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4 MARKUP OF: H.R. 427, THE REGULATIONS FROM THE EXECUTIVE IN

5 NEED OF SCRUTINY ACT OF 2015;

6 H.R. 1759, THE ALL ECONOMIC REGULATIONS ARE TRANSPARENT

7 (ALERT) ACT OF 2015; AND

8 H.R. 758, THE LAWSUIT ABUSE REDUCTION ACT OF 2015

9 Wednesday, April 15, 2015

10 House of Representatives

11 Committee on the Judiciary

12 Washington, D.C.

13 The committee met, pursuant to call, at 10:30 a.m., in
14 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
15 [chairman of the committee] presiding.

16 Present: Representatives Goodlatte, Sensenbrenner,
17 Smith, Chabot, Issa, King, Franks, Gohmert, Jordan, Poe,

18 Chaffetz, Marino, Gowdy, Labrador, Farenthold, Collins,
19 DeSantis, Walters, Buck, Ratcliffe, Trott, Bishop, Conyers,
20 Nadler, Cohen, Johnson, Pierluisi, Chu, DelBene, Jeffries,
21 Cicilline, and Peters.

22 Staff Present: Shelley Husband, Majority Staff
23 Director; Branden Ritchie, Majority Deputy Staff
24 Director/Chief Counsel; Allison Halataei, Majority
25 Parliamentarian; Kelsey Williams, Majority Clerk; Paul
26 Taylor, Majority Chief Counsel; Daniel Flores, Majority Chief
27 Counsel; Zachary Somers, Majority Counsel; Perry Apfelbaum,
28 Minority Staff Director; Danielle Brown, Minority
29 Parliamentarian; Maggie Lopatin, Minority Clerk; Slade Bond,
30 Minority Counsel; Susan Jensen, Minority Counsel; and James
31 Park, Minority Counsel.

32

33 Chairman Goodlatte. Good morning. The Judiciary
34 Committee will come to order. Without objection, the chair
35 is authorized to declare a recess of the committee at any
36 time.

37 And pursuant to notice, I now call up H.R. 427 for
38 purposes of markup and move that the committee report the
39 bill favorably to the House. The clerk will report the bill.

40 Ms. Williams. H.R. 427, to amend Chapter 8 of Title 5,
41 United States Code, to provide that major rules of the
42 executive branch shall have no force or effect unless a joint
43 resolution of approval is enacted into law.

44 Chairman Goodlatte. Without objection, the bill is
45 considered as read and open for amendment at any point.

46 [The bill follows:]

47

48 Chairman Goodlatte. And I will begin by recognizing
49 myself for an opening statement.

50 This committee continues to play a critical role in
51 ensuring that our Nation has a full economic recovery and
52 retains its competitive edge in the global marketplace.
53 Congress must advance pro-growth policies that create jobs
54 and restore economic prosperity for families and businesses
55 across the Nation and make sure that the administration and
56 its regulatory apparatus is held accountable to the American
57 people.

58 America's small business owners are suffocating under
59 mountains of endlessly growing bureaucratic red tape, and the
60 uncertainty about the cost of upcoming regulations
61 discourages employers from hiring new employees and expanding
62 their businesses. Excessive regulation means higher prices,
63 lower wages, fewer jobs, less economic growth, and a less
64 competitive America.

65 Today, Americans face a burden of over \$3 trillion from
66 Federal taxation and regulation. In fact, our Federal
67 regulatory burden is larger than the 2013 gross domestic
68 product of all but the top 10 countries in the world. That
69 burden adds up to \$15,000 per American household, nearly 30

70 percent of average household income in 2013.

71 Everyone knows it has been this way for far too long.
72 But the Obama administration, instead of fixing the problem,
73 knows only one response -- increase taxes, increase spending,
74 and increase regulation.

75 The results have been painfully demonstrated by a simple
76 truth. America cannot tax, spend, and regulate its way to
77 economic recovery, economic growth, and durable prosperity
78 for the American people.

79 Today, the Judiciary Committee takes up two regulatory
80 reform bills to help solve this problem. The first of these
81 is the REINS Act. The REINS Act is one of the simplest,
82 clearest, and most powerful measures we can adopt to achieve
83 better accountability and cost effectiveness in Federal
84 regulation.

85 The level of new major regulation the Obama
86 administration has issued and plans to issue is without
87 modern precedent. Testimony before the Judiciary Committee
88 during each of the last three Congresses has plainly shown
89 the connection between skyrocketing levels of regulation and
90 declining levels of jobs and growth.

91 The REINS Act responds by requiring an up-or-down vote

92 by the people's representatives in Congress before any new
93 major regulation can be imposed upon our economy. It does
94 not prohibit new major regulation. It simply establishes the
95 principle, no major regulation without representation.

96 By requiring Congress, which is more directly
97 accountable to the American people, to approve or deny major
98 regulations proposed by the administration, the REINS Act
99 provides Congress and, ultimately, the people with a much-
100 needed tool to check the one-way cost ratchet that
101 Washington's regulatory bureaucrats too often turn.

102 During the 113th and 112th Congress, the REINS Act was
103 passed by the full House of Representatives multiple times,
104 each time on a bipartisan vote. I encourage all members of
105 the committee to support the REINS Act and work to assure
106 that it is passed on an even greater bipartisan basis in the
107 114th Congress.

108 It is now my pleasure to recognize our ranking member,
109 the gentleman from Michigan, Mr. Conyers, for his opening
110 statement.

111 Mr. Conyers. Thank you, Mr. Chairman.

112 Without question the bill before us today, members of
113 the committee, will have dangerous consequences for all

114 Americans by creating an unworkable approval process that
115 will make it nearly impossible for many new regulations to go
116 into effect. It does this by imposing impossibly unrealistic
117 deadlines by which Congress must consider and pass
118 exceedingly complex and technical regulations in order for
119 such regulations to take effect.

120 Under 427, Congress would have only 70 legislative days
121 within which to act after it receives a major rule. Let us
122 put it in some perspective. Over the past few years, the
123 average number of major rules promulgated each year is only
124 about 85.

125 In 2010, for instance, 94 major rules were issued. But
126 keep in mind the following fact. There were just 116
127 legislative days in the House during the year 2010. Worse
128 yet, the bill restricts the days on which these major rules
129 may be considered in the House, which for last year would
130 have been just 10 days, 10 days.

131 Assuming there is just an average number of major rules,
132 the House would have to consider an average of eight separate
133 major rules on each of those days. And if the REINS Act were
134 to become law today, there would be only 10 days left in 2015
135 on which the House could consider the merits of major rules.

136 And under 427, there is no way Congress could possibly
137 have time to consider all the major rules issued during the
138 year. And if Congress fails to act within this mandatory
139 time frame, the regulation cannot be considered until the
140 next Congress.

141 Now even Justice -- Chief Justice Roberts criticized a
142 prior iteration of the REINS Act in 1983. He said that such
143 legislation would hobble agency rulemaking by requiring
144 affirmative congressional assent to all major rules and would
145 "seem to impose excessive burdens on the regulatory
146 agencies."

147 The bottom line is that the bill would at least
148 significantly delay rulemaking and, at worse, bring it to a
149 halt. Avoiding undue delay in rulemaking is important
150 because strong regulation is vital to protecting Americans in
151 nearly every aspect of their lives.

152 Among other things, the type of regulations that this
153 legislation would apply to would include rules setting
154 reimbursement rates for end-stage renal disease, Medicare
155 providers; for rules establishing payment schedules to
156 primary care physicians under the Vaccines for Children
157 Program; rules and various regulations implementing Federal

158 student loan programs; rules establishing meal requirements
159 for National School Lunch Program under the Healthy, Hunger-
160 Free Kids Act of 2010; and regulations setting the
161 subsistence allowance for veterans under the Vocational
162 Rehabilitation and Employment Program.

163 And this is a sample of the many kinds of protections
164 that the REINS Act would jeopardize. This explains why more
165 than 150 consumer groups, environmental organizations, labor
166 unions, and other entities strenuously oppose this bill, and
167 I am going to put their names into the congressional record
168 during this hearing.

169 Likewise, the administration issued a strongly worded
170 veto threat against a substantially identical bill considered
171 in the last Congress. The administration warned that the
172 bill would delay and in many cases thwart implementation of
173 statutory mandates and execution of duly-enacted laws, create
174 business uncertainty, undermine much-needed protections of
175 the American public, and cause unnecessary confusion.

176 Instead, we in Congress will be bombarded with visits,
177 phone calls, and talking points from industry lobbyists,
178 well-funded special interests that can use every resource
179 available to persuade us of the validity of their views.

180 Superficially, it may seem like a good idea to make
181 Congress the final arbiter of all significant regulatory
182 decisions. After all, Members of Congress are elected, and
183 regulators are not. But realistically, we simply lack the
184 expertise and resources to make the requisite prudential
185 decisions about the bona fides of these rules, particularly
186 given the limited time frame we have to act under the bill.

187 And so, I think our citizens and constituents, the
188 American people, deserve better. Accordingly, I urge my
189 colleagues to think through this carefully and join me in
190 opposing a measure that I find seriously flawed.

191 And I thank the chairman.

192 Chairman Goodlatte. The chair thanks the gentleman.

193 Are there any amendments to H.R. 427?

194 Mr. King. Mr. Chairman?

195 Chairman Goodlatte. Oh, I am sorry. The chair
196 recognizes the chairman of the Subcommittee on Regulatory
197 Reform, Commercial, and Antitrust Law, Mr. Marino, for his
198 opening statement.

199 Mr. Marino. Thank you, Chairman.

200 Thank you, Chairman Goodlatte, for holding today's
201 markup of these three important pieces of legislation that

202 will not only help American people but will create jobs in
203 our economy. I speak today in strong support of H.R. 427,
204 the REINS Act. I applaud my colleague from Indiana, Mr.
205 Young, for introducing this piece of legislation and urge its
206 passage from this committee.

207 Throughout the past several weeks and months, I have
208 crisscrossed northeastern Pennsylvania, meeting with
209 businesses in my district and my constituents at over a dozen
210 town hall meetings. A common and overreaching theme of these
211 meetings was strangling effect of excessive and overbroad
212 regulations coming out of Federal agencies.

213 Moreover, my constituents say to me that their comments
214 and views have not really been heard, that these regulations
215 are finalized anyway and that they must implement them or
216 face the consequences of fines and other penalties. I could
217 provide dozens of examples that have been given to me of the
218 overly broad regulations driving down our economy,
219 regulations that Congress could prevent, thanks to the REINS
220 Act. However, with the time I have, I will provide just a
221 few.

222 Back in Pennsylvania, I live on a hill surrounded by a
223 half a dozen farms. For the past year, when I talk with my

224 neighbors, our conversation focuses on one topic, waters of
225 the United States.

226 And it is not just the farmers around me, but the waters
227 of the U.S. rule is a common thread across my mainly rural,
228 6,500 square mile district. This rule is a particularly
229 egregious example of the agencies' overreach and deaf ears to
230 the plight of hard-working Americans.

231 When puddles -- yes, puddles -- water in a field in
232 areas that are wet only when it rains can be deemed
233 "navigable waters," our Government has surely lost sight of
234 authority granted to it by Congress. And I do live in the
235 middle of these farms, and they do have a little stream going
236 through, and I have yet to see any boat go through there.

237 In addition, another common concern is the FCC's recent
238 net neutrality rule. Here again, the FCC engaged in a bait
239 and switch operation. It published a proposed rule and
240 solicited comments from the public. The FCC stated that
241 these views would be included in the final rule.

242 Nevertheless, then when the final rule was made public,
243 it was a complete 180-degree turn. Rather than providing
244 flexibility for the Internet, one of the most innovative
245 industries in our economy, the FCC enacted blanket

246 regulation, void of any consideration of public input.

247 The result will mean higher cost for consumers and a
248 near certain reduction in new ideas and progress. Even
249 worse, the FCC's sudden about-face, in contradiction to the
250 public's input, raises questions of what other outside
251 influences informed its decision-making process, perhaps
252 because of the Obama administration's fixation on limited
253 government and White House absolute control.

254 While these are just two examples, the total cost of
255 burdensome regulation is even more startling. So far in
256 2015, nearly 20,000 pages of new proposed regulations have
257 been printed in the Federal Register. The total cost of
258 proposed rules in just these years comes to \$17.7 billion,
259 with a "b." Published final rules account for another \$16.1
260 billion as well.

261 These costs are borne by American citizens and the
262 businesses that employ them. And all of them have gone into
263 effect without final approval by the United States Congress.

264 In this committee, we have been pushing back since the
265 very first days of the 114th Congress. If we favorably
266 report the two bills on today's schedule, this committee will
267 have reported eight regulatory reform bills so far this year.

268 The REINS Act especially will reinsert Congress, the
269 body most attentive and accountable to the people, as the
270 final judge of each major regulation. Congress granted these
271 agencies the authority to pass regulation that benefit the
272 American people. It is time for Congress to take them back.

273 The REINS Act will return control of this process to
274 Congress so that we and our constituents can decide whether
275 these regulations have been implemented in line with the law.
276 And my colleagues on the other side of the aisle who think we
277 cannot become more timely and efficient, I worked in
278 manufacturing for 13 years before going to college. I will
279 be more than happy to tell my friends how private industry
280 does it.

281 And I yield back the remainder of my time.

282 Chairman Goodlatte. The chair thanks the gentleman and
283 recognizes the gentleman from Georgia, Mr. Johnson, the
284 ranking member of the Regulatory Reform, Commercial, and
285 Antitrust Subcommittee, for his opening statement.

286 Mr. Johnson. Thank you, Mr. Chairman.

287 H.R. 427, the Regulations from the Executive in Need of
288 Scrutiny Act of 2015, also known as the REINS Act, is a
289 revolutionary change that would amend the Congressional

290 Review Act to require that both Houses of Congress pass and
291 the President sign a joint resolution of approval within 70
292 legislative days before any major rule issued by an agency
293 can take effect.

294 Now Speaker Boehner has said that the Republican-led,
295 do-nothing Congress, which is the most ineffective in modern
296 history, he has said that it should be judged by the number
297 of laws it repeals, not the number of laws that it passes.
298 It, therefore, follows that this "obstruct at any cost"
299 approach would carry over to blocking the most critical
300 agency rulemaking, thereby threatening agencies' ability to
301 protect Americans' health, safety, well-being, and economic
302 growth.

303 And who stands to benefit or to gain from this
304 Republican obstructionism of both statutory law and also
305 regulations issued by the executive branch? Just who profits
306 when there are no rules to protect the health, safety, and
307 well-being of everyday American people?

308 Well, none other than corporate giants that are holding
309 our country hostage through a deregulatory agenda, exerting
310 political influence that would rival the industrial
311 monopolies from the past century. Unquestionably, H.R. 427

312 would be nothing short of a catastrophe for everyday
313 Americans who stand to lose the most from the majority's
314 myopic and reckless treatment of our Nation's regulatory
315 system.

316 Lastly, by flipping the process for agency rulemaking so
317 that Congress can simply void implementation by not acting on
318 a major rule, the REINS Act violates the presentment and
319 bicameralism requirement of Article I of the Constitution.

320 As Professor Ron Levin, a leading expert on
321 administrative law, noted during a hearing on the REINS Act
322 last Congress, "The reality is that the act is intended to
323 enable a single house of Congress to control the
324 implementation of the laws through the rulemaking process.
325 Such a scheme transgresses the very idea of separation of
326 powers under which the Constitution entrusts the writing of
327 the laws to the legislative branch and the implementation of
328 the laws to the executive branch."

329 Indeed, as the Supreme Court noted in the landmark case
330 INS v. Chadha, "The Constitution does not contemplate an
331 active rule -- an active role for Congress in the supervision
332 of officers charged with the execution of laws it enacts."

333 The court also clarified that it was "profound

334 conviction of the Framers that the powers conferred on
335 Congress were the powers to be most carefully circumscribed
336 by providing that no law could take effect without the
337 concurrence of the proscribed -- or prescribed majority of
338 the Members of both houses." The Framers reemphasized their
339 belief that legislation should not be enacted unless it has
340 been carefully and fully considered by the Nation's elected
341 officials.

342 It defies credulity that so many of my Republican
343 colleagues who so strongly oppose crony capitalism and hold
344 the Framers' intent so dearly would support H.R. 427, which
345 is a bald attempt by corporations to shield themselves from
346 any oversight and in the process shred Article I of the
347 Constitution.

348 I strongly urge my colleagues on both sides of the aisle
349 to oppose H.R. 427, yet another deregulatory bill in the
350 majority's business-focused, crony capitalist agenda. And
351 with that, I yield back.

352 Chairman Goodlatte. Well, this American, who is proud
353 that this committee is taking up the work of protecting the
354 legislative power of the people through their elected
355 representatives, thanks the gentleman for his opening

356 statement.

357 And now the question occurs. Are there any amendments
358 to H.R. 427?

359 Mr. King. Mr. Chairman?

360 Chairman Goodlatte. For what purpose does the gentleman
361 from Iowa seek recognition?

362 Mr. King. I have an amendment at the desk.

363 Chairman Goodlatte. The clerk will report the
364 amendment.

365 Ms. Williams. Amendment to H.R. 427, offered by Mr.
366 King of Iowa. Page 21 --

367 Chairman Goodlatte. Without objection, the amendment is
368 considered as read.

369 [The amendment of Mr. King follows:]

370

371 Chairman Goodlatte. And the gentleman is recognized for
372 5 minutes on his amendment.

373 Mr. King. Thank you, Mr. Chairman.

374 This amendment that I offer here this morning is one
375 that I offered on the last markup that was passed by -- my
376 amendment was adopted by voice vote. And it is really pretty
377 simple.

378 It recognizes that we need to have a better handle on
379 the scope and the volume and the effect of the rules that we
380 have in front of us in Congress. And I certainly support the
381 underlying bill, and this amendment, I believe, supplements
382 the underlying bill and also sets the stage for an
383 opportunity to do future work with regard to deregulation.

384 But my amendment only does just a few things, and it is
385 pretty simple. It calls for a GAO study, and it asks that
386 study to identify how many rules under their normal rule
387 definition that we have already in the code, then how many
388 major rules, and so the distinction between the two. And the
389 third component is the total estimated economic impact cost
390 imposed by all such rules.

391 And it helps keep the Government agencies accountable,
392 informs Congress, and then we are not necessarily shooting in

393 the dark because there have been a number of reports out
394 here. We have got a sense and a handle on what some of these
395 rules are, but we don't know the full scope or the impact of
396 rules.

397 So it is a common sense measure, and it also -- it is an
398 amendment that produces a study, as I said, that will help us
399 lay the foundation -- help lay the foundation for the next
400 iteration of the deregulation that we need to do, and I would
401 just say a few words about a bill that I have introduced in
402 several of the previous congresses.

403 But first, I want to acknowledge the work of former
404 Congressman Jeff Davis of Kentucky Number 4, who, as my
405 recollection informs me, originated this concept of the REINS
406 Act, or at least was the original one to introduce it. He is
407 now retired from Congress, but the legacy of his work lives
408 on before this committee today.

409 And the REINS Act that is the underlying bill is limited
410 in its scope in that it addresses only those rules that have
411 \$100 million in impact or more. It essentially does not
412 address the existing rules, but only the future rules. And
413 so, it is a limited, narrow, I think -- and the gentleman
414 from Georgia would disagree with me. But I think it is a

415 rifle shot, not as broad as it needs to be.

416 And so, I have a bill that I would like to, in the
417 process of this discussion, ask unanimous consent to
418 introduce into the record the bill that I have introduced in
419 previous Congresses called the Sunset Act and ask unanimous
420 consent to do that at this point, Mr. Chairman?

421 Chairman Goodlatte. Without objection, it will be made
422 a part of the record.

423 [The bill follows:]

424

425 Mr. King. Thank you, Mr. Chairman.

426 And so what this study does is it will tell us the
427 impact of the REINS Act, but it will also tell us the impact
428 of all of the rules and regulations that we have. And then
429 we will have an opportunity to configure a complete fix
430 rather than a going forward, partial fix, which is what the
431 REINS Act is.

432 My Sunset Act that people would have an opportunity now
433 to read, since it has been introduced into the record, goes
434 further. And it says this, that it requires each agency to
435 put up each year 10 percent of its rules per year for 10
436 years before Congress, requiring an up-or-down vote on those
437 rules. It is similar to the REINS Act in that fashion.

438 It also recognizes that the time limitations that we
439 heard from Ranking Member Conyers in his opening remarks is
440 that Congress has a limited amount of time. I wouldn't
441 suggest that we only have 6 days to address with the REINS
442 Act. We can also work a few more days and a few longer days
443 than we are working. But under the Sunset Act that I am
444 proposing, it also allows for these regulations to be dealt
445 with en bloc so that we can take a whole bunch of them
446 through there and address them.

447 But we should think about this. Congress has handed
448 over Article I authority to the executive branch of
449 Government. And when we do that, we see a President that has
450 decided that he is Article I, II, and III. Well, at least
451 Article I and II, perhaps Article III. And we shall see soon
452 whether that is the case or not. I think that he intimidated
453 the Supreme Court on Obamacare and perhaps had a voice in
454 Article III as well.

455 We should be accepting and taking to us all of the
456 constitutional authority that we have. All of Article I
457 needs to be in Congress. We need to be held accountable for
458 all rules and regulations, and ducking a little bit of
459 criticism is not worth the price of handing over all of that
460 authority that goes over into the rulemaking process.

461 We have seen bill after bill completely altered by the
462 executive branch of Government in the rulemaking, as was
463 stipulated by Mr. Marino in the specific case of the waters
464 of the United States. And so, I think we need to lay the
465 foundation down and lay down the parameters for Congress to
466 take back all of its Article I authority, and the REINS Act
467 moves us substantially in the right direction.

468 The study that I request in this amendment lays the

469 foundation for us to move the rest of the way in that
470 direction. I urge its adoption, remind people that it did
471 pass by voice the last time, and I yield back the balance of
472 my time.

473 Chairman Goodlatte. Would the gentleman yield?

474 Mr. King. Pardon? I would yield, yes.

475 Chairman Goodlatte. I thank the gentleman for yielding.

476 I support his amendment. The number and cumulative
477 burden of existing regulations, including major and nonmajor
478 regulations is a big reason why our economy is failing to
479 produce the kind of job creation and recovery the country
480 needs.

481 The study is a worthy one that will help Congress to
482 assess reforms directed at existing regulations. This would
483 include reforms that could be incorporated in the future into
484 the REINS Act or other regulatory reform legislation.

485 I thank the gentleman for his good work and urge my
486 colleagues to support his amendment.

487 For what purpose does the gentleman from Georgia seek
488 recognition?

489 Mr. Johnson. I move to strike the last word.

490 Chairman Goodlatte. The gentleman is recognized for 5

491 minutes.

492 Mr. Johnson. Thank you, Mr. Chairman.

493 It pains me to be so harsh in my analysis of these
494 measures, but when I hear the attacks on the President, it is
495 like an attack on this side of the aisle. And so, I must
496 respond in kind.

