

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORT FOR PATIENTS AND COMMUNITIES REAUTHORIZATION ACT

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 4531) to reauthorize certain programs that provide for opioid use disorder prevention, recovery, and treatment, and for other purposes, as amended, 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 Kentucky (Mr. GUTHRIE) that the House suspend the rules and pass the bill, as amended.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 386, nays 37, not voting 10, as follows:

[Roll No. 715]

YEAS—386

Adams	Cherfilus-	Fitzpatrick
Aguilar	McCormick	Fleischmann
Alford	Chu	Fletcher
Allen	Ciscomani	Flood
Allred	Clark (MA)	Foushee
Amo	Clarke (NY)	Fox
Amodei	Cleaver	Frankel, Lois
Armstrong	Cline	Franklin, Scott
Arrington	Clyburn	Fry
Auchincloss	Clyde	Fulcher
Babin	Cohen	Gallagher
Bacon	Cole	Galleo
Baird	Collins	Garamendi
Balderson	Comer	Garbarino
Balint	Connolly	Garcia (IL)
Banks	Correa	Garcia (TX)
Barr	Costa	Garcia, Mike
Barragán	Courtney	Garcia, Robert
Bean (FL)	Craig	Gimenez
Beatty	Crawford	Golden (ME)
Bentz	Crenshaw	Goldman (NY)
Bera	Crockett	Gomez
Bergman	Crow	Gonzales, Tony
Beyer	Cuellar	Gonzalez,
Bice	Curtis	Vicente
Bilirakis	D'Esposito	Gooden (TX)
Bishop (GA)	David (KS)	Gottheimer
Bishop (NC)	Davis (IL)	Granger
Blumenauer	Davis (NC)	Graves (LA)
Blunt	De La Cruz	Graves (MO)
Boebert	Dean (PA)	Green (TN)
Bonamici	DeGette	Green, Al (TX)
Bost	DeLauro	Griffith
Boyle (PA)	DelBene	Grijalva
Brown	Deluzio	Grothman
Brownley	DeSaulnier	Guest
Buchanan	DesJarlais	Guthrie
Buck	Diaz-Balart	Hageman
Bucshon	Dingell	Harder (CA)
Budzinski	Doggett	Harshbarger
Burgess	Duarte	Hayes
Calvert	Duncan	Hern
Caraveo	Dunn (FL)	Higgins (NY)
Carbajal	Edwards	Hill
Cárdenas	Ellzey	Himes
Carey	Emmer	Hinson
Carl	Escobar	Horsford
Carson	Eshoo	Houlahan
Carter (GA)	Españillat	Hoyer
Carter (LA)	Estes	Hoyle (OR)
Carter (TX)	Evans	Hudson
Cartwright	Ezell	Huffman
Casas	Fallon	Huizenga
Case	Feenstra	Hunt
Casten	Ferguson	Issa
Castor (FL)	Finstad	Ivey
Castro (TX)	Fischbach	Jackson (IL)
Chavez-DeRemer	Fitzgerald	Jackson (NC)

