

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 2302, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to notify Congress of conferences sponsored by the Department of Veterans Affairs, and for other purposes."

A motion to reconsider was laid on the table.

VETERANS' BENEFITS TRAINING IMPROVEMENT ACT OF 2011

Mr. MILLER of Florida. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2349) to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to annually assess the skills of certain employees and managers of the Veterans Benefits Administration, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits Act of 2011".

SEC. 2. ASSESSMENT OF CLAIMS-PROCESSING SKILLS PILOT PROGRAM.

(a) **PILOT PROGRAM.**—Commencing not later than 180 days after the date of the enactment of the Act, in addition to providing employee certification under section 7732A of title 38, United States Code, the Secretary of Veterans Affairs shall carry out a pilot program to assess skills and provide training described under subsection (b).

(b) **BIENNIAL SKILLS ASSESSMENT AND INDIVIDUALIZED TRAINING.**—

(1) **IN GENERAL.**—The Secretary shall—

(A) biennially assess the skills of appropriate employees and managers of the Veterans Benefits Administration who are responsible for processing claims for compensation and pension benefits under the laws administered by the Secretary, including by requiring such employees and managers to take the examination provided under section 7732A(a)(1) of title 38, United States Code; and

(B) on the basis of the results of such assessment and examination, and on any relevant regional office quality review, develop and implement an individualized training plan related to such skills for each such employee and manager.

(2) **REMEDATION.**—

(A) **REMEDATION PROVIDED.**—In providing training under paragraph (1)(B), if any employee or manager receives a less than satisfactory result on any portion of an assessment under paragraph (1)(A), the Secretary shall provide such employee or manager with remediation of any deficiency in the skills related to such portion of the assessment and, within a reasonable period following the remediation, shall require the employee or manager to take the examination again.

(B) **PERSONNEL ACTIONS.**—In accordance with titles 5 and 38, United States Code, the Sec-

retary shall take appropriate personnel actions with respect to any employee or manager who, after being given two opportunities for remediation under subparagraph (A), does not receive a satisfactory result on an assessment under paragraph (1)(A).

(c) **LOCATIONS AND DURATION.**—The Secretary shall carry out the pilot program under this section at five regional offices of the Veterans Benefits Administration during the four-year period beginning on the date of the commencement of the pilot program.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section a total of \$5,000,000 for fiscal years 2012 through 2016.

(e) **REPORTS.**—Not later than November 1 of each year in which the pilot program under this section is carried out, the Secretary shall submit to the Committee on Veterans' Affairs of the House of Representatives and the Committee on Veterans' Affairs of the Senate a report on any assessments and training conducted under this section during the previous year. Each such report shall include—

(1) a summary of—

(A) the results of the assessments under subsection (b)(1)(A);

(B) remediation provided under subsection (b)(2)(A); and

(C) personnel actions taken under subsection (b)(2)(B); and

(2) any changes made to the training program under subsection (b)(1)(B) based on the results of such assessments and remediation and the examinations provided under section 7732A(a)(1) of title 38, United States Code.

SEC. 3. EXCLUSION OF CERTAIN REIMBURSEMENTS OF EXPENSES FROM DETERMINATION OF ANNUAL INCOME WITH RESPECT TO PENSIONS FOR VETERANS AND SURVIVING SPOUSES AND CHILDREN OF VETERANS.

(a) **IN GENERAL.**—Paragraph (5) of section 1503(a) of title 38, United States Code, is amended to read as follows:

"(5) payments regarding—

"(A) reimbursements of any kind (including insurance settlement payments) for—

"(i) expenses related to the repayment, replacement, or repair of equipment, vehicles, items, money, or property resulting from—

"(I) any accident (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this subclause shall not exceed the greater of the fair market value or reasonable replacement value of the equipment or vehicle involved at the time immediately preceding the accident;

"(II) any theft or loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this subclause shall not exceed the greater of the fair market value or reasonable replacement value of the item or the amount of the money (including legal tender of the United States or of a foreign country) involved at the time immediately preceding the theft or loss; or

"(III) any casualty loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this subclause shall not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the casualty loss; and

"(ii) medical expenses resulting from any accident, theft, loss, or casualty loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this clause shall not exceed the costs of medical care provided to the victim of the accident, theft, loss, or casualty loss; and

"(B) pain and suffering (including insurance settlement payments and general damages awarded by a court) related to an accident, theft, loss, or casualty loss, but the amount excluded under this subparagraph shall not exceed an amount determined by the Secretary on a case-by-case basis;"

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date that is one year after the date of the enactment of this Act.

