism now support facilitating a greater role for the judiciary in agency rulemaking.

These are only a few of the many serious concerns presented by H.R. 5, and, accordingly, I urge my colleagues to strongly oppose this dangerous legislation.

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

AFL–CIO
LEGISLATIVE ALERT,
Washington, DC, January 10, 2017.

DEAR REPRESENTATIVE: On behalf of the AFL–CIO, I am writing to express our strong opposition to H.R. 5, the Regulatory Accountability Act of 2017. This sweeping bill, which packages six anti-regulatory measures passed by the House in the last Congress, would upend 40 years of labor, health, safety and environmental laws, threaten new needed protections leaving workers and the public in danger. The AFL–CIO urges you to oppose this harmful legislation.

The Regulatory Accountability Act (RAA) is drafted as an amendment to the Administrative Procedure Act (APA), but it goes far beyond establishing procedures for rulemaking. The RAA acts as a ''super mandate'' 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 and procedural requirements to the rulemaking process, adding years to an already slow process. The development of major workplace safety rules already takes 8—10 years or more, even for rules where there is broad agreement between employers and unions on the measures that are needed to improve protections. OSHA's silica standard to protect workers from deadly silica dust took nearly 19 years and the beryllium standard 15 years. The RAA will further delay needed rules and cost workers their lives.

The RAA substitutes formal rulemaking for the current procedures for public participation for high impact rules and 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. 5 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 Consumer 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.

This radical legislation doesn't just apply to regulations; it would also require agencies to analyze the costs and benefits of major guidance documents, even though these documents are non-binding and have no legal force. Guidance documents are an important tool for agencies to disseminate information on significant issues and hazards quickly in order to protect the public and workers. For example, in response to the Ebola virus threat, the Centers for Disease Control (CDC) issued critical guidance documents in order to prevent the spread of disease, including recommendations for infection control and protections for healthcare workers and emergency responders. Similar guidance was issued was issued to prevent transmission of the Zika virus. Under the RAA's provisions, CDC would be required to assess the costs and benefits of these major guidance documents, making it virtually impossible to provide information and recommendations in a timely manner.

H.R. 5 also includes a grab bag of other harmful anti-regulatory measures that thwart, weaken and undermine protections. The Separation of Powers Restoration Act abolishes judicial deference to agencies' statutory interpretations in rulemaking requiring a court to decide all relevant questions of law de novo, allowing courts to substitute their own policy judgements for the agencies' expert policy determinations. The Small Business Regulatory Flexibility Improvements Act (SBRFIA) imposes numerous unnecessary new analytical and procedural requirements on all agencies. It gives the Chief Counsel of the Small Business Administration's (SBA) Office of Advocacy, which in practice operates largely as a mouthpiece for large business interests, new broad powers to second guess and challenge agency rules. The Require Evaluation before Implementing Executive Wishlists Act (REVIEW Act) would automatically stay the implementation of any rule with an estimated annual cost of $1 billion that has been challenged, precluding courts from making this decision, and delaying protections. Other titles add even more unnecessary requirements to the rulemaking process.

The Regulatory Accountability Act would gut the nation's safety, health and environmental laws, stripping away protections

from workers and the public. It would tilt the regulatory process solidly in favor of business groups and others who want to stop regulations and make it virtually impossible for the government to issue needed safeguards. The AFL–CIO strongly opposes H.R. 5 and urges you to vote against this dangerous legislation.

Sincerely,

WILLIAM SAMUEL,
Director, Government Affairs Department.

CONSUMER REPORTS,
January 10, 2017.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: Consumer Reports and its policy and mobilization arm, Consumers Union, urge you to vote no on H.R. 5, the Regulatory Accountability Act of 2017. This dangerous proposal would do severe damage to protections consumers depend on for health, safety, and honest treatment.

Congress has charged federal agencies with protecting the public from threats such as tainted food, hazardous products, dirty air and water, and predatory financial schemes. It established these agencies, such as the Food and Drug Administration, Consumer Product Safety Commission, Environmental Protection Agency, and Consumer Financial Protection Bureau, so that public protections could be overseen by professional civil servants with specific technical and scientific expertise. In developing regulations, agencies must act in accordance with the statute and with established rulemaking procedures that require transparency and full opportunity for public input, including input from the industry that will be subject to the regulation.

We agree that the regulatory process can certainly be improved. We stand ready to support constructive efforts to reduce delays and costs while preserving important protections.

However, rather than streamlining and improving the regulatory process, the Regulatory Accountability Act of 2017 would make current problems even worse. Under H.R. 5, agencies would be required to undertake numerous costly and unnecessary additional analyses for each rulemalcing, which could grind proposed rules to a halt while wasting agencies' resources. Collectively, these measures would create significant regulatory and legal uncertainty for businesses, increase costs to taxpayers and businesses alike, and prevent the executive branch from keeping regulations up to date with the rapidly changing modern economy.

One of the most damaging effects of H.R. 5 is that it would, with only limited exceptions, require federal agencies to identify and adopt the ''least costly'' alternative of a rule it is considering. Currently, landmark laws like the Clean Air Act, Consumer Product Safety Act, and Securities Exchange Act require implementing agencies to put top priority on the public interest. H.R. 5 would reverse this priority by requiring agencies to value the bottom-line profits of the regulated industry over their mission to protect consumers and a fair, well-functioning marketplace.

H.R. 5 also includes several other damaging measures that have not been included previously as part of the Regulatory Accountability Act. These measures would add unjustifiable costs and uncertainty to the rulemalcing process, and greatly impair regulatory agencies' work.

Contrary to its name, the ''Separation of Powers Restoration Act'' (Title II of H.R. 5) would disrupt the carefully developed constitutional balance between the legislative, executive, and judicial branches. Courts giving appropriate deference to reasonable agency interpretations of their own statutes, as reflected in Chevron U.S.A., Inc., v. NRDC, 467 U.S. 837 (1984), is a well-settled approach that promotes sound and efficient agency enforcement, with effective judicial review. Under the Chevron doctrine, courts retain full judicial power to review agency legal interpretations, but do not simply substitute their own judgment for an agency's. Chevron recognizes that agencies accumulate uniquely valuable expertise in the laws they administer, which makes deference from reviewing courts—which do not have that expertise—appropriate.

Overturning this approach would lead to disaster. It would severely hamper effective regulatory agency enforcement of critical protections on which consumers depend. As the Supreme Court stated in City of Arlington, Tex. v. F.C.C., 133 S. Ct. 1863, 1874 (2013): ''Thirteen Courts of Appeals applying a totality-of-the-circumstances test would render the binding effect of agency rules unpredictable and destroy the whole stabilizing purpose of Chevron. The excessive agency power that the dissent fears would be replaced by chaos.'' Such a move also would needlessly force the courts to repeatedly second-guess agency decisions that the courts have already concluded the agency is in the best position to make.

The REVIEW Act and the ALERT Act (Titles IV and V of H.R. 5) would cause additional needless and damaging delays to public protections. The REVIEW Act—which would block ''high-impact'' rules until every industry legal challenge has run its full course—would tie up agencies in court indefinitely, potentially making it impossible to address pressing national problems. The ALERT Act would subject most new rules to a delay of at least six months, and require agencies to waste resources complying with repetitive reporting requirements.

Like the bill's proponents, we believe regulations should be smart, clear, and cost-effective. However, H.R. 5 does not accomplish this objective. Instead of improving the regulatory process, the Regulatory Accountability Act of 2017 would make it dramatically slower, more costly to the nation, and far less effective at protecting health, safety, and other essential consumer priorities.

We strongly urge you to stand up for critical public protections and vote no on H.R. 5.

Sincerely,

LAURA MACCLEERY,
Vice President, Consumer Policy and Mobilization, Consumer Reports.
GEORGE P. SLOVER,
Senior Policy Counsel, Consumers Union.
WILLIAM C. WALLACE,
Policy Analyst, Consumers Union.

CONSUMER FEDERATION OF AMERICA,
January 10, 2017.

Re Oppose legislation on House Floor to undermine crucial consumer protections: H.R. 5.

DEAR REPRESENTATIVE: The Regulatory Accountability Act of 2017 (H.R. 5) would handcuff all federal agencies in their efforts to protect consumers. H.R. 5 is a vastly expanded version of previous versions of the Regulatory Accountability Act (RAA). H.R. 5 not only significantly and problematically amends the Administrative Procedures Act (APA) which has guided federal agencies for many decades but also now incorporates five additional bills that thwart the regulatory process: the Small Business Regulatory Flexibility Improvement Act; the Require Evaluation before Implementing Executive Wishlists Act (REVIEW Act); the All Economic Regulations are Transparent Act (ALERT Act); the Separation of Powers Restoration Act; and the Providing Accountability Through Transparency Act. These titles make an already damaging bill even worse.

Specifically, the RAA would require all agencies, regardless of their statutorily mandated missions, to adopt the least costly rule, without consideration of the impact on public health and safety or the impact on our financial marketplace. As such, the RAA would override important bipartisan laws that have been in effect for years, as well as more recently enacted laws to protect consumers from unfair and deceptive financial services, unsafe food and unsafe consumer products.

For example, the RAA would likely have prevented the Federal Reserve from adopting popular credit card rules under the Truth in Lending Act in 2008 that prevented card companies from unjustifiably increasing interest rates and fees on consumers. This is because these far-reaching changes to abusive practices that were widespread in the marketplace were not the ''least costly'' options that were considered, although they were arguably the most cost-effective.

The RAA would have a chilling impact on the continued promulgation of important consumer protections. Had it been in effect, for example, the RAA would have severely hampered the implementation of essential and long-standing food safety regulations, such as those requiring companies to prevent contamination of meat and poultry products with deadly foodborne pathogens. In fact, the Centers for Disease Control and Prevention has credited the implementation of regulations prohibiting contamination of ground beef with E. coli O157:H7 as one of the factors contributing to the recent success in reducing E. coli illnesses among U.S. consumers.' But such benefits are impossible to quantify before a rule is enacted.

Further, had the RAA been in effect the necessary child safety protections required by the Consumer Product Safety Improvement Act of 2008 (CPSIA) may have never been implemented. For example, between 2007 and 2011 the Consumer Product Safety Commission (CPSC) recalled 11 million dangerous cribs. These recalls fol owed 3,584 reports of crib incidents, which resulted in 1,703 injuries and 153 deaths. As a direct result of the CPSIA, CPSC promulgated an effective mandatory crib standard that requires stronger mattress supports, more durable hardware, rigorous safety testing, and stopped the manufacture and sale of dropside cribs. If the RAA were implemented, such a life saving rule could have been delayed for years or never promulgated at all, at countless human and financial cost.

The RAA also would add dozens of additional substantive and procedural analyses, as well as judicial review to the rulemaking process for every major rule. It would: expand the kind of rules that must go through a formal rulemaking process; require agencies to determine ''indirect costs'' without defining the term; require an impossible-to-conduct estimation of a rule's impact on jobs, economic growth, and innovation while ignoring public health and safety benefits; and expand the powers of the White House's Office of Management and Budget's Office of Information and Regulatory Affairs to throw up numerous rulemaking roadblocks, including requiring them to establish guidelines for conducting cost-benefit analysis. This would further delay or prevent the promulgation of much needed consumer protections.

The new titles of H.R. 5 also add numerous roadblocks to the promulgation of necessary consumer protections. The Separation of Powers Restoration Act (Title II) eliminates

judicial deference that agencies are granted when rules are challenged in court. This allows judicial activism and political considerations to trump agency expertise. The Small Business Regulatory Flexibility Improvement Act (Title III) would increase regulatory delays and create new opportunities for court challenge to regulations. The Require Evaluation before Implementing Executive Wishlists Act (REVIEW Act) (Title IV) would encourage frivolous legal challenges and infuse the regulatory process with years of delay by requiring courts reviewing ''high-impact'' regulations to automatically ''stay'' or block the enforcement of such regulations until all litigation is resolved. The All Economic Regulations are Transparent Act (ALERT Act) (Title V) would also blatantly and purposefully lengthen the regulatory process by requiring a six-month delay in the development of regulations.

We urge you to oppose this significant threat to consumer protection, a fair marketplace, health, and safety posed by H.R. 5. If adopted, this proposal would waste federal resources, minimize the ability of federal agencies to do their jobs, grind the regulatory process to a halt, and infuse the regulatory process with roadblocks preventing the protection of the public and ultimately putting American consumers at risk.

We strongly urge you to oppose this harmful bill.

Sincerely,

RACHEL WEINTRAUB,
Legislative Director and General Counsel.

COALITION FOR SENSIBLE SAFEGUARDS,
January 10, 2017.

Re Floor vote of H.R. 5, the Regulatory Accountability Act of 2017.

DEAR REPRESENTATIVE: The Coalition for Sensible Safeguards (CSS), an alliance of over 150 labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, strongly opposes H. R. 5, the Regulatory Accountability Act of 2017 (RAA), which will be voted on this week.

H.R. 5 is a compilation of radical and harmful legislative proposals that will permanently cripple the government's ability to protect the public by rigging the regulatory process against new regulatory safeguards in favor of deregulation or regulatory inaction. The bill is just as dangerous and extreme as the REINS Act (H.R. 26) and the Midnight Rules Relief Act (H.R. 21).

All of these bills are designed to make it as difficult as possible for federal agencies to implement existing or new laws that ensure our access to clean air and water, safe workplaces, untainted food and drugs, safe toys and consumer goods, and a stable financial system free of Wall Street recklessness. On the other hand, deregulatory actions that repeal existing rules are exempt by virtue of the legislation's myopic focus on ''costs'' to corporate special interests instead of ''benefits'' to the public. In short, the legislation will create a double standard in our regulatory system that systematically favors deregulation over new public protections and ''fast-tracks'' the repeal of rules while paralyzing the creation of new ones.

The new version of the RAA, introduced in this Congress, takes the previous RAA legislation and folds in several destructive pieces of other so-called regulatory reform bills including: the misleadingly named Small Business Regulatory Flexibility Improvements Act, the Require Evaluation before Implementing Executive Wishlists Act (REVIEW Act), the All Economic Regulations are Transparent Act (ALERT Act), the Separation of Powers Restoration Act and the Providing Accountability Through Transparency Act. These pieces of other bills seek to worsen an already destructive bill and add several more corrosive layers intending to dismantle our public protections.

The current rulemaking process is already plagued with lengthy delays, undue influence by regulated industries, and convoluted court challenges. If passed, Title I of this bill would make each of these problems substantially worse and would undermine our public protections and jeopardize public health by threatening the safeguards that ensure our access to clean air and water, safe workplaces, untainted food and drugs, and safe toys and consumer goods.

Rather than enhancing protections, it does the exact opposite. It adds 80 new analytical requirements to the Administrative Procedure Act and requires federal agencies to conduct estimates of all the ''indirect''costs and benefits of proposed rules and all potential alternatives without providing any definition of what constitutes, or more importantly, does not constitute an indirect cost. The legislation would significantly increase the demands on already constrained agency resources to produce the analyses and findings that would be required to finalize any new rule. Thus, the RAA is designed to further obstruct and delay rulemaldng rather than improve the regulatory process.

This legislation creates even more hoops for ''major'' or ''high-impact'' rules i.e., rules that provide society with the largest health and safety benefits. It would allow any interested person to petition the agency to hold a public hearing on any ''genuinely disputed'' scientific or factual conclusions underlying the proposed rule. This provision would give regulated industries multiple opportunities to challenge agency data and science and thus further stretch out the already lengthy rulemaking process.

H.R. 5 would also create a restrictive mandate of a ''one-size-fits-all'' directive that every federal agency adopt the ''least costly'' alternative. This is a profound change and effectively creates a ''super-mandate'' for all major regulatory actions of executive and independent agencies which overrides twenty-five existing statutes, including the Clean Air Act, the Clean Water Act, the Occupational Safety and Health Act, and the Consumer Product Safety Improvement Act. These laws prioritize public health, safety, and economic security, not the cost concerns of regulated entities.

Title II of H.R. 5 is the Separation of Powers Restoration Act piece which seeks to destroy the Chevron deference principal. It would remove the judicial deference that agencies are granted when their regulations are challenged in court. This would be a radical change that upends one of the fundamental principles in administrative law, namely that courts should not second-guess scientific and technical expertise at federal agencies. Overly intrusive judicial review is one of the primary reasons for regulatory delay and paralysis and this legislation would make those problems much worse.

The misleadingly named Small Business Regulatory Flexibility Improvements Act (Title III) is a Trojan horse that would expand the reach and scope of regulatory review panels, increase unnecessary regulatory delays, increase undue influence by regulated industries and encourage convoluted court challenges all in the name of helping ''small business,'' but so expansively applied that mostly big businesses would benefit. Because the bill mandates that these panels look at 'indirect costs,' which are defined very broadly, it could be applied to virtually any agency action to develop public protections.

The REVIEW Act (Title IV) would make our system of regulatory safeguards weaker by requiring courts reviewing ''high-impact'' regulations to automatically ''stay'' or block the enforcement of such regulations until all litigation is resolved, a process that takes many years to complete. It would add several years of delay to an already glacially slow rulemaking process, invite more rather than less litigation, and rob the American people of many critical upgrades to science-based public protections, especially those that ensure clean air and water, safe food and consumer products, safe workplaces, and a stable, prosperous economy.

The ALERT Act (Title V) is designed to impede the government's ability to implement critical new public health and safety protections by adding a six-month delay. This amounts to a six-month regulatory moratorium, even after the often lengthy period required for developing and finalizing these regulations. Such delays could extend well beyond that initial six-month period should the OIRA Administrator fail to post the required information in a timely manner.

This new version of the RAA would override and threaten decades of public protections. The innocuous-sounding act is, in reality, the biggest threat to public health standards, workplace safety rules, environmental safeguards, and financial reform regulations to appear in decades. It acts as a ''super-mandate,'' rewriting the requirements of landmark legislation such as the Clean Air Act and the Occupational Safety and Health Act and distorting their protective focus to instead prioritize compliance costs.

We strongly urge opposition to H.R. 5, the Regulatory Accountability Act of 2017.

Sincerely,

ROBERT WEISSMAN,
President, Public Citizen Chair,
Coalition for Sensible Safeguards.

AFSCME,
WE MAKE AMERICA HAPPEN,
Washington, DC, January 9, 2017.

DEAR REPRESENTATIVE: On behalf of the 1.6 million working and retired members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to urge you to oppose the Regulatory Accountability Act of 2017 (H.R. 5). This reckless legislation would severely undermine the nation's ability to ensure that workers are safe on the job and in the marketplace. If enacted, H.R. 5 would effectively end the federal government's ability to enact new protections on behalf of the American people. Instead, the Regulatory Accountability Act looks to protect businesses from people as a platform for policymaking.

The Regulatory Accountability Act would upset the constitutional balance between branches of the government and impose new burdens on an already cumbersome regulatory process. In rulemaking, federal agencies must adhere to the requirements of the statue being implemented, and are often given a roadmap from Congress. From there, federal agencies must also follow the robust procedural and analytical requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Unfunded Mandates Reform Act, the Paperwork Reduction Act, and the Congressional Review Act,

The Regulatory Accountability Act adds more than 70 steps to the regulatory process while giving corporate interests more opportunities to influence and weaken standards. It would require unnecessary Advance Notices for a large number of rules, and impose unnecessary new evidentiary standards as a condition of rulemaking. It would subject the regulatory process to unneeded rounds of litigation.

The Regulatory Accountability Act of 2017 will prevent agencies from growing and addressing new issues for environmental, public health, workplace safety and consumer financial security protections. We urge you to oppose this legislation.

Sincerely,

SCOTT FREY,
Director of Federal Government Affairs.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CHAFFETZ) who is the chairman of the Oversight and Government Reform Committee and a member of the Judiciary Committee.

Mr. CHAFFETZ. Mr. Chairman, I want to thank Chairman GOODLATTE. I also want to thank Congressman RATCLIFFE of Texas.

Included in H.R. 5 is the All Economic Regulations Are Transparent Act, or the ALERT Act. I want to highlight that, in the past two Congresses, the ALERT Act was reported favorably out of the Committee on Oversight and Government Reform.

The ALERT Act itself is simply a transparency bill. It requires the administration to provide meaningful information about upcoming regulations online before those are actually issued. Early online disclosure will create the need for transparency so the public can see what is on the horizon.

Each month, Federal agencies will be required to list all regulations expected to be proposed or finalized within the following year. For each regulation on the list, the issuing agency is required to provide basic information to the public about that regulation. This includes the objectives of the regulation, the legal basis for the regulation, and where it stands in the rulemaking process.

If the agency expects to finalize the regulation within the following year, the agency is also required to provide information about the impact of the regulation. This includes estimates on the costs, the completion date, and the economic effects of the regulation, including the net effect on jobs—something that doesn't happen now but seems to be just common sense.

In this 21st century, Federal agencies should have to show their work online so the public can engage. That is why I like what Mr. RATCLIFFE has championed since he has become a Member of this Congress. Let's also understand and remember that, by the administration's own estimates, Federal regulations promulgated over the last 10 years have imposed the cost of at least $100 billion annually on the American taxpayers.

Again, I appreciate Chairman GOODLATTE's work and commitment on this issue. I want to thank, again, our good friend, Congressman JOHN RATCLIFFE, for his work on this. The Oversight and Government Reform Committee has looked upon this very favorably. We are very supportive of the overall bill, as well as this specific provision.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT) who is a very active former member of the Judiciary Committee.

Mr. SCOTT of Virginia. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, over the past 2 weeks, the majority has considered three bills on the House floor designed to undermine the ability of the executive branch to implement essential economic and public health protections for the people we have the honor to represent: the so-called Midnight Rules Relief Act, which could retroactively disallow rules issued as far back as June of last year; the REINS Act, which requires a majority vote of both Houses of Congress before any major rule can go into effect; and today's Regulatory Accountability Act, which is an 82-page omnibus bill which would effectively tie the executive branch into so much red tape that environmental, workplace, and consumer protections might never see the light of day.

By enacting these statutes, Congress would impair the constitutional duty of the executive branch to ''take care that laws be faithfully executed'' and replace them with a series of layers that can be applied by deep-pocketed special interests, including one provision that prevents some rules from going into effect that may affect public safety if somebody files a lawsuit.

The question is: Who loses when these playing fields are tilted this way? Well, just a couple within the jurisdiction of the Committee on Education and Labor, 4.2 million working people would lose. That is the number of people who would be eligible for overtime pay as a result of the responsible actions taken by the Obama administration. They would lose the benefit of overtime for time worked in excess of 40 hours a week. Working families and seniors could lose their retirement savings.

Last year, the Obama administration released a fiduciary rule that ensures that retirement savings are protected from financial advisers who may prioritize fees over services. Without the rule, working families and seniors could lose billions of dollars every year in retirement savings by being unnecessarily charged by unscrupulous financial advisers.

Students in low-income school districts could lose. Without the Department of Education's new supplement-not-supplant rule, these students would lose critical resources, and those resources would be redirected to wealthier districts.

So let's be clear. The bill before us is not on the side of children, workers, and retirees. Instead, the bill throws sand in the gears of the regulatory process by adding more layers to the process, rigging it in favor of powerful corporate interests, and encouraging frivolous lawsuits. That is not what Congress should be focusing on. Instead, we should be building on the progress that has been achieved over the last 8 years. We should be considering legislation that increases wages, improves the lives of working families, increases access to high quality child care and early childhood education, supports quality public schools in every neighborhood, makes colleges more affordable, helps American families balance work and family life, and empowers workers to organize and collectively bargain.

That has been the focus of my Democratic colleagues on the Education and the Workforce Committee, and that focus will remain in the years ahead. So I urge the majority to partner with us to protect and promote the rights of working people and students by defeating this bill.

Mr. GOODLATTE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. MCCARTHY) who is the distinguished majority leader of the House.

Mr. MCCARTHY. Mr. Chairman, I thank the gentleman for yielding, and I thank the chairman for his work. I would also like to highlight a few Members whose work is inside this bill. First, Congressman MARINO, Congressman RATCLIFFE, Chairman CHABOT, and Congressman LUETKEMEYER have all done a tremendous amount of work to make this bill here today, and I appreciate that.

Mr. Chairman, we have a grave problem in our Federal Government. It undermines our Constitution, it contradicts the will of the people, and it is a deadweight on our economy destroying American jobs and costing billions of dollars per year in paperwork and lost opportunities. I am talking about the duplicative and unforgiving Federal bureaucratic state.

But before I discuss the dangers that an overzealous bureaucracy poses to our country, I want to be clear that the House has already made great progress. We are engaged in a two-step approach: first, to change the structure of Washington that deprives the people of their power; and second, to repeal specific harmful regulations. We will get started on the second part early next month.

We have already passed two bills last week to change Washington's structure, the Midnight Rules Relief Act and the REINS Act. Today, we will pass the third, the Regulatory Accountability Act. This requires agencies to choose the least costly option available to do what they are charged to do and prohibits large rules from going into effect while they are still being challenged in court. It also ends something called Chevron deference where courts automatically bend to the agency's interpretation of the rules. Under the current standard, that means the agency will win almost every single time in the courtroom and the people lose.

These three bills are about more than stopping bad regulations from being made. They are about changing the process in Washington that systemically prioritizes government over the

common good instead of making government serve the common good.

Mr. Chairman, our Nation is based on a principle that power ultimately comes from the people. Elections are the great foundation of our Republic, and, as we saw so clearly this last November, through them, the people can make their voices heard. But something has changed. Some of the most significant decisions in Washington, those that most affect the lives of the public, are made by those who don't stand for election.

What happens when the EPA imposes rules that deprive people of their property rights, when the Department of Health and Human Services tries to force nuns to violate their religion, or when the VA perpetuates a system that lets veterans die while they wait for their care? The people can't vote out bureaucrats who write rules at the EPA or the Department of Health and Human Services. They can't vote out bad leaders of the VA.

These bureaucrats know it. They know they aren't accountable to the people even as they exercise great power. Without elections, the people lose. Washington is brimming with executive employees devoted to preserving the status quo.

Then there is a revolving door of high-level Federal employees who head to major consulting firms and lobbying arms to influence the very agencies they came from. This breeds thousands of regulations that further enrich the connected and powerful—sometimes at the great expense of the average American.

□ 1415

It is our economy and the American workers who suffer the most. Federal regulations written and enacted by these bureaucracies impose a burden of about $1.89 trillion every year. That number is hard to make sense of or to even imagine. It comes to, roughly, $15,000 per U.S. household, or 10 percent of the American GDP.

The Obama administration alone has written regulations that require over 583 million hours to comply with. That is an average of nearly 5 hours of paperwork for every single full-time employee in America. The Federal Register is now the length of 80 King James Bibles.

When bureaucrats and agency heads cannot be held accountable and when they keep their jobs regardless of corruption, incompetence, waste, fraud, abuse, or the backroom deals they make with special interests, that is the problem. That is the swamp, and we need to drain it.

There is a reason the House is restructuring Washington first. It is that we made a commitment to the American people that we would drain the swamp. Now we are today.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. CUMMINGS), the ranking member of the Committee on Oversight and Government Reform.

Mr. CUMMINGS. I thank the gentleman.

Mr. Chairman, I rise in strong opposition to H.R. 5.

Before I go into that, let me be clear. After listening to the leader a minute ago, I thank all of the Federal employees who work so hard and give so much and who are so often unseen, unnoticed, unappreciated, and unapplauded.

I oppose this unnecessary and potentially dangerous legislation in its entirety. However, I will focus my remarks on title V of this bill, which is in the jurisdiction of the Oversight and Government Reform Committee. Title V, also known as the ALERT Act, is an attack on agency rulemaking, like the rest of this bill.

This title would prohibit the Office of Information and Regulatory Affairs from taking into account benefits when providing estimating costs of proposed and final rules. That is not transparency. It is one side of the story.

This bill would also prevent a rule from taking effect until certain information is posted online for 6 months by the Administrator of the Office of Information and Regulatory Affairs. The only exceptions to this requirement would be if an agency exempts the rule from the notice and comment requirements of the Administrative Procedure Act or if the President issues an executive order.

That is a 6-month delay in putting any rule in place no matter how big or how small. Right now, there are rules pending to protect the public from pipeline accidents involving hazardous liquids—those are our constituents, by the way—and to protect the privacy of patients' records. Again, those are our constituents. This bill would put an arbitrary 6-month moratorium on rules like these.

The Coalition for Sensible Safeguards, which is a coalition of over 150 labor, scientific, health and good government groups, sent a letter on January 10, 2017, opposing H.R. 5 to all Members of the House of Representatives.

That letter read in part:

> The ALERT Act is designed to impede the government's ability to implement critical new public health and safety protections by adding a 6-month delay. This amounts to a 6-month regulatory moratorium even after the often lengthy period required for developing and finalizing these regulations. Such delays could extend well beyond that initial 6-month period should the OIRA Administrator fail to post the required information in a timely manner.

The other titles of this bill are not any better and would impose so many requirements on agencies that issuing regulations to protect health and safety would be almost impossible.

I urge my colleagues to reject H.R. 5.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. MARINO), the chairman of the Regulatory Reform, Commercial and Antitrust Law Subcommittee and the chief sponsor of one of the bills contained herein.

Mr. MARINO. I thank the chairman.

Mr. Chairman, I rise in strong support of H.R. 5, the Regulatory Accountability Act.

This bill represents a monumental opportunity for the American people. After 8 years of one new crushing regulatory burden after another, the time has come to finally free the American people and create a new future for our economy.

In 2017, regulatory burdens are at record levels. One recent analysis by the American Action Forum puts the cumulative paperwork burden on the American people at 11.5 billion hours.

How could any small business person or entrepreneur survive in the face of this monstrous web of regulation?

The short answer is that they cannot.

It is a fact seen across my district as I have talked to workers covering every industry or occupation imaginable. When I ask businessowners about their concerns, first and foremost, the greatest hardship they face is the burden of Federal regulation and red tape. Funds, which otherwise could be invested in new employees, training, or equipment, must be dedicated to the demands of faceless bureaucrats in D.C. This applies to plumbers as well as to farmers, manufacturers to home builders. The list of those affected is long and varied.

The simple truth is that the Obama administration's one-size-fits-all regulatory agenda has been a disaster for the American Dream, and we have seen over the past several months how disconnected it was from the wants and needs of Americans across the country.

In Congress, however, we have heard their pleas and have taken action in the early days of the 115th Congress. H.R. 5 is the third regulatory reform bill we have considered in 2 weeks. It represents our brightest opportunity to unleash innovation and investment so that American businesses, big and small, can create new futures.

I am also grateful that H.R. 5 includes my bill, the REVIEW Act. The REVIEW Act was featured as part of Speaker RYAN's A Better Way agenda and passed the House on a bipartisan basis last fall. It represents a simple premise: regulations should be narrowly tailored, and massive regulations deserve full and thorough scrutiny.

