

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 10) TO AMEND CHAPTER 8 OF TITLE 5, UNITED STATES CODE, TO PROVIDE THAT MAJOR RULES OF THE EXECUTIVE BRANCH SHALL HAVE NO FORCE OR EFFECT UNLESS A JOINT RESOLUTION OF APPROVAL IS ENACTED INTO LAW, AND FOR OTHER PURPOSES

DECEMBER 1, 2011.—Referred to the House Calendar and ordered to be printed

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

R E P O R T

[To accompany H. Res. 479]

The Committee on Rules, having had under consideration House Resolution 479, by a record vote of 6 to 4, 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. 10, the Regulations From the Executive in Need of Scrutiny 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 provides that the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the bill, as modified by the amendment in part A of this report, shall be considered as adopted. The resolution provides that the bill, as amended, shall be considered as original text for the purpose of further amendment and shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended.

The resolution makes in order only those further amendments 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 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 amend-

ments printed in part B of this report. The resolution provides one motion to recommit with or without instructions.

Section 2 of the resolution provides that during any recess or adjournment of not more than three days, if in the opinion of the Speaker the public interest so warrants, then the Speaker or his designee, after consultation with the Minority Leader, may reconvene the House at a time other than that previously appointed, within the limits of clause 4, section 5, article I of the Constitution, and notify Members accordingly.

Section 3 of the resolution provides that clause 3 of rule XXIX shall apply to the availability requirements for a conference report and the accompanying joint statement under clause 8(a)(1) of rule XXII.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the bill, as modified, includes a waiver of section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the Budget Committee's jurisdiction, unless reported by the Budget Committee.

Although the resolution waives all points of order against provisions in the bill, as amended, 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 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. 164

Motion by Ms. Slaughter to report an open rule. Defeated: 4–6.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Nugent	Nay	Mr. Polis	Yea
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 165

Motion by Ms. Slaughter to strike amendment No. 6, offered by Rep. Ryan, in part A of this report and make conforming changes. Defeated: 4–6.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Nugent	Nay	Mr. Polis	Yea
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 166

Motion by Mr. McGovern to add two sections to the rule. The first section would require the Clerk of the House to notify Members of the date and time at which a measure was made publicly available. The second section would require the Clerk to establish a procedure to notify Members whenever a measure is made publicly available. Defeated: 4–6.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Nay	Ms. Slaughter	Yea
Ms. Foxx	Nay	Mr. McGovern	Yea
Mr. Woodall	Nay	Mr. Hastings of Florida	Yea
Mr. Nugent	Nay	Mr. Polis	Yea
Mr. Webster	Nay		
Mr. Dreier, Chairman	Nay		

Rules Committee record vote No. 167

Motion by Mr. Sessions to report the rule. Adopted: 6–4.

Majority Members	Vote	Minority Members	Vote
Mr. Sessions	Yea	Ms. Slaughter	Nay
Ms. Foxx	Yea	Mr. McGovern	Nay
Mr. Woodall	Yea	Mr. Hastings of Florida	Nay
Mr. Nugent	Yea	Mr. Polis	Nay
Mr. Webster	Yea		
Mr. Dreier, Chairman	Yea		

SUMMARY OF AMENDMENT IN PART A CONSIDERED AS ADOPTED

Ryan, Paul (WI): Would amend section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 in order to assure that any costs associated with approving or disapproving rules authorized by budget-related legislation are properly accounted for under the Congressional Budget Process.

SUMMARY OF AMENDMENTS IN PART B MADE IN ORDER

1. Sessions (TX): Would require the agency submitting the report on a proposed Federal rule to include an assessment, as part of the cost-benefit analysis submitted to the Comptroller General and each House of Congress, of anticipated jobs gained or lost as a result of implementation, and to specify whether those jobs will come from the public or private sector. (10 minutes)

2. Johnson, Hank (GA), Jackson Lee (TX), Hastings, Alcee (FL): Would exempt any rule that the Office of Management and Budget determines would result in net job creation. (10 minutes)

3. Schrader (OR): Would require a cost benefit analysis to be included with reports to Congress and require agencies to submit criteria for cost benefit analyses to Congress within 12 months of enactment. (10 minutes)

