

of firms with less than 25 workers. Because they lack bargaining leverage, some small businesses pay 18 percent more than larger businesses with the same health insurance.

If H.R. 3962, the Affordable Health Care Act for America, is enacted, small businesses will be able to find affordable health insurance coverage in the health insurance exchange.

Under the legislation, businesses with up to 100 employees will be able to join the health insurance exchange, benefiting from group rates and a greater choice of insurers. There are 16,600 small businesses in the district I represent that will be able to join that health insurance exchange.

H.R. 3962 will allow small businesses with 25 employees or less and average wages of less than \$40,000 to qualify for tax credits up to 50 percent of the cost of providing health insurance. There are 14,600 small businesses in our Texas district that will qualify for these credits. That's why it's important we pass health care.

HEALTH CARE REFORM

(Mr. GERLACH asked and was given permission to address the House for 1 minute.)

Mr. GERLACH. Mr. Speaker, I rise today in opposition to the Democrats' most recent health care reform proposal. Frankly, it's a bad bill that keeps getting worse and worse. Not only will it cost over \$1.2 trillion over 10 years, it continues the typical Democrat model of huge tax increases on individuals and small business owners, and it will devastate our seniors' Medicare Advantage program.

Under the latest bill, it will now begin taxing our medical device manufacturers, of which there are 600 such companies in Pennsylvania employing nearly 20,000 people. That tax will do nothing but cut jobs, increase prices, and stifle new product innovation for an industry who wants to grow and prosper in the face of increasing European competition.

If this bill is the best reform this body can produce, it is a sad commentary, indeed, on the Democrats' professed willingness to achieve a commonsense, bipartisan solution to this most pressing issue.

HEALTH INSURANCE COMPANY PROTECTION ACT

(Ms. WASSERMAN SCHULTZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WASSERMAN SCHULTZ. Well, it's finally here. The long-promised Republican health care bill was rolled out Tuesday night. Republicans controlled Congress from 1994 to 2006, so you could say that we've actually waited 15 years for their bill. But after 15 years of waiting, the Republican bill maintains the status quo and allows insurance companies to continue engaging in un-

fair practices that boost their profits at the expense of the American consumer.

Indeed, the Republican plan amounts to a "health insurance company protection act" and shows once and for all that Republicans don't want real reform and will fight to protect the status quo every step of the way. At least it's consistent with their message of "no." Does it cover 96 percent of the American public? No. Does it end denials because of a preexisting condition? No. Does it emphasize wellness and prevention? No. Does it rein in health care costs? No.

The Republican health insurance company protection act, it says "no" to Americans and "yes" to insurance company CEOs.

IT'S TIME FOR ALL PEOPLE TO HAVE ACCESS TO INSURANCE

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the time has come—it is long past time—that we should pass health care reform.

I know there is a lot of influence that is passing out a lot of information that is not true. We are not cutting Medicare. We are rearranging it so that it can cover more people, but there is no cut in services.

It's so easy to say things that are not true, to have scare tactics. Actually, all we have to do is try to understand the bill and tell the truth.

The people of this Nation want this change. It is time for the change. It is time for all people to have access to insurance. All the people—47 million, or whatever—that are not insured now could very well be insured if the insurance companies would insure them and allow them to use the insurance. That is not happening.

We have to think of another way. And the insurance companies can still live, but hopefully with some competition.

PROVIDING FOR CONSIDERATION OF H.R. 2868, CHEMICAL FACILITY ANTI-TERRORISM ACT OF 2009

Mr. HASTINGS of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 885 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 885

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2868) to amend the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities, and for

other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed 90 minutes equally divided among and controlled by the chair and ranking minority member of the Committee on Homeland Security, the chair and ranking minority member of the Committee on Energy and Commerce, and the chair and ranking minority member of the Committee on Transportation and Infrastructure. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments in the nature of a substitute recommended by the Committees on Homeland Security and Energy and Commerce now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the 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. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Homeland Security or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

SEC. 3. It shall be in order at any time through the legislative day of November 7, 2009, for the Speaker to entertain motions that the House suspend the rules. The Speaker or her designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this section.

□ 1030

The SPEAKER pro tempore. The gentleman from Florida is recognized for 1 hour.

Mr. HASTINGS of Florida. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. HASTINGS of Florida. I ask unanimous consent that all Members be given 5 legislative days in which to

revise and extend their remarks on House Resolution 885.

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

There was no objection.

Mr. HASTINGS of Florida. I yield myself such time as I may consume.

Mr. Speaker, H. Res. 885 provides for consideration of H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009, under a structured rule. The rule provides 90 minutes of general debate equally divided between the Committees on Homeland Security, Energy and Commerce, and Transportation and Infrastructure.

The rule waives all points of order against consideration of the bill except those arising under clause 9 or 10 of rule XXI. It further provides that in lieu of the amendments in the nature of a substitute recommended by the Committees on Homeland Security and Energy and Commerce, the amendment in the nature of a substitute printed in the Rules Committee report shall be considered as an original bill for the purpose of amendment.

The rule waives all points of order against the amendment in the nature of a substitute except those arising under clause 10 of rule XXI.

The rule makes in order 10 amendments listed in the Rules Committee report, each debatable for 10 minutes. All points of order against the amendments printed in part B of the report are waived except for clauses 9 and 10 of rule XXI. It further provides one motion to recommit with or without instructions.

Finally, the rule allows the Speaker to entertain motions to suspend the rules through the legislative day of November 7, 2009. The Speaker or her designee shall consult with the minority leader or his designee on the designation of any matter for consideration pursuant to this resolution.

Mr. Speaker, now I will proceed to the underlying legislation.

I wish to thank Chairman BENNIE THOMPSON, Chairman HENRY WAXMAN, Chairman JIM OBERSTAR, and other members of the House Energy and Commerce Committee who contributed to this legislation meaningfully and to the resulting amendment in the nature of a substitute.

H.R. 2868 amends the Homeland Security Act of 2002 to extend, modify, and recodify the authority of the Secretary of Homeland Security to enhance security and protect against acts of terrorism against chemical facilities and for other purposes.

This bill helps ensure that the chemical manufacturing and storage industry, which generates \$550 billion in revenue each year, is safe and secure and less susceptible to a terrorist-inspired attack. Importantly, it offers additional protections for the people and families who live near these facilities.

The concentration of lethal chemicals near large population centers makes these facilities attractive ter-

rorist targets. The bill protects workers and neighbors of chemical facilities by asking the highest risk facilities to switch to safer chemicals and processes when it is economically feasible.

By establishing a single agency responsible for security at drinking water and wastewater facilities, the bill promotes consistent implementation of security across the industry. This legislation also helps to ensure added security for this industry. This legislation has been endorsed by the National Association of Clean Water Agencies and by the American Public Works Association.

Also, it is critical to ensure that Chemical Facility Anti-Terrorism Standards—CFATS is the acronym—is a floor and not a ceiling for safety measures, allowing States and localities to implement more stringent chemical security standards for chemical facilities, community water systems, port facilities, and wastewater treatment facilities. The bill promotes innovation and best practices to ensure that our citizens are protected and secure.

Mr. Speaker, it is worth noting that my friends across the aisle may argue that the implementation of inherently safer technology, IST, standards will hurt small businesses and will cause job loss. However, IST is already recognized as a “best practice,” and is widely accepted within the chemical sector. Only facilities that are judged most at-risk may be required to implement IST due to the danger posed by the release of large quantities of toxic substances at the facility.

