

Mr. MORAN. Mr. Speaker, the super-committee is at a standstill. The Democrats won't consider cuts to entitlement programs if the money is primarily to pay for cutting taxes on the wealthy. Republicans won't consider raising taxes on the wealthy from their currently historically low levels because these are the job creators. But where are the jobs?

The fact is that corporate profits are at historic highs, as are CEO and investor compensation. But the reason for that corporate profit being historically high is that over the last several years, 75 percent of corporate profit has come from reduction in personnel costs. Then the top 1 percent reward themselves for cutting those costs and raising profits by increasing their own income and bonuses to record high levels.

In fact, the CBO report that came out today confirms this. The wealthiest 1 percent, whose income the Republican majority wants so much to protect, went up by 275 percent since 1980. You don't get upward mobility, you don't realize our full potential as a Nation when we have such a concentration of wealth at the top.

FAIRNESS AND TRANSPARENCY IN CONTRACTING ACT

(Mr. JOHNSON of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Georgia. Mr. Speaker, I recently introduced the Fairness and Transparency in Contracting Act, which will help level the playing field for small businesses and ensure that publicly traded companies no longer masquerade and then receive contracts meant for small businesses. Small business contracts should go to small businesses.

Unfortunately, loopholes in the system have resulted in subsidiaries of large corporations receiving Federal small business contracts. The GAO has found that small businesses across the Nation are the real losers when the Federal contracts are awarded to large firms that should not be eligible.

Mr. Speaker, Congress should no longer turn a blind eye when large publicly traded and foreign-owned companies obtain Federal small business contracts. The Fairness and Transparency in Contracting Act will ensure that America's small businesses can compete.

I urge my colleagues to support this legislation.

REDUCING PERSONAL DEBT

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

Mr. CLARKE of Michigan. Mr. Speaker, several months ago, I introduced House Resolution 365, which asks this Congress to cut student loan debt and home mortgage debt.

As a result, several hundreds of thousands of people all around this country

signed an online petition to support this resolution. I'm happy to say that our voices are now being heard. The White House is moving in the right direction on helping to cut student loan debt. But I'm urging the American public to keep speaking out, sign on to this petition to support House Resolution 365, and help free the American people from excessive home mortgage and student loan debt.

PROVIDING FOR CONSIDERATION OF H.R. 2576, MODIFYING INCOME CALCULATION FOR HEALTH CARE PROGRAMS, AND PROVIDING FOR CONSIDERATION OF H.R. 674, 3% WITHHOLDING REPEAL AND JOB CREATION ACT

Mr. SCOTT of South Carolina. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 448 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 448

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2576) to amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining eligibility for certain healthcare-related programs. All points of order against consideration of the bill are waived. The bill shall be considered as read. All points of order against provisions of the bill are waived. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommend.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 674) to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities. All points of order against consideration of the bill are waived. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions of the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; and (2) one motion to recommend with or without instructions.

SEC. 3. (a) In the engrossment of H.R. 674, the Clerk shall—

(1) add the text of H.R. 2576, as passed by the House, as new matter at the end of H.R. 674;

(2) conform the title of H.R. 674 to reflect the addition of the text of H.R. 2576, as passed by the House, to the engrossment;

(3) assign appropriate designations to provisions within the engrossment; and

(4) conform provisions for short titles within the engrossment.

(b) Upon the addition of the text of H.R. 2576, as passed by the House, to the engrossment of H.R. 674, H.R. 2576 shall be laid on the table.

□ 1230

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

Mr. SCOTT of South Carolina. For the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

GENERAL LEAVE

Mr. SCOTT of South Carolina. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

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

There was no objection.

Mr. SCOTT of South Carolina. House Resolution 448 provides for a closed rule for the consideration of H.R. 674, a bill to amend the Internal Revenue Code of 1986 to repeal the imposition of 3 percent withholding on certain payments made to vendors by government entities, and H.R. 2576, to amend the Internal Revenue Code of 1986 to modify the calculation of modified adjusted gross income for purposes of determining the eligibility for certain health care-related programs.

Mr. Speaker, I rise today in support of this rule and the underlying bills. What we have here is something very simple: a bill to save jobs in America and a way to pay for it through a simple technical fix in the Patient Protection and Affordable Care Act, which is supported by the President and many Democrats in this Chamber.

H.R. 674, or what I call the Saving American Jobs Act, would repeal the 3 percent withholding requirement on government payments to businesses, both large and small. This is truly a bipartisan bill with more than 60 Democrats among the 269 cosponsors. Even the President supports changing the withholding tax. The tax is a job killer, plain and simple.

Beginning January 1, 2013, government agencies at all levels—Federal, State and local—will have to withhold 3 percent of their payments to businesses for goods and services. For many small businesses, this has the potential to completely wipe out their profit margins. At a time when we have a desperate need to create jobs and to create the environment for job creation, the withholding tax does the exact opposite. For many State and local governments, the implementation costs will be huge at a time when their budgets are already stretched thin.

For example, in my home State of South Carolina, the State Comptroller estimates the implementation costs associated with this tax will take up 11.5 percent of its budget. This tax punishes all businesses for the sins of a few, automatically and wrongly assuming all job creators who do business with the Federal Government are somehow

evading full taxation. The last I checked, we should be encouraging people to follow the law, not penalizing them for doing so.