4. McKinley (WV): Would reduce the annual effect on the economy of the term “major rule” from \$100,000,000 or more to \$50,000,000 or more. (10 minutes)

5. McCarthy, Carolyn (NY): Would exempt any rule relating to food safety, workplace safety, air quality, consumer product safety, or water quality. (10 minutes)

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

7. Moore, Gwen (WI): Would exempt any rule relating to veterans or veterans affairs. (10 minutes)

PART A—TEXT OF AMENDMENT CONSIDERED AS ADOPTED

At the end, add the following new section:

SEC. ____ . BUDGETARY EFFECTS OF RULES SUBJECT TO SECTION 802 OF TITLE 5, UNITED STATES CODE.

Section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

“(E) BUDGETARY EFFECTS OF RULES SUBJECT TO SECTION 802 OF TITLE 5, UNITED STATES CODE.—Any rules subject to the congressional approval procedure set forth in section 802 of chapter 8 of title 5, United States Code, affecting budget authority, outlays, or receipts shall be assumed to be effective unless it is not approved in accordance with such section.”.

PART B—TEXT OF AMENDMENTS MADE IN ORDER

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

Page 25, line 18, insert “, including an analysis of any jobs added or lost, differentiating between public and private sector jobs” before the semicolon.

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

Page 45, line 22, insert after the first period the following:

“§ 808. Exemption for certain rules

“Sections 801 through 807 of this chapter, as amended by the Regulations from the Executive in Need of Scrutiny Act of 2011 shall not apply in the case of any rule that the Director of the Office of Management and Budget determines will result in net job creation. This chapter, as in effect before the enactment of the Regulations from the Executive in Need of Scrutiny Act of 2011, shall continue to apply, after such enactment, to any such rule, as appropriate.”.

Page 24, in the matter preceding line 10, add after the item relating to section 807 the following new item:

808. Exemption for certain rules.

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

Page 25, line 9, strike “and”.

Page 25, insert after line 9 the following (and redesignate provisions accordingly):

“(v) a cost-benefit analysis of the rule; and”.

Page 26, insert after line 11 the following:

“(D) Not later than the later of January 1, 2013 or the date that is 1 year after the date of enactment of the Regulations from the Executive in Need of Scrutiny Act of 2011, each Federal agency shall submit to Congress appropriate criteria for conducting cost-benefit analyses under subparagraph (A)(v) for each rule for which that agency may be required to submit such an analysis.”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCKINLEY OF WEST VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 42, line 23, strike “\$100,000,000” and insert “\$50,000,000”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MCCARTHY OF NEW YORK OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 45, line 22, strike the quotation marks and second period.
Page 45, insert the following after line 22:

“§ 808. Exemption for certain rules

“Sections 801 through 807, as amended by the Regulations From the Executive in Need of Scrutiny 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 Regulations From the Executive in Need of Scrutiny Act of 2011, shall continue to apply, after such enactment, to any rule described in the preceding sentence.”.

Page 24, in the matter preceding line 10, add after the item relating to section 807 the following new item:

“808. Exemption for certain rules.

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

Page 45, line 22, insert after the first period the following:

“§ 808. Exemption for certain rules

“Sections 801 through 807 of this chapter, as amended by the Regulations from the Executive in Need of Scrutiny Act of 2011 shall not apply in the case of any rule made by the Secretary of Homeland Security. This chapter, as in effect before the enactment of the Regulations from the Executive in Need of Scrutiny Act of 2011, shall continue to apply, after such enactment, to any such rule, as appropriate.”.

Page 24, in the matter preceding line 10, add after the item relating to section 807 the following new item:

808. Exemption for certain rules.

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

Page 45, line 22, insert after the first period the following:

“§ 808. Exemption for certain rules

“Sections 801 through 807 of this chapter, as amended by the Regulations from the Executive in Need of Scrutiny Act of 2011 shall not apply in the case of any rule that relates to veterans or veterans affairs. This chapter, as in effect before the enactment of the Regulations from the Executive in Need of Scrutiny Act of 2011, shall continue to apply, after such enactment, to any such rule, as appropriate.”.

Page 24, in the matter preceding line 10, add after the item relating to section 807 the following new item:

808. Exemption for certain rules.

