

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3463) TO REDUCE FEDERAL SPENDING AND THE DEFICIT BY TERMINATING TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS AND PARTY CONVENTIONS AND BY TERMINATING THE ELECTION ASSISTANCE COMMISSION; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 527) TO AMEND CHAPTER 6 OF TITLE 5, UNITED STATES CODE (COMMONLY KNOWN AS THE REGULATORY FLEXIBILITY ACT), TO ENSURE COMPLETE ANALYSIS OF POTENTIAL IMPACTS ON SMALL ENTITIES OF RULES, AND FOR OTHER PURPOSES; AND PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3010) TO REFORM THE PROCESS BY WHICH FEDERAL AGENCIES ANALYZE AND FORMULATE NEW REGULATIONS AND GUIDANCE DOCUMENTS

NOVEMBER 29, 2011.—Referred to the House Calendar and ordered to be printed

Mr. WOODALL, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 477]

The Committee on Rules, having had under consideration House Resolution 477, by a record vote of 7-3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3463, to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions and by terminating the Election Assistance Commission, under a closed rule. The resolution provides one hour of debate in the House equally divided and controlled by the chair and ranking minority member of the Committee on House Administration. The resolution waives all points of order against consideration of the bill. The resolution provides that the bill shall be considered as read. The resolution waives all points of order against provisions in the bill. The resolution provides for one motion to recommit.

The resolution further provides for consideration of H.R. 527, the Regulatory Flexibility Improvements Act of 2011, under a structured rule. The resolution provides one hour of general debate with 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary and 20 minutes equally divided and controlled by the chair and ranking mi-

nority member of the Committee on Small Business. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment an amendment in the nature of a substitute consisting of the text of the Rules Committee Print of H.R. 527 dated November 18, 2011 and provides that it be considered as read. The rule waives all points of order against the Rules Committee Print. The resolution makes in order only those amendments to H.R. 527 printed in part A of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part A. The resolution provides one motion to recommit with or without instructions.

The resolution further provides for consideration of H.R. 3010, the Regulatory Accountability Act of 2011, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The resolution waives all points of order against consideration of the bill. The resolution makes in order as original text for the purpose of amendment the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill and provides that it be considered as read. The resolution waives all points of order against the committee amendment in the nature of a substitute. The resolution makes in order only those amendments to H.R. 3010 printed in part B of this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The resolution waives all points of order against the amendments printed in part B of the Rules Committee Report. The resolution provides one motion to recommit with or without instructions.

Finally, the resolution authorizes the Speaker to entertain motions that the House suspend the rules at any time through the legislative day of Friday, December 2, 2011, relating to a measure addressing railway labor.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of H.R. 3463, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 3463, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 527, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendment in the nature of a substitute to H.R. 527 consisting of the text of the Rules Committee Print dated November 18, 2011, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 527 printed in part A of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 3010, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the committee amendment in the nature of a substitute to H.R. 3010, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments to H.R. 3010 printed in part B of this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 160

Motion by Mr. McGovern to report an open rule for H.R. 3463, H.R. 527 and H.R. 3010. Defeated: 3–7.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Mr. McGovern	Yea
Ms. Foxx	Nay	Mr. Hastings of Florida	Yea
Mr. Bishop of Utah	Nay	Mr. Polis	Yea
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		

Rules Committee record vote No. 161

Motion by Mr. McGovern to make in order and provide the necessary waivers for amendment #1 to H.R. 3463, offered by Rep. McGovern (MA), which would end taxpayer subsidies to oil companies. Defeated: 3–7.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Mr. McGovern	Yea
Ms. Foxx	Nay	Mr. Hastings of Florida	Yea
Mr. Bishop of Utah	Nay	Mr. Polis	Yea
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		

Rules Committee record vote No. 162

Motion by Mr. Hastings (FL) to make in order and provide the necessary waivers for amendment #7 to H.R. 3010 offered by Mr. Johnson (GA), which would create an exemption for any rule or guidance that would result in net job creation. Defeated: 3–7.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Mr. McGovern	Yea
Ms. Foxx	Nay	Mr. Hastings of Florida	Yea
Mr. Bishop of Utah	Nay	Mr. Polis	Yea
Mr. Woodall	Nay		
Mr. Nugent	Nay		
Mr. Scott of South Carolina	Nay		
Mr. Webster	Nay		

