apply to any college or any university in any of the 50 States and not be turned away because his family is poor.''

HEA's goal was, and still is, to provide a pathway to the middle class for millions of working families around the country by making college affordable and accessible to everyone. Unfortunately, the initial promise of HEA has eroded. For far too many of our students, the principles of access and economic opportunity are in jeopardy. The bills considered today take a major step in restoring the original purpose of the Higher Education Act so that no child will be denied access to the opportunities afforded by higher education because his family is poor.

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

Mr. TAKANO. Mr. Speaker, I have no additional speakers, and I yield myself the balance of my time.

In closing, I would like to again thank the gentleman from Nevada (Mr. HECK), my friend, for bringing this bill forward. I would like to thank Chairman KLINE, Ranking Member SCOTT, and Mr. HINOJOSA, the ranking member of the Subcommittee on Higher Education and Workforce Training, for their work on this bill.

I urge all of my colleagues to support H.R. 5529.

Mr. Speaker, I yield back the balance of my time.

Mr. HECK of Nevada. Mr. Speaker, I yield myself the remainder of my time.

Mr. Speaker, in closing, I want to underscore the purpose of this legislation. Yes, this bill will help us address a growing doctor shortage, and, yes, it will also help us close the diversity gap among physicians. But the Accessing Higher Education Opportunities Act, like a number of the bills on the floor today, is also about opportunity and helping students realize what they can achieve through higher education. This bipartisan bill will help more students obtain the knowledge and the skills they need to accomplish their goals and succeed in the workforce.

I want to thank both Dr. RUIZ and Representative HINOJOSA for their work in advancing these important reforms and for their continued leadership in helping more Americans pursue the dream of a higher education. I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I rise today in support of H.R. 5529, the ''Accessing Higher Education Opportunities Act,'' which amends the Higher Education Act of 1965 to authorize additional grant activities for Hispanic-serving institutions.

At a time when American innovation and intellectual growth fundamentally depend on education, the accessibility of institutions of higher education is a critical concern in the struggle to maintain America's role at the forefront of global innovation.

As a lifelong advocate of equal education opportunities for all students, I know the importance of making higher education accessible across all demographics, and I know we can do better.

Without an honest effort to even the playing field for all students by ensuring that all students have the opportunity to extend their education as long as they can, America, as a country, stands to lose out on the brightest economic, academic, and political leaders of the future.

To that end, this measure emphasizes the importance of equality of opportunity for all students pursuing higher level education by urging the expansion of grant programs for Hispanic-serving educational institutions.

In particular, this measure amends the Higher Education Act of 1965 to specifically:

Support programs (which may include counseling, mentoring, and other support services) designed to facilitate the successful advancement of students from four-year institutions to post baccalaureate doctoral degree granting programs; and

Develop or expand access to dual or concurrent enrollment programs and early college high school programs.

Without this concrete measure to bolster support for Hispanic-serving institutions, institutions of higher education will fail to fulfill the American promise of equality of opportunity.

In particular, I am proud to represent institutions such as the Lone Star College and the University of Houston Downtown, institutions that will directly benefit from increased efforts to further support Hispanic-serving educational institutions.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. HECK) that the House suspend the rules and pass the bill, H.R. 5529, as amended.

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

A motion to reconsider was laid on the table.

SEPARATION OF POWERS RESTORATION ACT OF 2016

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4768.

The SPEAKER pro tempore (Mr. HECK of Nevada). Is there objection to the request of the gentleman from Virginia?

There was no objection.

The SPEAKER pro tempore. Pursuant to House Resolution 796 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. 4768.

The Chair appoints the gentleman from Virginia (Mr. RIGELL) to preside over the Committee of the Whole.

□ 1742

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. 4768) to amend title 5, United States Code, with respect to the judicial review of agency interpretations of statutory and regulatory provisions, with Mr. RIGELL 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 Virginia (Mr. GOODLATTE) and the gentleman from Georgia (Mr. JOHNSON) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

The need for the Separation of Powers Restoration Act of 2016 to restore balance in our Federal system is clear. The modern Federal administrative state is an institution unforeseen by the Framers of our Constitution and rapidly mushrooming out of control.

This legislation takes square aim at one of the biggest roots of this problem, the Chevron Doctrine, under which Federal courts regularly defer to regulatory agencies' self-serving and often politicized interpretations of the statutes they administer. This includes interpretations like those that underlie the EPA's Clean Power Plan and waters of the United States rules. These are just a few examples of rules consciously designed by regulatory agencies to violate Congress' intent. They threaten to wipe out the Nation's key fuel for electric power generation and extend the EPA's permitting tentacles into every puddle in every American backyard.

This bill also takes on the related Auer doctrine, under which courts defer to agencies' self-serving interpretations of their own regulations. Auer and Chevron deference work hand in hand to expand the power of Federal bureaucrats to impose whatever decision they want as often as they can, escaping, whenever possible, meaningful checks and balances from the courts.

□ 1745

In perhaps the most famous of the Supreme Court's earlier decisions, Marbury v. Madison, Chief Justice Marshall declared for a unanimous Court that ''it is emphatically the province and duty of the Judicial Department to say what the law is.''

Since the Chevron doctrine allows judges to evade interpreting the law, and instead to defer to agencies' interpretations, one must ask: Is Chevron faithful to Marbury and the separation of powers?

In the Administrative Procedure Act of 1946, often called the constitution of administrative law, Congress provided for judicial review of agency action in terms that were plain and direct. It stated that ''the reviewing court shall decide all relevant questions of law and interpret constitutional and statutory provisions.''

That standard is consistent with Marbury and the separation of powers.

But since Chevron allows judges to escape interpreting statutory provisions themselves, one must ask: Is Chevron unfaithful not only to Marbury and the separation of powers, but also to the Administrative Procedure Act?

These are not just academic questions. They are fundamental questions that go to the heart of how our government works and whether the American people can still control it.

Judicial deference under Chevron weakens the separation of powers, threatening liberty. It bleeds out of the judicial branch power to interpret the law, transfusing that power into the executive branch. And it tempts Congress to let the hardest work of legislating bleed out of Congress and into the executive branch since Congress knows judges will defer to agency interpretations of ambiguities and gaps in statutes Congress did not truly finish.

This leads us down the dangerous slope James Madison warned against in Federalist 47: ''The accumulation of all powers, legislative, executive, and judiciary, in the same hands,'' that ''may justly be pronounced the very definition of tyranny.''

The Separation of Powers Restoration Act of 2016 is timely, bold legislation directed straight at stopping our slide down that dangerous slope. In one fell swoop, it restores the separation of powers by legislatively overturning the Chevron doctrine and the related Auer doctrine.