The REVIEW Act would mandate a stay of any high-impact, billion-dollar regulation while judicial review is underway. Historically, billion-dollar rules have been few and far between. In fact, only 26 have been put in place since 2006; but, in recent years, their frequency has grown along with the unprecedented reach of the regulatory state. In the past 8 years, an average of three per year have been put in place.

Their significance, however, lies in their impact on our country. These regulations are massive and have the potential to fundamentally and irreversibly change entire industries. If, later, judicial review finds the agency's reasoning to be legally unsound or contrary to the intent of Congress, the

compliance costs incurred—often meaning jobs that were lost—cannot be undone. The REVIEW Act provides an important check on regulatory largesse and is an important piece of this bill.

The American people have spoken, and they have spoken clearly. It is time for us all to take our country and the economy in the right direction. The Regulatory Accountability Act provides the reforms that are necessary to get us there.

I urge all of my colleagues to support this bill.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. COHEN), a senior member of our committee who has followed this matter very closely.

Mr. COHEN. I thank the gentleman.

Mr. Chairman, these bills are a group of bills that have been considered for many years and have passed on partisan votes in the House. What you do when you repeal regulations or make it harder to have regulations is you make it better for business, better for the Chamber crowd, better for the manufacturing folk.

But there is always a cost for everything. I think it was Isaac Newton who said: ''For every action, there is an equal and opposite reaction.'' You take these regulations off, increase business, and make it easier; but there is an equal and opposite effect in that Newtonian law as the consumer of the products.

Whether it is food and food safety, whether it is water safety and purity, whether it is air safety, whether it is toys and manufacturers' defects or automobiles and safety in transportation—it could be airplane transportation—there is always a side that loses; and the side that loses is that of the consumers and the folks who will be injured and/or killed because of lack of regulations.

I don't know how much one life is worth. If it is mine or one of my loved ones or one of my constituents—I am getting a little political here—it is worth a lot, but it is worth a lot no matter who it is, and there are going to be lots of people who will not survive some of these regulations. There are going to be injuries in the workplace because regulations for safety aren't there. There will be food products that are defective because regulations aren't in place, and people will eat food that is not appropriate, not pure.

I had an amendment I proposed here on civil rights, and I think civil rights is one of our most precious rights—one that has been neglected on many occasions. That amendment would have said that this would not affect any civil rights rules, but it was not put in order; but it includes people with disabilities. Those are areas in which we should have exempted and not had anything stop our steadfastness toward securing civil rights and securing opportunities for people with disabilities.

I am against the bills. I am for the consumer. I think there might be a measured way to do this, but this is a heavy-handed way to do it, and the consumer loses.

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Small Business Committee, a member of the Judiciary Committee, and the chief sponsor of one of the bills contained herein.

Mr. CHABOT. I thank the chairman for yielding.

Mr. Chairman, I rise in strong support of H.R. 5, the Regulatory Accountability Act.

In response to the previous gentleman's comments, I would just note that none of the regulations that we are considering today—the legislation—is going to do away with regulations altogether or even significantly, especially, regulations that have to do with people's safety. We are not trying to do anything that is going to affect the safety of the American people. We are just trying to make sure the regulations are smarter, and that is what this is all about.

I am also pleased that title III of H.R. 5 is a bill that I sponsored last term and in this Congress—the Small Business Regulatory Flexibility Improvements Act. The Committee on Small Business, which I happen to chair, and the Committee on the Judiciary have crafted this bill with bipartisan input over many years.

I thank Chairman GOODLATTE for working with us on this important legislation, and I thank him for his leadership.

Small businesses are found in every congressional district and in every industry. They provide livelihoods for millions of workers and for their families. Small businesses employ nearly half of the private sector workforce and generate two out of every three new jobs in the private sector today. The Federal Government should be doing everything it can to encourage these small but mighty job creators. Unfortunately, oppressive red tape has had the opposite effect of discouraging investment, expansion, and job growth. I am not saying that all regulations are bad, but there are too many rules. For too long, agencies have ignored their true effect, their true impact, on small businesses. Small businesses are at a real disadvantage because they have fewer resources and rarely have in-house counsel, the regulatory compliance staff that would be necessary to guide them through this maze. Generally, small businesses just don't have that.

So shouldn't regulators, at the very least, examine the effects of new rules on small businesses and consider ways to reduce excessive burdens?

Of course they should. There is a law, the Regulatory Flexibility Act, or the RFA, which requires agencies to conduct this commonsense assessment when they regulate. Even though the law has been on the books for over 36 years, agencies too frequently just ignore its requirements.

□ 1430

The Small Business Regulatory Flexibility Improvements Act, which is title III in this bill, eliminates loopholes that agencies like the Internal Revenue Service have used to avoid compliance with the RFA. It also forces agencies to analyze not only the direct, but also the indirect effects of rules on small businesses, just as agencies are required to do when promulgating major rules affecting, for example, the environment. It gives small businesses additional opportunities for early input on proposed rules and regulations and strengthens the RFA's requirements for agencies to periodically review old rules.

Nothing in our legislation today takes away an agency's ability to issue a rule or a regulation, but it will force the rulemakers to think carefully before they act. It is great legislation, and I urge my colleagues to support it.

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

Mr. GOODLATTE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. RATCLIFFE), a member of the Judiciary Committee and the chief sponsor of two of the measures contained here.

Mr. RATCLIFFE. Mr. Chairman, I rise in strong support of the Regulatory Accountability Act of 2017. I thank Chairman GOODLATTE for the opportunity to again lead on this issue and for the inclusion of two of my bills—the Separation of Powers Restoration Act and the ALERT Act—in this incredibly important regulatory reform package.

Because you see, Mr. Chairman, the realities of President Obama's failed liberal progressive experiment are all too real for the three-quarters of a million Texans that I represent, realities like higher prices for families in Sulphur Springs trying to make ends meet, fewer jobs for those seeking work in Texarkana, and small businesses in Sherman and Rockwall forced to close their doors. Mr. Chairman, these are just a few of the countless devastating symptoms of overregulation that citizens across our great country have been forced to endure under President Obama.

The President gives a good speech, and he did so again in his farewell address last night. But the President read us a fictional tale last night. The inescapable truth is that for 8 long years, the constant stream of regulations being pumped out by the Obama administration has taken a terrible toll on families, on businesses, and on our economy. It has made our Nation less prosperous and leaves folks worse off than they were before.

The urgency to reverse this unsustainable regulatory quagmire couldn't have been made more clear than in November, when the American people rose up and voted for a new President who vowed not to subject us to more of the same. That is where my

bill and all of the bills in the Regulatory Accountability Act come into play.

When you look back at the last 8 years, many people wonder how the Obama administration was allowed to grow at such an alarming rate. Now, while there are a lot of troubling factors that go into that equation, the result of an infamous 1984 Supreme Court decision, the Chevron doctrine, is certainly recognized as one of the key culprits. For three decades now, this doctrine has required courts to defer to agency interpretations of congressional intent.

Said in more plain terms, Mr. Chairman, this means that when individuals challenge Federal regulators in court, the deck is stacked in favor of the regulators, the very same regulators who have written the regulations in the first place. Letting regulators grade their own papers, if that doesn't reinforce the need to drain the swamp, then I don't know what does.

My legislation, the Separation of Powers Restoration Act, will fix this perversion of our Constitution by ensuring that Congress, not executive branch agencies, write our laws and that courts, not agency bureaucrats, interpret our laws.

Mr. Chairman, title V of this bill is my ALERT Act legislation, and it provides another critical remedy to the current regulatory process by fixing the lack of transparency that is both unfair and harmful to individuals and small businesses across the country.

Right now, the current law requires the administration to release an update twice a year on the regulations that are being developed by Federal agencies—the problem is that the regulators are ignoring the law—as these updates have either been very late or never issued at all under President Obama's watch.

Up to this point, there hasn't been a way to reinforce and enforce these requirements. So the ALERT Act tackles this problem by forcing the executive branch to make the American people aware of regulations that are coming down the track; and it prohibits any regulations from going into effect unless and until detailed information on the cost of the regulation, its impact on jobs, and the legal basis for the regulation have been available to the public on the Internet for at least 6 months.

Mr. Chairman, the way our government has been allowed to function under this administration isn't how our forefathers intended our government to work. Today's legislation takes a giant step forward in fixing how Washington works. I have already spoken to President-elect Trump about partnering together to make this the law of the land and to give the American people back the government that our Founders intended, a government that works for them, not the other way around.

Mr. Chairman, we owe them nothing less.

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

Mr. GOODLATTE. Mr. Chairman, may I inquire how much time is remaining on each side.

The Acting CHAIR (Mr. DONOVAN). The gentleman from Virginia has 9 minutes remaining, and the gentleman from Michigan has 15½ minutes remaining.

Mr. GOODLATTE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. PETERSON), the ranking member of the House Agriculture Committee.

Mr. PETERSON. Mr. Chairman, I strongly support H.R. 5 and urge my colleagues to do so as well. This bill will reform our regulatory system and reduce burdens on our farmers, ranchers, and businesses.

H.R. 5 will create a more streamlined, transparent, and accountable regulatory process and give the American people a stronger voice in agency decisionmaking.

Requiring agencies to choose the lowest cost rulemaking option and providing additional opportunities for judicial review will ensure that regulations are narrowly tailored, addressing the issues at hand; and this will reduce the burden on farmers, ranchers, businesses, and everyday citizens.

This is a good bill, and I urge my colleagues to support it.

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

Mr. GOODLATTE. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. LUETKEMEYER), the chief sponsor of one of the bills contained herein.

Mr. LUETKEMEYER. Mr. Chairman, today I rise in strong support of the bill on the floor before us, the Regulatory Accountability Act of 2017.

Over the last 8 years, it has been clear that our country has been on the wrong path. Through overregulation and government bureaucracy, the chance at the American Dream has seemed to be slipping away and unreachable for far too many Americans. In November, the American people spoke and made it clear: it is time to change course and reform the rulemaking process to energize robust growth in the American economy.

To do so, we not only need to address the number of Federal regulations, but also their convoluted and complex nature. Our constituents should not need a law degree or an army of consultants and accountants to understand the rules they are required to follow. Nevertheless, given their technical language, it can be extremely difficult to fully understand proposals unless one is an expert in that field.

Title VI of H.R. 5 includes language from a bill that I introduced earlier in this Congress. My bill, the Providing Accountability Through Transparency Act, would require each Federal agency, when providing notice of a proposed rulemaking, to produce a 100-word, plain-language summary of the proposal and make it publicly available online. This commonsense reform would give the American people straightforward and uncomplicated access to the rules proposed by the executive branch.

The American people deserve to be informed about the rules and regulations being proposed by their government, and I am honored to have my legislation included in this regulation-curbing package.

I thank Chairman GOODLATTE for his leadership on H.R. 5, as well as my colleagues who joined me in contributing language to this critical legislation.

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

Mr. GOODLATTE. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. ROTHFUS).

Mr. ROTHFUS. Mr. Chairman, I rise today in strong support of H.R. 5, the Regulatory Accountability Act.

Many speaking today in support of this legislation are right to point out the crushing impact that Washington's overregulation has had on our economy. We know all too well how overregulation has driven up the cost of health care, financial services, and energy; and it is long past time for reform.

I would like to highlight a provision of this legislation that I offered 3 years ago that requires agencies to identify when new rules will have a negative impact on jobs and wages.

Too often, regulators and agency heads are well aware of the negative impact a regulation will have on Americans' jobs and wages even before it is imposed, but they impose it anyway. Specifically, my provision defines when rules have a negative impact on jobs and wages and requires agency heads approving such a rule to submit a statement that they approve the rule knowing its negative impact.

When people in this far-off Capitol take away the jobs and livelihood of working families, as they have done with miners and power plant workers and laborers in my district, they need to own up to it. The Regulatory Accountability Act will help us to provide American workers with substantial relief from what is often Washington overreach, and I encourage all of my colleagues to support this commonsense legislation.

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON LEE), a senior member of the House Judiciary Committee.

Ms. JACKSON LEE. Mr. Chairman, I thank the distinguished chairman and the distinguished ranking member for convening us. It reenforces my commitment to the importance of the House Judiciary Committee for important, innovative, and groundbreaking, in some instances, work that we have done.

In this instance, I find fault because this legislation does not meet that criteria. Just a few days ago, we read the

Constitution, and some might make the argument that H.R. 5 fits very comfortably into the Bill of Rights, Amendment V and Amendment XIV. Both frame themselves around the question of due process. I make the argument that this legislation is sorely lacking.

I want to take up, first of all, a point made by my colleague, a member of the Rules Committee. This legislation, to my recalling, has been circulated for many years. It seems that I have been in the House when a bill like H.R. 5 has passed over and over again.

This bill appeared in the 114th Congress. Many Members left since that time. New Members are here. New Members, Republicans and Democrats, will be added to the House Judiciary Committee and to the Senate Judiciary Committee. None of them will have had the opportunity for regular order, to be able to ensure hearings and to be able to engage in input with amendments that I would agree or disagree with, but to have a vigorous debate in our Judiciary Committee as well as in the Senate. It did not happen. We are now on the floor of the House. So that is one fracture of what we are doing, one Achilles' heel to this legislation.

In the last 24 hours, I heard a news account of a little boy who swallowed magnets that were produced by a particular company. It went through the process. It was designated dangerous; and then, unfortunately, that dangerous status was pulled back, and the company is excited about producing those magnets again.

The little boy who swallowed the magnets, I think, was about 2 years old. A happy little boy, of course, that is how children are. He had major intestinal surgery, and most of his intestines were removed. He is now 6 years old, and he must now be fed intravenously.

□ 1445

His devastation is our failure. That is what we are facing with H.R. 5.

I don't know if my colleagues agree, as boring as the Administrative Procedure Act was in law school, I liked the course. I had a great professor who made me understand the life of the APA and its value. This legislation attempts to rewrite the Administrative Procedure Act to the detriment of the American people.

Consider this, hardworking agencies should have oversight; that is what our committees are all about. They should have oversight. They will now have to jump through hoops of 70 new criteria. I didn't say 10; I didn't say a quarter of 100, 25; I didn't say a half of 100, 50; but 70 when issuing rules, including alternatives to any rule proposal, the scope of the problems the rule meant to address, and potential cost and benefits of the proposal and alternative.

I want to see small businesses thrive. Part of that includes a reasonable healthcare package like ObamaCare, the Affordable Care Act, for its employees, a reasonable new structure dealing with taxation that helps small businesses and does not give a mountain of benefit to major corporations.

Maybe we should address the needs of small businesses in that manner, or, as my minority constituents tell me, access to credit which is generally denied to women, Hispanics, in some instances, and certainly African Americans. That may help our small businesses get them back on their feet. But that is not what H.R. 5 does. It stifles the work of our agencies of which we have attributed to them, the Small Business Administration, Health and Human Services, the Federal Trade Commission, the FCC, and, in some instances, the Department of Justice articulating regulations dealing with funding of juvenile issues.

The Acting CHAIR. The time of the gentlewoman has expired.

Mr. CONYERS. Mr. Chairman, I yield an additional 2 minutes to the gentlewoman.

Ms. JACKSON LEE. I thank the gentleman.

These are agencies that are depended upon to give regular order. Oversight is important, but I would make the argument that stifling, denying, demolishing, or destroying is not order.

Now, I had an amendment that I think is crucial. It is to provide an exception under this bill for regulations that help prevent cyber attacks on election processes or institutions. Mr. Chairman, not only have we found with much profoundness that a foreign entity, in this instance Russia, maybe it might be Iran, maybe it might be some other country, intruded into the democratic process of elections. I am glad Senator GRAHAM said this is not Republicans or Democrats. This is about the integrity of the election system. And why we were hesitant to make this amendment in order, because there is no stopping of the peaceful transfer of government. The American people see to that process. Thank God for our love of democracy. We are able to express our opposition in many different ways.

But there is no doubt there was not only intrusion, there was skewing from one candidate versus another. There are prints—this is public knowledge—that have been able to be tracked to suggest who, what, and what country, and how far up the chain to Mr. Putin that it went to.

So my amendment, I think, was constructive. Why would we be reluctant to debate it? Why would we be reluctant to acknowledge the intelligence report assessing Russian activities and intentions in the recent U.S. elections? And why would we be reluctant to find out who was involved?

H.R. 5 is not doing what it is supposed to do. It is, in fact, undermining the Constitution and eliminating the protections for a little boy who now lives his life completely different because maybe we didn't intervene in the regulatory manner of oversight over that product that we should have, and maybe now we have given them a pass so that other children might suffer the same consequences. I ask my colleagues to vote against the underlying bill and send it back for us to do the work of the people in regular order.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KELLY).

Mr. KELLY of Pennsylvania. Mr. Chairman, I rise in strong support of H.R. 5, and let's get back to what we are talking about. We are talking about overregulation right now. We are not talking about the Red army or any other type of a red threat that is coming in here. The real threat is red tape. We are not talking about scotch tape or duct tape, we are talking about red tape. There is $2 trillion worth of red tape that the American consumers have to pay for every year. That is trillion with a ''T.'' Every single regulation that goes into effect, not by elected officials but by unelected bureaucrats, I am not saying they are not well intended, I am just saying they are not well thought out. And we really don't know who is going to pay for all of these. The burden is on the American consumers, the American taxpayers.

So if we are talking about creating jobs and if we are talking about getting our economy back on track, let's get the heavy regulatory boot of the American government off of the throat of American job creators. Why don't we make it easier for people to be profitable. Why don't we make it easier for people to start a new business. Why don't we make the prices cheaper on the shelves, and all of the services that are out there cheaper for the American people to buy and purchase.

We get caught up in debate about things that don't make sense to everyday Americans. They elect us to come and represent them. They don't elect us to preach to them. They don't elect us to say: You, poor, stupid people, you don't understand, we are trying to help you.

The Congress has oversight of this. This is our job. Why would we turn it over to unelected bureaucrats. How about this: In 2015, we passed 114 laws. Meanwhile, there were 3,410 rules that were put into effect. Is there a little bit of a problem with the balance there? Is there a little bit of a problem with the people who sent us to represent them telling them: you don't understand, that rule, that regulation, I never had a chance to weigh in on it?

They are asking: Then why the heck did we send you?

And I appreciate the fact that Federal employees need to be appreciated. Being one of those employees, I do appreciate that. When I go home, I love when people tell me: you know what, we really appreciate that you are standing up for us. We really appreciate that you are watching where our tax dollars are going. We really appreciate the fact that you are trying to make it easier for us to breathe, make

it easier for us to succeed, make it easier for us to supply all this revenue.

Every single penny that this government needs to run on is not supplied by the Congress, it is supplied by hardworking American taxpayers. And you know what, we can't even collect enough money from them to cover our bills. We have to go out and borrow more. But they are responsible for it. We sign their name on every single debt that we make.

It is time to wake up and smell the coffee. This is not about some other debate. This is about what we are doing to hardworking American taxpayers and hardworking Americans every single day.

Then some say: you don't understand, you poor, stupid people, we are trying to make the air clean and the water drinkable. Yes, I understand that. That is what we are doing. Why do you try to change it into something that doesn't even make sense? Please go back into your communities and talk to these folks that are saddled with these expenses and look them in the eye and tell them you are just not smart enough to know how government works. The one thing they know is we are $20 trillion in the red.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Georgia (Mr. JOHNSON), a distinguished member of the Judiciary Committee.

Mr. JOHNSON of Georgia. Mr. Chairman, I thank the ranking member and the chairman.

I rise in opposition to H.R. 5, the Regulatory Accountability Act of 2017. I have a number of concerns with many provisions of this voluminous page, this 82-page bill. It has not gone through regular order, not one committee meeting. Congress just came into session last week. So we have got 50-plus new Members in this body who have not had one single day of an opportunity to pay any attention to learn what is in this bill. Yet, my colleagues on the other side of the aisle are going to force their folks to vote ''yes'' on this bill. I urge them to vote ''no'' and think about it. The reason they should think about it is because H.R. 5 is a destructive revision of the Administrative Procedure Act which fiendishly convolutes the agency rulemaking process through numerous analytical requirements. We call that gumming up the works.

These requirements, which are largely opposed by the Nation's leading administrative law experts, would cause years of delays in the rulemaking process and deregulate entire industries through rulemaking avoidance by agencies.

In addition to imposing over 60 new procedural requirements on regulatory protections, title I of H.R. 5 imposes a new super-mandate requiring that agencies adopt the least costly rule considered during the rulemaking that meets relevant statutory objectives and permits agencies to choose a more expensive option only if the additional benefits justify its additional costs.

The AFL–CIO has observed that this provision would make protecting workers and the public secondary. Limiting costs and impacts on business and corporations is the prime purpose of this legislation. There is little doubt that this proposal will compromise public health, workplace safety, and environmental protections. Agencies will be forced to make penny-wise and pound-foolish decisions. It costs more to remedy an environmental or financial calamity than it would be to protect the public from the calamity occurring in the first place, which the underlying regulation would do, but they don't want regulations. This is unbelievable.

Title II of the bill abolishes judicial deference to agencies' reasoned statutory interpretations, which has been a hallmark of judicial review for more than three decades. Talk about judicial restraint and not legislating from the bench. That is what the Supreme Court in its Chevron rule has emphasized over the last three decades.

In addition to incentivizing judicial activism by generalist courts, which could engage in rulemaking from the bench by making policy decisions rather than strictly interpreting the law, this provision will also make the regulatory system more costly and time-consuming because it would require agencies to take even more time to promulgate critical protections that the court ultimately decides on its own through its ability to legislate from the bench that it doesn't like. This is nonsense. It is hypocritical.

Title III of the bill further paralyzes agency rulemaking through unworkable, complex requirements, while endowing the hallowed Small Business Administration's Office of Advocacy with broad authority to act as the gatekeeper of our Nation's entire regulatory system. As the Center for Progressive Reform reported in a 2013 report, this entity, this Small Business Administration's Office of Advocacy, exists in an unchecked capacity to funnel ''special interest pressure into agency rulemakings, even though such interests have already had ample opportunity to comment on proposed regulations.''

So in other words, the Small Business Administration's Office of Advocacy is a back door wide open to corporate interests seeking to come in and undermine the regulatory authority of an agency.

At a time when there has been much talking and tweeting about draining the swamp, this measure would function as a green light to special interests to manipulate the regulatory system in their favor.

Moreover, my Republican colleagues' repeated claims that this measure will create regulation by representation, or clawback authority from the executive branch, that argument is fundamentally undermined by the fact that this bill consolidates the role of a subagency, the Small Business Administration, in such an opaque and reckless manner.

The Acting CHAIR. The time of the gentleman has expired.

Mr. CONYERS. I yield an additional 1 minute to the gentleman.

Mr. JOHNSON of Georgia. Have Members ever heard of any legislation that purports to take power back from unelected bureaucrats and then places it right back in the hands of a bureaucrat in the same piece of legislation? This is ridiculous.

Title IV of H.R. 5 would automatically delay the effective date of any rule exceeding $1 billion in costs that is challenged in court, regardless of whether the party challenging the rule has any likelihood of success on the merits, is actually harmed by the rule, or whether staying the rule would be contrary to public interest.

□ 1500

So while they sit here and take the rights of regular, ordinary working people to sue corporations under the guise of so-called tort reform, they turn around in this legislation, open the courthouse door wide to corporations to come in and file frivolous complaints against a regulation and automatically stall it. This is ridiculous.

This legislation is rife with corporate protections at the expense of the people, and I ask my colleagues to vote ''no'' on this legislation.

Mr. GOODLATTE. Mr. Chairman, at this time it is my pleasure to yield 1½ minutes to the gentleman from California (Mr. KNIGHT).

Mr. KNIGHT. Mr. Chairman, I rise in strong support of H.R. 5, the Regulatory Accountability Act of 2017.

Over the last 8 years, we have seen the administration authorize hundreds of executive orders directing Federal agencies to issue, finalize, and implement an unprecedented number of regulations. Most of these impose one-size-fits-all standards on small businesses with little to no consideration for their impact on small businesses.

As a member of the Small Business Committee, it is kind of my job to go out and find out what small businesses have to offer, what is impeding their ability to create and make more jobs for our industry and for our economy. What we have found is that overregulation is stifling them. This is the problem.

This is not something that we have made up. That is the problem in this economy. That is why I am proud to support H.R. 5, and particularly title III, which addresses one vital area that protects small businesses—the Regulatory Flexibility Act, or RFA.

The RFA requires agencies to assess the economic impacts of new regulations on small businesses. However, Federal agencies regularly exploit loopholes in the RFA requirements that allow them to produce inadequate or inaccurate analysis of impact.

We know this can have devastating outcomes, as witnessed in the Department of Labor's overtime rule issued

last year, which was one of the top concerns for many of the small businesses and nonprofits that operate in my district and across this country.

Title III of H.R. 5 would eliminate loopholes to ensure compliance and would also require agencies to provide more detailed information in each analysis.

I encourage my colleagues on both sides of the aisle to support this legislation.

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

Mr. Chairman, in closing, this has been an enlightening discussion because we have determined that H.R. 5 is based on the faulty premise that environmental and public safety protections kill jobs, result in economically stifling costs, and promote uncertainty.

In fact, regulatory protections that ensure the safety of American-made products unquestionably foster job creation and protect the competitiveness of our business and global marketplace. This explains why so many organizations—more than 150—strongly oppose this legislation.

Mr. Chairman, our constituents and the American citizens deserve something better than H.R. 5. We need legislation that creates middle class financial security and opportunity. We need sensible regulations that protect American families from economic ruin, that bring predatory financial practices to an end.

We need workplace safety protections that ensure hardworking Americans can go to work each day without having to risk their lives as a result of hazardous work environments.

Unfortunately, the measure before us does nothing to advance any of these critical goals, and so I must, therefore, oppose H.R. 5 and ask my colleagues to support a negative vote on this matter.

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

Mr. GOODLATTE. Mr. Chair, I yield myself such time as I may consume.

The facts are plain, the conclusion is clear: the rampant tide of unchecked, unbalanced Federal regulation is overwhelming job creators and households all across this Nation. Thanks to Washington's endless excess of regulations, hardworking Americans face higher prices, lower wages, fewer jobs, and fewer new business starts; and America as a whole is less competitive, less innovative, and less prosperous.

Federal regulations now impose an estimated burden of an amazing $1.89 trillion per year. That burden is burying America's job creators and suffocating job opportunities. It equals roughly $15,000 per U.S. household, over 10 percent of America's GDP, and more than the GDP of all but eight countries in the world.

The Obama administration set new records for numbers and effects of major regulations, over 600 in total, with an average of 81 per year. That is roughly one every 3 working days. Through just August 2016, these rules had economic effects of over $740 billion and imposed 194 million paperwork burden-hours; and this only built upon the insufficiently checked regulation already imposed by previous administrations.

This problem must be solved, and this bill is the number one solution to this problem. Its bold, innovative measures will unleash American freedom, opportunity, and resourcefulness by dramatically reducing new regulatory costs; and they will do that while still allowing agencies to achieve the benefits that Congress' statutes have tasked them to achieve.

Far fewer costs, all the benefits, who could be against that? We all should be for it, just as the American people are.

Support the American people. Support the Regulatory Accountability Act. I urge my colleagues to do so.

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

Ms. JACKSON LEE. Mr. Chair, I rise in strong opposition to H.R. 5, the ''Regulatory Accountability Act of 2017,'' which is a radical measure that could make it impossible to promulgate safety regulations to protect the public.

I oppose this legislation because it would effectively shut down the entire U.S. regulatory system, amending in one fell swoop every bedrock existing regulatory statute.

My opposition to H.R. 5 is amplified by the Rules Committee's decision to decline to make in order the Jackson Lee Amendment, ''to provide an exception for regulations that help prevent cyberattacks on election processes or institutions.''

Apparently, House Republicans are still reluctant to debate the subject—undisputed by our Intelligence community—of Russian cyberattacks on American cyber networks and infrastructure.

Key Judgments in the Intelligence Community Assessment's declassified version of a highly classified report entitled, ''Assessing Russian Activities and Intentions in Recent U.S. Elections,'' have confirmed that 2016 witnessed the first American presidential election that was the subject of cyberattacks.

These and other subversive activities have been confirmed to have been perpetrated by entities allied with the Government of Russia and were undertaken for the express purpose of influencing the presidential contest to secure the election of its preferred candidate, Donald Trump, who made history by becoming the first presidential candidate to invite a hostile foreign power to launch cyberattacks against his political opponent.

All three agencies, CIA, FBI and NSA, agree with this judgment.

The so-called Regulatory Accountability Act (RAA), in addition if to this rule, demonstrates the deceptive design of the majority to make it harder to establish regulations to protect the public by tilting the entire regulatory system significantly toward special interests.

The bill allows Federal courts without expertise on technical issues to substitute their judgment for those of the expert federal agencies.

These agencies are staffed with career subject matter experts that are deeply knowledgeable of the background, context, and history of agency actions and policy rationale.

For this reason, courts have long deferred to agency experts who are in the best position to carry out the statutes.

The RAA would end this well-established practice and allow far less experienced judges to second guess expert opinion—essentially sanctioning judicial activism.

The Jackson Lee Amendment, however, would have attuned this dangerous legislation to provide an exception for regulation upon which Americans so greatly rely on their government to help prevent cyberattacks on our highly coveted and esteemed election processes and institutions.

The bill promoted by the majority, calling for accountability from our Administrative Agencies—fails to answer in accountability to the threat posed by foreign and domestic invaders on our national cyber networks.

As the new Congress commences in the People's House, obstructionist Republicans are circumventing the very procedures by which elected officials answer the cries of outrage and dismay of desperately concerned constituents.

To the obstructionist majority perpetuating this restrictive rule, let me stand firm in the American convictions laid bare by the Jackson Lee Amendment—the system of Checks and Balances established by the Separation of Powers clause of the Constitution will not be thwarted.

The spirit of the H.R. 5 is clearly designed to stop all regulation dead in its tracks—no matter the threat to cyber networks, national security, economy, or the very health and safety of the American people.

We know that Russia's cyber activities were intended to influence the election, erode faith in U.S. democratic institutions, sow doubt about the integrity of our electoral process, and undermine confidence in the institutions of the U.S. government. These actions are unacceptable and will not be tolerated.

The mission of the Intelligence Community is to seek to reduce the uncertainty surrounding foreign activities, capabilities, or leaders' intentions.

On these issues of great importance to U.S. national security, the goal of intelligence analysis is to provide assessments to decision makers that are intellectually rigorous, objective, timely, and useful, and that adhere to tradecraft standards.

Applying these standards helps ensure that the Intelligence Community provides U.S. policymakers, warfighters, and operators with the best and most accurate insight, warning, and context, as well as potential opportunities to advance U.S. national security.