(c) **EXTENSION OF AUTHORITY TO OBTAIN CERTAIN INFORMATION FROM DEPARTMENT OF TREASURY.**—Section 5317(g) of title 38, United States Code, is amended by striking "2011" and inserting "2013".

SEC. 4. AUTHORIZATION OF USE OF ELECTRONIC COMMUNICATION TO PROVIDE NOTICE TO CLAIMANTS FOR BENEFITS UNDER LAWS ADMINISTERED BY THE SECRETARY OF VETERANS AFFAIRS.

(a) **IN GENERAL.**—Section 5103 of title 38, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "Upon receipt of a complete or substantially complete application, the" and inserting "The";

(B) by striking "notify" and inserting "provide to"; and

(C) by inserting "by the most effective means available, including electronic communication or notification in writing" before "of any information"; and

(2) in subsection (b), by adding at the end the following new paragraphs:

"(4) Nothing in this section shall require the Secretary to provide notice for a subsequent claim that is filed while a previous claim is pending if the notice previously provided for such pending claim—

"(A) provides sufficient notice of the information and evidence necessary to substantiate such subsequent claim; and

"(B) was sent within one year of the date on which the subsequent claim was filed.

"(5)(A) This section shall not apply to any claim or issue where the Secretary may award the maximum benefit in accordance with this title based on the evidence of record.

"(B) For purposes of this paragraph, the term 'maximum benefit' means the highest evaluation assignable in accordance with the evidence of record, as long as such evaluation is supported by such evidence of record at the time the decision is rendered."

(b) **CONSTRUCTION.**—Nothing in the amendments made by subsection (a) shall be construed as eliminating any requirement with respect to the contents of a notice under section 5103 of such title that are required under regulations prescribed pursuant to subsection (a)(2) of such section as of the date of the enactment of this Act.

SEC. 5. DUTY TO ASSIST CLAIMANTS IN OBTAINING PRIVATE RECORDS.

(a) **IN GENERAL.**—Section 5103A(b) of title 38, United States Code, is amended to read as follows:

"(b) **ASSISTANCE IN OBTAINING PRIVATE RECORDS.**—(1) As part of the assistance provided under subsection (a), the Secretary shall make reasonable efforts to obtain relevant private records.

"(2)(A) Whenever the Secretary, after making such reasonable efforts, is unable to obtain all of the relevant records sought, the Secretary shall notify the claimant that the Secretary is unable to obtain records with respect to the claim. Such a notification shall—

"(i) identify the records the Secretary is unable to obtain;

"(ii) briefly explain the efforts that the Secretary made to obtain such records; and

"(iii) explain that the Secretary will decide the claim based on the evidence of record but that this section does not prohibit the submission of records at a later date if such submission is otherwise allowed.

"(B) The Secretary shall make not less than two requests to a custodian of a private record in order for an effort to obtain relevant private records to be treated as reasonable under this section, unless it is made evident by the first request that a second request would be futile in obtaining such records."

“(3)(A) This section shall not apply if the evidence of record allows for the Secretary to award the maximum benefit in accordance with this title based on the evidence of record.

“(B) For purposes of this paragraph, the term ‘maximum benefit’ means the highest evaluation assignable in accordance with the evidence of record, as long as such evaluation is supported by such evidence of record at the time the decision is rendered.

“(4) Under regulations prescribed by the Secretary, the Secretary—

“(A) shall encourage claimants to submit relevant private medical records of the claimant to the Secretary if such submission does not burden the claimant; and

“(B) in obtaining relevant private records under paragraph (1), may require the claimant to authorize the Secretary to obtain such records if such authorization is required to comply with Federal, State, or local law.”.

(b) **PUBLIC RECORDS.**—Section 5103A(c) of such title is amended to read as follows:

“(c) **OBTAINING RECORDS FOR COMPENSATION CLAIMS.**—(1) In the case of a claim for disability compensation, the assistance provided by the Secretary under this section shall include obtaining the following records if relevant to the claim:

“(A) The claimant’s service medical records and, if the claimant has furnished the Secretary information sufficient to locate such records, other relevant records pertaining to the claimant’s active military, naval, or air service that are held or maintained by a governmental entity.