The tax also treats all businesses the same regardless of their taxable incomes. In the construction industry, for example, where unemployment is currently at 13.5 percent, companies rarely have a pretax profit margin of more than 3 percent. Therefore, a 3 percent withholding tax would completely wipe out their profit margins. As a former small business owner myself, I can assure you this is not the kind of math that leads to job creation.

This tax will also harm local governments that are already hurting for dollars by placing on them an unfunded mandate to collect a Federal tax. Again, as former chairman of the Charleston County Council, this is more math that just doesn't add up.

With unemployment still at 9 percent, our job creators need capital to invest and long-term certainty in the Tax Code. Taking hard-earned dollars away from our job creators will only lead to higher prices, lower wages, and lost jobs.

Once again, Mr. Speaker, I rise in support of this rule and the underlying legislation. I encourage my colleagues to vote "yes" on the rule and "yes" on the underlying bills, and I reserve the balance of my time.

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

Mr. Speaker, I thank my friend for yielding the time, and I rise today in opposition to the combined rule for H.R. 674 and H.R. 2576.

The underlying bill, H.R. 674, repeals the 3 percent withholding for taxes on payments to government contractors, and H.R. 2576 will make health care unaffordable for 500,000 Americans—that's not according to me but according to CBO—leaving them with no choice but to drop their coverage. This bill will also increase the costs or reduce the coverage for many more Americans, including individuals with severe disabilities.

The pairing of these two bills is not, in my considered opinion, an appropriate use of our Nation's Tax Code, and in my opinion, does nothing to create jobs. It is part of the same old "all or nothing" majority strategy that led to the debt ceiling standoff earlier this year.

The Republicans have taken a bipartisan idea—and it is bipartisan, as my good friend from South Carolina said—that would actually put money directly in the pockets of hardworking Americans and make its passage contingent on a bill that rehashes the health care reform debate from the last Congress. Once again, my colleagues have chosen to play politics with the lives of middle class and working poor Americans.

The withholding requirement, itself, was passed in 2005 when President George W. Bush was in the White House and when Republicans had majorities in both the House and the Sen-

ate, but it was never implemented, and it has been put off a number of times.

Today, there is broad support for repealing this Republican-created provision. H.R. 674 has, as my friend said, 269 bipartisan cosponsors. Since Republicans have now brought a bill to the floor that would repeal this requirement, it is clear that this measure should not be combined, as in this rule, with H.R. 2576.

Getting rid of this provision will keep administrative costs down and assist American businesses during these challenging economic times. However, Republicans want to pay for the 3 percent bill by making it harder for retirees, the disabled, and poor to get access to health insurance. This is, yet again, an inappropriate use of our Tax Code.

This bill is known as the MAGI bill, "modified adjusted gross income." It repeals the provision in the Affordable Care Act that allows individuals and families to exclude nontaxable Social Security benefits from their incomes when determining their eligibility for health care benefits. This definition would also apply when qualifying for Medicaid and Federal subsidies to buy private insurance in the State-run exchanges. According to the Joint Committee on Taxation, the exclusion of nontaxable Social Security benefits is typical when applying income limitations to tax benefits.

Regardless of the facts, my friends in the majority have decided to throw retirees and disabled individuals under the bus in order to offset a completely unrelated bill.

□ 1240

My friends on the other side of the aisle claim that this is about equity and fairness, but is it equitable for as many as 500,000 Americans to lose all their health care coverage as a result of this measure? What are we saying to these individuals; sorry, 500,000 of you are out of luck? Is it fair to make health care less accessible to low- and middle-income individuals rather than close loopholes and cancel special tax deals for wealthy, wealthy oil companies?

In contrast, the Democrats' substitute offered by Mr. LEVIN, the ranking member of the Ways and Means Committee, will make oil companies pay their fair share of taxes, thereby reducing the deficit by \$5.3 billion over 5 years and \$12.8 billion over 10 years.

It is clear that H.R. 2576 is not about equity at all. It's about forcing individual taxpayers to shoulder the burden of business tax provisions. H.R. 2576 will impose higher costs on retirees and persons with severe disabilities, shifting them out of Medicaid coverage or requiring that they contribute significantly more of their income for health insurance coverage through reduced tax credits.

How do Republicans intend to offset the cost, such as increased trips to the emergency room? How do you offset that association with half a million

Americans suddenly losing their health insurance coverage? The Tax Code should not be used to effectively reduce health care coverage and increase costs for those least able to afford it.

Make no mistake, H.R. 2576 is yet another attempt by Republicans to undermine comprehensive health care reform. Last week, the Senate Republicans forced a vote on the 3 percent withholding repeal bill, but it too failed over unreasonable Republican demands.

Where are the jobs? Instead of passing a jobs bill, Republicans are redefining the rules to make health care less accessible for a considerable number of Americans. These bills together are a new approach to cutting the deficit for Republicans. Until recently, they said that the only way to fix the deficit was to starve the beast, that is, spending cuts only. But with a bill like H.R. 2576 that takes away health care from hundreds of thousands of Americans, Republicans have decided that rather than starving the beast, it's better to feed the beast to our society's most vulnerable members.