497 This amendment would require the GAO to study and submit
498 a report on how many rules were in effect as of the enactment
499 date, how many major rules were in effect on such date, and
500 the total economic impact of those rules. While I have no
501 objection to the idea of a GAO study for its own merits, this
502 particular GAO study would do nothing to improve what is an
503 unsalvageable bill.

504 Even if it were adopted, I would have to respectfully
505 oppose the underlying bill. The amendment also requires the
506 GAO to study and estimate the cost of all rules as defined by
507 Sections 551 and 804 of the Administrative Procedure Act,
508 which applies to all agency rules, both legislative and
509 nonlegislative.

510 That means that this amendment requires the GAO to
511 estimate the cost of everything from organizational meetings
512 and agency guidance to major rules. This would be an

513 incomprehensible burden on the GAO, if not an impossible
514 task.

515 Further still, the amendment requires the GAO to report
516 the total cost of all rules without any consideration of the
517 rules' benefits. It is firmly established that the benefits
518 of rules routinely outweigh their costs. Under both
519 Democratic and Republican administrations, the Office of
520 Management and Budget regularly has reported to Congress that
521 the benefits of regulations far exceed their costs.

522 There is also no analytical value to having a cost-only
523 estimate. As Bruce Bartlett, a senior policy analyst in the
524 Reagan and George H.W. Bush administrations, notes, this
525 would be as if one looked at taxation completely divorced
526 from spending. It is of no analytical value to look at some
527 calculation of the aggregate cost of Government regulations
528 unless one can show that there has been some significant
529 increase that coincides with the economic slowdown.

530 Moreover, adding a GAO study requirement only adds
531 workload to an already overburdened GAO, which, like many
532 agencies, lacks the money and resources to do the things that
533 we in Congress keep ordering them to do. This is a wasteful
534 report and a waste of taxpayer dollars.

535 Given that, as well as my concerns about the amendment's
536 myopic view of the benefits of rules, I cannot support this
537 amendment, and with that, I will yield back.

538 Chairman Goodlatte. The question occurs on the
539 amendment offered by --

540 Mr. Cicilline. Mr. Chairman?

541 Chairman Goodlatte. For what purpose does the gentleman
542 from Rhode Island seek recognition?

543 Mr. Cicilline. Mr. Chairman, I move to strike the last
544 word.

545 Chairman Goodlatte. The gentleman is recognized for 5
546 minutes.

547 Mr. Cicilline. Thank you, Mr. Chairman.

548 And I thank the gentleman from Iowa for offering this
549 amendment, and I just want to offer a friendly amendment and
550 ask him to consider whether he will accept this.

551 I think we all recognize that studying the impact of
552 regulations and the costs on our economy is valuable. But in
553 order for us to really understand, in fact, what the impact
554 is, as the gentleman was just explaining, I think it is
555 difficult to do it exclusively on the economic cost.

556 And I am wondering whether or not it might make sense on

557 line 12 if we were to insert the words, "the total estimated
558 economic cost and societal benefit resulting from all such
559 rules," so that we would have really a fair way to determine
560 what are the benefits to society, what are the costs. We can
561 all imagine there are some regulations which are very cost
562 effective which have huge societal benefits. None of that
563 would be captured in this report or this analysis that the
564 gentleman has set forth.

565 And I am sure he doesn't want a report that isn't
566 useful. And so, all I am suggesting by this friendly
567 amendment is it would give us the ability to both understand
568 what the economic costs are, which is part of the equation,
569 and what are the commensurate benefits. And then we can make
570 determinations as to whether or not it is a useful regulation
571 or not useful or worthwhile or not.

572 And so, with that, I would ask the gentleman if he would
573 agree to that friendly amendment?

574 Chairman Goodlatte. I believe the gentleman from Rhode
575 Island is yielding to the gentleman from Iowa.

576 Mr. King. I thank the gentleman for yielding to me, and
577 I appreciate his remarks with regard to the benefit of
578 regulations. And I have never seen a study that would tell

579 us how we have an economic positive impact by restricting
580 business. But if that is the gentleman's intent, then I
581 would suggest that he draft up something, and I would be
582 happy to take a look at it and see if we could work together
583 on it at a later date.

584 This is something that I spent some years investing in,
585 and I would be reluctant to see the language of it change
586 without more thought. But I appreciate the input that the
587 gentleman has put into it.

588 Mr. Cicilline. Well, thank you.

589 Reclaiming my time, I think, you know, it isn't a
590 question of regulation simply restricting business. There
591 are examples of regulations, for example, that relate to the
592 issues of child health or public safety that are not intended
593 to restrict business but, in fact, impose some requirement
594 that ensure the health and well-being and safety of
595 individuals.

596 So there are -- you know, it is not the case that every
597 regulation's purpose or impact is to restrict business.
598 There are a whole set of regulations that preserve the well-
599 being and the health and the safety of Americans and of
600 children and of operators of motor vehicles, and the list

601 goes on and on.

602 And I think, frankly, without recognizing that there are
603 benefits that we can calculate and assess and weigh and
604 contrast them to the costs related to it, it is an analysis
605 without a lot of usefulness because all you have is what
606 something costs. It is like you can't possibly evaluate the
607 value of something if you don't look at the full set of its
608 impact, both the costs and the benefits. So I --

609 Mr. King. Will the gentleman yield?

610 Mr. Cicilline. -- am happy to work with you on it, but
611 it is not a complicated idea to say when you are conducting
612 an analysis, let us look at what something costs, the
613 economic cost of the regulation, and let us look at the
614 corresponding benefit. That is a thoughtful way to decide
615 whether or not we should go forth with the regulation.

616 Mr. King. Would the gentleman yield?

617 Mr. Cicilline. I am happy to yield back.

618 Mr. King. I thank the gentleman for yielding.

619 It just occurs to me that back in about the '80s
620 sometime, I had a task of identifying the agencies that
621 regulate our construction business, which this year is
622 celebrating its 40th year of being in business. Back then,

623 we identified 43 different agencies that regulated our
624 business. I can't think of any of those regulations that
625 actually produced what I would call an economic benefit.

626 But I would say this, that now looking back on that in
627 the rearview mirror, I don't think I can name, and I would
628 think the gentleman that has yielded would neither would be
629 able to name, a single company in America that has a banner
630 on their home page of their Web site that says "Notice. We
631 are in compliance with all Federal regulations."

632 I think that is instructive that it is probably
633 impossible to be in compliance with all regulations, and it
634 is far better to be looking at how we reduce them than how we
635 justify them.

636 Mr. Cicilline. Well, again, reclaiming my time. I just
637 give the gentleman an example. The clean fine particle
638 implementation rule saves \$19 billion because the public
639 isn't exposed to air pollution. The cost of that regulation
640 is \$7.3 billion.

641 So it is an example where there is tremendous benefit
642 that is measurable, which far exceeds the cost of the
643 regulation. That is just one example. There are lots of
644 other examples in the area of public health and public

645 safety.

646 And I thank the chairman for yielding and yield back.

647 Chairman Goodlatte. The question occurs on the

648 amendment offered up by the gentleman from Iowa.

649 All those in favor, respond by saying aye.

650 Those opposed, no.

651 In the opinion of the chair, the ayes have it, and the

652 amendment is agreed to.

653 Mr. Conyers. Could we have a record vote?

654 Chairman Goodlatte. A recorded vote is requested. The

655 clerk will call the roll.

656 Ms. Williams. Mr. Goodlatte?

657 Chairman Goodlatte. Aye.

658 Ms. Williams. Mr. Goodlatte votes aye.

659 Mr. Sensenbrenner?

660 Mr. Sensenbrenner. Aye.

661 Ms. Williams. Mr. Sensenbrenner votes aye.

662 Mr. Smith?

663 [No response.]

664 Ms. Williams. Mr. Chabot?

665 [No response.]

666 Ms. Williams. Mr. Issa?

667 [No response.]

668 Ms. Williams. Mr. Forbes?

669 [No response.]

670 Ms. Williams. Mr. King?

671 Mr. King. Aye.

672 Ms. Williams. Mr. King votes aye.

673 Mr. Franks?

674 [No response.]

675 Ms. Williams. Mr. Gohmert?

676 Mr. Gohmert. Aye.

677 Ms. Williams. Mr. Gohmert votes aye.

678 Mr. Jordan?

679 [No response.]

680 Ms. Williams. Mr. Poe?

681 [No response.]

682 Ms. Williams. Mr. Chaffetz?

683 Mr. Chaffetz. Aye.

684 Ms. Williams. Mr. Chaffetz votes aye.

685 Mr. Marino?

686 Mr. Marino. Yes.

687 Ms. Williams. Mr. Marino votes yes.

688 Mr. Gowdy?

689 [No response.]

690 Ms. Williams. Mr. Labrador?

691 [No response.]

692 Ms. Williams. Mr. Farenthold?

693 [No response.]

694 Ms. Williams. Mr. Collins?

695 Mr. Collins. Aye.

696 Ms. Williams. Mr. Collins votes aye.

697 Mr. DeSantis?

698 Mr. DeSantis. Aye.

699 Ms. Williams. Mr. DeSantis votes aye.

700 Ms. Walters?

701 Ms. Walters. Aye.

702 Ms. Williams. Ms. Walters votes aye.

703 Mr. Buck?

704 Mr. Buck. Aye.

705 Ms. Williams. Mr. Buck votes aye.

706 Mr. Ratcliffe?

707 Mr. Ratcliffe. Yes.

708 Ms. Williams. Mr. Ratcliffe votes yes.

709 Mr. Trott?

710 Mr. Trott. Yes.

711 Ms. Williams. Mr. Trott votes yes.
712 Mr. Bishop?
713 Mr. Bishop. Aye.
714 Ms. Williams. Mr. Bishop votes aye.
715 Mr. Conyers?
716 Mr. Conyers. No.
717 Ms. Williams. Mr. Conyers votes no.
718 Mr. Nadler?
719 [No response.]
720 Ms. Williams. Ms. Lofgren?
721 [No response.]
722 Ms. Williams. Ms. Jackson Lee?
723 [No response.]
724 Ms. Williams. Mr. Cohen?
725 [No response.]
726 Ms. Williams. Mr. Johnson?
727 Mr. Johnson. No.
728 Ms. Williams. Mr. Johnson votes no.
729 Mr. Pierluisi?
730 Mr. Pierluisi. No.
731 Ms. Williams. Mr. Pierluisi votes no.
732 Ms. Chu?

733 [No response.]

734 Ms. Williams. Mr. Deutch?

735 [No response.]

736 Ms. Williams. Mr. Gutierrez?

737 [No response.]

738 Ms. Williams. Ms. Bass?

739 [No response.]

740 Ms. Williams. Mr. Richmond?

741 [No response.]

742 Ms. Williams. Ms. DelBene?

743 Ms. DelBene. No.

744 Ms. Williams. Ms. DelBene votes no.

745 Mr. Jeffries?

746 [No response.]

747 Ms. Williams. Mr. Cicilline?

748 Mr. Cicilline. No.

749 Ms. Williams. Mr. Cicilline votes no.

750 Mr. Peters?

751 [No response.]

752 Chairman Goodlatte. The gentleman from Texas?

753 Mr. Farenthold. Aye.

754 Ms. Williams. Mr. Farenthold votes aye.

755 Chairman Goodlatte. The gentlewoman from California?

756 Ms. Chu. No.

757 Ms. Williams. Ms. Chu votes no.

758 Chairman Goodlatte. Has every Member voted who -- the
759 gentleman from Arizona?

760 Mr. Franks. Aye.

761 Ms. Williams. Mr. Franks votes aye.

762 Chairman Goodlatte. Has every Member voted who wishes
763 to vote?

764 [No response.]

765 Chairman Goodlatte. The clerk will report.

766 Ms. Williams. Mr. Chairman, 15 Members voted aye; 6
767 Members voted no.

768 Chairman Goodlatte. And the amendment is not agreed to
769 -- or the amendment is agreed to. The chair stands
770 corrected.

771 [Laughter.]

772 Chairman Goodlatte. And turns his attention now to the
773 gentleman from Michigan. For what purpose does he seek
774 recognition?

775 Mr. Conyers. I have an amendment at the desk, and I ask
776 that it be reported.

777 Chairman Goodlatte. The clerk will report the
778 amendment.

779 Ms. Williams. Amendment to H.R. 427, offered by Mr.
780 Conyers of Michigan. Page 18, line 13, insert after --

781 Chairman Goodlatte. Without objection, the amendment is
782 considered as read.

783 [The amendment of Mr. Conyers follows:]

784

785 Chairman Goodlatte. And the gentleman is recognized for
786 5 minutes on his amendment.

787 Mr. Conyers. Thank you, Mr. Chairman.

788 Members of the committee, my amendment would exempt from
789 the reach of this ill-conceived bill all proposed rules that
790 protect public health and safety. It doesn't make me like
791 this bill much more, but at least it would show that we are
792 concerned with not making more difficult the implementation
793 of rules that protect public health and safety. Because
794 doing that, protecting health and safety of our citizens, is
795 one of the core responsibilities of our Government, and
796 Congress entrusts much of its authority to Federal agencies
797 to meet this obligation.

798 Unfortunately, the REINS Act would delay and, worse yet,
799 possibly stop major rules from going into effect, including
800 those that are needed to protect public health and safety.
801 Regulations that could be undermined by this bill include a
802 proposed rule issued just this past Monday by the Department
803 of Interior to help prevent another oil spill disaster caused
804 by the BP Deepwater Horizon drilling explosion that most of
805 us recall.

806 This rule, which is the product of extensive

807 investigation and analysis, is based on input from the public
808 and private sectors, including more than 350 specific
809 recommendations collected from various agencies, such as the
810 Bureau of Ocean Energy Management, the U.S. Coast Guard, the
811 National Academy of Engineering, the National Oil Spill
812 Commission, the Ocean Energy Safety Advisory Committee, and
813 the Government Accountability Office and a number of others.

814 The proposed rule, which has been 5 years in the making,
815 will hopefully prevent another disaster like the BP oil spill
816 that resulted in the tragic loss of life and devastating
817 damage to the environment and the area's economy. The fact
818 that it has taken 5 years for this rule to be proposed
819 underscores the need to streamline the rulemaking process,
820 not to further encumber it with measures such as the one that
821 is now under consideration.

822 It is no answer to say that 427 contains a limited
823 emergency exception. That provision merely allows a major
824 rule to temporarily take effect without congressional
825 approval for only 90 days after the President issues an
826 executive order stating that there is an imminent threat to
827 public health and safety.

828 So my concern is not limited to emergency situations.

829 Rather, it reflects my view that Government's ability to
830 protect public health and safety is just simply too
831 fundamental an obligation to be hamstrung by this poorly
832 conceived bill. And so, it is my view and I urge my
833 colleagues to support this amendment, and I yield back the
834 balance of my time.

835 Chairman Goodlatte. For what purpose does the gentleman
836 from Pennsylvania seek recognition?

837 Mr. Marino. I oppose the amendment.

838 Chairman Goodlatte. The gentleman is recognized for 5
839 minutes.

840 Mr. Marino. I respectfully oppose this amendment. I
841 would not even think of referring to it as ill conceived.
842 But nevertheless, there is no reason to shield any given set
843 of regulations from the congressional accountability
844 protections the REINS Act provides. However, this amendment
845 goes even further, carving out regulations so broadly that it
846 essentially guts the bill.

847 An enormous number of major regulations imposed today
848 could be characterized as pertaining to public health and
849 safety. This includes the many exceedingly costly new major
850 regulations emerging from the Environmental Protection

851 Agency.

852 The EPA in particular has shown unconstrained
853 bureaucrats are far more likely to intrude excessively upon
854 Americans' lives and livelihood when they are free to act on
855 their own rather than closely checked and balanced by the
856 people's accountable representatives in Congress. Therefore,
857 I urge my colleagues to respectfully oppose this amendment.

858 And I yield back.

859 Chairman Goodlatte. The chair thanks the gentleman.

860 The question occurs on the amendment offered by the
861 gentleman from Michigan.

862 All those in favor, respond by saying aye.

863 Those opposed, no.

864 In the opinion of the chair, the noes have it.

865 Mr. Conyers. May I have a record vote, sir?

866 Chairman Goodlatte. A recorded vote is requested, and
867 the clerk will call the roll.

868 Ms. Williams. Mr. Goodlatte?

869 Chairman Goodlatte. No.

870 Ms. Williams. Mr. Goodlatte votes no.

871 Mr. Sensenbrenner?

872 [No response.]

873 Ms. Williams. Mr. Smith?
874 [No response.]
875 Ms. Williams. Mr. Chabot?
876 [No response.]
877 Ms. Williams. Mr. Issa?
878 [No response.]
879 Ms. Williams. Mr. Forbes?
880 [No response.]
881 Ms. Williams. Mr. King?
882 Mr. King. No.
883 Ms. Williams. Mr. King votes no.
884 Mr. Franks?
885 [No response.]
886 Ms. Williams. Mr. Gohmert?
887 Mr. Gohmert. No.
888 Ms. Williams. Mr. Gohmert votes no.
889 Mr. Jordan?
890 [No response.]
891 Ms. Williams. Mr. Poe?
892 [No response.]
893 Ms. Williams. Mr. Chaffetz?
894 [No response.]

895 Ms. Williams. Mr. Marino?
896 Mr. Marino. No.
897 Ms. Williams. Mr. Marino votes no.
898 Mr. Gowdy?
899 [No response.]
900 Ms. Williams. Mr. Labrador?
901 Mr. Labrador. No.
902 Ms. Williams. Mr. Labrador votes no.
903 Mr. Farenthold?
904 Mr. Farenthold. No.
905 Ms. Williams. Mr. Farenthold votes no.
906 Mr. Collins?
907 Mr. Collins. No.
908 Ms. Williams. Mr. Collins votes no.
909 Mr. DeSantis?
910 [No response.]
911 Ms. Williams. Ms. Walters?
912 Ms. Walters. No.
913 Ms. Williams. Ms. Walters votes no.
914 Mr. Buck?
915 Mr. Buck. No.
916 Ms. Williams. Mr. Buck votes no.

917 Mr. Ratcliffe?
918 Mr. Ratcliffe. No.
919 Ms. Williams. Mr. Ratcliffe votes no.
920 Mr. Trott?
921 Mr. Trott. No.
922 Ms. Williams. Mr. Trott votes no.
923 Mr. Bishop?
924 Mr. Bishop. No.
925 Ms. Williams. Mr. Bishop votes no.
926 Mr. Conyers?
927 Mr. Conyers. Aye.
928 Ms. Williams. Mr. Conyers votes aye.
929 Mr. Nadler?
930 [No response.]
931 Ms. Williams. Ms. Lofgren?
932 [No response.]
933 Ms. Williams. Ms. Jackson Lee?
934 [No response.]
935 Ms. Williams. Mr. Cohen?
936 [No response.]
937 Ms. Williams. Mr. Johnson?
938 [No response.]

939 Ms. Williams. Mr. Pierluisi?
940 Mr. Pierluisi. Aye.
941 Ms. Williams. Mr. Pierluisi votes aye.
942 Ms. Chu?
943 [No response.]
944 Ms. Williams. Mr. Deutch?
945 [No response.]
946 Ms. Williams. Mr. Gutierrez?
947 [No response.]
948 Ms. Williams. Ms. Bass?
949 [No response.]
950 Ms. Williams. Mr. Richmond?
951 [No response.]
952 Ms. Williams. Ms. DelBene?
953 Ms. DelBene. Aye.
954 Ms. Williams. Ms. DelBene votes aye.
955 Mr. Jeffries?
956 [No response.]
957 Ms. Williams. Mr. Cicilline?
958 Mr. Cicilline. Yes.
959 Ms. Williams. Mr. Cicilline votes yes.
960 Mr. Peters?

961 [No response.]

962 Chairman Goodlatte. The gentleman from Wisconsin?

963 Mr. Sensenbrenner. No.

964 Ms. Williams. Mr. Sensenbrenner votes no.

965 Chairman Goodlatte. The gentleman from Florida?

966 Mr. DeSantis. No.

967 Ms. Williams. Mr. DeSantis votes no.

968 Chairman Goodlatte. The gentleman from South Carolina?

969 Mr. Gowdy. No.

970 Ms. Williams. Mr. Gowdy votes no.

971 Chairman Goodlatte. The gentleman from Utah?

972 Mr. Chaffetz. No.

973 Ms. Williams. Mr. Chaffetz votes no.

974 Chairman Goodlatte. The gentleman from Arizona?

975 Mr. Franks. No.

976 Ms. Williams. Mr. Franks votes no.

977 Chairman Goodlatte. Has every Member voted who wishes

978 to -- the gentleman from Georgia?

979 Mr. Johnson. Aye.

980 Ms. Williams. Mr. Johnson votes aye.

981 Chairman Goodlatte. Has every Member voted who wishes

982 to vote?

983 [No response.]

984 Chairman Goodlatte. The clerk will report.

985 Ms. Williams. Mr. Chairman, 5 Members voted aye; 17

986 Members voted no.

987 Chairman Goodlatte. And the amendment is not agreed to.

988 Are there -- for what purpose does the gentleman from

989 Georgia seek recognition?

990 Mr. Collins. Mr. Chairman, I have an amendment at the

991 desk.

992 Chairman Goodlatte. The clerk will report the

993 amendment.

994 Ms. Williams. Amendment to H.R. 427, offered by Mr.

995 Collins of Georgia. Page 5 --

996 Chairman Goodlatte. Without objection, the amendment is

997 considered as read.

998 [The amendment of Mr. Collins follows:]

999

1000 Chairman Goodlatte. And the gentleman is recognized for
1001 5 minutes on his amendment.

1002 Mr. Collins. Thank you, Mr. Chairman.

1003 This amendment is substantially similar to the one that
1004 I submitted and this committee adopted during the markup of
1005 the REINS Act last Congress.

1006 First, the amendment makes technical corrections to the
1007 bill related to submission and publication dates. This
1008 amendment is necessary to assure the bill conforms with the
1009 text of the bill, as passed by the Rules Committee in the
1010 112th Congress so that submission and publication dates
1011 referenced in the bill are accurate.

1012 Before I proceed with explaining the amendment, I also
1013 want to point out that although this may come as a surprise
1014 to many of my friends on the other side of the aisle, I value
1015 the role of responsible regulations. Many regulations have
1016 been designed to protect personal safety and to ensure our
1017 children grow up in a nation where they can breathe clean
1018 air, eat safe food, and drink clean water.

1019 I believe, as I think some of my colleagues on the other
1020 side of the aisle do, that the goal of any regulation should
1021 be to achieve a benefit that would not be possible absent the

1022 regulation. But the regulation should be designed in such a
1023 fashion that the achieved benefit far outweighs the cost.
1024 This is where the breakdown occurs.

1025 It seems that our regulatory system today has lost sight
1026 of this goal, and the American economy is paying the price.
1027 This is where the second part of my amendment comes into
1028 play. My amendment also requires the report submitted to
1029 Congress on a proposed major rule to include an assessment of
1030 whether the major rule imposes any new limits or mandates on
1031 private sector activity.

1032 According to the Federal Rules Database, in 2011, 79
1033 completed rules were classified as major, and of those, 32
1034 increased regulatory burdens, meaning they imposed new limits
1035 or mandates on private sector activity. Just five major
1036 actions decreased regulatory burdens that same year.