Rules Committee record vote No. 163

Motion by Ms. Foxx to report the rule. Adopted: 7–3.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Yea	Mr. McGovern	Nay
Ms. Foxx	Yea	Mr. Hastings of Florida	Nay
Mr. Bishop of Utah	Yea	Mr. Polis	Nay
Mr. Woodall	Yea		
Mr. Nugent	Yea		
Mr. Scott of South Carolina	Yea		
Mr. Webster	Yea		

SUMMARY OF AMENDMENTS IN PART A MADE IN ORDER

1. Critz (PA): Would require the estimated cumulative impact on small businesses of any other rule stemming from the implementation of the Free Trade Agreements. (10 minutes)

2. Jackson Lee (TX): Would exempt all rules promulgated by the Department of Homeland Security. (10 minutes)

3. Cohen (TN): Would exempt from the bill any rule that relates to food safety, workplace safety, consumer products safety, air or water quality. (10 minutes)

4. Peters (MI): Would exempt from the bill all rules that OMB determines would result in net job creation. (10 minutes)

5. Jackson Lee (TX): Would require a GAO report to determine the cost of carrying out the Act and the effect it will have on federal agency rule making. In addition, the report would need to contain information on the impact of repealing the ability of an agency to waive provisions in the Regulatory Flexibility Act when responding to an emergency. (10 minutes)

6. Johnson, Hank (GA): Would create an exception for any rule making to carry out the FDA Food Safety Modernization Act. (10 minutes)

SUMMARY OF AMENDMENTS IN PART B MADE IN ORDER

1. Moore, Gwen (WI): Would clarify that an agency shall take into account whether a problem disproportionately impacts certain vulnerable subpopulations (including veterans, low-income individuals and families, and the elderly), and whether such an impact would be mitigated by new agency action. (10 minutes)

2. Olson (TX): Would clarify that cumulative costs and benefits and estimated impacts on jobs shall include an estimate of the net gain or loss in domestic jobs. (10 minutes)

3. Jackson Lee (TX): Would clarify that the agency would retain the discretion to determine whether to provide advanced notice, not later than 90 days, of a proposed rule prior to it being published in the Federal Register. (10 minutes)

4. Jackson Lee (TX): Would strike a section of the Act, which would allow any member of the public to petition for a hearing to determine whether the proposed rule fails to comply with the Information Quality Act, if the sole purpose of the petition is to unduly delay the implementation of a rule. (10 minutes)

5. Connolly (VA): Would clarify that regulations to protect public health and safety would not be blocked or repealed by H.R. 3010. (10 minutes)

6. Nadler (NY): Would exempt from the Act actions by the Nuclear Regulatory Commission under the Atomic Energy Act. (10 minutes)

7. Jackson Lee (TX): Would exempt all rules promulgated by the Department of Homeland Security. (10 minutes)

PART A—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CRITZ OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, line 26, insert “, or the cumulative impact of any other rule stemming from the implementation of the Free Trade Agreements,” before “on small entities”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 23, add the following after line 24 and redesignate succeeding sections (and references thereto) accordingly:

SEC. 9. EXEMPTION FOR CERTAIN RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following new section:

“§ 613. Exemption for certain rules

“Sections 601 through 612, as amended by the Regulatory Flexibility Improvements Act of 2011, shall not apply in the case of any rule promulgated by the Department of Homeland Security. The provisions of this chapter, as in effect before the enactment of the Regulatory Flexibility Improvements Act of 2011, shall continue to apply, after such enactment, to any rule described in the preceding sentence.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 5, United States Code, is amended by adding after the item relating to section 612 the following new item:

“613. Exemption for certain rules.”.

Page 24, line 13, insert after “5” the following: “(other than rules to which section 613 of title 5 applies)”.

Page 27, lines 5 and 6, strike “The agency shall” and insert the following:

“(A) IN GENERAL.—Subject to subparagraph (B), the agency shall”.

Page 27, line 18, strike the quotation marks and second period.