This objective is difficult to achieve when seeking to understand complex issues on which foreign actors go to extraordinary lengths to hide or obfuscate their activities.

My amendment would have improved H.R. 5 by exempting only those regulations critical to making cyber networks invulnerable to attack from foreign and domestic agencies and individuals.

Specifically, the amendment that the Rules Committee disallowed for presentation on a vote here on the floor today would have provided the American people an exemption to allow for the prevention of tampering, alteration, or misappropriation of information by agents of foreign countries with the purpose or effect of interfering with or undermining election processes or institutions.

In particular, restrictions put forth in H.R. 5 could result in further delay to agencies attempting to take action to help network defenders better identify new tactics or techniques that a malicious actor might deploy or detect and disrupt an ongoing intrusion, in addition to protecting data that enables cybersecurity firms and other network defenders to identify certain malware that the Russian intelligence services use.

The Regulatory Accountability Act provides no accountability to the American public.

Instead, it allows polluting industries and special interests to game the system and escape accountability for any harm they inflict.

It makes it incredibly difficult, if not impossible, to secure new public protections and arms industry with numerous tools to avoid their legal obligations.

The increasing use of cyber-enabled means to undermine democratic processes at home and abroad, as exemplified by Russia's recent activities, has made clear that a tool explicitly targeting attempts to interfere with elections is also warranted.

We cannot afford to let global terroristic threats, in the form of cyber activities, erode faith in U.S. democratic institutions, sow doubt about the integrity of our electoral process, influence elections, or undermine confidence in the institutions of the U.S. government.

My amendment would have offered protections guarding the integrity of our cyber networks, while at the same time allowing the bill to achieve the proponents' major purposes.

For these reasons and more, I oppose this bill.

The Acting CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule. The bill shall be considered as read.

The text of the bill is as follows:

H.R. 5

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Regulatory Accountability Act of 2017''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—REGULATORY ACCOUNTABILITY ACT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Regulatory Accountability Act''.

SEC. 102. 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) 'negative-impact on jobs and wages rule' means any rule that the agency that made the rule or the Administrator of the Office of Information and Regulatory Affairs determines is likely to—

''(A) in one or more sectors of the economy that has a 6-digit code under the North American Industry Classification System, reduce employment not related to new regulatory compliance by 1 percent or more annually during the 1-year, 5-year, or 10-year period after implementation;

''(B) in one or more sectors of the economy that has a 6-digit code under the North American Industry Classification System, reduce average weekly wages for employment not related to new regulatory compliance by 1 percent or more annually during the 1-year, 5-year, or 10-year period after implementation;

''(C) in any industry area (as such term is defined in the Current Population Survey conducted by the Bureau of Labor Statistics) in which the most recent annual unemployment rate for the industry area is greater than 5 percent, as determined by the Bureau of Labor Statistics in the Current Population Survey, reduce employment not related to new regulatory compliance during the first year after implementation; or

''(D) in any industry area in which the Bureau of Labor Statistics projects in the Occupational Employment Statistics program that the employment level will decrease by 1 percent or more, further reduce employment not related to new regulatory compliance during the first year after implementation;

''(18) '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;

''(19) '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;

''(20) 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

''(21) 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. 103. 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 (including an estimate of the net gain or loss in domestic jobs), wages, economic growth, innovation, economic competitiveness, and impacts on low income populations;

''(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, NEGATIVE-IMPACT ON JOBS AND WAGES RULES, AND RULES INVOLVING NOVEL LEGAL OR POLICY ISSUES.—In the case of a rule making for a major rule, a high-impact rule, a negative-impact on jobs and wages 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);

''(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; and

''(E) an achievable objective for the rule and metrics by which the agency will measure progress toward that objective;

''(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);

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

''(iii) an achievable objective for the rule and metrics by which the agency will measure progress toward that objective;

''(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;

''(G) the agency's reasoned final determination that the rule meets the objectives that the agency identified in subsection (d)(1)(E)(iii) or that other objectives are more appropriate in light of the full administrative record and the rule meets those objectives;

''(H) the agency's reasoned final determination that it did not deviate from the metrics the agency included in subsection (d)(1)(E)(iii) or that other metrics are more appropriate in light of the full administrative record and the agency did not deviate from those metrics;

''(I)(i) for any major rule, high-impact rule, or negative-impact on jobs and wages 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; and

''(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; and

''(J) for any negative-impact on jobs and wages rule, a statement that the head of the agency that made the rule approved the rule knowing about the findings and determination of the agency or the Administrator of the Office of Information and Regulatory Affairs that qualified the rule as a negative impact on jobs and wages rule.

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 subsection (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 subsection (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. 104. 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. 105. 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. 106. 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. 107. 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 (b) (as designated by section 202 of this Act), by inserting after ''in accordance with law'' the following: ''(including the Information Quality Act)''; and

(3) by adding at the end the following:

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

''(1) 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);

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

''(3) guidance.

''(d) 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. 108. 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. 109. EFFECTIVE DATE.

The amendments made by this title to—

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

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

(3) paragraphs (1) and (2) of section 706(c) of such title; and

(4) subsection (d) of section 706 of such title,

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

TITLE II—SEPARATION OF POWERS RESTORATION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the ''Separation of Powers Restoration Act''.

SEC. 202. JUDICIAL REVIEW OF STATUTORY AND REGULATORY INTERPRETATIONS.

Section 706 of title 5, United States Code, as amended by this Act, is further amended—

(1) in subsection (a) (as designated by section 107 of this Act)—

(A) by striking ''decide all relevant questions of law, interpret constitutional and statutory provisions, and''; and

(B) by inserting after ''of the terms of an agency action'' the following ''and decide de novo all relevant questions of law, including the interpretation of constitutional and statutory provisions, and rules made by agencies. Notwithstanding any other provision of law, this subsection shall apply in any action for judicial review of agency action authorized under any provision of law. No law may exempt any such civil action from the application of this section except by specific reference to this section''; and

(2) by striking ''The reviewing court shall—'' and inserting the following:

''(b) The reviewing court shall—''.

TITLE III—SMALL BUSINESS REGULATORY FLEXIBILITY IMPROVEMENTS ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Small Business Regulatory Flexibility Improvements Act''.

SEC. 302. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.

(a) IN GENERAL.—Paragraph (2) of section 601 of title 5, United States Code, is amended to read as follows:

''(2) RULE.—The term 'rule' has the meaning given such term in section 551(4) of this title, except that such term does not include—

''(A) a rule pertaining to the protection of the rights of and benefits for veterans or part 232 of title 32 of the Code of Federal Regulations (as in effect on July 1, 2014) or any successor provisions thereto; or

''(B) a rule of particular (and not general) applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.''.

(b) INCLUSION OF RULES WITH INDIRECT EFFECTS.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(9) ECONOMIC IMPACT.—The term 'economic impact' means, with respect to a proposed or final rule—

''(A) any direct economic effect on small entities of such rule; and

''(B) any indirect economic effect (including compliance costs and effects on revenue) on small entities which is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).''.

(c) INCLUSION OF RULES WITH BENEFICIAL EFFECTS.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (c) of section 603 of title 5, United States Code, is amended by striking the first sentence and inserting ''Each initial regulatory flexibility analysis shall also contain a detailed description of alternatives to the proposed rule which minimize any adverse significant economic impact or maximize any beneficial significant economic impact on small entities.''.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—The first paragraph (6) of section 604(a) of title 5, United States Code, is amended by striking ''minimize the significant economic impact'' and inserting ''minimize the adverse significant economic impact or maximize the beneficial significant economic impact''.

(d) INCLUSION OF RULES AFFECTING TRIBAL ORGANIZATIONS.—Paragraph (5) of section 601 of title 5, United States Code, is amended by inserting ''and tribal organizations (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l))),'' after ''special districts,''.

(e) INCLUSION OF LAND MANAGEMENT PLANS AND FORMAL RULEMAKING.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 603 of title 5, United States Code, is amended in the first sentence—

(A) by striking ''or'' after ''proposed rule,''; and

(B) by inserting ''or publishes a revision or amendment to a land management plan,'' after ''United States,''.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 604 of title 5, United States Code, is amended in the first sentence—

(A) by striking ''or'' after ''proposed rulemaking,''; and

(B) by inserting ''or adopts a revision or amendment to a land management plan,'' after ''section 603(a),''.

(3) LAND MANAGEMENT PLAN DEFINED.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(10) LAND MANAGEMENT PLAN.—

''(A) IN GENERAL.—The term 'land management plan' means—

''(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and

''(ii) any plan developed by the Secretary of the Interior under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

''(B) REVISION.—The term 'revision' means any change to a land management plan which—

''(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(5) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or

''(ii) in the case of a plan described in subparagraph (A)(ii), is made under section

1610.5–6 of title 43, Code of Federal Regulations (or any successor regulation).

''(C) AMENDMENT.—The term 'amendment' means any change to a land management plan which—

''(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)) and with respect to which the Secretary of Agriculture prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); or

''(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5–5 of title 43, Code of Federal Regulations (or any successor regulation) and with respect to which the Secretary of the Interior prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).''.

(f) INCLUSION OF CERTAIN INTERPRETIVE RULES INVOLVING THE INTERNAL REVENUE LAWS.—

(1) IN GENERAL.—Subsection (a) of section 603 of title 5, United States Code, is amended by striking the period at the end and inserting ''or a recordkeeping requirement, and without regard to whether such requirement is imposed by statute or regulation.''.

(2) COLLECTION OF INFORMATION.—Paragraph (7) of section 601 of title 5, United States Code, is amended to read as follows:

''(7) COLLECTION OF INFORMATION.—The term 'collection of information' has the meaning given such term in section 3502(3) of title 44.''.

(3) RECORDKEEPING REQUIREMENT.—Paragraph (8) of section 601 of title 5, United States Code, is amended to read as follows:

''(8) RECORDKEEPING REQUIREMENT.—The term 'recordkeeping requirement' has the meaning given such term in section 3502(13) of title 44.''.

(g) DEFINITION OF SMALL ORGANIZATION.—Paragraph (4) of section 601 of title 5, United States Code, is amended to read as follows:

''(4) SMALL ORGANIZATION.—

''(A) IN GENERAL.—The term 'small organization' means any not-for-profit enterprise which, as of the issuance of the notice of proposed rulemaking—

''(i) in the case of an enterprise which is described by a classification code of the North American Industrial Classification System, does not exceed the size standard established by the Administrator of the Small Business Administration pursuant to section 3 of the Small Business Act (15 U.S.C. 632) for small business concerns described by such classification code; and

''(ii) in the case of any other enterprise, has a net worth that does not exceed $7 million and has not more than 500 employees.

''(B) LOCAL LABOR ORGANIZATIONS.—In the case of any local labor organization, subparagraph (A) shall be applied without regard to any national or international organization of which such local labor organization is a part.

''(C) AGENCY DEFINITIONS.—Subparagraphs (A) and (B) shall not apply to the extent that an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions for such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register.''.

SEC. 303. EXPANSION OF REPORT OF REGULATORY AGENDA.

Section 602 of title 5, United States Code, is amended—

(1) in subsection (a)—

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

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) a brief description of the sector of the North American Industrial Classification System that is primarily affected by any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities; and''; and

(2) in subsection (c), to read as follows:

''(c) Each agency shall prominently display a plain language summary of the information contained in the regulatory flexibility agenda published under subsection (a) on its website within 3 days of its publication in the Federal Register. The Office of Advocacy of the Small Business Administration shall compile and prominently display a plain language summary of the regulatory agendas referenced in subsection (a) for each agency on its website within 3 days of their publication in the Federal Register.''.

SEC. 304. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

''(1) describing the reasons why action by the agency is being considered;

''(2) describing the objectives of, and legal basis for, the proposed rule;

''(3) estimating the number and type of small entities to which the proposed rule will apply;

''(4) describing the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

''(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided;

''(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed on the class of small entities by the agency or why such an estimate is not available;

''(7) describing any disproportionate economic impact on small entities or a specific class of small entities; and

''(8) describing any impairment of the ability of small entities to have access to credit.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) in paragraph (4), by striking ''an explanation'' and inserting ''a detailed explanation'';

(B) in each of paragraphs (4), (5), and the first paragraph (6), by inserting ''detailed'' before ''description'';

(C) in the first paragraph (6), by striking ''; and'' at the end;

(D) in the second paragraph (6), by striking the period and inserting ''; and'';

(E) by redesignating the second paragraph (6) as paragraph (7); and

(F) by adding at the end the following:

''(8) a detailed description of any disproportionate economic impact on small entities or a specific class of small entities.''.

(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Paragraph (2) of section 604(a) of title 5, United States Code, is amended by inserting ''(or certification of the proposed rule under section 605(b))'' after ''initial regulatory flexibility analysis''.

(3) PUBLICATION OF ANALYSIS ON WEBSITE.—Subsection (b) of section 604 of title 5, United States Code, is amended to read as follows:

''(b) The agency shall make copies of the final regulatory flexibility analysis available to the public, including placement of the entire analysis on the agency's website, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof which includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.''.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—Subsection (a) of section 605 of title 5, United States Code, is amended to read as follows:

''(a) A Federal agency shall be treated as satisfying any requirement regarding the content of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis which is required by any other law and which satisfies such requirement.''.

(d) CERTIFICATIONS.—Subsection (b) of section 605 of title 5, United States Code, is amended—

(1) by inserting ''detailed'' before ''statement'' the first place it appears; and

(2) by inserting ''and legal'' after ''factual''.

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

''§ 607. Quantification requirements

''In complying with sections 603 and 604, an agency shall provide—

''(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or

''(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.''.

SEC. 305. REPEAL OF WAIVER AND DELAY AUTHORITY; ADDITIONAL POWERS OF THE CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Section 608 of title 5, United States Code, is amended to read as follows:

''§ 608. Additional powers of Chief Counsel for Advocacy

''(a)(1) Not later than 270 days after the date of the enactment of this section, the Chief Counsel for Advocacy of the Small Business Administration shall, after opportunity for notice and comment under section 553, issue rules governing agency compliance with this chapter. The Chief Counsel may modify or amend such rules after notice and comment under section 553. This chapter (other than this subsection) shall not apply with respect to the issuance, modification, and amendment of rules under this paragraph.

''(2) An agency shall not issue rules which supplement the rules issued under subsection (a) unless such agency has first consulted with the Chief Counsel for Advocacy to ensure that such supplemental rules comply with this chapter and the rules issued under paragraph (1).

''(b) Notwithstanding any other law, the Chief Counsel for Advocacy of the Small Business Administration may intervene in any agency adjudication (unless such agency is authorized to impose a fine or penalty under such adjudication), and may inform the agency of the impact that any decision on the record may have on small entities. The Chief Counsel shall not initiate an appeal with respect to any adjudication in

which the Chief Counsel intervenes under this subsection.

''(c) The Chief Counsel for Advocacy may file comments in response to any agency notice requesting comment, regardless of whether the agency is required to file a general notice of proposed rulemaking under section 553.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 611(a)(1) of such title is amended by striking ''608(b),''.

(2) Section 611(a)(2) of such title is amended by striking ''608(b),''.

(3) Section 611(a)(3) of such title is amended—

(A) by striking subparagraph (B); and

(B) by striking ''(3)(A) A small entity'' and inserting the following:

''(3) A small entity''.

SEC. 306. PROCEDURES FOR GATHERING COMMENTS.

Section 609 of title 5, United States Code, is amended by striking subsection (b) and all that follows through the end of the section and inserting the following:

''(b)(1) Prior to publication of any proposed rule described in subsection (e), an agency making such rule shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with—

''(A) all materials prepared or utilized by the agency in making the proposed rule, including the draft of the proposed rule; and

''(B) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities and the type of small entities that might be affected.

''(2) An agency shall not be required under paragraph (1) to provide the exact language of any draft if the rule—

''(A) relates to the internal revenue laws of the United States; or

''(B) is proposed by an independent regulatory agency (as defined in section 3502(5) of title 44).

''(c) Not later than 15 days after the receipt of such materials and information under subsection (b), the Chief Counsel for Advocacy of the Small Business Administration shall—

''(1) identify small entities or representatives of small entities or a combination of both for the purpose of obtaining advice, input, and recommendations from those persons about the potential economic impacts of the proposed rule and the compliance of the agency with section 603; and

''(2) convene a review panel consisting of an employee from the Office of Advocacy of the Small Business Administration, an employee from the agency making the rule, and in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), an employee from the Office of Information and Regulatory Affairs of the Office of Management and Budget to review the materials and information provided to the Chief Counsel under subsection (b).

''(d)(1) Not later than 60 days after the review panel described in subsection (c)(2) is convened, the Chief Counsel for Advocacy of the Small Business Administration shall, after consultation with the members of such panel, submit a report to the agency and, in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 44), the Office of Information and Regulatory Affairs of the Office of Management and Budget.

''(2) Such report shall include an assessment of the economic impact of the proposed rule on small entities, including an assessment of the proposed rule's impact on the cost that small entities pay for energy, an assessment of the proposed rule's impact on startup costs for small entities, and a discussion of any alternatives that will minimize adverse significant economic impacts or maximize beneficial significant economic impacts on small entities.

''(3) Such report shall become part of the rulemaking record. In the publication of the proposed rule, the agency shall explain what actions, if any, the agency took in response to such report.

''(e) A proposed rule is described by this subsection if the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, the head of the agency (or the delegatee of the head of the agency), or an independent regulatory agency determines that the proposed rule is likely to result in—

''(1) an annual effect on the economy of $100 million or more;

''(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, tribal organizations, or geographic regions;

''(3) 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

''(4) a significant economic impact on a substantial number of small entities.

''(f) Upon application by the agency, the Chief Counsel for Advocacy of the Small Business Administration may waive the requirements of subsections (b) through (e) if the Chief Counsel determines that compliance with the requirements of such subsections are impracticable, unnecessary, or contrary to the public interest.

''(g) A small entity or a representative of a small entity may submit a request that the agency provide a copy of the report prepared under subsection (d) and all materials and information provided to the Chief Counsel for Advocacy of the Small Business Administration under subsection (b). The agency receiving such request shall provide the report, materials and information to the requesting small entity or representative of a small entity not later than 10 business days after receiving such request, except that the agency shall not disclose any information that is prohibited from disclosure to the public pursuant to section 552(b) of this title.''.

SEC. 307. PERIODIC REVIEW OF RULES.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a) Not later than 180 days after the enactment of this section, each agency shall publish in the Federal Register and place on its website a plan for the periodic review of rules issued by the agency which the head of the agency determines have a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any beneficial significant economic impacts on a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register and subsequently placing the amended plan on the agency's website.

''(b) The plan shall provide for the review of all such agency rules existing on the date of the enactment of this section within 10 years of the date of publication of the plan in the Federal Register and for review of rules adopted after the date of enactment of this section within 10 years after the publication of the final rule in the Federal Register. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the head of the agency shall so certify in a statement published in the Federal Register and may extend the review for not longer than 2 years after publication of notice of extension in the Federal Register. Such certification and notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration and the Congress.

''(c) The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small businesses (including small business concerns owned and controlled by women, small business concerns owned and controlled by veterans, and small business concerns owned and controlled by socially and economically disadvantaged individuals (as such terms are defined in the Small Business Act)) for the purposes of carrying out this section. The agency shall include in this section a plan for how the agency will contact small businesses and gather their input on existing agency rules.

''(d) Each agency shall annually submit a report regarding the results of its review pursuant to such plan to the Congress, the Chief Counsel for Advocacy of the Small Business Administration, and, in the case of agencies other than independent regulatory agencies (as defined in section 3502(5) of title 44) to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include the identification of any rule with respect to which the head of the agency made a determination described in paragraph (5) or (6) of subsection (e) and a detailed explanation of the reasons for such determination.

''(e) In reviewing a rule pursuant to subsections (a) through (d), the agency shall amend or rescind the rule to minimize any adverse significant economic impact on a substantial number of small entities or disproportionate economic impact on a specific class of small entities, or maximize any beneficial significant economic impact of the rule on a substantial number of small entities to the greatest extent possible, consistent with the stated objectives of applicable statutes. In amending or rescinding the rule, the agency shall consider the following factors:

''(1) The continued need for the rule.

''(2) The nature of complaints received by the agency from small entities concerning the rule.

''(3) Comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration.

''(4) The complexity of the rule.

''(5) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State, territorial, and local rules.

''(6) The contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such calculations cannot be made and reports that determination in the annual report required under subsection (d).

''(7) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

''(f) Each year, each agency shall publish in the Federal Register and on its website a list of rules to be reviewed pursuant to such plan. The agency shall include in the publication a solicitation of public comments on

any further inclusions or exclusions of rules from the list, and shall respond to such comments. Such publication shall include a brief description of the rule, the reason why the agency determined that it has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.''.

SEC. 308. JUDICIAL REVIEW OF COMPLIANCE WITH THE REQUIREMENTS OF THE REGULATORY FLEXIBILITY ACT AVAILABLE AFTER PUBLICATION OF THE FINAL RULE.

(a) IN GENERAL.—Paragraph (1) of section 611(a) of title 5, United States Code, is amended by striking ''final agency action'' and inserting ''such rule''.

(b) JURISDICTION.—Paragraph (2) of such section is amended by inserting ''(or which would have such jurisdiction if publication of the final rule constituted final agency action)'' after ''provision of law,''.

(c) TIME FOR BRINGING ACTION.—Paragraph (3) of such section is amended—

(1) by striking ''final agency action'' and inserting ''publication of the final rule''; and

(2) by inserting '', in the case of a rule for which the date of final agency action is the same date as the publication of the final rule,'' after ''except that''.

(d) INTERVENTION BY CHIEF COUNSEL FOR ADVOCACY.—Subsection (b) of section 612 of title 5, United States Code, is amended by inserting before the first period ''or agency compliance with section 601, 603, 604, 605(b), 609, or 610''.

SEC. 309. JURISDICTION OF COURT OF APPEALS OVER RULES IMPLEMENTING THE REGULATORY FLEXIBILITY ACT.

(a) IN GENERAL.—Section 2342 of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (7) the following new paragraph:

''(8) all final rules under section 608(a) of title 5.''.

(b) CONFORMING AMENDMENTS.—Paragraph (3) of section 2341 of title 28, United States Code, is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(F) the Office of Advocacy of the Small Business Administration, when the final rule is under section 608(a) of title 5.''.

(c) AUTHORIZATION TO INTERVENE AND COMMENT ON AGENCY COMPLIANCE WITH ADMINISTRATIVE PROCEDURE.—Subsection (b) of section 612 of title 5, United States Code, is amended by inserting ''chapter 5, and chapter 7,'' after ''this chapter,''.

SEC. 310. ESTABLISHMENT AND APPROVAL OF SMALL BUSINESS CONCERN SIZE STANDARDS BY CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Subparagraph (A) of section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)(A)) is amended to read as follows:

''(A) IN GENERAL.—In addition to the criteria specified in paragraph (1)—

''(i) the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for purposes of this Act or the Small Business Investment Act of 1958; and

''(ii) the Chief Counsel for Advocacy may specify such definitions or standards for purposes of any other Act.''.

(b) APPROVAL BY CHIEF COUNSEL.—Clause (iii) of section 3(a)(2)(C) of the Small Business Act (15 U.S.C. 632(a)(2)(C)(iii)) is amended to read as follows:

''(iii) except in the case of a size standard prescribed by the Administrator, is approved by the Chief Counsel for Advocacy.''.

(c) INDUSTRY VARIATION.—Paragraph (3) of section 3(a) of the Small Business Act (15 U.S.C. 632(a)(3)) is amended—

(1) by inserting ''or Chief Counsel for Advocacy, as appropriate'' before ''shall ensure''; and

(2) by inserting ''or Chief Counsel for Advocacy'' before the period at the end.

(d) JUDICIAL REVIEW OF SIZE STANDARDS APPROVED BY CHIEF COUNSEL.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following new paragraph:

''(9) JUDICIAL REVIEW OF STANDARDS APPROVED BY CHIEF COUNSEL.—In the case of an action for judicial review of a rule which includes a definition or standard approved by the Chief Counsel for Advocacy under this subsection, the party seeking such review shall be entitled to join the Chief Counsel as a party in such action.''.

SEC. 311. CLERICAL AMENDMENTS.

(a) DEFINITIONS.—Section 601 of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking ''(1) the term'' and inserting the following:

''(1) AGENCY.—The term'';

(2) in paragraph (3)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking ''(3) the term'' and inserting the following:

''(3) SMALL BUSINESS.—The term'';

(3) in paragraph (5)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking ''(5) the term'' and inserting the following:

''(5) SMALL GOVERNMENTAL JURISDICTION.—The term''; and

(4) in paragraph (6)—

(A) by striking ''; and'' and inserting a period; and

(B) by striking ''(6) the term'' and inserting the following:

''(6) SMALL ENTITY.—The term''.

(b) INCORPORATIONS BY REFERENCE AND CERTIFICATIONS.—The heading of section 605 of title 5, United States Code, is amended to read as follows:

''§ 605. Incorporations by reference and certifications''.

(c) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended as follows:

(1) By striking the item relating to section 605 and inserting the following new item:

''605. Incorporations by reference and certifications.''.

(2) By striking the item relating to section 607 and inserting the following new item:

''607. Quantification requirements.''.

(3) By striking the item relating to section 608 and inserting the following:

''608. Additional powers of Chief Counsel for Advocacy.''.

(d) OTHER CLERICAL AMENDMENTS TO CHAPTER 6.—Chapter 6 of title 5, United States Code, is amended in section 603(d)—

(1) by striking paragraph (2);

(2) by striking ''(1) For a covered agency,'' and inserting ''For a covered agency,'';

(3) by striking ''(A) any'' and inserting ''(1) any'';

(4) by striking ''(B) any'' and inserting ''(2) any''; and

(5) by striking ''(C) advice'' and inserting ''(3) advice''.

SEC. 312. AGENCY PREPARATION OF GUIDES.

Section 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended to read as follows:

''(5) AGENCY PREPARATION OF GUIDES.—The agency shall, in its sole discretion, taking into account the subject matter of the rule and the language of relevant statutes, ensure that the guide is written using sufficiently plain language likely to be understood by affected small entities. Agencies may prepare separate guides covering groups or classes of similarly affected small entities and may cooperate with associations of small entities to distribute such guides. In developing guides, agencies shall solicit input from affected small entities or associations of affected small entities. An agency may prepare guides and apply this section with respect to a rule or a group of related rules.''.

SEC. 313. COMPTROLLER GENERAL REPORT.

Not later than 90 days after the date of enactment of this title, the Comptroller General of the United States shall complete and publish a study that examines whether the Chief Counsel for Advocacy of the Small Business Administration has the capacity and resources to carry out the duties of the Chief Counsel under this title and the amendments made by this title.

TITLE IV—REQUIRE EVALUATION BEFORE IMPLEMENTING EXECUTIVE WISHLISTS ACT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Require Evaluation before Implementing Executive Wishlists Act'' or as the ''REVIEW Act''.

SEC. 402. RELIEF PENDING REVIEW.

Section 705 of title 5, United States Code, is amended—

(1) by striking ''When'' and inserting the following:

''(a) IN GENERAL.—When''; and

(2) by adding at the end the following:

''(b) HIGH-IMPACT RULES.—

''(1) DEFINITIONS.—In this subsection—

''(A) the term 'Administrator' means the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget; and

''(B) the term 'high-impact rule' means any rule that the Administrator determines may impose an annual cost on the economy of not less than $1,000,000,000.

''(2) IDENTIFICATION.—A final rule may not be published or take effect until the agency making the rule submits the rule to the Administrator and the Administrator makes a determination as to whether the rule is a high-impact rule, which shall be published by the agency with the final rule.

''(3) RELIEF.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an agency shall postpone the effective date of a high-impact rule of the agency until the final disposition of all actions seeking judicial review of the rule.

''(B) FAILURE TO TIMELY SEEK JUDICIAL REVIEW.—Notwithstanding section 553(i), if no person seeks judicial review of a high-impact rule—

''(i) during any period explicitly provided for judicial review under the statute authorizing the making of the rule; or

''(ii) if no such period is explicitly provided for, during the 60-day period beginning on the date on which the high-impact rule is published in the Federal Register,

the high-impact rule may take effect as early as the date on which the applicable period ends.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to impose any limitation under law on any court against the issuance of any order enjoining the implementation of any rule.''.

TITLE V—ALL ECONOMIC REGULATIONS ARE TRANSPARENT ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''All Economic Regulations are Transparent Act'' or the ''ALERT Act''.

SEC. 502. OFFICE OF INFORMATION AND REGULATORY AFFAIRS PUBLICATION OF INFORMATION RELATING TO RULES.

(a) AMENDMENT.—Title 5, United States Code, is amended by inserting after chapter 6, the following new chapter:

''CHAPTER 6A—OFFICE OF INFORMATION AND REGULATORY AFFAIRS PUBLICATION OF INFORMATION RELATING TO RULES

''SEC. 651. AGENCY MONTHLY SUBMISSION TO OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

''On a monthly basis, the head of each agency shall submit to the Administrator of the Office of Information and Regulatory Affairs (referred to in this chapter as the 'Administrator'), in such a manner as the Administrator may reasonably require, the following information:

''(1) For each rule that the agency expects to propose or finalize during the 12-month period following the month covered by the monthly submission:

''(A) A summary of the nature of the rule, including the regulation identifier number and the docket number for the rule.

''(B) The objectives of and legal basis for the issuance of the rule, including—

''(i) any statutory or judicial deadline; and

''(ii) whether the legal basis restricts or precludes the agency from conducting an analysis of the costs or benefits of the rule during the rule making, and if not, whether the agency plans to conduct an analysis of the costs or benefits of the rule during the rule making.

''(C) Whether the agency plans to claim an exemption from the requirements of section 553 pursuant to section 553(g)(2)(A).

''(D) The stage of the rule making as of the date of submission.

''(E) Whether the rule is subject to review under section 610.

''(2) For any rule for which the agency expects to finalize during the 12-month period following the month covered by the monthly submission and has issued a general notice of proposed rule making—

''(A) an approximate schedule for completing action on the rule;

''(B) an estimate of whether the rule will cost—

''(i) less than $50,000,000;

''(ii) $50,000,000 or more but less than $100,000,000;

''(iii) $100,000,000 or more but less than $500,000,000;

''(iv) $500,000,000 or more but less than $1,000,000,000;

''(v) $1,000,000,000 or more but less than $5,000,000,000;

''(vi) $5,000,000,000 or more but less than $10,000,000,000; or

''(vii) $10,000,000,000 or more; and

''(C) any estimate of the economic effects of the rule, including the imposition of unfunded mandates and any estimate of the net effect that the rule will have on the number of jobs in the United States, that was considered in drafting the rule, or, if no such estimate is available, a statement affirming that no information on the economic effects, including the effect on the number of jobs, of the rule has been considered.