Before IST is even implemented, it would have to be shown in writing that incorporating IST would significantly reduce the risk of death, injury or serious adverse effects to human health and that implementation is, number one, technically feasible; number two, cost-effective; and, number three, that it lowers the risk at that facility while also not shifting it to other facilities or elsewhere in the supply chain.

Mr. Speaker, I would be remiss to not again thank Chairman BENNIE THOMPSON for his support of an amendment that I will offer later to the underlying legislation.

My amendment strengthens the newly created Office of Chemical and Facility Security by designating a specific point of contact for interagency coordination with the EPA.

My amendment also requires the Secretary to proactively inform State emergency response commissions and local emergency planning committees about activities related to the implementation of the act so that they may update their emergency planning and training procedures.

I look forward to offering this amendment to the underlying legislation so that we can ensure that this legislation informs and better interfaces with activities currently underway based on the Emergency Planning and Community Right-to-Know Act of 1986.

I urge my colleagues to support the rule and the underlying legislation.

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

Mr. LINCOLN DIAZ-BALART of Florida. I yield myself such time as I may consume.

I want to thank my good friend, the gentleman from Florida (Mr. HASTINGS), for the time.

In 2006, Mr. Speaker, as part of the Homeland Security Appropriations Act of 2007, Congress gave the Department of Homeland Security the authority to promulgate risk-based security performance standards for chemical facilities that use or store chemicals.

I am glad that Mr. LUNGREN of California is here, because he was intimately involved with the legislation that ultimately became law.

The DHS subsequently issued the Chemical Facility Anti-Terrorism Standards (CFATS), requiring chemical facilities to report the types and amounts of chemicals housed on sites. The legislative authority for CFATS was scheduled to sunset this year in October. The underlying bill, the Chemical Facility Anti-Terrorism Act of 2009, makes permanent the authority of the Secretary of Homeland Security to regulate security at chemical plants.

I believe it's important to address the sunset of the existing CFATS program at the Department of Homeland Security. However, I have concerns that this bill fails to enhance our security and, at a time when we are facing 10 percent unemployment, perhaps even higher unemployment in the future, that it could endanger economic recovery.

Of particular concern is the IST, the inherently safer technology, provisions included in this legislation. IST allows the Federal Government to mandate the use of certain chemicals and technologies regardless of the efficiency and effectiveness of the IST. This was all the more worrisome when a witness from the Department of Homeland Security testified that the Department employs no specialists with IST expertise and that there is no future funding planned.

Now, I first learned how IST may hurt job creation and how, in fact, it may increase unemployment from a small business in my district, Allied Universal Corporation, that operates a chemical manufacturing facility.

I was informed that the IST is an attempt by the Federal Government to impose a one-size-fits-all approach to a complicated and disparate sector of our economy. It will cost Allied alone, this corporation that employs people in my community, hundreds of thousands of dollars in consulting fees and in staff time alone.

It is not a good use of resources. It has no tangible benefit as manufacturing struggles to survive in this economy. Furthermore, the underlying bill reduces existing protections on information regarding chemical facilities, and it reduces the penalties for the disclosure of security information.

These regulations that we are talking about today were thoughtfully included following the terrorist attacks on September 11, 2001. The primary responsibility, Mr. Speaker, of our government is to protect the citizenry. By making chemical facilities less secure, we endanger the security of our neighborhoods and of our communities. By easing penalties for unlawfully disclosing sensitive information, we increase our vulnerability. To make matters worse, the majority includes these provisions in a bill that is supposed to help prevent attacks.

As I said before, I am glad Mr. LUNGREN is here. He can explain the process by which the current regulations came into being, the amount of discussion, negotiation, and consensus that led to those regulations coming into effect, and really how unfortunate now this attempt at an imposition of further or different regulations is.

□ 1045

Mr. Speaker, later this week the Congress is expected to consider health care bills. I would like to take this moment to compare today's rule on the chemical facility bill with the rule expected on the health care bills.

Today's rule allows 10 amendments, five from the majority and five from the minority, on a bill that costs approximately \$900 million. Although the rule is not open, it's important to admit that the rule allows some debate on the underlying issues. The rule expected later this week on the health care legislation will probably include an amendment written by the Speaker. Perhaps that's the only amendment that will be allowed. We'll see. And that bill spends about \$1.3 trillion, I believe.

It seems that the more money Congress spends, the more likely we seem to have a closed debate process. And that, I believe, is contrary to the way the majority promised to run this House.

On the opening day of the 110th Congress, the distinguished chairwoman of the Rules Committee came to the floor and said that the new majority would "begin to return this Chamber to its rightful place as the home of democracy and deliberation in our great Nation." That pledge was echoed in a document written by the distinguished Speaker called a New Direction for America, where she stated, and, by the way, the statement is still on her Web site: "Bills should generally come to the floor under a procedure that allows open, full, and fair debate."

After contrasting today's rule with the expected health care rule in a few days, today's rule might look fair, but really it's not. It blocks amendments from both sides of the aisle from receiving a full and fair debate on the House floor that was, as I pointed out, promised by the Speaker.

During the hearing in the Rules Committee, the ranking member, Mr. DREIER, made a motion to allow an

open rule on this legislation that's being brought to the floor; in other words, a rule that would allow all Members the ability to offer any amendment for a vote by the full House. If the Rules Committee had approved the motion, it would have been their first open rule this Congress. Unfortunately, the motion was voted down by a majority on the Rules Committee. The majority used to criticize us when we were in the majority for not allowing more open rules. They have offered none.

This rule that is bringing the underlying legislation to the floor today also gives the majority the authority to allow consideration of bills under suspension of the rules until Saturday. Suspension bills, as you know, Mr. Speaker, are usually noncontroversial bills, but the suspension authority has in the past been used to pass bills with obviously minimal debate and sometimes as a way to block the minority from offering amendments or a motion to recommit.

Now, in the past, a senior member of the majority on the Rules Committee referred to that process as "outside the normal parameters of the way the House should conduct its business. It effectively curtails our responsibilities and rights as serious legislators."

It's interesting how it's wrong when they're in the minority, but once they're in the majority, it's right.

ALLIED UNIVERSAL CORPORATION,
Miami, FL, October 23, 2009.

Re H.R. 2868.

HON. LINCOLN DIAZ-BALART,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN DIAZ-BALART: My company is a small business as defined by the U.S. Small Business Administration. It operates a chemical manufacturing and distribution facility in your district (8350 NW 93 Street, Miami, FL), employing individuals and providing materials to a number of industries critical to our nation's and state's economy and public health. I am writing to express my opposition to H.R. 2868, the Chemical Facility Anti-Terrorism Act, which will be scheduled for a House floor vote within days. This legislation will make significant changes to the Chemical Facility Anti-Terrorism Standards (CFATS), which took effect just two and a half years ago.

Security is a major priority for Allied Universal Corp. We are members of the Chlorine Institute and National Association of Chemical Distributors (NACD), which requires our participation in the Responsible Distribution Process, an environmental, health, safety, and security management program. My company has spent substantial resources on security upgrades in recent years, and will continue to do so going forward under the current CFATS regulations. I do not embellish when I state that a significant amount of our company's capital budget and personnel time has been spent on security improvement projects, and will continue to be spent as Allied works to address the Department of Homeland Security's identified security risks for our facility.

