

PROVIDING FOR CONSIDERATION OF H.R. 2728, OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS IN COURT ACT OF 2004, H.R. 2729, OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004, H.R. 2730, OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004, H.R. 2731, OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004, AND H.R. 2432, PAPERWORK AND REGULATION IMPROVEMENTS ACT OF 2004

MAY 17, 2004.—Referred to the House Calendar and ordered to be printed

Mr. SESSIONS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 645]

The Committee on Rules, having had under consideration House Resolution 645, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration H.R. 2728, the Occupational Safety and Health Small Business in Court Act of 2004, H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act of 2004, H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act of 2004, H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act of 2004, and H.R. 2432, Paperwork and Regulatory Improvements Act of 2004.

The rule provides in for consideration of H.R. 2728 under a closed rule. The rule provides one hour of debate in the House on H.R. 2728 equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. The rule provides that the amendment recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted. The rule provides one motion to recommit H.R. 2728 with or without instructions.

The rule further provides in section 2 for consideration of H.R. 2729 under a closed rule. The rule provides one hour of debate in the House on H.R. 2729 equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. The rule provides that the amendment

in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, as modified by the amendment printed in part A of this report, shall be considered as adopted. The rule provides one motion to recommit H.R. 2729 with or without instructions.

The rule further provides in section 3 for the consideration of H.R. 2730 under a closed rule. The rule provides one hour of debate in the House on H.R. 2730 equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. The rule provides that the amendment recommended by the Committee on Education and the Workforce now printed in the bill, as modified by the amendment printed in part B of this report, shall be considered as adopted. The rule provides one motion to recommit H.R. 2730 with or without instructions.

The rule further provides in section 4 for the consideration of H.R. 2731 under a closed rule. The rule provides one hour of debate in the House on H.R. 2731 equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, as modified by the amendment printed in part C of this report, shall be considered as adopted. The rule provides one motion to recommit H.R. 2731 with or without instructions.

The rule further provides in section 5 for the consideration of H.R. 2732 under a structured rule. The rule provides one hour of general debate in the Committee of the Whole equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. The rule waives points of order against consideration of the bill for failure to comply with clause 4(a) of Rule XIII (regarding the three-day availability of committee reports). The rule provides that the amendment recommended in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill shall be considered as an original bill for the purpose of amendment, and shall be considered as read.

The rule makes in order only those amendments to the Committee amendment in the nature of a substitute which are printed in part D of this report. The rule provides that the amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The rule waives all points of order against the amendments printed in this report. The rule provides one motion to recommit H.R. 2732 with or without instructions.

The rule further provides in section 6 for the engrossment of H.R. 2728, to which the Clerk shall add the texts of H.R. 2729, H.R. 2730, H.R. 2731, and H.R. 2732, as passed by the House, as new matter at the end of H.R. 2728, and then lay on the table H.R. 2729, H.R. 2730, H.R. 2731, and H.R. 2732. Finally, the rule pro-

vides that if H.R. 2728 is disposed of without reaching the stage of engrossment, then whichever of H.R. 2729, H.R. 2730, H.R. 2731, or H.R. 2732 that first passes the House shall be treated in the manner specified for H.R. 2728 and all other bills that have passed the House shall be laid on the table.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 257

Date: May 17, 2004.

Measures: H.R. 2728—Occupational Safety and Health Small Business in Court Act of 2004, H.R. 2729—Occupational Safety and Health Review Commission Efficiency Act of 2004, H.R. 2730—Occupational Safety and Health Independent Review of OSHA Citations Act, H.R. 2731—Occupational Safety and Health Small Employer Access to Justice Act of 2004, and H.R. 2432—Paperwork and Regulatory Improvements Act of 2004.

Motion by: Mr. Hastings of Florida.

Summary of motion: To make in order as new matter H.R. 4256, Fair Minimum Wage Act of 2004, sponsored by Representative George Miller of California.

Results: Defeated 1 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Diaz-Balart—Nay; Myrick—Nay; Reynolds—Nay; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 258

Date: May 17, 2004.