Jackson (TX)	Meeks	Sessions
Jackson Lee	Menendez	Sewell
Jacobs	Meng	Sherman
James	Meuser	Sherrill
Jayapal	Mfume	Simpson
Jeffries	Miller (IL)	Slotkin
Johnson (OH)	Miller (OH)	Smith (MO)
Johnson (SD)	Miller (WV)	Smith (NE)
Jordan	Miller-Meeks	Smith (NJ)
Joyce (OH)	Mills	Smith (WA)
Joyce (PA)	Molinaro	Smucker
Kamlager-Dove	Moolenaar	Sorensen
Kaptur	Moore (UT)	Soto
Kean (NJ)	Moore (WI)	Spanberger
Keating	Moran	Stansbury
Kelly (IL)	Morelle	Stanton
Kelly (MS)	Moskowitz	Staubert
Kelly (PA)	Moulton	Steel
Khanna	Mrvan	Stefanik
Kiggans (VA)	Mullin	Steil
Kildee	Murphy	Stevens
Kiley	Napolitano	Strickland
Kilmer	Neal	Strong
Kim (CA)	Neguse	Swalwell
Kim (NJ)	Nehls	Sykes
Krishnamoorthi	Newhouse	Takano
Kuster	Nickel	Tenney
Kustoff	Norcross	Thanedar
LaHood	Nunn (IA)	Thompson (CA)
LaLota	Oberholte	Thompson (MS)
LaMalfa	Owens	Thompson (PA)
Lamborn	Pallone	Timmons
Landsman	Palmer	Titus
Langworthy	Panetta	Tokuda
Larsen (WA)	Pappas	Tonko
Larson (CT)	Pascarell	Torres (CA)
Latta	Pelosi	Torres (NY)
LaTurner	Peltola	Trahan
Lawler	Pence	Trone
Lee (CA)	Perez	Turner
Lee (FL)	Peters	Underwood
Lee (NV)	Pettersen	Valadao
Leger Fernandez	Pfingler	Van Drew
Lesko	Pingree	Van Dwyne
Letlow	Pocan	Van Orden
Levin	Porter	Vargas
Lieu	Posey	Vasquez
Lofgren	Quigley	Veasey
Loudermilk	Raskin	Velázquez
Lucas	Reschenthaler	Wagner
Luetkemeyer	Rodgers (WA)	Walberg
Luna	Rogers (AL)	Waltz
Luttrell	Rogers (KY)	Wasserman
Lynch	Rose	Schultz
Mace	Ross	Waters
Magaziner	Rouzer	Watson Coleman
Malliotakis	Ruiz	Weber (TX)
Maloy	Ruppersberger	Webster (FL)
Mann	Rutherford	Wenstrup
Manning	Ryan	Westerman
Mast	Salazar	Wexton
Matsui	Salinas	Wild
McBath	Sarbanes	Williams (GA)
McCarthy	Scalise	Williams (NY)
McCaul	Scanlon	Williams (TX)
McClain	Schiff	Wilson (FL)
McClellan	Scholten	Wilson (SC)
McCollum	Schrier	Wittman
McCormick	Schweikert	Womack
McCarvey	Scott (VA)	Yakym
McGovern	Scott, Austin	Zinke
McHenry	Scott, David	

NAYS—37

Biggs	Greene (GA)
Bowman	Harris
Brecheen	Higgins (LA)
Burchett	Houchin
Burlison	Johnson (GA)
Bush	Lee (PA)
Cloud	Massie
Crane	McClintock
Davidson	Moore (AL)
Frost	Nadler
Gaetz	Norman
Good (VA)	Ocasio-Cortez
Gosar	Ogles

NOT VOTING—10

Aderholt	Mooney	Schakowsky
Cammack	Payne	Schneider
Donalds	Phillips	
Foster	Sánchez	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1429

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FOSTER. Mr. Speaker, today, I missed a recorded vote. Had I been present, on roll-call No. 715, the motion to suspend the rules and pass H.R. 4531, the Support for Patients and Communities Reauthorization Act, I would have voted "yea."

ENSURING ACCOUNTABILITY IN AGENCY RULEMAKING ACT

Mr. CLINE. Madam Speaker, pursuant to House Resolution 922, I call up the bill (H.R. 357) to require the head of an agency to issue and sign any rule issued by that agency, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mrs. LESKO). Pursuant to House Resolution 922, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, printed in the bill, is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 357

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ensuring Accountability in Agency Rulemaking Act".

SEC. 2. RULEMAKING REQUIREMENTS.

(a) APPROVAL REQUIRED.—

(1) RULES PROMULGATED BY SENATE CONFIRMED APPOINTEE.—*Except as provided in paragraph (3), any rule promulgated under section 553 of title 5, United States Code, shall be issued and signed by an individual appointed by the President, by and with the advice and consent of the Senate.*

(2) INITIATION OF RULEMAKING AND REGULATORY AGENDA.—*Except as provided in paragraph (3), any rule initiated under section 553 of title 5, United States Code, shall be initiated by a senior appointee.*

(3) EXCEPTION.—*Paragraph (1) or (2) does not apply if the head of an agency—*

(A) *determines, on a nondelegable basis, that compliance with the relevant paragraph would impede public safety or security;*

(B) *submits to the Administrator a notification disclosing the reasons for the exemption; and*

(C) *publishes such notification, consistent with public safety, security, and privacy interests, in the Federal Register.*

(b) OVERSIGHT.—

(1) AGENCY COMPLIANCE.—*The head of each agency shall ensure that the issuance of any agency rule promulgated under section 553 of title 5, United States Code, adheres to the requirements of this section.*

(2) OIRA GUIDANCE AND COMPLIANCE.—*The Administrator shall provide guidance on the implementation of and shall monitor agency compliance with this section.*

(c) RULES OF CONSTRUCTION.—*This section may not be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.*

(d) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

(2) AGENCY.—The term “agency” has the meaning given that term under section 551 of title 5, United States Code.