I reserve the balance of my time.

Mr. SCOTT of South Carolina. Mr. Speaker, it's odd that as the American people continue to watch Congress asking for a bipartisan approach to what we do here, it's very odd for us to find ourselves in that position today saying to the American people, we are finally on the right page of a bipartisan approach. And as it relates to the whole undermining of the health care act, the President himself has released a statement, an administration policy statement, that simply says that he supports H.R. 2576.

The fact of the matter is if we are going to find ways to save Medicaid and keep it available for the next generation, we must do things in a bipartisan approach that actually solve the problems without increasing the system necessarily.

Mr. Speaker, I yield 5 minutes to the gentlelady from Tennessee, Mrs. DIANE BLACK.

Mrs. BLACK. I thank my colleague from South Carolina for yielding.

I'd like to begin by stating that this legislation, H.R. 2576, is about fairness.

When the news broke this summer that the Affordable Care Act contained a loophole that would allow middle-class Americans to receive Medicaid benefits, I, like many of my colleagues, was very concerned. The new income formula that determines eligibility for government subsidies health insurance, the modified adjusted gross income, or also known MAGI, deviated from all of the other Federal assistance programs, failing to include Social Security benefits as income.

Under the health care law, a married couple with an annual income of over \$60,000 could qualify to receive Medicaid benefits. Let me put it in more stark terms. Changing the income formula could result in individuals, whose incomes are up to 400 percent of the

poverty level, receiving Medicaid. This is unacceptable. I very strongly believe that it is our duty to ensure that the very scarce Medicaid dollars and resources are there for those who are in the most need.

Again, let me State that the Affordable Care Act's income formula for Medicaid, CHIP, and exchange subsidies deviated from the eligibility requirements for all other Federal assistance programs. Supplemental Security Income, Supplemental Nutrition Assistance Program, also known as food stamps, Temporary Assistance for Needy Families, and public housing all—all—include the entire Social Security benefit as income. My bill, H.R. 2576, would add Social Security benefits back into the equation, realigning Medicaid with all the other programs and stopping these improper payments before they occur.

It is incorrect to assert that this legislation unfairly targets widows, survivors, and the disabled. This is equivalent to asserting that the public housing or the SNAP are unfairly targeted to widows, survivors, disabled simply because, when accounting for the resource programs, they consider the source of income.

The health care law's deviation from the typical method of counting income results in taxpayer dollars being directed to individuals who do not meet the standard definition of low income. According to the current law, a couple who both earned Social Security benefits and have a total income of \$22,065 would have a higher income than a couple earning \$58,840 for the purpose of determining eligibility for the Federal subsidies in the exchange. This is totally unfair.

When asked about the MAGI glitch, CMS actuary Richard Foster said, "I don't generally comment on the pros and cons of policy, but that just doesn't make sense." Foster said the situation keeps him up at night and has previously compared the MAGI formula to allowing middle-class Americans to receive food stamps.

Additionally, Richard Soriano, the HHS assistant secretary for Public Affairs, conceded that "as a matter of law, some middle-income Americans may be receiving coverage through Medicaid, which is meant to serve only the neediest Americans."

Now, it is important to note that my legislation does not take away a benefit from anyone on the Medicaid rolls today. MAGI would not be in effect until 2014, so it's important that we bring Medicaid back into line with all of the other Federal assistance programs as soon as possible.

Additionally, my legislation enjoys bipartisan support. In the Senate, HELP Committee Ranking Member MIKE ENZI has a companion bill, and President Obama himself, as has already been noted, recognizes the problem. In his recent debt reduction plan, the President explicitly—explicitly—proposes that the entire amount of So-

cial Security benefits be included in the definition of income. And, as has already been stated, there was a statement of administration policy put out yesterday, and I want to read that to you:

The administration supports H.R. 2576, which could change the calculation of modified adjusted gross income, as defined in section 1401 of the Affordable Care Act, to include both taxable and nontaxable Social Security benefits.

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

Mr. SCOTT of South Carolina. I yield the gentlelady an additional 30 seconds.

□ 1250

Mrs. BLACK. This commonsense bipartisan solution would bring Medicaid into line with all of the other Federal assistance programs and ensure that the program is there for those who are in the most need. That is very important. Furthermore, and I believe this cannot be emphasized enough, according to CBO and the Joint Tax Committee estimates, this bill could save taxpayers approximately \$13 billion over 10 years. Considering our \$14 trillion in national debt, closing this loophole as soon as possible is good policy on a number of levels.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 1½ minutes to the distinguished gentleman from Pennsylvania (Mr. ALTMIRE).

Mr. ALTMIRE. I rise in support of this legislation, which is bipartisan and cosponsored by almost two-thirds of our colleagues in this Chamber. Earlier this year, Congress passed another bill with almost equal support when we repealed the burdensome 1099 requirement. Today, we are again working in a bipartisan way to make this commonsense change to the Tax Code that will provide much needed certainty to businesses around the country.