''SEC. 652. OFFICE OF INFORMATION AND REGULATORY AFFAIRS PUBLICATIONS.

''(a) AGENCY-SPECIFIC INFORMATION PUBLISHED MONTHLY.—Not later than 30 days after the submission of information pursuant to section 651, the Administrator shall make such information publicly available on the Internet.

''(b) CUMULATIVE ASSESSMENT OF AGENCY RULE MAKING PUBLISHED ANNUALLY.—

''(1) PUBLICATION IN THE FEDERAL REGISTER.—Not later than October 1 of each year, the Administrator shall publish in the Federal Register the following, with respect to the previous year:

''(A) The information that the Administrator received from the head of each agency under section 651.

''(B) The number of rules and a list of each such rule—

''(i) that was proposed by each agency, including, for each such rule, an indication of whether the issuing agency conducted an analysis of the costs or benefits of the rule; and

''(ii) that was finalized by each agency, including for each such rule an indication of whether—

''(I) the issuing agency conducted an analysis of the costs or benefits of the rule;

''(II) the agency claimed an exemption from the procedures under section 553 pursuant to section 553(g)(2)(A); and

''(III) the rule was issued pursuant to a statutory mandate or the rule making is committed to agency discretion by law.

''(C) The number of agency actions and a list of each such action taken by each agency that—

''(i) repealed a rule;

''(ii) reduced the scope of a rule;

''(iii) reduced the cost of a rule; or

''(iv) accelerated the expiration date of a rule.

''(D) The total cost (without reducing the cost by any offsetting benefits) of all rules proposed or finalized, the total cost of any unfunded mandates imposed by all such rules, and the number of rules for which an estimate of the cost of the rule was not available.

''(2) PUBLICATION ON THE INTERNET.—Not later than October 1 of each year, the Administrator shall make publicly available on the Internet the following:

''(A) The analysis of the costs or benefits, if conducted, for each proposed rule or final rule issued by an agency for the previous year.

''(B) The docket number and regulation identifier number for each proposed or final rule issued by an agency for the previous year.

''(C) The number of rules and a list of each such rule reviewed by the Director of the Office of Management and Budget for the previous year, and the authority under which each such review was conducted.

''(D) The number of rules and a list of each such rule for which the head of an agency completed a review under section 610 for the previous year.

''(E) The number of rules and a list of each such rule submitted to the Comptroller General under section 801.

''(F) The number of rules and a list of each such rule for which a resolution of disapproval was introduced in either the House of Representatives or the Senate under section 802.

''SEC. 653. REQUIREMENT FOR RULES TO APPEAR IN AGENCY-SPECIFIC MONTHLY PUBLICATION.

''(a) IN GENERAL.—Subject to subsection (b), a rule may not take effect until the information required to be made publicly available on the Internet regarding such rule pursuant to section 652(a) has been so available for not less than 6 months.

''(b) EXCEPTIONS.—The requirement of subsection (a) shall not apply in the case of a rule—

''(1) for which the agency issuing the rule claims an exception under section 553(g)(2)(A); or

''(2) which the President determines by Executive order should take effect because the rule is—

''(A) necessary because of an imminent threat to health or safety or other emergency;

''(B) necessary for the enforcement of criminal laws;

''(C) necessary for national security; or

''(D) issued pursuant to any statute implementing an international trade agreement.

''SEC. 654. DEFINITIONS.

''In this chapter, the terms 'agency', 'agency action', 'rule', and 'rule making' have the meanings given those terms in section 551, and the term 'unfunded mandate' has the meaning given the term 'Federal mandate' in section 421(6) of the Congressional Budget Act of 1974 (2 U.S.C. 658(6)).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 5, the following:

(c) EFFECTIVE DATES.—

(1) AGENCY MONTHLY SUBMISSION TO THE OFFICE OF INFORMATION AND REGULATORY AFFAIRS.—The first submission required pursuant to section 651 of title 5, United States Code, as added by subsection (a), shall be submitted not later than 30 days after the date of the enactment of this title, and monthly thereafter.

(2) CUMULATIVE ASSESSMENT OF AGENCY RULE MAKING.—

(A) IN GENERAL.—Subsection (b) of section 652 of title 5, United States Code, as added by subsection (a), shall take effect on the date that is 60 days after the date of the enactment of this title.

(B) DEADLINE.—The first requirement to publish or make available, as the case may be, under subsection (b) of section 652 of title 5, United States Code, as added by subsection (a), shall be the first October 1 after the effective date of such subsection.

(C) FIRST PUBLICATION.—The requirement under section 652(b)(2)(A) of title 5, United States Code, as added by subsection (a), shall include for the first publication, any analysis of the costs or benefits conducted for a proposed or final rule, for the 10 years before the date of the enactment of this title.

(3) REQUIREMENT FOR RULES TO APPEAR IN AGENCY-SPECIFIC MONTHLY PUBLICATION.—Section 653 of title 5, United States Code, as added by subsection (a), shall take effect on the date that is 8 months after the date of the enactment of this title.

TITLE VI—PROVIDING ACCOUNTABILITY THROUGH TRANSPARENCY ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Providing Accountability Through Transparency Act''.

SEC. 602. REQUIREMENT TO POST A 100 WORD SUMMARY TO REGULATIONS.GOV.

Section 553(d)(1) of title 5, United States Code, as inserted by section 103(b) of this Act, is amended—

(1) in subparagraph (G)(iv) by striking ''; and'' and inserting '';'';

(2) in subparagraph (H)(ii), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (H) the following:

''(I) the internet address of a summary of not more than 100 words in length of the proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E–Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as regulations.gov).''.

The Acting CHAIR. No amendment to the bill shall be in order except those printed in part A of House Report 115–2. 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 MR. GOODLATTE

The Acting CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 115–2.

Mr. GOODLATTE. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 39, line 3, insert after ''made by agencies.'' the following: ''If the reviewing court determines that a statutory or regulatory provision relevant to its decision contains a gap or ambiguity, the court shall not interpret that gap or ambiguity as an implicit delegation to the agency of legislative rule making authority and shall not rely on such gap or ambiguity as a justification either for interpreting agency authority expansively or for deferring to the agency's interpretation on the question of law.''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Virginia (Mr. GOODLATTE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, if Congress is effectively to rein in the runaway administrative state, a crucial part of the plan must be to overturn, legislatively, the doctrines of judicial deference to agencies' interpretations of the statutes and regulations they administer. These doctrines, founded in the Supreme Court's decision in Chevron v. NRDC and Auer v. Robbins, have, over the years, turned the courts far too much into a rubberstamp rather than a vigorous check on the self-serving tendencies of agencies to interpret the law to expand their own power.

Title II of the bill, the Separation of Powers Act, delivers this legislative reversal of Chevron and Auer. There is one thing, though, that still needs to be added to that portion of the bill; that is language to check the potential that once they are restored—the full interpretive powers that rightfully belong to them—our Article III courts will not engage in judicial activism.

To put a point on it, judges must not be allowed to use the Separation of Powers Act as a license to interpret ambiguous statutes always to expand agency power. My amendment, therefore, succinctly but powerfully provides just that. It prohibits courts from reading ambiguities in statutes to contain implicit delegation of legislative rulemaking authority to agencies or from reading those ambiguities expansively to extend agency power.

Although it failed in its task, the Chevron doctrine was originally crafted to help check that kind of judicial activism. As we end the failed Chevron experiment, we should make sure we do not go back to judicial activism. I urge my colleagues to support this amendment.

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

Mr. JOHNSON of Georgia. Mr. Chair, I rise in opposition to this amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Chair, to say that this amendment stops judicial activism is stretching things a little bit, I believe. This opens the floodgates to judicial activism, the Goodlatte amendment, so that is why I oppose the amendment. It revises title II of the bill to eliminate agencies' ''gap-filling'' authority when interpreting ambiguous statutes.

Judicial review of final agency action is a hallmark of administrative law and is critical to ensuring that agency action does not harm or adversely affect the public. But as the Supreme Court held, in Chevron v. Natural Resources Defense Council in 1984, reviewing courts may only invalidate an agency action when it violates a constitutional provision or when an agency exceeds its statutory authority as clearly expressed by Congress.

That is a clear rule that has worked fine for America for the last 30 years. Over that time, this seminal decision has required deference to the substantive expertise and political accountability of Federal agencies because, after all, judges don't have political accountability because they are appointed for life. They are not elected by the people.

So this legislation is turning around this very fair and balanced court decision and, instead, imposing a new setup, one that invites judges—whom they appoint, by the way. They are the ones who have refused, for the last year, to appoint or to consider the appointment of a U.S. Supreme Court Justice so that they could get a Republican in the White House.

They did not want anybody other than somebody made to order, and this is what this legislation lays the groundwork for is that new Supreme Court Justice who has yet to be named by a Republican incoming President. But you can bet it will be one who has corporate interests at heart instead of that of middle class and working people and regular, ordinary people. You can bet that that Supreme Court representative will be ready to do away with the Chevron doctrine and comply with this legislative mandate, which is open season on regulations, allowing the Federal judiciary to impose its political beliefs on regulations.

So that is going to be bad for America. Generalist courts, which are constitutionally insulated from political accountability, should not have the power to second-guess agency experts concerning the appropriateness of highly technical regulations crucial to protecting the health and safety of millions of Americans.

Moreover, this doctrine promotes predictability for businesses and the public. Professor Levin notes that ''because citizens can put some confidence in the expectation that decisions by a centralized agency will not be readily overturned by a variety of courts in different parts of the country,'' that contributes to predictability.

□ 1515

Title II of H.R. 5, however, would upend this longstanding precedent by abolishing the Chevron doctrine.

This amendment further puts the thumb on the scale against lifesaving protections by ensuring that practically any statutory ambiguity will be resolved in favor of a regulated entity and against agency action, no matter how important.

This amendment is also a solution in search of a problem. As Professor Levin has testified, ''the field of administrative law has worked out a variety of political and judicial oversight mechanisms to maintain a delicate balance of power among the branches of government.''

Any administrative action based on an ambiguous statute could be challenged by an affected party, and these checks already apply to judicial review.

Finally, this measure would apply equally to regulatory and deregulatory actions. John Walke, the clean air director and senior attorney for the Natural Resources Defense Council warns that if an ''administration more ideologically opposed to regulation wishes to take advantage of the inevitable vagueness, conflicts, and gaps in federal statutes, it may adopt the least protective regulation permissible under a federal law.''

Mr. Chair, because this is a bad amendment, I ask that it be opposed.

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

Mr. GOODLATTE. Mr. Chairman, I include in the record a list of organizations supporting H.R. 5.

I urge my colleagues to support this important amendment.

AGRICULTURAL RETAILERS ASSOCIATION,
Washington, DC, January 11, 2017.

TO ALL MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: On behalf of the Agricultural Retailers Association (ABA), I am writing to urge a vote in support of H.R. 5, the ''Regulatory Accountability Act'' sponsored by Representative Bob Goodlatte (R–VA). This legislation includes a number of important provisions designed to reform the Federal rulemaking process.

All stakeholders have a right to fair, open, and transparent rulemaking that respects the proper role of the states and the intent of Congress. For decades, there have been Executive Orders issued from both Republican and Democrat Administrations highlighting the importance of an open, transparent, and fair regulatory process. H.R. 5 is an important step forward in codifying the principles that Presidents of both parties have issued in Executive Order 12004 (Issued in Match 1978), Executive Order 12291 (Issued in February 1981), Executive Order 12866 (Issued in September 1993), Executive Order 13132 (Issued in August 1999), and Executive Order 13563 (Issued in January 2011).

Some of the reforms in H.R. 5 include provisions such as requiring federal agencies to use less costly regulations, rather than more costly proposals, to obtain a stated objective; requiring federal agencies to explain how their proposed regulations would impact small business owners, their employees, and customers; prohibiting any new rules with a significant economic impact from taking effect until litigation against such proposal has been fully settled without impacting existing regulations; and requiring Federal agencies to publish mandatory transparency reports.

Rep. Collin Peterson (D–MN) plans to offer an amendment on the floor of the U.S. House of Representatives to prohibit agencies from using social media to sway public opinion in favor of a pending agency proposal. This common-sense amendment is necessary to prevent actions taken by federal agencies such as the U.S. Environmental Protection Agency (EPA) that the General Accountability Office (GAO) found took unlawful actions during its 'Waters of the United States'' (WOTUS) proposed rulemaking. ARA urges all House members to vote in favor of the Peterson amendment and to vote ''Yes'' on final passage of H.R, 5.

Sincerely,

RICHARD D. GUPTON,
Senior Vice President, Public Policy & Counsel.

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, January 9, 2017.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REP.: The House of Representatives will soon take up H.R. 5 for debate and a vote. This measure contains a number of important elements that are designed to improve the Federal rulemaking process. American Farm Bureau urges all members to vote in favor of this legislation.

For decades, presidents of both parties have issued Executive Orders and Memoranda underscoring the importance of a regulatory process that is open, transparent and fair:

President Carter stipulated in EO 12044 that regulations should not impose unnecessary burdens on the economy.

President Reagan issued EO 12291 in February 1981 to assure that least-cost alternatives would be used in regulatory decisionmaking.

President Clinton affirmed that regulations should maximize net benefits (EO 12866, September 1993). Later in his Administration, President Clinton issued EO 13132 reaffirming the importance of federalism and respecting the rights of states.

President Obama underscored the importance of sound science in his Memorandum of March 2009. He also reaffirmed President Clinton's EO 12866 when he issued EO 13563.

We understand that an amendment to H.R. 5 will be offered on the floor by Rep. Peterson to prohibit agencies from using social media to sway public opinion in favor of a pending agency proposal. This amendment stems directly from EPA's conduct in its 'waters of the US' (WOTUS) rulemaking, conduct found unlawful by the General Accountability Office and scrupulously detailed in a report released by the House Committee on Oversight and Government Reform, ''Politicization of the Waters of the United States Rulemaking.'' We strongly support the Peterson amendment and urge all members to vote in favor of its adoption.

All stakeholders—farmers, ranchers, environmentalists, academics, agency staff, and the general public—have a right to a rulemaking process that is fair, open, transparent, respectful of the role of states in our Federal system, and faithful to the intent of Congress. H.R. 5 is an important step in codifying principles that Presidents of both parties have enunciated for decades. This legislation deserves strong, bipartisan support.

We urge all members to vote in favor of the Peterson amendment and to vote ''Yes'' on final passage of H.R. 5.

Sincerely,

ZIPPY DUVALL,
President.

ASSOCIATED BUILDERS AND CONTRACTORS, INC.,
Washington, DC, January 5, 2017.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 members, I am writing in support of the Regulatory Accountability Act of 2017 (H.R. 5) introduced by Rep. Bob Goodlatte (R–VA). ABC supports this legislation, which would reform the Administrative Procedures Act and strengthen existing checks on federal agencies, allowing for more cost-effective regulations through a more transparent process.

As builders of our communities and infrastructure, ABC members understand the value of standards and regulations based on solid evidence, with appropriate consideration paid to implementation costs and input from affected businesses. ABC strongly supports comprehensive regulatory reform which includes across-the-board requirements for departments and agencies to appropriately evaluate risks, weigh costs, and assess benefits of all regulations. H.R. 5 is an excellent step in regulatory reform as it ensures more accountability from federal agencies and greater stakeholder transparency.

Today, federal regulatory agencies wield incredible power through rulemaking. They have grown adept at using procedural loopholes in order to accomplish narrowly-focused goals. These agencies operate relatively unchecked and unsupervised, especially during the early stages of the regulatory process. They often disregard and circumvent the will of Congress and the American public by issuing regulations with poor or incomplete economic cost-benefit forecasting or other data analysis, instead of using the best and most accurate data that could have created more practical, sustainable rules and regulations.

Consequently, some regulations that have limited or questionable benefit result in crippling costs for companies and often no serious consideration is given for more practical alternatives. For the construction industry, these regulations routinely translate into higher costs and are passed along to the consumer.

Ultimately, these costs impact our industry's ability to expand and hire more workers. It is particularly alarming that small businesses, which comprise the vast majority of the industry, are disproportionately affected by this irresponsible approach to regulation.

Thank you for your attention on this important matter and we urge the House to pass the Regulatory Accountability Act of 2017.

Sincerely,

KRISTEN SWEARINGEN,
Vice President of Legislative & Political Affairs.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Arlington, VA, January 10, 2017.

Re Vote ''YES'' on the Regulatory Accountability Act of 2017, H.R. 5.

Hon. PAUL RYAN,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE RYAN: On behalf of the Associated General Contractors of America (AGC) and its more than 26,000 commercial construction company members, I strongly urge you to vote ''YES'' on the Regulatory Accountability Act of 2017, H.R. 5. This legislation is critical to helping ensure that regulations undergo thorough economic analysis, are based in sound science and/or substantial empirical data, and are transparent with clear and feasible methods and goals.

The current regulatory process allows federal agencies to promulgate rules based on unconvincing, scant and—sometimes—just plain wrong evidence. For example, Professor David L. Sunding, Ph.D., Thomas J. Graff Chair of Natural Resource Economics at the University of California, Berkeley found that the ''errors, omissions, and lack of transparency'' in the Environmental Protection Agency's economic analysis underlying its Waters of the Unites States (WOTUS) rule to be ''so severe as to render it virtually meaningless.'' Yet, the EPA was able to finalize that rule based on such flawed analysis.

Federal agencies also write rules that are not feasible for the construction industry to follow. The Occupational Health and Safety Administration (OSHA) crystalline silica rule, for instance, put forth a permissible silica exposure limit that is beyond the capacity of existing dust filtration and removal technology. Despite this fact, OSHA finalized this rule and the construction industry is left liable to implement.

The Regulatory Accountability Act will help hold federal agencies accountable to the facts throughout the rulemaking process. Under this legislation, the public could challenge the underlying evidence agencies put forth to justify their rules. Such challenges could occur through hearings before the agency and before courts, which generally defer to any evidence put forth by federal agencies currently. As a result, agencies would be incentivized to undertake more rigorous and realistic analyses, rather than risk delays as a result of relying on cherry-picked studies or self-serving, internal data.

The purpose of the bill is not partisan. Rather, it is to ensure that the regulations federal agencies put forth are feasible and based in thorough economic analysis and sound science. To do so, H.R. 5 allows for greater transparency, more public participation and needed objectivity in the rulemaking process. As such, AGC again urges you to for in favor of H.R. 5.

Thank you for your consideration.

Sincerely,

JEFFREY D. SHOAF,
Senior Executive Director, Government Affairs.

BUSINESS ROUNDTABLE,
January 6, 2017.

Re Support for H.R. 5—The Regulatory Accountability Act of 2017.

Hon. PAUL RYAN,
Speaker, House of Representatives, Washington, DC.

Hon. NANCY PELOSI,
Minority Leader, House of Representatives, Washington, DC.

DEAR SPEAKER RYAN AND LEADER PELOSI: On behalf of the CEO members of Business Roundtable, who lead major U.S. companies with more than $6 trillion in annual revenues and nearly 15 million employees, I am pleased to express our strong support for H.R. 5, the Regulatory Accountability Act of 2017, introduced by Judiciary Committee Chairman Bob Goodlatte.

Business Roundtable CEOs have consistently identified overly complex and burdensome federal regulations as harmful to accelerating job creation, job retention and increased economic opportunity for American workers and their families. We support a smarter approach to federal regulation that would engage regulated parties earlier in the process, improve the quality of information used to make regulatory decisions and consistently apply rigorous cost-benefit analysis to major regulatory proposals.

We are particularly pleased that H.R. 5 includes the previously introduced version of the Regulatory Accountability Act, also championed by Chairman Goodlatte, the ALERT Act, championed by Representative John Ratcliffe, and the Providing Accountability Through Transparency Act, championed by Representative Blaine Luetkemeyer.

Overall, the smart regulatory improvements embodied in the Regulatory Accountability Act of 2017 will:

Make U.S. companies more competitive. Usually after prolonged periods of consideration, federal agencies regularly issue rules that impose large and often unnecessary burdens on U.S. businesses—burdens that foreign competitors may not have to bear. The Act will reduce these burdens.

Enable U.S. companies to be more innovative. American businesses are the world's most innovative, and that innovation supports America's high standard of living. Rules that require particular technologies or approaches or fail to keep up with technological evolution can jeopardize future innovation. The Act will encourage flexible, nonprescriptive implementation that preserves the capacity to innovate.

Stimulate investment by enhancing business certainty. If companies are unsure about what regulators will require or how to comply with rules, they will be reluctant to commit capital to new or expanded productive investments. By encouraging early engagement with regulated parties and improving the transparency and accountability of the regulatory process, the Act will result in greater certainty for U.S. businesses and thereby accelerate job growth and investment.

The Regulatory Accountability Act of 2017 would make the U.S. regulatory system more transparent, accountable and effective. We endorse this legislation and pledge our full support to see it enacted into law.

Sincerely,

MARK J. COSTA,
Chairman and Chief Executive Officer, Eastman Chemical Company
Chair, Smart Regulation Committee, Business Roundtable.

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, January 9, 2017.

Hon. PAUL RYAN,
Speaker, House of Representatives, Washington, DC.

Hon. NANCY PELOSI,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SPEAKER RYAN AND DEMOCRATIC LEADER PELOSI: On behalf of the 1.1 million members of the National Association of REALTORS® (NAR), I urge the House to approve H.R. 5 (Goodlatte, R–VA; Peterson, D–MN), the ''Regulatory Accountability Act''.

NAR believes that federal regulations should be narrowly tailored, supported by strong data and evidence, and impose the least costs possible on regulated stakeholders.

The Regulatory Accountability Act embodies these principles and will contribute to a more transparent and accountable regulatory process by:

Increasing public participation in shaping the most-costly regulations at an earlier point in the rulemaking process;

Instructing agencies to choose the least costly option that achieves congressional intent unless they can show a costlier option is needed to protect health, safety, or welfare;

Requiring public hearings for the most-costly regulations;

Improving the process for evaluating how small businesses are impacted by regulations; and

Providing for a more rigorous test in legal challenges for those regulations that would have the most impact.

The Regulatory Accountability Act builds on established principles of a fair regulatory process and would make the regulatory process more transparent, agencies more accountable for their decisions, and regulations better-tailored to achieve their purpose without unnecessary burdens on stakeholders.

The Regulatory Accountability Act would allow Congress and the public to reassert control over the federal regulatory bureaucracy. Therefore, NAR strongly supports the Act, and urges passage of the bill when it comes to the House floor for a vote.

Sincerely,

WILLIAM E. BROWN,
2017 President.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, January 11, 2017.

Hon. STEVE CHABOT,
Chairman, House Committee on Small Business, Washington, DC.

DEAR CHAIRMAN CHABOT, on behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing in support of H.R. 33, the Small Business Regulatory Flexibility Improvements Act of 2017. This legislation puts into place strong protections to ensure that federal agencies fully consider the impact of proposed regulations on small businesses.

In an economy where two-thirds of all net new jobs come from the small business sector, we appreciate that this legislation would require regulators to analyze further the impact of certain proposals on job creation. As you well know, the annual cost of federal regulation per employee is significantly higher for smaller firms than larger firms. Federal regulations—not to mention state and local regulations—add up and significantly increase the cost of starting and running a small business.

H.R. 33 expands the scope of the Regulatory Flexibility Act (RFA) by forcing government regulators to include the indirect impact of their regulations in their assessments of a regulation's impact on small businesses. The bill also provides small business with expanded judicial review protections, which helps ensure that small businesses have their views heard during the federal rulemaking process, not after.

The legislation strengthens several other aspects of the RFA—such as expanding the small business advocacy review panel process to all agencies. Currently, the panels only apply to the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Financial Protection Bureau. These panels have proven to be an extremely effective mechanism in helping agencies to understand how their rules will affect small businesses, and help agencies identify less costly alternatives to regulations before proposing new rules.

Finally, H.R. 33 expands the standard for periodic review of rules by federal agencies and gives the U.S. Small Business Administration's Office of Advocacy increased input into agency compliance with the RFA. These important protections are needed to prevent duplicative and outdated regulatory burdens as well as to address penalty structures that are too high for the small business sector.

NFIB supports H.R. 33 because it strengthens the requirement for federal agencies to consider both the direct and indirect economic impact of proposed regulations on small businesses. We look forward to working with the committee towards enactment of the Small Business Regulatory Flexibility Improvements Act of 2017.

Sincerely,

JUANITA D. DUGGAN,
President and CEO NFIB.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, January 6, 2017.

TO THE MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: The U.S. Chamber of Commerce strongly supports H.R. 5, which includes the Regulatory Accountability Act, and may consider including votes on, or in relation to, H.R. 5 in our annual How They Voted scorecard.

The Chamber commends the House for acting on regulatory reform legislation so early in the 115th session, and for bringing H.R. 5, which also includes important provisions related to small businesses, to the floor.

The Regulatory Accountability Act is a long-standing priority for the Chamber and would update the Administrative Procedure Act (APA) to improve how federal agencies promulgate those rules with the most significant impact on jobs and economic growth.

Modernization of APA is long overdue. While there has been a dramatic increase in high impact, transformative rules that are slowing economic growth and inhibiting job creation, APA rulemaking provisions have remained virtually unchanged since 1946 when the law was established.

H.R. 5 would target only the most expensive and burdensome of these rules for increased scrutiny by providing greater transparency, by holding agencies accountable, and by making sure the data behind the decisions of regulators are made publicly available.

The Chamber urges you to support this legislation and to oppose any weakening amendment when it is considered likely next week.

Sincerely,

JACK HOWARD,
Senior Vice President, Congressional and Public Affair.

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

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

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

Mr. JOHNSON of Georgia. Mr. Chair, I demand a recorded vote.

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

AMENDMENT NO. 2 OFFERED BY MR. CHAFFETZ

The Acting CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 115–2.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 38, insert after line 10 the following:

SEC. 110. PROMPT ISSUANCE OF OIRA GUIDELINES.

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget shall establish any guideline required to be established by this title or the amendments made by this title by not later than 270 days after the date of enactment of this title.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Utah (Mr. CHAFFETZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Utah.

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

H.R. 5 requires the Office of Information and Regulatory Affairs, often called OIRA, to provide guidelines for agencies on how to effectively conduct regulatory activities.

This is a great bill. I wholeheartedly support the bill. We simply want to add a timeline to this bill so that we give the proper incentive, notification, and time to properly institute what this new law would do.

The regulatory activities engaged in this bill that OIRA, the Office of Information and Regulatory Affairs, deals with need to include cost and benefit assessments and their economic or risk assessments; coordination, simplification, and harmonization of the agency rules; conforming rulemaking to the notice and comment requirements and formal rulemaking requirements in the Administrative Procedure Act; as well as the application of the Information Quality Act to rulemaking proceedings under what is called the APA.

These guidelines required by the underlying bill are moving the country in the right direction and will ensure that agencies produce thoughtful, comprehensive, and well-vetted regulations.

The simple amendment that I offer today, Mr. Chairman, to H.R. 5 simply requires OIRA to issue guidance within 270 days. I think this is the right balance of encouragement to have them get going on it right away, but at the same time not allowing this to linger in perpetuity with no end in sight.

This amendment provides OIRA, I think, the proper balance. That is why I have offered this amendment.

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

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in opposition to the Chaffetz amendment. This amendment establishes a deadline of 270 days—a magical number of days—for some reason. There is no reason given for that being the number of days, but that is what they give to the Office of Information and Regulatory Affairs, or OIRA, to issue guidelines pursuant to title I of this bill.

Why 270 days?

Well, I think I can answer that question. They know that OIRA is not equipped to sufficiently deal with regulations within that same amount of time period. We have had all this budget cutting going on. We have been attacking the Federal Government regulatory authorities throughout the entire 6 years that Republicans have been in control of this House. They have done 6 years' worth of hobbling OIRA, and now they are going to come forward and impose a 270-day requirement. That is like asking someone who you have handicapped to run in a relay race that you know they can't win.

To begin with, I would note that OIRA, which typically has fewer than 50 employees, often serves as a bottleneck for the promulgation of economically significant rules, as reported last year by Public Citizen.

Moreover, as a group of the Nation's leading administrative law scholars have noted that the Regulatory Accountability Act is ''unusually ambitious and crammed with details that are impossible to summarize,'' that will ''further ossify the rulemaking process with little offsetting benefits in the form of better rules.''

Many of these new procedures task OIRA with making numerous new determinations and expanded review of formal rulemaking. In addition, to hobbling over the last 6 years, and then imposing a deadline of an arbitrary and capricious number of days, you are going to heap additional requirements upon them without increasing their staff that you have already cut.

Given the sheer breadth of these requirement, it may be difficult or impossible for OIRA to comply with the deadline imposed by this amendment, absent additional congressional appropriations, which, of course, they are not interested in.

Accordingly, I rise to oppose the amendment.

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

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

Mr. Chairman, certainly the gentleman from Georgia is not opposed to the number 270. It is a beautiful number. Normally we give them about 6 months to promulgate a rule. This is 50 percent more than that. It is roughly 9 months. If a woman can give birth in that amount of time, my guess is they can go ahead and put together some rules in that amount of time.

We gave it quite a bit of thought. I think it is properly balanced. We don't want it to be a year. It is 50 percent more than we normally ask and that OIRA is used to doing in rulemaking. So certainly they can accomplish that.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. GOODLATTE), chairman of the committee.

Mr. GOODLATTE. Mr. Chairman, I just want to say that title I of the bill contains several key requirements for the Office of Information and Regulatory Affairs, OIRA, to put out high-quality, governmentwide guidelines that all agencies can follow. These include, for example, guidelines on cost-benefit analysis, risk assessment, consistency with the Information Quality Act, and good guidance practices.

Since the importance of these issues and the need for swift and effective implementation of reform, the amendment's institution of a 270-day deadline for the issuance of these guidelines is very reasonable, very constructive. I urge my colleagues to support this amendment.

Mr. JOHNSON of Georgia. Mr. Chairman, I think what I gather is that we need better regulations. Therefore, we have to provide more requirements on OIRA with respect to the regulations it issues, while at the same time claiming that regulations are bad and we have unelected bureaucrats and all of this kind of stuff like that.

So we need better laws to allow them to regulate better. Then we are going to give them 270 days, which is a little more than we give the average agency. Well, I thank you for that, but you have not increased the manpower of the agency to deal with the new requirements that you are stacking on them. It just doesn't make a whole lot of sense.

The real reason for this amendment is to help foster the gumming up of the Federal regulatory system. That is what it is all about. There are a lot of little small ways of doing that, heaping it on top of the larger measure, which is itself just inimical to good rulemaking. This is a game, and the American people are the big losers.

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

Mr. CHAFFETZ. Mr. Chairman, I know my colleague from Georgia is opposed to this bill, but I do think it is reasonable to give a time frame as to when they are supposed to issue this so it doesn't continue on in perpetuity. I think it is reasonable.