This is reform we must make reality for the good of the American people. I want to thank Representative RATCLIFFE for his introduction of this important legislation, and I urge my colleagues to support the Separation of Powers Restoration Act.

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

Mr. JOHNSON of Georgia. Mr. Chair, I yield myself such time as I may consume.

Judicial review of final agency action is a hallmark of administrative law and is critical to ensuring that agency action does not harm or adversely affect the public. But as the Supreme Court held in Chevron USA, Inc. v. Natural Resources Defense Council, Inc., reviewing courts may only invalidate an agency action when it violates a constitutional provision or when an agency unreasonably exceeds its statutory authority as clearly expressed by Congress.

For the past 30 years, this seminal decision has required deference to the substantive expertise and political accountability of Federal agencies. As the Court explained in Chevron: ''Federal judges—who have no constituency—have a duty to respect legitimate policy choices made by those who do. The responsibilities for assessing the wisdom of such policy choices and resolving the struggle between competing views of the public event are not judicial ones: 'Our Constitution vests such responsibilities in the political branches.'''

H.R. 4768, the Separation of Powers Restoration Act of 2016, would eliminate this longstanding tradition of judicial deference to agencies' interpretation of statutes and rules by requiring courts to review agency action on a de novo basis.

This misguided legislation is not the majority's first attempt to gum-up the rulemaking process through enhanced judicial review. Since the 112th Congress, a number of deregulatory bills we have considered, such as H.R. 185, the Regulatory Accountability Act, would require generalist courts to supplant the expertise and political accountability of agencies in the rulemaking process with their own judgments.

Compare this approach with other deregulatory bills passed by this Congress that would greatly diminish judicial review of deregulatory actions by dramatically shortening the statute of limitations for judicial review, sometimes to just 45 days.

In other words, the majority wants to have it both ways. When it benefits corporate interests, Republican legislation heightens scrutiny of agency rulemaking, like this act does, threatening to impose years of delay and untold costs on taxpayers. When it benefits the public or our environment, Republican legislation slams the courthouse door shut through sweeping restrictions on the court's ability to protect public health or the environment.

These proposals are transparently the design of special interest fat cats to minimize their exposure to legal accountability. H.R. 4768 is more of the same. At a minimum, this bill will delay and possibly derail the ability of agencies to safeguard public health and safety.

Without any constraints on judicial review, the bill will also incentivize judicial activism by allowing a reviewing court to substitute its own policy preferences for those of the agency, which Congress has specifically entrusted with rulemaking authority.

In other words, this bill resolves a perceived imbalance between the branches by granting immense authority to the judicial branch so that it may act as a super regulator through judicial fiat.

In a letter opposing this bill, a group of the Nation's leading administrative law professors underscored this point, arguing that the bill is motivated by policy disagreements, not actual concerns with judicial deference.

I strongly oppose H.R. 4768 and urge my colleagues to do the same.

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

Mr. GOODLATTE. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. RATCLIFFE), the chief sponsor of this legislation and a member of the House Judiciary Committee.

Mr. RATCLIFFE. Mr. Chair, I rise in support of the Separation of Powers Restoration Act of 2016.

I want to thank Chairman GOODLATTE for giving me the opportunity to lead on this issue. I also want to thank the 113 Members of Congress who believe this bill is important enough to cosponsor it.

It is my sincere hope that all 435 Members of this House will vote in support of this incredibly important bill because every Member of this body took an oath to defend the Constitution and none of us should accept the constitutional erosion and infringement that is having a devastating impact on the very constituents that we all swore to represent.

Mr. Chair, I ran for Congress because I wanted the opportunity to address the big issues of our time, to address the real problems that are hurting all Americans, and the Separation of Powers Restoration Act does exactly that. That bill repeals the so-called Chevron doctrine and, in so doing, will restore the constitutional separation of powers that our Founding Fathers intended.

Named for the Supreme Court's 1984 decision in Chevron USA, Inc. v. Natural Resource Defense Council, Inc., the Chevron doctrine has, for three decades, required courts to defer to agency interpretations of ambiguous laws. Said more plainly, Mr. Chair, this means that when American citizens and businesses challenge Federal regulators in court, the deck is stacked in favor of the regulators.

Chevron deference is one of the, if not the primary, driving forces behind an outrageous expansion of a regulatory branch that our Founding Fathers never intended and one that is crippling the American economy and the American people.

Unelected bureaucrats now draft regulations with the Chevron doctrine in mind, knowing that it will give them the ability to regulate, sometimes for political gain, beyond the actual scope of the statutes that we pass as the duly elected representatives of the people.

Mr. Chair, by allowing unelected, unaccountable regulators to effectively grade their own papers, we are circumventing the will of the American people.

Under Chevron, Congress can't prevent agencies from engaging in de facto lawmaking and courts are abdicating their constitutional responsibility to interpret laws. My bill will very simply fix this perversion of our Constitution by ensuring that Congress, not agencies, writes the laws; and that courts, not agencies, interpret the laws.

Mr. Chair, it is vitally important to stress that my bill is entirely agnostic to specific policy issues. It doesn't specifically support or oppose any certain regulatory actions. This bill is simply about defending the Constitution and reestablishing three coequal branches of government. This is not and should not be a partisan issue.

The candid truth, Mr. Chair, is that the Chevron doctrine has been abused by Democrat and Republican administrations alike for three decades. Both have been guilty of abusing the separation of powers for political expedience,

and it is the American people who have been victimized by this. So let's end it. Let's finally fix a problem that plagues all Americans.

Mr. Chair, many of us believe that the American experiment has endured, in large part, because of the wisdom and the thoughtful manner in which our framers crafted our Constitution. I refuse to believe that we can't all at least agree on that. I refuse to believe that restoring three coequal branches of government needs to be controversial.

Today this body has an opportunity to stand up for and with the American people and stand against overreaching bureaucrats that the American people never elected. So, Mr. Chair, when the Constitution is restored, it is the American people who will win.

DEAR MEMBERS OF CONGRESS: We write to express support for the Separation of Powers Act (SOPRA) (H.R. 4768 and S. 2724) which would require courts to check regulatory overreach. As organizations dedicated to a free and open Internet, we believe SOPRA would be especially important in restoring judicial oversight of the FCC—and thus protecting Internet freedom from government overreach.

Two Supreme Court decisions, Chevron v. NRDC (1984) and Auer v. Robbins (1997), mean that courts generally grant broad deference to administrative agencies in interpreting ambiguous statutes and agency regulations. Only because of Chevron deference did two (of three) D.C. Circuit judges recently vote to uphold the FCC's 2015 Open Internet Order.