I am concerned that H.R. 2868 is too prescriptive and includes requirements that are not appropriate for all facilities. Security is very important, but a command and control type regulation would not benefit the nation let alone the thousands of businesses that

must comply with the regulation. For example, the requirement to conduct an assessment of inherently safer technologies (IST), or Methods to Reduce the Consequences of a Terrorist Attack, could easily cost my company hundreds of thousands of dollars in consulting fees and staff time. This is not a good use of resources for a chemical manufacturing and distribution facility like mine, which stocks products based on our customers' needs and operates on extremely tight margins. I am also concerned about other mandates in the bill and the fact that state and local measures are not preempted, which is critical for a national security program. No federal preemption would cause much confusion, not to mention additional staff time and resources that could otherwise be allocated to other pressing needs (i.e. one state may have stricter regulations, causing my company to allocate more resources to the facility in that state rather than say a facility in a state with less restrictions, but more significant security concerns or risks such as a high population area).

Therefore, I urge you to oppose H.R. 2868 unless the following changes are made:

(1) All IST assessment and implementation mandates must be removed.

(2) Specific requirements regarding drills, employee and union involvement in SVA and SSP development, and other areas must be removed. A Risk Based Performance Standards approach should be continued as in the current CFATS regulations.

(3) The federal standards must preempt state and local requirements.

Thank you for your consideration. Please feel free to contact me if you have questions or would like more details on how H.R. 2868 would impact my company.

Sincerely,

ROBERT NAMOFF,
Chairman of the Board.

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

Mr. HASTINGS of Florida. Mr. Speaker, before yielding to the distinguished Chair, I would like to remind my good friend on the other side of the aisle that what we're debating here is the rule for H.R. 2868, the Chemical Facility Anti-Terrorism Act of 2009. This bill is about renewing the Homeland Security Department's authority to implement, enforce, and improve the chemical facility anti-terrorism standards and to require that the EPA establish parallel security programs for drinking water and wastewater facilities. It's important that we pass this legislation.

I find it striking that my friend and colleague would reference the fact that a distinguished legislator, a friend of mine, who was doubtless here when this legislation originated, and I'm sure has insight as to its origination—but as I have lived here in this institution for nearly 20 years, I've found an evolutionary process to just about all legislation. And there was a major intervention between the implementation of this legislation initially and today, and that intervention was 9/11. And the things that have flowed from it allowed that we have more than 6,000 facilities in this country that are vulnerable and we have an absolute responsibility to deal with them. We also have an absolute responsibility to pass health care.

With that, Mr. Speaker, I'm pleased to yield 3 minutes to my good friend,

the gentleman from Mississippi (Mr. THOMPSON), distinguished chairman of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. I appreciate the gentleman's providing the time.

Mr. Speaker, I rise today in support of the rule for H.R. 2868. I want to first express my gratitude to Chairwoman SLAUGHTER and the Rules Committee for this rule that allows five Democratic and five Republican amendments.

In the wake of the September 11 attacks, security experts immediately identified the threat of an attack on a chemical facility as one of the greatest security vulnerabilities facing the Nation. In 2006, Congress gave the Department of Homeland Security authority to regulate security within the chemical sector. DHS established the Chemical Facility Anti-Terrorism Standards program in 2007, and since that time, DHS has, by all accounts, worked in a collaborative manner with industry to implement this risk-based, performance-based program.

Earlier this year, I introduced H.R. 2868 to not only reauthorize this important program, which will sunset in October 2010, but to also improve it in a few key areas. At the start of this Congress, Chairman WAXMAN and I reached an agreement on issues that have dogged this effort. In Chairman WAXMAN I found a partner who was equally committed to making progress on this important homeland security issue. Starting last fall we began bipartisan discussions in earnest and engaged a wide array of stakeholders including DHS, EPA, chemical sector representatives, water groups, environmental groups, and labor groups. What emerged was the package you see before you today.

Title I is a reauthorization of the DHS program. Titles II and III provide new regulatory authority to the EPA to regulate drinking water and wastewater utilities respectively. This package eliminates the exemptions for the water sector that both the Bush and Obama administrations identified as security gaps and makes a number of improvements to the DHS program.

The underlying legislation, which I introduced in June, built upon two hearings and two markups that were held in the last Congress. H.R. 2868 was marked up by the Homeland Security Committee over the course of 3 days in late June. The Committee on Energy and Commerce held a legislative hearing on H.R. 2868 and drinking water security legislation this October. Both bills were marked up in subcommittee and full committee in October, also.

Whether it was the staff negotiations or during markups, numerous Republican requests and concerns were included in the final product.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HASTINGS of Florida. I yield to the gentleman an additional 2 minutes.

Mr. THOMPSON of Mississippi. Thank you very much.

The detailed collaborative approach used to create the underlying legislation is a process for which we should all be proud.

As a Congressperson who represents one of the more agricultural districts, I also said that this bill does not harm agricultural interests. I have never voted against an agricultural interest. And I look forward to working with that interest on any concerns they might have.

Mr. Speaker, I support the rule for H.R. 2868, and I look forward to today's debate and passage of this important legislation that will help to make America more secure.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, as Dr. King said in my favorite of his speeches, longevity has its place. And in Congress we have some Members who have been here for many years. I would like to yield to one such distinguished Member who was here for many years, then left us but then returned, which is even more unusual. But he has the historical knowledge with regard to this legislation, which, by the way, was in this decade that he worked on and that led to the regulations that the majority seeks to amend drastically, change drastically today.

I yield 5 minutes to my distinguished friend from California, Mr. DANIEL E. LUNGREN.

Mr. DANIEL E. LUNGREN of California. I thank the gentleman very much. I must add, though, I was a very, very young man when I first came here. I appreciate that.

First of all, I rise in opposition to this rule. I will talk about the underlying bill and the rule as it applies there, but we should also recognize this rule goes beyond the underlying bill and establishes what has been affectionately referred to as martial law, which means that the majority, basically without notice, can bring up at any time through Saturday, November 7, under suspension of the rules any measure. Any measure. There's no limit on what measure it might be. And for Members who may have forgotten what that means, a suspension of the rule means we suspend all rules and can consider virtually anything we want here, and a bill can be brought up from a committee and the entire text of the bill as passed out of the committee can be removed and we can have a different bill here on the floor. So Members should be aware that we are with this rule passing martial law, giving the majority the ability to bring up anything.

Frankly, that language that has never been seen by any committee can be entered into a bill with just the name and it could be presented on this floor. So Members should be aware that this rule goes beyond the underlying bill.

With respect to the underlying bill, why would I have concerns about this bill when I serve, with true joy, on this committee and serve with the chair-

man of the full committee who presents this bill before us? It is because we've been working on this area of concern for the last 5 years and we did come up with legislation that was incorporated into the appropriations bill dealing with homeland security back in 2006, and that language is the language which has been brought forward in the regulations and under which the Department of Homeland Security has operated over these last number of years. And it is the reason why this administration has asked for a simple 1-year extension, not the changes that we have in this bill. Why is that of concern?

□ 1100

Why is it that organizations that have worked carefully with the Department of Homeland Security to come up with a regime that is workable so that we can protect against potential terrorist attacks in the area of chemicals, why would these organizations now have some question?

Why would, for instance, as recently as several days ago, the American Farm Bureau Federation, the American Petroleum Institute, the American Trucking Association, the Fertilizer Institute, the National Association of Chemical Distributors, the National Association of Manufacturers, the National Petrochemical and Refiners Association, and the U.S. Chamber of Commerce all oppose this bill?

It is primarily because while the administration, both the prior administration and the current administration, have worked well with all of these industries to come up with a regime that is workable, that does protect us, that does make a distinction between the larger companies and the smallest companies, that has engaged them in such a way that they have put forward new practices and capital investment, that all of that could be thrown out of the window now as we adopt new regulations under a new regulatory scheme.

What is the major concern they have? It has to do with something called inherently safer technology. It sounds great. Who could be against it? The problem is this legislation misunderstands what that is. We've been working on this for the last half decade.