(3) RULE.—The term “rule” has the meaning given that term in section 551 of title 5, United States Code, and does not include any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

(4) SENIOR APPOINTEE.—The term “senior appointee” means an individual appointed by the President, or performing the functions and duties of an office that requires appointment by the President, or a non-career member of the Senior Executive Service (or equivalent agency system).

The SPEAKER pro tempore. The bill shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary, or their respective designees.

The gentleman from Virginia (Mr. CLINE) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

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

GENERAL LEAVE

Mr. CLINE. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and insert extraneous material on H.R. 357.

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

There was no objection.

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

Madam Speaker, I rise in strong support of H.R. 357, the Ensuring Accountability in Agency Rulemaking Act. This bill will increase the accountability of policymakers in the executive branch. It is a matter of good governance that will benefit the American people.

This bill should not be controversial.

Madam Speaker, 3,168 is the number of final rules enacted by Federal agencies in 2022. During that same year, Congress passed just 247 laws. This statistic helps to illustrate just how much Federal law comes from unelected officials in the administrative state and not from Congress.

Moreover, under current law, some of the bureaucrats who initiate, enact, and enforce regulations lack direct political accountability. For example, according to one analysis, between 2001 and 2017, more than 70 percent of the rules issued by the Department of Health and Human Services were issued by career employees. That number is more than 98 percent for the Food and Drug Administration over the same period. Ninety-eight percent of the rules issued by the FDA are issued by career employees and not by elected officials or by officials who were confirmed by the Senate. Nonetheless, they impose binding legal obligations on Americans.

This is not representative government working as it should. President Trump had a solution for reining in the rulemaking power of career bureaucrats. Executive order 13979 generally required notice-and-comment rules to be initiated and signed by executive branch officials who were politically accountable, not career civil servants. President Biden, however, revoked this policy within weeks of taking office.

H.R. 357, the Ensuring Accountability in Agency Rulemaking Act, would remedy this mistake. The bill generally requires that only politically accountable officials and not career bureaucrats initiate and issue regulations. By codifying this limitation on agency rulemaking authority, H.R. 357 helps to restore the accountability of the administrative state.

The bill will increase political accountability for Federal policymaking and restore the right of the American people to choose who governs them.

Madam Speaker, I urge passage of this bill, and I reserve the balance of my time.

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

Madam Speaker, the so-called Ensuring Accountability in Agency Rulemaking Act is a misguided proposal that will ensure that the process of confirming nominees to administrative agencies is even more politicized and onerous than it is today, while also blocking the regular work of our executive branch agencies.

This bill would require any agency rule promulgated under the Administrative Procedure Act to be issued and signed by someone who was appointed to their position by the President and confirmed by the Senate. This requirement, on its face, may seem innocuous, but it provides Congress with a weapon it can wield to prevent ongoing work of agencies by blocking a President's nominations and leaving an agency without an eligible person to issue regulations.

In the past few decades, the process for Senate confirmation has lengthened considerably. Although we have passed measures like the Federal Vacancies Reform Act to ease this burden, there are still over 1,000 executive branch roles that would require Senate confirmation, and far too many go unfilled for years at a time as it is.

By requiring that rulemaking must be initiated and signed by a Senate-confirmed leader, this bill will make the confirmation process even more politicized, and it could give individual Senators even more incentive to block nominations for the sake of a partisan goal.

This would add unnecessary delay in the creation, promulgation, and implementation of critical new rules, rules that serve to protect the public's health, safety, and security.

The bill's sloppy drafting also adds ambiguity to the process. For example, the bill requires that any rule must be

“initiated” by a senior appointee, but what action qualifies as “initiating” a rule?

Is it when it is first raised in a meeting at the agency?