That decision gave the FCC a blank check to regulate the Internet as it sees fit, even to the point of effectively rewriting the Telecommunications Act of 1996. The Open Internet Order represented a fundamental break from the light-touch, bipartisan approach that had allowed the Internet to flourish for nearly two decades.

Despite the FCC's talk of protecting ''net neutrality,'' the FCC went well beyond that: reclassifying broadband under Title II of the 1934 Communications Act and claiming sweeping power over broadband. Under the panel majority's blind Chevron deference to the FCC, it is hard to see how the courts could stop the FCC from extending such outmoded regulations to ''edge'' companies like Facebook and Google, too. Similarly, while the FCC has promised to ''forebear'' from certain provisions of Title II, the court's decision suggests that the FCC would get deference in unforbearing—which could result in the full weight of Title II being imposed on the Internet. Or, conversely, a deregulatory-minded FCC could use forbearance to gut not just the Order, but much of the existing regulations.

In short, the majority's view of Chevron means Internet regulation will now be a game of political pingpong—with the courts resigned to sitting on the sidelines, watching the ball bounce back and forth. This ongoing uncertainty is particularly damaging to small businesses, who often lack the resources needed to comply with shifting regulatory burdens and litigate against unfavorable regulatory changes.

SOPRA would restore the Judiciary's constitutional role in checking agency overreach and preventing excessive regulations from impeding innovation and economic growth. Specifically, the bill would clarify that the Administrative Procedure Act requires courts to conduct a new review of relevant questions of law when evaluating agency regulations—rather than simply deferring to the agency's judgment.

Sincerely,

TechFreedom, American Commitment, American Consumer Institute, Americans for Tax Reform, Center for Freedom and Prosperity, Civitas Institute, Competitive Enterprise Institute, Digital Liberty, Free the People, Independent Women's Forum, Institute for Liberty, Less Government, Mississippi Center for Public Policy, National Taxpayers Union, Protect Internet Freedom, Rio Grande Foundation, Taxpayers Protection Alliance, Tech Knowledge.

DEAR MEMBERS OF CONGRESS: On behalf of our organizations and the millions of Americans we represent, we are writing to express our strong support for H.R. 4768 and S. 2724, the Separation of Powers Restoration Act (SOPRA). This law would give courts the clarity they need to interpret powers ambiguously delegated to administrative agencies.

Congress has, from time to time, been unclear as to the extent of powers it delegates to agencies. Consequently, the courts have adopted two doctrines, known as Chevron and Auer after the cases Chevron USA Inc. v. NRDC and Auer v. Robins, which grant great deference to agency interpretations of the ambiguities. Chevron represents a general presumption that courts should defer to agency interpretation of statues, while Auer requires that courts defer to agency interpretations of their own regulations.

In Marbury v. Madison, Chief Justice John Marshall wrote, ''It is emphatically the province and duty of the Judicial Department to say what the law is.'' In Chevron v. NRDC, Justice John Paul Stevens said it was the province of executive branch agencies to say what the law is.

While these doctrines reflect a concern for a lack of expertise in the courts, their effect can be to give bureaucrats the power to make new law. For instance, in Babbitt v. Sweet Home Chapters of Communities for a Great Oregon, the Supreme Court used Chevron to defer to the Secretary of the Interior when he redefined long-accepted meanings of ''taking'' wildlife to include unintentional harm to an endangered species, greatly expanding the Secretary's power and control over Americans.

Auer provides a perverse incentive for an agency to issue deliberately vague regulations that it can reinterpret as it chooses, avoiding the notice-and-comment requirements of the Administrative Procedure Act for a change in regulation. A recent court decision may even allow the agency effectively to rewrite the statute by reinterpreting a vague term in a regulation that also appears in the statute.

In our view, this combination of delegation and deference represents an unjust expansion of administrative power at the expense of the legislative and judicial powers, contrary to the ideals of the American founding.

SOPRA would amend the Administrative Procedure Act to require courts to conduct a de novo (from scratch) review of all relevant questions of law and regulation when they are called into question. This represents a vital step in restoring the courts to their proper role as arbiters of statutory interpretation.

Before Chevron, courts relied on agency expertise to guide their decision making, but they did not cede their fundamental responsibility to interpret the meaning of statutes to agencies. SOPRA would restore that discretion.

Millions of Americans are suffering under the weight of burdensome regulation, and often find themselves unable to challenge effectively unjust rules as a result of these judicial doctrines. SOPRA is one of the ways in which we can lift this oppressive burden from their backs.

Thank you for your consideration,

Competitive Enterprise Institute, American Commitment, American Energy Alliance, Americans for Prosperity, Americans for Competitive Enterprise, Americans for Tax Reform, Campaign for Liberty, Frontiers of Freedom, Heritage Action for America, Institute for Liberty, Less Government, National Center for Public Policy Research, National Taxpayers Union, 60 Plus Association, Taxpayers Protection Alliance.

Mr. JOHNSON of Georgia. Mr. Chair, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chair, members of the committee and the House Representatives, I rise in strong opposition to H.R. 4768, the Separation of Powers Restoration Act.

By eliminating judicial deference to agency determinations, the bill would make the already ossified rulemaking process even more time consuming and costly, threatening the ability of Federal regulatory agencies to protect public health and safety. This is true for several reasons.

Ironically, for a bill that purports to restore separation of powers, H.R. 4768 actually raises separation of power concerns. It is ironic, but accurate. Congress makes the laws and agencies implement them while the courts are supposed to interpret the law.

The Supreme Court has long recognized that Congress may constitutionally delegate its authority to agencies through statutes to promulgate rules to implement the law it passes, with democratic accountability stemming from the fact that Congress can always rescind or narrow the scope of that delegation.

We specifically entrust these agencies, not the courts, with broad policymaking authority. Yet, by removing constraints on judicial review of agency action, H.R. 4768 would empower generalist and unelected courts to nullify agency action solely on policy grounds, substituting the administrative record with their own policy preferences.

□ 1800

Such authority would go beyond the traditional bounds of the judicial role, as the Federal courts themselves have thus far recognized through their deference to agencies.

H.R. 4768 would upend the careful and longstanding balance among the three branches of government, all in the name of serving anti-regulatory corporate interests.

In addition, this measure would encourage judicial activism. By eliminating judicial deference, the bill would effectively empower the courts to make public policy from the bench, even though they may lack the specialized expertise and democratic accountability that agencies possess, through delegated authority from and oversight by the American people's elected representatives.

Although the Supreme Court has had numerous opportunities to expand judicial review of rulemaking, thankfully, the Court has rejected this approach in recognition of the fact that generalist courts simply lack the subject-matter expertise of agencies, are politically unaccountable, and should not engage in making substantive determinations from the bench.