In 2006, I remember Scott Berger, director of the Center for Chemical Process Safety of the American Institute of Chemicals, testified before us on this. His organization is the organization which has produced the accepted reference book on the issue of inherently safer processes. That is what we are talking about here. Here is what he said:

Inherently safer design is a concept related to the design and operation of chemical plants, and the philosophy is generally applicable to any technology. But he goes on to say that this is an evolving concept, and the specific tools and techniques for application are in the early stages of development and such methods do not now exist.

What basically we got out of his testimony and the testimony of every witness that appeared before us, both brought by the Democratic Party and Republican Party—

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman an additional 2 minutes.

Mr. DANIEL E. LUNGREN of California. Is that this is a process, not a product; yet we are now giving blanket authority for the Secretary to impose inherently safer technologies as if it were a product.

Now, this is going to impact companies disproportionately which are small. Mr. Speaker, 59 percent of the companies that will be impacted by this law employ 50 workers or less. In my home State of California, it's 62 percent. So at a time when we are having difficulty maintaining and producing jobs, when everybody comes to the floor and says, We want to protect small business, we want to help small business, small businesses are going to be hurt disproportionately by this legislation. This legislation is at least premature.

The administration has said, Just give us a simple reauthorization for a year of what you're already doing. We did that in the appropriations bill, but somehow, because we seem to have more time on our hands, we have to bring bills to the floor as we wait for the health care reform, the mother of all bills, to come to this floor. That's why we're here dealing with this, despite the fact the administration doesn't support it, the industry doesn't support it, small business doesn't support it, and even those who came up with the idea of inherently safer technologies have told us in testimony, You folks don't understand; you're misapplying it if you are going to put it in the bill as it is in this bill.

It sounds great. Everybody is for inherently safer technologies, but it's the substance of what it is that we ought to be concerned about, and we ought not put another job-killer bill on this floor just a day or 2 days before we're going to hear the latest unemployment statistics.

Mr. HASTINGS of Florida. Mr. Speaker, inherently safer technologies, known as methods to reduce the consequences of a terrorist attack, includes techniques such as eliminating or reducing the amount of toxic chemicals stored on-site or using safer processes that facilitate as a best practice often integrated into the operations.

My good friend from California doth protest too much about us legislating on something that is particularly critical that we have this IST technology, and his argument, as I heard a portion of it, is we are doing this for the reason that we are waiting for health care and we don't have anything else to do. Well, that's just not true. We've been a pretty busy Congress from the inception of this Congress. If there was no

health care provision, we would have matters that we would have to undertake, including this particularly critical matter.

Only a small subset of the people that he is talking about, covered chemical facilities, are placed in the top two riskiest tiers by the Department of Homeland Security because of the consequences in the event of a chemical release, and it could be required to implement IST. Between 100 and 200 chemical facilities nationwide currently fall into that category, according to DHS.

I am continually surprised at my colleagues' arguments. A while back, we were describing them as the party of "no," and I think that that had currency and still does after you look at their health care provision, which insures nobody. But the thing that really I find interesting about this is that they really are the party of "status quo." And if you look at this legislation that Congressman THOMPSON, Congressman OBERSTAR, and Congressman WAXMAN have fashioned, had hearings that were in the public, everybody had an opportunity to make their presentation, including what you just heard from our colleague, someone that had a different view as occurs in just about every hearing—the minority has an opportunity most times to bring witnesses and the majority brings witnesses, and generally, they don't agree. But that doesn't mean in this body that we don't have an exacting responsibility to go forward with legislation demonstrably to improve the American public's safety. That is what we are here about at this time.

I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 5 minutes to my friend from Pennsylvania, Mr. DENT.

Mr. DENT. Mr. Speaker, you are going to hear a lot of talk here today about chemical plant security, but let's be very clear. All of us, I think, in this Chamber understand the need for greater chemical plant security. As Mr. LUNGREN so eloquently stated, we have regulations in place, the so-called CFATS regulations, that are being implemented, and we should give them time to be implemented. I will get into that in more specificity in a few moments. But I do rise to oppose the rule here today.

Mr. AUSTRIA of Ohio offered an amendment that was rejected by the Rules Committee that would have exempted small businesses from the inherently safer technologies provisions contained in the legislation that we are discussing today. I would like to get into that IST in just a moment.

Again, we all support the need for greater chemical plant security. We should also note, too, that by adding drinking water and wastewater facilities, we will double the number of facilities that will need to be reviewed under the existing regulatory scheme. Actually, 4,000 of the 6,000 security vul-

nerability assessments have not yet been reviewed by the Department of Homeland Security, currently. Adding IST will complicate this thing to a much greater extent.

People who know a great deal about IST—"inherently safer technologies" is the term—have opposed mandating it into this law. Congress is acting as chief engineer. We ought not to be doing that. But this legislation is not simply about chemical facilities. It is about facilities with chemicals. And what kind of facilities have chemicals? Well, what about hospitals, colleges, and universities? We have 3,630 facilities that employ 50 or fewer people who are going to be impacted by this. The point being is hospitals and colleges and universities are going to be subject to these inherently safer technology provisions contained in the legislation.

Now, specifically with respect to IST, Mr. LUNGREN just referred to the gentleman Scott Berger who came before our committee previously and vehemently argued against mandating inherently safer technologies in this legislation. But I do want to focus my comments on section 2111 of the chemical security title, addressing the concept of IST that was shoehorned into this security-focused bill.

There are similar provisions in the drinking water and wastewater titles, but this bill attempts to define IST, which is a catchy phrase. But I want to say that the concept of IST is not a new one. It's been around for decades as part of the environmental movement. As the Committee on Homeland Security prepared to tackle this bill back in June, I met with a number of scientists and subject matter experts. They consider it a conceptual framework, as Mr. LUNGREN said, that involves four basic elements: first, minimizing the use of hazardous substance; two, replacing a substance with a less hazardous one; three, using a less hazardous process; and four, simplifying the design of a process.

This is not a technology. It is a concept. It is a framework. It's an engineering process that may or may not lead to a technology. The engineers are very concerned about us mandating this, and here we are, Congress, filled with a lot of lawyers. I'm not a lawyer, but a lot of lawyers are telling them how to build a chemical plant. I represent a district where I have about 4,000 people who make a living building chemical plants, not just in this country but all over the world. They understand this. I'll give you an example.

They built hydrogen plants down by refineries on the gulf coast because you need the hydrogen to help purify or clean the air as it relates to sulfur emissions. It's a requirement. So you build a hydrogen plant down by the refinery. Substituting hydrogen for something else won't work. These plants were placed where they were for a specific reason, and the chemicals they are producing there are being produced for a specific reason. Let not

Congress act like chief engineer for the government. We are about to ask the Department of Homeland Security to institute a means by which to police our chemical facilities on their implementation of a conceptual framework. Think about the implication of this for a second.

DHS will be required, under threat of lawsuit by any person, any person that the citizen suit provisions, to fine companies \$25,000 a day for noncompliance with a bureaucrat's idea of whether a particular facility has sufficiently implemented a concept. Think about that. During the committee's only hearing on this legislation in June, I inquired with Deputy Under Secretary Reitingger about how many IST specialists they currently have at the department. His answer was, "I think the answer is none." Similarly, when I asked Secretary Napolitano about the number of IST experts currently employed at the Department during our budget hearing earlier this year, she, too, indicated zero.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I recognize the gentleman for an additional 1 minute.

Mr. DENT. I would also be remiss if I didn't mention the response of Sue Armstrong, director of the office responsible for implementing these requirements, when questioned on this topic. When I asked exactly what IST was, she demurred, stating, "There is enough debate in industry and academia that I can't take a position on that very topic." Yet this bill not only asks her to do so but requires her, under threat of lawsuit, and saddles hundreds of facilities with the costs of the decision.