To the gentleman's point about the staffing, we don't get into that granular detail here. That is left to the Office of Management and Budget. Those decisions have been made by the Obama administration for the last 8 years. The new Office of Management and Budget will need to take into account the staffing levels and how OMB will determine whether they need more staff or less staff, but I would certainly support the idea that, if they are overwhelmed with issues, let's make sure that they are properly staffed.

This is an important agency. It is the bottleneck. We have to make sure that they are functioning properly. We are supportive of that, but I do think it is reasonable to offer that timeline. I appreciate the support of the chairman on this, and I urge passage of this amendment.

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

The Acting CHAIR. The question is on the amendment offered by the gentleman from Utah (Mr. CHAFFETZ).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MR. CHABOT

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 115–2.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

In section 304(d)(1) of the bill, strike ''and'' at the end.

In section 304(d)(2) of the bill, strike the period and insert ''; and''.

In section 304(d), insert after paragraph (2) the following:

(3) by inserting ''The detailed statement shall include an economic assessment or a summary thereof that is sufficiently detailed to support the agency's certification.'' before ''The agency shall provide such certification''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Ohio (Mr. CHABOT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

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

I offer this amendment to address a longstanding problem: agencies not fully analyzing the effects of regulations on small businesses.

Under the current Regulatory Flexibility Act, an agency may certify a rule if it expects that the rule will not have—and I am quoting the current law here—''a significant economic impact on a substantial number of small entities.''

When an agency certifies a rule, it does not need to perform a full regulatory flexibility analysis. This provision makes sense because not every rule affects small businesses.

Unfortunately, agencies appear to be abusing this provision. According to a recent study, agencies only prepared analyses for approximately 8 percent of rules finalized between 1996 and 2012.

A recent example of this occurred with the controversial waters of United States rule. The Environmental Protection Agency and Army Corps of Engineers certified that rule despite the significant and direct consequences for farmers, ranchers, and home builders. Most of those are small businesses.

Although the Small Business Administration Chief Counsel for Advocacy sent a letter to the agencies stating that the certification was improper and urging them to withdraw the rule, the agencies ignored the Chief Counsel and proceeded to finalize it anyway.

□ 1530

This amendment addresses this problem by requiring agencies to include—and I am quoting my amendment—''an economic assessment or a summary thereof that is sufficiently detailed to support the agency's certification.'' This will be published in the Federal Register as part of the detailed statement and certification for the proposed rule.

This approach mirrors the one used in the National Environmental Policy Act. When an agency finds a project to have no significant impacts on the environment, it is required to provide an environmental assessment or a summary of it. Since agencies are required to provide a threshold analysis when they issue a finding of no significant impact for actions that could affect the environment, it just makes sense to extend the same type of requirement to rules that could affect small businesses. Small businesses, after all, are the folks that are responsible for creating two-thirds, or about 70 percent, of the new jobs created nowadays. So anything that burdens these small businesses is something that is, by definition, bad for the economy and bad for job creation.

This particular amendment, I think, improves the underlying legislation. It makes sense. I urge my colleagues to support this amendment, which will further strengthen the RFA and ensure that agencies' decisions are supported by data.

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

Mr. JOHNSON of Georgia. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Chairman, this amendment would require agencies to provide a detailed economic assessment prior to certifying that a rule will not have a significant economic impact on a substantial number of small business entities.

I oppose this bill for a number of reasons. Number one, it forces agencies to prove a negative. The negative being that it will not have a significant—bookmark that for a second—a significant economic impact on a substantial number of small entities.

I mean, proving a negative is always very difficult to do, that it won't do this. Certainly very difficult. But then when you give the decisionmaker a vague and ambiguous frame of reference like ''significant,'' what does significant economic impact mean?

It means different things to different people. So that is vague and ambiguous. It allows for unbridled discretion by an unelected bureaucrat, to use that term that my friends like to use, but in this instance I am using it with respect to a newly appointed plutocratic bureaucrat like, say, Linda McMahon at the Small Business Administration, a billionaire. Give that to, you know, a bureaucrat such as that and let them decide whether or not it has a significant economic impact. They are going to say, yes, it has a significant economic impact. They are going to do it every time because that is their agenda. They support a pro-big-business agenda. That is what they represent, and so that is how they would rule.

When you add that it has to be a substantial number of small businesses, well, what is a substantial number? Is it 10 percent, 20 percent, 50 percent?

That is up to whoever the decisionmaker is, the unelected bureaucrat. We see the setup. I think the American people understand what this amendment seeks to do. It requires agencies to provide a detailed economic assessment of the economic impacts of a proposed or final rule prior to certifying that the rule will not have a significant economic impact on a substantial number of small businesses.

Title III of H.R. 5 substantially increases agencies' responsibilities with respect to rulemaking, including a requirement to supply a detailed statement that includes the factual and legal basis of the reasons why an agency has determined that a proposed or final rule will not have a significant economic impact on small businesses. Boy, you can just chase your tail all around for days trying to meet that standard.

This onerous measure will force agencies to expend already strained resources and incur considerable costs to implement the bill. Also, giving corporations an opportunity to contest these arbitrary decisions if they go the right way in court.

Unsurprisingly, the Congressional Budget Office estimated that an identical version of this legislation considered last Congress would cost $55 million over the 2015–2020 period, assuming appropriation of the necessary funds.

By requiring agencies to quantify the economic effects that a rulemaking will have on small businesses, which may be unknowable in some cases, this amendment may task agencies with providing an economic report on a counterfactual hypothetical basis. This requirement would do little to ease compliance costs or promote small business development or growth, and more likely it will lead to regulatory avoidance and ossification and less small business activity because the big businesses are going to be allowed to crowd them out. Accordingly, I oppose

this amendment and urge my colleagues to do the same.

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

Mr. CHABOT. Mr. Chairman, I yield myself such time as I may consume. I will be brief, and then I will invite my colleague from Virginia to respond.

Just a couple of quick points. First of all, relative to this significant economic impact language that my distinguished colleague from Georgia is talking about, that is already in the existing law, so we are not changing anything there. We are not saying it ought to say a significant economic impact. It already says that in the existing law. Both the bureaucrats and the courts are used to determining what the terminology like ''significant'' means under the rule or regulation or the law, just as what a reasonable man is. ''Reasonable'' is quite common throughout the legal structure.

We are also not giving discretion to Ms. McMahon, the soon-to-be head of the SBA. It is to the Chief Counsel, and he is independent.

I yield to the gentleman from Virginia (Mr. GOODLATTE), our chairman.

Mr. GOODLATTE. I thank the gentleman for his amendment. Title III of the bill contains important reforms to make sure agencies finally take seriously Congress' directive to write rules with flexible accommodations for small businesses, the source of most of our Nation's job creation.

Congress' demands for flexibility began with the Regulatory Accountability Act during the 1980s, but agencies have never fully complied. One of the key ways agencies have skirted the law's requirements has been to certify their way out of any need to actually provide flexibility by finding that a proposed or final rule will not have a significant impact on a substantial number of small entities.

This amendment puts the brakes on an inadequately substantiated certification by requiring certifications to include economic assessment details sufficient to support the certifications. I support the amendment.

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

Mr. JOHNSON of Georgia. Mr. Chairman, it is already covered in current law, so why do we need this amendment?

Well, it is a messaging piece to be able to say to the listening audience that we support small business. Well, gosh, I think we have answered that question here on this side whether or not they really do support small business. It is clear they support big business, and that is what this amendment is going to help facilitate without adding to the overall bill. For that reason, I ask that we oppose it.

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

The Acting CHAIR. The question is on the amendment offered by the gentleman from Ohio (Mr. CHABOT).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MS. VELÁZQUEZ

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part A of House Report 115–2.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Strike line 13 on page 39 and all that follows through line 26 on page 69, and insert the following (and conform the table of contents accordingly):

TITLE III—SMALL BUSINESS REGULATORY IMPROVEMENT ACT

SEC. 301. SHORT TITLE.

This title may be cited as the ''Small Business Regulatory Improvement Act of 2017''.

SEC. 302. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.

Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

''(9) ECONOMIC IMPACT.—The term 'economic impact' means, with respect to a proposed or final rule—

''(A) any direct economic effect on small entities of such rule; and

''(B) any indirect economic effect on small entities which is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).''.

SEC. 303. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:

''(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement describing—

''(1) the reasons why the action by the agency is being considered;

''(2) the objectives of, and legal basis for, the proposed rule;

''(3) the type of small entities to which the proposed rule will apply;

''(4) the number of small entities to which the proposed rule will apply or why such estimate is not available;

''(5) the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement, the costs, and the type of professional skills necessary to comply with the rule; and

''(6) all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided.''.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) Paragraph (4) of such section is amended by striking ''an explanation'' and inserting ''a detailed explanation''.

(2) Paragraph (5) of such section is amended to read as follows:

''(4) a description of the projected reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement, the costs, and the type of professional skills necessary to comply with the rule; and''.

(c) CERTIFICATION OF NO IMPACT.—Subsection (b) of section 605 of title 5, United States Code, is amended by inserting ''detailed'' before ''statement'' both places such term appears.

SEC. 304. PERIODIC REVIEW OF RULES.

Section 610 of title 5, United States Code, is amended to read as follows:

''§ 610. Periodic review of rules

''(a) Not later than 180 days after the effective date of this section, each agency shall publish in the Federal Register and place on its website a plan for the periodic review of rules issued by the agency which the head of the agency determines have a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize significant economic impacts on a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register and subsequently placing the amended plan on the agency's website.

''(b) The plan shall provide for the review of all such agency rules existing on the effective date of this section within 10 years of the date of publication of the plan in the Federal Register and for review of rules adopted after the effective date of this section within 10 years after the publication of the final rule in the Federal Register. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the head of the agency shall so certify in a statement published in the Federal Register and may extend the review for not longer than 2 years after publication of notice of extension in the Federal Register. Such certification and notice shall be sent to the Chief Counsel for Advocacy and the Congress.

''(c) Each agency shall annually submit a report regarding the results of its review pursuant to such plan to the Congress and, in the case of agencies other than independent regulatory agencies (as defined in section 3502(5) of title 44, United States Code) to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include the identification of any rule with respect to which the head of the agency made a determination described in paragraph (5) or (6) of subsection (d) and a detailed explanation of the reasons for such determination.

''(d) In reviewing rules under such plan, the agency shall consider the following factors:

''(1) The continued need for the rule.

''(2) The nature of complaints received by the agency from small entities concerning the rule.

''(3) Comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy.

''(4) The complexity of the rule.

''(5) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules and, unless the head of the agency determines it to be infeasible, State and local rules.

''(6) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

''(e) The agency shall publish in the Federal Register and on its website a list of rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that it has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.''.

SEC. 305. CHANGES TO THE REGULATORY FLEXIBILITY ACT TO COMPORT WITH EXECUTIVE ORDER 13272.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 603 of title 5, United States Code, is amended by adding at the end the following:

''(e) An agency shall notify the Chief Counsel for Advocacy of the Small Business Administration of any draft rules that may have a significant economic impact on a substantial number of small entities either—

''(1) when the agency submits a draft rule to the Office of Information and Regulatory Affairs at the Office of Management and Budget, if submission is required; or

''(2) if no submission to the Office of Information and Regulatory Affairs is so required, at a reasonable time prior to publication of the rule by the agency.''.

(b) INCLUSION IN FINAL REGULATORY FLEXIBILITY ANALYSIS OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Paragraph (2) of section 604(a) of title 5, United States Code, is amended by inserting after ''initial regulatory flexibility analysis'' the following: ''(or certification of the proposed rule under section 605(b))''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

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

The Regulatory Flexibility Act has reduced regulatory costs by $130 billion since 1998. However, it could do better. The amendment I am offering will improve this process.

However, unlike the underlying bill, my amendment is actually aligned with the original statute, which was created to protect the unique needs of small businesses in the regulatory process, not to stop regulations. My amendment is also much more cost effective to the taxpayers, as the underlying bill creates a massive and unnecessary government bureaucracy. It should be noted that my amendment is based on bipartisan legislation from a previous Congress, which the committee reported by a recorded vote of 26–0.

The amendment makes improvements to the most significant deficiencies facing the Regulatory Flexibility Act without the overly broad changes contained in the underlying bill. This includes making sure that agencies live up to their obligations to retrospectively review the burdens of existing rules on small businesses. The GAO has reported on numerous occasions that agency compliance with this requirement was poor. My amendment holds the agencies more accountable by requiring them to report the results of their reviews to Congress annually.

My amendment also takes steps to make analyses more detailed so that agencies cannot ignore the RFA and simply certify that a rule has no significant economic impact on small businesses. Addressing this matter will ensure that agencies are required to provide a more factual basis for such certifications rather than just a sentence which dismisses the concerns of small firms.

The most important aspect of my amendment is what it does not do. Unlike H.R. 5, my amendment does not create a new governmentwide bureaucracy or foist a truckload of new responsibilities on the Office of Advocacy, which only has a $9 million budget.

For instance, H.R. 5 requires the Office of Advocacy to approve size standards, a function already handled by the SBA. This is like creating a Rayburn cafeteria next to the Rayburn cafeteria. It is ridiculous. This is a complete waste of taxpayer resources and will, ironically, take the Office of Advocacy away from its core mission of monitoring regulations.

Also, another aspect that is very important, what this legislation does is it is setting the Office of Advocacy to fail. They do not have the expertise. They do not have the resources. In addition, H.R. 5 imposes the panel process across the entire government. I will say that again. Across the entire government, including all independent agencies. So much for fiscal responsibility. There is another complete waste of taxpayer resources, and it will further limit the Office of Advocacy's ability to weigh in on the most important matters affecting small businesses.

Instead, my amendment makes the targeted changes to the RFA that small businesses have called for over the last 5 years. In doing so, it is cost effective and responsible to the taxpayers. I urge Members to vote ''yes'' on my amendment.

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

□ 1545

Mr. CHABOT. Mr. Chairman, I rise in opposition to this amendment.

The Acting CHAIR. The gentleman from Ohio is recognized for 5 minutes.

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

Just a couple of points. First, before speaking in opposition to this amendment, I would note that the ranking member, Ms. VELÁZQUEZ, and I worked very much in a bipartisan and cooperative manner on a whole range of issues. We have done that when she chaired the committee and I was the ranking member, and we do that now that I am the chair and she is the ranking member. I commend her for that cooperation. We have actually gotten a lot of things done in the Small Business Committee on behalf of small businesses all across the country in both Democratic and Republican districts.

That being said, I would also note that this particular language, in essence, replaces our H.R. 5, title III, with Ms. VELÁZQUEZ's version. She mentioned that hers is bipartisan. Ours is as well. Mr. CUELLAR was a principal cosponsor of this particular legislation, so, by definition, it is bipartisan. I would also note that we have dealt with this a number of times over the years, and we have included a significant number of Democratic amendments already in our underlying bill as well. So it truly is bipartisan.

The gentlewoman from New York's amendment would essentially strike title III of the bill, and it would replace it with alternative language. While I am heartened that she agrees that the Regulatory Flexibility Act needs to be improved, this amendment just does not go far enough to address, in my view, most Federal agencies' habitual disregards for small businesses. We know that the bureaucracy does disregard small businesses time and time again. That is why we feel so strongly about this bill.

Ms. VELÁZQUEZ's amendment includes a few of the reforms that the current title has, but, unfortunately, it fails to include many other important ones. Her amendment does not close the loophole the IRS uses to avoid complying with the RFA, for example, and it does not provide additional opportunities for small businesses to provide input on proposed rules through the Small Business Advocacy Review panel process.

It does not require the Chief Counsel for Advocacy to issue government-wide RFA compliance regulations that all agencies must follow. Without these compliance regulations, agencies will just continue to develop their own interpretations of the RFA to avoid complying with the law's requirement.

America's small businesses deserve more meaningful reform, and the current title III of the bill, in our view, does just that; therefore, I would urge my colleagues, respectfully, to oppose this amendment.

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

Ms. VELÁZQUEZ. Mr. Chairman, I want to thank the chairman for being so kind. But let me just say that on this one, your approach is not balanced, and it is going to impact the very agencies that you are empowering with so many responsibilities.

I would like to ask the gentleman, adding all these new responsibilities that would require manpower and expertise that is needed, how much money is included in the authorizing process for this office to work properly?

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

Mr. CHABOT. Mr. Chairman, I don't think we need to increase bureaucracy or hire a whole lot more people to implement this. We have plenty of people right now who work for the Federal Government, and I am sure that we can shift some resources around, people can work harder and smarter, and we can be leaner and meaner. The bureaucracy has grown far too large over the years.

That money comes from somewhere. Where does it come from? It comes out of the hardworking taxpayers of our country. A lot of those folks are small business folks, and they are folks that

have gotten the short end of the stick far too often.

Hopefully, this Congress will move legislation that comes out of this body in a direction where, rather than throw roadblocks, hindrances, and more problems in the pathway of small businesses, we are going to help them. I know the last thing they want to hear is: I am from the government, and I am here to help you.

The fact is the government does exist, and to the extent we can help them, we ought to do that. But most of the small businesses that I talk to, what they say is: just get the heck off my back. Quit telling me how to do what I know how to do best.

So we are not anarchists over here. We are not saying that we don't need any bureaucracy, we don't need any government, and we don't need any regulations. We do need some regulations, but we overregulate now. Hopefully, this is just one step in scaling back on the overregulation that comes out of Washington and is like a wet blanket over small businesses all over the country and like a wet blanket over the American economy. So let's get that wet blanket off, let's get the economy moving, and let's Make America Great Again.

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

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was rejected.

AMENDMENT NO. 5 OFFERED BY MR. PETERSON

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part A of House Report 115–2.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 18, insert after line 8 the following:

''(5) After notice or advance notice of a proposed rule making, the agency making the rule, and any person acting in an official capacity on behalf of the agency, may not communicate, and a person who receives Federal funds from the agency may not use those funds to communicate, through written, oral, electronic, or other means to the public about the proposed rule in a manner that—

''(A) directly advocates, in support of or against the proposed rule, for the submission of information to form part of the record of review for the proposed rule;

''(B) appeals to the public, or solicits a third-party, to undertake advocacy in support of or against the proposed rule; or

''(C) is directly or indirectly for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

Such prohibition shall not apply to communication that requests comments or provides information regarding the rule in an impartial manner.''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Minnesota (Mr. PETERSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. PETERSON. Mr. Chairman, I rise in support of this amendment. This amendment will prohibit Federal agencies from using taxpayer dollars to advocate on behalf of a rule or generate comments to overwhelm the record with one point of view.

A GAO report documents how the EPA created a campaign to generate comments in support of the waters of the U.S., or the WOTUS rule. This is not how government, or the rulemaking process, should work.

The comment period should be a time for agencies to hear from the public about what is good, what is bad, and what needs to be fixed with a proposed rule. In my opinion, agencies too often take laws passed by Congress and then turn them into something that is unrecognizable. That is why this amendment is needed and has the support of the American Farm Bureau Federation, the National Association of Wheat Growers, and the National Association of Home Builders, among others.

This is a commonsense amendment that will improve the bill, and I urge my colleagues to vote in support.

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

Mr. JOHNSON of Georgia. Mr. Chairman, I respectfully claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Chairman, I oppose this amendment which would prohibit Federal agencies from making any public communications that would promote a pending regulatory action.

We can all agree that the rulemaking process should be transparent, flexible, and accountable to the public. But rather than achieve this goal, my colleagues' amendment would decrease transparency in the rulemaking process and burden agency rulemaking with little corresponding benefits to the public.

A variety of statutes, including the Administrative Procedure Act and agency specific statutes, already prescribe the method that agencies may communicate to the public with regard to proposed rules. Agencies should, and indeed are required by law to, communicate why rules are beneficial to the public. For example, in 2014, the Department of Defense proposed a rule to protect servicemembers and their families from predatory lending schemes. In a press release discussing the rule, the Defense Department highlighted the benefits of the rule such as ''this proposed rule would better protect Active Duty servicemembers and their families from excessive debt.''

This plain language explanation of the proposed rule would be flatly prohibited by this amendment. Indeed, there is little that an agency could discuss about a pending rule that would not be considered to be promoting the rule within the meaning of this amendment.

In the context of the proposed deregulation actions, in 2003, Bush administration officials posed with chainsaws and scissors next to a stack of papers to promote efforts to cut red tape. It is doubtful that this form of public communication would be permissible under this amendment. By the way, to see the Bush administration officials with a chainsaw and scissors going at regulations reminds me of what we are doing here today.

In the context of a veto threat of a similar antiregulatory proposal last Congress, the Obama administration stated that similar requirements would prevent agencies from efficiently performing their statutory responsibilities and potentially lead to a less informed public.

Mr. Chairman, I oppose this amendment, and I urge my colleagues to do so as well.

I reserve the balance of my time.

Mr. PETERSON. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE) who is the chairman of the Judiciary Committee.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman for yielding, and I support his amendment.

Title I of the bill contains critical reforms to the rulemaking process first introduced in the 112th Congress. In one sentence, one could say that these reforms have one ultimate goal—to assure a fair rulemaking process that achieves the benefits Congress seeks and keeps unnecessary costs to a minimum.

The gentleman's amendment, of which I am a cosponsor, responds to an extreme example of rulemaking abuse that played out during the 114th Congress. That abuse was the Environmental Protection Agency's advocacy campaign to skew the information submitted for its administrative record and promote lobbying on behalf of its massive proposed waters of the United States rule.

It is one thing to propose a rule and open the agency's doors impartially to information from all members of the public. It is quite another to promote public submissions to guarantee the cooking of the administrative record to support the agency's view and to advocate lobbying of Congress to support that view.

This amendment makes sure that the biased agency activity manifest in the waters of the United States rulemaking never happens again.

Mr. Chairman, I support the amendment.

Mr. JOHNSON of Georgia. Mr. Chairman, Congressman Gerald Connolly wanted it to be known for the record that agency employees are already barred under appropriations bills from engaging in publicity or propaganda. Agency employees are specifically barred from engaging in substantial grass-roots lobbying campaigns when those campaigns are aimed at encouraging members of the public to pressure Members of Congress to support

administration or department legislative or appropriations proposals.

Mr. Chairman, I have no further speakers.

I yield back the balance of my time.

Mr. PETERSON. I have no further speakers, Mr. Chairman. I just want to say that some of us who have been chairmen of committees and passed legislation around here, sometimes what comes back you don't even recognize from what you passed legislatively. This bill and this amendment will help solve that problem, to some extent. So I encourage my colleagues to support the amendment and support the bill.

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

Mr. CONNOLLY. Mr. Chair, I rise today in opposition to this amendment and in strong opposition to the Regulatory Accountability Act.

This bill is another thinly veiled mechanism for the majority to attack agency rulemaking with which they disagree.

This amendment would prevent agencies from publicly disclosing information that, quote, ''directly advocates, in support of or against the proposed rule, for the submission of information to form part of the record of review for the proposed rule.''

I am concerned that the way this language is written it could restrict agencies from providing information about the benefits of a rule and soliciting public feedback.

The Administrative Procedure Act requires agencies to solicit public comments on proposed rules except in narrow circumstances. We should be encouraging agencies to solicit public comments in order to provide businesses, consumer groups, and other members of the public with the opportunity to make suggestions to the agency for improving the proposed rule.

Agency employees are already barred under appropriations bills from engaging in publicity or propaganda.

Agency employees are specifically barred from engaging in ''substantial 'grassroots' lobbying campaigns'' when those campaigns are aimed at encouraging members of the public ''to pressure Members of Congress to support Administration or Department legislative or appropriations proposals.''

While transparency is always helpful in the regulatory process, a requirement that agencies report to Congress every communication to the public—including every oral communication from an agency official—would be unnecessarily burdensome and would not be feasible for agencies.

The GAO has already defined covert communications, self-aggrandizement, and purely partisan activities as categories of agency communications that are often restricted by these appropriations riders.

Agencies are authorized to regulate by Congress, but this amendment would further handicap federal agencies from fulfilling their critical missions.

Under the guise of ''accountability'' this amendment is not even a thinly disguised attempt to muzzle commonsense regulation by suppressing even the ability to explain the proposed rule in the first place.

I urge my colleagues to uphold Congress' confidence in the agency rulemaking process and vote against this amendment and against the Regulatory Accountability Act.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Minnesota (Mr. PETERSON).

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

Mr. JOHNSON of Georgia. Mr. Chairman, I demand a recorded vote.

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

□ 1600

AMENDMENT NO. 6 OFFERED BY MR. GRAVES OF LOUISIANA

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part A of House Report 115–2.

Mr. GRAVES of Louisiana. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 23, line 24, strike ''and''.

Page 24, insert after line 5 the following:

''(iii) in the case of a major rule, a report on the benefits and costs of the final rule on entities whose conduct is regulated by the rule in the Federal Register, to be revised every 5 years thereafter while the rule remains in effect, and including, at a minimum—

''(I) an assessment of the impacts, including any costs, of the major rule on regulated entities;

''(II) a determination about how the actual benefits and costs of the major rule have varied from those anticipated at the time the major rule was issued;

''(III) an assessment of the effectiveness and benefits of the major rule in producing the regulatory objectives of the major rule; and

''(IV) a review by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget when required under executive order; and''.

Page 30, line 16, insert after ''the Federal Open Market Committee.'' the following:

''(n) REGULATION-SPECIFIC FRAMEWORKS.—

''(1) REPORT TO CONGRESS.—The agency shall provide a report to Congress not later than 90 days after the agency makes any determination under subsection (f)(4)(I)(iii)(II) that the cost to regulated entities has exceeded the anticipated cost at the time the final rule was issued. The agency, at a minimum, shall assess in the report—

''(A) whether the major rule is accomplishing its regulatory objective; and

''(B) whether the major rule has been rendered unnecessary, taking into consideration—

''(i) changes in the subject area affected by the major rule;

''(ii) whether the major rule overlaps, duplicates, or conflicts with other rules or, to the extent feasible, State and local government regulations; and

''(iii) other alternatives to the major rule or modification of the major rule that might achieve better results while imposing a smaller burden on society or at a lower cost, taking into consideration any cost already incurred.

''(2) REOPENING OF PUBLIC DOCKET.—Upon delivery of the report required in paragraph (1) the agency shall—

''(A) reopen the public docket for 60 days to receive additional comments; and

''(B) consider modifications or alternatives that reduce costs and increase benefits to regulated entities or individuals.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to affect any other provision of law that requires an agency to conduct retrospective reviews of rules issued by the agency.''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Louisiana (Mr. GRAVES) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. GRAVES of Louisiana. Mr. Chairman, since 2008, approximately 3,300 regulations have been issued on an annual basis. I will say that again. Since 2008, approximately 3,300 regulations have been issued on an annual basis. The cost of compliance with those regulations is estimated to be somewhere around $981 million, and if you add up the costs of compliance of all regulations, it is approximately double that. According to various studies that are out there, since 2008, the costs of complying with Federal regulations has doubled.

Mr. Chairman, this isn't about some huge megacorporation that is worth billions of dollars and is a multinational company. This impacts individuals. This impacts families. As a matter of fact, a study done by the Competitive Enterprise Institute estimates that approximately $15,000 per year is how much the average American family spends just to comply with Federal regulations.

Major regulations are regulations that are estimated to cost in excess of $100 million. Under our amendment, what we do is simply require that, every 5 years, the Federal agency that has promulgated—that has finalized—a regulation go back and check how much it is actually costing to comply with the regulation.

Here is why it is important, Mr. Chairman.

If you go back to a regulation that was proposed by the Department of the Interior within the last year and a half that has to do with well control in offshore energy production, the Department of the Interior estimated that the cost of complying with that regulation was going to be, approximately, $883 million over 10 years. However, a private analysis that was done estimated that that figure was approximately one-tenth of the true cost of compliance over the first decade—one-tenth.

There is nothing that holds the Federal agencies accountable. They can lowball numbers. They can stay below the threshold of a major action and not ever have to be held accountable to the additional analysis that is required for major regulatory actions. This, simply, makes agencies go back on major regulations to re-quantify—reassess—the costs of compliance to make sure that their numbers are accurate, that they understand the costs of compliance,

and the impact on the average American family.

Lastly, Mr. Chairman, I am from the State of Louisiana. A study that was done by the Mercatus Center found that the State of Louisiana is the most federally regulated State in the United States. As a matter of fact, so regulated that we are regulated 74 percent more than the average State—74 percent more. That has a significant impact on jobs, on our economy.

The cosponsor of this amendment—the gentleman from Texas with whom I worked very closely, Mr. Chairman—says his State of Texas is burdened by an additional 30 percent of regulations above the national average. It is inappropriate; it penalizes our economy; it sends jobs overseas; and, most importantly, it penalizes American families.

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

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Chairman, any time I hear the name ''Mercatus Center'' I think of pro-big business, antiregulation. This amendment imposes even more paralyzing rulemaking requirements to the more than 60 analytical and procedural requirements that are already mandated by title I of this bill. You are giving them more homework on top of homework—busywork, red tape. Gum up the works—that is what this is all about.

The amendment would require agencies to assess the economic impacts of major rules every 5 years, including a cost-benefit analysis of the rule every 5 years, an estimate of the rule's cost on regulated entities, and whether these costs exceed an agency's initial estimates, among other requirements. Worse yet, once this information is compiled, the amendment would also require the agency to reopen the public docket on the rule for 60 days to consider modifications to the underlying rule.

Under current law, Federal agencies already conduct an extensive retrospective review process of existing rules and have already saved taxpayers billions in cost savings. This is yet another attempt to derail the rulemaking process by paralysis through analysis.

Since 2011, the Obama administration has made a durable commitment to ensuring the retrospective review of existing regulatory protections. Pursuant to Executive Order Nos. 13563 and 13610, agencies are already required to conduct a periodic review of existing rules to protect public health while reducing paperwork burdens.

Furthermore, as the Obama administration stated in the context of a veto threat of a similarly draconian antiregulatory proposal, ''it is important that retrospective review efforts not unnecessarily constrain an agency's ability to provide a timely response to critical public health or safety issues or constrain its ability to implement new statutory provisions.''

This amendment would do just that by requiring agencies to conduct a perpetual notice-and-comment process for major rules that have been adopted long ago. I urge my colleagues to oppose this amendment.

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

Mr. GRAVES of Louisiana. Mr. Chairman, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Judiciary Committee.

Mr. GOODLATTE. I thank the gentleman from Louisiana, and I support his amendment.

Mr. Chairman, many of the reforms in title I of the bill focus on assuring better decisionmaking and cost control for major rules—typically, those that impose more than $100 million or more per year in costs.

One of these reforms is the commonsense requirement that an agency, when it publishes a major rule, include a plan for reviewing how the rule is working within 10 years. A focus of that review is to determine whether it is possible, after the rule has been put into practice, to find new ways to lower the rule's costs.