It is somewhat ironic that some who have long decried ''judicial activism'' would now support facilitating a greater role for the judiciary in agency rulemaking.

Finally, H.R. 4768 would result in regulatory paralysis and, thereby, undermine public health and safety.

Regulations are the result of years—very often many years—of careful deliberation and expert analysis. Typically, after an agency first proposes a rulemaking, it must solicit public comment. The agency then analyzes this input and, after further deliberation, promulgates a final rule.

Additionally, for certain rules, agencies must undergo further procedures such as conducting a cost-benefit analysis and a separate analysis of the rule's potential impact on small businesses. This is a time-consuming process that some believe is already too inflexible.

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According to a new report issued just last month by Pubic Citizen, the time it takes for agencies to issue regulations has grown to unprecedented lengths.

So far this year, for example, economically significant regulations have taken an average of 3.8 years to complete, which is nearly an entire presidential term.

In recognition of the fact that agencies spend years formulating rules and have the specialized substantive expertise to do so, the courts have long applied the rule of judicial deference.

Essentially, this means that the court, in reviewing a rulemaking, will not substitute its policy preferences for that of the agency.

Yet, H.R. 4768 would overturn this longstanding practice and, in its stead, require federal courts to review all agency rulemakings and interpretations of statutes on a de novo basis.

In effect, the bill would empower a judge to ignore the determinations of agency experts and to substitute his or her judgment, without regard to the judge's technical knowledge or understanding of the underlying subject matter.

By eliminating judicial deference, the bill will force agencies to adopt even more detailed factual records and explanations, which would further delay the finalization of what might be critical life-saving regulations.

And, worst of all it will further encourage some well-funded corporate interests to engage in dilatory litigation challenging agency action in order to derail regulations.

As it is, large corporate interests—devoted only to maximizing profits—already have an unfair advantage in their ability to weaken regulatory standards by burying an agency with paperwork demands and litigation.

Rather than giving more opportunities for corporate interests to derail rulemakings, we should be evaluating ways to ensure that the voices of the general public have a greater role in the rulemaking process.

We are talking about regulations that protect the quality of the air we breathe, the water we drink, and the food we consume.

Slowing down the rulemaking process means that rules intended to protect the health and safety of American citizens will take longer to promulgate and become effective, thereby putting us all at possible risk.

Given these concerns and others presented by the bill, I accordingly must oppose H.R. 4768 and I urge my colleagues to vote against this seriously flawed measure.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. ALLEN).

Mr. ALLEN. Mr. Chairman, I rise today in support of the Separation of Powers Restoration Act, legislation that works to scale back the power of the administration's regulatory agencies and, instead, returns the interpretation of laws to the courts.

For too long, unelected Federal bureaucrats have been running rampant on our Constitution, taking interpretations of the law further than Congress intended them.

If you would have told me that 90 percent of my time here in Congress would be spent fighting Federal agencies' overreach, I would have thought you were joking, but that is the truth. It is sad.

Our Founding Fathers never intended for faceless bureaucrats to have this power. The power of lawmaking is in this body.

There are many examples out there as well, not only the coal industry. You know, West Virginia had the tenth best economy in this Nation just 10 years ago. Now it is the worst economy in the Nation.

I have got lots of electric membership corporations in my district and, you know, they spent billions of dollars upgrading their coal-powered plants, but they continue to be harassed by the EPA.

It is time that this agency top-down approach is dealt with. It is not in the best interest of the folks in Georgia, in the 12th District of Georgia, let alone the rest of the country.

It is time to get back to Congress writing the laws and the courts interpreting them, and to dismantle the growing fourth branch of this government. I am proud to support this legislation that gives Federal agencies a reality check.

We wonder why the economy is not growing. Everywhere I go, people say that the biggest restriction on this economy is the regulatory overreach. We must stop this, and that is why I am proud to support the Separation of Powers Restoration Act.

Mr. JOHNSON of Georgia. Mr. Chairman, America is facing so many important issues that need to be addressed that this Congress refuses to address, and so it tenders do-nothing bills like this that are going absolutely nowhere, not going to pass in the Senate, and if it did, it would not be signed by the President. But still this do-nothing Congress persists in acting in this way.

Mr. Chairman, I yield 5 minutes to the gentlewoman from the great State of Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Chairman, let me thank the gentleman from Georgia (Mr. JOHNSON) for his leadership of the subcommittee from which this legislation, I believe, has found its journey. Let me also acknowledge my colleague from Texas.

On the Judiciary Committee, we have the benefit of the counsel of nonlawyers. It is a new phenomenon. When I first came on, we had only lawyers on the committee.

But as a lawyer who remembers sitting in an administrative procedure law class by a seasoned senior professor at the University of Virginia Law School, I remember he was embedded for decades, and managed to make the Administrative Procedure Act interesting. And the one thing I knew, even as a younger law student, the APA, for 70 years—at that time it hadn't reached 70—had served and guided administrative agencies and the affected public in a manner that is flexible enough to accommodate the variety of agencies operating under it, inclusive of changes through time.

So what saddens me as a person who enjoyed many aspects of law school and understands and enjoys the deliberation of issues dealing with the question of law is the complete skewing in spite of my friends who view this as remedy. And I would just like to offer them my thoughts as to why this is not: because the legislation would allow Federal courts reviewing an agency action to conduct a de novo review of all relevant questions of law without deferring to the legal interpretation of the agency.

Now, let me be very clear. I am a student of the three branches of government. I appreciate my colleagues'—in this instance, Republicans'—concern about the sanctity of the three branches of government as evidenced by the Constitution. But in that structure, we developed agencies to have expertise; not to not be challenged, but to have expertise. And I want those listening to understand that I respect that expertise, but I respect the challenge.

But what this particular legislation is doing is that de novo, my friends, of course, is starting from scratch. So that means a regulation by the Department of Homeland Security—I am on the Homeland Security Committee, this agency created after 9/11. And in the backdrop of what we have faced, the heinous acts of Dallas, 5 fallen officers, 12 persons shot—now, we can't claim this recent incident. Allow me to offer my sympathy to those in Michigan, two bailiffs, and I don't know how many others may be shot and killed.

But we know that we are in a different framework of dealing with security in this country. Some of these are a regulatory scheme through the Homeland Security Department, Transportation Security Administration. And to take that expertise on behalf of the American people and, as they say, throw the baby out with the bathwater, say to the courts that do not have a discernible expertise—our judges are quite skilled, but they are not the experts in every aspect of how this government runs.

Members of Congress have to brief themselves to be able to assess what is going on in the government, and we have that responsibility. But you are asking the courts now to undo every regulation and become the expert on Federal lands, public lands, on Environmental Protection Agency issues, on Health and Human Services issues, on issues dealing with homeland security, on issues dealing with education.