So, in closing, I just wanted to make this point once and for all that, you know, with unemployment rates approaching 10 percent, this legislation will imperil many jobs of people who make things, who make chemicals. I think perhaps the intent of some people proposing this legislation is simply that they would rather not have these chemicals be made in this country, that they be made elsewhere. This legislation will have the effect of making it more difficult to produce chemicals that we need in this country. They will be produced elsewhere.

I urge the rejection of this rule. We all support greater chemical plant security, but this is not the way to do it, and this will certainly cost jobs throughout America at this time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the distinguished chairman of this committee to correct a few of the inaccuracies that my distinguished colleague, Mr. DENT, offered. One that I heard, the Department of Homeland Security has a responsibility of regulating the matter under our consideration and not the Environmental Protection Agency.

I yield to Mr. THOMPSON such time as he may consume.

Mr. THOMPSON of Mississippi. Thank you very much. I appreciate the gentleman yielding the time.

Mr. DENT, as you know, is a member of the committee. I thank the Rules Committee for being so generous in allowing Mr. DENT to have two of the amendments that we'll consider later in the debate.

First of all, Mr. Speaker, I want to say that the administration supports this bill. It is absolutely clear that they do. The other issue is the reference to jobs. Well, we've been doing security at chemical plants since 2007. There is no data that says that that security risk has created a loss in jobs.

□ 1115

All we are doing is codifying what the Department is already doing. To say that it's anti-jobs is just totally inaccurate.

The other issue is, my colleague, Mr. DENT, as you know, this is our second time having this bill brought before us. Mr. DENT supported the bill the first time. Now he is against it. I guess you could say he was for it before he was against it. But, clearly, what I am supporting is the fact that the Department looked at several thousand facilities.

Mr. DENT. Will the gentleman yield? Mr. THOMPSON of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. DENT. Thank you, Mr. Chairman.

I just wanted to point out that the legislation we are considering today is very different from the legislation that the committee considered a couple years ago. There are civil lawsuit provisions, civil suit provisions in here that are very, very different in this legislation than the bill we considered a couple of years ago.

The IST provisions have not been changed, but there are other differences in the legislation as well. This is not comparing apples to apples. These are very different bills, and there are a lot of reasons to oppose this bill. I just wanted to correct the record about my position on this bill and the previous bill.

Mr. THOMPSON of Mississippi. Since the gentleman raised the question, the civil lawsuit provision has changed in this bill. I would suggest, Mr. DENT, if you look at it, a plant cannot get sued under this particular legislation. A citizen can't bring lawsuit against a plant. We did change it. We heard you. So we have changed it. That's why I think between the rule and the ultimate vote, if you read the bill, we have made the changes.

In addition to that, let me say that hospitals, all those other entities, Mr. Speaker, they have been considered in the DHS review. DHS has determined that there are only 6,000 facilities that require this kind of scrutiny. So it might be hospitals, it might be anything, but they are already doing it. This is nothing new. It's not adding any, and it's not taking any jobs from small business.

Let me say this bill also requires that DHS assess potential impacts on small business. It's not taking jobs. They have to first decide if it's harmful. If it is, then we put in this program monies to help small business improve their security. It's not an undue requirement for them. I want to make very clear; this bill does not hurt small business. It provides monies to support any vulnerability that DHS might find at a small business. It does not require them to fund that improvement on its own.

It's an effort to get risk tied to threat and vulnerability. That's how we do it. The first piece of legislation we carried in the 110th was a bill addressing risk. But that risk has to be decided based on certain metrics. Those metrics are threats and vulnerabilities.

Regardless of what you might hear, this bill does not do away with jobs. It is small business friendly. Because if there is a vulnerability, a vulnerability is a risk, Mr. Speaker, that the Department determines. Nobody would want to work in an environment where a security risk was identified and not corrected. That's why we have the Department. That's why the Department, through the help of Congress, passed this bill in 2006. We are just doing in the CFATS requirement what's already established.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to my friend from Illinois, Mr. SHIMKUS.

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. First of all to my friend, the chairman, when you start involving medical hospitals, you could change medical protocols and that segues into health care debate and other issues.

But I want to start by saying, you cannot tell me that this debate is about safety. You just cannot. Much of this bill is a means to an end to use Homeland Security regulations to force new processes and procedures, in refineries, chemical plants, or water facilities that are going to be more costly.

Now why would we do that? In a time when we have job loss after job loss, why would we add more costs to this struggling economy? Because there's an agenda here, and the agenda is an environmental agenda that's been running this country since the Democrats took over.

I want to point out the hypocrisy of this safety and security debate. I have been reading through the health care bill, and we got it Friday. I have family obligations and other things, so I am not through with it yet, but I almost am through.

The last 300 pages deal with the Indian Health Service, which has never come through the committee process. Why has it not? Because it could not pass on its own.

On page 1,785, I want to read something. So don't tell me safe drinking

water is not a safety and security concern because in your health care bill, this is what you have in there:

“Certain capabilities are not a prerequisite. The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate, manage, and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.”

In other words, in our health care bill we're going to give money to build new water purification plants and they don't have to be trained. They don't have to meet any scientific categories.

Here you are putting a burden on private water systems, on community water systems, municipal water plants, and you are going to exempt tribes from even knowing how to operate the water plant.

This is your bill. Page 1,785. Read your bill. Unbelievable. I only read this last night; 1,990 pages. On page 1,785, “The financial and technical capability of an Indian Tribe, Tribal Organization, or Indian community to safely operate”—shall not be a prerequisite; shall not.

Although we are going to do some weird IST provisions, inherently safer technology, put a new burden on water technology systems, put new burdens on water community systems, put new burdens on rural systems, you're exempting tribes from even knowing how to operate the water plant.

Mr. HASTINGS of Florida. Mr. Speaker, I appreciate my good friend's passion. I don't know whether he has any Native American tribes in his constituency, but I do. I have Seminoles and Miccosukees in my constituency, and they are as proud of their ability to operate facilities and to do those things. As a matter of fact, quite frankly, both of those tribes are doing a whole whale of a lot better than a part of the systemic institutions that have existed in the non-Native American area.

And I remind my friend that we are not here about the health care bill.

I yield 3 minutes to the distinguished gentlewoman, who is the subcommittee Chair of the Homeland Security committee that has jurisdiction on this particular matter, SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me explain to the colleagues that have gathered here in this august institution that this is the Homeland Security Committee, and, as the American people have asked us to do, we are doing our duty.

I look forward to a vigorous debate on the health care bill, for the American people deserve that vigorous debate and transparency. But today the Homeland Security Committee is doing its job. The idea that we have lived in safety and security since 9/11 to a certain degree has been because of the diligent and vigilant work of the men and women of the Homeland Security

Department; members, of course, of the United States military; and Congresspersons who have the absolute duty to address the question of security of this Nation.

I would also remind my good friend that Indian tribes in sovereign areas have a sovereign legal distinction. We know that their structure is somewhat different than what we have.

I rise to support this rule because it is a fair rule. It has allowed a number of amendments by our friends on the other side of the aisle, but this chemical security bill is not a bill that started last week. It started a number of years ago. It has had the jurisdictional oversight of several committees, including the Energy and Commerce Committee.

As I have listened to a number of experts as the subcommittee Chair, we have held hearings, we have authored letters, we have requested briefings, and we have visited sites. I have visited a waste and water system site. I see the vulnerability. I see the utilization of chemicals that could be used or tampered with to contaminate the water of innocent people and innocent families and innocent children.