I've heard from numerous small businesses in my district that if the 3 percent withholding provision goes into effect as scheduled, firms that do business with the Federal, State, and local governments will face what amounts to a tax increase at this time when they can least afford it. Congress has previously voted to delay implementation of this provision, but we can do more to show businesses in western Pennsylvania and across the country that we are serious about helping them succeed.

I urge my colleagues to join me in permanently repealing the 3 percent withholding tax provision.

Mr. SCOTT of South Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania, Mr. MIKE FITZPATRICK.

Mr. FITZPATRICK. I thank the gentleman for the time and also for his leadership in bringing both parties together around this idea that will create jobs in the United States. I rise in sup-

port of the rule today and in support of the underlying legislation.

Throughout the past year, I have heard over and over again from small businesses, from women-owned businesses, from contracting businesses, hospitals and the like that this rule, which essentially amounts to a tax, will hinder business' ability to compete, grow, and thereby create jobs. This bill that's before the House today would right a wrong that unnecessarily punishes good actors, small businesses, and local governments who do business with the Federal Government in good faith. Small businesses, who often operate with the thinnest of margins, will be unnecessarily targeted in the Federal Government's zeal to capture more money. Small and medium-sized businesses are being looked to for our economic recovery. We cannot simultaneously ask American companies to begin hiring again while we withhold the capital that they require to grow.

Additionally, while the 3 percent withholding bill was originally well-intentioned, implementation of this rule has been continuously delayed, most recently in the 2009 stimulus bill and again by the IRS in May of 2011. This is a clear indication of the widespread recognition that this provision is costly and harmful to our economy.

So, Mr. Speaker, I cosponsored this underlying bill because it is bipartisan legislation that will be good for the economy and will help create certainty for job creators. The President has expressed support for this repeal. I urge swift action on the legislation in the Senate. I ask my colleagues to support the rule and the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes to my good friend, the distinguished gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. I thank my friend from Florida for yielding.

As we meet this afternoon, 15 million Americans are unemployed. The President has a proposal to put people to work modernizing 35,000 schools in America, but we're not voting on that bill.

The President has a proposal that would avoid a \$1,500 a year tax increase on middle class Americans January 1 if we don't act, but we're not voting on that bill.

The President has ideas to help the real job creators, the small businesses of this country, get bank loans from the people they bailed out with their tax dollars in the TARP bill a couple of years ago, but we're not voting on that bill.

Now, we are voting on a bill that we should support that says that businesses should not have to make an interest-free loan to the government when they do business with the government. I'm for that. But you do need to understand the way this bill is paid for.

This bill does have an offset, meaning it will not add to the deficit. I think we're all for that. But it's important to understand the way we make that decision. There were two options as to how we might take care of that offset. We said let's go to the industry that's had the most successful year in its history, the oil industry, and stop giving our tax dollars to the oil industry when they're making record profits. That idea is not up for a vote.

What is up for a vote is a provision that may make some sense. It may make some sense. It essentially deals with the adjustment formula for benefits under the new health care law. But we're not really sure exactly how the proposal will operate. There is a risk that some deserving middle class people will pay higher health insurance premiums if this is not done in the right way.

So understand this: The first way we could have paid for this bill would be to go to the oil industry and say you've had enough time at the public trough, you're making record profits, no. Or we could say let's roll the dice and let's try this experiment with the health premiums of middle class people. Guess who won?

Now we thought it would be a good idea to at least put the two ideas up for a vote, but this rule doesn't do that. So the House will have to work its will today on the underlying bill. I'm going to vote for the underlying bill, but I'd really look forward to voting next week—and let me say one other thing. The plan for the House the rest of the year is to be here another 14 days between now and New Year's Day, and take the rest of the year off. A lot of Americans are going to have the rest of the year off, too—involuntarily, because they're out of work. Let's get to the business of creating an environment where small businesses create jobs for the people of this country. Let's put Americans back to work after we do this good business of today.

Mr. SCOTT of South Carolina. Mr. Speaker, one of the things that is so important for us to recognize is the importance of living within our means and allowing our ability to control our spending to dictate what we are able to use, as opposed to having more tax increases as a way to fund the resource priorities of this Nation.

I yield 3 minutes to the gentleman from Oklahoma, Mr. JAMES LANKFORD.

Mr. LANKFORD. Mr. Speaker, I rise in support of the rule and the underlying bill, H.R. 674, which repeals the 3 percent withholding requirements on State and local governments for goods and services. The 3 percent withholding requirement is just another layer of burden and unfunded mandates on our States, cities, counties, and private entities.

Withholding 3 percent of a contract at the start just in case sets a horrible precedent. When we find a bad actor in the contracting community, we should have aggressive prosecution, suspen-

sion, and debarment. But, we should not have a national policy that assumes every contractor in America is a tax cheat. It's a dreadful policy, and it's horrible economics.

Let me break this down to what it will mean for communities in my State of Oklahoma. In Oklahoma City, it will cost between \$75,000 and \$250,000 to implement the initial financial system and all of the modifications to comply with these rules. After that, it's expected to cost at least \$15,000 a year to maintain those modifications in the financial system.

To ensure that Oklahoma City fully complies with these mandates to maintain the financial system, Oklahoma City estimates that they're going to have to hire two additional full-time employees. Now I understand that we're all about job creation here, but our job creation should focus on goods and services and taking care of people, not filling out even more Federal forms.