Is it when staff starts drafting a notice of proposed rulemaking?

Is it when a proposed rule is put out for notice and comment?

Is it something in between?

We do not know.

Determining the answers to these questions will only lead to years of litigation and yet more delay.

To the extent that the bill's sponsors are concerned about transparency and accountability in the regulatory process, Congress already has many ways to exercise its authority over the administrative process. For example, Congress can disapprove regulations under the Congressional Review Act, a power this majority has not been shy in using. It can limit agencies' rulemaking authority, it can restrict the use of funds to implement regulations, and it can conduct oversight of agency activity, among other powers.

Madam Speaker, this legislation is just the latest effort by Republicans to undermine the regulatory process, a process that protects our health and safety each and every day. Regulations ensure that we have clean air to breathe, clean water to drink, and safe food to eat. They ensure that children's toys and cribs are safe, that medications are safe and effective, and that the planes, trains, and automobiles we depend on for transportation will keep us safe. They ensure that consumers are protected from fraud and discrimination, that workers are treated fairly, that veterans are fairly compensated for their service, and so much more.

Nevertheless, Republicans want to stop this process in its tracks and put our health and safety at risk.

I urge all my colleagues to oppose this legislation, and I reserve the balance of my time.

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

Madam Speaker, the gentleman from New York talked about the Senate having to waste its time confirming individuals to positions so that they can address these regulations, but the Senate needs to do their job. They need to advise and consent on the nominees from the administration.

The Senate has a means by which to address whatever challenges the gentleman raises, and the President also has the means by which to address these concerns through the process of recess appointments. Now that is not a very commonly used solution anymore, but the President does have that power. So there are ways to address the gentleman's concerns.

In addition, there is an exception to these requirements in the bill. If the head of an agency determines that compliance would impede public safety or security, all that needs to happen is for them to submit a notification disclosing the reasons for the exemption

to the OIRA administrator in publishing the notification in the Federal Register.

□ 1445

Finally, I would state that the \$14,684 figure is the amount per U.S. household each year that agency rules cost American families. That \$14,000 is an amount that not a lot of families have right now thanks to the inflation that has been caused by the massive spending of the last Congress and the Biden administration.

To my recollection, 17 percent over the course of the Biden administration has been the cumulative inflation rate over the last 3 years.

This amount of money has hit especially hard, and we would do well to address that and keep that in mind as we seek to reduce the number of regulations that these bureaucracies are promulgating each and every day. We need to try and think of the American people first as we seek to legislate on their behalf here in the House of Representatives.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, the gentleman from Virginia says that recess appointees could help solve this problem, but a recess appointee is not confirmed by the Senate and, therefore, under the terms of this bill could not approve any regulation. The recess appointee question is irrelevant and doesn't mitigate the harm of this bill in any way.

Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Madam Speaker, I thank the gentleman very much and his good friend as well for yielding, and I appreciate their intent, but let me be very clear: What we have here is a complete collapse of a system that is attempting to save lives.

Our administrative process, our administrative APA, these individuals are grounded with the expertise of the particular agencies that they are in.

Under this legislation, what we would have is a complete politicizing of the Presidentially appointed and Senate-confirmed appointees because that would be another monkey wrench, if you will, into why they should not be confirmed.

In addition, this will encourage gamesmanship. If you think the confirmation process is slow, wait till this bill becomes law.

Congress already has, and the Republicans have used it quite often, the Congressional Review Act so that we can determine whether or not rulemaking or a particular issue is one that is not only reviewed but should be changed.

In the rulemaking process with experts that we oversee, because we have congressional hearings, we are dealing with clean air, clean water, safe toys, safe cars, and safe workplaces, but, more importantly, as I was sitting in a

meeting today, we are dealing with a new initiative dealing with taking lead out of water.

Do we want to stop the process of removing lead from the water that our children drink because we implement this particular procedure that will stop our Presidentially-appointed officials from doing their job, from helping us to ensure that our children are safe?

This is a slowdown. This is where lives are not saved. I would argue to my friends that this legislation, unfortunately, should not move forward because there is too much good work going on and the work that is going on will be thwarted, will be stopped.

Madam Speaker, I include in the RECORD a letter from the AFSCME, American Federation of State, County, and Municipal Employees, who oppose this particular legislation, along with the administration policy statement as well as a number of other agencies.