At the end of each step of the way, in establishing the record for this legislation, we worked in a transparent and a bipartisan manner to ensure that the legislation was thoughtful and well balanced. We dealt with the farmers. Chairman THOMPSON worked with the farmers over a period of time.

You have already heard that we have in this legislation crafted a response to our small businesses, the backbone of America. We have several Republican amendments that were adopted at markup, and I know that the minority staff was able to make important changes with our staff.

Our door remained open. Regardless of the rhetoric that we hear today, this has been a process that is the obligation of Homeland Security to protect the American people. It is no doubt that terrorism has been franchised and there are numerous creative ways that terrorists will be looking to contaminate.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. HASTINGS of Florida. I yield the gentlelady an additional minute.

Ms. JACKSON-LEE of Texas. I thank the distinguished member of the Rules Committee and thank him for managing this bill.

I am grateful to the Committee on Rules for specifically ruling 10 amendments in order, five of which come from our friends on the other side. But this again, I want to emphasize, is a responsibility that is not a nonserious responsibility, because water and wastewater sites proliferate our Nation all over, in rural hamlets and urban centers, and it is necessary to look at that as a potential target of any terrorist, just as our rail system, just as our aviation system.

What is our job than to provide the framework than to ensure that our

water is secure. Working with the administration, this legislation gives regulatory authority over chemical facilities for DHS while giving EPA a lead role.

I look forward to the passage of this legislation. Why? Because the American people send us here to do our job, and our job is to provide for the security of the American people. I am grateful that over a period of time we have protected small businesses, we are concerned about water and wastewater facilities, chemical facilities, and we will be securing this Nation by pairing this rule and this bill on chemical security.

Mr. Speaker, I rise today to speak in support of the rule for H.R. 2868 and the underlying bill.

The underlying legislation reaffirms our solemn oath to keep the American people safe.

The legislation improves and extends a critical DHS program.

I have been a champion of previous iterations of this legislation and I am an original co-sponsor of H.R. 2868.

By holding hearings in my Subcommittee on chemical security, authoring letters, and requesting briefings, I have been intimately involved in the implementation of this program and assessing its needs.

At each step of the way in establishing the record for this legislation, we worked in a transparent, bipartisan manner to ensure that the legislation was thoughtful and well balanced.

Several Republican amendments were adopted at mark-up and I know that Minority staff was able to make important changes at the staff level.

Regardless of the rhetoric we hear today, this legislation will be considered following a process of which we can all be proud.

I am grateful to the Committee on Rules for ruling 10 amendments in order, 5 of which come from our friends on the other side of the aisle.

Today's discussion will further demonstrate this process' commitment to fairness and transparency.

Working with the support of the Administration, this legislation gives regulatory authority over chemical facilities to DHS while giving EPA a lead role, in consultation with DHS, over water and wastewater facilities.

I look forward to the passage of H.R. 2868, which will represent the culmination of comprehensive and collaborative efforts to protect the American people while doing so in a manner that understands the sector being regulated.

I support the rule for H.R. 2868 and I look forward to passage of the critical chemical security legislation in the underlying bill.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, before closing, I will yield 20 seconds to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, just very briefly, I want to thank the chairlady of the subcommittee for commenting on the amendments that were adopted in the Homeland Security Committee on a bipartisan basis. Those amendments were stripped out of the bill that we are considering today. They are not in. So even though we had amendments

in the bill that came out of the Homeland Security Committee, they are not here in this bill today.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to my good friend from Rhode Island, a member of the Energy and Commerce Committee, Mr. LANGEVIN.

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of the rule for H.R. 2868, the Chemical Facility Anti-Terrorism Act, and in strong support of the underlying bill. I thank the gentleman for yielding the time and for all those who had a hand in bringing this legislation to the floor.

This bill will help secure our chemical infrastructure from attack or sabotage, and I want to particularly thank Chairman THOMPSON for focusing particular attention on cyber threats to this sector.

Securing our critical infrastructure from cyber attack cannot be an afterthought. The vulnerabilities to control systems and network infrastructure are numerous and, if ignored, could have serious consequences just as severe as a physical attack. This bill will require increased cybersecurity training, improved reporting of cyber attacks and a chemical facility security director who is knowledgeable on cyber issues, greatly increasing the opportunity to address and prevent cyber attacks before any damage occurs.

Cybersecurity and cyber vulnerabilities are one of those areas that are not fully addressed across government to this point. We can see that from numerous cyber penetrations and exfiltration of data that clearly more needs to be done in this area. The most critical area, though, and the area of greatest vulnerability is critical infrastructure. This act today takes a major step forward in addressing an area that could cause widespread damage or potentially loss of life.

This is an important piece of legislation. I urge my colleagues to support it.

□ 1130

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, the American people are demanding that we have at least 72 hours on any legislation and every piece of legislation, to read it and study it before it is brought to the floor; 182 Members have signed a discharge petition to consider a bill that would require that.

That is why today I will be asking for a "no" vote on the previous question, so we can amend this rule and allow the House to consider that legislation, H. Res. 554, offered by Representatives BAIRD and CULBERSON, requiring 72 hours on every piece of legislation before it is taken to a vote.

If anyone is concerned, Mr. Speaker, that that would jeopardize the chemical security bill, be not concerned, because the motion I am making provides

for separate consideration of the Baird-Culberson bill within 3 days so we can vote on the chemical security bill and then, once we are done, consider H. Res. 554. The American people are demanding that on every piece of legislation there should be 72 hours to study it and read it thoroughly before it is voted on.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

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

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. I yield back the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, in closing, I would like to remind my colleagues of the urgency of this legislation. This bill takes important steps to protect our Nation's wastewater infrastructure. Publicly owned treatment facilities serve more than 200 million Americans and consist of 16,000 treatment plants, 100,000 major pumping stations, and 600,000 miles of sanitary sewers. Damage to these facilities and collection systems could result in loss of life, contamination of drinking water facilities, catastrophic damage to lakes and rivers, and long-term public health impacts.

Also, by requiring the Environmental Protection Agency to establish risk-based performance standards for community water systems serving more than 3,300 people and other exceptional water systems posing significant risk, the bill safeguards our Nation's drinking water supply and restores confidence at a time of upheaval and uncertainty.

I urge a "yes" vote on the previous question and on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 885 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

At the end of the resolution, insert the following new section:

SEC. 4. On the third legislative day after the adoption of this resolution, immediately after the third daily order of business under clause 1 of rule XIV and without intervention of any point of order, the House shall proceed to the consideration of the resolution (H. Res. 554) amending the Rules of the House of Representatives to require that legislation and conference reports be available on the Internet for 72 hours before consideration by the House, and for other purposes. The resolution shall be considered as read. The previous question shall be considered as ordered on the resolution and any amendment thereto to final adoption without intervening motion or demand for division of the question except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Rules; (2) an amendment, if offered by the Minority Leader or his designee and if printed in that portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII at least one legislative day prior to its consideration, which shall be in

order without intervention of any point of order or demand for division of the question, shall be considered as read and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit which shall not contain instructions. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 554.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Democratic majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's "American Congressional Dictionary": "If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business."

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools

for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. HASTINGS of Florida. I yield back the balance of my time, and I move the previous question on resolution.

The SPEAKER pro tempore. The question is on ordering the previous question on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on adoption of House Resolution 885, if ordered, and motion to suspend the rules on H. Res. 868.