In Edmond, Oklahoma, they're concerned as to how the 3 percent withholding requirement would eventually be passed along to the buyer, increasing the overall cost. Edmond's annual contractual services expenditures line is over \$130 million this year. If the cost of these products and services are increased by 3 percent to cover the withholding costs, Edmond's expenditures could be raised by \$4 million. Worse yet, that could mean contractors choosing not to bid on city and local projects, ultimately decreasing competition and increasing the cost.

A contractor in the small town of Tecumseh, Oklahoma, told me that with a down economy, he only had a 2 percent profit margin last year. The 3 percent requirement would stifle his cash flow and would force him to increase his bids, which of course would be passed along to the taxpayer.

Mr. Speaker, as we continue to find ways to kick-start our economy and encourage job growth in the private sector, I'm hopeful we can come to a bipartisan agreement to reduce the regulatory burden on State and local governments and encourage private sector growth. I'm sure it was well intentioned at the start, but it is time to eliminate this burdensome regulation.

□ 1300

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes to my friend and classmate from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. I appreciate the gentleman's courtesy.

I am pleased that the House will deal with the repeal this week. I was honored to be the principal cosponsor with my good friend, WALLY HERGER, of the Ways and Means Committee and to have a bipartisan effort to move this legislation forward.

I didn't vote for this bill in 2005, in the first place. And I have been working to fix it ever since the impact was revealed to us. Tax compliance is an

important goal. We have somewhere in the neighborhood of \$200 billion to \$300 billion a year that is owed to the Federal Government to meet our obligations and reduce burdens on others that is not paid. But this bill is decidedly not the approach to take.

My good friend, Congressman HANNA, a freshman Republican from upstate New York, has an excellent op-ed in today's Roll Call that outlines how onerous it is from his perspective of having been a small contractor.

There are three points that I think ought to be made as we go forward. First of all, we got this bill because we didn't follow regular order in 2005. I don't think there was ever a hearing before our Ways and Means Committee that talked about this bill that allowed contractors and small businesses to be able to explain the impact. I am very pleased that I think Chairman CAMP is committed to trying to follow regular order in this Congress, unlike what happened in 2005.

The second point is that this reveals a flaw in the CBO calculation. I'm not faulting CBO. They're following their rules. But they assume that the Federal Government has the capacity to implement it. And they only count the revenues. Well, you don't have to go very far to understand that this wouldn't just be a burden on small business and it wouldn't just be a burden on State and local government. The cost of compliance for the Federal Government itself will, I guarantee you, be more than the amount of money that would be collected.

Finally, I felt that we could do better in paying for it; but, frankly, I think the situation that we are in in the months ahead is that we're going to need to do both. We will be making the adjustment that is advanced by my friends from the Ways and Means Committee, and we will be approving the elements that are in the motion that the Democrats would do in terms of fixing an egregious tax loophole for oil companies that only serves to improve their bottom line and does nothing to increase oil supply, does nothing to lower prices. But I will try and move both of those forward.

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

Mr. HASTINGS of Florida. I yield the gentleman 1 additional minute.

Mr. BLUMENAUER. I very much appreciate it. I get a little wound up on this. But we've been working on it for a long time.

I want to conclude by saying that I hope we don't allow some strategic differences on the floor of the House between the two parties in terms of priorities. As I say, we will end up approving both these approaches because the scale of our deficit is such that we need to do it. The administration will support it, and both parties will ultimately get there. And I think the American public will support it.

But we need to come together to make sure that this legislation that

we're working on this week does not fall victim to crossed signals on the other side of the Capitol. We need to work with the other body. We need to send a strong signal here to make sure that this mistake from 2005 is corrected now and spares unnecessary hardship for our business community and also for State and local government and, indeed, for the Federal Government itself.

Mr. SCOTT of South Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Illinois, Mr. RANDY HULTGREN.

Mr. HULTGREN. I want to thank my colleague from South Carolina.

Mr. Speaker, I rise today in support of both the bills under this rule and, in particular, H.R. 674, repealing the 3 percent withholding tax on government contracts.

It may have seemed like a good idea at the time, but now we clearly see that it is a mandate that drains precious resources from America's job creators—small businesses. The profit margin for many businesses affected by the proposal is often less than the 3 percent mandate. The withholding tax will create substantial cash flow problems and drain capital from many businesses that could otherwise be used to invest and grow or hire more workers.

Mr. Speaker, I join with many business owners, State and local governments, and educational institutions in supporting H.R. 674, to repeal this tax, and provide a meaningful step towards instilling certainty in job creators in getting this economy moving on the right track.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. KEATING).

Mr. KEATING. Mr. Speaker, I hope the previous question is defeated so I can offer an amendment, along with my colleagues Mr. LEVIN and Mr. BISHOP, to really correct something that, frankly, is outrageous. It's not only outrageous, but it is exhibit A of what's wrong with this Congress.

The underlying bill to do away with the 3 percent withholding, I've met with my local business people, had discussions, and this is a great opportunity for bipartisan efforts to help create some jobs and help small businesses go forward. We're actually in agreement with something that's going to do all those things; and I'm proud to support that, and I'm proud to reach across the aisle and support that.