This is untenable, Mr. Chairman. This will not work. And I just want to cite to you from a number of groups that have come together. The Coalition for Sensible Safeguards says: ''Congress should be looking for ways to strengthen our country's regulatory system by identifying gaps and instituting new safeguards for the public. Unfortunately, this legislation does the opposite by ensuring more delays.''

Let me clarify their language, because I will go a little further. I would be willing to look at filling the holes.

The CHAIR. The time of the gentlewoman has expired.

Mr. JOHNSON of Georgia. Mr. Chairman, I yield an additional 2 minutes to the gentlewoman from Texas.

Ms. JACKSON LEE. I would be willing to look at discussing this further by looking at what are the holes, where do we think we are not being effective on behalf of the American people. That is reasonable legislation and legislative discourse, if you will.

But I can't look at something that tells me that I have got to take something involving the Children's Health Insurance Program or the 1191 waiver that deals with Medicaid, and I have got to untangle it, go into a court because someone challenged it, and I have got people waiting in line for healthcare relief and hospitals that are looking for payment on uncompensated care, and I have got a court that has to now ramp up. And individual courts don't have the vastness of research that agencies have to be experts on health care and to be experts on a variety of issues that are so very important to us.

I would hope that we can send this legislation back. I hope that we could look—what are we trying to fix?

I think the three branches of government are very clear. We legislate, the executive has its powers, and there are agencies. But the citizens have a right to seek a review of a regulatory structure or a regulation. They have judicial review.

Section 702 of the APA, in its current form, subjects agency rulemaking to judicial review for any person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute. Courts in particular retain an important role in determining whether an agency is permissible, arbitrary, or capricious.

Mr. Chairman, that is within the context of what this Administrative Procedure Act does. It has been effective for 70 years plus. And what we are doing is—we are not detangling. We are tangling, and we are blocking the good government work that these agencies do to help the American people be safe in water, in the environment, in public lands, in security.

I ask my colleagues, let's go back to the drawing board before we move forward on this legislation.

Mr. Chair, I stand in opposition to H.R. 4768, the Separation of Powers Restoration Act of 2016, a bill to address purported constitutional and statutory deficiencies in the judicial review of agency rulemaking.

I am opposed to H.R. 4768 because this bill is unfortunately deeply flawed and harmful to our nation's fundamental and well-established federal rulemaking process.

Specifically, H.R. 4768 would abruptly shift the scope and authority of judicial review of agency actions away from federal agencies by amending Section 706 of the Administrative Procedures Act (APA) to ''require that courts decide all relevant questions of law, including all questions of interpretation of constitutional, statutory, and regulatory provisions, on a de novo basis without deference to the agency that promulgated the final rule''.

Effectively, H.R. 4768 would abolish judicial deference to agencies' statutory interpretations in federal rulemaking and create harmful and costly burdens to the administrative process.

Enacted in 1946, the APA establishes the minimum rulemaking and formal adjudication requirements for all administrative agencies.

And for the past 70 years the APA has served and guided administrative agencies and the affected public in a manner that is flexible enough to accommodate the variety of agencies operating under it inclusive of changes through time.

In addition to the APA, numerous other procedural and analytical requirements have been imposed on the rulemaking process by Congress and various presidents.

Generally, agencies' development of new rules is an extensive process that is fully vetted with appropriate avenues for judicial relief where necessary.

Namely, Section 702 of the APA in its current form subjects agency rulemaking to judicial review for ''any person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute.''

Courts in particular retain an important role in determining whether an agency action is permissible, arbitrary, or capricious.

And while, the APA requires reviewing courts to decide all relevant questions of law, interpret statutes, and determine the meaning of agency action, it is well-established that courts ''must give substantial deference to an agency's interpretation of its own regulations.''

Indeed, the Supreme Court has routinely observed that the scope of judicial review is narrow and a court is not to substitute its judgment for that of the agency.

Rather, it is well-settled that courts must give considerable weight to an agency's construction of a statute it administers.

Such deference was established as bedrock administrative law in the 1984 Supreme Court case Chevron v. Natural Resources Defense Council, now known as the Chevron deference.

Chevron deference has been upheld by hundreds of federal courts since and has been endorsed by both conservative and liberal Supreme Court justices and federal court judges.

H.R. 4768 would override the Chevron doctrine enabling courts to ignore administrative records and expertise and to substitute their own inexpert views and limited information.

Such a measure would radically transform the judicial review practice and make the rulemaking process more costly and time-consuming by forcing agencies to adopt more detailed factual records and explanations, effectively imposing more procedural requirements on agency rulemaking.

This cumulative burden would have the effect of further ossifying the rulemaking process or dissuading agencies from undertaking rulemakings altogether.

H.R. 4768 marks an unprecedented and dangerous move away from traditional judicial deference towards a system of that would enhance powers for corporate lobbyists and weaken protections for consumers and working families.

Congressional consideration for an enhanced judicial review standard or a legislative override of judicial deference is not one we are unfamiliar with—but it is a matter we have long ago rejected along with our nation's leading administrative law scholars and experts.

H.R. 4768 is an unnecessary and misguided bill that would burden the rulemaking process and not simplify it.

For these reasons, I am opposed to H.R. 4768.

Mr. GOODLATTE. Mr. Chairman, I believe that this side has the right to close, and I have one speaker remaining, so we are prepared to close whenever the gentleman from Georgia is ready.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Mr. Chairman, I include in the RECORD the Statement of Administration Policy, the President's veto threat on this bill, and also a letter from the Coalition for Sensible Safeguards.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4768—SEPARATION OF POWERS RESTORATION ACT OF 2016—(REP. RATCLIFFE, R–TX, AND 113 COSPONSORS)

The Administration strongly opposes House passage of H.R. 4768, the Separation of Powers Restoration Act of 2016, because it would unnecessarily overrule decades of Supreme Court precedent, it is not in the public interest, and it would add needless complexity and delay to judicial review of regulatory actions. This legislation would allow Federal courts reviewing an agency action to conduct de novo review of all relevant questions of law without deferring to the legal interpretation of the agency. Both Federal statutes and case law provide Federal courts with the appropriate tools to review regulatory actions and afford appropriate deference to the expertise of the agencies that promulgated the rules and regulations under review.

If the President were presented with H.R. 4768, his senior advisors would recommend he veto the bill.

Re: Mark-up on Separation of Powers Restoration Act (H.R. 4768)

Hon. ROBERT GOODLATTE,
Chairman, Judiciary Committee,
Washington, DC.
Hon. JOHN CONYERS,
Ranking Member, Judiciary Committee, Washington, DC.