The vote was taken by electronic device, and there were—yeas 241, nays 180, not voting 11, as follows:

[Roll No. 856]

YEAS—241

Abercrombie	Drieaus	Langevin
Ackerman	Edwards (MD)	Larsen (WA)
Adler (NJ)	Edwards (TX)	Larson (CT)
Andrews	Ellison	Lee (CA)
Arcuri	Ellsworth	Levin
Baca	Engel	Lewis (GA)
Baldwin	Eshoo	Lipinski
Barrow	Etheridge	Loebach
Bean	Farr	Lofgren, Zoe
Becerra	Fattah	Lowe
Berkley	Filner	Lujan
Berman	Foster	Lynch
Berry	Frank (MA)	Maffei
Bishop (GA)	Fudge	Maloney
Bishop (NY)	Giffords	Markey (CO)
Blumenauer	Gonzalez	Markey (MA)
Bocieri	Gordon (TN)	Marshall
Boren	Grayson	Massa
Boswell	Green, Al	Matheson
Boucher	Green, Gene	Matsui
Boyd	Griffith	McCarthy (NY)
Bright	Grijalva	McCollum
Brown, Corrine	Gutierrez	McDermott
Butterfield	Hall (NY)	McGovern
Capps	Halvorson	McIntyre
Cardoza	Hare	McMahon
Carnahan	Harman	McNerney
Carney	Hastings (FL)	Meek (FL)
Carson (IN)	Heinrich	Meeks (NY)
Castor (FL)	Herseth Sandlin	Melancon
Chandler	Higgins	Michaud
Chu	Himes	Miller (NC)
Clarke	Hinchev	Miller, George
Clay	Hinojosa	Mitchell
Cleaver	Hirono	Mollohan
Clyburn	Hodes	Moore (KS)
Cohen	Holden	Moore (WI)
Connolly (VA)	Holt	Moran (VA)
Conyers	Honda	Murphy (CT)
Cooper	Hoyer	Murphy (NY)
Costa	Inslee	Murtha
Costello	Israel	Nadler (NY)
Courtney	Jackson (IL)	Napolitano
Crowley	Jackson-Lee	Neal (MA)
Cuellar	(TX)	Nye
Cummings	Johnson (GA)	Oberstar
Dahlkemper	Johnson, E. B.	Obey
Davis (AL)	Kagen	Oliver
Davis (CA)	Kanjorski	Ortiz
Davis (IL)	Kaptur	Pallone
Davis (TN)	Kennedy	Pascarell
DeFazio	Kildee	Pastor (AZ)
DeGette	Kilpatrick (MI)	Payne
Delahunt	Kilroy	Perlmutter
DeLauro	Kind	Perriello
Dicks	Kirkpatrick (AZ)	Peters
Dingell	Kissell	Peterson
Doggett	Klein (FL)	Pingree (ME)
Donnelly (IN)	Kosmas	Polis (CO)
Doyle	Kucinich	Pomeroy

Price (NC)	Scott (GA)	Titus
Quigley	Scott (VA)	Tonko
Rahall	Serrano	Towns
Rangel	Sestak	Tsongas
Reyes	Shea-Porter	Van Hollen
Richardson	Sherman	Velázquez
Rodriguez	Shuler	Visclosky
Ross	Sires	Walz
Rothman (NJ)	Skelton	Wasserman
Roybal-Allard	Slaughter	Schultz
Ruppersberger	Smith (WA)	Waters
Rush	Snyder	Watson
Ryan (OH)	Space	Watt
Salazar	Spratt	Waxman
Sanchez, Loretta	Stark	Weiner
Sarbanes	Sutton	Welch
Schakowsky	Tanner	Wexler
Schauer	Teague	Wilson (OH)
Schiff	Thompson (CA)	Woolsey
Schrader	Thompson (MS)	Wu
Schwartz	Tierney	Yarmuth

NAYS—180

Akin	Fox	Miller, Gary
Alexander	Franks (AZ)	Minnick
Altmire	Frelinghuysen	Moran (KS)
Austria	Gallegly	Murphy, Tim
Bachmann	Garrett (NJ)	Myrick
Bachus	Gerlach	Neugebauer
Baird	Gingrey (GA)	Olson
Barrett (SC)	Goodlatte	Paul
Bartlett	Granger	Paulsen
Barton (TX)	Graves	Pence
Biggart	Guthrie	Petri
Bilbray	Hall (TX)	Pitts
Bilirakis	Harper	Platts
Bishop (UT)	Hastings (WA)	Poe (TX)
Blackburn	Heller	Posey
Blunt	Hensarling	Price (GA)
Boehner	Herger	Putnam
Bonner	Hill	Radanovich
Bono Mack	Hoekstra	Rehberg
Boozman	Hunter	Reichert
Boustany	Inglis	Roe (TN)
Brady (TX)	Issa	Rogers (AL)
Broun (GA)	Jenkins	Rogers (KY)
Brown (SC)	Johnson (IL)	Rohrabacher
Brown-Waite,	Johnson, Sam	Rooney
Ginny	Jones	Ros-Lehtinen
Buchanan	Jordan (OH)	Roskam
Burgess	King (IA)	Royce
Burton (IN)	King (NY)	Ryan (WI)
Buyer	Kingston	Scalise
Calvert	Kirk	Schmidt
Camp	Kline (MN)	Schock
Campbell	Kratovil	Sensenbrenner
Cantor	Lamborn	Sessions
Cao	Lance	Shadegg
Capito	Latham	Shimkus
Carter	LaTourette	Shuster
Cassidy	Latta	Simpson
Castle	Lee (NY)	Smith (NE)
Chaffetz	Lewis (CA)	Smith (NJ)
Childers	Linder	Smith (TX)
Coble	LoBiondo	Souder
Coffman (CO)	Lucas	Stearns
Cole	Luetkemeyer	Sullivan
Conaway	Lummis	Taylor
Crenshaw	Lungren, Daniel	Terry
Culberson	E.	Thompson (PA)
Davis (KY)	Mack	Thornberry
Deal (GA)	Manzullo	Tiahrt
Dent	Marchant	Tiberi
Diaz-Balart, L.	McCarthy (CA)	Turner
Diaz-Balart, M.	McCaul	Upton
Dreier	McClintock	Walden
Duncan	McCotter	Wamp
Ehlers	McHenry	Westmoreland
Emerson	McKeon	Whitefield
Fallin	McMorris	Wilson (SC)
Flake	Rodgers	Wittman
Fleming	Mica	Wolf
Forbes	Miller (FL)	Young (AK)
Fortenberry	Miller (MI)	Young (FL)

NOT VOTING—11

Aderholt	Gohmert	Sánchez, Linda
Brady (PA)	Murphy, Patrick	T.
Braley (IA)	Nunes	Speier
Capuano	Rogers (MI)	Stupak

□ 1200

Mr. LOBIONDO changed his vote from “yea” to “nay.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 182, not voting 17, as follows:

[Roll No. 857]