But I have got to tell you, you just can't mess things up more than you're messing things up here, because the offset that was taken by the majority party is a tax on people that have Social Security and Medicaid. Why are you doing that when you're trying to get people some economic benefits through businesses, and really an effort that we both should be applauded for working together on.

The amendment that I'm going to offer is going to correct that. It's going

to correct it in a way that makes perfect sense and is exhibit A about what can be right about this Congress. We're going to take away that oil subsidy that in the next several years is going to amount to \$43.6 billion in a windfall to our richest, most profitable companies that don't need it. Incidentally, 93 percent of that windfall goes to preferred stock buy-backs and CEO remuneration that is not necessary.

So we have something we agree on. We have something that's going to be a benefit and that's going to create jobs and help small businesses. Now, we can go one of two ways in terms of paying for that.

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

Mr. HASTINGS of Florida. I yield the gentleman an additional 30 seconds.

Mr. KEATING. We can have an additional tax on the Medicaid and Social Security recipients, or we can continue to reward the CEOs and Big Oil. That's not a tough choice.

So I hope that the previous question is defeated so we can offer something that makes sense. It's time for this Congress to get it right. We have a chance to do it, and I hope we will.

Mr. SCOTT of South Carolina. I would just encourage my friends on the left who want to raise taxes, raise taxes if you can, but the bottom line is that raising revenues does not make you more responsible, does not make you use the revenues that you currently have more responsibly. So the notion of raising taxes to use that as a fix to this situation is inconsistent with the reality and is part of the alternate universe that we ought not be a part of.

Mr. Speaker, I yield 1 minute to the gentleman from Illinois, Mr. DONALD MANZULLO.

Mr. MANZULLO. I rise in support of the rule and the underlying bill.

Instead of going after tax delinquents, the law punishes everyone for the failings of a few. When I chaired the Small Business Committee several years ago, I saw a lot of harm and injuries taking place to small business people. This is a tough one. H.R. 674 would repeal that.

The 3 percent withholding rule disproportionately hurts small businesses. I met with several electrical contractors in my office recently, and the first thing on their minds and their hearts was the fact that this should be repealed because it simply does not make sense.

The bill would repeal the onerous law to the benefit of farmers and others who sell goods and services to the government at all levels, but also it repeals an unfunded mandate imposed upon State and local governments that requires them to be the tax collectors for the IRS. This bill would free up precious financial resources so businesses have the flexibility to hire more workers to complete the task at hand. I urge my colleagues to support this bipartisan bill.

□ 1310

Mr. HASTINGS of Florida. Mr. Speaker, I would advise my good friend from South Carolina that I am the last speaker. If he has other speakers, then I will reserve my time.

Mr. SCOTT of South Carolina. We have one more speaker.

Mr. HASTINGS of Florida. I reserve the balance of my time.

Mr. SCOTT of South Carolina. Mr. Speaker, I yield 1 minute to the gentleman from Florida, Mr. DENNIS ROSS.

Mr. ROSS of Florida. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the rule and the underlying bill.

Now more than ever, regulatory and tax reform are needed. The 3 percent contractor withholding requirement is yet another onerous regulatory tax policy that will hinder small business' ability to survive and hire new employees. The 10.6 percent unemployment in my home State of Florida cannot handle another government job-killing regulation.

Repealing this legislation will ensure America's small businesses are not assessed another regulatory cost that will either be passed on to consumers in cost or will force another small business to shut its doors.

The 3 percent withholding requirement was originally intended to make sure contractors paid taxes. In reality, it is simply a one-size-fits-all government approach to a problem filled with unintended consequences.

One of the most tragic consequences could be the cost to our seniors. Ninety-five percent of Medicare physicians will be affected by this withholding tax. Our seniors should not suffer because our Tax Code is too confusing, too burdensome, and too big.

Mr. Speaker, this regulation shows why we need a Tax Code that is flatter and smaller and why we need Medicare reform with fewer scare tactics and more choices.

Mr. HASTINGS of Florida. I yield myself the balance of my time.

Mr. Speaker, President Obama, as has been cited, along with many of our colleagues, supports changing the definition of "modified adjusted gross income." But like on other occasions, I have disagreed with this President on matters, and in this instance I do. There are many in the institution who have a different view. But there is no reason why a bill reducing access to health care for millions of Americans has to be tied to a bill that will put money back into the pockets of middle class and working poor Americans.

My colleagues on the other side of the aisle made a conscious decision to make it harder for Americans to pay their medical bills. Now, they could have just as easily tied this bill to one that reduces oil and gas subsidies. But listen, I just spoke to a group of students, about 15 or 20 of them from American University, and I put the question to them regarding this rule,

explaining to them some of the dynamics of the institution. I put the question to them: What would seem more sensible to you. Would it be that 500,000 people should and may lose their coverage under a measure, or that the oil companies and gas companies—and I added GE—that those kinds of companies that cause these kinds of matters not to have to come into play at this time in our institution?