1037 In this current economic climate, it is unquestionably
1038 important that careful consideration is given to major rules,
1039 and part of this careful consideration should include an
1040 analysis on how the proposed major rule would impact the
1041 private sector. While the REINS Act makes rational and
1042 important strides toward stemming the tide of bureaucratic
1043 red tape, there is nothing in the reporting requirements in

1044 this bill that would accurately achieve the goal of this
1045 amendment.

1046 In addition, this amendment does not add undue burden or
1047 delay to the rulemaking process. It simply ensures that due
1048 consideration is given by agencies to analyze the impact on
1049 the private sector.

1050 This is a straightforward, common sense amendment. I
1051 urge my colleagues to support.

1052 I thank the chairman and yield back.

1053 Chairman Goodlatte. Would the gentleman yield?

1054 Mr. Conyers. Mr. Chairman?

1055 Mr. Collins. I yield.

1056 Chairman Goodlatte. I thank the gentleman for yielding,
1057 and I support his amendment.

1058 Congress should always be vigilant against unnecessary
1059 new limits or mandates on private sector activity. That is
1060 especially so now as our economy struggles to recover and
1061 produce new jobs. Regulatory agencies, however, may not make
1062 full disclosures to Congress about such limitations and
1063 mandates when they submit new major rules for Congress'
1064 approval.

1065 The amendment makes sure that the Government

1066 Accountability Office provides Congress with additional
1067 independent information about private sector limits and
1068 mandates when new major regulations are submitted. With that
1069 information in hand, Congress can make the best-informed
1070 judgments about whether to approve new major regulations.

1071 The amendment also includes a helpful technical
1072 correction that clarifies the deadline by which the GAO must
1073 submit to Congress its reports on new major regulations.

1074 I thank the gentleman and urge my colleagues to support
1075 his amendment.

1076 For what purpose does the gentleman from Michigan seek
1077 recognition?

1078 Mr. Conyers. I rise in opposition to the amendment.

1079 Chairman Goodlatte. The gentleman is recognized.

1080 Mr. Conyers. And I want to indicate that this is not an
1081 ill-conceived amendment. It is just one that I can't
1082 support.

1083 Mr. Collins. I appreciate that.

1084 [Laughter.]

1085 Mr. Conyers. I thought you might. Members of the
1086 committee, this amendment requires that the GAO assess
1087 whether a major rule imposes any new limits or mandates on

1088 private sector activity. It is, unfortunately, a vague
1089 requirement.

1090 What constitutes a new limit or a new mandate or private
1091 sector activity? These terms aren't defined in the bill.
1092 There is no cross reference to any existing statute that
1093 would help the GAO determine what it is supposed to be
1094 assessing.

1095 In addition to its vague terminology, it is unclear what
1096 the purpose of this additional assessment is about. Most new
1097 or revised rules impose some kind of limit or mandate on the
1098 private sector in some form. What more is the GAO supposed
1099 to add to that assessment, particularly given that regulatory
1100 impact analysis requirements already exist?

1101 Finally, this additional requirement assessment does
1102 nothing to address the fundamental concern I have with the
1103 bill, which is that it would undermine agencies' ability to
1104 do the job that we in Congress have asked them to do, namely,
1105 to protect the health, welfare, and safety of the American
1106 people.

1107 I oppose this amendment and urge my colleagues to do the
1108 same. And I yield back the balance of my time.

1109 Chairman Goodlatte. The chair thanks the gentleman.

1110 The question occurs on the amendment offered by the
1111 gentleman from Georgia.

1112 All those in favor, respond by saying aye.

1113 Those opposed, no.

1114 In the opinion of the chair, the ayes have it. The
1115 amendment is agreed to.

1116 Mr. Conyers. May we have a recorded vote on this?

1117 Chairman Goodlatte. A recorded vote is requested, and
1118 the clerk will call the roll.

1119 Ms. Williams. Mr. Goodlatte?

1120 Chairman Goodlatte. Aye.

1121 Ms. Williams. Mr. Goodlatte votes aye.

1122 Mr. Sensenbrenner?

1123 [No response.]

1124 Ms. Williams. Mr. Smith?

1125 [No response.]

1126 Ms. Williams. Mr. Chabot?

1127 [No response.]

1128 Ms. Williams. Mr. Issa?

1129 [No response.]

1130 Ms. Williams. Mr. Forbes?

1131 [No response.]

1132 Ms. Williams. Mr. King?
1133 [No response.]
1134 Ms. Williams. Mr. Franks?
1135 Mr. Franks. Aye.
1136 Ms. Williams. Mr. Franks votes aye.
1137 Mr. Gohmert?
1138 Mr. Gohmert. Aye.
1139 Ms. Williams. Mr. Gohmert votes aye.
1140 Mr. Jordan?
1141 [No response.]
1142 Ms. Williams. Mr. Poe?
1143 [No response.]
1144 Ms. Williams. Mr. Chaffetz?
1145 [No response.]
1146 Ms. Williams. Mr. Marino?
1147 Mr. Marino. Yes.
1148 Ms. Williams. Mr. Marino votes yes.
1149 Mr. Gowdy?
1150 [No response.]
1151 Ms. Williams. Mr. Labrador?
1152 Mr. Labrador. Yes.
1153 Ms. Williams. Mr. Labrador votes yes.

1154 Mr. Farenthold?
1155 Mr. Farenthold. Yes.
1156 Ms. Williams. Mr. Farenthold votes yes.
1157 Mr. Collins?
1158 Mr. Collins. Aye.
1159 Ms. Williams. Mr. Collins votes aye.
1160 Mr. DeSantis?
1161 [No response.]
1162 Ms. Williams. Ms. Walters?
1163 Ms. Walters. Aye.
1164 Ms. Williams. Ms. Walters votes aye.
1165 Mr. Buck?
1166 Mr. Buck. Aye.
1167 Ms. Williams. Mr. Buck votes aye.
1168 Mr. Ratcliffe?
1169 Mr. Ratcliffe. Yes.
1170 Ms. Williams. Mr. Ratcliffe votes yes.
1171 Mr. Trott?
1172 Mr. Trott. Yes.
1173 Ms. Williams. Mr. Trott votes yes.
1174 Mr. Bishop?
1175 Mr. Bishop. Yes.

1176 Ms. Williams. Mr. Bishop votes yes.
1177 Mr. Conyers?
1178 Mr. Conyers. No.
1179 Ms. Williams. Mr. Conyers votes no.
1180 Mr. Nadler?
1181 [No response.]
1182 Ms. Williams. Ms. Lofgren?
1183 [No response.]
1184 Ms. Williams. Ms. Jackson Lee?
1185 [No response.]
1186 Ms. Williams. Mr. Cohen?
1187 [No response.]
1188 Ms. Williams. Mr. Johnson?
1189 Mr. Johnson. No.
1190 Ms. Williams. Mr. Johnson votes no.
1191 Mr. Pierluisi?
1192 Mr. Pierluisi. No.
1193 Ms. Williams. Mr. Pierluisi votes no.
1194 Ms. Chu?
1195 Ms. Chu. No.
1196 Ms. Williams. Ms. Chu votes no.
1197 Mr. Deutch?

1198 [No response.]

1199 Ms. Williams. Mr. Gutierrez?

1200 [No response.]

1201 Ms. Williams. Ms. Bass?

1202 [No response.]

1203 Ms. Williams. Mr. Richmond?

1204 [No response.]

1205 Ms. Williams. Ms. DelBene?

1206 Ms. DelBene. No.

1207 Ms. Williams. Ms. DelBene votes no.

1208 Mr. Jeffries?

1209 [No response.]

1210 Ms. Williams. Mr. Cicilline?

1211 Mr. Cicilline. No.

1212 Ms. Williams. Mr. Cicilline votes no.

1213 Mr. Peters?

1214 [No response.]

1215 Chairman Goodlatte. The gentleman from Wisconsin?

1216 Mr. Sensenbrenner. Aye.

1217 Ms. Williams. Mr. Sensenbrenner votes aye.

1218 Chairman Goodlatte. The gentleman from Florida?

1219 Mr. DeSantis. Aye.

1220 Ms. Williams. Mr. DeSantis votes aye.

1221 Chairman Goodlatte. The gentleman from Iowa?

1222 Mr. King. Aye.

1223 Ms. Williams. Mr. King votes aye.

1224 Chairman Goodlatte. Has every Member voted who wishes

1225 to vote?

1226 [No response.]

1227 Chairman Goodlatte. The clerk will report.

1228 Ms. Williams. Mr. Chairman, 15 Members voted aye; 6

1229 Members voted --

1230 Chairman Goodlatte. The clerk will suspend. The

1231 gentleman from New York?

1232 Mr. Nadler. No.

1233 Ms. Williams. Mr. Nadler votes no.

1234 Chairman Goodlatte. The clerk will report.

1235 Ms. Williams. Mr. Chairman, 15 Members voted aye; 7

1236 Members voted no.

1237 Chairman Goodlatte. And the amendment is agreed to.

1238 For what purpose does the gentleman from Georgia seek

1239 recognition?

1240 Mr. Johnson. Mr. Chairman, I have an amendment at the

1241 desk.

1242 Chairman Goodlatte. The clerk will report the
1243 amendment.

1244 Ms. Williams. Amendment to H.R. 427, offered by Mr.
1245 Johnson of Georgia. Page 18, line --

1246 Chairman Goodlatte. Without objection, the amendment is
1247 considered as read.

1248 [The amendment of Mr. Johnson follows:]

1249

1250 Chairman Goodlatte. And the gentleman is recognized for
1251 5 minutes on his amendment.

1252 Mr. Johnson. Thank you, Mr. Chairman.

1253 My amendment would exempt from H.R. 427 all rules that
1254 the Office of Management and Budget determines would result
1255 in net job creation. As with many other deregulatory bills
1256 we have considered this Congress, the proponents of H.R. 427
1257 argue that it will grow the economy, create jobs, and
1258 increase America's competitiveness internationally. But we
1259 cannot pretend that this politicized legislation is about
1260 economic growth or American prosperity, given the majority's
1261 myopic view on regulations.

1262 As I have noted during the consideration of each of the
1263 anti-regulatory bills that we have considered in the 114th
1264 Congress, there is simply no credible evidence in support of
1265 the majority's reiteration of job-killing regulations
1266 undermining economic growth -- zero. As I have stated
1267 before, both the San Francisco and New York Reserve Banks,
1268 Federal Reserve Banks have found no correlation between
1269 employment and regulation.

1270 Bruce Bartlett, a senior policy analyst in the Reagan
1271 and George H.W. Bush administrations, has also strongly

1272 refuted the claim that regulations undermine the economy or
1273 job growth explaining that, "Republicans have a problem.
1274 People are increasingly concerned about unemployment, but
1275 Republicans have nothing to offer them. The GOP opposes
1276 additional Government spending for jobs programs and, in
1277 fact, favors big cuts in spending that would be likely to
1278 lead to further layoffs at all levels of government.

1279 "The constraints have led Republicans to embrace the
1280 idea that Government regulation is the principal factor
1281 holding back employment. They assert that Barack Obama has
1282 unleashed a tidal wave of regulations, which has created
1283 uncertainty among businesses and prevents them from investing
1284 in hiring.

1285 "No hard evidence is offered for this claim. It is
1286 simply asserted as self-evident and repeated endlessly
1287 throughout the conservative echo chamber."

1288 Now that is from a Republican. Furthermore, as Amit
1289 Narang, a regulatory policy advocate at Public Citizen, noted
1290 during a hearing on other anti-regulatory bills, "The
1291 evidence that is used in support of anti-regulatory bills
1292 doesn't pass muster when scrutinized."

1293 Citing a recent report by the Washington Post that gave

1294 two Pinocchios to industry estimates of the cost of
1295 regulations without any attempt to calculate the benefit of
1296 regulations, Mr. Narang concluded that other reports using
1297 similar methodology and reporting similar figures have also
1298 been exposed as flawed and have been disavowed.

1299 In reality, the unfounded rhetoric behind the REINS Act
1300 is just the basis for a legislative gift to corporations,
1301 giving industry even more opportunities to kill regulations
1302 than that protect the public. Unsurprisingly, it is many of
1303 the same corporations that are continuing to show record
1304 profit margins that are also pushing deregulation and fewer
1305 taxes because they have an obsession with short-term profits
1306 at the expense of long-term value creation, according to
1307 Henry Blodget, the CEO of Business Insider.

1308 Mr. Chairman, we need real solutions to help real
1309 people, not yet another thinly veiled handout to large
1310 corporations. We need legislation that creates middle class
1311 security and opportunity, and we need sensible regulations
1312 that protect American families from financial ruin, that
1313 encourage competition, and that bring predatory financial
1314 practices to an end; legislation that brings the United
1315 States into conformity with the rest of the developed world's

1316 employment policies by guaranteeing paid sick and parental
1317 leave; legislation that increases our global competitiveness
1318 by creating an affordable higher education; legislation that
1319 confers equal pay for equal work.

1320 I urge my colleagues to support my amendment and to
1321 oppose H.R. 427. And with that, I yield back.

1322 Chairman Goodlatte. For what purpose does the gentleman
1323 from Pennsylvania seek recognition?

1324 Mr. Marino. I rise in opposition of the amendment.

1325 Chairman Goodlatte. The gentleman is recognized for 5
1326 minutes.

1327 Mr. Marino. Thank you.

1328 I oppose the gentleman's amendment. Agencies like the
1329 Environmental Protection Agency are past masters of
1330 fabricating estimates of benefits to justify new and
1331 intrusive regulations. Oftentimes among those alleged
1332 benefits are job creation benefits.

1333 If a regulation does create net jobs, that is all well
1334 and good. Nevertheless, if an agency can escape
1335 congressional scrutiny by claiming that a new major
1336 regulation creates net jobs, we can surely expect that
1337 agencies will routinely inflate their estimates of job

1338 benefits solely to escape congressional scrutiny.

1339 Moreover, if the agency actually fails to adopt a
1340 competing regulatory alternative that could create even more
1341 jobs, shouldn't Congress be able to disprove a new major
1342 regulation because even if it creates net jobs, it creates
1343 far fewer jobs than another reasonable alternative that the
1344 agency could have adopted?

1345 Just because an unelected bureaucrat estimates that a
1346 given regulation will create net jobs is no reason to shield
1347 the costliest Government decisions from congressional
1348 accountability.

1349 Therefore, I urge my colleagues to oppose the amendment.

1350 Mr. Conyers. Mr. Chairman?

1351 Chairman Goodlatte. For what purpose does the gentleman
1352 from Michigan seek recognition?

1353 Mr. Conyers. I rise in support of the amendment.

1354 Chairman Goodlatte. The gentleman is recognized for 5
1355 minutes.

1356 Mr. Conyers. My enthusiasm for the jobs amendment
1357 offered by Mr. Johnson is that it examines the majority claim
1358 that regulations kill jobs, which many of us believe can be
1359 nothing further from the accuracy of that statement. There

1360 is absolutely no credible evidence supporting an assertion
1361 that regulations kill jobs.

1362 And the senior policy analyst Bruce Bartlett, who worked
1363 with the Reagan and George H.W. Bush administrations,
1364 explains it himself. "No hard evidence is offered for this
1365 claim that regulations kill jobs. It is simply asserted as
1366 self-evident and repeated endlessly throughout the
1367 conservative echo chamber."

1368 The majority's own witness at a legislative hearing held
1369 in the last Congress also debunked the myth that regulations
1370 stymie job creation. If we were really serious about
1371 creating jobs, we should be focusing on those measures that
1372 would actually achieve that result. In fact, studies reveal
1373 that regulations promote job growth and put Americans back to
1374 work.

1375 For example, according to the United Auto Workers union,
1376 increased fuel economy standards have already led to the
1377 creation of more than 155,000 United States jobs. And so, I
1378 enthusiastically support this amendment because regulations
1379 that will help put unemployed Americans back to work should
1380 take effect without unnecessary delay.

1381 I thank you and yield back any time remaining.

1382 Chairman Goodlatte. The question occurs on the
1383 amendment offered by the gentleman from Georgia.
1384 All those in favor, respond by saying aye.
1385 Those opposed, no.
1386 In the opinion of the chair, the noes have it.
1387 Mr. Conyers. A recorded vote?
1388 Chairman Goodlatte. A recorded vote is requested, and
1389 the clerk will call the roll.
1390 Ms. Williams. Mr. Goodlatte?
1391 Chairman Goodlatte. No.
1392 Ms. Williams. Mr. Goodlatte votes no.
1393 Mr. Sensenbrenner?
1394 [No response.]
1395 Ms. Williams. Mr. Smith?
1396 [No response.]
1397 Ms. Williams. Mr. Chabot?
1398 [No response.]
1399 Ms. Williams. Mr. Issa?
1400 [No response.]
1401 Ms. Williams. Mr. Forbes?
1402 [No response.]
1403 Ms. Williams. Mr. King?

1404 Mr. King. No.

1405 Ms. Williams. Mr. King votes no.

1406 Mr. Franks?

1407 Mr. Franks. No.

1408 Ms. Williams. Mr. Franks votes no.

1409 Mr. Gohmert?

1410 [No response.]

1411 Ms. Williams. Mr. Jordan?

1412 [No response.]

1413 Ms. Williams. Mr. Poe?

1414 [No response.]

1415 Ms. Williams. Mr. Chaffetz?

1416 [No response.]

1417 Ms. Williams. Mr. Marino?

1418 Mr. Marino. No.

1419 Ms. Williams. Mr. Marino votes no.

1420 Mr. Gowdy?

1421 [No response.]

1422 Ms. Williams. Mr. Labrador?

1423 Mr. Labrador. No.

1424 Ms. Williams. Mr. Labrador votes no.

1425 Mr. Farenthold?

1426 Mr. Farenthold. No.

1427 Ms. Williams. Mr. Farenthold votes no.

1428 Mr. Collins?

1429 Mr. Collins. No.

1430 Ms. Williams. Mr. Collins votes no.

1431 Mr. DeSantis?

1432 [No response.]

1433 Ms. Williams. Ms. Walters?

1434 Ms. Walters. No.

1435 Ms. Williams. Ms. Walters votes no.

1436 Mr. Buck?

1437 Mr. Buck. No.

1438 Ms. Williams. Mr. Buck votes no.

1439 Mr. Ratcliffe?

1440 Mr. Ratcliffe. No.

1441 Ms. Williams. Mr. Ratcliffe votes no.

1442 Mr. Trott?

1443 Mr. Trott. No.

1444 Ms. Williams. Mr. Trott votes no.

1445 Mr. Bishop?

1446 Mr. Bishop. No.

1447 Ms. Williams. Mr. Bishop votes no.

1448 Mr. Conyers?

1449 Mr. Conyers. Aye.

1450 Ms. Williams. Mr. Conyers votes aye.

1451 Mr. Nadler?

1452 Mr. Nadler. Aye.

1453 Ms. Williams. Mr. Nadler votes aye.

1454 Ms. Lofgren?

1455 [No response.]

1456 Ms. Williams. Ms. Jackson Lee?

1457 [No response.]

1458 Ms. Williams. Mr. Cohen?

1459 Mr. Cohen. Aye.

1460 Ms. Williams. Mr. Cohen votes aye.

1461 Mr. Johnson?

1462 Mr. Johnson. Aye.

1463 Ms. Williams. Mr. Johnson votes aye.

1464 Mr. Pierluisi?

1465 Mr. Pierluisi. Aye.

1466 Ms. Williams. Mr. Pierluisi votes aye.

1467 Ms. Chu?

1468 Ms. Chu. Aye.

1469 Ms. Williams. Ms. Chu votes aye.

1470 Mr. Deutch?

1471 [No response.]

1472 Ms. Williams. Mr. Gutierrez?

1473 [No response.]

1474 Ms. Williams. Ms. Bass?

1475 [No response.]

1476 Ms. Williams. Mr. Richmond?

1477 [No response.]

1478 Ms. Williams. Ms. DelBene?

1479 [No response.]

1480 Ms. Williams. Mr. Jeffries?

1481 Mr. Jeffries. Yes.

1482 Ms. Williams. Mr. Jeffries votes yes.

1483 Mr. Cicilline?

1484 Mr. Cicilline. Aye.

1485 Ms. Williams. Mr. Cicilline votes aye.

1486 Mr. Peters?

1487 [No response.]

1488 Chairman Goodlatte. The gentleman from Utah?

1489 Mr. Chaffetz. No.

1490 Ms. Williams. Mr. Chaffetz votes no.

1491 Chairman Goodlatte. The gentleman from South Carolina?

1492 Mr. Gowdy. No.

1493 Ms. Williams. Mr. Gowdy votes no.

1494 Chairman Goodlatte. The gentlewoman from Washington?

1495 Ms. DelBene. Aye.

1496 Ms. Williams. Ms. DelBene votes aye.

1497 Chairman Goodlatte. The gentleman from Florida?

1498 Mr. DeSantis. No.

1499 Ms. Williams. Mr. DeSantis votes no.

1500 Chairman Goodlatte. The gentleman from Texas, Mr. Poe?

1501 Mr. Poe. No.

1502 Ms. Williams. Mr. Poe votes no.

1503 Chairman Goodlatte. The gentleman from Texas, Mr.

1504 Gohmert?

1505 Mr. Gohmert. No.

1506 Ms. Williams. Mr. Gohmert votes no.

1507 Chairman Goodlatte. Has every Member voted who wishes

1508 to vote?

1509 [No response.]

1510 Chairman Goodlatte. The clerk will report.

1511 Ms. Williams. Mr. Chairman, 9 Members voted aye; 17

1512 Members voted no.

1513 Chairman Goodlatte. And the amendment is not agreed to.

1514 For what purpose does the gentlewoman from California,
1515 Ms. Chu, seek recognition?

1516 Ms. Chu. Mr. Chair, I have an amendment at the desk.

1517 Chairman Goodlatte. The clerk will report the
1518 amendment.

1519 Ms. Williams. Amendment to H.R. 427, offered by Ms. Chu
1520 of California. Page 18, line --

1521 Chairman Goodlatte. Without objection, the amendment
1522 will be considered as read.

1523 [The amendment of Ms. Chu follows:]

1524

1525 Chairman Goodlatte. And the gentlewoman is recognized
1526 for 5 minutes on her amendment.

1527 Ms. Chu. Mr. Chair, the REINS Act would require
1528 congressional approval of major agency regulations, which
1529 would add another layer of bureaucracy in our regulatory
1530 process. This bill would significantly slow down the Federal
1531 Government's ability to hand down important regulations that
1532 protect the American people from harm.

1533 One such example is gun control and safety. My
1534 amendment is simple. It would exempt from the bill any
1535 regulation that pertains to protecting schools and children
1536 from gun violence.

1537 Our universities and our kindergarten classrooms, one by
1538 one, places of sanctuary for students, are being turned into
1539 war zones. As Congress continues its discussion on gun
1540 control, we should not be adding additional barriers in our
1541 efforts to keep our students safe in our schools.