YEAS—233

Abercrombie	Gutierrez	Murtha
Ackerman	Hall (NY)	Nadler (NY)
Adler (NJ)	Halvorson	Napolitano
Arcuri	Hare	Neal (MA)
Baca	Harman	Nye
Baird	Hastings (FL)	Oberstar
Baldwin	Heinrich	Obey
Barrow	Herseth Sandlin	Oliver
Bean	Higgins	Ortiz
Becerra	Himes	Pallone
Berkley	Hinchev	Pascarell
Berman	Hinojosa	Pastor (AZ)
Berry	Hirono	Payne
Bishop (GA)	Hodes	Perlmutter
Bishop (NY)	Holden	Perriello
Blumenauer	Holt	Peters
Boren	Honda	Peterson
Boswell	Hoyer	Pingree (ME)
Boucher	Inslee	Polis (CO)
Boyd	Israel	Pomeroy
Bright	Jackson (IL)	Price (NC)
Brown, Corrine	Jackson-Lee	Quigley
Butterfield	(TX)	Rahall
Capps	Johnson (GA)	Rangel
Cardoza	Johnson, E. B.	Reyes
Carnahan	Kagen	Richardson
Carson (IN)	Kanjorski	Rodriguez
Castor (FL)	Kaptur	Ross
Chandler	Kennedy	Rothman (NJ)
Chu	Kildee	Roybal-Allard
Clarke	Kilpatrick (MI)	Ruppersberger
Clay	Kilroy	Rush
Cleaver	Kind	Ryan (OH)
Clyburn	Kirkpatrick (AZ)	Salazar
Cohen	Kissell	Sanchez, Loretta
Connolly (VA)	Klein (FL)	Sarbanes
Conyers	Kosmas	Schakowsky
Cooper	Kucinich	Schakowsky
Costa	Langevin	Schauer
Costello	Larsen (WA)	Schiff
Courtney	Larson (CT)	Schrader
Crowley	Lee (CA)	Schwartz
Cuellar	Levin	Scott (GA)
Cummings	Lewis (GA)	Scott (VA)
Dahlkemper	Lipinski	Serrano
Davis (AL)	Loebach	Sestak
Davis (CA)	Lofgren, Zoe	Shea-Porter
Davis (IL)	Lowe	Sherman
Davis (TN)	Lujan	Sires
DeFazio	Lynch	Skelton
DeGette	Maffei	Slaughter
DeLauro	Maloney	Smith (WA)
Dicks	Markey (CO)	Snyder
Dingell	Markey (MA)	Space
Doggett	Marshall	Speier
Donnelly (IN)	Massa	Spratt
Doyle	Matheson	Stark
Drieaus	Matsui	Sutton
Edwards (MD)	McCarthy (NY)	Tanner
Edwards (TX)	McCollum	Teague
Ellison	McDermott	Thompson (CA)
Engel	McGovern	Thompson (MS)
Eshoo	McIntyre	Tierney
Etheridge	McMahon	Titus
Farr	McNerney	Tonko
Fattah	Meek (FL)	Tsongas
Filner	Meeks (NY)	Van Hollen
Foster	Melancon	Velázquez
Frank (MA)	Michaud	Visclosky
Fudge	Miller (NC)	Walz
Giffords	Miller, George	Wasserman
Gonzalez	Mitchell	Schultz
Gordon (TN)	Mollohan	Waters
Grayson	Moore (KS)	Watson
Green, Al	Moore (WI)	Watt
Green, Gene	Moran (VA)	Waxman
Grijalva	Murphy (CT)	

Weiner
Welch

Wilson (OH)
Woolsey

Wu
Yarmuth

NAYS—182

Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggart
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boccheri
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite,
Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry

Fox
Franks (AZ)
Frelinghuysen
Gerlach
Gingrey (GA)
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Hoekstra
Hunter
Ingalls
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel
E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCauley
McClintock
McCotter
McHenry
McKeon
McMorris
Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary

Minnick
Moran (KS)
Murphy (NY)
Murphy, Tim
Myrick
Neugebauer
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souders
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—17

Aderholt
Andrews
Brady (PA)
Briley (IA)
Capuano
Delahunt

Ellsworth
Garrett (NJ)
Gohmert
Murphy, Patrick
Nunes
Poe (TX)

Rogers (MI)
Sanchez, Linda
T.
Stupak
Towns
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on the vote.

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

HOUSE OF REPRESENTATIVES,
Washington, DC, November 4, 2009.

Hon. NANCY PELOSI,
The Speaker, House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: I have the honor to transmit herewith a facsimile copy of a letter received from Ms. Cathy Mitchell, Chief of the Elections Division of the California Secretary of State's office, indicating that, according to the unofficial returns of the Special Election held November 3, 2009, the Honorable John Garamendi was elected Representative to Congress for the Tenth Congressional District, State of California.

With best wishes, I am

Sincerely,

LORRAINE C. MILLER,
Clerk.

Enclosure.

STATE OF CALIFORNIA,
SECRETARY OF STATE,
Sacramento, CA, November 4, 2009.

Hon. LORRAINE C. MILLER,
Clerk, House of Representatives, The Capitol, Washington, DC.

DEAR MS. MILLER: This is to advise you that the unofficial results of the Special Election held on Tuesday, November 3, 2009, for Representative in Congress from the Tenth Congressional District of California, show that John Garamendi received 66,311 votes or 52.98% of the total number of votes cast for that office.

According to the unofficial results, John Garamendi has been elected as Representative in Congress from the Tenth Congressional District of California.

To the best of the Secretary of State's knowledge and belief at this time, there is no contest to this election.

As soon as the official results are certified to this office by Alameda, Contra Costa, Sacramento, and Solano counties, an official Certificate of Election will be prepared for transmittal as required by law.

Sincerely,

CATHY MITCHELL,
Chief, Elections Division.

SWEARING IN OF THE HONORABLE JOHN GARAMENDI, OF CALI- FORNIA, AS A MEMBER OF THE HOUSE

Mr. STARK. Madam Speaker, I ask unanimous consent that the gentleman from California, the Honorable JOHN GARAMENDI, be permitted to take the oath of office today.

His certificate of election has not arrived, but there is no contest and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Will the Representative-elect and the members of the California delegation present themselves in the well.

Mr. GARAMENDI appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear or affirm that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental res-

ervation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter, so help you God.

The SPEAKER. Congratulations. You are now a Member of the 111th Congress.

WELCOMING THE HONORABLE JOHN GARAMENDI TO THE HOUSE OF REPRESENTATIVES

The SPEAKER. The gentleman from California (Mr. STARK) is recognized for 1 minute.

Mr. STARK. Madam Speaker, as Dean of the California delegation, it is my pleasure to introduce the newest addition to our delegation, JOHN GARAMENDI. He and his wife, Patti, began their years of public service as Peace Corps volunteers in Ethiopia. Since then, JOHN has spent over 27 years serving the people of California in the State Assembly, as Insurance Commissioner, and as Lieutenant Governor, and he helped preserve our Nation's parks and wildlife as President Clinton's Deputy Secretary of the Interior.

As we prepare to enact health care reform, JOHN will lend an effective voice to that effort. As California's Insurance Commissioner, he learned the problems families face when trying to buy health coverage. He is an expert on insurance regulation, and his perspective will be of great value.

Please join me in welcoming John Garamendi, his wife Patti, their six children, and nine grandchildren to our congressional family.

I would like at this time to yield to the distinguished ranking Republican, Congressman DREIER.

Mr. DREIER. Madam Speaker, I thank my good friend, Mr. STARK, for yielding, and I want to join from our side of the aisle in extending congratulations to Governor GARAMENDI. It is interesting that he is now part of a long-standing tradition of the relationship between California's congressional delegation and the Office of Lieutenant Governor of California.

As I look across the aisle at my friend Mr. STARK and many others, we have had the privilege of serving with two former Lieutenant Governors who came to the House of Representatives, Glenn Anderson and Mervyn Dymally, and of course, the very distinguished opponent Mr. GARAMENDI had, David Harmer's father, John Harmer, served as Ronald Reagan's Lieutenant Governor. And so I know that this is another in that long list of challenges that Mr. GARAMENDI will face, and I hope very much, Madam Speaker, that we will be able to work together in a bipartisan way to address the needs of our State and our Nation as well.

We extend congratulations.

□ 1215

The SPEAKER. Without objection, the gentleman from California, Representative JOHN GARAMENDI, is recognized for 1 minute.