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1 {York Stenographic Services, Inc.}

2 RPTS BROWN

3 HIF128.000

4 MARKUP ON H.R. 3301, THE NORTH AMERICAN ENERGY INFRASTRUCTURE  
5 ACT;

6 H.R. 4342, THE DOMAIN OPENNESS THROUGH CONTINUED OVERSIGHT  
7 MATTERS (DOTCOM) ACT; AND

8 H.R. 4572, THE SATELLITE TELEVISION EXTENSION AND LOCALISM  
9 (STELA) REAUTHORIZATION

10 THURSDAY, MAY 8, 2014

11 House of Representatives,

12 Committee on Energy and Commerce

13 Washington, D.C.

14 The Committee met, pursuant to call, at 10:08 a.m., in  
15 Room 2123 of the Rayburn House Office Building, Hon. Fred  
16 Upton [Chairman of the Committee] presiding.

17 Members present: Representatives Hall, Barton, Shimkus,  
18 Pitts, Walden, Terry, Rogers, Murphy, Burgess, Blackburn,

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19 Gingrey, Scalise, Latta, McMorris Rodgers, Harper, Lance,  
20 Cassidy, Guthrie, Olson, McKinley, Gardner, Pompeo,  
21 Kinzinger, Griffith, Bilirakis, Johnson, Long, Ellmers,  
22 Waxman, Dingell, Pallone, Eshoo, Engel, Green, DeGette,  
23 Capps, Doyle, Schakowsky, Matheson, Butterfield, Barrow,  
24 Matsui, Castor, Sarbanes, McNerney, Braley, Welch, Lujan,  
25 Tonko, Yarmuth, and Upton.

26           Staff present: Nick Abraham, Legislative Clerk; Gary  
27 Andres, Staff Director; Charlotte Baker, Deputy  
28 Communications Director; Ray Baum, Senior Policy  
29 Advisor/Director of Coalitions; David Bell, Staff Assistant;  
30 Mike Bloomquist, General Counsel; Matt Bravo, Professional  
31 Staff Member; Leighton Brown, Press Assistant; Allison  
32 Busbee, Policy Coordinator, Energy and Power; Megan Capiak,  
33 Staff Assistant; Patrick Currier, Counsel, Energy and Power;  
34 Marty Dannenfelser, Senior Advisor, Health Policy and  
35 Coalitions; Andy Duberstein, Deputy Press Secretary; Gene  
36 Fullano, Detailee, Telecom; Brad Grantz, Policy Coordinator,  
37 Oversight and Investigations; Kelsey Guyselman, Counsel,  
38 Telecom; Sydne Harwick, Legislative Clerk; Tom Hassenboehler,  
39 Chief Counsel, Energy and Power; Brittany Havens, Legislative  
40 Clerk; Kirby Howard, Legislative Clerk; Peter Kielty, Deputy  
41 General Counsel; Jason Knox, Counsel, Energy and Power; Grace

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42 Koh, Counsel, Telecom; Brandon Mooney, Professional Staff  
43 Member; David Redl, Counsel, Telecom; Chris Sarley, Policy  
44 Coordinator, Environment and Economy; Charlotte Savercool,  
45 Legislative Coordinator; Tom Wilbur, Digital Media Advisor;  
46 Jessica Wilkerson, Legislative Clerk; Jeff Baran, Democratic  
47 Senior Counsel; Phil Barnett, Democratic Staff Director; Jen  
48 Berenholz, Democratic Chief Clerk; Stacia Cardille,  
49 Democratic Chief Counsel; Alison Cassady, Democratic Senior  
50 Professional Staff Member; Shawn Chang, Democratic Chief  
51 Counsel, Communications and Technology; Caitlin Haberman,  
52 Democratic Policy Analyst; Elizabeth Letter, Democratic Press  
53 Secretary; Karen Lightfoot, Democratic Communications  
54 Director and Senior Policy Advisor; Margaret McCarthy,  
55 Democratic Professional Staff Member; and Alexandra Teitz,  
56 Democratic Senior Counsel, Environment and Energy.

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57           The {Chairman.} Committee will come to order.

58           At the conclusion of opening statements yesterday, the  
59 chair did call up H.R. 3301, and the Bill is open for  
60 amendment at any point.

61           The chair recognizes himself to offer an amendment, and  
62 the clerk will report the amendment.

63           The {Clerk.} Amendment to H.R. 3301, offered by Mr.  
64 Upton of Michigan and Mr. Gene Green of Texas.

65           [The amendment of Mr. Upton and Mr. Green follows:]

66           \*\*\*\*\* INSERT A \*\*\*\*\*

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|  
67           The {Chairman.} Without objection, the reading of the  
68 amendment is dispensed with, and I recognize myself for 5  
69 minutes in support of the amendment.

70           I want to say that I am happy to offer this amendment  
71 with my friend and colleague, Gene Green, and appreciate his  
72 hard work to convince our colleagues on both sides about this  
73 new approach.