1542 Imagine facing the news that 20 families did in Sandy
1543 Hook. Imagine getting that phone call or seeing that news
1544 report and waiting for hours just to confirm the tragic news
1545 that you have seen all along. Imagine the devastation felt
1546 week after week by parents and classmates during high school

1547 basketball games in Frederick, Maryland; Mobile, Alabama; and
1548 Ocala, Florida; or a college campus in Goldsboro, North
1549 Carolina.

1550 Mr. Chairman, what was once an isolated incident in
1551 Columbine, Colorado, has become a sad trend. We learned all
1552 too well through these gun-related tragedies that we need to
1553 do more to protect our children from guns, not less.

1554 According to the Centers for Disease Control, guns were
1555 the third leading cause of death for children age 5 through
1556 14 in 2013. This should not be the American reality. We
1557 need a change that starts with the obvious. Let us get rid
1558 of assault weapons and high-capacity magazines. These are
1559 tools of war designed for the sole purpose of slaughtering
1560 people.

1561 But we can't stop there. As a society, we must address
1562 mental health directly. As a clinical psychologist, I can
1563 tell you that this is crucially important. Right now, many
1564 States aren't even submitting mental health records to our
1565 background check system.

1566 It is time to make common sense and positive changes and
1567 take back our public security. Both chambers of Congress are
1568 making progress on key gun control measures like background

1569 checks and gun trafficking, and I hope that smart, effective
1570 gun control laws can be passed through both chambers this
1571 year.

1572 The REINS Act would create yet another obstacle in our
1573 ability to protect schools and children from gun violence. I
1574 urge my colleagues to vote for the amendment to ensure that
1575 we can act quickly to prevent more gun-related tragedies in
1576 America.

1577 I yield back.

1578 Chairman Goodlatte. For what purpose does the gentleman
1579 from Texas seek recognition?

1580 Mr. Ratcliffe. Move to strike the last word.

1581 Chairman Goodlatte. The gentleman is recognized for 5
1582 minutes.

1583 Mr. Ratcliffe. Thank you, Mr. Chairman.

1584 I respectfully oppose the gentlelady's amendment.
1585 Combating firearms violence is an important responsibility of
1586 both the executive branch agencies and the United States
1587 Congress. Why should we entrust this important issue solely
1588 to unelected agency officials?

1589 Regulations written by unaccountable bureaucrats have
1590 the potential to impact the Second Amendment rights of law-

1591 abiding citizens. It is imperative that Congress act as a
1592 check and a balance against any potentially unconstitutional
1593 action that the executive branch might take in this area.

1594 Many believe, moreover, that Federal agencies have
1595 failed sufficiently to enforce statutes currently on the
1596 books and regulations the implement those statutes. If they
1597 can't get that right, why should we remove Congress as a
1598 check and balance on new major regulations from the agencies?

1599 I, therefore, urge my colleagues to oppose this
1600 amendment, and I yield back.

1601 Mr. Conyers. Mr. Chairman?

1602 Chairman Goodlatte. For what purpose does the gentleman
1603 from Michigan seek recognition?

1604 Mr. Conyers. I rise in support of the Chu amendment.

1605 Chairman Goodlatte. The gentleman is recognized for 5
1606 minutes.

1607 Mr. Conyers. Thank you.

1608 Members of the committee, this amendment would exempt
1609 from the bill's congressional approval provisions,
1610 regulations that protect schools and children from gun
1611 violence, and that is why I support it. According to the
1612 James Brady campaign, there were 33 other instances of major

1613 school shootings in the United States besides the 26
1614 individuals shot and skilled at Sandy Hook Elementary School.

1615 Hopefully, legislation will soon be considered by
1616 Congress and be enacted into law that will help prevent
1617 further instances of gun violence directed at school
1618 children. More than likely, that law will require affected
1619 agencies to issue regulations to implement its provisions.

1620 And so, I see absolutely no reason to delay any further
1621 our efforts to safeguard our schools from gun violence, which
1622 is exactly what the REINS Act, unfortunately, does and would
1623 do if this amendment is not accepted. And so, accordingly, I
1624 appeal to your higher instincts to join me and others in
1625 supporting this critical amendment.

1626 I thank you and yield back any time remaining.

1627 Chairman Goodlatte. The question occurs on the
1628 amendment offered by the gentlewoman from California.

1629 All those in favor, respond by saying aye.

1630 Those opposed, no.

1631 In the opinion of the chair, the noes have it.

1632 Ms. Chu. Mr. Chair, I ask for a recorded vote.

1633 Chairman Goodlatte. A recorded vote is requested, and
1634 the clerk will call the roll.

1635 Ms. Williams. Mr. Goodlatte?
1636 Chairman Goodlatte. No.
1637 Ms. Williams. Mr. Goodlatte votes no.
1638 Mr. Sensenbrenner?
1639 [No response.]
1640 Ms. Williams. Mr. Smith?
1641 [No response.]
1642 Ms. Williams. Mr. Chabot?
1643 [No response.]
1644 Ms. Williams. Mr. Issa?
1645 [No response.]
1646 Ms. Williams. Mr. Forbes?
1647 [No response.]
1648 Ms. Williams. Mr. King?
1649 [No response.]
1650 Ms. Williams. Mr. Franks?
1651 Mr. Franks. No.
1652 Ms. Williams. Mr. Franks votes no.
1653 Mr. Gohmert?
1654 [No response.]
1655 Ms. Williams. Mr. Jordan?
1656 [No response.]

1657 Ms. Williams. Mr. Poe?
1658 [No response.]
1659 Ms. Williams. Mr. Chaffetz?
1660 [No response.]
1661 Ms. Williams. Mr. Marino?
1662 Mr. Marino. No.
1663 Ms. Williams. Mr. Marino votes no.
1664 Mr. Gowdy?
1665 [No response.]
1666 Ms. Williams. Mr. Labrador?
1667 Mr. Labrador. No.
1668 Ms. Williams. Mr. Labrador votes no.
1669 Mr. Farenthold?
1670 [No response.]
1671 Ms. Williams. Mr. Collins?
1672 Mr. Collins. No.
1673 Ms. Williams. Mr. Collins votes no.
1674 Mr. DeSantis?
1675 [No response.]
1676 Ms. Williams. Ms. Walters?
1677 [No response.]
1678 Ms. Williams. Mr. Buck?

1679 Mr. Buck. No.

1680 Ms. Williams. Mr. Buck votes no.

1681 Mr. Ratcliffe?

1682 Mr. Ratcliffe. No.

1683 Ms. Williams. Mr. Ratcliffe votes no.

1684 Mr. Trott?

1685 Mr. Trott. No.

1686 Ms. Williams. Mr. Trott votes no.

1687 Mr. Bishop?

1688 Mr. Bishop. No.

1689 Ms. Williams. Mr. Bishop votes no.

1690 Mr. Conyers?

1691 Mr. Conyers. Aye.

1692 Ms. Williams. Mr. Conyers votes aye.

1693 Mr. Nadler?

1694 Mr. Nadler. Aye.

1695 Ms. Williams. Mr. Nadler votes aye.

1696 Ms. Lofgren?

1697 [No response.]

1698 Ms. Williams. Ms. Jackson Lee?

1699 [No response.]

1700 Ms. Williams. Mr. Cohen?

1701 Mr. Cohen. Aye.

1702 Ms. Williams. Mr. Cohen votes aye.

1703 Mr. Johnson?

1704 Mr. Johnson. Aye.

1705 Ms. Williams. Mr. Johnson votes aye.

1706 Mr. Pierluisi?

1707 Mr. Pierluisi. Aye.

1708 Ms. Williams. Mr. Pierluisi votes aye.

1709 Ms. Chu?

1710 Ms. Chu. Aye.

1711 Ms. Williams. Ms. Chu votes aye.

1712 Mr. Deutch?

1713 [No response.]

1714 Ms. Williams. Mr. Gutierrez?

1715 [No response.]

1716 Ms. Williams. Ms. Bass?

1717 [No response.]

1718 Ms. Williams. Mr. Richmond?

1719 [No response.]

1720 Ms. Williams. Ms. DelBene?

1721 Ms. DelBene. Aye.

1722 Ms. Williams. Ms. DelBene votes aye.

1723 Mr. Jeffries?

1724 Mr. Jeffries. Aye.

1725 Ms. Williams. Mr. Jeffries votes aye.

1726 Mr. Cicilline?

1727 Mr. Cicilline. Aye.

1728 Ms. Williams. Mr. Cicilline votes aye.

1729 Mr. Peters?

1730 Mr. Peters. Aye.

1731 Ms. Williams. Mr. Peters votes aye.

1732 Chairman Goodlatte. The gentleman from Texas?

1733 Mr. Poe. No.

1734 Ms. Williams. Mr. Poe votes no.

1735 Chairman Goodlatte. The gentleman from Iowa?

1736 Mr. King. No.

1737 Ms. Williams. Mr. King votes no.

1738 Chairman Goodlatte. Has every Member voted who wishes

1739 to vote?

1740 [No response.]

1741 Chairman Goodlatte. The clerk will report.

1742 Ms. Williams. Mr. Chairman, 10 Members voted aye; 11

1743 Members voted no.

1744 Chairman Goodlatte. And the amendment is not agreed to.

1745 For what purpose does the gentlewoman from Washington
1746 seek recognition?

1747 Ms. DelBene. I have an amendment at the desk.

1748 Chairman Goodlatte. The clerk will report the
1749 amendment.

1750 Ms. Williams. Amendment to H.R. 427, offered by Ms.
1751 DelBene of Washington. Page 18, line 13, insert after "means
1752 any rule" the following, "(other than a special rule)". Page
1753 19 --

1754 Chairman Goodlatte. Without objection, the amendment
1755 will be considered as read.

1756 [The amendment of Ms. DelBene follows:]

1757

1758 Chairman Goodlatte. And the gentlewoman is recognized
1759 for 5 minutes on her amendment.

1760 Ms. DelBene. Thank you, Mr. Chair.

1761 Last year, we heard from Professor Ronald Levin of
1762 Washington University Law School on the REINS Act, and he
1763 testified that the bill's requirements would greatly impede
1764 agencies' ability to carry out their mandates through
1765 rulemaking because of the great difficulty of obtaining the
1766 active concurrence of the House, the Senate, and the
1767 President, especially in a highly polarized political
1768 environment.

1769 And that the act may be unconstitutional in that it
1770 would revive the one house legislative veto that the Supreme
1771 Court has held to be unconstitutional.

1772 Moreover, we have witnessed just this week a mechanism
1773 that is already in place for Congress to take action when it
1774 is dissatisfied with agency rulemaking, the Congressional
1775 Review Act, which some of my colleagues are using to oppose
1776 the FCC's net neutrality rules.

1777 Luckily, not everything the FCC does is so
1778 controversial. Demand for wireless spectrum is growing
1779 exponentially with the dawn of the Internet of things, and

1780 Congress has taken some productive steps guiding the FCC in
1781 meeting that demand. In 2012, Congress came together and
1782 charged the FCC with administering a number of spectrum
1783 auctions with the goal of making more spectrum available for
1784 unlicensed services.

1785 And some of us are continuing to work in this area. I
1786 am pleased to be a cosponsor this year of the Wi-Fi
1787 Innovation Act, with Congressman Issa and a bipartisan group
1788 of our colleagues who recognize that there is a role for the
1789 FCC to play in ensuring our spectrum policies help our
1790 country remain competitive.

1791 To give the committee an idea of where the FCC has had
1792 some success, we have the AWS-3 auction. The Public Safety
1793 and Spectrum Act tasked the FCC with auctioning 65 megahertz
1794 of mid-band spectrum for mobile broadband use. The FCC
1795 successfully completed this auction, bringing in net proceeds
1796 exceeding \$41 billion.

1797 The Public Safety and Spectrum Act also preserved the
1798 FCC's authority to promote competition through spectrum
1799 aggregation limits and other rules. In the broadcast
1800 incentive auction, Congress authorized the FCC to conduct
1801 incentive auctions through which the spectrum licensees can

1802 voluntarily give up spectrum usage rights in exchange for a
1803 portion of the proceeds.

1804 This auction will take place in early 2016, and to stay
1805 on that timeline, the FCC is expected to adopt a public
1806 notice in the next few months containing the detailed
1807 procedures for the auction.

1808 Congress directed the FCC to work with the National
1809 Telecommunications Information Administration to explore ways
1810 to allow new unlicensed services in several parts of the 5-
1811 gigahertz band. Last year, the FCC acted on this directive,
1812 freeing an additional 100 megahertz in the 5-gigahertz band
1813 for unlicensed services. So we have many examples where it
1814 has been important for the FCC to be able to move forward
1815 quickly.

1816 I urge my colleagues to support my amendment and allow
1817 the FCC to effectively and efficiently exercise its
1818 congressionally created authority under Title VI of the
1819 Middle Class Tax Relief and Job Creation Act of 2012. And I
1820 yield back.

1821 Chairman Goodlatte. The chair thanks the gentlewoman
1822 and recognizes himself in opposition to the amendment.

1823 Once again, there is no reason to shield any given set

1824 of regulations from the congressional accountability
1825 protections the REINS Act provides. This is as true of FCC
1826 regulations relating to spectrum auctions as any others.

1827 Remember, this bill does not prevent agencies from
1828 taking action in the public interest. It merely gives
1829 Congress a chance to fulfill its constitutional role before
1830 the regulations become law.

1831 The Constitution provides that all legislative powers
1832 herein granted shall be vested in a Congress. This is not
1833 some legal formality. It is a rule that provides substantive
1834 protections. It ensures that major decisions affecting the
1835 public are made by an entity directly accountable to the
1836 public.

1837 That does not happen when unelected agency officials are
1838 making the decisions. The more important the rule, the more
1839 important it is that Congress, and not an agency, impose it.

1840 The REINS Act provides a vital check on bad agency
1841 decision-making, and that check should not be eroded.

1842 The question occurs on the amendment offered --

1843 Mr. Conyers. Mr. Chairman?

1844 Chairman Goodlatte. For what purpose does the gentleman
1845 from Michigan seek recognition?

1846 Mr. Conyers. I would like to speak in support of the
1847 amendment.

1848 Chairman Goodlatte. The gentleman is recognized for 5
1849 minutes.

1850 Mr. Conyers. I think the DelBene spectrum auction
1851 amendment has some validity that needs to be re-reviewed
1852 after her presentation. In 2012, Congress passed the
1853 bipartisan Middle Class Tax Relief Act, which contained
1854 provisions to expedite the availability of wireless spectrum
1855 for accessing the Internet over mobile devices.

1856 Last year, the Federal Communications Commission
1857 finalized major rules to implement the spectrum incentive
1858 auction, which, according to the Government Accountability
1859 Office, allowed market forces to determine the highest and
1860 best use for spectrum to benefit consumers and
1861 telecommunication services. And as a result of this major
1862 rule, FCC raised a record-breaking \$44.9 billion through a
1863 spectrum auction in January of this year, demonstrating the
1864 inherent value of wireless spectrum and the importance of a
1865 flexible rulemaking process to allow the market-based
1866 delivery of spectrum.

1867 And in addition, the chairman of the FCC, Tom Wheeler,

1868 the results of the auction confirm the strong market demand
1869 for more spectrum. Not only will this auction improve
1870 wireless connection -- connectivity across the country, it
1871 will also empower greater competition and success among
1872 commercial stakeholders.

1873 Chairman Wheeler also noted that the success of the
1874 spectrum auction confirms that there will also be strong
1875 demand for valuable low-band spectrum that will be made
1876 available in the incentive auction early next year.

1877 And so, my friends on the committee, this amendment
1878 should be supported, which will ensure that the FCC's
1879 rulemaking authority to administer future spectrum auctions
1880 is not imperiled by the REINS Act. It is imperative that the
1881 FCC retain its rulemaking authority to meet our country's
1882 demand for Internet access over wireless devices, and that is
1883 why the DelBene amendment should be supported by all of us.

1884 And thank you very much.

1885 Chairman Goodlatte. The question occurs on the
1886 amendment offered by the gentlewoman from Washington.

1887 All those in favor, respond by saying aye.

1888 Those opposed, no.

1889 In the opinion of the chair, the noes have it.

1890 Mr. Conyers. A record vote?

1891 Chairman Goodlatte. A recorded vote is requested, and

1892 the clerk will call the roll.

1893 Ms. Williams. Mr. Goodlatte?

1894 Chairman Goodlatte. No.

1895 Ms. Williams. Mr. Goodlatte votes no.

1896 Mr. Sensenbrenner?

1897 [No response.]

1898 Ms. Williams. Mr. Smith?

1899 [No response.]

1900 Ms. Williams. Mr. Chabot?

1901 [No response.]

1902 Ms. Williams. Mr. Issa?

1903 [No response.]

1904 Ms. Williams. Mr. Forbes?

1905 [No response.]

1906 Ms. Williams. Mr. King?

1907 Mr. King. No.

1908 Ms. Williams. Mr. King votes no.

1909 Mr. Franks?

1910 Mr. Franks. No.

1911 Ms. Williams. Mr. Franks votes no.

1912 Mr. Gohmert?

1913 Mr. Gohmert. No.

1914 Ms. Williams. Mr. Gohmert votes no.

1915 Mr. Jordan?

1916 [No response.]

1917 Ms. Williams. Mr. Poe?

1918 [No response.]

1919 Ms. Williams. Mr. Chaffetz?

1920 [No response.]

1921 Ms. Williams. Mr. Marino?

1922 Mr. Marino. No.

1923 Ms. Williams. Mr. Marino votes no.

1924 Mr. Gowdy?

1925 [No response.]

1926 Ms. Williams. Mr. Labrador?

1927 Mr. Labrador. No.

1928 Ms. Williams. Mr. Labrador votes no.

1929 Mr. Farenthold?

1930 [No response.]

1931 Ms. Williams. Mr. Collins?

1932 Mr. Collins. No.

1933 Ms. Williams. Mr. Collins votes no.

1934 Mr. DeSantis?
1935 [No response.]
1936 Ms. Williams. Ms. Walters?
1937 [No response.]
1938 Ms. Williams. Mr. Buck?
1939 Mr. Buck. No.
1940 Ms. Williams. Mr. Buck votes no.
1941 Mr. Ratcliffe?
1942 Mr. Ratcliffe. No.
1943 Ms. Williams. Mr. Ratcliffe votes no.
1944 Mr. Trott?
1945 Mr. Trott. No.
1946 Ms. Williams. Mr. Trott votes no.
1947 Mr. Bishop?
1948 Mr. Bishop. No.
1949 Ms. Williams. Mr. Bishop votes no.
1950 Mr. Conyers?
1951 Mr. Conyers. Aye.
1952 Ms. Williams. Mr. Conyers votes aye.
1953 Mr. Nadler?
1954 Mr. Nadler. Aye.
1955 Ms. Williams. Mr. Nadler votes aye.

1956 Ms. Lofgren?
1957 [No response.]
1958 Ms. Williams. Ms. Jackson Lee?
1959 [No response.]
1960 Ms. Williams. Mr. Cohen?
1961 Mr. Cohen. Aye.
1962 Ms. Williams. Mr. Cohen votes aye.
1963 Mr. Johnson?
1964 Mr. Johnson. Aye.
1965 Ms. Williams. Mr. Johnson votes aye.
1966 Mr. Pierluisi?
1967 Mr. Pierluisi. Aye.
1968 Ms. Williams. Mr. Pierluisi votes aye.
1969 Ms. Chu?
1970 Ms. Chu. Aye.
1971 Ms. Williams. Ms. Chu votes aye.
1972 Mr. Deutch?
1973 [No response.]
1974 Ms. Williams. Mr. Gutierrez?
1975 [No response.]
1976 Ms. Williams. Ms. Bass?
1977 [No response.]

1978 Ms. Williams. Mr. Richmond?
1979 [No response.]
1980 Ms. Williams. Ms. DelBene?
1981 Ms. DelBene. Aye.
1982 Ms. Williams. Ms. DelBene votes aye.
1983 Mr. Jeffries?
1984 Mr. Jeffries. Aye.
1985 Ms. Williams. Mr. Jeffries votes aye.
1986 Mr. Cicilline?
1987 Mr. Cicilline. Aye.
1988 Ms. Williams. Mr. Cicilline votes aye.
1989 Mr. Peters?
1990 Mr. Peters. Aye.
1991 Ms. Williams. Mr. Peters votes aye.
1992 Chairman Goodlatte. The gentleman from California?
1993 Mr. Issa. No.
1994 Ms. Williams. Mr. Issa votes no.
1995 Chairman Goodlatte. The gentleman from Texas?
1996 Mr. Poe. No.
1997 Ms. Williams. Mr. Poe votes no.
1998 Chairman Goodlatte. Has every Member voted who wishes
1999 to vote? The gentleman from Ohio?

2000 Mr. Jordan. No.

2001 Ms. Williams. Mr. Jordan votes no.

2002 Chairman Goodlatte. The clerk will report.

2003 Ms. Williams. Mr. Chairman, 10 Members voted aye; 14

2004 Members voted no.

2005 Chairman Goodlatte. And the amendment is not agreed to.

2006 For what purpose does the gentleman from New York, Mr.

2007 Jeffries, seek recognition?

2008 Mr. Jeffries. Mr. Chairman, I have an amendment at the

2009 desk.

2010 Chairman Goodlatte. The clerk will report the

2011 amendment.

2012 Ms. Williams. Amendment to H.R. 427, offered by Mr.

2013 Jeffries of New York. Page 18, line 13 --

2014 Chairman Goodlatte. Without objection, the amendment

2015 will be considered as read.

2016 [The amendment of Mr. Jeffries follows:]

2017

2018 Chairman Goodlatte. And the gentleman is recognized for
2019 5 minutes on his amendment.

2020 Mr. Jeffries. Mr. Chairman, this amendment would exempt
2021 regulations that relate to or concern any rule pertaining to
2022 the protection of the safety and soundness of the banking and
2023 financial services industries in the United States from any
2024 REINS Act requirements of affirmative congressional action.

2025 I have the privilege and opportunity to represent the
2026 8th Congressional District, which consists of Brooklyn and
2027 parts of Queens. It is a district, of course, that is wholly
2028 contained within the City of New York.

2029 From my own experiences as a resident of New York City,
2030 a prior member of the State legislature, and now a Member of
2031 Congress, it is clear that the banking and financial services
2032 sector play a very important and critical role in the health
2033 and well-being of New York City's economy, the State's
2034 economy, and of course, our Nation's economy.

2035 But it is also clear that the financial services sector
2036 require reasonable regulation and oversight in order to
2037 ensure that bad actions do not result in significant, if not
2038 catastrophic damage to our economy. We, of course, witnessed
2039 this in 2008 when the economy collapsed, bringing about the

2040 worst fiscal crisis in this country since the Great
2041 Depression, largely as a result of unregulated activity in
2042 the banking and financial services sector.

2043 CBO estimates that America suffered a \$22 trillion loss
2044 to our economy as a result of the 2008 financial crisis,
2045 catastrophic in nature and the worst, as previously
2046 indicated, since the Great Depression. This event was
2047 largely caused by unregulated activity on several fronts, but
2048 I want to just briefly highlight behavior connected to credit
2049 default swaps.