The gentleman's amendment speeds this process up, requiring review within 5 years, and increases Congress' oversight, requiring reports by agencies to Congress on their reviews. Most importantly, the amendment requires that, if an agency's report to Congress shows the rule's costs in practice are higher than anticipated at promulgation, the agency must institute a notice-and-comment process aimed at identifying revisions that can lower costs.

This is a measure that can only strengthen the bill's effectiveness and help lower unnecessary burdens on the American people. I support the amendment.

Mr. JOHNSON of Georgia. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. CUELLAR).

Mr. CUELLAR. I thank Mr. JOHNSON. I thank Ranking Member CONYERS for the leadership that he provided the committee for so many years. I thank Chairman GOODLATTE and Congressman GRAVES for working in a bipartisan way.

Mr. Chairman, this amendment is common sense. It calls on the government to bring transparency to the major rules.

Once an agency finalizes a major rule, that is the end of it. They are not required to review the benefits or the economic impacts. This amendment, however, holds the agency accountable by requiring that it look back and assess the costs and benefits of that rule after it has taken effect. Should the cost of the regulation exceed the proposed costs under the rule, then, under this amendment, this agency will report back the increase to the Congress. This amendment would facilitate a dialogue between the agency and the stakeholders. If the costs have gone up, then the agency must open up a comment period to hear the stakeholders and consider possible modifications or alternatives to reduce the cost and increase the benefits. We do that in Congress. Every time we pass a piece of legislation, we go back and fine tune the legislation, and I think we need to do the same thing here.

Again, we must not allow regulations to run out of control. We should hold agencies accountable. This amendment will bring transparency and begin those conversations between stakeholders and the agencies.

Again, I thank Congressman GRAVES for this bipartisan amendment.

Mr. GRAVES of Louisiana. Mr. Chairman, again, I thank the gentleman from Texas, with whom I worked closely in developing this amendment, which was legislation we introduced last year and which had dozens of bipartisan cosponsors.

In summary, this is an Article I issue. This ensures that when an agency tells Congress, they tell the American public that when the regulation is going to cost a certain amount to comply with, they are held accountable to that. This is about accountability. This is about transparency.

My friend from Georgia mentioned that this was ''busywork.'' Mr. Chairman, I want you to think about that for a minute.

This applies to major rules that are estimated to cost in excess of $100 million to comply with, and they find it offensive that we ask them to look back one time every 5 years for rules that cost American families over $100 million to comply with every single year?

I am offended by that, and I am sure that millions and millions of American families are offended by that as well.

It is all summarized by this, Mr. Chairman: since 2009, for the first time in recorded history, we have had a net loss in small businesses in the United States. Regulations are hidden taxes that impact our businesses, that impact our employment opportunities, and that drive jobs to other countries.

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

Mr. JOHNSON of Georgia. Mr. Chairman, the bottom line is that my friends on the other side of the aisle, in their quest to satisfy the big businesses that fund these campaigns, don't like regulations that protect the health, safety, and well-being of Americans, including children, including the elderly, the weak, the sick. They are trying to get rid of the Affordable Care Act; trying to kill those regulations; trying to kill regulations on Dodd-Frank, which is protecting people from financial ruin by Wall Street barons.

This is an incessant march toward a deregulatory environment. We can't let it continue unabated. We must protest. We must speak out. We must do the right thing to protect the people of this

country. For that reason, I urge my colleagues to oppose this amendment.

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

The Acting CHAIR (Mr. CHABOT). The question is on the amendment offered by the gentleman from Louisiana (Mr. GRAVES).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. YOUNG OF IOWA

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part A of House Report 115–2.

Mr. YOUNG of Iowa. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 33, line 10, strike ''agencies and'' and insert ''agencies,''.

Page 33, line 11, insert after ''easy to understand,'' the following: ''and issues guidance in a manner sufficient to provide at least 90 days for affected entities to take steps to comply with such guidance,''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Iowa (Mr. YOUNG) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. YOUNG of Iowa. I thank the gentleman from Virginia for his help and leadership on this issue.

Mr. Chairman, this amendment is designed to make an already very good bill even better. Regulators regulate. That is what they do. Regulators regulate businesses, large and small, State and local governments, nonprofits, individuals, et cetera. These regulated entities often rely on guidance from agencies to become compliant with a new rule or regulation; but, occasionally, this guidance is offered far too late in the process, leaving entities with the decision to either move forward without guidance and face possible penalties, litigation, losses, or to wait until guidance is offered and then scramble to implement changes before the deadline, increasing the likelihood for mistakes and failure.

My amendment seeks to ensure guidance is offered and available in a timely manner by instructing agencies to the Office of Information and Regulatory Affairs to issue guidance at least 90 days before a rule or a regulation goes into effect so that affected entities have time to comply.

As an example, companies recently experienced the hardships of late guidance from HHS through CMS. There is a company in Iowa and similar companies from around America that produce forms, using post acute healthcare reimbursements, including skilled nursing and home care, both of which receive funding through Medicare.

CMS is responsible for setting rules for the reimbursement forms. Okay. Fine. CMS specified a new set of rules for forms going into effect at the beginning of the year. Okay. Great. This company and other companies waited for CMS guidance before printing and sending reimbursement forms to its customers, and this company waited and waited and waited; but 3 weeks before the effective date, this company and others like it hadn't heard anything from CMS on guidance or directions—crickets.

□ 1615

So at this point, they had to make a business decision. That is the reality. Either wait for CMS and fail to have the required forms to its customers in time for the new year or send the forms to print, cross your fingers, say a prayer, roll the dice, and hope they will later be found in compliance.

They sent the forms to print knowing full well they would eat the cost if the forms did not comply. Losses, penalties, litigation, a soiled reputation—those are the real things the lack of guidance and notice causes. Thankfully, everything worked out in this situation, but in other situations, things haven't worked out. A few days after they sent the forms to print, CMS finally approved.

However, this situation illustrates a broader problem that occurs too often transcending in other instances through the economy and needs to be addressed. We need to make sure that when we give agencies the power to effectively write law, we ensure compliance guidelines are clear-cut, timely, and enforcement is fair.

Allowing the regulatory process to continue as is and agencies to issue needed guidance at the last minute, we only further burden Americans in their organizations, businesses, these individuals in our districts.

So I want to be clear what the amendment does not do. This amendment does not change a rule or regulation in any way. It does not direct the Office of Information and Regulatory Affairs to do or speak to anything else other than the timeliness issue I just described. It is pretty plain language. My amendment says, when guidance is forthcoming, it arrives in a timely manner.

Mr. Chairman, it is past time for Congress to rein in and approve this process so our constituents aren't left with uncertainty, wringing their hands waiting for Washington, and can, instead, get to work. Let's get this fixed right now, Mr. Chairman.

I urge my colleagues to support this amendment and the underlying bill.

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

Mr. JOHNSON of Georgia. Mr. Chair, I claim the time in opposition.

The Acting CHAIR (Mr. GRAVES of Louisiana). The gentleman is recognized for 5 minutes.

Mr. JOHNSON of Georgia. Mr. Chair, I appreciate my friend Mr. YOUNG's amendment which establishes a 90-day compliance period for guidance documents when, in the underlying legislation, it makes clear that during any compliance period for guidance it is nonbinding. So I rise in opposition to this amendment which imposes an unnecessary and burdensome 90-day waiting period for agencies to issue guidance documents.

Importantly, as a form of nonlegislative rule, guidance documents do not have the force of law and are not subject to the Administrative Procedure Act's notice and comment requirements. Section 104 of H.R. 5 already clarifies that these documents are not legally binding and may not be relied upon by an agency as legal grounds for agency action.

This provision additionally requires agencies to make this document available to the public and provide a plain and prominent statement that the document is not legally binding. Given the requirements that already exist in current law and the additional requirements imposed by title I of this bill, it is difficult to ascertain why an additional 90-day compliance period for guidance that is not legally binding is warranted.

Furthermore, in all cases, regulated entities have ample opportunity to challenge rules, including guidance, as ''arbitrary or capricious'' under the Administrative Procedure Act where an agency lacks statutory authority to issue the guidance or the guidance is otherwise legally unsound.

Indeed, as Justice Elena Kagan noted in 2015 in Paralyzed Veterans v. Mortgage Bankers, the APA contains a variety of constraints on agency decisionmaking, the arbitrary and capricious standard being among the most notable.

Accordingly, I oppose the amendment, and I urge my colleagues to do the same.

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

Mr. YOUNG of Iowa. Mr. Chairman, how much time do I have left?

The Acting CHAIR. The gentleman has 1 minute remaining.

Mr. YOUNG of Iowa. Mr. Chair, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE), the chairman.

Mr. GOODLATTE. Mr. Chair, I thank the gentleman for the time.

I support his amendment. Agency guidance is a crucial part of our regulatory system—flexible because not legally binding, but needed so regulated entities can understand how best to comply with agency rules.

Guidance, if it responds in a timely way to the regulated community's need for it, helps everything to function smoothly. But one thing that does not help is agency heel-dragging in the issuance of guidance as the regulated community comes up against legal or practical deadlines by which it needs to implement compliance measures. Too often agencies hurry up and wait to produce needed guidance, then tell those who waited long and hard for it to hurry up and respond, pronto. That can leave very little time for the regulated community to act before deadlines hit.

To solve this problem, the amendment offers a simple but much-needed solution. It requires that, within ''good-guidance'' guidelines to be issued by the Office of Information and Regulatory Affairs under the bill, there be guidelines for agencies generally to assure at least 90 days for regulated entities to institute measures consistent with newly issued guidelines.

I support the amendment.

Mr. YOUNG of Iowa. Mr. Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MS. CASTOR OF FLORIDA

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part A of House Report 115–2.

Ms. CASTOR of Florida. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—EXCEPTION FOR CERTAIN RULES

SEC. 701. EXCEPTION FOR CERTAIN RULES.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code) that will result in a reduced incidence of cancer, premature mortality, asthma attacks, or respiratory disease in children or seniors. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

The Acting CHAIR. Pursuant to House Resolution 33, the gentlewoman from Florida (Ms. CASTOR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Florida.

Ms. CASTOR of Florida. Mr. Chair, I rise to offer an amendment to this troubling bill, a bill that proposes to erode the separation of power safeguards in the United States Constitution. My amendment would exempt from this bill rules that protect children and older Americans from cancer, premature mortality, asthma attacks, and respiratory disease so that such rules are not irresponsibly delayed or denied.

H.R. 5 unreasonably condemns every major rule, no matter its subject, to an early bureaucratic demise at the hands of the special interests. Many laws and regulations that are adopted and developed to protect the public health and protect costly chronic diseases really shouldn't be put on the back burner just because special interests can oftentimes muck up the gears of government here in Washington.

For example, the Clean Air Act, which has been in place for over 40 years, has been one of the most effective public health laws on the books. In 1970, at a time when smog was dense and visible in our cities and towns and industrial areas, our leaders took an important step to protect the public health and regulate emissions of hazardous air pollutants by adopting the Clean Air Act, with only one ''nay'' vote here in the entire Congress. Since then, agency rules and regulations have been adopted to implement the act based upon the best science. Those vital policies have improved our health, protected all Americans from harmful air pollution, such as ozone, nitrogen dioxide, sulphur dioxide, and particle matter.

This Republican bill, H.R. 5, largely, would end our ability to develop future safeguards for clean air. Toxic pollutants like ozone, which is a major component of smog, are linked to asthma, lung and heart disease, and result in thousands of deaths every year and up to 1 million days of missed school. Our kids are particularly susceptible to this type of pollution because their lungs are still developing, and they are more likely to spend long periods outdoors, placing them at higher risk.

The American Lung Association states that inhaling smog pollution is like getting a sunburn on your lungs and often results in immediate breathing trouble. The University of South Florida's Department of Child & Family Studies did a study in 2014 and said, in the State of Florida alone, there were 48,674 asthma emergency room visits by children and over 6,500 asthma hospitalizations.

Any American who has been alive since the adoption of the Clean Air Act in the 1970s has an appreciation for the benefits of clean air. America is stronger and Americans are healthier because of the Clean Air Act.

Let's not go backwards. This bill, if adopted, would undermine the Clean Air Act and so many other policies that lift and protect our neighbors.

We still have work to do when it comes to the air that we breathe because, even with all of the progress we have made, many working class communities continue to bear the brunt of environmental pollution because oftentimes the only homes that are affordable are located near industrial sites. According to the NAACP, 78 percent of African Americans live within 30 miles of an industrial power plant and 71 percent of African Americans live in counties that violate Federal air pollution standards; and the Environmental Defense Fund found that our Latino neighbors are three times more likely to die from asthma, often for the same reasons.

If you establish such barriers to cleaning our air, it is not only our families and neighbors that will suffer, but it will also be the American economy. Far from being an economic burden, clean air protections in the U.S. have a great track record, demonstrating that economic growth and pollution reduction can go hand in hand. Since 1970, we have cut harmful air pollution by about 70 percent, and the U.S. economy has more than tripled.

I urge my colleagues to side with hardworking American families and not corporate polluters who love this bill. Don't prioritize polluter profits over science and the health and safety of the public, especially the most vulnerable among us.

I reserve the balance of my time.

Mr. MARINO. Mr. Chair, I claim the time in opposition to the amendment.

The Acting CHAIR (Mr. YOUNG of Iowa). The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. MARINO. Mr. Chair, the gentlewoman's amendment would strike from the bill the Separation of Powers Restoration Act and the core judicial review provisions of the Regulatory Accountability Act. The resulting legislation, rather than restore an adequate framework of checks and balances against agency overreach and abuse, would perpetrate and perpetuate features among the worst of our current, runaway regulatory system. We cannot complete true regulatory reform without restoring to the judicial branch the vigorous powers of judicial review the amendment would strike.

In addition, the bill would exclude from title I's critical rulemaking reforms all rules to reduce the incidence of cancer, premature mortality, asthma attacks, and respiratory diseases in children and seniors.

All of us support the reduction of morbidity and mortality among children and seniors. Rules to advance these goals, done properly, contribute substantially to our Nation's health and well-being, but the bill does nothing to frustrate the effective achievement of those goals. It simply assures the agencies issuing these types of rules—and all agency rulemaking in general—will avoid unnecessary and overreaching regulation and issue smarter, less costly regulation and guidance when necessary.

I urge my colleagues to oppose the amendment.

I reserve the balance of my time.

Ms. CASTOR of Florida. Mr. Chairman, I urge my colleagues to vote ''yes'' on the Castor amendment to protect children's health, to protect the health of our older neighbors. We value the air that we breathe.

H.R. 5 would inject unnecessary barriers into the ability of our environmental agencies—heck, all of the agencies of government—to protect us.

When it comes to the final bill itself, if you believe in checks and balances as a foundation of our constitutionally-based government, I urge my colleagues to oppose the bill.

I yield back the balance of my time.

□ 1630

Mr. MARINO. Mr. Chairman, I believe in the Constitution just like everyone else does, and primarily we, as congressmen and congresswomen, have

a responsibility to make the laws, not unelected bureaucrats who have no experience in a lot of the areas where they are making these laws.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Florida (Ms. CASTOR).

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

Ms. CASTOR of Florida. Mr. Chair, I demand a recorded vote.

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

AMENDMENT NO. 9 OFFERED BY MR. CICILLINE

The Acting CHAIR. It is now in order to consider amendment No. 9 printed in part A of House Report 115–2.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—EXCEPTION FOR CERTAIN RULES

SEC. 701. EXCEPTION FOR CERTAIN RULES.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code) pertaining to the prevention of the transmission of foodborne illness or assistance to domestic and foreign food facilities to meet preventive-control requirements for safety, such as hazard prevention practices in human and animal food processing, packing, and storage facilities. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Rhode Island (Mr. CICILLINE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Rhode Island.

Mr. CICILLINE. Mr. Chairman, the bill before us today promises to update the ways that agencies make and enforce their rules and regulations. But in many ways, it is a solution in search of a problem. When issuing a rule, Federal agencies must already adhere to rigorous analytical process of considering alternatives, justifying the cost of a rule, and considering input from stakeholders.

Within this framework, agencies have been granted the necessary latitude to react quickly to urgent crises in consumer safety. It has preserved the safety of our food and our drinking water and has protected our families from defects in the products that we rely upon every day. However, the passage of this bill would put that safety and that protection at risk.

With H.R. 5, we are getting six reform bills rolled into one. This sweeping regulatory bill would cumulatively add 60 new procedural and analytical requirements to the agency rulemaking process, invite frivolous litigation against agencies, empower special interests, and emphasize cost-saving over public protection.

If enacted, H.R. 5 will needlessly create such an enormous burden on the rulemaking process that it threatens to hamstring agencies and discourage them from pursuing new rules at all. In its present form, this bill endangers our Nation's environmental, public health, workplace safety, and consumer financial security protections.

My amendment would offer critical protection by exempting rules pertaining to the prevention of the transmission of foodborne illness or assistance to food facilities to meet preventive-control requirements for safety.

Protecting consumers from dangerous food contamination is a worthy goal in and of itself. And this amendment would go even further by protecting jobs and businesses. For example, in 2015, Blue Bell Creameries suffered a deadly listeria contamination crisis and had to recall 8 million gallons of ice cream. After the company shut down most of its production, Blue Bell was forced to lay off 1,450 employees from their jobs, or 37 percent of their workforce, and an additional 1,400 employees were furloughed.

Chipotle is also still reeling from various outbreaks of E. coli, salmonella, and norovirus over 2015 and 2016, which caused widespread panic among customers and the company's shareholders. Despite marketing efforts to repair its reputation, Chipotle's sales have steadily declined, and it plans to open fewer stores in 2017. This, in turn, had a domino effect on Chipotle's paper bowl supplier who laid off 5 percent of its employees because of decreased demand from Chipotle.

Afterward, both Blue Bell and Chipotle took aggressive remedial steps, such as conducting deep cleansing of equipment and facilities, changing food preparation procedures, hiring food safety consultants, training employees, and temporarily suspending operations. The FDA responded by proposing proactive rules, such as having manufacturers come up with a plan to identify potential food safety problems and how to respond to them. The FDA also proposed a rule to establish standards for growing, harvesting, packing, and handling produce.

Both these rules could greatly assist businesses in minimizing future food contamination and having to deal with the economic aftermath of an outbreak. However, under H.R. 5 in its current form, similar such FDA rules could be delayed by years or halted entirely. We can't afford to put consumer safety and our economy at risk while Congress entangles any real possibility for immediate and preventative action.

I ask my colleagues to support this commonsense amendment to ensure that we protect the public and health and safety of our constituents.

I reserve the balance of my time.

Mr. MARINO. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR (Mr. FORTENBERRY). The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. MARINO. Like the previous amendment, the gentleman's amendment would strike from the bill the Separation of Powers Restoration Act and core judicial review provisions of the Regulatory Accountability Act. Faced with a runaway administrative state, we must not gut the bill's crucial reinforcements of judicial checks and balances against agency overreach and abuse. For this reason alone, the amendment should be rejected.

In addition, the bill would exclude from title I's long-needed rulemaking reforms numerous types of food safety regulations. All of us support food safety. But the bill does nothing to frustrate the protection of food safety. In fact, it clearly calls upon regulatory agencies to achieve their statutory objectives in this and all areas. Beyond that, it simply ensures that agency rulemaking will avoid unnecessary and overreaching regulations and produce smarter, less costly regulation and guidance when necessary.

I urge my colleagues to oppose the amendment.

I reserve the balance of my time.

Mr. CICILLINE. Mr. Chairman, I thank my friend from Pennsylvania for his comments, but the assertion that this does nothing to frustrate or jeopardize food safety is not true. This creates 60 new procedural and analytical requirements to agency action, and that will invite frivolous litigation, empower special interests, emphasize cost saving over public protection, and make implementation of these rules almost impossible.

It is important to remember, Mr. Chairman, when issuing a rule, Federal agencies already are required to adhere to a rigorous analytical process of considering alternatives, justifying the cost of the rule, and considering input from stakeholders. I gave two examples in my earlier comments that demonstrate that there is a real role for the Federal Government in the implementation of rules to protect food safety. There are real consequences not only to the individuals harmed but to our economy by these sorts of events. This bill will not only frustrate that, in many instances, it will make it impossible. I urge my colleagues to support this commonsense amendment.

I yield back the balance of my time.

Mr. MARINO. Mr. Chairman, I respectfully disagree with my friend and NATO member. We have traveled together.

A lot of the delay now is because of the agencies and how long they take to make decisions. With the premise behind our bills combined, agencies come

up with an idea that they think will improve the quality of life, and that is what they should be doing. But then they immediately send it to us in the House, in Congress, and then we make the determination as to whether it is good law or it is bad law and apply it that way. We certainly have the time in the House, and I am sure the Senate has the time, too, to address these matters quickly and not delay it as long as the agency has been delaying making rules.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Rhode Island (Mr. CICILLINE).

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

Mr. MARINO. Mr. Chairman, I demand a recorded vote.

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

AMENDMENT NO. 10 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 10 printed in part A of House Report 115–2.

Mr. JOHNSON of Georgia. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—EXCEPTION FOR CERTAIN RULES

SEC. 701. EXCEPTION FOR CERTAIN RULES.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code) pertaining to significantly improving the employment, retention, and wages of workforce participants, especially those with significant barriers to employment, such as persons with disabilities or limited English proficiency. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Georgia (Mr. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise in support of my amendment to H.R. 5 which would exempt from the bill rules that improve the employment retention and wages of workforce participants, especially those with significant barriers to employment.

When President Obama took office in 2009, he inherited the worse economic depression since the Great Depression. Since then, President Obama's ''North Star'' on domestic policy has long been to make the economy work for the middle class and for those fighting to join it. Notwithstanding historic austerity levels and a Republican Congress more interested in winning elections than putting Americans back to work or increasing wages, President Obama has largely achieved this goal, while rescuing the auto industry and signing tax cuts for middle class persons, as opposed to just simply big business.

According to the leading economic data, private sector businesses have created more than 15 million new jobs. The unemployment rate has dropped well below 5 percent to the lowest point in nearly a decade, wages are rising, and the poverty rate has dropped to the lowest point since 1968. And more people have health insurance than ever before.

This has all occurred during an administration that is pro environment, pro clean energy, pro workplace safety, pro medical care, pro Medicare, pro Medicaid, pro Social Security. In fact, during this time, our Nation has doubled its production of clean energy and reduced carbon emissions faster than any other advanced nation.

Notwithstanding this progress, there is still much work to be done for millions of Americans in every part of our country who are out of work, underemployed, or have not seen significant wage growth postrecession. But they should understand it was the Republicans who caused that to happen by not wanting to work with the President and members of the Democratic Party to make things better for working people in this country.

Congress should be working tirelessly now across party lines to find solutions to persistent unemployment and stagnant wages, such as a public infrastructure investment agenda that will increase productivity and domestic output while turning the page on our historic underinvestment in our Nation's roads, bridges, and educational institutions.

Unfortunately, this bill, H.R. 5, is not one of those solutions. The Regulatory Accountability Act is nothing short of a train wreck for critical public health and safety protections that ensure that our air is clean, our water is pure, and that our workplace, vehicles, homes, and consumer products are safe.

Freeing corporations from the costs of protecting Americans against harmful activity is not the right path forward to increasing employment and wages for all. It is a giveaway to the corporate sector that supports them. I urge my colleagues to support my amendment.

I reserve the balance of my time.

Mr. MARINO. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. MARINO. This amendment would strike from the bill the Separation of Powers Restoration Act and the essential judicial review provisions of the Regulatory Accountability Act. It, too, should be rejected for those reasons.

In addition, the bill would exclude from title I's rulemakings reforms numerous types of rule related to employment and wages. But once again, the bill does nothing to prevent good rules in these areas. On the contrary, it would produce better rules, rules that are smarter and less costly, freeing resources for job creation and higher wages. I urge my colleagues to oppose the amendment.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Chairman, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Chairman, I applaud Mr. JOHNSON, the ranking member of the subcommittee for his leadership on these issues, and the ranking member of the full committee, Mr. CONYERS, for his persistent leadership, having gone over this bill any number of times. Let me mention that Mr. JOHNSON's amendment is vital because it deals with vulnerable workforce individuals, individuals with disabilities, limited English proficiency, and other requirements. And I would beg to differ with my good friend from Pennsylvania, 70 different elements of criteria that you will put these regulations through, you are simply trying to implode those who advocate for the rights of workers, unions, and others. Therefore, I would question the viability of trying to obstruct, helping these vulnerable workers. This is a very good amendment.

Let me be very clear. Since 2010, U.S. businesses have added 15.6 million jobs. From 2014 to 2015, real median household income grew by 5.2 percent. We know that, as Jason Furman, chairman of the Council of Economic Advisers notes, demographic changes in labor force participation, primarily driven by a large increase in retirement by baby boomers that began in 2008, has consistently weighed on employment growth. It is quite different from when President Reagan was in. The labor force participation rate is low because of these variables.

□ 1645

These regulations are not going to improve that participation. The Obama recovery has been slower because, under Reagan, we realized the baby boomers were in their prime. Now the baby boomers are retiring.

We need to provide opportunities for younger workers, minority workers, workers with disabilities; and this, H.R. 5, with all of these hoops that the regulation has to go through that are protecting or empowering workers or increasing the opportunities for workers is certainly going to thwart that growth.

You cannot deny that this administration has seen growth with 200,000-plus jobs per month over a series of

years. I would argue that Mr. JOHNSON's amendment is a strong amendment. It promotes job growth, and it gives opportunities to many who are vulnerable in the workforce.

I ask my colleagues to support the Johnson amendment.

Mr. Chair, my Republican colleagues have made several statements concerning economic activity that invite fact checks:

First, they argue that the labor force participation rate is historically low, but as we all know, the labor force participation is affected by both long term trends and short term policies. As Jason Furman, the Chairman of the Council of Economic Advisers, notes, "demograpic changes in labor force participation—primarily driven by a large increase in retirement by baby boomers that began in 2008—have consistently weighed on employment growth."

Second, they argue that the Obama recovery has been slower than the economic recovery under the Reagan Administration. But this argument is laughable. President Reagan's recovery benefited from the fact that many baby boomers were in the prime working years while President Obama's recovery has taken place in front of the backdrop of an aging U.S. population. More importantly, the economic lows of the Reagan Administration are not comparable to the mortgage-foreclosure crisis, which resulted in higher unemployment than any other period since the Great Depression.

Finally, despite many bald assertions, my Republican colleagues have not satisfactorily explained how H.R. 5 will create a single job or responded to President Obama's unimpeachable jobs record. In fact, despite, strong economic headwinds and years of Republican obstructionism during the majority of his presidency, the U.S. economy is 11.5 percent larger than its peak before the 2008 economic crisis as of the third quarter of 2016.

Since early 2010, U.S. businesses have added 15.6 million jobs.

From 2014 to 2015, real median household income grew by 5.2 percent, the fastest annual growth on record, and the United States saw its largest one-year drop in the poverty rate since the 1960s.

In closing, there is little evidence supporting my Republican colleagues' claims and if there is any doubt that the H.R. 5 will undermine workforce participation, my colleagues should support my amendment.

The Acting CHAIR. The time of the gentleman has expired.

Mr. MARINO. Mr. Chair, I simply would add that I ask my colleagues to oppose this amendment.

As far as the jobs increase, or lack thereof, that my colleague speaks of, we have had the slowest growth rate in jobs in the history of this country. There are millions of people that are unemployed that are not seeking unemployment benefits, and they are not taken into consideration in the unemployment rate because it is much higher than it is; and the mean family income is at a low as far back as 14 years ago.

Ms. JACKSON LEE. Will the gentleman yield?

Mr. MARINO. I yield to the gentlewoman from Texas.

Ms. JACKSON LEE. I thank the gentleman for his kindness.

Would the gentleman not count automation and technology as one of the elements and, as well, the idea of the retiring of baby boomers as part of the issue of growth? And can we not work together to question those particular elements so that we can collectively and collaboratively promote job growth?

Mr. MARINO. Well, first of all, I would certainly enjoy working on job growth with the gentlewoman. We have worked on issues in the past.

But the gentlewoman forgets about the technology that has created jobs. People have to write those programs. People have to build that hardware. They have to come up with very intense, very intricate ways to make the machinery, continue updating the software. My daughter is a software major in college, and the jobs there are abundantly available.

So the jobs are there, but what I am hearing from people in my district and across the country is the regulations that have been imposed, not only by this administration but other administrations as well, are crushing particularly our small businesses.

So if we can step back and eliminate these job-crushing regulations and take into consideration the economics involved, we are going to create more jobs, we are going to protect people, and we are going to protect the health of people.

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

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. JOHNSON).

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

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

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

AMENDMENT NO. 11 OFFERED BY MR. RUIZ

The Acting CHAIR. It is now in order to consider amendment No. 11 printed in part A of House Report 115–2.

Mr. RUIZ. Mr. Chairman, I have an amendment to H.R. 5 at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—EXCEPTION FOR CERTAIN RULES

SEC. 701. EXCEPTION FOR CERTAIN RULES.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code) pertaining to the safety of children's products or toys. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from California (Mr. RUIZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. RUIZ. Mr. Chairman, I rise today in support of my amendment to H.R. 5, which will ensure children's products are safe for use.

In 2015, there were an estimated 254,200 toy-related injuries treated in emergency departments across the Nation. Tragically, 15 children were killed in toy-related incidents that same year. As an emergency medicine physician, I have treated children who have fallen victim to these accidents.

H.R. 5, the Regulatory Accountability Act, prioritizes cheaper alternatives for companies over the safety of our children. To me, this is unconscionable. It is wrong. It is not the direction we should be taking our Nation.

My amendment to H.R. 5 will ensure that an agency rule regarding the safety of children's products or toys is not delayed by the bureaucratic hurdles that H.R. 5 imposes on Federal agencies. My simple amendment provides a straightforward safety net for our sons and daughters across the country.

Our children should always be our priority. The facts are clear: a vote against my amendment is a vote to put a company's bottom line above the safety of our children. So I urge all of my colleagues to support this commonsense amendment to protect our children.

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

Mr. MARINO. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. MARINO. Mr. Chairman, like other carve-out amendments just offered, this amendment would strike from the bill the Separation of Powers Restoration Act and the essential judicial review protections of the Regulatory Accountability Act. It should be rejected. We should not be settling for weak judicial review that produces rubber stamps of agency action. We should be voting for the strong judicial review reform in the bill that prevents judicial rubber stamps.

Beyond that, the bill would exclude from title I's rulemaking reforms children's toys and product safety rules. But again, the bill does nothing to prevent good rules in these areas. It will produce better rules, rules that are smarter and less costly, freeing resources for job creation and higher wages. Smarter rules are precisely what we need to protect children's health and safety, and more jobs and higher wages are what are needed to help families provide for their children.