DEAR REPRESENTATIVES: The Coalition for Sensible Safeguards (CSS), which includes more than 150 diverse labor, consumer, public health, food safety, financial reform, faith, environmental and scientific integrity groups representing millions of Americans, urges members of this committee to oppose the Separation of Powers Restoration Act (H.R. 4768).

Congress should be looking for ways to strengthen our country's regulatory system by identifying gaps and instituting new safeguards for the public. Unfortunately, this legislation does the opposite by ensuring even more delays in new public health, safety, and financial security protections for the public.

The legislation will make our system of regulatory safeguards weaker by allowing for judicial activism at the expense of agency expertise and congressional authority, thereby resulting in unpredictable outcomes and regulatory uncertainty for all stakeholders. If passed, this legislation would rob the American people of many critical upgrades to public protections, especially those that ensure clean air and water, safe food and consumer products, safe workplaces, and a stable, prosperous economy.

This radical legislation would reverse a fundamental and well-settled legal principle that has long successfully guided our regulatory system. It would abolish judicial deference to agencies' statutory interpretations in rulemaking by requiring a court to decide all relevant questions of law de novo, including all questions concerning the interpretation of constitutional, statutory, and regulatory provisions of final agency actions. Such deference was established as bedrock administrative law by the Supreme Court in the 1984 case Chevron v. Natural Resources Defense Council and came to be referred to as Chevron deference. Chevron deference has been upheld by hundreds of federal courts since and has been endorsed by both conservative and liberal Supreme Court justices and federal court judges.

In practice, abolishing Chevron deference will make the current problems in our country's broken regulatory process much worse in several ways. H.R. 4768 will lead to even more regulatory delays, particularly for those ''economically significant'' or ''major'' new rules that provide the greatest benefits to the public's health, safety, and financial security. The examples of regulatory paralysis are ubiquitous and impossible to ignore.

In the energy sector, offshore drilling safety measures to address the cause of the BP oil spill in the Gulf, new safety standards to prevent oil train derailments and explosions, and new energy efficiency standards to benefit consumers all took far too long to finalize and benefit the public.

In the food safety sector, implementation of the Food Safety Modernization Act was finally completed last week, despite agencies missing every statutory deadline and numerous tainted food scandals in the interim.

In the banking sector, a significant portion of the Dodd-Frank Wall Street Reform Act has yet to be finalized, or in some cases, even proposed, despite the law's enactment almost six years ago.

The delays in new protections for the public are systemic, touching virtually every agency and regulatory sector. A recent study by a conservative think tank found that federal agencies have only been able to meet half of the rulemaking deadlines Congress has set out for them over the last twenty years.

There is substantial academic literature and expert consensus that intrusive judicial scrutiny of agency rulemaking is one of the main drivers of regulatory paralysis. Thus, increasing litigation risk for agency rules, which is exactly what this bill would accomplish by spawning hundreds of new lawsuits per year, will mean many more missed congressional deadlines and a regulatory process this is unable to act efficiently and effectively in protecting the public as Congress requires. This further ''chilling'' of rulemaking will certainly benefit Big Business lobbyists and lawyers who will further pressure regulators to carve out loopholes, weaken safety standards, or otherwise obstruct new rulemakings with the greatly enhanced threat of a lawsuit waiting in the wings.

Additionally, eliminating judicial deference to agency rulemaking would be tantamount to ringing the dinner bell for judicial activism by empowering reviewing courts to substitute their policy preferences for those of the agency. One of the primary policy rationales for Chevron deference is that agencies have considerable and superior expertise in the regulatory sectors they oversee as compared to generalist judges. Thus, H.R. 4768 would make it easier for the courts to overturn an agency's highly technical, resource-intensive, and science-based rulemakings without the expertise needed to make such determinations.

Further, judicial activism would impact Congressional authority, curtailing it rather than enhancing it, an irony given the name of the bill. The de novo review of the scope and nature of Congressional grants of authority to agencies will invite courts to create law, ignore congressional intent, or both. Again, the bill will allow judges to simply replace congressional intent with the judges' own construction of the statute or policy preferences with respect to congressional objectives.

Perhaps the most telling critique of attempts to replace Chevron deference with de novo review comes from former Justice Antonin Scalia, an aggressively vocal supporter of Chevron deference during his career and an indication of just how broad and mainstream the support is for maintaining such deference. Writing for the majority in City of Arlington v. F.C.C., Justice Scalia argued that requiring that ''every agency rule must be subjected to a de novo judicial determination'' without any standards to guide this review would result in an ''open-ended hunt for congressional intent,'' rendering ''the binding effect of agency rules unpredictable and destroy the whole stabilizing purpose of Chevron. The excessive agency power that the dissent fears would be replaced by chaos.''

H.R. 4768 marks an unprecedented and dangerous move away from traditional judicial deference towards a system of enhanced powers for Big Business lobbyists and weakened protections for consumers and working families. CSS urges members of the committee to reject the Separation of Powers Restoration Act, (H.R. 4768).

Sincerely,

ROBERT WEISSMAN,
President, Public Citizen, Chair,
Coalition for Sensible Safeguards.

□ 1815

Mr. JOHNSON of Georgia. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank my friend from Georgia.

Members of the House, I am not alone in opposing H.R. 4768. In recognition of the many serious concerns presented by it, the Coalition for Sensible Safeguards, an alliance of more than 150—150—consumer, labor, research, faith, and other public interest groups, strongly opposes this legislation. These are, in effect, the good guys: Public Citizen, the AFL–CIO, the Service Employees International Union, the United Steelworkers, the Center for Progressive Reform, the Consumers Union, the Consumer Federation of America, the Natural Resources Defense Council, the Sierra Club, and many, many more.

In addition, leading administrative law scholars also oppose H.R. 4768 because it will further delay the rulemaking process and because it presents separation of powers concerns.

Like me, these organizations and scholars know that this bill will weaken the regulatory system by supplanting agency expertise and congressional authority with judicial activism.

In closing, I urge my colleagues to join me in opposing H.R. 4768, a bill that, without a doubt, would undermine public health and safety and undermine our regulatory safety net.

Mr. Chairman, I thank Mr. JOHNSON for the great job he has done here on the floor and ask him to close this debate.

Mr. JOHNSON of Georgia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in sum, it is indeed ironic that the so-called Separation of Powers Restoration Act actually raises separation of powers concerns by yielding legislative power over to the judicial branch. This is, in part, why there are so many alliances of labor organizations, consumer organizations, environmental action organizations, and others that strongly oppose this legislation.

I include in the RECORD a July 11, 2016, letter from Consumers Union opposing this legislation, along with a letter from the Natural Resources Defense Council opposing this legislation.

CONSUMERSUNION,
July 11, 2016.