Now Democrats—SANDER LEVIN, my good friend from Michigan, the ranking member—introduced a substitute that would eliminate oil and gas subsidies in order to repeal the withholding requirement while still allowing Americans to keep their health care coverage. Yet they wouldn't waive the rules for that, as they've done a number of times, my Republican friends, for their own amendments, proving once again that the rules are only sacred when oil and gas and big business profits are at stake.

Mr. Speaker, if we defeat the previous question, an amendment will be offered to the rule to let Mr. LEVIN of Michigan or Mr. BISHOP of New York or Mr. KEATING of Massachusetts offer the amendment we tried to have made in order in the Rules Committee yesterday. As we've said, the amendment will roll back special tax loopholes for immensely profitable big oil companies. Is there anybody that doubts that?

And I'd like to hear from these oil company representatives. They're entitled. They're not a person, as some have said; they're a corporation. And they don't have, I guess, a conscience because their bottom line is to make a profit. Well, they've made a lot of it, and all we're asking them to do in this case and others—and I'll be back down here another time asking them—to share some of it with the American people and not cause the pressing down to our States, the pressing down to our counties and municipalities, and causing people who are disabled—and, indeed, some will lose their insurance because of this.

And maybe some of these persons have never had a disabled person. But I had a mother that was disabled for the last 2 years of her life, 30 years previous to that being almost bedridden, and I know what disability is, as I'm sure some of my friends do here. Had I not been alive, she would have died many years earlier because she had no ability to provide for herself, yet Shell Oil and Exxon and GE and all these people do. And they're right about their profitmaking, but they're wrong about not being able to share it with the people.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment in the RECORD along with extraneous material 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. HASTINGS of Florida. Mr. Speaker, I urge my colleagues to vote "no" and defeat the previous question,

I urge a "no" vote on the rule, and I yield back the balance of my time.

Mr. SCOTT of South Carolina. Mr. Speaker, we find ourselves at a place where we should have been at for many, many months, and that is working in a bipartisan way to save American jobs.

Mr. Speaker, it is amazing that we have this opportunity to have the President's support with those of us on the right, to have the Democrat leadership joining us, 269 cosponsors on this legislation that simply says to the job creators: We believe in you.

Mr. Speaker, today we have a very simple vote. We can remove an impediment to job creation from the backs of small businesses with no overall increase in government spending. That should be our vote today.

I encourage all of my colleagues to support the rule and the underlying bill.

Mr. MCGOVERN. Mr. Speaker, here we go again. Another day in the House of Representatives, another day without a jobs bill. As a Red Sox fan, I'm not prone to quoting Yogi Berra—but this is *déjà vu* all over again.

This Tea Party-run Republican House is not only breaking House rules to move a bipartisan bill—something they said they would never do—but they are breaking these rules to protect big oil while taking healthcare away from low-income Americans.

Talk about hitting the trifecta.

Let's start with the rule. We have one rule for two bills, one bill repealing the 3% withholding requirement and another bill offsetting the costs of the first bill. Why have two bills come up under one rule? The only reason is because the Republicans want to shut down debate and limit the motion to recommit. That's why the rule combines these two bills into one bill after they are approved on their own.

This is just one more example of this Republican leadership's continual streak of broken promises.

If this weren't bad enough, this rule waives all points of order—including the Budget Act. Why is this necessary? Well, that's because the 3% withholding bill violates the Budget Act twice.

The sad truth is that the Chairman of the Subcommittee on Health, the gentleman from California Mr. HERGER, didn't even know that his bill violated the Budget Act when he testified before the Rules Committee yesterday.

Chairman DREIER, of course, tried to explain these violations but he was misinformed when he said the only reason for these violations was because the Senate did not pass a budget resolution. To correct the record, that's only one of the violations. The other violation is because this bill violates the House-passed budget resolution. I'm not one to defend the Ryan budget, but I'd like to think that the Republicans wouldn't use one bill to contradict legislation they passed earlier this year.

And the Republican offset for the 3% withholding bill is a bad one—it tightens Medicaid and health insurance exchange subsidy eligibility requirements. In other words, it prevents low-income individuals and families from being eligible for Medicaid, an egregious act during normal times but especially heartless in this difficult economy.

Talk about turning a deaf ear to people who are struggling to make ends meet.

Now, Democrats offered an amendment to replace the bad Republican offset by elimi-

nating subsidies to big oil and gas companies. BP, for example, reported profits of \$4.9 billion in the third quarter of this year even though their production decreased by 12 percent over that period. They made more money with less oil and we—the American people—still provide lucrative subsidies to them.

Time after time, the Rules Committee has blocked my amendment ending the subsidy—siding with big oil and defending their subsidy—using procedural excuses.

It's funny how the Republicans waive the rules when it's convenient for their agenda but they refuse to apply that same standard to all bills. In this case, Republicans waive all points of order against the underlying bills but cite germaneness and cut-go as reasons why they're not making the Democratic substitute in order.

The truth is Republicans are hiding behind this flimsy excuse to protect big oil.

To my Republican friends, let me set the record straight. You're making in order a non-germane bill to pay for the repeal of the 3 percent withholding bill—a bill that violates the Budget Act—but you're saying an amendment ending subsidies for oil companies making billions of dollars each month can't be made in order because it's not germane?

