To provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 7.7 percent.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2011

Mr. JOHNSON of Wisconsin (for himself, Mr. PAUL, Mr. CORNYN, Mr. LEE, Mr. TOOMEY, Mr. RISCH, Mr. COBURN, Ms. AYOTTE, Mr. RUBIO, Mr. DEMINT, Mr. VITTER, Mr. GRASSLEY, Mr. ISAKSON, Mr. HATCH, Mr. WICKER, Mrs. HUTCHISON, Mr. INHOFE, Mr. BURR, Mr. COATS, Mr. BOOZMAN, and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide that no agency may take any significant regulatory action until the unemployment rate is equal to or less than 7.7 percent.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Regulation Morato-
5 rium and Jobs Preservation Act of 2011”.

6 SEC. 2. DEFINITIONS.

7 In this Act—
(1) the term “agency” has the meaning given under section 3502(1) of title 44, United States Code;

(2) the term “regulatory action” means any substantive action by an agency that promulgates or is expected to lead to the promulgation of a final regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking;

(3) the term “significant regulatory action” means any regulatory action that is likely to result in a rule or guidance that may—

(A) have an annual effect on the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities;

(B) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(C) materially alter the budgetary impact of entitlements, grants, user fees, or loan pro-
grams or the rights and obligations of recipients thereof; or

(D) raise novel legal or policy issues; and

(4) the term "small entities" has the meaning given under section 601(6) of title 5, United States Code.

SEC. 3. SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—No agency may take any significant regulatory action, until the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

(b) DETERMINATION.—The Secretary of Labor shall submit a report to the Director of the Office of Management and Budget whenever the Secretary determines that the Bureau of Labor Statistics average of monthly unemployment rates for any quarter beginning after the date of enactment of this Act is equal to or less than 7.7 percent.

SEC. 4. WAIVERS.

(a) NATIONAL SECURITY OR NATIONAL EMERGENCY.—The President may waive the application of section 3 to any significant regulatory action, if the President—

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(1) determines that the waiver is necessary on
the basis of national security or a national emer-
gency; and

(2) submits notification to Congress of that
waiver and the reasons for that waiver.

(b) ADDITIONAL WAIVERS.—

(1) SUBMISSION.—The President may submit a
request to Congress for a waiver of the application
of section 3 to any significant regulatory action.

(2) CONTENTS.—A submission under this sub-
section shall include—

(A) an identification of the significant reg-
ulatory action; and

(B) the reasons which necessitate a waiver
for that significant regulatory action.

(3) CONGRESSIONAL ACTION.—Congress shall
give expeditious consideration and take appropriate
legislative action with respect to any waiver request
submitted under this subsection.

SEC. 5. JUDICIAL REVIEW.

(a) DEFINITION.—In this section, the term “small
business” means any business, including an unincor-
porated business or a sole proprietorship, that employs not
more than 500 employees or that has a net worth of less
than $7,000,000 on the date a civil action arising under this Act is filed.

(b) REVIEW.—Any person that is adversely affected or aggrieved by any significant regulatory action in violation of this Act is entitled to judicial review in accordance with chapter 7 of title 5, United States Code.

c) JURISDICTION.—Each court having jurisdiction to review any significant regulatory action for compliance with any other provision of law shall have jurisdiction to review all claims under this Act.

d) RELIEF.—In granting any relief in any civil action under this section, the court shall order the agency to take corrective action consistent with this Act and chapter 7 of title 5, United States Code, including remanding the significant regulatory action to the agency and enjoining the application or enforcement of that significant regulatory action, unless the court finds by a preponderance of the evidence that application or enforcement is required to protect against an imminent and serious threat to the national security from persons or states engaged in hostile or military activities against the United States.

e) REASONABLE ATTORNEY FEES FOR SMALL BUSINESSES.—The court shall award reasonable attorney fees and costs to a substantially prevailing small business in any civil action arising under this Act. A party qualifies
as substantially prevailing even without obtaining a final
judgment in its favor if the agency changes its position
as a result of the civil action.

(f) LIMITATION ON COMMENCING CIVIL ACTION.—
A person may seek and obtain judicial review during the
1-year period beginning on the date of the challenged
agency action or within 90 days after an enforcement ac-
tion or notice thereof, except that where another provision
of law requires that a civil action be commenced before
the expiration of that 1-year period, such lesser period
shall apply.