AFSCME,

December 11, 2023.

House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I write to express our strong opposition to the Ensuring Accountability in Agency Rulemaking Act (H.R. 357), because it would deliberately create unnecessary and confusing bureaucratic hurdles for agency officials as they work to promulgate essential rules for public health, environment and worker protections.

H.R. 357 would create uncertainty within agencies and would stifle effective government functioning. While H.R. 357 purports to improve agency accountability, the proposal actively undermines the constitutional authority of agencies to delegate the routine task of signing a rulemaking to subordinates as an efficiency measure. Senior agency appointees already ratify the signing of the rulemaking after the fact to comply with this clause.

In addition to attempting to solve a non-issue, H.R. 357 generates more confusion in the rulemaking process as the bill's requirements do not directly define what action qualifies as "initiating" a rule. As agencies are impacted by this uncertainty, significant steps in the rulemaking process could be delayed without clarity, and as a result, even regulations that streamline compliance for regulated entities could be stifled.

Congress should seek ways to support and fully staff agencies that are responsible for designing rules that protect our workers, public health and environmental safety. We oppose H.R. 357 and urge you to vote against this bill.

Sincerely,

EDWIN S. JAYNE,

Director of Federal Government Affairs.

STATEMENT OF ADMINISTRATION POLICY

H.R. 357—ENSURING ACCOUNTABILITY IN AGENCY RULEMAKING ACT—REP. CLINE, R-VA AND 19 COSPONSORS

The Administration strongly opposes H.R. 357, a bill that would require that notice-and-comment rulemaking be initiated by a "senior appointee" and be issued and signed by a Senate-confirmed Presidential appointee. This bill would result in unnecessary delays in the regulatory process when Senate-confirmed positions are temporarily filled by senior officials while nominees await confirmation. It would add unneces-

sary bureaucratic hurdles that would encumber the rulemaking process without providing any additional benefits, as there are procedures already in place that provide for engagement, oversight, and accountability by Executive Branch agency leadership, such as review of significant rules by the inter-agency under Executive Order 12866. H.R. 357 would also limit the flexibility of Senate-confirmed officials to delegate signature authority to experienced subordinates who have the requisite authority and experience to oversee regulatory development.

If the President were presented with H.R. 357, he would veto it.

DECEMBER 11, 2023.

DEAR REPRESENTATIVE, The undersigned organizations and individuals write in opposition to the misleadingly-named "Ensuring Accountability in Agency Rulemaking Act", H.R. 357. This bill would codify Executive Order 13979, entitled "Ensuring Democratic Accountability in Agency Rulemaking," issued by former President Donald Trump at the end of his term and repealed by President Joe Biden. This legislation would decrease the accountability of industry to the public. It would do so by adding intentional ambiguity that would lead to considerable delay in the creation, promulgation, and implementation of critical new public health and safety safeguards, financial reforms, and worker protections.

For example, H.R. 357 provides that "any rule promulgated under section 553 of Title 5, United States Code, shall be issued and signed by an individual appointed by the President, by and with the advice and consent of the Senate." As you are aware, under the Constitution's appointments clause, agency rulemakings are authorized by "principal" officers who are Senate confirmed, and in practice, this often occurs through necessary delegation. No agency, however, would ever issue a rule without authorization from a relevant agency leader. Rather than ensuring public protections and industry accountability in and through agency rulemaking, it would create confusion, ambiguity, and uncertainty and pointless delays.

As government openness and accountability advocates, we strongly urge you to oppose the Ensuring Accountability in Agency Rulemaking Act.

Sincerely,

GOVERNMENT INFORMATION
WATCH,
NATIONAL CENTER FOR
HEALTH RESEARCH,
PROJECT ON GOVERNMENT
OVERSIGHT,
EARTHJUSTICE,
GOVERNMENT
ACCOUNTABILITY
PROJECT,
NATIONAL FEDERATION OF
FEDERAL EMPLOYEES
(NFFE),
STEVE LENKART, CEO,
GOVERNMENT EXECUTIVES
INTERNATIONAL,
LIZ BORKOWSKI, MPH.

COALITION FOR SENSIBLE
SAFEGUARDS,

May 23, 2023.