DEAR REPRESENTATIVE: ConsumersUnion, the policy and advocacy division of Consumer Reports, urges you to oppose H.R. 4768 when it comes to the floor. Although titled the ''Separation of Powers Restoration Act,'' we are concerned that the bill would have the opposite effect, upending the well-developed constitutional balance between the legislative, executive, and judicial branches. The bill could severely impair effective and well-considered regulatory agency enforcement of critical safety, health, environmental, and market protections on which consumers depend.

Courts giving appropriate deference to reasonable agency interpretations of their statutes, as reflected in *Chevron U.S.A., Inc., v. NRDC*, 467 U.S. 837 (1984), is a well-settled approach to promote both sound and efficient agency enforcement and effective judicial review. This approach has legal roots going back decades, even to the earliest days of our nation.

The courts have full judicial power to review agency legal interpretations. The Chevron doctrine embodies a judicial recognition, based on experience, that courts do not need to exercise this judicial power de novo on each and every question of law that comes before them. The courts are in no way precluded from doing so when that is warranted. The agency must give a reasoned explanation for its judgment, but Chevron says the court should not simply substitute its judgment for the agency's.

The Chevron doctrine recognizes that, as a general matter, an agency that deals with a statute day in and day out, year in and year out—applying the dedicated efforts and sustained attention of agency personnel with specialized subject matter expertise in all relevant disciplines, and with input from stakeholders and members of the public, received and considered in open rulemakings—develops valuable insight into the law it is entrusted with administering. Chevron recognizes that this insight generally warrants the respect and deference of the reviewing courts of general jurisdiction, which have no such resources, dedicated personnel, specialized expertise, or sustained attention over time.

Again, in situations where the court has sufficient basis to conclude that deference is not warranted, it has full authority to not defer. Likewise, if Congress determines that the agency has acted in a manner inconsistent with congressional intent—or if Congress decides to clarify or even change its intent in light of some agency action—Congress can amend the statute and provide a clearer directive. But Congress cannot realistically be expected to clearly address in advance every conceivable contingency that may arise in the administration and enforcement of the statutes it enacts. The agencies that are specifically tasked with administering and enforcing those statutes are in the best position to ensure that the law functions effectively. Indeed, that has traditionally been regarded as their foremost responsibility—to help the President take care that the laws be faithfully executed.

In *City of Arlington, Tex. v. F.C.C.*, 133 S. Ct. 1863, 1874 (2013), the Supreme Court starkly described the alternative to Chevron: ''Thirteen Courts of Appeals applying a totality-of-the-circumstances test would render the binding effect of agency rules unpredictable and destroy the whole stabilizing purpose of Chevron. The excessive agency power that the dissent fears would be replaced by chaos.''

In addition to injecting this unpredictability into every agency decision, and increasing the complexity of every rulemaking, the change proposed by this legislation would add needless new burdens to our already overworked courts, impeding their important work as well.

In sum, this legislation is unnecessary, could do severe damage to the proper functioning of our government, and could severely weaken a wide range of fundamental protections on which consumers rely.

For these reasons, we urge you to oppose this bill.

Respectfully,

GEORGE P. SLOVER,
Senior Policy Counsel,
ConsumersUnion.

NRDC.

DEAR REPRESENTATIVE: H.R. 4768, the so-called ''Separation of Powers Restoration Act of 2016,'' is a deeply flawed and harmful bill that should not become law. The more appropriate title should be instead ''The More Judicial Activism Act.'' The legislation overthrows a longstanding and well-founded framework for legislation and judicial review—and establishes a framework that would give huge new power to unelected judges to nullify policies of the Executive Branch and the Congress alike.

For decades, Congress has written our laws, and the President has executed them, on a very straightforward platform: When Congress writes a statute in unmistakable terms, reflecting a clear policy intent, executive branch agencies are bound to follow those terms and that intent exactly. When Congress legislates in flexible or ambiguous terms, it does so knowing that it has not addressed every contingency, and it is delegating some measure of decision making to executive agencies. At any time, Congress can always have the last word; whenever Congress agrees that an agency erred, it can adopt new legislation to set things back on course. This common-sense framework allows the political branches to fashion fair and effective laws that keep functioning in a changing world where no Congress can address every contingency in advance or make every detailed decision that has to be made in real time.

This framework is sometimes called the Chevron doctrine after the famous 1984 Supreme Court case at which H.R. 4768 takes aim. But the framework actually goes back many decades farther—indeed to the foundations of our republic. The Supreme Court and lower federal courts have long understood that while they must hold government action to the law, it isn't the job of unelected judges to substitute their policy judgments for those of the political branches—whether Congress or the President.

H.R. 4768 would throw our country's sacred tradition of judicial restraint to the winds. It would permit unelected judges to substitute their own policy preferences, and to overrule scientists, economists, engineers and other experts based on their own inexpert and limited views and information.

Empowering judges to make their decisions ''de novo,'' without regard to experts and without regard to the leaders of either political branch, is the very definition of judicial activism. This should be anathema to conservatives and liberals alike.

Justice Scalia has spoken eloquently on the consequences of ignoring Chevron. In the case City of Arlington, Tex. v. FCC, he described a world where all the courts of appeals undertake de novo reviews of agency interpretations of statutes in a judicial search for congressional intent or what judges consider more ''reasonable.'' Ruling for the majority Justice Scalia wrote:

''Rather, the dissent proposes that even when general rulemaking authority is clear, every agency rule must be subjected to a *de novo* judicial determination of whether the *particular issue* was committed to agency discretion. It offers no standards at all to guide this open-ended hunt for congressional intent (that is to say, for evidence of congressional intent more specific than the conferral of general rulemaking authority). It would simply punt that question back to the Court of Appeals, presumably for application of some sort of totality-of-the-circumstances test—which is really, of course, not a test at all but an invitation to make an *ad hoc* judgment regarding congressional intent. Thirteen Courts of Appeals applying a totality-of-the-circumstances test would render the binding effect of agency rules unpredictable and destroy the whole stabilizing purpose of Chevron. The excessive agency power that the dissent fears would be replaced by chaos.''

City of Arlington, Tex. v. F.C.C., 133 S. Ct. 1863, 1874 (2013) (emphases in original).

The bill envisions allowing a single federal district judge, or a panel of three appellate judges, to simply set aside the product of years of federal rulemaking following rounds of public notices, proposals, stakeholder engagement, public hearings and public comments, and final decisions based on detailed

records and explanations, all conducted by agency officials with subject matter expertise that courts lack in the sciences, medicine, engineering, statistics, accounting, economics and financial markets, and the full gamut of professional disciplines.