“(B) Records of relevant medical treatment or examination of the claimant at Department health-care facilities or at the expense of the Department, if the claimant furnishes information sufficient to locate those records.

“(C) Any other relevant records held by any Federal department or agency that the claimant adequately identifies and authorizes the Secretary to obtain.

“(2) Whenever the Secretary attempts to obtain records from a Federal department or agency under this subsection, the efforts to obtain those records shall continue until the records are obtained unless it is reasonably certain that such records do not exist or that further efforts to obtain those records would be futile.”.

SEC. 6. CONDITIONS FOR TREATMENT OF CERTAIN PERSONS AS ADJUDICATED MENTALLY INCOMPETENT FOR CERTAIN PURPOSES.

(a) **IN GENERAL.**—Chapter 55 of title 38, United States Code, is amended by adding at the end the following new section:

“§5511. Conditions for treatment of certain persons as adjudicated mentally incompetent for certain purposes

“In any case arising out of the administration by the Secretary of laws and benefits under this title, a person who is mentally incapacitated, deemed mentally incompetent, or experiencing an extended loss of consciousness shall not be considered adjudicated as a mental defective under subsection (d)(4) or (g)(4) of section 922 of title 18 without the order or finding of a judge, magistrate, or other judicial authority of competent jurisdiction that such person is a danger to himself or herself or others.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 55 of such title is amended by adding at the end the following new item:

“5511. Conditions for treatment of certain persons as adjudicated mentally incompetent for certain purposes.”.

SEC. 7. REINSTATEMENT OF PENALTIES FOR CHARGING VETERANS UNAUTHORIZED FEES.

(a) **IN GENERAL.**—Section 5905 of title 38, United States Code, is amended to read as follows:

“§5905. Penalty for certain acts

“Except as provided in section 5904 or 1984 of this title, whoever—

“(1) in connection with a proceeding before the Department, knowingly solicits, contracts for, charges, or receives any fee or compensation in connection for—

“(A) the provision of advice on how to file a claim for benefits under the laws administered by the Secretary; or

“(B) the preparation, presentation, or prosecution of such a claim before the date on which a notice of disagreement is filed in a proceeding on the claim, or attempts to do so;

“(2) unlawfully withholds from any claimant or beneficiary any part of a benefit or claim under the laws administered by the Secretary that is allowed and due to the claimant or beneficiary, or attempts to do so;

“(3) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures the commission of such an act; or

“(4) causes an act to be done, which if directly performed would be punishable by this chapter, shall be fined as provided in title 18, or imprisoned for not more than one year, or both.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to acts committed after the date of the enactment of this Act.

SEC. 8. PERFORMANCE AWARDS IN THE SENIOR EXECUTIVE SERVICE.

For each of fiscal years 2012 through 2016, the Secretary of Veterans Affairs may not pay more than \$2,000,000 in performance awards under section 5384 of title 5, United States Code.

SEC. 9. BUDGETARY EFFECTS OF THIS ACT.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MILLER) and the gentleman from California (Mr. FILNER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

Mr. MILLER of Florida. Madam Speaker, I yield myself such time as I may consume.

I support strongly H.R. 2349, as amended, the Veterans’ Benefits Training Improvement Act of 2011. It was created by the chairman of the Subcommittee on Disability Assistance and Memorial Affairs, the gentleman from New Jersey (Mr. RUNYAN). It also was worked on in collaboration with the ranking member of that subcommittee, the gentleman from California (Mr. MCNERNEY).

To describe H.R. 2349, as amended, I would like to yield such time as he may consume to the gentleman from New Jersey (Mr. RUNYAN).

Mr. RUNYAN. Mr. Chairman, thank you again.

Madam Speaker, I rise in support of H.R. 2349, as amended, the Veterans’ Benefits Training Improvement Act of 2011.

There are several components to this legislation, and they are all aimed towards ensuring the veterans’ benefits process is more efficient, accountable,

and fair for all veterans and their families.

The first piece of this legislation addresses the minimalist approach that the VA has adopted in complying with its employees’ skill certification mandate. This section will reverse the current trend within the VA of using the employment certification process solely to increase an employee’s pay grade by introducing a pilot program to conduct a biennial assessment for all claims processors and managers. The key to this program’s success will be individualized remediation. This will facilitate individual accountability of employees while addressing disparities in experience and training at the pilot sites and eventually throughout the VA.