DEAR REPRESENTATIVE: The Coalition for Sensible Safeguards (CSS), an alliance of over 150 labor, scientific, research, good government, faith, community, health, environmental, and public interest groups, and the undersigned allied organizations strongly oppose the Ensuring Accountability in Agency Rulemaking Act, H.R. 357.

The Ensuring Accountability in Agency Rulemaking Act would codify Executive Order 13979, entitled "Ensuring Democratic

Accountability in Agency Rulemaking," which was issued by former President Donald Trump in his very last days in office and was repealed by President Joe Biden. It will add unnecessary ambiguity and considerable delay in the creation, promulgation, and implementation of critical new public health and safety safeguards, financial reforms, and worker protections—making industry even less accountable to the public. These consequences are particularly objectionable because the bill purports to "solve" a problem that does not actually exist. Rather than advance good government reform, this bill demonizes our public protection agencies and promotes a harmful anti-regulatory narrative.

The Ensuring Accountability in Agency Rulemaking Act provides that "any rule promulgated under section 553 of Title 5, United States Code, shall be issued and signed by an individual appointed by the President, by and with the advice and consent of the Senate." Yet, under the Constitution's appointments clause, agency rulemakings are authorized by "principal" officers who are Senate confirmed, and in practice, this often occurs through necessary delegation. Currently, senior agency appointees sometimes delegate the routine task of signing a rulemaking to subordinates as an efficiency measure. Senior agency appointees ratify the signing of the rulemaking after the fact to comply with this clause.

Given the expense and legal consequences involved, no agency would ever issue a rule without authorization from a relevant agency leader. At best, this bill would serve to create needless bureaucratic hurdles for agency officials, rather than correct any real problem of public accountability.

The bill further requires that all rules "shall be initiated by a senior appointee" but does not define what "initiated" means. Since the Administrative Procedure Act does not define this term, this will create uncertainty that could thwart rulemaking.

For example, what action qualifies as "initiating" a rule under this bill? Is it when a rule is proposed? Is it when it is assigned a Regulatory Identification Number (RIN)? Would the granting of a citizen petition for rulemaking satisfy this requirement? The bill is silent on this important detail. Yet, these are significant steps in the rulemaking process, and none of these would take place without approval of the Senate-confirmed official.

In the worst case, the uncertainty due to this provision could stifle the effective functioning of agencies. Drawing on their unique experience and expertise, rank-and-file staff at agencies often provide the inspiration for an idea that eventually becomes a rule. Indeed, senior agency officials rely on career staff for these innovations. This bill risks creating a disincentive for career staff at agencies to propose innovative solutions to the problems the agency was created to address. Significantly, many of these solutions could even be the kind that achieve regulatory objectives at lower compliance costs for regulated businesses.

Congress should be searching for ways to ensure that federal agencies are able to enforce laws designed to protect our safety, air quality, water, food, financial security, and much more, not putting up roadblocks to sensible safeguards that protect the American people.

For these reasons, we strongly urge you to oppose the Ensuring Accountability in Agency Rulemaking Act.

Sincerely,

RACHEL WEINTRAUB,
Executive Director.

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

Mr. NADLER. Madam Speaker, I yield an additional 30 seconds to the gentlewoman from Texas.

Ms. JACKSON LEE. Madam Speaker, this legislation is opposed by the Coalition for Sensible Safeguards. I would like to dwell on this question of water and lead coming out of water since many of us were here during the Flint incidents, and we also know what goes on in our own congressional districts.

Let's not stop children from living. Let's not stop the lifesaving regulatory process. Let's oppose H.R. 357.

Mr. Speaker, I rise in strong opposition to H.R. 357, The Ensuring Accountability in Agency Rulemaking Act.

H.R. 357 would require any agency rule promulgated under the Administrative Procedure Act's notice and comment process to be "initiated" and signed by someone who was appointed to their position by the President and confirmed by the Senate, with limited exceptions for national security and public safety.

Simply put, this anti-regulatory bill is an attempt to codify bad federal policy issued during the Trump Administration that was later repealed by President Biden, and it would add unnecessary ambiguity and delay in the rule making process from beginning to end.

While my Republican colleagues will tell you that this is just about transparency and accountability, it is not.