Page 27, add the following after line 18:

“(B) TREATMENT OF CERTAIN RULES.—In the case of any rule promulgated by the Department of Homeland Security, this paragraph as in effect before the enactment of the Regulatory Flexibility Improvements Act of 2011, shall continue to apply, after such enactment, to any such rule, in lieu of subparagraph (A).”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE COHEN OF TENNESSEE OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 23, add the following after line 24 and redesignate succeeding sections (and references thereto) accordingly:

SEC. 9. EXEMPTION FOR CERTAIN RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following new section:

“§ 613. Exemption for certain rules

“Sections 601 through 612, as amended by the Regulatory Flexibility Improvements Act of 2011, shall not apply in the case of any rule that relates to the safety of food, the safety of the workplace, air quality, the safety of consumer products, or water quality. The provisions of this chapter, as in effect before the enactment of the Regulatory Flexibility Improvements Act of 2011, shall continue to apply, after such enactment, to any rule described in the preceding sentence.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 6 of title 5, United States Code, is amended by adding after the item relating to section 612 the following new item:

“613. Exemption for certain rules.”.

Page 24, line 13, insert after “5” the following: “(other than rules to which section 613 of title 5 applies)”.

Page 27, lines 5 and 6, strike “The agency shall” and insert the following:

“(A) IN GENERAL.—Subject to subparagraph (B), the agency shall”.

Page 27, line 18, strike the quotation marks and second period.

Page 27, add the following after line 18:

“(B) TREATMENT OF CERTAIN RULES.—In the case of any rule that relates to the safety of food, the safety of the workplace, air quality, the safety of consumer products, or water quality, this paragraph as in effect before the enactment of the Regulatory Flexibility Improvements Act of

2011, shall continue to apply, after such enactment, to any such rule, in lieu of subparagraph (A).”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE PETERS OF MICHIGAN OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 27, insert after line 18 the following:

SEC. 12. EXCEPTION FOR CERTAIN RULES.

Chapter 6 of title 5, United States Code, 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996, section 2341 of title 28, United States Code, and section 2342 of such title, as amended by this Act, shall not apply in the case of any proposed rule, final rule, or guidance that the Director of the Office of Management and Budget determines will result in net job creation. Chapter 6 of title 5, United States Code, 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996, section 2341 of title 28, United States Code, and section 2342 of such title, as in effect before the enactment of this Act shall apply to such proposed rules, final rules, or guidance, as appropriate.

Page 1, in the matter preceding line 6, insert after the item relating to section 11 the following:

Sec. 12. Exception for certain rules.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Add, at the end of the bill, the following:

SEC. 12. GAO REPORT.

Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the cost effectiveness of the amendments made by this Act. Such report shall include the following:

(1) A list of all additional costs and resources that each agency will have to expend to carry out this Act and the amendments made by this Act.

(2) The effect of this Act and the amendments made by this Act on the efficiency of the rule making process (including the amount of time required to make and implement a new rule).

(3) To what extent this Act or the amendments made by this Act will impact the making and implementation of new rules in the event of an emergency.

(4) The overall effectiveness of this Act or the amendments made by this Act (including the extent to which agencies are in compliance with the Act or the amendments to the Act).

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF GEORGIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end of the bill the following:

SEC. 12. APPLICATION WITH REGARD TO CERTAIN STATUTE.

None of the amendments made by this Act shall apply to any rule making to carry out the FDA Food Safety Modernization Act (21 U.S.C. 2201 note).

PART B—TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MOORE OF WISCONSIN OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

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

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

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OLSON OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

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

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Beginning on page 14, line 22, strike all that follows through page 15, line 2, and redesignate provisions accordingly.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CONNOLLY OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 9. EXEMPTION FOR CERTAIN RULES AND GUIDANCE.

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

“§ 553b. Exemption for certain rules and guidance

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

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

“553b. Exemption for certain rules and guidance.”

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE NADLER OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 9. EXEMPTION FOR CERTAIN RULES AND GUIDANCE.

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

“§ 553b. Exemption for certain rules and guidance

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

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

“553b. Exemption for certain rules.”

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE JACKSON LEE OF TEXAS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

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

SEC. 9. EXEMPTION FOR CERTAIN RULES AND GUIDANCE.

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

“§ 553b. Exemption for certain rules and guidance

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

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

“553b. Exemption for certain rules.”.