Section 3 prevents the offset of pension benefits for veterans and their family members due to the receipt of payments by insurance or settlements to reimburse expenses incurred after an accident or theft. This will be accomplished by exempting reimbursements of expenses related to accident, theft, loss, or casualty loss from determinations of annual income.

The next section implements the use of electronic communication within the VA to provide notices of responsibility to claimants. This also removes the administrative provisions which have slowed down the process for veterans’ disability claims. In total, this section will increase efficiency and help modernize the VA by authorizing the most effective means available for communication while simultaneously removing administrative redtape.

Section 5 clarifies the meaning of the VA’s duty to assist claimants in obtaining evidence needed to verify a claim. As a result, this section establishes a clear and reasonable standard for private record requests as “not less than two requests.” In addition, this section will encourage claimants to take a proactive role in the claims process. This, in turn, will have the positive effect of reducing the claims backlog over the long term.

Section 6 corrects a serious concern which has curtailed the Second Amendment rights of many VA beneficiaries. Due to unclear and improper statutory language, under the current system, veterans seeking help managing their financial affairs are categorized as mentally defective. They are then entered into an FBI database which prohibits their ability to legally obtain a firearm. This section would restore these veterans’ constitutional rights by requiring such determinations to be made by a judge, magistrate, or other judicial authority to properly determine whether such veterans are, in fact, mentally defective for the purposes of obtaining a firearm.

Section 7 of this bill is designed to protect the veterans from being charged excessive fees for aid in submitting applications to the VA for benefits. Since 2006, there has been an increase in non-accredited individuals,

organizations, and private companies that have been taking advantage of veterans by charging fees to assist them with filing claims for veterans' benefits with the VA.

□ 1520

This section reinstates criminal penalties for persons charging veterans unauthorized fees for preparation and filing veterans claims with the VA.

The final section addresses the unrestrained government spending on the part of the VA, which is currently permitted to offer pay increases and bonuses to managers and employees who had been cited for mismanagement and poor performance. At a time when our government must be especially prudent in its management of debt, this section establishes caps for bonuses and performance awards to VA's most senior employees at \$2 million a year, a reduction from \$3.5 million.

It has been an honor working with my colleagues in a bipartisan manner to move H.R. 2349, as amended, forward. And I thank each Member for their tireless support on behalf of our honored veterans. I ask all of my colleagues to join me in supporting this important legislation.

Mr. FILNER. Madam Speaker, I yield myself such time as I may consume.

This is an omnibus bill that on balance I can't support. Omnibus bills are good and bad, and we have to balance that. Let me tell you why there are two provisions in here that make it impossible for me to support this omnibus bill.

Section 2 requires the VA to institute a pilot program to hold employees of the Veterans Benefits Administration to annual testing and to even greater training requirements than their current 80 hours at five regional offices at a cost of \$5 million over 5 years. Now, we are all for training of our employees and want them to do a good job and be adequately trained for it. Secretary Shinseki has set a goal of processing all claims within 125 days at 98 percent accuracy. That's a great goal, and we have to get a handle on that and get a handle on the backlog and the claims that are languishing unnecessarily.

I think this provision is misguided because it will stand in the way of reaching the Secretary's goal, because I don't think we can test our way out of the claims backlog. Anybody can pass a test. The real question is can they adequately process claims. That's what the VA needs from its employees, not another additional burden resulting in work stoppages, which is what this testing requirement will do.

We already have a certification testing program used for the advancement of VBA employees, which was greatly strengthened in the bill that we passed in 2008 with great bipartisan support. I think that this bill has redundant testing and wastes \$5 million and will only go to the fattening of the contractors' pockets who develop the test, money

that I think can be more efficiently used to help our veterans.

I should remind the body that this mandatory testing provision never passed out of the subcommittee that was responsible for the bill. It failed. It was withdrawn, but it showed up in the full committee markup and I think violates the spirit of regular order that we supposedly prize.

More importantly, there is a provision in this bill which, let me first state in legal terms and then in English, which would prohibit the reporting of those who have an appointed VA fiduciary to the National Instant Criminal Background Check system required by the Brady Act. What does that mean in English? That means people who have been judged by the VA to be mentally incompetent of handling their own financial affairs qualify to purchase a gun. Hello? We heard the chair of the subcommittee support, oh, this is a constitutional right. Hey, we have a long history of law and precedent which says we can deny rights to mentally incompetent people, especially to own a gun, a handgun. How many people have to commit mass murders who are mentally incompetent before we understand that we ought to prevent them from getting a gun in the first place? Yet we have a justification of that right here in this bill.