2050 In 2000, the credit default swap market was
2051 approximately \$800 billion. By 2008, estimates show that as
2052 a result of the lack of regulation, the industry had exploded
2053 to more than \$45 trillion in unregulated activity. Banks and
2054 other entities were issuing mortgage-backed securities and
2055 then purchasing credit default swap instruments, thereby
2056 betting against the success of the underlying mortgages that
2057 were sold to hard-working, everyday Americans.

2058 The credit default swap instruments, contracts
2059 requirements were not regulated. There were no regulations
2060 connected to standard valuation requirements. The companies
2061 were not required to value the assets that were being insured

2062 against. As a result, many of the mortgage-backed securities
2063 were dangerously overvalued, to the detriment of the American
2064 people.

2065 Finally, there were no standard capitalization
2066 requirements in place for these instruments. So companies
2067 like AIG were not even required to demonstrate that they had
2068 sufficient assets to pay for any defaults that may take
2069 place.

2070 Collectively, we witnessed the consequences that
2071 resulted from the absence of significant regulation of the
2072 financial services sector. Wall Street is an important
2073 engine that drives the world's economy, but it is one that
2074 must be properly regulated.

2075 And for these reasons, I urge my colleagues to support
2076 this amendment and yield back the balance of my time.

2077 Chairman Goodlatte. The chair thanks the gentleman.

2078 For what purpose does the gentleman from Texas seek
2079 recognition?

2080 Mr. Ratcliffe. I move to strike the last word.

2081 Chairman Goodlatte. The gentleman is recognized for 5
2082 minutes.

2083 Mr. Ratcliffe. Thank you, Mr. Chairman.

2084 I respectfully oppose the amendment from the gentleman
2085 from New York. Once again, there is no reason to shield any
2086 given set of regulations from the congressional
2087 accountability provisions that the REINS Act provides.

2088 This is as true for bank safety and soundness
2089 regulations as for any others. We know, for example, that
2090 one of the principal effects so far of regulations issued
2091 under the Dodd-Frank Act is that it is harder and harder for
2092 community banks to extend credit. This is painstakingly
2093 clear and obvious for the community banks in the district
2094 that I represent.

2095 This means that it is also harder and harder for small
2096 businesses and families in smaller cities and towns across
2097 rural America to obtain the credit they need to start a
2098 business, to grow a business, or to obtain financing for
2099 their family's dreams.

2100 I have every confidence that Congress will approve
2101 reasonable and needed bank safety and soundness regulations
2102 when they are presented to Congress under the REINS Act. But
2103 when regulators in Washington have all the say over when to
2104 impose major regulations that could make it even harder for
2105 community banks to survive, that should concern all of us.

2106 The REINS Act provides a vital check on bad agency
2107 decision-making, and that check should not be eroded. I,
2108 therefore, urge my colleagues to oppose this amendment, and I
2109 yield back.

2110 Chairman Goodlatte. The question occurs on the
2111 amendment -- oh, for what purpose does the gentleman from
2112 Georgia seek recognition?

2113 Mr. Johnson. Move to strike the last word.

2114 Chairman Goodlatte. The gentleman is recognized for 5
2115 minutes.

2116 Mr. Johnson. Thank you, Mr. Chairman.

2117 This is a very wise and thoughtful amendment, and I
2118 support it. It exempts from the bill's congressional
2119 approval requirement any regulations that protect the safety
2120 and soundness of the Nation's banking and financial services
2121 industry.

2122 Those who claim that regulations stifle economic growth
2123 seem to forget that it was the lack of adequate regulation of
2124 the financial services industry that led us to the 2008
2125 financial crisis and the financial meltdown that resulted in
2126 the great recession, the lingering effects of which many
2127 Americans are still suffering from today.

2128 Poorly regulated mortgage lending, securitization, and
2129 derivatives all played their role in bringing this country to
2130 the brink of the abyss. Rules that are designed to protect
2131 the American economy from harm caused by the kind of wild
2132 west practices that an under regulated financial services
2133 industry can play with other people's money should not be
2134 held hostage to the kind of political gridlock and industry
2135 influence in Congress that the REINS Act would impose.

2136 And so, therefore, I urge my colleagues to support this
2137 amendment, and I yield back.

2138 Chairman Goodlatte. The question occurs on the
2139 amendment offered by the gentleman from New York.

2140 All those in favor, respond by saying aye.

2141 Those opposed, no.

2142 In the opinion of the chair, the noes have it.

2143 Mr. Jeffries. Mr. Chair, I request a recorded vote.

2144 Chairman Goodlatte. A recorded vote is requested, and
2145 the clerk will call the roll.

2146 Ms. Williams. Mr. Goodlatte?

2147 Chairman Goodlatte. No.

2148 Ms. Williams. Mr. Goodlatte votes no.

2149 Mr. Sensenbrenner?

2150 [No response.]

2151 Ms. Williams. Mr. Smith?

2152 [No response.]

2153 Ms. Williams. Mr. Chabot?

2154 [No response.]

2155 Ms. Williams. Mr. Issa?

2156 Mr. Issa. No.

2157 Ms. Williams. Mr. Issa votes no.

2158 Mr. Forbes?

2159 [No response.]

2160 Ms. Williams. Mr. King?

2161 Mr. King. No.

2162 Ms. Williams. Mr. King votes no.

2163 Mr. Franks?

2164 [No response.]

2165 Ms. Williams. Mr. Gohmert?

2166 [No response.]

2167 Ms. Williams. Mr. Jordan?

2168 [No response.]

2169 Ms. Williams. Mr. Poe?

2170 Mr. Poe. No.

2171 Ms. Williams. Mr. Poe votes no.

2172 Mr. Chaffetz?

2173 Mr. Chaffetz. No.

2174 Ms. Williams. Mr. Chaffetz votes no.

2175 Mr. Marino?

2176 Mr. Marino. No.

2177 Ms. Williams. Mr. Marino votes no.

2178 Mr. Gowdy?

2179 [No response.]

2180 Ms. Williams. Mr. Labrador?

2181 Mr. Labrador. No.

2182 Ms. Williams. Mr. Labrador votes no.

2183 Mr. Farenthold?

2184 [No response.]

2185 Ms. Williams. Mr. Collins?

2186 Mr. Collins. No.

2187 Ms. Williams. Mr. Collins votes no.

2188 Mr. DeSantis?

2189 [No response.]

2190 Ms. Williams. Ms. Walters?

2191 [No response.]

2192 Ms. Williams. Mr. Buck?

2193 Mr. Buck. No.

2194 Ms. Williams. Mr. Buck votes no.
2195 Mr. Ratcliffe?
2196 Mr. Ratcliffe. No.
2197 Ms. Williams. Mr. Ratcliffe votes no.
2198 Mr. Trott?
2199 Mr. Trott. No.
2200 Ms. Williams. Mr. Trott votes no.
2201 Mr. Bishop?
2202 Mr. Bishop. No.
2203 Ms. Williams. Mr. Bishop votes no.
2204 Mr. Conyers?
2205 [No response.]
2206 Ms. Williams. Mr. Nadler?
2207 Mr. Nadler. Aye.
2208 Ms. Williams. Mr. Nadler votes aye.
2209 Ms. Lofgren?
2210 [No response.]
2211 Ms. Williams. Ms. Jackson Lee?
2212 [No response.]
2213 Ms. Williams. Mr. Cohen?
2214 Mr. Cohen. Aye.
2215 Ms. Williams. Mr. Cohen votes aye.

2216 Mr. Johnson?

2217 Mr. Johnson. Aye.

2218 Ms. Williams. Mr. Johnson votes aye.

2219 Mr. Pierluisi?

2220 Mr. Pierluisi. Aye.

2221 Ms. Williams. Mr. Pierluisi votes aye.

2222 Ms. Chu?

2223 Ms. Chu. Aye.

2224 Ms. Williams. Ms. Chu votes aye.

2225 Mr. Deutch?

2226 [No response.]

2227 Ms. Williams. Mr. Gutierrez?

2228 [No response.]

2229 Ms. Williams. Ms. Bass?

2230 [No response.]

2231 Ms. Williams. Mr. Richmond?

2232 [No response.]

2233 Ms. Williams. Ms. DelBene?

2234 Ms. DelBene. Aye.

2235 Ms. Williams. Ms. DelBene votes aye.

2236 Mr. Jeffries?

2237 Mr. Jeffries. Aye.

2238 Ms. Williams. Mr. Jeffries votes aye.
2239 Mr. Cicilline?
2240 Mr. Cicilline. Aye.
2241 Ms. Williams. Mr. Cicilline votes aye.
2242 Mr. Peters?
2243 Mr. Peters. Aye.
2244 Ms. Williams. Mr. Peters votes aye.
2245 Chairman Goodlatte. Has every Member voted who wishes
2246 to vote? The gentleman from Arizona?
2247 Mr. Franks. No.
2248 Ms. Williams. Mr. Franks votes no.
2249 Chairman Goodlatte. The gentleman from Texas?
2250 Mr. Gohmert. No.
2251 Ms. Williams. Mr. Gohmert votes no.
2252 Chairman Goodlatte. The clerk will report.
2253 Ms. Williams. Mr. Chairman, 9 Members voted aye; 14
2254 Members voted no.
2255 Chairman Goodlatte. And the amendment is not agreed --
2256 well, the clerk will suspend.
2257 The gentleman from South Carolina?
2258 Mr. Gowdy. No.
2259 Ms. Williams. Mr. Gowdy votes no.

2260 Chairman Goodlatte. The clerk will report.

2261 Ms. Williams. Mr. Chairman, 9 Members voted aye; 15

2262 Members voted no.

2263 Chairman Goodlatte. And the amendment is not agreed to.

2264 For what purpose does the gentleman from Rhode Island

2265 seek recognition?

2266 Mr. Cicilline. Mr. Chairman, I have an amendment at the

2267 desk.

2268 Chairman Goodlatte. The clerk will report the

2269 amendment.

2270 Ms. Williams. Amendment to H.R. 427, offered by Mr.

2271 Cicilline of Rhode Island. Page 18, line 13, insert after

2272 "means any rule" the following, "(other than a special

2273 rule)". Page 19, line --

2274 Chairman Goodlatte. Without objection, the amendment is

2275 considered as read.

2276 [The amendment of Mr. Cicilline follows:]

2277

2278 Chairman Goodlatte. And the gentleman is recognized on
2279 his amendment.

2280 Mr. Cicilline. Thank you, Mr. Chairman.

2281 Mr. Chairman, this amendment attempts to address what we
2282 have heard in much of the discussion this morning, and that
2283 is the bill's exclusive focus on the cost of regulation
2284 without mention of the countervailing benefits of regulation.

2285 My amendment is simply an acknowledgment that when the
2286 benefit of a rule exceeds its cost, it is to society's
2287 benefit that the rule be put into effect without unnecessary
2288 delay. In fact, the benefits of regulation generally
2289 outweigh its costs.

2290 During the three hearings on the REINS Act in previous
2291 Congresses, we have heard distinguished witnesses from both
2292 parties testify to the net benefits of regulation. For
2293 example, in the 112th Congress, Sally Katzen, a former
2294 administrator of the Office of Management and Budget's Office
2295 of Information and Regulatory Affairs, referencing a 2010
2296 report to Congress, testified that the cost of major rules
2297 issued by the executive branch agencies over the 10-year
2298 period from 1999 to 2009 was between \$43 billion and \$55
2299 billion and that the benefits from regulations issued during

2300 the same 10-year period ranged from \$128 billion to \$616
2301 billion.

2302 Therefore, even if one uses OMB's highest estimate of
2303 cost and its lowest estimate of benefits, the regulations
2304 issued over the past 10 years have produced net benefits of
2305 \$73 billion to our society. And that was her testimony.

2306 We also heard in the 112th Congress from David Goldston,
2307 a former Republican House committee chief of staff, who
2308 testified that, and I quote, "Administrations under both
2309 parties have reviewed the aggregate impact of regulations and
2310 found their benefits to have exceeded their costs, and not
2311 all benefits are quantifiable."

2312 Their testimony is bolstered by the OMB's 2012 report to
2313 Congress, which notes that the net benefits of regulations
2314 through the third fiscal year of the Obama administration
2315 exceeded \$91 billion, which is 25 times more than the net
2316 benefits during the first 3 years of the George W. Bush
2317 administration.

2318 Given the bipartisan recognition that the benefits of
2319 regulation routinely outweigh its costs, it is both essential
2320 and fair that any rule that results in a net benefit to
2321 society be exempted from the cumbersome approval process of

2322 the REINS Act.

2323 We have had a lot of discussion this morning about how
2324 we can adequately capture both the costs and benefits of
2325 regulation. This amendment will simply ensure that in those
2326 instances where it is demonstrated that the benefits to
2327 society exceed the costs, that those regulations are
2328 permitted to go forward without delay.

2329 And with that, I ask my colleagues to join me in
2330 supporting this amendment, and I yield back.

2331 Chairman Goodlatte. The chair thanks the gentleman and
2332 recognizes himself in opposition to the amendment.

2333 Simply because an unelected bureaucrat estimates that a
2334 given regulation will create more benefits than cost is no
2335 reason to shield the costliest Government decisions from
2336 congressional accountability. Indeed, regulators often have
2337 incentives to inflate benefits to justify the expensive
2338 regulatory options they desire to take.

2339 In the Obama administration, for example, an enormous
2340 share of the benefits of the administration's regulatory
2341 output comes from so-called "co-benefits." These are
2342 incidental benefits that are not the target of the specific
2343 statutory provision that authorizes the regulation. They

2344 often can be manipulated to justify obviously wrong results.

2345 For example, the EPA's utility MATS rule, promulgated
2346 under authority to control mercury emissions, imposes over
2347 \$10 billion in estimated annual cost to achieve as few as
2348 \$6.1 million in estimated mercury control benefits.

2349 The rule was associated with estimated possible job
2350 losses of 39,000, losses of 68 plants, paperwork burdens
2351 mounting to 700,296 hours, and the potential compromise of
2352 the reliability of the North American power grid. The
2353 administration sought to justify the decision only on the
2354 basis of so-called co-benefits from dust and soot control
2355 that is not the object of the statutory provision that
2356 authorizes mercury control.

2357 This is just one example. Moreover, even if a
2358 regulatory decision can fairly be said to create more
2359 benefits than costs, what if the agency has adopted a
2360 regulatory option that is still far more costly than another
2361 option for which the benefits also would exceed the costs?
2362 Shouldn't Congress ultimately be accountable for these high-
2363 stakes decisions over the costliest new regulations?

2364 I urge my colleagues to oppose the amendment.

2365 The question occurs on -- for what purpose does the

2366 gentleman from Georgia seek recognition?

2367 Mr. Johnson. I would move to strike the last word.

2368 Chairman Goodlatte. The gentleman is recognized for 5
2369 minutes.

2370 Mr. Johnson. Thank you, Mr. Chairman.

2371 This amendment exempts from H.R. 427's congressional
2372 approval requirement any proposed rule that the Office of
2373 Management and Budget determines will have more in benefits
2374 than cost to society. I hear a lot from my friends in the
2375 majority about the cost of regulation. What I never hear
2376 about are the benefits of regulation.

2377 But under both Democratic and Republican
2378 administrations, the Office of Management and Budget
2379 regularly has reported to Congress that the benefits of
2380 regulations far exceed their costs.

2381 I support this amendment because it acknowledges that
2382 when the benefits of a rule to society outweigh its costs,
2383 society has an interest in ensuring that the rule take effect
2384 without unnecessary delay, the kind of delay that the REINS
2385 Act would impose.

2386 And for that reason, I support the amendment, and I
2387 yield back.

2388 Chairman Goodlatte. The chair thanks the gentleman.
2389 The question occurs on the amendment offered by the
2390 gentleman from Rhode Island.
2391 All those in favor, respond by saying aye.
2392 Those opposed, no.
2393 In the opinion of the chair, the noes have it, and the
2394 amendment is not agreed to.
2395 Mr. Cicilline. Mr. Chairman, I ask for a recorded vote.
2396 Chairman Goodlatte. A recorded vote is requested, and
2397 the clerk will call the roll.
2398 Ms. Williams. Mr. Goodlatte?
2399 Chairman Goodlatte. No.
2400 Ms. Williams. Mr. Goodlatte votes no.
2401 Mr. Sensenbrenner?
2402 [No response.]
2403 Ms. Williams. Mr. Smith?
2404 [No response.]
2405 Ms. Williams. Mr. Chabot?
2406 [No response.]
2407 Ms. Williams. Mr. Issa?
2408 Mr. Issa. No.
2409 Ms. Williams. Mr. Issa votes no.

2410 Mr. Forbes?
2411 [No response.]
2412 Ms. Williams. Mr. King?
2413 Mr. King. No.
2414 Ms. Williams. Mr. King votes no.
2415 Mr. Franks?
2416 [No response.]
2417 Ms. Williams. Mr. Gohmert?
2418 [No response.]
2419 Ms. Williams. Mr. Jordan?
2420 [No response.]
2421 Ms. Williams. Mr. Poe?
2422 Mr. Poe. No.
2423 Ms. Williams. Mr. Poe votes no.
2424 Mr. Chaffetz?
2425 Mr. Chaffetz. No.
2426 Ms. Williams. Mr. Chaffetz votes no.
2427 Mr. Marino?
2428 [No response.]
2429 Ms. Williams. Mr. Gowdy?
2430 [No response.]
2431 Ms. Williams. Mr. Labrador?

2432 Mr. Labrador. No.

2433 Ms. Williams. Mr. Labrador votes no.

2434 Mr. Farenthold?

2435 [No response.]

2436 Ms. Williams. Mr. Collins?

2437 Mr. Collins. No.

2438 Ms. Williams. Mr. Collins votes no.

2439 Mr. DeSantis?

2440 [No response.]

2441 Ms. Williams. Ms. Walters?

2442 [No response.]

2443 Ms. Williams. Mr. Buck?

2444 Mr. Buck. No.

2445 Ms. Williams. Mr. Buck votes no.

2446 Mr. Ratcliffe?

2447 Mr. Ratcliffe. No.

2448 Ms. Williams. Mr. Ratcliffe votes no.

2449 Mr. Trott?

2450 Mr. Trott. No.

2451 Ms. Williams. Mr. Trott votes no.

2452 Mr. Bishop?

2453 Mr. Bishop. No.

2454 Ms. Williams. Mr. Bishop votes no.
2455 Mr. Conyers?
2456 [No response.]
2457 Ms. Williams. Mr. Nadler?
2458 Mr. Nadler. Aye.
2459 Ms. Williams. Mr. Nadler votes aye.
2460 Ms. Lofgren?
2461 [No response.]
2462 Ms. Williams. Ms. Jackson Lee?
2463 [No response.]
2464 Ms. Williams. Mr. Cohen?
2465 Mr. Cohen. Aye.
2466 Ms. Williams. Mr. Cohen votes aye.
2467 Mr. Johnson?
2468 Mr. Johnson. Aye.
2469 Ms. Williams. Mr. Johnson votes aye.
2470 Mr. Pierluisi?
2471 Mr. Pierluisi. Aye.
2472 Ms. Williams. Mr. Pierluisi votes aye.
2473 Ms. Chu?
2474 Ms. Chu. Aye.
2475 Ms. Williams. Ms. Chu votes aye.

2476 Mr. Deutch?

2477 [No response.]

2478 Ms. Williams. Mr. Gutierrez?

2479 [No response.]

2480 Ms. Williams. Ms. Bass?

2481 [No response.]

2482 Ms. Williams. Mr. Richmond?

2483 [No response.]

2484 Ms. Williams. Ms. DelBene?

2485 Ms. DelBene. Aye.

2486 Ms. Williams. Ms. DelBene votes aye.

2487 Mr. Jeffries?

2488 Mr. Jeffries. Aye.

2489 Ms. Williams. Mr. Jeffries votes aye.

2490 Mr. Cicilline?

2491 Mr. Cicilline. Aye.

2492 Ms. Williams. Mr. Cicilline votes aye.

2493 Mr. Peters?

2494 Mr. Peters. Aye.

2495 Ms. Williams. Mr. Peters votes aye.

2496 Chairman Goodlatte. The gentleman from Texas, Mr.

2497 Smith?

2498 Mr. Smith. Mr. Chairman, I vote no.

2499 Ms. Williams. Mr. Smith votes no.

2500 Chairman Goodlatte. The gentleman from Texas, Mr.

2501 Gohmert?

2502 Mr. Gohmert. No.

2503 Ms. Williams. Mr. Gohmert votes no.

2504 Chairman Goodlatte. Has every Member voted who wishes

2505 to vote?

2506 [No response.]

2507 Chairman Goodlatte. The clerk will report.

2508 Voice. There is one more.

2509 Chairman Goodlatte. Oh, the gentleman from Arizona?

2510 Mr. Franks. No.

2511 Ms. Williams. Mr. Franks votes no.

2512 Chairman Goodlatte. Is that one vote or two? The clerk

2513 will report.

2514 Ms. Williams. Mr. Chairman, 9 Members voted aye; 14

2515 Members voted no.

2516 Chairman Goodlatte. And the amendment is not agreed to.

2517 Are there any other amendments?

2518 [No response.]

2519 Chairman Goodlatte. A reporting quorum being present,

2520 the question is on the motion to report the bill, H.R. 427,
2521 as amended, favorably to the House.

2522 Those in favor will say aye.

2523 Those opposed, no.

2524 In the opinion of the chair, the ayes have it, and the
2525 bill, as amended, is ordered reported favorably --

2526 Mr. Johnson. Mr. Chairman, I ask for a recorded vote.

2527 Chairman Goodlatte. A recorded vote is requested, and
2528 the clerk will call the roll.

2529 Ms. Williams. Mr. Goodlatte?

2530 Chairman Goodlatte. Aye.

2531 Ms. Williams. Mr. Goodlatte votes aye.

2532 Mr. Sensenbrenner?

2533 [No response.]

2534 Ms. Williams. Mr. Smith?

2535 Mr. Smith. Aye.

2536 Ms. Williams. Mr. Smith votes aye.

2537 Mr. Chabot?

2538 [No response.]

2539 Ms. Williams. Mr. Issa?

2540 Mr. Issa. Aye.

2541 Ms. Williams. Mr. Issa votes aye.

2542 Mr. Forbes?

2543 [No response.]

2544 Ms. Williams. Mr. King?

2545 Mr. King. Aye.

2546 Ms. Williams. Mr. King votes aye.

2547 Mr. Franks?

2548 Mr. Franks. Aye.

2549 Ms. Williams. Mr. Franks votes aye.

2550 Mr. Gohmert?

2551 [No response.]

2552 Ms. Williams. Mr. Jordan?

2553 [No response.]

2554 Ms. Williams. Mr. Poe?

2555 Mr. Poe. Yes.

2556 Ms. Williams. Mr. Poe votes yes.

2557 Mr. Chaffetz?

2558 Mr. Chaffetz. Aye.

2559 Ms. Williams. Mr. Chaffetz votes aye.

2560 Mr. Marino?

2561 [No response.]