This is about shutting down the regulatory process.

By requiring that any rulemaking be initiated and signed by a presidentially appointed and Senate confirmed official, this bill could grind the regulatory process to a halt during long appointment periods or presidential transitions.

Rulemaking could be delayed (or even prevented altogether) by the already substantially politicized Senate confirmation process, especially during the transition between Administrations and for agencies that experience frequent turnover or have longstanding vacancies among their senior leadership.

If you think the confirmation process is slow and contentious now, wait until this bill becomes law.

The party opposing the President will have every incentive to block a nomination and prevent an agency from having an eligible head in place who can issue regulations.

Like the Separation of Powers Restoration Act (SOPRA) and the Regulations from the Executive in Need of Scrutiny (REINS) Act—that nearly all House Democrats opposed earlier this Congress—this is a patently transparent effort to effectively halt Executive agencies from performing their Congressionally mandated duties to serve the American people.

This proposal is a dangerous solution in search of a problem.

While H.R. 357 purports to improve agency accountability, the proposal actively undermines the constitutional authority of agencies to delegate the routine task of signing a rulemaking to subordinates as an efficiency measure.

Senior agency appointees already ratify the signing of the rulemaking after the fact to comply with this clause.

And Congress also already plays a significant role in placing and removing restrictions on agency rules by conducting oversight and restricting how funds can be used and passing legislation to limit agency discretion.

As demonstrated time and time again in the House this year, Congress can use the Congressional Review Act (CRA) to overturn rules it disapproves of.

For instance, my Republican colleagues have already tried to use the CRA to repeal reasonable restrictions on deadly weapons, jeopardize affordable student loan repayment and make it harder for women- and minority-owned businesses to access funds to grow their businesses.

While most can agree improvements can be made to the regulatory process, measures that make it harder for agencies to make new rules cuts against the interest of all who reside in the United States. Because most importantly, regulations are necessary to save our lives.

Regulations are critical to ensuring the safety and soundness of virtually every facet of our lives, including clean air, clean water, safe toys, safe cars, and safe workplaces.

We should reject any effort that would prevent agencies from issuing these life-saving regulations.

Yet rather than ensuring public protections and industry accountability in and through agency rulemaking, this bill would create confusion, ambiguity, uncertainty, and pointless delays.

The bill would only ensure delay and prevent necessary public protections from being promulgated in the process causing, and avoidable harm and risk to the public.

If enacted, this bill would give extreme legislators another opportunity to obstruct federal policymaking by blocking the confirmation of agency officials in the Senate, putting critical government functions from civil rights enforcement and financial regulation to protecting consumers and the environment in jeopardy.

It is also important to highlight that the Coalition for Sensible Safeguards, consisting of over 160 labor, consumer, and environmental organizations are strongly opposed to this bill.

Additionally, if the President were presented with H.R. 357, he would veto it.

For these reasons, I urge my colleagues to vote in opposition to H.R. 357, The Ensuring Accountability in Agency Rulemaking Act.

Mr. CLINE. Madam Speaker, I thank the gentlewoman for her remarks.

I want to point out that when she talks about water, we are all concerned about safe water, and that would qualify as an exemption under this bill if the head of the agency determined that compliance would impede public safety or security. They would only need to submit that notification and publish it in the RECORD.

I say that this bill does actually consider that circumstance. I also state that the letter the gentlewoman put into the RECORD is coming from an association of government employees who are the very bureaucrats having their powers removed by this bill. It makes sense that those who are being removed from the status quo would oppose the bill. It makes sense that those whose powers are being taken away to promulgate these regulations and impose these costs on American businesses and families would oppose this bill. I would be surprised if they didn't oppose the bill.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, let me make two points. The gentleman from Virginia points out that paragraphs 1 and 2 do not apply if the head of an agency determines on a nondelegable basis that compliance with the relevant paragraph would impede public safety or security, but there is nothing in the bill to define public safety or security. It doesn't help at all.

I would also point out that the last President, not the current one, the last one, Mr. Trump, had a lot of acting agency heads. In fact, he has stated that he would like in another term to have a lot more acting agency heads so he doesn't need Senate confirmation.

That would mean that few, if any, people would have the ability to okay safety and security rules to keep our people safe and our water clean, our air safe, et cetera.