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

Mr. RUIZ. Mr. Chairman, I want to emphasize what is at stake here. We are talking about delay or forgoing regulations that protect our children, regulations that give parents like me the peace of mind that when I buy a bottle for my daughter, Sky, I know it is safe for her to use, and that when I buy a product that is labeled age-appropriate for my daughter, Sage, I can reasonably expect it will not contain small parts that Sage could swallow and send her to the emergency room with an obstructed esophagus that will require emergency surgery.

For me as a dad it is personal, and for our Nation it is essential. This is commonsense legislation.

I urge my colleagues to put aside partisanship, politics, and corporate greed and to think about the children in their lives who could be harmed by this bill. Vote ''yes'' on my amendment to protect children and save lives.

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

Mr. MARINO. Mr. Chairman, respectfully, the gentleman does not have the market cornered on worrying about the safety of our children. I think anybody in this room who has children has just as much concern for our children.

What his amendment does is gut—it guts—regulations, and what our amendments do—and the way we should be handling these as Congress making any laws—will improve the quality of life and improve the protections.

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

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. RUIZ).

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

Mr. RUIZ. Mr. Chairman, I demand a recorded vote.

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

AMENDMENT NO. 12 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part A of House Report 115–2.

Mr. SCOTT of Virginia. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—EXCEPTION FOR CERTAIN RULES

SEC. 701. EXCEPTION FOR CERTAIN RULES.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code) pertaining to workplace health or safety at mining facilities which are subject to the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.) or workplaces which are subject to the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and which is necessary to prevent or reduce the incidence of work-related traumatic injury, cancer, or irreversible lung disease. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, this amendment to the Regulatory Accountability Act, H.R. 5, if adopted, would exempt regulations proposed by the Mine Safety and Health Administration or the Occupational Safety and Health Administration, MSHA and OSHA, which are needed to prevent or reduce the incidence of traumatic injury, cancer, or irreversible lung disease.

I am deeply concerned that this legislation would impose layers of unnecessary procedures to the rulemaking process and provide incentives for frivolous litigation, while hindering workplace safety agencies trying to help keep workers safe.

Current procedures that govern OSHA's rulemaking already involve an extensive review process and stakeholder engagement from small business review panels, risk assessments, economic feasibility determinations, public hearings, and multiple opportunities for public comment.

According to the GAO, to meet these requirements, it takes OSHA 7 years to issue a new safety standard. In fact, it required 18 years for OSHA to update a rule that reduces exposure to beryllium, a metal that causes irreversible lung disease, even though there was broad agreement between employers and unions on the new standard.

H.R. 5 imposes 60 additional procedural steps in order to issue a new rule, on top of extensive layers of review already required by the Administrative Procedure Act, the Regulatory Flexibility Act, Data Quality Act, and numerous executive orders. The goal of adding these layers is obvious: to tie agencies such as OSHA and MSHA in red tape so they can't do their jobs protecting workers and improving workplace safety.

One especially troubling part of the bill would require a super-mandate that requires agencies to use the least cost alternative instead of the most protective rule. Nobody favors excessive cost, but this requirement overrides the carefully balanced requirements in OSHA that require life and limb must be fully protected, provided that the safety requirements are technically and economically feasible. That is the present law.

The question that needs to be asked is: The least cost to whom and at what cost to others? What is the least cost mandate protection of workers? Is the least cost mandate secondary to worker safety in order to limit cost to corporations? And then again, who decides?

Under the bill, some regulations could be delayed until the end of any litigation, the final determination in a lawsuit which, with trials and appeals, could take years. The bill prohibits the rules from going into effect until the end of the litigation. Now, normally, you can get an injunction, but that would require the court to consider the likelihood of success of the lawsuit and the potential harm done if the injunction is issued or not issued.

Under H.R. 5, rules could exceed the least cost alternative, but only if the agency demonstrates that the additional benefits outweigh the additional costs. This eliminates a well-established test under OSHA which requires ''the most productive standard which is feasible,'' and that standard obviously just invites litigation which will delay the final rule for years.

The problem with the least cost framework is that it would tilt the playing field to ensure the least cost for industry but at the expense of workers and the American public. According to expert witnesses before the Judiciary Committee, this bill will add another 2 or 3 years to the regulatory process, and these delays will allow preventable injuries and occupational diseases to continue unabated.

Mr. Chairman, the premise behind this legislation is based on the erroneous assumption that regulations issued over the last 8 years have obstructed job growth; however, employment statistics do not bear this out. Since the end of the recession, the U.S. economy has gained almost 16 million jobs, while establishing the longest consecutive months of job growth on record.

I urge my colleagues to support the amendment to ensure that, even if the bill passes, OSHA and MSHA will be able to prevent or reduce the incidence of traumatic injury, cancer, and irreversible lung disease.

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

Mr. MARINO. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. MARINO. Mr. Chairman, I certainly respect what my friend on the other side of the aisle has to say, but, again, I respectfully disagree.

Once again, my colleagues on the other side of the aisle would strike from the bill the Separation of Powers Restoration Act and the essential judicial review provisions of the Regulatory Accountability Act. That would have but one effect: to preserve the freedom to run riot that Washington bureaucrats have enjoyed for decades

as they have racked up roughly $2 trillion in regulatory burdens on the American people.

The amendment also would exclude from title I's rulemaking reforms workplace safety rules issued by OSHA or the Mine Safety and Health Administration to reduce traumatic injury, cancer, or lung disease.

I would urge my colleagues to read the bill and listen more closely. The bill does nothing to prevent good rules in these areas. It will produce better rules, smarter rules, less costly rules. That will free up resources for desperately needed job creation, meaning more workers will have more safe workplaces in which to earn a living.

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

□ 1700

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, this amendment will preserve the ability of the executive branch to promulgate rules, which will save lives and avoid preventable deaths and disease. A vote for the amendment is a vote for a safe workplace. I would hope that the amendment would be adopted and save lives.

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

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

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

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

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

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

AMENDMENT NO. 13 OFFERED BY MR. TONKO

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in part A of House Report 115–2.

Mr. TONKO. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—EXCEPTION FOR CERTAIN RULES

SEC. 701. EXCEPTION FOR CERTAIN RULES.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code) made pursuant to the Frank R. Lautenberg Chemical Safety for the 21st Century Act, or the amendments made by that Act. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from New York (Mr. TONKO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. TONKO. Mr. Chair, last May, Democrats and Republicans came together to pass the first major environmental law in decades, the Frank R. Lautenberg Chemical Safety for the 21st Century Act. Before this reform, it had been widely acknowledged that the Toxic Substances Control Act, or TSCA, was broken. The law was hampered by litigation since shortly after it was passed in 1976, and was rendered almost completely ineffective.

It has only been 7 months since over 400 Members voted for this reform, which requires a number of new rulemakings by the EPA.

A primary motivation to reform TSCA was to remove procedural hurdles that were preventing the EPA from regulating dangerous chemicals. But the bill before us today would impose new, unnecessary obstacles in the rulemaking process, which will impede agencies that already are struggling with shrinking budgets and time constraints.

Even some of the Members that had concerns with TSCA reform, myself included, would agree that it is imperative that these rulemakings go forward efficiently in order to protect public health and to give the private sector the certainty that it asks for when it supported the reform effort.

Unlike 233 of my colleagues on the other side of the aisle, I did not vote for this bill; but I do firmly believe that the rulemakings required by this law must be done effectively and quickly. Unfortunately, the bill before us today would undermine that process. For the record, I do not believe any amendments will fix the underlying bill, and I hope my colleagues will oppose this bill later today.

While Congress has moved on to other priorities, the EPA has been hard at work implementing the law as Congress intended. Since being signed into law in June, the EPA has already put into place new processes to review new chemicals, which is exactly what this House instructed them to do.

A number of rulemakings will soon get underway focused on how the EPA prioritizes chemicals for evaluation and how it will conduct risk evaluations. Other rules regarding the EPA's chemical inventory and the process for collecting fees will also be needed.

The Members that worked on TSCA reform deferred many of these procedural decisions to the EPA because we lacked the expertise necessary to determine every detail of the most effective, streamlined regulatory process.

We are not toxicologists or chemists, so we empowered the scientists that do this work to receive public feedback and create regulations, based on congressional intent, within a reasonable amount of time.

It is clear that an overwhelming number of Members of the House believe that the EPA needed these tools when we passed the Lautenberg bill to fix the EPA's chemical program. Let's not tie the agency's hands as it seeks effective implementation. We have seen what happens with a broken chemical safety law. Let's not go back to that.

I would also caution against the bill's requirement to choose the least costly regulatory option. People familiar with TSCA will know the term ''least burdensome,'' which required the EPA to select the restriction that was demonstrated to be the least burdensome to address identified risks.

In practice, this requirement was so onerous that the EPA was not even able to restrict known carcinogens like asbestos. The Lautenberg bill ended this requirement. Let's not reinstate this problem for our agencies.

Personally, I do not believe my amendment goes far enough. We should exempt every major environmental law responsible for protecting Americans' air, water, and land from this bill.

We have seen in many cases that these rules do not hurt the economy. They protect public health and provide much greater benefits to society than costs.

Many of our bedrock environmental statutes require agencies to review and update their rules periodically. Members of Congress should not prevent an agency from simply doing the job that is required of it under the law.

But in terms of this amendment and TSCA reform, Congress knew exactly what would be asked of the EPA in order to carry out the Frank R. Lautenberg Chemical Safety for the 21st Century Act when we passed it by a vote of 403–12 just a few months ago. We cannot tell the EPA to do something and then tie its hands and expect it to get it done.

This amendment is simple. Do Members of this body want to give our regulatory agencies the tools they need to implement the laws that Congress has passed? And, in my view, it should not matter if these laws were passed 6 months ago or 60 years ago. Or should we make it more difficult to implement effective rulemakings, even when there is legislative consensus about the need for them?

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

Mr. MARINO. Mr. Chair, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Pennsylvania is recognized for 5 minutes.

Mr. MARINO. Mr. Chair, one last time, my colleagues on the other side of the aisle would strike from the bill the Separation of Powers Restoration Act and the judicial review provisions of the Regulatory Accountability Act. One last time, that attempt should be rejected.

We need a strong judiciary, not a supine one, to stand up to agency overreach and abuse and protect the liberty and property of the America from the long hands of Washington's restless bureaucrats.

The amendment also would exclude from title I's rulemaking reforms rules issued under the Frank R. Lautenberg Chemical Safety for the 21st Century Act. Chemical safety is important to all of us. Congress worked hard on chemical safety legislation. But it is smarter regulations, supported by sounder science, at less cost that will best produce chemical safety under that act. That is precisely the kind of regulation that will happen once the 21st century rulemaking reforms in the Regulatory Accountability Act become law.

I urge my colleagues to oppose the amendment.

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

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

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

Mr. TONKO. Mr. Chair, I demand a recorded vote.

The Acting 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. 14 OFFERED BY MR. GRIJALVA

The Acting CHAIR. It is now in order to consider amendment No. 14 printed in part A of House Report 115–2.

Mr. GRIJALVA. Mr. Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 42, strike line 7 and all that follows through line 3 on page 45.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Arizona (Mr. GRIJALVA) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Arizona.

Mr. GRIJALVA. Mr. Chairman, today, this Republican Congress is taking a short break from trying to destroy our healthcare system to try to destroy the rest of the Federal Government.

H.R. 5 is nothing more than Republicans seeking to micromanage the regulatory process to death. They claim they only want good government. In reality, they want no government at all. They want to wrap Federal agencies in so much red tape that they won't be able to move to protect our health, our safety, or our natural resources.

Language in title III tries to prevent Federal land managers from actually managing Federal lands. This language would make land managers jump through the same procedural hoops over and over again just to put a new land management plan in place. These new requirements are completely redundant, which is, of course, the point.

Federal land management plans already go through extensive review, including by the public, before they are ever even implemented. One way we know this is that the House Republicans complain constantly about how long it takes Federal agencies to come up with a decision. Yet, here they are claiming that this Republican Congress knows best how our public lands and resources should be managed.

Let's stop and look at the record. Last Tuesday, almost every single Republican Member of this House voted for a change in our House standing rules to calculate the value of all Federal lands as zero for accounting purposes. Yes, House Republicans agree that all Federal lands are essentially worthless.

Then, on Thursday of this week, 229 House Republicans voted against an amendment I offered to another bill to declare that climate change is real. Yes, 95 percent of House Republicans voted to deny a settled scientific fact.

Yet, here we are today with the same House Republicans who deny science; the same House Republicans who think public lands are worthless, claiming they know how to manage these public lands.

Science deniers and those who think our public lands have no value have no credibility when they bring legislation to this floor claiming that they want to improve public land management. As with health care, as with so many things, they don't want to improve it; they want to destroy it.

Congressional Republicans have proved themselves completely incapable of building or preserving anything. They are only interested in tearing things down, starting with health, safety, and environmental protections for our people and our communities.

This bill would needlessly tip the scales in favor of corporate polluters who want to be in power to ruin our public lands, taking the resources and the profits for themselves, leaving the American people with the mess and the consequences.

My amendment strikes the section of this bill intended to turn our public land management process into nothing more than a board meeting of the American Petroleum Institute.

I urge my colleagues to support my amendment.

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

Mr. CHABOT. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIR. The gentleman from Ohio is recognized for 5 minutes.

Mr. CHABOT. Mr. Chairman, a longstanding position of the Chief Counsel for Advocacy of the Small Business Administration has been that land management plans developed by the Forest Service and by the Bureau of Land Management are rules and that they are subject to analysis under the RFA. The same conclusion—that a land resource management plan is a rule—has been reached by the Government Accountability Office.

Given the potentially significant consequences to small businesses that rely on public lands and small communities that border those lands, the Forest Service and the Bureau of Land Management should assess the impacts of their plans on these small entities. That is all this does.

We are saying: How is this going to affect small businesses? Seventy percent of the new jobs created in America are created by small businesses? Should we care about what the bureaucrats are doing, how it affects those folks that are creating all these jobs?

Common sense says yes, we ought to do that.

This bill already includes a reform to prepare those agencies to prepare regulatory flexibility analyses when they are developing changes to resource management plans to determine how small businesses and small communities would be affected.

□ 1715

Striking this provision from the bill would do away with a needed reform for small businesses, such as farmers and ranchers and their small communities, especially those located in the Western United States, which contains the vast majority of Federal lands.

I would also note that my esteemed colleague talks about Republicans trying to destroy health care in this country. That is obviously absurd. We are trying to save health care. We are trying to make sure that Americans aren't forced to pay a heck of a lot more and have higher deductions, things they can't afford. Plans right now they are in, they are paying for plans and oftentimes get zero health care out of those plans because the deductibles are now so high under ObamaCare that they can't even use it.

I think there are a whole lot of people, when this was forced through this Congress on a purely partisan vote by my colleagues, the Democrats at that time, and by this President, there were a lot of Republicans who would have loved to have joined with them to do something to help people get health care who didn't have it. That is a worthy cause. But that could have been done without screwing up everybody else's health care in this country. That is what they failed to do when they did this. We are hoping, in a bipartisan way, we can work together to improve health care for lots of folks in this country. We will see if that is going to work out or not.

I would also note that there is nobody on this side of the aisle who thinks we need no government at all, we need no regulations, we need no rules; but we don't want to overregulate the job creators in this country so that they can't create jobs. Those jobs

that people don't get, those are real people; or people who get knocked out of that employment are real people, and they have families. We ought to be supporting them. Overregulation kills those jobs.

I would finally note, relative to climate change, what we are saying is that if we are going to do something, let's do it in a smart manner. Let's not try to save some things and then knock thousands, probably millions of Americans out of their jobs. There is a smart way of doing it and there is a wrong way of doing it. We would like to do it the smart way.

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

Mr. GRIJALVA. Mr. Chairman, I appreciate the comments of my esteemed colleague. We have to get past the point where we are just talking about repeal. As the President so eloquently said last night, if there is something that is going to improve the health and well-being of the American people relative to the Affordable Care Act, then bring it forward. We all have been waiting patiently for the Republican majority to bring something forward that not only repeals but replaces. We are still waiting.

In terms of this amendment, the resource management plans are the backbone for every action and approved use on BLM land. It is about scoping. It is about public input, collaborative with State, local, tribal, and user groups across the spectrum, and that is the process that is in place now, a process that deserves to be continued, ratified, and protected.

As far as the issue of climate change, the President eloquently said last night that we should go forward on the issue of climate change, putting science and reason as a priority on how we have that discussion. Once the majority is prepared to deal with science and reason, I think our side of the aisle is willing to do so as well.

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

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

The Acting CHAIR (Mr. BYRNE). The question is on the amendment offered by the gentleman from Arizona (Mr. GRIJALVA).

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

Mr. GRIJALVA. Mr. Chairman, I demand a recorded vote.

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

The Acting CHAIR. The Chair understands that amendment No. 15 will not be offered.

AMENDMENT NO. 16 OFFERED BY MR. POSEY

The Acting CHAIR. It is now in order to consider amendment No. 16 printed in part A of House Report 115–2.

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

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 75, line 3, strike ''and'' at the end.

Page 75, line 13, strike the period at the end and insert ''; and''.

Page 75, insert after line 13 the following:

''(D) a list of all influential scientific information disseminated or expected to be disseminated by the agency relating to the rule, including any peer review plans for the information, including—

''(i) the date the information or peer review was or is expected to be received by the agency;

''(ii) the date the information or peer review was publically disclosed or is expected to be publically disclosed, and, if that date is altered in subsequent reports, a brief explanation for the change; and

''(iii) the Internet address of the information or peer review completed and disclosed or of where the information or peer review will be found, once completed and disclosed.''.

The Acting CHAIR. Pursuant to House Resolution 33, the gentleman from Florida (Mr. POSEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. POSEY. Mr. Chairman, my amendment is about transparency and accountability. I rise to urge my colleagues to support it.

When an agency decides to write a rule or revise an old one, they are sometimes required to share technical or scientific information to support their proposal. For many years, scientific research has relied upon the peer review process to ensure quality, integrity, and objectivity of published work. Peer review is when scientists open their research to the scrutiny of other experts in their field in order to receive feedback, criticism, and ensure their conclusions are sound.

Unfortunately, when peer reviews of information return unfavorable comments or raise unforeseen issues with the quality of work, some agencies have acted to silence or hide the critiques. This, of course, is bad science, and it results in bad public policy.

A recent example of this abuse occurred during a highly technical rulemaking proceeding in which an agency relied heavily upon a single study that many criticized as profoundly inadequate. The agency commissioned two peer reviews of the study, which were completed and returned 2 weeks into the comment period for the public. However, after both scholars submitted highly critical reviews that echoed the concerns of the many commentators, sadly, the agency withheld the release of their work to the public. When the agency finally did release the information as required by law, it was on the Friday that marked the very last day of the comment period as part of a massive document dump that buried the negative reviews.

The political cherry-picking of scientific information and manipulation of the public record harms both the quality of Federal regulations as well as the overall integrity of the rulemaking proceeding. When Federal agencies distribute scientific research supporting a proposed rule, the public and those affected by it deserve to be certain that the science is of the highest quality and have a due process right to comment meaningfully on the rules the science intends to support.

My amendment will help protect this basic principle of good government and ensure fairness in Federal rulemaking by requiring that the public be provided with a clear timeline for disclosure of any influential scientific information. The amendment will also require agencies to offer an explanation if they revise the anticipated public release date of peer reviews. Simply put, the Federal agency will no longer be able to shield from the public view the existence of information that is central to evaluating a proposed rule.

We cannot continue to allow the Federal agencies to march toward a predetermined outcome at the expense of sound science and policy. I urge all of my colleagues to support this amendment.

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

Mr. TONKO. Mr. Chairman, I claim the time in opposition to the amendment offered by the gentleman from Florida.

The Acting CHAIR. The gentleman from New York is recognized for 5 minutes.

Mr. TONKO. Mr. Chairman, I oppose this amendment which requires that an agency publish a list of scientific information relating to a rule or expected to relate to the rule for each rule that an agency expects to propose for the following year. I am concerned that this amendment would create unintended consequences and operate as a one-way ratchet to slow down and stop the rulemaking process by requiring burdensome disclosures and creating options for procedural gridlock.

Agencies are already required to publish relevant data in support of a rule during these rulemaking processes. Rules that do not appear to be based on a reasoned analysis of relevant data may be vacated by reviewing courts as arbitrary or capricious. Moreover, data acquired through federally funded research is already accessible to researchers who have a legitimate purpose.

I am also concerned that because this amendment does not define scientific information or clarify the scope of this publication requirement, peer reviewed materials may be taken out of context or otherwise misused for political purposes. In so doing, this requirement may chill feedback in the scientific community, undermine agencies' ability to adopt the best rules possible, or otherwise manufacture delays in the rulemaking process.

Any additional requirements in this area should strengthen, rather than weaken, the process of science-based

rulemaking. Given these concerns, I urge my colleagues to oppose this amendment.

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

Mr. POSEY. Mr. Chairman, how much time do I have remaining?

The Acting CHAIR. The gentleman from Florida has 2 minutes remaining.

Mr. POSEY. Mr. Chairman, most members of the public don't know what a rule is. Rules are laws made by unelected and unaccountable bureaucrats.

We collected 4 years' worth of Daily Registers in my office. Those are executive orders, rules, proposed rules, changes to rules. I ask people how big they think the stack is. I get answers 4 feet, 6 feet, 7 feet. Well, actually, in 4 years' time, the stack was 7 stacks over my head—over 70 linear feet of laws made by unelectable, unaccountable people.

The public thinks we make the laws. Most of the laws we don't make. We allow unelected, unaccountable bureaucrats to make the laws; and the very least we can do to protect the public is ensure that we have transparency and accountability for their procedures, and that is exactly what this amendment does.

Mr. Chairman, before I close, I include in the RECORD a letter from a leading policy research institution that highlights the need for legislation like my amendment that will improve the public peer review process in our Federal agencies.

PHOENIX CENTER FOR ADVANCED LEGAL & ECONOMIC PUBLIC POLICY STUDIES,
Washington, DC, January 11, 2017.

Re Republic Peer Review.

Speaker PAUL RYAN,
Washington, DC.
Minority Leader NANCY PELOSI,
Washington, DC.

DEAR SPEAKER RYAN AND MINORITY LEADER PELOSI: As both of you know first-hand, developing and implementing good public policy is no easy task. The issues before regulatory agencies are often complex and technical, and therefore resolution benefits from input from the best minds both in and out of government. Yet, simply because someone writes a lengthy report on a particular topic does not automatically mean that their analysis is valid. No presumption of scientific legitimacy can be afforded when making good public policy. Instead, if policymakers are going to rely on a particular study, then that study deserves to be critiqued first via public peer review in a dispassionate manner to see if the prescriptions and findings hold up. This public peer review is exceedingly important when deciding controversial matters, particularly because reviewing courts are loath to second-guess expert administrative agency's policy decisions—choosing instead to limit themselves only to questions of law. (See, e.g., USTelecom v. FCC, 825 F.3d 674, 697 (D.C. Cir. 2016) (we do not ''inquire whether 'some or many economists would disapprove of the [agency's] approach' because 'we do not sit as a panel of referees on a professional economics journal, but as a panel of generalist judges obliged to defer to a reasonable judgment by an agency acting pursuant to congressionally delegated authority.''')) As such, the peer review process allows the public to better hold government to account and results in more informed policymaking.

Unfortunately, while the Office of Management and Budget mandates peer review, many administrative agencies do not take the peer review process seriously. By way of example, I am attaching an op-ed I wrote in The Hill last year demonstrating how the Federal Communications Commission flagrantly violated the public's due process rights by hiding until the very last moments the highly-critical results of the agency's peer review of an outside economic study which the agency intended to be the foundational document to impose price regulation for Business Data Services. By any account, such behavior is not an example of ''good'' government. Legislation to improve the public peer review process at federal agencies is therefore both welcome and necessary.

Sincerely,

LAWRENCE J. SPIWAK,
President, The Phoenix Center.

[From The Hill, July 7 , 2016]

THE FCC'S LACK OF RESPECT FOR DUE PROCESS, PART II

(By Lawrence J. Spiwak)

Since Tom Wheeler took over the chairmanship of the Federal Communications Commission (FCC), we have seen one assault after another on American's procedural due process rights. In addition to the well-documented improprieties with the White House during the Open Internet debate, Wheeler, among other transgressions, has attempted to force nonprofits to reveal their donors in strict violation of Supreme Court precedent, hired advocates who had filed in significant FCC dockets as an interested party to come into the commission to supervise those very dockets, and attempted to hold a FCC ''town hall'' in which he had invited an outside party to participate and comment on a yet-to-be-released item during the ''sunshine'' period.

Wheeler is now at it again, this time in the context of the FCC's attempt to impose stringent price regulation for ''business data services'' (BDS). Let's look at this shameful timeline. Sometime last late last year, the FCC started working on a new regulatory framework for BDS. At the heart of the commission's new regulatory framework was an economic appendix prepared by an outside expert, Marc Rysman of Boston University.

On April 14, 2016, approximately two weeks before the FCC was to vote on the formal ''Notice of Proposed Rulemaking'' containing its proposed BDS regulatory framework, the agency requested outside peer review (as required by law) of the Rysman Appendix from Andrew Sweeting of the University of Maryland and Tommaso Valletti of Imperial College Business School (U.K.). Sweeting responded on April 26, 2016 (12 days after the peer review request); and Valletti responded on April 28, 2016 (14 days after the peer review request). Neither peer review was particularly kind to Rysman's analysis.

On April 28, 2016, the FCC voted on its ''Notice of Proposed Rulemaking'' to provide an aggressive new regulatory paradigm for BDS (hereinafter ''BDS NPRM''). Due to editorial privileges, however, the FCC did not formally release the BDS NPRM until May 2, 2016. Although the commission had the Sweetling and Valletti critiques in hand during the editorial privilege window and could have incorporated them into the final BDS NPRM, the FCC declined. In fact, the FCC made no mention of either critique of the Rysman Appendix in its final BDS NPRM, choosing instead to keep the existence of the Sweeting and Valletti reviews secret from the public.

On June 28, 2016—almost two months to the day since the BDS NPRM was first voted upon and the very date initial comments were due the FCC finally made the existence of the Sweeting and Valletti peer reviews public. Adding to the commission's subterfuge, the agency chose the same day also: (1) to perform a massive data dump into the record; (2) to release an updated version of the Rysman Appendix; and (3) to introduce three new staff studies (the same staff which are charged with writing the final BDS rules) purporting to address, and ultimately correct, the shortcomings of the Rysman Appendix. In so doing, the FCC made sure that no one could address either these data or studies in their initial comments.

For those who care about the integrity of our government institutions, the FCC's constant disregard for due process is deeply troubling. As the D.C. Circuit recently wrote in Association of American Railroads v. Department of Transportation (2016):

No clause in our nation's Constitution has as ancient a pedigree as the guarantee that ''[n]o person . . . shall be deprived of life, liberty, or property without due process of law.'' U.S. CONST. amend. V. Its lineage reaches back to 1215 A.D.'s Magna Carta, which ensured that ''[n]o freeman shall be . . . disseised of his . . . liberties, or . . . otherwise destroyed . . . but by lawful judgment of his peers, or by the law of the land.'' Magna Carta, ch. 29, in 1 E. Coke, The Second Part of the Institutes of the Laws of England 45 (1797). Since the Fifth Amendment's ratification, one theme above all others has dominated the Supreme Court's interpretation of the Due Process Clause: fairness. Id. at 27.

Now to be clear, as Justice Benjamin Cardozo wrote in Snyder v. Massachusetts (1934), while ''[d]ue process of law requires that the proceedings shall be fair . . . fairness is a relative, not an absolute, concept. It is fairness with reference to particular conditions or particular results.'' That said, as the D.C. Circuit again affirmed just last month in U.S. Telecom Association v. FCC, it remains black-letter law that ''[u]nder the [Administrative Procedure Act], an NPRM must 'provide sufficient factual detail and rationale for the rule to permit interested parties to comment meaningfully.'''

As the FCC has by any reasonable account deprived parties with the opportunity to comment meaningfully upon the fundamental economic analysis and data upon which it intends to use to impose rate regulation for BDS, I think it is safe to argue that under even the broadest light, the agency's conduct in this case is a prima facie violation of procedural due process.

What is the FCC so afraid of? Is it truly scared to have substantive debate on the issues? Is the outcome so predetermined that it has to resort to kangaroo court tactics that would make North Korean leader Kim Jong-un proud? Indeed, it is a bit ironic (if not outright hypocritical) that while the FCC is doing everything it can to prevent meaningful comments about a highly complex topic, the Obama administration is doing everything in its power to create a culture which encourages robo-comments which offer up nothing substantive to the debate other than to promote ideological sophistry from both sides of the political spectrum. And we wonder why (rhetorically) the FCC is now regarded as an ''economics-free zone,'' as an AT&T executive noted?

Given the D.C. Circuit's recent proclivity to grant the FCC great deference, no matter how many liberties it may take, restoring the rule of law at the FCC will ultimately fall into the hands of Congress. Fortunately, the House Energy and Commerce Committee has scheduled yet another oversight hearing

next week with all five members of the Commission in attendance, where perhaps some sunlight can be used as a disinfectant. I therefore encourage the Commerce Committee members and staff—from both sides of the aisle—to do their homework, come to the hearing prepared, and call Chairman Wheeler out on the carpet.

Mr. POSEY. As the letter states: ''No presumption of scientific legitimacy can be afforded when making good public policy.'' Unfortunately, many administrative agencies make this assumption and do not take seriously the peer review process. For that reason, I once again urge my colleagues to support this good government proposal for transparency and accountability that will help protect the integrity of the Federal rulemaking process.

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

The Acting CHAIR. The question is on the amendment offered by the gentleman from Florida (Mr. POSEY).

The amendment was agreed to.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in part A of House Report 115–2 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Mr. GOODLATTE of Virginia.

Amendment No. 5 by Mr. PETERSON of Minnesota.

Amendment No. 8 by Ms. CASTOR of Florida.

Amendment No. 9 by Mr. CICILLINE of Rhode Island.

Amendment No. 10 by Mr. JOHNSON of Georgia.

Amendment No. 11 by Mr. RUIZ of California.

Amendment No. 12 by Mr. SCOTT of Virginia.

Amendment No. 13 by Mr. TONKO of New York.

Amendment No. 14 by Mr. GRIJALVA of Arizona.

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 MR. GOODLATTE

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. GOODLATTE) 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 vote was taken by electronic device, and there were—ayes 237, noes 185, not voting 12, as follows:

[Roll No. 35]

AYES—237

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costa
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perlmutter
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Rutherford
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOES—185

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—12

Becerra
Cleaver
Gonzalez (TX)
Harris
Lamborn
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining.