2562 Ms. Williams. Mr. Gowdy?

2563 Mr. Gowdy. Yes.

2564 Ms. Williams. Mr. Gowdy votes yes.
2565 Mr. Labrador?
2566 Mr. Labrador. Yes.
2567 Ms. Williams. Mr. Labrador votes yes.
2568 Mr. Farenthold?
2569 [No response.]
2570 Ms. Williams. Mr. Collins?
2571 Mr. Collins. Yes.
2572 Ms. Williams. Mr. Collins votes yes.
2573 Mr. DeSantis?
2574 [No response.]
2575 Ms. Williams. Ms. Walters?
2576 [No response.]
2577 Ms. Williams. Mr. Buck?
2578 Mr. Buck. Yes.
2579 Ms. Williams. Mr. Buck votes yes.
2580 Mr. Ratcliffe?
2581 Mr. Ratcliffe. Yes.
2582 Ms. Williams. Mr. Ratcliffe votes yes.
2583 Mr. Trott?
2584 Mr. Trott. Yes.
2585 Ms. Williams. Mr. Trott votes yes.

2586 Mr. Bishop?

2587 Mr. Bishop. Yes.

2588 Ms. Williams. Mr. Bishop votes yes.

2589 Mr. Conyers?

2590 [No response.]

2591 Ms. Williams. Mr. Nadler?

2592 Mr. Nadler. No.

2593 Ms. Williams. Mr. Nadler votes no.

2594 Ms. Lofgren?

2595 [No response.]

2596 Ms. Williams. Ms. Jackson Lee?

2597 [No response.]

2598 Ms. Williams. Mr. Cohen?

2599 Mr. Cohen. No.

2600 Ms. Williams. Mr. Cohen votes no.

2601 Mr. Johnson?

2602 Mr. Johnson. No.

2603 Ms. Williams. Mr. Johnson votes no.

2604 Mr. Pierluisi?

2605 Mr. Pierluisi. No.

2606 Ms. Williams. Mr. Pierluisi votes no.

2607 Ms. Chu?

2608 Ms. Chu. No.

2609 Ms. Williams. Ms. Chu votes no.

2610 Mr. Deutch?

2611 [No response.]

2612 Ms. Williams. Mr. Gutierrez?

2613 [No response.]

2614 Ms. Williams. Ms. Bass?

2615 [No response.]

2616 Ms. Williams. Mr. Richmond?

2617 [No response.]

2618 Ms. Williams. Ms. DelBene?

2619 Ms. DelBene. No.

2620 Ms. Williams. Ms. DelBene votes no.

2621 Mr. Jeffries?

2622 Mr. Jeffries. No.

2623 Ms. Williams. Mr. Jeffries votes no.

2624 Mr. Cicilline?

2625 Mr. Cicilline. No.

2626 Ms. Williams. Mr. Cicilline votes no.

2627 Mr. Peters?

2628 Mr. Peters. No.

2629 Ms. Williams. Mr. Peters votes no.

2630 Chairman Goodlatte. The gentleman from Texas?

2631 Mr. Gohmert. Aye.

2632 Ms. Williams. Mr. Gohmert votes aye.

2633 Chairman Goodlatte. Has every Member voted who wishes

2634 to vote? For what purpose does the gentleman from Georgia

2635 seek recognition?

2636 Mr. Johnson. Mr. Chairman, how am I recorded?

2637 Ms. Williams. Mr. Johnson votes no.

2638 [Pause.]

2639 Mr. Cicilline. Madam Clerk, how am I recorded?

2640 Ms. Williams. Mr. Cicilline votes no.

2641 Chairman Goodlatte. The gentleman from Michigan?

2642 Mr. Conyers. Votes no.

2643 Ms. Williams. Mr. Conyers votes no.

2644 Chairman Goodlatte. The clerk will report.

2645 Ms. Williams. Mr. Chairman, 15 Members voted aye; 10

2646 Members voted no.

2647 Chairman Goodlatte. The ayes have it, and the bill, as

2648 amended, is ordered reported favorably to the House. Members

2649 will have 2 days to submit views.

2650 Without objection, the bill will be reported as a single

2651 amendment in the nature of a substitute, incorporating all

2652 adopted amendments, and staff is authorized to make technical
2653 and conforming changes.

2654 Pursuant to notice, I now call up H.R. 1759 for purposes
2655 of markup and move that the committee report the bill
2656 favorably to the House. The clerk will report the bill.

2657 Ms. Williams. H.R. 1759, to amend Title 5, United
2658 States Code, to provide for the publication by the Office of
2659 Information and Regulatory Affairs of information relating to
2660 rulemakings, and for other purposes.

2661 Chairman Goodlatte. Without objection, the bill is
2662 considered as read and open for amendment at any point.

2663 [The bill follows:]

2664

2665 Chairman Goodlatte. And I will begin by recognizing
2666 myself for an opening statement.

2667 The path to real regulatory reform passes through the
2668 gate of transparency. Americans deserve to know what new
2669 laws regulatory agencies plan to send their way through new
2670 regulation. They deserve to know earlier and better what
2671 those new laws will look like, how much they will cost, and
2672 when they may be imposed.

2673 Armed with this information, America's small businesses
2674 and families will be in a better position to respond to
2675 agency plans with better and more timely comments on proposed
2676 regulations, and they will be better and more timely able to
2677 bring to Congress' attention concerns about planned
2678 regulation they believe is unnecessary, too costly, or
2679 ineffective.

2680 The ALERT Act answers these needs with real, simple, and
2681 common sense transparency reform. Current law requires
2682 agencies to publish notices of individual new regulations
2683 when they are proposed, and it requires Government-wide
2684 disclosure of agency plans of new regulations to be published
2685 on an annual or semi-annual basis.

2686 But notices of proposed rules don't come early and often

2687 are too dense for anyone to understand easily. Government-
2688 wide disclosures, meanwhile, don't provide meaningful enough
2689 information about the nature, cost, and timing of planned new
2690 rules.

2691 The Obama administration, moreover, has repeatedly and
2692 egregiously missed its deadlines for publication of its
2693 Government-wide disclosures. In the 2012 and 2014 election
2694 years, for example, the administration each time failed to
2695 publish its fall Unified Agenda of Regulatory and
2696 Deregulatory Actions by its October deadline. The fall 2012
2697 edition was not issued until late December 2012. The 2014
2698 Unified Agenda was not issued until late November 2014.

2699 These are troubling instances of an administration
2700 hiding the ball about new regulatory plans from the public
2701 until after American voters have had a chance to cast their
2702 votes. The ALERT Act responds to this inadequate
2703 transparency in several straightforward ways.

2704 For example, it requires the Unified Agenda to state for
2705 each rule a summary of the rule, the objective of the rule,
2706 the rule's legal basis, whether comments will be requested on
2707 the proposed rule, and the stage of the rulemaking process
2708 the rule is currently in. Requires monthly online updates of

2709 information on rules expected to be proposed or released in
2710 the upcoming year. Requires, once a notice of a proposed
2711 rulemaking has been issued, that the agency's monthly updates
2712 also include a schedule for completing the rulemaking, an
2713 estimate of the rule's cost, and the economic effects of the
2714 rule that the agency has considered, including jobs impacts,
2715 and requires that a rule must be noticed in monthly online
2716 updates for at least 6 months before it can become effective.

2717 The American people deserve and need this information.
2718 Some say that to require its publication imposes too much of
2719 a burden on Federal agencies. I could not disagree more.

2720 Washington's agencies exist to serve the people. Before
2721 those agencies try to place more burdens on the American
2722 people, they should give the people the fairer real-time
2723 alerts that this bill requires.

2724 During the 113th Congress, the ALERT Act was passed by
2725 the full House of Representatives multiple times, each time
2726 on a bipartisan vote. I encourage all of the members of the
2727 committee to support the ALERT Act and work to assure that it
2728 is passed on an even greater bipartisan basis in the 114th
2729 Congress.

2730 Now it is my pleasure to recognize the gentleman from

2731 Michigan, Mr. Conyers, the ranking member of the committee,
2732 for his opening statement.

2733 Mr. Conyers. Thank you, Mr. Chairman and members of the
2734 committee.

2735 This measure is a prime example of what happens when we
2736 fail to conduct any meaningful consideration of a bill before
2737 it is marked up. Now neither in this Congress nor in the
2738 prior Congress when the bill was originally introduced did
2739 the Judiciary Committee have an opportunity to deliberate on
2740 its merits.

2741 In fact, 1759 was just introduced this week, and the
2742 predecessor legislation went straight to the floor last
2743 Congress without ever being considered in this committee. As
2744 a result, there is neither a record to demonstrate the need
2745 for this legislation nor any testimony that would illuminate
2746 what its practical consequences might be.

2747 The truth is that this legislation does raise serious
2748 significant concerns. First, it would impose an arbitrary 6-
2749 month delay implementing nearly any new rule. Specifically,
2750 it would prohibit agency rules from becoming effective until
2751 the information required by the bill has been available
2752 online for 6 months, with only limited exceptions.

2753 Clearly, the bill fails to take into account a vast
2754 array of time-sensitive rules ranging from the mundane, such
2755 as the frequent United States Coast Guard bridge closing
2756 regulation to those that protect public health and safety.

2757 For example, the Department of Interior announced just
2758 this week that it is proposing regulations for blow-out
2759 preventers used in offshore drilling 5 years after these same
2760 blow-out preventers failed in the BP Deepwater Horizon oil
2761 disaster. Implementation of this critical and overdue
2762 regulation could help prevent similar accidents.

2763 But if H.R. 1759 were enacted into law, this critical
2764 new rule would be arbitrarily delayed for 6 more months. Why
2765 would we delay for 6 months new regulations that could save
2766 lives?

2767 Another troubling aspect of the measure before the
2768 Judiciary Committee is that it specifically prohibits the
2769 Office of Information and Regulatory Affairs, the executive
2770 branch agency charged with policy making for Federal
2771 regulatory agencies, from taking into account the benefits of
2772 regulations when providing the total cost estimate for
2773 proposed and final rules.

2774 In other words, the costs will be minutely examined, but

2775 there will be no reporting or accounting of the benefits of
2776 the regulations. Thus, a regulation that costs only \$1 but
2777 results in \$1 billion in benefit would be only reported as
2778 costing \$1. And such a misleading, unbalanced report could
2779 hardly promote transparency.

2780 And lastly, the bill's other requirements are to some
2781 degree redundant of current law. Agencies already are
2782 required to provide status updates twice a year on their
2783 plans for proposing and finalizing rules, pursuant to the
2784 Regulatory Flexibility Act and Executive Order 12866.

2785 In addition, the Office of Information and Regulatory
2786 Affairs already issues an annual report on the total annual
2787 costs and benefits of Federal rules and under the Regulatory
2788 Right to Know Act. It is also noteworthy that H.R. 1759 will
2789 actually require OIRA to report on rules for which Congress
2790 introduced a resolution of disapproval.

2791 This means OIRA will be required to report to Congress
2792 on the activities of Congress. This is hardly an example of
2793 Government efficiency. Without question, it is yet another
2794 anti-regulatory measure intended to further slow down the
2795 rulemaking process.

2796 And so, here we go again. And I urge my colleagues to

2797 carefully scrutinize the measure before us and oppose this
2798 seriously flawed measure. And I thank the chairman, return
2799 any time that may be left.

2800 Or I thank him for giving me the additional time that I
2801 was required.

2802 Mr. Smith. [Presiding] You are welcome, and thank you,
2803 Mr. Conyers.

2804 The gentleman from Texas, Mr. Ratcliffe, is recognized
2805 for his statement.

2806 Mr. Ratcliffe. Thank you, Mr. Chairman.

2807 Thank you, Ranking Member Conyers.

2808 The Texans that I represent are frustrated at an ever-
2809 expanding Government that invades every aspect of their
2810 lives. They are frustrated that unelected bureaucrats have
2811 the power to impose regulations that have the force of law.
2812 They are frustrated that at any moment, a new regulation can
2813 be imposed with little or no time for meaningful preparation.

2814 I just spent 2 weeks traveling across the 18 counties in
2815 northeast Texas that I have the privilege of representing,
2816 and at every stop without fail, my constituents mentioned the
2817 ballooning size of the Federal Government as one of their top
2818 concerns.

2819 Many of the 700,000 Texans that I represent are
2820 increasingly angry at "big government," and that generally
2821 boils down to unelected bureaucrats who make regulations that
2822 have the effect of law. These regulations have an enormous
2823 impact on families and small businesses in my district. They
2824 bury the American public in thousands of pages of paperwork
2825 and overstate the benefits that these regulations will have,
2826 all the while concealing billions of dollars in compliance
2827 costs that Americans will shoulder.

2828 Too many small businesses and hard-working families are
2829 drowning in regulations that are created out of thin air.
2830 The Constitution established checks and balances between the
2831 three branches of Government, and this delicate balance
2832 protects the American people by preventing one branch of
2833 Government from taking too much control.

2834 But the rise of the regulations state is dramatically
2835 increasing the Government's reach into people's lives and
2836 tipping the scales in favor of an unelected, unaccountable
2837 force within our Federal Government, one that wields enormous
2838 power. Regulators face little accountability and often
2839 conceal the true scope and nature of their actions. They
2840 operate in secret with little meaningful input from the folks

2841 who will be forced to comply with their mandates.

2842 Employers want to focus on creating jobs for hard-
2843 working Americans, but complicated and unnecessary
2844 regulations can force them to spend vast amounts of time and
2845 money figuring out just how to comply. Employers are
2846 increasingly frustrated that they spend so much time and
2847 money trying to comply with these regulations, that they
2848 can't focus on growing their business and hiring more
2849 Americans.

2850 In my most recent listening tour across the 4th
2851 Congressional District, the message I heard was clear and
2852 consistent. Folks in Sherman and Denison, in Texarkana,
2853 Rockwall, Paris, Sulphur Springs, Greenville, Mount Pleasant,
2854 and Bonham, they all have the same frustrations. They all
2855 want to know what are we doing in Congress to stop the ever-
2856 increasing snowball of regulations from crushing them?

2857 This is a sad commentary on the suffocating intrusion
2858 and impact of regulations slapped onto Americans by unelected
2859 bureaucrats. This shouldn't be the case, and we need to stop
2860 this.

2861 Current law requires the administration to release an
2862 update twice a year on regulations being developed by Federal

2863 agencies. The problem is that under President Obama, these
2864 updates have been late, if they have been issued at all.

2865 Up to this point, there hasn't been a way to enforce
2866 these requirements. That is why I am introducing the ALERT
2867 Act, which would address this pattern of delay by increasing
2868 the quality and the frequency of information that has to be
2869 shared with the American public about upcoming regulations.

2870 This bill also forces President Obama and the executive
2871 branch to make the American people aware of regulations that
2872 are coming down the track so they don't get steamrolled in
2873 the process.

2874 Specifically, the ALERT Act requires the American public
2875 to be apprised in a timelier manner about upcoming rulemaking
2876 activity by requiring Federal agencies to submit monthly
2877 updates to the Office of Information and Regulatory Affairs,
2878 which in turn will be required to make those updates publicly
2879 available on the internet for all rules expected to be
2880 proposed and released in the upcoming year.

2881 The updates will include a summary, the objective of
2882 each rule, and its legal basis. The update must include a
2883 schedule for completing the rulemaking, an estimate of the
2884 cost, and the economic effects considered. Lastly, a rule

2885 has to be noticed for at least 6 months before it can become
2886 effective.

2887 Now, opponents of this bill may argue that it regulates
2888 the regulators too much, but let me be clear. I was not sent
2889 here to give Federal agencies a free or easy pass when it
2890 comes to regulating hardworking Americans and their
2891 businesses. If explaining the regulations to the American
2892 people is too difficult, that only underscores the fact that
2893 Federal agencies are implementing too many confusing,
2894 unnecessary regulations. I am here to fight for an easier
2895 life for hardworking Texans and people across the country,
2896 not unelected bureaucrats here in Washington.

2897 That is why I am grateful to sponsor this legislation.
2898 It is time that we require this Administration to explain the
2899 cost of regulations, to explain the impact they will have on
2900 jobs, and to explain the regulations' legal basis. As a
2901 limited government conservative, I believe that economic
2902 prosperity comes from the ingenuity of the American people,
2903 not from the overreach of our Federal government.

2904 My constituents have asked me to fight for them and to
2905 help them cut through the regulatory mess that they face, and
2906 they deserve a realistic timeframe to plan and to adjust in

2907 anticipation of regulatory changes. The ALERT Act is a
2908 simple and fair bill that will help bring both the
2909 transparency and accountability to the regulatory process
2910 that all hardworking Americans deserve.

2911 I urge my colleagues to join me in supporting this bill,
2912 and I yield back.

2913 Mr. Smith. Thank you, Mr. Ratcliffe. And the ranking
2914 member of the subcommittee, the gentleman from Georgia, Mr.
2915 Johnson, is recognized.

2916 Mr. Johnson. Thank you, Mr. Chairman. H.R. 1759, the
2917 All Economic Regulations Are Transparent Act of 2015, or as
2918 it is known as the ALERT Act, is yet another attack on our
2919 Nation's public health, safety, and environmental
2920 protections. If there were no government and there were no
2921 regulations, then we would have a society of a bunch of sick,
2922 uneducated, and bad-off people in this country. And we
2923 certainly cannot blame all of the regulations that exist on
2924 President Obama, though I know that he would want to take
2925 credit for all of them because many of them are so important
2926 for health, safety, and wellbeing.

2927 But the fact is, regulations have been around since the
2928 country has been around, since our system of government has

2929 been operating. And in order for it to continue to operate
2930 in a way that protects the health, safety, and wellbeing of
2931 the people, we are going to continue to need regulations.
2932 And bureaucrats are the ones that work. They are our
2933 friends, relatives, neighbors. They are just regular people
2934 going to work every day trying to do a good job. And of
2935 course there are some bad apples in every profession, but we
2936 cannot throw the baby out with the bathwater just because we
2937 do not want to give a bath to the baby. We know that the
2938 baby needs to be bathed. The baby needs to be protected,
2939 taken care of, and it needs someone to do it, and that is our
2940 Federal government. I am speaking figuratively of course.

2941 But this new Section 653 of the ALERT Act would create a
2942 6-month moratorium on nearly every rule. The only reason for
2943 this unprecedented delay in agency rulemaking is the so-
2944 called diminishing transparency of the regulatory process.
2945 Some of my Republican colleagues have argued that regulatory
2946 transparency, which is important to public participation in
2947 the rulemaking process, requires timely notice of proposed
2948 rules. And yet notwithstanding this claim by Republicans,
2949 millions of Americans have recently commented on an agency
2950 rulemaking representing the largest public response to any

2951 request for public comment in a Federal rulemaking history.
2952 This extensive activity in the past year alone hardly
2953 suggests a shrouded agency process in need of reform.

2954 In addition to this moratorium, Section 651 saddles
2955 every Federal agency, including independent agencies that are
2956 primarily independent because they are not subject to the
2957 centralized review of rulemaking by the White House through
2958 the Office of Information and Regulatory Affairs, with a
2959 number of analytical reporting requirements that duplicate
2960 existing transparency requirements built into the rulemaking
2961 process.

2962 Section 651's reporting requirement would drown these
2963 agencies and waste taxpayer dollars every month. These
2964 requirements would apply to every rule within the
2965 Administrative Procedure Act, about 6,000 rules per year,
2966 many of which simply involve bridge openings and closings by
2967 the Coast Guard.

2968 In addition to wasting agency resources and, by
2969 extension, taxpayer dollars, this bill would have the ironic
2970 and unintended consequence of decreasing regulatory
2971 transparency. The ALERT Act's reporting requirements would
2972 inundate the public with monthly waves of data that would be

2973 largely useless and undermine the public's ability to
2974 identify regulations that actually matter in public debate.

2975 Lastly, the Republican majority has repeatedly said that
2976 it plans to follow regular order, and yet today we are
2977 marking up yet another bill that we have not held a single
2978 hearing in this committee on. In fact, it was not even
2979 introduced until yesterday. In light of this dearth of
2980 legislative history, it would be a compliment to refer to
2981 marking up this bill as half-baked.

2982 I urge my colleagues to oppose this legislation, and I
2983 yield back.

2984 Mr. Smith. Thank you, Mr. Johnson. And are there any
2985 amendments to H.R. 1759?

2986 Mr. Conyers. Yes. Mr. Chairman, I have an amendment.

2987 Mr. Smith. The gentleman from Michigan, the ranking
2988 member, is recognized for the purpose of offering an
2989 amendment.

2990 Mr. Conyers. Thank you. I have an amendment at the
2991 desk.

2992 Mr. Smith. And the clerk will read the amendment.

2993 Ms. Williams. Amendment to H.R. 1759, offered by Mr.
2994 Conyers, strike Section 653 of --

2995 Mr. Smith. Without objection, the amendment will be
2996 considered as read.

2997 [The amendment of Mr. Conyers follows:]

2998

2999 Mr. Smith. And the gentleman from Michigan is
3000 recognized to explain his amendment.

3001 Mr. Conyers. Thank you, Mr. Chairman. Members of the
3002 committee, my amendment addresses the elimination of the 6-
3003 month prohibition on any rule becoming effective for 6 months
3004 after the notice of the rulemaking is published. So where it
3005 applies, it would strike that. But the deeper problem is
3006 with the whole bill itself, but right now I am promoting my
3007 amendment, my 6-month amendment.

3008 But I would ask also unanimous consent to put into the
3009 record a very excellent series of organizational discussions
3010 about the ALERT Act and its failure to promote justice and
3011 transparency. The first would be the Center for Progressive
3012 Reform. The second would be the American Association for
3013 Justice. The third would be Public Citizen. Finally, the
3014 Coalition for Sensible Safeguards, which is an alliance of
3015 150 labor, scientific, good government, environmental
3016 organizations.

3017 Mr. Smith. And without objection, those four items will
3018 become part of the record.

3019 [The information follows:]

3020

3021 Mr. Conyers. Thank you very much, and I return the
3022 balance of my time.

3023 Mr. Smith. Thank you, Mr. Conyers. The gentleman from
3024 Texas, Mr. Ratcliffe, is recognized in opposition to the
3025 amendment.

3026 Mr. Ratcliffe. Thank you, Mr. Chairman. I respectfully
3027 oppose the amendment from the gentleman from Michigan. The
3028 gentleman's amendment would strike the provision requiring
3029 that new rules be publicly available for 6 months prior to
3030 taking effect. Now, it is a basic premise of regulatory law
3031 and simple fairness that those affected by regulation have
3032 adequate notice of it so that they can adequately prepare for
3033 it. As rules have become costlier and more complicated, the
3034 need for better pre-implementation disclosure has only grown.
3035 Small businesses and families need it and deserve it to
3036 minimize the disruptions of implementation.

3037 Now, unfortunately experience has shown that this
3038 Administration will dodge notice requirements that do not
3039 have enforcement provisions. For example, this
3040 Administration notoriously gained the publication of the
3041 unified agenda, delaying it to hide the ball during multiple
3042 election seasons. Accordingly, there has to be a consequence

3043 for the failure to disclose or this Administration will just
3044 continue to ignore it.

3045 I am open to working with my colleagues across the aisle
3046 on which consequence would be best, but I am entirely
3047 unwilling to strike the consequences all together. That
3048 would merely leave us where we have been and leave American
3049 businesses in the dark. I, therefore, urge my colleagues to
3050 oppose this amendment, and I yield back the balance of my
3051 time.