Measures: H.R. 2728—Occupational Safety and Health Small Business in Court Act of 2004, H.R. 2729—Occupational Safety and Health Review Commission Efficiency Act of 2004, H.R. 2730—Occupational Safety and Health Independent Review of OSHA Citations Act, H.R. 2731—Occupational Safety and Health Small Employer Access to Justice Act of 2004, and H.R. 2432—Paperwork and Regulatory Improvements Act of 2004.

Motion by: Mr. Hastings of Florida.

Summary of motion: To make in order a separate rule for each bill.

Results: Defeated 1 to 6.

Vote by Members: Goss—Nay; Linder—Nay; Diaz-Balart—Nay; Myrick—Nay; Reynolds—Nay; Hastings (FL)—Yea; Dreier—Nay.

PART A—SUMMARY OF AMENDMENT TO H.R. 2729 TO BE CONSIDERED AS ADOPTED

(Summary derived from information provided by the amendment sponsor.)

Boehner: Corrects a drafting error and specifies that under H.R. 2729, three (rather than two) of five members will be required to constitute a quorum of OSHRC.

PART B—SUMMARY OF AMENDMENT TO H.R. 2730 TO BE CONSIDERED
AS ADOPTED

(Summary derived from information provided by the amendment sponsor.)

Boehner: Clarifies that no broader change is intended generally with respect to a federal court's review over an agency's interpretation of regulations and the "deference" given that agency, and that H.R. 2730 merely directs which agency is afforded such deference. The amendment is intended to address jurisdictional concerns raised by the Judiciary Committee.

PART C—SUMMARY OF AMENDMENT TO H.R. 2731 TO BE CONSIDERED
AS ADOPTED

(Summary derived from information provided by the amendment sponsor.)

Boehner: Corrects a drafting error which resulted in the bill mistakenly being reported with an incorrect short title in section 1. Clarifies the short title of the Act shall be the "Occupational Safety and Health Small Employer Access to Justice Act of 2004."

PART D—SUMMARY OF AMENDMENTS MADE IN ORDER TO H.R. 2432

(Summaries derived from information provided by the amendment sponsor.)

Ose: Manager's Amendment. Makes no changes in sections 1, 2, 3, and 4 of H.R. 2432, as reported by the Committee on Government Reform on May 12, 2004. It makes changes in Sections 5 and 6. In section 5, the amendment authorizes annual funding for the General Accounting Office's regulatory analysis function, and provides an effective date. In section 6, the amendment removes the requirement for the Office of Management and Budget (OMB) to integrate its annual regulatory accounting statement and associated report into the President's fiscal budget documents. Current law which requires submission "with" the President's fiscal budget documents, is unaltered. Ensures that, before submitting its regulatory budgeting study, OMB will consult with the key Congressional Committees: the Committees on the Budget and on Government Reform in the House and the Committees on the Budget and on Government Affairs in the Senate. (10 minutes)

Waxman/Tierney: Creates an expert commission to study the politicization of science and make recommendations for how to protect science in the regulatory process from political and ideological manipulation and interference. Seeks to improve the regulatory process by protecting the integrity of science in federal decisionmaking. (20 minutes)

PART A—TEXT OF AMENDMENT TO H.R. 2729 TO BE
CONSIDERED AS ADOPTED

Page 3, after line 3, insert the following:

(3) In subsection (f), by striking "two" the first place it appears and inserting "three".

PART B—TEXT OF AMENDMENT TO H.R. 2730 TO BE
CONSIDERED AS ADOPTED

At the end of the amendment, add the following:

Page 2, line 11, after “law” insert “that are subject to agency deference under governing court precedent”.

PART C—TEXT OF AMENDMENT TO H.R. 2731 TO BE
CONSIDERED AS ADOPTED

Page 4, lines 6 and 7, strike “Occupational Safety and Health Small Business Day in Court Act of 2004” and insert “Occupational Safety and Health Small Employer Access to Justice Act of 2004”.

PART D—TEXT OF AMENDMENTS MADE IN ORDER TO H.R.
2432

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE OSE OF
CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

In section 5, insert “(a) PERMANENT AUTHORITY.—” before “The purpose”.