You're making in order a bill that violates the rules of the House—and you're protecting this bill from these points of order—but you won't do the same for our proposal?

It's truly outrageous that you're making two bills in order and using the rule to combine these two bills into one; that you're going out of your way to make in order your non-germane bill and you're not doing the same for our bill.

It's truly outrageous that you're more interested in rationing healthcare for those who need it instead of ending subsidies for oil companies who continue to rake in billions of dollars of profits each quarter; and that you're hiding behind procedural excuses in order to get your way.

Mr. Speaker, this is a process even Tom DeLay would marvel at.

The following is a list of the instances when the Republicans have waived germaneness (Clause 7 of Rule XVI) and both cut-go and germaneness (Clause 10 of Rule XXI).

REPUBLICANS' WAIVERS OF CUTGO AND GERMANENESS THIS YEAR SO FAR:

CUTGO WAIVERS—CLAUSE 10 OF RULE XXI (3 TIMES):

H.R. 3079 (H. Res. 425)—Panama trade bill
S. 627 (H. Res. 375)—Budget Control Act of 2011

S. 365 (H. Res. 384)—Budget Control Act of 2011

GERMANENESS WAIVERS—CLAUSE 7 OF RULE XVI (9 TIMES):

H.R. 839 (H. Res. 170)—HAMP Termination Act of 2011 (canceled a program to help homeowners modify their loans)

H.R. 861 (H. Res. 170)—NSP Termination Act (canceled a program to redevelop abandoned and foreclosed homes and residential properties)

H.R. 910 (H. Res. 203)—Energy Tax Prevention Act of 2011 (taking away EPA's authority to regulate greenhouse gases)

H.R. 1315 (H. Res. 358)—Consumer Financial Protection Safety and Soundness Improvement Act of 2011 (weakened the Consumer Financial Protection Bureau)

Senate amendment to H.R. 2608 (H. Res. 405)—CR 111 Senate amendment to H.R. 2608 (H. Res. 412)—CR

H.R. 658 (H. Res. 189)—FAA reauthorization

H.R. 754 (H. Res. 264)—Intel Authorization
H.R. 1892 (H. Res. 392)—Intel Authorization
Vote no on the previous question, reject this rule, and reject the pay-for that violates the Budget Act and cuts healthcare for low-income families.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

AN AMENDMENT TO H. RES. 448 OFFERED BY
MR. HASTINGS OF FLORIDA

(1) In the first section of the resolution, strike "the previous question" and all that follows and insert the following:

The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means; (2) the amendment printed in section 4, if offered by Representative Levin of Michigan, or Representative Bishop of New York, or Representative Keating of Massachusetts, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

(2) At the end of the resolution, add the following:

SEC. 4. The amendment referred to in the first section of this resolution is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. REPEAL OF IMPOSITION OF 3 PERCENT WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

(a) IN GENERAL.—Section 3402 of the Internal Revenue Code of 1986 is amended by striking subsection (t).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2011.

SEC. 2. DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES NOT ALLOWED WITH RESPECT TO OIL AND GAS ACTIVITIES OF MAJOR INTEGRATED OIL COMPANIES.

(a) IN GENERAL.—Subparagraph (A) of section 199(d)(9) of the Internal Revenue Code of 1986 is amended by inserting "(9 percent in the case of any major integrated oil company (as defined in section 167(h)(5)))" after "3 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(The information contained herein was provided by the Republican Minority on multiple occasions throughout the 110th and 111th Congresses.)

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 Republican 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), de-

scribes 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 Republican 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 Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In 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 Republican majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. SCOTT of South Carolina. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

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

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

Mr. HASTINGS 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 of rule XX, further pro-

ceedings on this question will be postponed.

SOUTHEAST ARIZONA LAND EXCHANGE AND CONSERVATION ACT OF 2011

Mr. HASTINGS of Washington. 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. 1904.

The SPEAKER pro tempore (Mr. SCOTT of South Carolina). Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 444 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 1904.

□ 1321

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 consideration of the bill (H.R. 1904) to facilitate the efficient extraction of mineral resources in southeast Arizona by authorizing and directing an exchange of Federal and non-Federal land, and for other purposes, with Mr. MURPHY of Pennsylvania in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Washington (Mr. HASTINGS) and the gentleman from Arizona (Mr. GRIJALVA) each will control 30 minutes.

The Chair recognizes the gentleman from Washington.

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

Mr. Chairman, our Nation has suffered through 32 consecutive months of over 8 percent unemployment, and people everywhere across our great Nation continue to ask, where are the jobs? Congress' top priority right now is job creation, and today we have an opportunity to act on that commitment by passing a bill that would put thousands of Americans to work.

The Southeast Arizona Land Exchange and Conservation Act, sponsored by our colleague from Arizona (Mr. GOSAR), is a commonsense measure that will create new American jobs and strengthen our economy through increased U.S. mineral production.

The bill authorizes an equal-value land exchange between Resolution Copper, the Federal Government, the State of Arizona and the town of Superior, Arizona, that will open up the third-largest undeveloped copper resource in the world. The bill requires the cost of the land exchange to be fully paid for by the mine developer, ensuring fair treatment for taxpayers and for the government.

This project will provide substantial benefits to the United States in the