The gentleman wants to keep the right to purchase firearms until they have a determination from a State judge. Well, that's a non sequitur, Madam Speaker.

While I agree that some of these people who've been judged by the VA not to be mentally competent to handle their financial affairs may not pose a threat to themselves or others, the prudent course of action, the reasonable course of action, the commonsense course of action, the course of action that will save lives in this Nation is that we not allow these VA beneficiaries to have access to lethal weapons until the legal determination is made by that judge. Let's have the determination first, not after they kill somebody.

So we're going to put guns in the hands of people who may not be mentally capable of responsible gun ownership. This does not strike the proper balance between ensuring societal safety and individual rights. I don't have to list all of the atrocities that have gone on in this Nation over the past decade that happened because of irresponsible gun ownership; and yet we have a defense of a bill that specifically, it doesn't even leave it to implicit, it specifically says if you are judged to be mentally incompetent, you still have a right to go get a gun. How stupid are we, Madam Speaker? Come on. This is a scary thought. It's irresponsible legislating. We have got to do a better job of striking a balance on this issue.

Everybody on an earlier bill is afraid of Grover Norquist. Everybody here is afraid of the NRA. Come on, let's be re-

sponsible. Let's use common sense. Let's protect the American people. Let's not go for these pledges that are made in a partisan way to make sure you're reelected and hurt the American people in the long run. That's what we are doing here. This is irresponsible. You give, by law, by a sentence that you put in, Mr. Chairman, you give them, mentally incompetent people, they've already been defined as that, you give them the right to be exempt from the Brady law's registration. Come on, we can do a better job than that!

I reserve the balance of my time.

Mr. MILLER of Florida. I have no more speakers, if the gentleman is ready to close.

I reserve the balance of my time.

Mr. FILNER. Madam Speaker, again, there are some good provisions of this bill. The Hastings provision is especially appropriate. But we owe the American people better than just ideological legislating because I made this promise and this is a constitutional right. I believe in the Second Amendment. But we can regulate the conditions of that amendment, and this is an especially egregious case which needs regulation.

The VA has said that someone cannot manage their own affairs, and yet we write in the provision that says, okay, go buy a gun anyway until some judge says you're mentally incompetent. Let's have the judge's decision first. Then if they are judged to be mentally sound, they can buy a gun. That's their constitutional right. They don't have a constitutional right to be mentally imbalanced and buy a gun that kills dozens or even hundreds of people. That's what we've seen in this country for decades. Let's do a better job.

I yield back the balance of my time.

Mr. MILLER of Florida. Madam Speaker, what we owe the United States' people is the truth.

The truth is that the Senate Veterans Affairs Committee approved under Democrat leadership this exact language under the past two Congresses. In fact, what my good friend, the ranking member, wants to do is to give a bureaucrat within VA the opportunity to adjudicate somebody mentally incompetent. Now they do have the ability to say they are not able to control their finances. What this act in the legislation does is it says they cannot do it without the order or finding of a judge, a magistrate, or other judicial authority of competent jurisdiction that such a person is in danger to himself or to others. I do not believe that a bureaucrat within the Department of Veterans Affairs has that ability nor that authority, and I think that judges need to do it. So we do agree on that particular instance.

GENERAL LEAVE

Mr. MILLER of Florida. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

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

There was no objection.

Mr. MILLER of Florida. With that, I urge all of my colleagues to support this outstanding piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. MILLER) that the House suspend the rules and pass the bill, H.R. 2349, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to amend title 38, United States Code, to improve the determination of annual income with respect to pensions for certain veterans, to direct the Secretary of Veterans Affairs to establish a pilot program to assess the skills of certain employees and managers of the Veterans Benefits Administration, and for other purposes."

A motion to reconsider was laid on the table.

EPA REGULATORY RELIEF ACT OF 2011

Mr. WHITFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 2250.

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

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 419 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 2250.

□ 1532

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 2250) to provide additional time for the Administrator of the Environmental Protection Agency to issue achievable standards for industrial, commercial, and institutional boilers, process heaters, and incinerators, and for other purposes, with Mrs. ROBY (Acting Chair) in the chair.

The Clerk read the title of the bill.