In section 5, strike paragraph (2) and the matter preceding subparagraph (A) of paragraph (3) and insert the following:

(2) in section 5, by striking “\$5,200,000 for each of fiscal years 2000 through 2002” and inserting “\$5,000,000 for each fiscal year beginning after September 30, 2004”; and

(3) in section 6—

Add at the end of section 5 the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

In section 6, strike subsection (b) and redesignate subsection (c) as subsection (b).

In section 1120(d) of title 31, United States Code, as proposed to be added by section 6(b) (as so redesignated), in the matter preceding paragraph (1), insert after “Management and Budget” the following: “, after consultation with the Committees on the Budget and on Government Reform of the House of Representatives and the Committees on the Budget and on Governmental Affairs of the Senate,”.

In section 1120 of title 31, United States Code, as proposed to be added by section 6(b) (as so redesignated), strike the closing quotation marks and second period at the end and insert the following:

“(e) The report on the study on regulatory budgeting required under subsection (d) shall also be submitted directly to the Committees on the Budget and on Government Reform of the House of Representatives and the Committees on the Budget and on Governmental Affairs of the Senate.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WAXMAN
OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 20 MINUTES

Add at the end the following new title:

TITLE II—COMMISSION ON POLITICIZATION OF SCIENCE IN THE REGULATORY PROCESS

SEC. 201. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Independent Commission on Politicization of Science in the Regulatory Process (in this Act referred to as the “Commission”).

SEC. 202. DUTIES.

The Commission shall carry out the following duties:

(1) Examine and evaluate executive branch regulatory activities and associated decisions to determine the extent to which political considerations have undermined the quality and use of science. As part of this examination and evaluation, the Commission shall consider the regulatory activities and associated decisions listed in—

(A) “Politics and Science in the Bush Administration,” an August 2003 report prepared by the minority staff of the Committee on Government Reform of the House of Representatives; and

(B) “Scientific Integrity in Policymaking,” a March 2004 report prepared by the Union of Concerned Scientists, which was accompanied by a statement of concern signed by 20 Nobel Laureates and other distinguished scientists.

(2) Report to Congress and the President on its findings and conclusions, as well as make recommendations to Congress and the President on measures that can be taken to enhance the integrity of science in executive branch regulatory activities and associated decisions.

SEC. 203. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be jointly appointed by the minority leader of the Senate and the minority leader of the House of Representatives, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the majority leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(2) OTHER QUALIFICATIONS.—Individuals that shall be appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of ex-

perience in scientific professions, governmental service, and public administration.

(3) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed within 45 days following the enactment of this Act.

(4) **MEETINGS.**—The Commission shall meet and begin the operations of the Commission as soon as practicable. After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(c) **QUORUM; VACANCIES.**—Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) **CONFLICTS OF INTEREST.**—Each member appointed to the Commission shall submit a financial disclosure report pursuant to the Ethics in Government Act of 1978, notwithstanding the minimum required rate of compensation or time period employed.

SEC. 204. POWERS OF COMMISSION.

(a) **HEARINGS AND EVIDENCE.**—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title, hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable.

(b) **CONTRACTING.**—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties of this Act.

(c) **INFORMATION FROM FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.**—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive Orders.

(d) **ASSISTANCE FROM FEDERAL AGENCIES.**—

(1) **GENERAL SERVICES ADMINISTRATION.**—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) **OTHER DEPARTMENTS AND AGENCIES.**—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as

they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 205. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 206. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 207. REPORTS OF COMMISSION; TERMINATION.

(a) **INTERIM REPORTS.**—The Commission may submit to Congress and the President interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) **FINAL REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress and the President a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

SEC. 208. TERMINATION.

(a) **IN GENERAL.**—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(b) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.**—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 209. FUNDING.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated funds not to exceed \$5,000,000 for purposes of the activities of the Commission under this Act.

(b) **DURATION OF AVAILABILITY.**—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

At the end of section 2, insert the following:

TITLE I—AMENDMENTS RELATING TO PAPERWORK REDUCTION

Redesignate sections 3, 4, 5, and 6 as sections 101, 102, 103, and 104, respectively.