□ 1749

Messrs. VARGAS, THOMPSON of California, WELCH, JEFFRIES, O'HALLERAN, THOMPSON of Mississippi, Ms. BLUNT ROCHESTER, and Mr. PAYNE changed their vote from ''aye'' to ''no.''

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

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 5 OFFERED BY MR. PETERSON

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Minnesota (Mr. PETERSON) 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 260, noes 161, not voting 13, as follows:

[Roll No. 36]

AYES—260

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bera
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Bustos
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Cooper
Correa
Costa
Costello (PA)
Cramer
Crawford
Crowley
Cuellar
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Delaney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Engel
Farenthold
Faso
Ferguson
Fleischmann
Flores
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Fudge
Gabbard
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Gonzalez (TX)
Goodlatte
Gosar
Gowdy
Granger
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Himes
Holding
Hollingsworth
Hudson
Huffman
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Joyce (OH)
Kaptur
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kuster (NH)
Kustoff (TN)
Labrador
LaHood
Lance
Latta
Lewis (MN)
Lipinski
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (FL)
Murphy (PA)
Neal
Newhouse
Noem
Nunes
O'Halleran
Olson
Palazzo
Palmer
Pascrell
Paulsen
Pearce
Perlmutter
Perry
Peters
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (KY)
Rohrabacher
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Ruppersberger
Russell
Sanford
Scalise
Schneider
Schrader
Schweikert
Scott, Austin
Scott, David
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sinema
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Suozzi
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Vela
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Walz
Waters, Maxine
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOES—161

Adams
Aguilar
Barragán
Bass
Beatty
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Courtney
Crist
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Eshoo
Espaillat
Esty
Evans
Fitzpatrick
Frankel (FL)
Gallego
Garamendi
Gottheimer
Graves (GA)
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Hoyer
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
LaMalfa
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCaul
McCollum
McEachin
McGovern
McNerney
Meadows
Meeks
Meng
Moore
Moulton
Nadler
Napolitano
Norcross
O'Rourke
Pallone
Panetta
Payne
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rogers (AL)
Rokita
Rosen
Roybal-Allard
Ruiz
Sánchez
Sarbanes
Schakowsky
Schiff
Scott (VA)
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Soto
Speier
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Velázquez
Visclosky
Wasserman Schultz
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOT VOTING—13

Becerra
Cleaver
Harris
Lamborn
Mulvaney
Nolan
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1755

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

Messrs. O'HALLERAN and SCHNEIDER changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Mr. CROWLEY. Mr. Speaker, during rollcall Vote No. 36, I mistakenly recorded my vote as "yes" when I should have voted "no."

Mr. SOUZZI. Mr. Speaker, during rollcall Vote No. 36, I mistakenly recorded my vote as "yes" when I should have voted "no."

AMENDMENT NO. 8 OFFERED BY MS. CASTOR OF FLORIDA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Florida (Ms. CASTOR) 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 189, noes 231, not voting 14, as follows:

[Roll No. 37]

AYES—189

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Marchant
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—231

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson

Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Sires
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—14

Becerra
Cleaver
Goodlatte
Harris
Lamborn
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Stivers
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1759

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. GOODLATTE. Mr. Chair, I was unavoidably detained. Had I been present, I would have voted "nay" on rollcall No. 37.

AMENDMENT NO. 9 OFFERED BY MR. CICILLINE

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Rhode Island (Mr. CICILLINE) 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 190, noes 232, not voting 12, as follows:

[Roll No. 38]

AYES—190

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Peterson
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—232

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—12

Becerra
Cleaver
Harris
Lamborn
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1802

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 10 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Georgia (Mr. JOHNSON) 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 188, noes 234, not voting 12, as follows:

[Roll No. 39]

AYES—188

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—234

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—12

Becerra
Cleaver
Harris
Lamborn
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1806

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 11 OFFERED BY MR. RUIZ

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. RUIZ) 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 190, noes 233, not voting 11, as follows:

[Roll No. 40]

AYES—190

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blum
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—233

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith

Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—11

Becerra
Cleaver
Harris
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1811

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 12 OFFERED BY MR. SCOTT 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. SCOTT) 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 195, noes 227, not voting 12, as follows:

[Roll No. 41]

AYES—195

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blum
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Jenkins (WV)
Johnson (GA)
Johnson, E. B.
Jones
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Lance
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McKinley
McNerney
Meeks
Meng
Mooney (WV)
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Tipton
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—227

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—12

Becerra
Cleaver
Harris
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Walker
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1816

Mr. MOONEY of West Virginia changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 13 OFFERED BY MR. TONKO

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. TONKO) 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 188, noes 235, not voting 11, as follows:

[Roll No. 42]

AYES—188

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—235

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
MacArthur
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Peterson
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—11

Becerra
Cleaver
Harris
Mulvaney
Pelosi
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1820

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 14 OFFERED BY MR. GRIJALVA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Arizona (Mr. GRIJALVA) 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 185, noes 236, not voting 13, as follows:

[Roll No. 43]

AYES—185

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Perlmutter
Peters
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—236

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costa
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)

Jenkins (WV)	Mitchell	Sessions
Johnson (LA)	Moolenaar	Shimkus
Johnson (OH)	Mooney (WV)	Shuster
Johnson, Sam	Mullin	Simpson
Jones	Murphy (PA)	Sinema
Jordan	Newhouse	Smith (MO)
Joyce (OH)	Noem	Smith (NE)
Katko	Nunes	Smith (NJ)
Kelly (MS)	Olson	Smith (TX)
Kelly (PA)	Palazzo	Smucker
King (IA)	Palmer	Stefanik
King (NY)	Paulsen	Stewart
Kinzinger	Pearce	Stivers
Knight	Perry	Taylor
Kustoff (TN)	Peterson	Tenney
Labrador	Pittenger	Thompson (PA)
LaHood	Poe (TX)	Thornberry
LaMalfa	Poliquin	Tiberi
Lamborn	Posey	Tipton
Lance	Ratcliffe	Trott
Latta	Reed	Turner
Lewis (MN)	Reichert	Upton
LoBiondo	Renacci	Valadao
Long	Rice (SC)	Wagner
Loudermilk	Roby	Walberg
Love	Roe (TN)	Walden
Lucas	Rogers (AL)	Walker
Luetkemeyer	Rogers (KY)	Walorski
MacArthur	Rohrabacher	Walters, Mimi
Marchant	Rokita	Weber (TX)
Marino	Rooney, Francis	Webster (FL)
Marshall	Rooney, Thomas J.	Wenstrup
Massie	Ros-Lehtinen	Westerman
Mast	Roskam	Williams
McCarthy	Ross	Wilson (SC)
McCaul	Rothfus	Wittman
McClintock	Rouzer	Womack
McHenry	Royce (CA)	Woodall
McKinley	Russell	Yoder
McMorris Rodgers	Sanford	Yoho
McSally	Scalise	Young (AK)
Meadows	Schweikert	Young (IA)
Meehan	Scott, Austin	Zeldin
Messer	Sensenbrenner	

NOT VOTING—13

Becerra	Mulvaney	Rutherford
Cleaver	Pelosi	Ryan (OH)
DeGette	Pompeo	Zinke
DesJarlais	Price, Tom (GA)	
Harris	Rush	

ANNOUNCEMENT BY THE ACTING CHAIR

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

□ 1824

So the amendment was rejected.

The result of the vote was announced as above recorded.

The Acting CHAIR. There being no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HULTGREN) having assumed the chair, Mr. BYRNE, 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. 5) to reform the process by which Federal agencies analyze and formulate new regulations and guidance documents, to clarify the nature of judicial review of agency interpretations, to ensure complete analysis of potential impacts on small entities of rules, and for other purposes, and, pursuant to House Resolution 33, he reported the bill back to the House with sundry amendments 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 any amendment reported from the Committee of the Whole? If not, the Chair will put them en gros.

The amendments were 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

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

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

Mrs. DEMINGS. I am opposed to the bill in its current form.

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

The Clerk read as follows:

Mrs. Demings moves to recommit the bill H.R. 5 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Page 36, strike line 10 and all that follows through page 37, line 9.

Page 38, strike line 11 and all that follows through page 39, line 12.

Add, at the end of the bill, the following (and conform the table of contents accordingly):

TITLE VII—PROTECTING ACCESS TO AFFORDABLE PRESCRIPTION DRUGS FOR AMERICANS OVER THE AGE OF 65

SEC. 701. PROTECTING ACCESS TO AFFORDABLE PRESCRIPTION DRUGS FOR AMERICANS OVER THE AGE OF 65.

This Act, and the amendments made by this Act, shall not apply in the case of a rule (as such term is defined in section 551 of title 5, United States Code), pertaining to the provision of health and financial security for persons ages 65 and over by significantly reducing out-of-pocket medication costs for prescription drugs for plans under the Medicare program under part D of title XVIII of the Social Security Act (42 U.S.C. 1395w–101 et seq.), regardless of the person's income, medical history, or health status. The provisions of law amended by this Act, as in effect on the day before the date of the enactment of this Act, shall apply to such rules.

Mr. MARINO (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida is recognized for 5 minutes in support of her motion.

Mrs. DEMINGS. Mr. Speaker, this is the final amendment to the bill which will not kill the bill or send it back to committee. If adopted, the bill will immediately proceed to final passage, as amended.

Mr. Speaker, throughout my 27 years of law enforcement experience, I protected and served my community, and I stand here today to protect the most vulnerable of seniors in central Florida, and seniors all around this Nation.

We have a responsibility to see that seniors are not put in a position where they will have to choose between buying food or buying their medication, which was the case before the Affordable Care Act. We must resist all efforts to reopen the Medicare part D prescription drug coverage doughnut hole. This doughnut hole required seniors to pay full price for their prescription drugs after they reach their catastrophic threshold.

Research found, because of this doughnut hole, seniors would put their health at risk because they could not afford to pay the prescriptions, which ultimately lead to higher healthcare costs. Because of the Affordable Care Act, this doughnut hole is being completely phased out of the Medicare part D prescription drug program by the year 2020.

Since the ACA passed in 2010, closing the doughnut hole has saved our seniors more than $23.5 billion on their prescription drugs. We know this is working. Florida seniors enrolled in the program are now saving an average of $987 a year because of closing the loophole.

□ 1830

We know what $987 means to the average senior on Medicare. We also know that if these coverage gap discounts disappeared, part D enrollees would have to pay $3,725 for the time period they are in the doughnut hole. This $3,725 represents nearly 15 percent of a Medicare enrollee's income.

With too many Floridians and seniors across the Nation struggling to make ends meet, I strongly believe that Congress can do more to make sure we do not go backwards and reopen this doughnut hole. No one should ever have to choose between food or medicine.

I urge my colleagues to consider the livelihood and dignity of our most vulnerable seniors and vote for my amendment to protect access to affordable prescription drugs for older Americans.

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

Mr. MARINO. Mr. Speaker, I rise in opposition to the motion to recommit.

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

Mr. MARINO. Mr. Speaker, this bill's bold reforms deliver the heart of the regulatory reform this Nation desperately needs; and I cannot overstate how desperately we need it because, after 8 years of the Obama administration's blowout administrative state, what do we have?

We have an economy that for 8 straight years has failed to produce enough good, new, full-time jobs to sustain growth and restore dignity to the unemployed. We have 92 million Americans outside the workforce, a level not seen since the Carter years. We have nearly $2 trillion of American wealth commandeered each year to be spent as Washington bureaucrats demand, through runaway regulation—$2 trillion. This is more money than the GDP of all but eight countries in the world.

We do not need a regulatory state that is that size; we need a regulatory system that is cut down to size. And lest we ever forget, we need a regulatory system that never again allows

a runaway executive branch to do what the Obama administration did: use a pen and a phone to undertake an end run around Congress and force on the American people job-crushing policies that their elected representatives in Congress never supported.

This motion to recommit turns a blind eye to all of that. It says to the runaway administrative state: Keep on running as fast as you can; we don't care. It says to the American people: Sit down and be quiet. Washington bureaucrats are your betters, and you need to just keep doing what they tell you to do.

Well, the hardworking taxpayers have spoken and yanked the boots of unelected bureaucrats off the throats of hardworking Americans. Enough is enough. Support this bill. Reject this motion to recommit. Show the American people that they come first, not bureaucrats in Washington.

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

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

Mrs. DEMINGS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, this 5-minute vote on the motion to recommit will be followed by a 5-minute vote on passage of the bill, if ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 233, not voting 11, as follows:

[Roll No. 44]

AYES—190

Adams
Aguilar
Barragán
Bass
Beatty
Bera
Beyer
Bishop (GA)
Blumenauer
Blunt Rochester
Bonamici
Boyle, Brendan F.
Brady (PA)
Brown (MD)
Brownley (CA)
Bustos
Butterfield
Capuano
Carbajal
Cárdenas
Carson (IN)
Cartwright
Castor (FL)
Castro (TX)
Chu, Judy
Cicilline
Clark (MA)
Clarke (NY)
Clay
Clyburn
Cohen
Connolly
Conyers
Cooper
Correa
Costa
Courtney
Crist
Crowley
Cuellar
Cummings
Davis (CA)
Davis, Danny
DeFazio
DeGette
Delaney
DeLauro
DelBene
Demings
DeSaulnier
Deutch
Dingell
Doggett
Doyle, Michael F.
Ellison
Engel
Eshoo
Espaillat
Esty
Evans
Foster
Frankel (FL)
Fudge
Gabbard
Gallego
Garamendi
Gonzalez (TX)
Gottheimer
Green, Al
Green, Gene
Grijalva
Gutiérrez
Hanabusa
Hastings
Heck
Higgins (NY)
Himes
Hoyer
Huffman
Jackson Lee
Jayapal
Jeffries
Johnson (GA)
Johnson, E. B.
Kaptur
Keating
Kelly (IL)
Kennedy
Khanna
Kihuen
Kildee
Kilmer
Kind
Krishnamoorthi
Kuster (NH)
Langevin
Larsen (WA)
Larson (CT)
Lawrence
Lawson (FL)
Lee
Levin
Lewis (GA)
Lieu, Ted
Lipinski
Loebsack
Lofgren
Lowenthal
Lowey
Lujan Grisham, M.
Luján, Ben Ray
Lynch
Maloney, Carolyn B.
Maloney, Sean
Matsui
McCollum
McEachin
McGovern
McNerney
Meeks
Meng
Moore
Moulton
Murphy (FL)
Nadler
Napolitano
Neal
Nolan
Norcross
O'Halleran
O'Rourke
Pallone
Panetta
Pascrell
Payne
Pelosi
Perlmutter
Peters
Peterson
Pingree
Pocan
Polis
Price (NC)
Quigley
Raskin
Rice (NY)
Richmond
Rosen
Roybal-Allard
Ruiz
Ruppersberger
Sánchez
Sarbanes
Schakowsky
Schiff
Schneider
Schrader
Scott (VA)
Scott, David
Serrano
Sewell (AL)
Shea-Porter
Sherman
Sinema
Sires
Slaughter
Smith (WA)
Soto
Speier
Suozzi
Swalwell (CA)
Takano
Thompson (CA)
Thompson (MS)
Titus
Tonko
Torres
Tsongas
Vargas
Veasey
Vela
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters, Maxine
Watson Coleman
Welch
Wilson (FL)
Yarmuth

NOES—233

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costello (PA)
Cramer
Crawford
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk
Love
Lucas
Luetkemeyer
Marchant
Marino
Marshall
Massie
Mast
McCarthy
McCaul
McClintock
McHenry
McKinley
McMorris Rodgers
McSally
Meadows
Meehan
Messer
Mitchell
Moolenaar
Mooney (WV)
Mullin
Murphy (PA)
Newhouse
Noem
Nunes
Olson
Palazzo
Palmer
Paulsen
Pearce
Perry
Pittenger
Poe (TX)
Poliquin
Posey
Ratcliffe
Reed
Reichert
Renacci
Rice (SC)
Roby
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rokita
Rooney, Francis
Rooney, Thomas J.
Ros-Lehtinen
Roskam
Ross
Rothfus
Rouzer
Royce (CA)
Russell
Sanford
Scalise
Schweikert
Scott, Austin
Sensenbrenner
Sessions
Shimkus
Shuster
Simpson
Smith (MO)
Smith (NE)
Smith (NJ)
Smith (TX)
Smucker
Stefanik
Stewart
Stivers
Taylor
Tenney
Thompson (PA)
Thornberry
Tiberi
Tipton
Trott
Turner
Upton
Valadao
Wagner
Walberg
Walden
Walker
Walorski
Walters, Mimi
Weber (TX)
Webster (FL)
Wenstrup
Westerman
Williams
Wilson (SC)
Wittman
Womack
Woodall
Yoder
Yoho
Young (AK)
Young (IA)
Zeldin

NOT VOTING—11

Becerra
Cleaver
Harris
MacArthur
Mulvaney
Pompeo
Price, Tom (GA)
Rush
Rutherford
Ryan (OH)
Zinke

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There is 1 minute remaining.

□ 1839

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. MACARTHUR. Mr. Speaker, I was unavoidably detained. Had I been present, I would have voted "nay" on rollcall No. 44.

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.

Mr. MARINO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 238, nays 183, not voting 13, as follows:

[Roll No. 45]

YEAS—238

Abraham
Aderholt
Allen
Amash
Amodei
Arrington
Babin
Bacon
Banks (IN)
Barletta
Barr
Barton
Bergman
Beutler
Biggs
Bilirakis
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blum
Bost
Brady (TX)
Brat
Bridenstine
Brooks (AL)
Brooks (IN)
Buchanan
Buck
Bucshon
Budd
Burgess
Byrne
Calvert
Carter (GA)
Carter (TX)
Chabot
Chaffetz
Cheney
Coffman
Cole
Collins (GA)
Collins (NY)
Comer
Comstock
Conaway
Cook
Costa
Costello (PA)
Cramer
Crawford
Cuellar
Culberson
Curbelo (FL)
Davidson
Davis, Rodney
Denham
Dent
DeSantis
DesJarlais
Diaz-Balart
Donovan
Duffy
Duncan (SC)
Duncan (TN)
Dunn
Emmer
Farenthold
Faso
Ferguson
Fitzpatrick
Fleischmann
Flores
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gaetz
Gallagher
Garrett
Gibbs
Gohmert
Goodlatte
Gosar
Gowdy
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Griffith
Grothman
Guthrie
Harper
Hartzler
Hensarling
Hice, Jody B.
Higgins (LA)
Hill
Holding
Hollingsworth
Hudson
Huizenga
Hultgren
Hunter
Hurd
Issa
Jenkins (KS)
Jenkins (WV)
Johnson (LA)
Johnson (OH)
Johnson, Sam
Jones
Jordan
Joyce (OH)
Katko
Kelly (MS)
Kelly (PA)
King (IA)
King (NY)
Kinzinger
Knight
Kustoff (TN)
Labrador
LaHood
LaMalfa
Lamborn
Lance
Latta
Lewis (MN)
LoBiondo
Long
Loudermilk

Love	Pittenger	Smith (NJ)
Lucas	Poe (TX)	Smith (TX)
Luetkemeyer	Poliquin	Smucker
MacArthur	Posey	Stefanik
Marchant	Ratcliffe	Stewart
Marino	Reed	Stivers
Marshall	Reichert	Taylor
Massie	Renacci	Tenney
Mast	Roby	Thompson (PA)
McCarthy	Roe (TN)	Thornberry
McCaul	Rogers (AL)	Tiberi
McClintock	Rogers (KY)	Tipton
McHenry	Rohrabacher	Trott
McKinley	Rokita	Turner
McMorris Rodgers	Rooney, Francis	Upton
McSally	Rooney, Thomas J.	Valadao
Meadows	Ros-Lehtinen	Wagner
Meehan	Roskam	Walberg
Messer	Ross	Walden
Mitchell	Rothfus	Walker
Moolenaar	Rouzer	Walorski
Mooney (WV)	Royce (CA)	Walters, Mimi
Mullin	Russell	Weber (TX)
Murphy (FL)	Sanford	Webster (FL)
Murphy (PA)	Scalise	Wenstrup
Newhouse	Schrader	Westerman
Noem	Schweikert	Williams
Nunes	Scott, Austin	Wilson (SC)
Olson	Sensenbrenner	Wittman
Palazzo	Sessions	Womack
Palmer	Shimkus	Woodall
Paulsen	Shuster	Yoder
Pearce	Simpson	Yoho
Perry	Smith (MO)	Young (AK)
Peterson	Smith (NE)	Young (IA)
		Zeldin

NAYS—183

Adams	Fudge	Moulton
Aguilar	Gallego	Nadler
Barragán	Garamendi	Napolitano
Bass	Gonzalez (TX)	Neal
Beatty	Gottheimer	Nolan
Bera	Green, Al	Norcross
Beyer	Green, Gene	O'Halleran
Bishop (GA)	Grijalva	O'Rourke
Blumenauer	Gutiérrez	Pallone
Blunt Rochester	Hanabusa	Panetta
Bonamici	Hastings	Pascrell
Boyle, Brendan F.	Heck	Payne
Brady (PA)	Higgins (NY)	Pelosi
Brown (MD)	Himes	Perlmutter
Brownley (CA)	Hoyer	Peters
Bustos	Huffman	Pingree
Butterfield	Jackson Lee	Pocan
Capuano	Jayapal	Polis
Carbajal	Jeffries	Price (NC)
Cárdenas	Johnson (GA)	Quigley
Carson (IN)	Johnson, E. B.	Raskin
Cartwright	Kaptur	Rice (NY)
Castor (FL)	Keating	Richmond
Castro (TX)	Kelly (IL)	Rosen
Chu, Judy	Kennedy	Roybal-Allard
Cicilline	Khanna	Ruiz
Clark (MA)	Kihuen	Ruppersberger
Clarke (NY)	Kildee	Sánchez
Clay	Kilmer	Sarbanes
Clyburn	Kind	Schakowsky
Cohen	Krishnamoorthi	Schiff
Connolly	Kuster (NH)	Schneider
Conyers	Langevin	Scott (VA)
Cooper	Larsen (WA)	Scott, David
Correa	Larson (CT)	Serrano
Courtney	Lawrence	Sewell (AL)
Crist	Lawson (FL)	Shea-Porter
Crowley	Lee	Sherman
Cummings	Levin	Sinema
Davis (CA)	Lewis (GA)	Sires
Davis, Danny	Lieu, Ted	Slaughter
DeFazio	Lipinski	Smith (WA)
DeGette	Loebsack	Soto
Delaney	Lofgren	Speier
DelBene	Lowenthal	Suozzi
Demings	Lowey	Swalwell (CA)
DeSaulnier	Lujan Grisham, M.	Takano
Deutch	Luján, Ben Ray	Thompson (CA)
Dingell	Lynch	Thompson (MS)
Doggett	Maloney, Carolyn B.	Titus
Doyle, Michael F.	Maloney, Sean	Tonko
Ellison	Matsui	Torres
Engel	McCollum	Tsongas
Eshoo	McEachin	Vargas
Espaillat	McGovern	Veasey
Esty	McNerney	Vela
Evans	Meeks	Velázquez
Foster	Meng	Visclosky
Frankel (FL)	Moore	Walz
		Wasserman
		Schultz
		Waters, Maxine
		Watson Coleman
		Welch
		Wilson (FL)
		Yarmuth

NOT VOTING—13

Becerra	Mulvaney	Rutherford
Cleaver	Pompeo	Ryan (OH)
DeLauro	Price, Tom (GA)	Zinke
Gabbard	Rice (SC)	
Harris	Rush	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1846

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that the Speaker's appointment of members of the Permanent Select Committee on Intelligence on January 6, 2017, without objection, is made notwithstanding the requirement of clause 11(a)(4)(A) of rule X.

There was no objection.

ELECTING MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES

Mr. CROWLEY. Mr. Speaker, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The text of the resolution is as follows:

H. RES. 45

Resolved, That the following named Members be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON AGRICULTURE.—Mr. Peterson, Mr. David Scott of Georgia, Mr. Costa, Mr. Walz, Ms. Fudge, Mr. McGovern, Mr. Vela, Ms. Michelle Lujan Grisham of New Mexico, Ms. Kuster of New Hampshire, Mr. Nolan, Mrs. Bustos, Mr. Sean Patrick Maloney of New York, Ms. Plaskett, Ms. Adams, Mr. Evans, Mr. Lawson of Florida, Mr. O'Halleran, Mr. Panetta, and Mr. Soto.

(2) COMMITTEE ON APPROPRIATIONS.—Ms. Kaptur, Mr. Visclosky, Mr. Serrano, Ms. DeLauro, Mr. Price of North Carolina, Ms. Roybal-Allard, Mr. Bishop of Georgia, Ms. Lee, Ms. McCollum, Mr. Ryan of Ohio, Mr. Ruppersberger, Ms. Wasserman Schultz, Mr. Cuellar, Ms. Pingree, Mr. Quigley, Mr. Kilmer, Mr. Cartwright, Ms. Meng, Mr. Pocan, Ms. Clark of Massachusetts, and Mr. Aguilar.

(3) COMMITTEE ON ARMED SERVICES.—Mr. Brady of Pennsylvania, Mrs. Davis of California, Mr. Langevin, Mr. Larsen of Washington, Mr. Cooper, Ms. Bordallo, Mr. Courtney, Ms. Tsongas, Mr. Garamendi, Ms. Speier, Mr. Veasey, Ms. Gabbard, Mr. O'Rourke, Mr. Norcross, Mr. Gallego, Mr. Moulton, Ms. Hanabusa, Ms. Shea-Porter, Ms. Rosen, Mr. McEachin, Mr. Carbajal, Mr. Brown of Maryland, Mrs. Murphy of Florida, Mr. Khanna, Mr. Peters, Mr. Aguilar, and Mr. Castro of Texas.

(4) COMMITTEE ON THE BUDGET.—Ms. Lee, Ms. Michelle Lujan Grisham of New Mexico, Mr. Moulton, Mr. Jeffries, Mr. Higgins of New York, and Ms. DelBene.

(5) COMMITTEE ON EDUCATION AND THE WORKFORCE.—Mrs. Davis of California, Mr. Grijalva, Mr. Courtney, Ms. Fudge, Mr. Polis, Mr. Sablan, Ms. Wilson of Florida, Ms. Bonamici, Mr. Takano, Ms. Adams, Mr. DeSaulnier, Mr. Norcross, Ms. Blunt Rochester, and Mr. Krishnamoorthi.

(6) COMMITTEE ON ENERGY AND COMMERCE.—Mr. Rush, Ms. Eshoo, Mr. Engel, Mr. Gene Green of Texas, Ms. DeGette, Mr. Michael F. Doyle of Pennsylvania, Ms. Schakowsky, Mr. Butterfield, Ms. Matsui, Ms. Castor of Florida, Mr. Sarbanes, Mr. McNerney, Mr. Welch, Mr. Ben Ray Luján of New Mexico, Mr. Tonko, Ms. Clarke of New York, Mr. Loebsack, Mr. Schrader, Mr. Kennedy, Mr. Cárdenas, Mr. Ruiz, Mr. Peters, and Mrs. Dingell.

(7) COMMITTEE ON FINANCIAL SERVICES.—Mrs. Carolyn B. Maloney of New York, Ms. Velázquez, Mr. Sherman, Mr. Meeks, Mr. Capuano, Mr. Clay, Mr. Lynch, Mr. David Scott of Georgia, Mr. Al Green of Texas, Mr. Cleaver, Ms. Moore, Mr. Ellison, Mr. Perlmutter, Mr. Himes, Mr. Foster, Mr. Kildee, Mr. Delaney, Ms. Sinema, Mrs. Beatty, Mr. Heck, Mr. Vargas, Mr. Gottheimer, Mr. Gonzalez of Texas, Mr. Crist, and Mr. Kihuen.

(8) COMMITTEE ON FOREIGN AFFAIRS.—Mr. Sherman, Mr. Meeks, Mr. Sires, Mr. Connolly, Mr. Deutch, Ms. Bass, Mr. Keating, Mr. Cicilline, Mr. Bera, Ms. Frankel of Florida, Ms. Gabbard, Mr. Castro of Texas, Ms. Kelly of Illinois, Mr. Brendan F. Boyle of Pennsylvania, Ms. Titus, Mrs. Torres, Mr. Schneider, Mr. Suozzi, and Mr. Espaillat.

(9) COMMITTEE ON HOMELAND SECURITY.—Ms. Jackson Lee, Mr. Langevin, Mr. Richmond, Mr. Keating, Mr. Payne, Mr. Vela, Mrs. Watson Coleman, Miss Rice of New York, Mr. Correa, Mrs. Demings, and Ms. Barragán.

(10) COMMITTEE ON HOUSE ADMINISTRATION.—Mr. Raskin.

(11) COMMITTEE ON THE JUDICIARY.—Mr. Conyers, Mr. Nadler, Ms. Lofgren, Ms. Jackson Lee, Mr. Cohen, Mr. Johnson of Georgia, Ms. Judy Chu of California, Mr. Deutch, Mr. Gutiérrez, Ms. Bass, Mr. Richmond, Mr. Jeffries, Mr. Cicilline, Mr. Swalwell of California, Mr. Ted Lieu of California, Mr. Raskin, and Ms. Jayapal.

(12) COMMITTEE ON NATURAL RESOURCES.—Mrs. Napolitano, Ms. Bordallo, Mr. Costa, Mr. Sablan, Ms. Tsongas, Mr. Huffman, Mr. Lowenthal, Mr. Beyer, Mrs. Torres, and Mr. Gallego.

(13) COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM.—Mrs. Carolyn B. Maloney of New York, Ms. Norton, Mr. Clay, Mr. Lynch, Mr. Cooper, Mr. Connolly, Ms. Kelly of Illinois, Mrs. Lawrence, Mr. Ted Lieu of California, Mrs. Watson Coleman, Ms. Plaskett, and Mr. Brendan F. Boyle of Pennsylvania.

(14) COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY.—Ms. Eddie Bernice Johnson of Texas, Ms. Lofgren, Mr. Lipinski, Ms. Bonamici, Mr. Bera, Ms. Esty, Mr. Veasey, and Mr. Beyer.

(15) COMMITTEE ON SMALL BUSINESS.—Ms. Judy Chu of California.

(16) COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—Mr. DeFazio, Ms. Norton, Mr. Nadler, Ms. Eddie Bernice Johnson of Texas, Mr. Cummings, Mr. Larsen of Washington, Mr. Capuano, Mrs. Napolitano, Mr. Lipinski, Mr. Cohen, Mr. Sires, Mr. Garamendi, Mr. Johnson of Georgia, Mr. Carson of Indiana, Mr. Nolan, Ms. Titus, Mr. Sean Patrick Maloney of New York, Ms. Esty, Ms. Frankel of Florida, Mrs. Bustos, Mr. Huffman, Ms. Brownley of California,