Because the policy preferences of individual judges will matter more than ever, litigants will spend even more time and effort forum shopping for their favorite judges. On top of these ills, de novo judicial review of vast administrative records would further slow the wheels of the American legal system, to the detriment of every business or individual trying to get justice from our crowded and overworked courts.

What is most surprising is to see support for this bill from traditional opponents of judicial activism. Some supporters appear to favor the bill because they hope to undo burdens on businesses. In doing so, they are willing to sacrifice food safety; clean air and water; worker protections; safeguards against discrimination; and even the stability and security of our banks and financial institutions.

It should be noted, however, that the bill would also allow unelected judges to overrule the decisions of future conservative administrations. It is worth remembering that NRDC was the losing party in the Chevron decision. If this bill had then been law, the Reagan administration's effort to streamline pollution controls for new factories would likely have been overturned, not upheld as it was by the Supreme Court.

Our Constitution puts elected officials in charge to give political accountability. Turning over the authority to unelected and non-expert judges should not be an option. We urge all members to oppose H.R. 4768.

Mr. JOHNSON of Georgia. Lastly, I would point out that there is a strongly worded veto threat by the President about this legislation should it ever find its way to the Senate and to the President's desk. The President points out that this legislation is not in the public interest and that it would add needless complexity and delay to the judicial review of regulatory actions. For those reasons, among other things, he has issued a veto threat.

So this is a piece of legislation that is a messaging piece. My friends on the other side of the aisle know that it is not going anywhere, but it is promoting their message, which is deregulation. Despite all of the regulation and legislation needed to address pertinent issues that the American people are demanding action on right now—the Zika virus, Puerto Rico, gun violence, and gun reform legislation—there are so many other things that we could and should be working on, but instead we are enthralled here with these messaging bills that are not going anywhere.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume.

The list of organizations that stand up for separation of powers, that stand up for liberty, and that stand up for common sense is long.

It includes the American Farm Bureau Federation, TechFreedom, the American Consumer Institute, Americans for Tax Reform, the Center for Freedom and Prosperity, Competitive Enterprise Institute, Digital Liberty, Free the People, the Independent Women's Forum, Institute for Liberty, the Mississippi Center for Public Policy, the National Taxpayers Union, Protect Internet Freedom, the Taxpayers Protection Alliance, and Tech Knowledge, just to name some.

Mr. Chairman, this legislation is very important. It will pass this House with a strong vote. It needs to be taken up by the United States Senate. It needs to be signed into law by the President of the United States, but it will also be heard across the street at the United States Supreme Court, where I know there are Justices who know that the Chevron doctrine needs to be reconsidered because it is an abandonment of the responsibility and the power of the judicial branch of our government to cede this kind of power and this kind of authority to the bureaucracy. It is wrong; it needs to be overturned; and I urge my colleagues to vote to do so tonight.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. RATCLIFFE) having assumed the chair, Mr. RIGELL, Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 4768) to amend title 5, United States Code, with respect to the judicial review of agency interpretations of statutory and regulatory provisions, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for a period of less than 15 minutes.

Accordingly (at 6 o'clock and 23 minutes p.m.), the House stood in recess.

□ 1831

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. RIGELL) at 6 o'clock and 31 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 5602, by the yeas and nays;

H.R. 5607, by the yeas and nays;

H.R. 5606, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

INCLUSION OF ALL FUNDS WHEN ISSUING CERTAIN GEOGRAPHIC TARGETING ORDERS

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 5602) to amend title 31, United States Code, to authorize the Secretary of the Treasury to include all funds when issuing certain geographic targeting orders, and for other purposes, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. FITZPATRICK) that the House suspend the rules and pass the bill.

The vote was taken by electronic device, and there were—yeas 356, nays 47, not voting 30, as follows:

[Roll No. 401]

YEAS—356

Adams
Aderholt
Aguilar
Allen
Amodei
Ashford
Babin
Barletta
Barr
Barton
Bass
Becerra
Benishek
Bera
Beyer
Bilirakis
Bishop (GA)
Bishop (MI)
Bishop (UT)
Black
Blackburn
Blumenauer
Bonamici
Bost
Boustany
Brady (PA)
Brady (TX)
Brooks (IN)
Brown (FL)
Brownley (CA)
Buchanan
Buck
Bucshon
Bustos
Butterfield
Byrne
Calvert
Capps
Capuano
Cárdenas
Carney
Carson (IN)
Carter (TX)
Cartwright
Castor (FL)
Castro (TX)
Chabot
Chaffetz
Chu, Judy
Cicilline
Clark (MA)
Clay
Cleaver
Clyburn
Coffman
Cohen
Cole
Collins (GA)
Collins (NY)
Comstock
Conaway
Connolly
Conyers
Cook
Cooper
Costa
Costello (PA)
Courtney
Cramer
Crawford
Crenshaw
Cuellar
Culberson
Cummings
Curbelo (FL)
Davis (CA)
Davis, Rodney
DeFazio
DeGette
Delaney
DeLauro
DelBene
Denham
Dent
DeSantis
DeSaulnier
Deutch
Diaz-Balart
Dingell
Doggett
Dold
Donovan
Doyle, Michael F.
Duckworth
Duffy
Edwards
Ellison
Ellmers (NC)
Emmer (MN)
Engel
Eshoo
Esty
Farr
Fitzpatrick
Fleischmann
Flores
Forbes
Fortenberry
Foster
Frankel (FL)
Franks (AZ)
Frelinghuysen
Gabbard
Gallego
Garamendi
Gibbs
Gibson
Goodlatte
Gowdy
Graham
Granger
Graves (GA)
Graves (LA)
Graves (MO)
Grayson
Green, Al
Green, Gene
Grijalva
Guthrie
Hahn
Hanna
Hardy
Harper
Hartzler
Heck (NV)
Heck (WA)
Hensarling
Herrera Beutler
Higgins
Hill
Himes
Holding
Honda
Hoyer
Hudson
Huffman
Hultgren
Hunter
Hurd (TX)
Hurt (VA)
Israel
Issa
Jackson Lee
Jeffries
Jenkins (KS)
Jenkins (WV)
Johnson (GA)
Johnson (OH)
Johnson, E. B.
Johnson, Sam
Jolly
Joyce
Kaptur
Katko
Keating
Kelly (IL)
Kelly (PA)
Kennedy
Kildee
Kilmer
Kind
King (IA)
Kinzinger (IL)
Kirkpatrick
Kline
Knight
Kuster
LaHood
LaMalfa
Lance
Langevin
Larsen (WA)
Larson (CT)
Latta
Lawrence
Lee
Levin
Lewis
Lieu, Ted
LoBiondo
Loebsack
Lofgren
Long
Loudermilk
Love
Lowenthal
Lowey
Lucas
Luetkemeyer