

RSC Policy Brief: The 111th Congress Is Bad for Business

June 2009

Since the opening minutes of the Democrat-controlled 111th Congress, job creators have been under attack. Hardly a week has gone by that a bill that would increase costs for, or regulations on, American businesses hasn't passed the House.

Below is a non-exhaustive list of these House-passed bills (with embedded hyperlinks for more information) that would harm American businesses and therefore innovators, entrepreneurs, employees, consumers, the stock market, and the economy as a whole.

[Adopting Rules for the One Hundred Eleventh Congress \(H.Res. 5\) – Passed 242-181.](#)

- Implements a parliamentary tool to make it easier to raise taxes on businesses and individuals.

[Paycheck Fairness Act \(H.R. 12\) – Passed 256-163.](#)

- Makes it difficult for employers to defend legitimate pay differentials between employees by requiring employers to affirmatively demonstrate that the differential is not based on sex, is specific to the position in question, and is consistent with business activity. This bill is designed to be a boon for trial lawyers.

[Lilly Ledbetter Fair Pay Act of 2009 \(H.R. 11\) – Passed 247-171 and signed into law on 1/29/2009.](#)

- Invites the filing of stale claims of pay discrimination against well-meaning employers. By effectively eliminating any statute of limitation on employment discrimination claims, the bill encourages claims to be filed years, or even decades, after an injustice may—or may not—have occurred. Like the Paycheck Fairness Act, this bill would also provide a windfall for trial lawyers.

[Children's Health Insurance Program Reauthorization Act of 2009 \(H.R. 2\) – Passed 289-139 and signed into law on 2/4/2009.](#)

- Takes a large step away from private insurance and individual choice to a Washington-controlled healthcare system, which necessarily harms private sector investment and innovation. The bill also increases taxes by more than \$72.1 billion over ten years.

TARP Reform and Accountability Act (H.R. 384) – Passed 260-166.

- Greatly increases federal involvement in the financial services sector. Among other things, the legislation would have the federal government tell participating companies how much they can pay their employees, what mergers and acquisitions are acceptable, and would give the Treasury Secretary the authority to send a representative to *any* meeting of the board of directors of a participating company.

American Recovery and Reinvestment Act (H.R. 1) – Passed 244-188 and signed into law on 2/17/2009.

- Crowds out private-sector innovation and investment through its massive “stimulus” spending. The bill also expands Davis-Bacon prevailing wage requirements, increasing project costs by up to \$17 billion, according to the Heritage Foundation.
- Also forces cash-strapped small businesses to front the cost of certain health care premiums (COBRA) for former employees until they get reimbursed by the government.
- And gives state attorneys-general authority to oversee and enforce the federal HIPAA law, resulting in new burdens on interstate corporations who must now adhere to 50 different interpretations of a single law.

Omnibus Appropriations Act, 2009 (H.R. 1105) – Passed 245-178 and signed into law on 3/11/2009.

- Further increases the size of the public sector at the expense of the private sector by enacting a total discretionary spending level of \$1.01 trillion—the first time in U.S. history that the \$1 trillion threshold has been crossed.

Helping Families Save Their Homes Act of 2009 (H.R. 1106) – Passed 234-191.

- Weakens mortgage contracts and increases costs to investors by allowing judges to “cramdown” a loan – lowering the amount a borrower must pay a creditor on a loan.

The Water Quality Investment Act (H.R. 1262) – Passed 317-101.

- Extends Davis-Bacon prevailing wage requirements to the Clean Water State Revolving Fund (authorized in the bill at \$13.8 billion over five years), which

would add more paperwork and other compliance requirements to participating businesses.

To Impose an Additional Tax on Bonuses Received from Certain TARP Recipients (H.R. 1586) – Passed 328-93.

- Implements a punitive 90% tax rate on business executives and implies that bonuses paid in the private sector are subject to government approval.

Omnibus Public Land Management Act of 2009 (H.R. 146) – Passed 285-140 and signed into law on 3/30/2009.

- Blocks millions of acres from new oil and gas leasing, logging, mining, and all other business activity in these areas, hurting every business in America with higher energy prices, which are then passed down to the consumer.

The Pay for Performance Act of 2009 (H.R. 1664) – Passed 247-171.

- Applies federal limits on *existing* compensation agreements, signaling to investors that the federal government has the right to change the rules in the middle of the game—including on employees far down the employment chain.

Family Smoking Prevention and Tobacco Control Act (H.R. 1256) – Passed 298-112.

- Imposes numerous mandates on private businesses, all while increasing taxes on tobacco companies by \$995 million over 10 years—on top of the \$72.1 billion tobacco tax over 10 years that took effect April 1, 2009.

Congressional Budget for Fiscal Year 2010 (H.Con.Res. 85) – Passed 233-196.

- Assumes a five-year tax increase of \$574 billion, a significant portion of which would be aimed at economic activity and businesses of all sizes.

Credit Cardholders Bill of Rights Act of 2009 (H.R. 627) – Passed 357-70 and signed into law on May 22, 2009.

- Imposes a laundry list of federal mandates on private-market transactions, including telling credit card issuers what time the cut-off is for on-time payments. Next, the federal government will be telling retail stores what their business hours must be or what their return policies are.

Mortgage Reform and Anti-Predatory Lending Act (H.R. 1728) – Passed 300-114.

- Prohibits a variety of legitimate private-market business practices for lenders and would thus amount to an unwelcome federal micromanagement of private markets and private lives.

21st Century Green High-Performing Public Schools Facilities Act (H.R. 2187) – Passed 275-155.

- Provides funds for localities to contract with businesses to make their schools more “green,” subject to Davis-Bacon prevailing wage and paperwork requirements.

FAA Reauthorization Act of 2009 (H.R. 915) – Passed 277-136.

- Implements a variety of mandates on aviation companies, while increasing: taxes on aviation-grade kerosene, the aviation gasoline tax, and the Passenger Facility Charge.

ALERT!

Major Business-Killer on the Horizon in Democrat-Led 111th Congress:

American Clean Energy and Security Act of 2009 (H.R. 2454) – Passed House Energy and Commerce Committee 33-25.

The Waxman-Markey national energy tax bill, H.R. 2454, has at its center a massive energy tax that will kill jobs, increase the burden on American families and businesses already struggling to pay energy bills in these tough economic times, and expand government’s control over private business owners. This bill will cap business growth and innovation, resulting in, according to a Heritage Foundation [analysis](#):

- An estimated \$9.6 trillion loss in real GDP;
- 1,105,000 jobs lost annually on average, with peak years of job losses to rise above 2,479,000;
- Electricity rates increasing by 90 percent;
- Gasoline prices increasing by 74 percent;
- Natural gas prices increasing by 55 percent; and
- An average family’s annual energy bill increasing by \$1,500.

H.R. 2454 acknowledges these projected job losses by including “climate change adjustment assistance,” which would provide 70% of an “adversely affected worker’s” paycheck for three years.

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