3052 Mr. Smith. Thank you, Mr. Ratcliffe. Are there any
3053 other members who wish to be heard on this amendment? The
3054 gentleman from Georgia, Mr. Johnson.

3055 Mr. Johnson. Move to strike the last word.

3056 Mr. Smith. The gentleman is recognized for 5 minutes.

3057 Mr. Johnson. Mr. Chairman, the bill's moratorium
3058 exceptions fail to take into account a vast array of rules
3059 that are necessary, but would not qualify for these
3060 exceptions. Remember we are talking about anywhere from
3061 4,000 to 6,000 regulations that are typically issued each
3062 year that, as a result of this bill, would be held up for 6
3063 months unless they could be pigeonholed into one of these
3064 exceptions.

3065 The overwhelming majority of these regulations deal with
3066 thoroughly mundane or administerial matters, such as the size
3067 of certain screws used in aircraft engines, Federal aviation
3068 flight path determinations. That is important as is the size
3069 of screws used in aircraft engines. U.S. Coast Guard bridge
3070 opening schedules. Certainly that is important. And
3071 standards for curbside mailboxes, which were just proposed
3072 earlier this week.

3073 It simply makes no sense to blame President Obama for
3074 the existence of these kinds of sensible rules and
3075 regulations as if to say that he is the one that created
3076 them, and also as if to say that these are not necessary. It
3077 simply makes no sense to impose a one-size-fits-all half-year
3078 moratorium on these straightforward, yet necessary,
3079 regulations. So I urge my colleagues to support this very
3080 wise amendment, and with that I yield back.

3081 Mr. Smith. Okay. Thank you, Mr. Johnson.

3082 The question is on the amendment.

3083 All in favor, say aye.

3084 Those opposed, say no.

3085 In the opinion of the chair, the noes have it, and the
3086 amendment is not agreed to.

3087 Mr. Conyers. Could we get a recorded vote, Mr.
3088 Chairman?
3089 Mr. Smith. The ranking member has requested a recorded
3090 vote, and the clerk will call the roll.
3091 Ms. Williams. Mr. Goodlatte?
3092 [No response.]
3093 Ms. Williams. Mr. Sensenbrenner?
3094 Mr. Sensenbrenner. No.
3095 Ms. Williams. Mr. Sensenbrenner votes no.
3096 Mr. Smith?
3097 Mr. Smith. No.
3098 Ms. Williams. Mr. Smith votes no.
3099 Mr. Chabot?
3100 [No response.]
3101 Ms. Williams. Mr. Issa?
3102 [No response.]
3103 Ms. Williams. Mr. Forbes?
3104 [No response.]
3105 Ms. Williams. Mr. King?
3106 Mr. King. No.
3107 Mr. Deterding. Mr. King votes no.
3108 Mr. Franks?

3109 Mr. Franks. No.

3110 Ms. Williams. Mr. Franks votes no.

3111 Mr. Gohmert?

3112 [No response.]

3113 Ms. Williams. Mr. Jordan?

3114 [No response.]

3115 Ms. Williams. Mr. Poe?

3116 [No response.]

3117 Ms. Williams. Mr. Chaffetz?

3118 [No response.]

3119 Ms. Williams. Mr. Marino?

3120 [No response.]

3121 Ms. Williams. Mr. Gowdy?

3122 [No response.]

3123 Ms. Williams. Mr. Labrador?

3124 Mr. Labrador. No.

3125 Ms. Williams. Mr. Labrador votes no.

3126 Mr. Farenthold?

3127 [No response.]

3128 Ms. Williams. Mr. Collins?

3129 [No response.]

3130 Ms. Williams. Mr. DeSantis?

3131 [No response.]

3132 Ms. Williams. Ms. Walters?

3133 [No response.]

3134 Ms. Williams. Mr. Buck?

3135 Mr. Buck. No.

3136 Ms. Williams. Mr. Buck votes no.

3137 Mr. Ratcliffe?

3138 Mr. Ratcliffe. No.

3139 Ms. Williams. Mr. Ratcliffe votes no.

3140 Mr. Trott?

3141 Mr. Trott. No.

3142 Ms. Williams. Mr. Trott votes no.

3143 Mr. Bishop?

3144 Mr. Bishop. No.

3145 Ms. Williams. Mr. Bishop votes no.

3146 Mr. Conyers?

3147 Mr. Conyers. Aye.

3148 Ms. Williams. Mr. Conyers votes aye.

3149 Mr. Nadler?

3150 Mr. Nadler. Aye.

3151 Ms. Williams. Mr. Nadler votes aye.

3152 Ms. Lofgren?

3153 [No response.]

3154 Ms. Williams. Ms. Jackson Lee?

3155 [No response.]

3156 Ms. Williams. Mr. Cohen?

3157 Mr. Cohen. Aye.

3158 Ms. Williams. Mr. Cohen votes aye.

3159 Mr. Johnson?

3160 Mr. Johnson. Aye.

3161 Ms. Williams. Mr. Johnson votes aye.

3162 Mr. Pierluisi?

3163 Mr. Pierluisi. Aye.

3164 Ms. Williams. Mr. Pierluisi votes aye.

3165 Ms. Chu?

3166 Ms. Chu. Aye.

3167 Ms. Williams. Ms. Chu votes aye.

3168 Mr. Deutch?

3169 [No response.]

3170 Ms. Williams. Mr. Gutierrez?

3171 [No response.]

3172 Ms. Williams. Ms. Bass?

3173 [No response.]

3174 Ms. Williams. Mr. Richmond?

3175 [No response.]

3176 Ms. Williams. Ms. DelBene?

3177 Ms. DelBene. Aye.

3178 Ms. Williams. Ms. DelBene votes aye.

3179 Mr. Jeffries?

3180 [No response.]

3181 Ms. Williams. Mr. Cicilline?

3182 Mr. Cicilline. Aye.

3183 Ms. Williams. Mr. Cicilline votes aye.

3184 Mr. Peters?

3185 Mr. Peters. Aye.

3186 Ms. Williams. Mr. Peters votes aye.

3187 Mr. Smith. The gentleman from Virginia?

3188 Chairman Goodlatte. Votes no.

3189 Ms. Williams. Mr. Goodlatte votes no.

3190 Mr. Smith. The gentleman from Texas?

3191 Mr. Gohmert. No.

3192 Ms. Williams. Mr. Gohmert votes no.

3193 Mr. Smith. The gentlewoman from California?

3194 Ms. Walters. No.

3195 Ms. Williams. Ms. Walters votes no.

3196 Mr. Smith. The clerk will report.

3197 Ms. Williams. Mr. Chairman, 9 members voted aye, 12
3198 members voted no.

3199 Mr. Smith. Okay. The majority having voted no, the
3200 noes have it, and the amendment is not agreed to.

3201 Before we close the vote, the gentleman from Texas, Mr.
3202 Poe, is recognized.

3203 Mr. Poe. No.

3204 Ms. Williams. Mr. Poe votes no.

3205 Mr. Smith. 13 noes. Okay. Report the vote one more
3206 time.

3207 Ms. Williams. Mr. Chairman, 9 members voted aye, 13
3208 members voted no.

3209 Mr. Smith. Okay. Thank you. The majority having voted
3210 no, the amendment is not agreed to.

3211 Are there any further amendments? And if not --

3212 Mr. Johnson. Mr. Chairman, I have an amendment at the
3213 desk.

3214 Mr. Smith. The gentleman from Georgia, Mr. Johnson, is
3215 recognized for the purposes of offering an amendment. And
3216 the clerk will read the amendment.

3217 Ms. Williams. Amendment to H.R. 1759, offered by Mr.
3218 Johnson, in Section 652 --

3219 Mr. Johnson. I ask that it be considered as read.

3220 Mr. Smith. Without objection, the amendment will be
3221 considered as read.

3222 [The amendment by Mr. Johnson follows:]

3223

3224 Mr. Smith. And the gentleman is recognized to explain
3225 his --

3226 Mr. Sensenbrenner. Mr. Chairman, I ask for a point of
3227 order.

3228 Mr. Smith. And a point of order has been reserved.

3229 Mr. Johnson. Thank you. My amendment would ensure that
3230 the Office of Information and Regulatory Affairs includes
3231 both the benefits and the costs of the rules in its annual
3232 report as required by new Section 652 of H.R. 1759, the ALERT
3233 Act. Without this amendment, the ALERT Act would require
3234 that OIRA publish a yearly report of the total cost of all
3235 rules proposed or finalized without accounting for the benefits
3236 of these rules.

3237 Simply put, it is outrageous that the proponents of this
3238 legislation would claim that it is a transparency measure
3239 when it specifically restricts the ability of OIRA to inform
3240 the public of the benefits of agency rulemaking. The public
3241 has a right to know the full scope of a rule's protections,
3242 and it is deceiving to obscure rulemaking through a cost-only
3243 lens.

3244 The ALERT Act's cost-only assessment suffers from the
3245 same flawed myopic view of the regulatory system that earned

3246 the Competitive Enterprise Institute two Pinocchios for its
3247 report on the so-called cost of regulation from the
3248 *Washington Post*. Much like similar reports by the Small
3249 Business Administration and the National Association of
3250 Manufacturers, the *Washington Post* concluded that relying on
3251 cost-only estimates of regulations is misleading and
3252 methodologically unsound.

3253 According to the *Post*, such assessments have one huge
3254 element missing, the benefit side of the analysis, noting
3255 that all rules have both costs and benefits. Citing vehicle
3256 safety as an example, this article noted that seatbelts are a
3257 regulation, but they also result in fewer deaths, which is
3258 presumably a benefit. Higher fuel economy standards raise
3259 the initial cost of a car, but also result in savings on
3260 gasoline over time.

3261 In response to this report, a spokesperson for CEI even
3262 acknowledged that CEI would support more cost benefit
3263 analysis, while the president of the U.S. Chamber of Commerce
3264 also noted that there are benefits to the regulations, and
3265 that such benefits need to be acknowledged. Bruce Bartlett,
3266 a senior policy analyst in the Reagan and George H.W. Bush
3267 Administrations, also notes that a cost-only assessment is

3268 illogical. Bartlett argued that this assessment, "would be
3269 as if one looked at taxation completely divorced from
3270 spending. It is of no analytical value to look at some
3271 calculation of the aggregate cost of government regulation
3272 unless one can show that there has been some significant
3273 increase that coincides with the economic slowdown. If
3274 regulatory costs are roughly the same now as they were during
3275 the George W. Bush Administration, then what reason is there
3276 to believe that such costs had no effect on unemployment
3277 then, but now do? It makes no sense logically."

3278 Furthermore, it is firmly established that the benefits
3279 of rules routinely outweigh their costs. Under both
3280 Democratic and Republican Administrations, the Office of
3281 Management and Budget regularly has reported to Congress that
3282 the benefits of regulations far exceed the cost.

3283 And with that, I would move to withdraw this amendment
3284 since it is non-germane. But that fact only became apparent
3285 after a closer review after the bill was sprung on us
3286 yesterday.

3287 Mr. Smith. Thank you, Mr. Johnson. Without objection,
3288 the amendment will be considered withdrawn.

3289 Are there any other amendments?

3290 [No response.]

3291 Mr. Smith. If there are no further amendments, a
3292 reporting quorum being present, the question is on the motion
3293 to report the bill, H.R. 1759, as amended, favorably to the
3294 House.

3295 Those in favor, say aye.

3296 Those opposed, no.

3297 The ayes have it, and the bill is ordered favorably
3298 reported.

3299 Mr. Johnson. Mr. Chairman?

3300 Mr. Smith. Members will have 2 days to submit their
3301 views.

3302 Mr. Johnson. Mr. Chairman, I ask for a recorded vote.

3303 Mr. Smith. A recorded vote has been requested, and the
3304 clerk will call the roll.

3305 Ms. Williams. Mr. Goodlatte?

3306 [No response.]

3307 Ms. Williams. Mr. Sensenbrenner?

3308 Mr. Sensenbrenner. Aye.

3309 Ms. Williams. Mr. Sensenbrenner votes aye.

3310 Mr. Smith?

3311 Mr. Smith. Aye.

3312 Ms. Williams. Mr. Smith votes aye.
3313 Mr. Chabot?
3314 [No response.]
3315 Ms. Williams. Mr. Issa?
3316 [No response.]
3317 Ms. Williams. Mr. Forbes?
3318 [No response.]
3319 Ms. Williams. Mr. King?
3320 Mr. King. Aye.
3321 Ms. Williams. Mr. King votes aye.
3322 Mr. Franks?
3323 Mr. Franks. Aye.
3324 Ms. Williams. Mr. Franks votes aye.
3325 Mr. Gohmert?
3326 [No response.]
3327 Ms. Williams. Mr. Jordan?
3328 [No response.]
3329 Ms. Williams. Mr. Poe?
3330 Mr. Poe. Yes.
3331 Ms. Williams. Mr. Poe votes yes.
3332 Mr. Chaffetz?
3333 [No response.]

3334 Ms. Williams. Mr. Marino?
3335 Mr. Marino. Yes.
3336 Ms. Williams. Mr. Marino votes yes.
3337 Mr. Gowdy?
3338 [No response.]
3339 Ms. Williams. Mr. Labrador?
3340 Mr. Labrador. Yes.
3341 Ms. Williams. Mr. Labrador votes yes.
3342 Mr. Farenthold?
3343 [No response.]
3344 Ms. Williams. Mr. Collins?
3345 [No response.]
3346 Ms. Williams. Mr. DeSantis?
3347 [No response.]
3348 Ms. Williams. Ms. Walters?
3349 Ms. Walters. Aye.
3350 Ms. Williams. Ms. Walters votes aye.
3351 Mr. Buck?
3352 Mr. Buck. Yes.
3353 Ms. Williams. Mr. Buck votes yes.
3354 Mr. Ratcliffe?
3355 Mr. Ratcliffe. Yes.

3356 Ms. Williams. Mr. Ratcliffe votes yes.
3357 Mr. Trott?
3358 Mr. Trott. Yes.
3359 Ms. Williams. Mr. Trott votes yes.
3360 Mr. Bishop?
3361 Mr. Bishop. Yes.
3362 Ms. Williams. Mr. Bishop votes yes.
3363 Mr. Conyers?
3364 Mr. Conyers. No.
3365 Ms. Williams. Mr. Conyers votes no.
3366 Mr. Nadler?
3367 Mr. Nadler. No.
3368 Ms. Williams. Mr. Nadler votes no.
3369 Ms. Lofgren?
3370 [No response.]
3371 Ms. Williams. Ms. Jackson Lee?
3372 [No response.]
3373 Ms. Williams. Mr. Cohen?
3374 Mr. Cohen. No.
3375 Ms. Williams. Mr. Cohen votes no.
3376 Mr. Johnson?
3377 Mr. Johnson. No.

3378 Ms. Williams. Mr. Johnson votes no.
3379 Mr. Pierluisi?
3380 Mr. Pierluisi. No.
3381 Ms. Williams. Mr. Pierluisi votes no.
3382 Ms. Chu?
3383 Ms. Chu. No.
3384 Ms. Williams. Ms. Chu votes no.
3385 Mr. Deutch?
3386 [No response.]
3387 Ms. Williams. Mr. Gutierrez?
3388 [No response.]
3389 Ms. Williams. Ms. Bass?
3390 [No response.]
3391 Ms. Williams. Mr. Richmond?
3392 [No response.]
3393 Ms. Williams. Ms. DelBene?
3394 Ms. DelBene. No.
3395 Ms. Williams. Ms. DelBene votes no.
3396 Mr. Jeffries?
3397 [No response.]
3398 Ms. Williams. Mr. Cicilline?
3399 Mr. Cicilline. No.

3400 Ms. Williams. Mr. Cicilline votes no.
3401 Mr. Peters?
3402 Mr. Peters. No.
3403 Ms. Williams. Mr. Peters votes no.
3404 Chairman Goodlatte. Aye.
3405 Ms. Williams. Mr. Goodlatte votes aye.
3406 Mr. Smith. The gentleman from Texas, Mr. Gohmert?
3407 Mr. Gohmert. Aye.
3408 Ms. Williams. Mr. Gohmert votes aye.
3409 Mr. Smith. The clerk will report.
3410 Ms. Williams. Mr. Chairman, 14 members voted aye, 9
3411 members voted no.
3412 Mr. Smith. The ayes have it, and the bill is reported
3413 favorably to the House. Members will have 2 days to submit
3414 their views.
3415 [The information follows:]
3416

3417 Chairman Goodlatte. [Presiding.] Pursuant to notice, I
3418 now call up H.R. 758 for purposes of markup and move that the
3419 committee report the bill favorably to the House.

3420 The clerk will report the bill.

3421 Ms. Williams. H.R. 758, to amend Rule 11 of the Federal
3422 Rules of Civil Procedure to improve attorney accountability
3423 and for other purposes.

3424 Chairman Goodlatte. Without objection, the bill is
3425 considered as read and open for amendment at any point.

3426 [The bill follows:]

3427

3428 Chairman Goodlatte. And I will begin by recognizing
3429 myself for an opening statement. H.R. 758, the Lawsuit Abuse
3430 Reduction Act, would restore mandatory sanctions for
3431 frivolous lawsuits filed in Federal court.

3432 Many Americans may not realize it, but today under what
3433 is called Rule 11 of the Federal Rules of Civil Procedure,
3434 there is no requirement that those who file frivolous
3435 lawsuits pay for the unjustified legal costs they impose on
3436 their victims even when those victims prove to a judge the
3437 lawsuit was without any basis in law or fact. As a result,
3438 the current Rule 11 goes largely unenforced because the
3439 victims of frivolous lawsuits have little incentive to pursue
3440 additional litigation to have the case declared frivolous
3441 when there is no guarantee of compensation at the end of the
3442 day.

3443 H.R. 758 would finally provide light at the end of the
3444 tunnel for the victims of frivolous lawsuits by requiring
3445 sanctions against the filers of frivolous lawsuits, sanctions
3446 which include paying back victims for the full cost of their
3447 reasonable expenses incurred as a direct result of the Rule
3448 11 violation, including attorneys' fees. The bill also
3449 strikes the current provisions in Rule 11 that allow lawyers

3450 to avoid sanctions for making frivolous claims and demands by
3451 simply withdrawing them within 21 days. This change
3452 eliminates the free pass lawyers now have to file frivolous
3453 lawsuits in Federal court.

3454 The current lack of mandatory sanctions leads to the
3455 regular filing of lawsuits that are clearly baseless. So
3456 many frivolous pleadings currently go under the radar because
3457 the lack of mandatory sanctions for frivolous lawsuits forces
3458 victims of frivolous lawsuits to roll over and settle the
3459 case because doing that is less expensive than litigating the
3460 case to a victory in court.

3461 A letter written by someone filing a frivolous lawsuit
3462 which became public concisely illustrates how the current
3463 lack of mandatory sanctions for filing frivolous lawsuits
3464 leads to legal extortion. In that letter the victim of
3465 frivolous lawsuit states, "I really do not care what the law
3466 allows you to do. It is a more practical issue. Do you want
3467 to send your attorney a check every month indefinitely as I
3468 continue to pursue this?"

3469 Under the Lawsuit Abuse Reduction Act, those who file
3470 frivolous lawsuits would no longer be able to get off scot-
3471 free, and, therefore, they could not get away with these

3472 sorts of extortionary threats any longer. The victims of
3473 lawsuit abuse are not just those who are actually sued.
3474 Rather, we all suffer under a system in which innocent
3475 Americans everywhere live under the constant fear of a
3476 potentially bankrupting frivolous lawsuit.

3477 As the former chairman of the Home Depot Company has
3478 written, "An unpredictable legal system casts a shadow over
3479 every plan and investment." It is devastating for startups.
3480 The cost of even one ill-timed abusive lawsuit can bankrupt a
3481 growing company and cost hundreds of thousands of jobs. The
3482 prevalence of frivolous lawsuits in America is reflected in
3483 the absurd warning labels companies must place on their
3484 products to limit their exposure to frivolous claims.

3485 A 5-inch brass fishing lure with three hooks is labeled
3486 "harmful if swallowed." A warning label on a baby stroller
3487 cautions, "Remove child before folding." A sticker on a 13-
3488 inch wheel on a wheelbarrow warns, "Not intended for highway
3489 use." A household iron contains the warning, "Never iron
3490 clothes while they are being worn."

3491 [Laughter.]

3492 Chairman Goodlatte. Sorry. And a cardboard sunshield
3493 that keeps sun off the dashboard warns, "Do not drive with

3494 sunshield in place."

3495 In his 2011 State of the Union Address, President Obama
3496 said, "I am willing to look at other ideas to rein in
3497 frivolous lawsuits." Mr. President, here it is, a 1-page
3498 bill that would significantly reduce the burden of frivolous
3499 litigation on innocent Americans. I thank the former
3500 chairman of this committee, Lamar Smith, for introducing this
3501 simple, common sense legislation that would do so much to
3502 prevent lawsuit abuse and restore Americans' confidence in
3503 the legal system.

3504 The chair now recognizes the ranking member of the
3505 Subcommittee on Constitution and Civil Justice, Mr. Cohen of
3506 Tennessee, for his opening statement.

3507 Mr. Cohen. Thank you, Mr. Chairman. Today we consider
3508 this bill, the Lawsuit Abuse Reduction Act of 2015, which is
3509 substantially identical to that that was introduced in the
3510 112th and 113th Congresses, and earlier we had similar
3511 versions. Like the bill before this and the bill before
3512 that, these are continuing bills that come up one after
3513 another, and it is so much like Bill Murray's movie,
3514 *Groundhog Day*. It is, oh, god, we are here again and going
3515 nowhere.

3516 It is a solution in search of a problem that would
3517 threaten to do more harm than good if enacted. This would
3518 restore the 1983 version of Rule 11 of the Federal Rules of
3519 Civil Procedure by making sanctions for Rule 11 violations
3520 mandatory, eliminating the current safe harbor provision that
3521 allows a party to withdraw or correct any allegedly offending
3522 submission to the court within 21 days after such submission;
3523 in essence, taking power away from the judge who knows most
3524 about what is going on, and putting the authority in
3525 Congress, not in the appointed judge who is at the local
3526 level.

3527 Moreover, the bill would go beyond the 1983 rule by
3528 requiring a court to award reasonable attorneys' fees and
3529 costs related to Rule 11 litigation. Right now, the current
3530 Rule 11 makes them entirely discretionary, leaving it up to
3531 the judge who knows most about the case the opportunity to
3532 make that decision.

3533 No empirical evidence suggests any need for change in
3534 the current Rule 11. In fact, there were good reasons why
3535 the Judicial Conference of the United States amended the '83
3536 rule version of Rule 11, and for those same reasons this bill
3537 is ill-advised. The '83 rule caused excessive litigation.

3538 Many civil cases had a parallel track of litigation
3539 referred to as satellite litigation over Rule 11 violations
3540 because having mandatory sanctions and no safe harbor caused
3541 parties on both sides to litigate the Rule 11 matter to the
3542 bitter end, costing taxpayers and costing the courts time
3543 that they otherwise could use for more important issues,
3544 maybe concerning crimes in their community where the courts
3545 could be dealing with criminal matters and putting serious
3546 criminals away, just as this committee could be dealing with
3547 police abuse, and civil rights violations, and voting rights
3548 violations, and marijuana laws that should be enacted to give
3549 people civil liberties. But we are not. Instead we are
3550 dealing with civil laws because we are more interested in who
3551 makes money and not who has safety, who has freedom, and who
3552 has justice.