Madam Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. MRVAN).

Mr. MRVAN. Madam Speaker, I thank Ranking Member NADLER for the time.

Madam Speaker, I rise today in opposition to H.R. 357. As a Member of the legislative branch, I take very seriously our responsibility to provide oversight of the executive branch. We must always look to utilize the tools that we have available to us, including through the appropriations process, to ensure accountability and provide the appropriate scope and direction to our Federal agencies.

I also believe that elections matter, and that we in the legislative branch should do our utmost to find common ground and advance policies and programs that promote the best interests of our communities.

Unfortunately, I believe that this measure goes too far to deliberately hinder Federal agencies from advancing their priorities. For this reason, at the appropriate time, I will offer a motion to recommit this bill back to committee. If the House rules permitted, I would have offered the motion with an important amendment to this bill. In addition to exceptions for rules that impact public safety and national security, my amendment would also provide exceptions for rules related to veteran health benefits.

As the ranking member of the House Veterans' Affairs Subcommittee on Oversight and Investigation, I believe we must continue to do all we can to work together and advance initiatives that ensure our veterans receive the care and benefits that they have earned.

Madam Speaker, I ask unanimous consent to insert the text of my amendment in the RECORD immediately prior to the vote on the motion to recommit.

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

There was no objection.

Mr. MRVAN. Madam Speaker, I thank, again, the ranking member for the time.

Mr. CLINE. Madam Speaker, I appreciate the words of the gentleman and agree we are seeking to find common ground, even though I would oppose the motion to recommit. I would state that when the ranking member of the committee mentioned that the rules have to be promulgated by the senior appointee who has to be confirmed by the Senate, the initiation of the regulation need only be done by the senior appointee regardless as to whether they have been approved by the Senate. It is only before the actual rule would be prevented does the nominee have to be confirmed by the Senate. The process can begin by a senior appointee who has not yet been confirmed by the Senate, which would address some of the concerns about holding up nominees in the Senate.

Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, this legislation is just the latest in a long line of Republican bills meant to undermine and even block agency rulemaking altogether.

This bill would not only erect another hurdle to the creation of critical rules that protect our air, water, land, and livelihood, but it would also require years of litigation to determine what the vague terms of the bill mean. We should reject any effort that would prevent agencies from issuing life-saving regulations.

Madam Speaker, I urge all Members to oppose this legislation, and I yield back the balance of my time.

Mr. CLINE. Madam Speaker, I urge my colleagues to support H.R. 357, the Ensuring Accountability in Agency Rulemaking Act. As stated, this bill requires that only politically accountable officials, not career bureaucrats, initiate and issue regulations, the cost of which is hurting families across this country even as it seeks to help them through regulations.

The regulations often are meant to address health and safety concerns. Those would be given an exemption, but those other regulations that put costs on families, put costs on small businesses would be curbed unless they are signed off on by a senior official who has been appointed by the President and confirmed by the Senate.

This will increase political accountability for Federal policymaking and restore the rights of American people to choose exactly who governs them.

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

The SPEAKER pro tempore. Pursuant to House Resolution 922, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. MRVAN. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MRVAN of Indiana moves to recommit the bill H.R. 357 to the Committee on the Judiciary.

The material previously referred to by Mr. MRVAN is as follows:

Mr. MRVAN moves to recommit the bill H.R. 357 to the Committee on the Judiciary with instructions to report the same back to the House forthwith, with the following amendment:

Page 4, insert after line 6 the following:

(4) ADDITIONAL EXCEPTION.—Paragraph (1) or (2) does not apply to any rule to provide benefits or health services to veterans under laws administered by the Secretary of Veterans Affairs.

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

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

Mr. MRVAN. Madam 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 proceedings on this question are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 2 o'clock and 58 minutes p.m.), the House stood in recess.

□ 1630

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WEBER of Texas) at 4 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

The motion to recommit on H.R. 357; and,

Passage of H.R. 357, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Pursuant to clause 9 of rule XX, remaining electronic votes will be conducted as 5-minute votes.

ENSURING ACCOUNTABILITY IN AGENCY RULEMAKING ACT

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the unfinished business is the vote on the motion to recommit on the bill (H.R. 357) to require the head of an agency to issue and sign any rule issued by that