The Acting CHAIR. When the Committee of the Whole rose on Thursday, October 6, 2011, amendment No. 4 printed in the CONGRESSIONAL RECORD, offered by the gentleman from Pennsylvania (Mr. DOYLE), had been disposed of.

□ 1540

AMENDMENT NO. 11 OFFERED BY MR. WAXMAN

Mr. WAXMAN. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of the bill, add the following section:

SEC. 6. COMPLIANCE WITH CUT-GO.

If this Act authorizes the appropriation of funds to implement this Act and does not reduce an existing authorization of appropriations to offset that amount, then the provisions of this Act shall cease to be effective.

The Acting CHAIR. The gentleman from California is recognized for 5 minutes.

Mr. WAXMAN. Madam Chair and my colleagues, I strongly oppose this bill on substantive grounds. It nullifies critical EPA rules to cut toxic air pollution from solid waste incinerators and large industrial boilers. It threatens EPA's ability to issue new rules that actually protect public health by forcing it to set emission standards based on an industry wish list. And on top of that, it allows polluters to avoid compliance with the new rules indefinitely. That is enough for me to vote "no." I think this is a very bad bill.

But this bill has another mark against it because it does not comply with the Republican leadership's policy for discretionary spending. Some people may think, so what? Why make an issue of this? The simple fact is that the Republicans established a set of rules for the House at the beginning of the Congress, and they aren't willing to play by those rules.

When Congress organized this year, the majority leader announced that the House would be following what's called a discretionary CutGo rule. When a bill authorizes discretionary funding, that funding must be explicitly limited to a specific amount. And the leader's protocols also required that the specific amount be offset by a reduction in an existing authorization. This bill violates those requirements.

First, the bill does not include a specific authorization for EPA to implement the bill's provisions. EPA will have to start a new rulemaking for boilers and incinerators and follow a whole new approach for setting emissions standards, and that's going to cost money. CBO—who is the usual referee on these questions—has determined that H.R. 2250 does in fact authorize new discretionary spending. CBO estimates that implementing this bill would cost the EPA \$1 million over a 5-year period. But the bill does not offset the new spending with cuts in an existing authorization. That's a clear violation of the plain language of the Republicans' CutGo policy.

I know what my Republican colleagues are going to say because they said it last time we were considering legislation. They will argue that this bill doesn't create a new program. They'll say that EPA can use existing funds to complete the work mandated by the bill. But that's not how appropriations law works. Anyone familiar with Federal appropriations law knows

this and the Government Accountability Office or the Congressional Budget Office can confirm it.

H.R. 2250 does not include an authorization, but that does not have the effect of forcing the executive branch to implement the legislation with existing resources. To the contrary, it has the effect of creating an implicit authorization of such sums as may be necessary. Now, the Republicans have been against setting authorizations of such sums as may be necessary because they wanted a specific amount, and they wanted an offset. My amendment would simply ensure that the discretionary CutGo rule is complied with. It states that if this bill authorizes the appropriation of funds to implement its provisions without reducing an existing authorization of appropriations by an offsetting amount, then the bill will not go into effect.

This amendment is about fairness. If I offered a bill that strengthened the Clean Air Act or cut global warming pollution, the Republicans would require my bill to meet the CutGo requirements. But because Republicans are eager to attack the Clean Air Act and weaken public health protections, all of a sudden their own protocols don't matter. And if they're not complying with CutGo because CutGo, as they've set it up, is infeasible and unworkable, they need to acknowledge that reality and change the requirements.

I urge all Members to support this amendment. Let's hold the Republican leadership accountable to keep their word.

I yield back the balance of my time.

Mr. GRIFFITH of Virginia. I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. GRIFFITH of Virginia. Madam Chair, H.R. 2250 will reduce regulatory burdens for job creators and extend the timeframe for the EPA to issue its rules for boilers and incinerators.

Considering that EPA is currently pursuing an aggressive regulatory regime in these areas, and doing so within its existing budget, additional funding should not be needed to provide the regulatory relief provided in this bill. While the CBO's rules may require it to score legislation in a vacuum, in the real world there is no reason taxpayers should be forced to hand over more money when asking an agency merely to do its job.

Any cost of commonsense regulations in this area, as our legislation proposes, can certainly be covered by the agency's existing budget—that has increased greatly over the last several years. And that budget is funding its current regulatory efforts. No new funding is authorized by the legislation, so Madam Chair, I do not believe any new funding is necessary. Accordingly, I would urge my colleagues to vote "no" on this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).