3553 The dramatic increase in litigation spawned by the 1983
3554 rule not only resulted in delays in resolving the underlying
3555 case and increased costs for litigants, but also restrained
3556 judicial resources, taking away from their opportunities to
3557 do justice, instead dealing with these cases. In light of
3558 this history, it is clear that H.R. 758 will result in more,
3559 not less, litigation and put a great burden on the Federal

3560 judiciary. Ultimately, the type of Rule 11 sanctions regime
3561 that this bill envisions will only favor those with the money
3562 and resources to fight expensive and drawn-out litigation
3563 battles.

3564 H.R. 758 also threatens judicial independence by
3565 removing that discretion that the judges have now. It also
3566 circumvents the painstaking and thorough rules enabling that
3567 process by recklessly attempting to amend the rules directly,
3568 even over the Judicial Conference's objections.

3569 Finally, we know that the 1983 rule has a
3570 disproportionately chilling impact on civil rights cases, and
3571 there is no reason to think that H.R. 758 would not have a
3572 similar chilling effect if it is enacted. After so many
3573 people went to Selma and talked about the great work of John
3574 Lewis and the civil rights workers, and passed to have a gold
3575 medal for the people that marched over the bridge, to have
3576 this type bill come forward and not an exemption for civil
3577 rights cases, which were novel in their thinking, is absurd.
3578 It is sad, and it is blind.

3579 Civil rights cases, in particular, depend on novel
3580 arguments to the extension modification or reversal of
3581 existing law. Some would have said *Brown v. Board of*

3582 *Education* was one that was not merited and might have had
3583 Rule 11 sanctions voted against it. If it were not for *Brown*
3584 *v. Board of Education*, we would not be where we are today.
3585 Not surprisingly, a Federal Judicial Center study found that
3586 the incidence of Rule 11 motions was higher in civil rights
3587 cases than some other cases with '83 rules in place,
3588 notwithstanding the fact that the rule was neutral on its
3589 face. *Brown v. Board of Education* would have been possibly
3590 delayed, could have been stopped because Rule 11, if it was
3591 in effect at the time of H.R. 758 changes, because it was a
3592 novel argument. At a minimum, the defendants could have used
3593 Rule 11, as amended, as a weapon to dissuade the plaintiffs
3594 or weaken their resolve.

3595 This is a flawed bill. It is a flawed use of our
3596 committee's time which should be devoted to justice, safety,
3597 and some of the problems that we see in the news every day
3598 concerning people losing their lives from acts that are
3599 questionable with deadly force and other facts. And instead
3600 we are here on a bill that has been around forever and will
3601 go nowhere. It is just dealing with which business person
3602 gets richer than another.

3603 I yield back the balance of my time.

3604 Chairman Goodlatte. The chair now recognizes the
3605 chairman of the Constitution and Civil Justice Subcommittee,
3606 the gentleman from Arizona, Mr. Franks, for his opening
3607 statement.

3608 Mr. Franks. Well, thank you, Mr. Chairman. Mr.
3609 Chairman, currently Rule 11 of the Federal Rules of Civil
3610 Procedure sets out one of the most basic requirements for
3611 litigation in Federal court, that papers filed with the
3612 Federal district court must be based on both the facts and
3613 the law. A novel thought. That is to say any time a
3614 litigant signs a filing in Federal court, they are certifying
3615 that to "the best of the person's knowledge, belief, and
3616 information," the filing is accurate based on the law or a
3617 reasonable interpretation of the law, and is brought for a
3618 legitimate purpose.

3619 Mr. Chairman, this is simple. It is one that both sides
3620 to a lawsuit must abide by if we are to have a properly
3621 functioning Federal court system. However, under the current
3622 Federal procedural rules, there is no requirement that a
3623 failure to comply with Rule 11 results in sanctions for the
3624 party that filed the frivolous lawsuit. The fact that
3625 litigants can violate Rule 11 without penalty significantly

3626 reduces the deterrent effect of Rule 11. This harms the
3627 integrity of the Federal courts and forces both plaintiffs
3628 and defendants to spend money to respond to frivolous claims
3629 and arguments with no guarantee of compensation when the
3630 claims against them are found frivolous by a Federal judge.

3631 The Lawsuit Abuse Reduction Act corrects this flaw by
3632 requiring that a Federal district court judge impose
3633 sanctions when Rule 11 is violated. It may relieve litigants
3634 from the financial burden of having to respond to frivolous
3635 claims by requiring those who violate Rule 11 to reimburse
3636 the opposing party reasonable expenses incurred as a direct
3637 result of that violation.

3638 Furthermore, the legislation eliminates Rule 11's 21-day
3639 safe harbor provision, which currently gives litigants a free
3640 pass to make frivolous claims so long as they withdraw those
3641 claims if the opposing side objects within 21 days. As
3642 Justice Antonin Scalia correctly pointed out when Rule 11 was
3643 gutted in 1993, "Those who file frivolous suits and pleadings
3644 should have no safe harbor. Parties will be able to file
3645 thoughtless, reckless, and harassing pleadings, secure in the
3646 knowledge that they have nothing to lose. If objection is
3647 raised, they can retreat without penalty."

3648 Although this legislation makes changes to Rule 11, it
3649 is important to recognize that nothing in this legislation
3650 changes the standard by which courts determine whether a
3651 pleading or other filing violates Rule 11. Courts will apply
3652 the same legal standard that they currently apply to
3653 determine if a filing is frivolous under the rule.

3654 So in the end, all this legislation really does is to
3655 make the technical and conforming changes to Rule 11
3656 necessary to make sanctions mandatory rather than
3657 discretionary. Victims of frivolous lawsuits are just as
3658 deserving of compensation as any other victim, Mr. Chairman,
3659 and there is no reason why those who are the victims of
3660 frivolous lawsuits in Federal court should be the only
3661 litigants who go without compensation when they prove their
3662 injuries in court.

3663 According to the Federal Rules of Civil Procedure, the
3664 goal of the rules is to ensure that every action and
3665 proceeding in Federal court can be determined in a "just,
3666 speedy, and inexpensive manner." That goal is best served
3667 through mandatory sanctions for violating the simple
3668 requirements of Rule 11 that every filing be based on the law
3669 and the facts.

3670 Finally, Mr. Chairman, under this bill, while the bill
3671 has been introduced in the House and Senate in previous
3672 Congresses, as the gentleman said, this Congress is, in fact,
3673 different. For the first time this bill has been introduced
3674 in the Senate by the chairman of the Senate Judiciary
3675 Committee himself, Senator Charles Grassley, who is one of
3676 the leading advocates, for rights of victims, including the
3677 victims of frivolous lawsuits.

3678 And I would urge all my colleagues to support this
3679 simple common sense legislation, and I yield back.

3680 Mr. Smith. [Presiding.] The ranking member, the
3681 gentleman from Michigan, is recognized for his opening
3682 statement.

3683 Mr. Conyers. Thank you, Mr. Chairman. This is an
3684 important consideration. And in addition to myself, I would
3685 like our committee members to know that 758 is a bill
3686 additionally opposed by a broad coalition of groups that
3687 include the Alliance for Justice, the Center for Justice and
3688 Democracy, three, the Consumers Federation of America, four,
3689 Consumers Union, and, five, the Public Citizen. I am going
3690 to put my whole statement into the record under the
3691 provisions for unanimous consent.

3692 Mr. Smith. Without objection, so ordered.

3693 [The information follows:]

3694

3695 Mr. Conyers. And I would merely begin our discussion by
3696 pointing out that H.R. 758 is deeply flawed and addresses a
3697 non-existent problem. That might sounds contradictory, but
3698 the authors of the bill have managed to get both of these
3699 defects in under the same provision, the same rule. A deeply
3700 flawed bill that addresses a non-existent problem. Current
3701 Rule 11 functions well, and returning to the highly
3702 problematic 1983 version of the rule would create, in the
3703 Judicial Conference's words, "a cure worse than the problem
3704 that it is meant to resolve."

3705 And so, we think that the Lawsuit Abuse Reduction Act,
3706 which amends Rule 11 of the Federal Rules of Civil Procedure,
3707 threatens to chill the advancement of civil rights claims,
3708 and increase exponentially the volume and costs of litigation
3709 in the Federal courts. That should be a warning signal for
3710 those members who have spent so many years, even decades, in
3711 working to remove the problems of discrimination, and
3712 segregation, and civil rights violations, and voting rights.
3713 The warning bells should be very clear.

3714 And so, with that, I will conclude my statement because
3715 the further explanation will be in the record itself, and I
3716 thank the chairman.

3717 Mr. Smith. Thank you, Mr. Conyers. I will recognize
3718 myself for an opening statement. And first of all, I want to
3719 thank the chairman of the full committee and the chairman of
3720 the Constitution Subcommittee, Mr. Franks, for their comments
3721 on this bill as well.

3722 The Lawsuit Abuse Reduction Act, known as LARA, is just
3723 over 1 page long, but it would prevent the filing of hundreds
3724 of thousands of pages of frivolous lawsuits in Federal court.
3725 For example, frivolous lawsuits have been filed against the
3726 Weather Channel for failing to accurately predict storms,
3727 against television shows people claimed were too scary, and
3728 against fast food companies because inactive children
3729 happened to gain weight.

3730 Frivolous lawsuits have become too common. Lawyers will
3731 bring these cases, have everything to gain and nothing to
3732 lose under current rules which permit plaintiffs' lawyers to
3733 file frivolous suits, no matter how absurd the claims,
3734 without any penalty. Meanwhile, defendants are often faced
3735 with years of litigation and substantial attorneys' fees.
3736 These cases have wrongly cost innocent individuals and
3737 business owners their reputations and their hard-earned
3738 dollars.

3739 According to the research firm, Towers Watson, the
3740 annual direct cost of American tort litigation now exceed
3741 \$230 billion a year, or over \$850 per person. Before 1993,
3742 it was mandatory for judges to impose sanctions, such as
3743 orders to pay for the other side's legal expenses when
3744 lawyers filed frivolous lawsuits. Then the Civil Rules
3745 Advisory Committee, an obscure branch of the courts, made
3746 penalties optional. This needs to be reversed by this
3747 Congress. Even President Obama has expressed a willingness
3748 to limit frivolous lawsuits. If the President is serious
3749 about stopping these meritless claims, he should support
3750 mandatory sanctions for frivolous lawsuits to avoid making
3751 frivolous promises.

3752 LARA requires lawyers who file frivolous lawsuits to pay
3753 the attorneys' fees and court costs of innocent defendants.
3754 It reverses the rules that made sanctions discretionary
3755 rather than mandatory. Further, LARA expressly provides that
3756 no changes "shall be construed to bar or impede the assertion
3757 or development of new claims, defenses, or remedies under
3758 Federal, State, or local laws, including civil rights laws,
3759 under the Constitution of the United States." Consequently,
3760 civil rights law would not be affected in any way by LARA.

3761 Opponents argue that reinstating mandatory sanctions for
3762 frivolous lawsuits impedes judicial discretion, but this is
3763 false. Under LARA, judges retain the discretion to determine
3764 whether or not a claim is frivolous. If a judge determines
3765 that a claim is frivolous, they must award sanctions. This
3766 ensures that victims of frivolous lawsuits obtain
3767 compensation, but the decision to find a claim frivolous
3768 remains with the judge.

3769 A recent report by the Administrative Office of the
3770 United States Courts found that civil lawsuits rose by tens
3771 of thousands of claims last year. Such an increase makes
3772 this legislation necessary in order to discourage abusive
3773 filings, which further strain court dockets with lengthy
3774 backlogs. The American people are looking for solutions to
3775 obvious lawsuit abuse. LARA restores accountability to our
3776 legal system by reinstating mandatory sanctions for attorneys
3777 who file frivolous lawsuits. Though it will not all lawsuit
3778 abuse, LARA encourages attorneys to think twice before filing
3779 a frivolous lawsuit.

3780 I thank the chairman for taking up this much-needed
3781 legislation, and I ask my colleagues who oppose frivolous
3782 lawsuits and who want to protect hardworking Americans from

3783 false claims to support the Lawsuit Abuse Reduction Act.

3784 Mr. Conyers. Mr. Chairman?

3785 Mr. Smith. The gentleman from Michigan, the ranking
3786 member, is recognized.

3787 Mr. Conyers. I have an amendment at the desk and would
3788 like to call it up.

3789 Mr. Smith. The clerk will report the amendment.

3790 Ms. Williams. Amendment to H.R. 758, offered by Mr.
3791 Conyers, beginning on page 2 --

3792 Mr. Smith. Without objection, the amendment will be
3793 considered as read.

3794 [The amendment of Mr. Conyers follows:]

3795

3796 Mr. Smith. And the gentleman from Michigan is
3797 recognized to explain his amendment.

3798 Mr. Conyers. Thank you very much, Mr. Chairman. Ladies
3799 and gentlemen of the committee, my amendment exempts from the
3800 bill civil rights and constitutional cases. Civil rights and
3801 constitutional cases often raise novel arguments for
3802 extensions or modifications of existing law. These factors
3803 made civil rights plaintiffs particularly susceptible to Rule
3804 11 motions under the 1983 versions of the rule. By restoring
3805 the 1983 rule, H.R. 758 will threaten the pursuit of civil
3806 rights in constitutional cases by going back to the bad old
3807 days.

3808 We know from the decade of experience with the 1983 rule
3809 that civil rights cases were disproportionately impacted.
3810 Example, a 1991 Federal Judicial Center study found that the
3811 incidence of Rule 11 motion was "higher in civil rights cases
3812 than in some other types of cases." Another study showed
3813 that while civil rights cases comprised only 11 percent of
3814 Federal cases filed, more than 22 percent of the cases in
3815 which sanctions had been imposed were civil rights cases.

3816 The bill contains a rule of construction intended to
3817 clarify that it not be construed to bar the assertion of new

3818 claims, defenses, or remedies, including those arising under
3819 civil rights laws or the Constitution. The inclusion of this
3820 language is an acknowledgment of the disproportionate impact
3821 that the 1983 rule had on civil rights cases, and we should
3822 applaud its intent. Nonetheless, I fear this rule of
3823 construction by itself will not prevent defendants from using
3824 Rule 11, as amended by H.R. 758 with mandatory sanctions and
3825 lack of a safe harbor, as a weapon to dissuade civil rights
3826 plaintiffs from pursuing their claim.

3827 My amendment makes an explicit exception for civil
3828 rights and constitutional actions. As a result, litigants
3829 will be clearly aware of its existence and will not be able
3830 to force opposing parties into satellite litigation when the
3831 case is brought under a civil rights law. This amendment is
3832 necessary to avoid even the possibility of a chilling effect
3833 that the amendments made by the bill to Rule 11 could have on
3834 those advocating for civil rights and constitutional law
3835 protections.

3836 As the late Robert Carter, a former United States
3837 District Court judge for the Southern District of New York,
3838 who earlier in his career represented one of the plaintiffs
3839 in *Brown v. Board of Education*, said of the 1983 version of

3840 Rule 11 the following: "I have no doubt that the Supreme
3841 Court's opportunity to pronounce separate schools inherently
3842 unequal as in *Brown v. Board of Education* would have been
3843 delayed for a decade had my colleagues and I been required
3844 upon paying of potential sanctions to plead our legal theory
3845 explicitly from the start." So there you have it.

3846 And so, I must oppose this legislation that would tilt
3847 the playing field so unfairly against citizens seeking to
3848 vindicate their civil and constitutional rights. And I urge
3849 the adoption of this amendment and ask you to recognize the
3850 old adage "here we go again." The civil rights struggle
3851 never ends. It keeps going on, and people keep chipping away
3852 at it by one device or the other.

3853 I thank you, Mr. Chairman, and yield back any time that
3854 may be remaining.

3855 Mr. Smith. Thank you, Mr. Conyers. And I will
3856 recognize myself in opposition to the amendment. The base
3857 bill already makes clear that "nothing in this act or an
3858 amendment by this act shall be construed to bar or impede the
3859 assertion or development of new claims, defenses, or remedies
3860 under Federal, State, or local laws, including civil rights,
3861 or under the Constitution of the United States."

3862 What that provision in the base bill clearly does is
3863 preserve the right to assert claims under the civil rights
3864 laws or the Constitution. That is entirely appropriate.
3865 What is not appropriate, and indeed what would largely negate
3866 the bill is this amendment that would explicitly allow
3867 frivolous claims to be brought under the civil rights laws
3868 and the Constitution without any of the penalties required by
3869 the base bill.

3870 If this amendment were adopted, the bill should be
3871 renamed the Lawsuit Abuse Encouragement Act because it would
3872 invite the filing of frivolous civil rights and
3873 constitutional claims without penalty. No one who supports
3874 civil rights laws or the Constitution should support the
3875 filing of frivolous claims without penalty, but that is what
3876 this amendment would allow. I urge all my colleagues to join
3877 me in opposing this amendment which would expose innocent
3878 Americans everywhere to abusive frivolous lawsuits.

3879 Are there any other members who wish to be heard on this
3880 amendment? The gentleman from Tennessee, Mr. Cohen.

3881 Mr. Cohen. Thank you, sir. I do not know who this may
3882 be addressed to, Mr. Conyers, possibly the former chair, Mr.
3883 Smith. But could not this amendment be such that under Rule

3884 11 civil rights cases that the judge still had discretion?
3885 And I thought that is what it did. This bill says there is
3886 no discretion, and you have to have sanctions. The judge
3887 does not have discretion. Can this amendment not be an
3888 exception to say under civil rights cases the judge has
3889 discretion, not that it takes his power away? It gives him
3890 power. Still if it is a frivolous case, the judge could
3891 still issue Rule 11 sanctions and penalties, but it does not
3892 take it away.

3893 Mr. Smith. If the gentleman will yield, the way I read
3894 the gentleman from Michigan's amendment is it would allow
3895 those types of frivolous lawsuits to be filed, and, yes, of
3896 course, as you say, the judge could still rule them
3897 frivolous. But under the amendment there would be no
3898 penalty, and that would be the only type of claim where there
3899 would be no penalty. And the whole point of the law is to
3900 try to impose a penalty on those who file frivolous lawsuits
3901 to try to discourage those kinds of frivolous lawsuits. And
3902 we might be doing it elsewhere, but we would not be doing in
3903 the case of the civil litigation.

3904 Mr. Cohen. If you would, thank you, Mr. Smith. Mr.
3905 Conyers, would your bill not leave it to be discretionary?

3906 Mr. Conyers. Yes.

3907 Mr. Cohen. Right now it is discretionary on damages.

3908 This bill would make it mandatory. This exception would
3909 simply make it discretionary. There could still be damages.

3910 Mr. Conyers. Exactly. Exactly correct. We are
3911 shooting for a discretionary result.

3912 Mr. Cohen. And I think that is what it is, and if the
3913 majority thinks it is maybe not technically correct, I think
3914 we should take time to draw a technically correct amendment.
3915 We could call it the Spencer Bachus amendment. Spencer would
3916 be for this, and last year on a bill, either this bill or one
3917 quite similar, he just almost broke down and said, hey, this
3918 is civil rights. We have got to do something different. I
3919 am from Birmingham. This is where a lot of the problems
3920 occurred.

3921 And while Mr. Conyers said, and with no reflection on
3922 any of the people that support this amendment. In no way
3923 would I do that. But he said civil rights never ends. Well,
3924 the Civil War really never ends. I have read several columns
3925 about Appomattox, and the fact is Appomattox did not end the
3926 war. It went on, and there were Southerners that never gave
3927 up, and there was the Klan, and there was military force.

3928 And a lot of what has gone on since in the way of trying to
3929 stop people from voting today, voting rights changes and
3930 other efforts, are continuations, and we see it constantly.

3931 And it so happens that the States where those voting
3932 rights violations were that the Supreme Court said, oh, we
3933 have other violations, so we should not just have these, all
3934 happen to be in the States of the old Confederacy. There are
3935 certain things that are constants that have gone on, and they
3936 are consistent, and that is one of them.

3937 But can we not work together and come up with an
3938 amendment. Come let us work together, the kind of Lyndon
3939 Johnson way.

3940 Mr. Smith. Come let us join together.

3941 Mr. Cohen. Yes.

3942 Mr. Smith. I say to my friend from Tennessee of course
3943 we can continue to talk on the amendment. In that case it
3944 might be worthwhile for the gentleman from Michigan to
3945 withdraw the amendment, but if not, surely we can talk. By
3946 the way your reference to Bachus reminds me of that old
3947 saying, "It may not be according to Hoyle, but Hoyle ain't
3948 here." Bachus ain't here either.

3949 [Laughter.]

3950 Mr. Smith. But the point I am making, though, is that
3951 we should not make an exception regardless of the nature of
3952 the lawsuit. Whether it is civil rights or otherwise, I
3953 still think that a penalty should be imposed at the
3954 discretion of the judge. But I am happy --

3955 Mr. Cohen. At the discretion of the judge.

3956 Mr. Smith. Yes.

3957 Mr. Cohen. But this is not at the discretion of the
3958 judge. And civil rights is America's original sin, and we
3959 had several of them.

3960 Mr. Smith. The way I read the amendment is that there
3961 is no penalty for the civil rights litigation, but that is
3962 something we can discuss as you pointed out.

3963 Mr. Cohen. Well, Mr. Conyers, it is up to you. We
3964 could work with Mr. Smith and come up with an amendment that
3965 makes it clear that there still would be discretionary with
3966 judge under this and have that go to the floor.

3967 Mr. Conyers. Immediately after passing this amendment.

3968 Mr. Smith. Okay.

3969 Mr. Conyers. I would be happy to meet with all parties.

3970 Mr. Cohen. Crafty, crafty, crafty.

3971 [Laughter.]

3972 Mr. Smith. Okay. Does the gentleman --

3973 Mr. Cohen. He agreed in part, disagreed in part.

3974 Mr. Conyers. But without withdrawing the amendment.

3975 Mr. Smith. Okay. Without objection --

3976 Mr. Conyers. Look, the civil rights community is
3977 watching this very carefully, and I do not think that they
3978 would appreciate this very friendly conversation, and then we
3979 end up withdrawing the amendment. I do not think that would
3980 work.

3981 Mr. Smith. Okay. Then the amendment --

3982 Mr. Cohen. I think the NBA would look --

3983 Mr. Smith. That is okay. The amendment is not
3984 withdrawn. We are going to need to recess anyway because
3985 there is a hearing here in 15 minutes, so we will continue
3986 this debate and discussion --

3987 Mr. Cohen. I look forward to continuing it, and I
3988 understand the NBA would not --

3989 Mr. Conyers. So do I.

3990 Mr. Cohen. -- look kindly towards the San Antonio Spurs
3991 if this amendment does not get off.

3992 [Laughter.]

3993 Mr. Smith. We stand in recess.

3994 [Whereupon, at 1:45 p.m., the committee was adjourned.]