74           This approach is a sincere effort to focus a targeted  
75 solution to the lessons learned from the Keystone Pipeline.  
76 No one can rightfully argue that the current presidential  
77 permit process of the State Department is not broken, no  
78 matter what side of the climate debate you are on. And for  
79 the over 100 operating or proposed oil, natural gas and  
80 electric transmission facilities that CRS has identified  
81 crossing the U.S. border of Canada or Mexico, we can do  
82 better, and this Bill will make us do that. It takes the  
83 politics out of what was once a routine decision, and puts in  
84 place a new certificate of crossing for an oil pipeline or  
85 electric transmission line that crosses the U.S. border to  
86 our allies, Canada and Mexico. In fact, this amendment  
87 simply puts this infrastructure on par with what already  
88 happens for natural gas pipelines across the border, a

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89 commonsense and very transparent approach.

90 And, yes, this approach includes a full NEPA analysis.

91 In fact, it is exactly the same way that it is handled for

92 other cross-border infrastructure. So let me say it again,

93 it includes a NEPA analysis.

94 We heard the concerns at the subcommittee, and we are

95 making that change. In fact, this amendment even says that

96 approvals cannot be done until final NEPA action is complete.

97 Yes, we put 120-day time frame on that decision, but the

98 clock does not start until after the NEPA is complete, which

99 has no time limits, but our Agencies do need to be held

100 accountable, and the timeline is there to end the abuse so

101 that politics and interference, no matter what problem might

102 be out there, no matter what any Administration is in office,

103 can no longer dictate over the policy.

104 We also heard the concerns of a standard of review of

105 the original Bill. The national security interests of the

106 U.S., and concerns about taking the oil pipeline authority

107 away from the State Department. So in an effort to

108 accommodate our friends, we are making those changes too,

109 giving this targeted authority back to state, and moving back

110 to a public interest standard. Why public interest? Well,

111 as we debated last week, this standard is well understood,

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112 and is the same standard that has been used without problems  
113 for decades for approving natural gas cross-border  
114 applications under Section 3 of the Natural Gas Act. The  
115 public interest standard requires FERC to consider the health  
116 and safety of the public environmental impact of the project  
117 in the project area, the economic impact of the project and  
118 our commitments to Canada and Mexico in promoting trade. The  
119 Department of Energy also uses the public interest standard  
120 for approving cross-border transmission segments. Requiring  
121 this standard for oil pipelines so that all 3 types of cross-  
122 border energy projects can be approved under exactly the same  
123 standard is, I think, a commonsense policy.

124         Why are we making these changes? John Kerry said it  
125 well yesterday. He said, today it is clear, the world's new  
126 energy map is no longer centered in the Middle East, but in  
127 the western hemisphere. Or, as Senator Pete Domenici and  
128 Jason Grumet of the Bipartisan Policy Center, and remember,  
129 Jason Grumet has been a long-time presidential Obama advisor,  
130 this Bipartisan Policy Center jointly noted ``The entire  
131 continent stands to achieve substantial economic,  
132 environmental and security benefits. But we will not realize  
133 these opportunities unless we establish the infrastructure  
134 needed to create an integrated North American energy sector.

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135 Our permitting policies are antiquated and poorly matched to  
136 our rapidly-evolving needs. The fact that these executive  
137 orders do not specify any particular line or standards for  
138 making the determination have created a process ill-suited  
139 for the country's changing landscape.' ' Seems pretty clear,  
140 this issue is just too important to let politics continue to  
141 dictate. So we have given in to the request from many on  
142 this committee, and listened in the interest of trying to  
143 solve this problem. And I would, therefore, hope that my  
144 colleagues can all join me in supporting this amendment and  
145 the Bill on final passage.

146 And I would yield the balance of my minute to Mr. Green,  
147 and then I will come to you.

148 Mr. Green.

149 Mr. {Green.} Thank you, Mr. Chairman. And I will get  
150 my time in our order, but I just want to thank you and your  
151 staff for working with us on this legislation. It has  
152 actually been a real compromise, I think much more so than  
153 some of us on our side of the aisle would feel.

154 Obviously, Keystone is important to the area I represent  
155 and the Gulf Coast, because we have the refineries, but it is  
156 important to our country because Canada has always been our  
157 closest ally, except, you know, back in 1812 when we burned



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158 their capital, but they burned ours so it was equal. But it  
159 is so important, and that is why we need to make sure we  
160 structuralize our free trade agreement between our two  
161 closest neighbors; Mexico and Canada.

162 And I thank you for your time.

163 The {Chairman.} Thank you.

164 At this point, I would recognize the ranking member of  
165 the full committee, Mr. Waxman, for 5 minutes.

166 Mr. {Waxman.} Thank you, Mr. Chairman.

167 I will support this amendment because it would partially  
168 address some of the Bill's major problems, but there are  
169 still significant problems with the Bill.

170 For decades, the Federal Government has decided whether  
171 to approve a cross-border pipeline or transmission line,  
172 based on whether the proposed project is broadly in the  
173 public interest. As drafted, H.R. 3301 tossed out that  
174 standard, and replaced it with a much narrower standard. The  
175 relevant federal agency would have to approve a project,  
176 unless it finds that the project is not in the national  
177 security interests of the United States.

178 By tying approval of a project to a national security  
179 standard, rather than a broader public interest or national  
180 interest standard, the Bill would prevent federal agencies

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181 from considering the many ways a pipeline or transmission  
182 project could affect communities and landowners along the  
183 project's route. Energy markets, the environment, the  
184 climate, other ways a project can have a real impact on  
185 peoples' lives.

186 The Upton-Green amendment would fix this problem by  
187 allowing federal agencies to consider factors other than  
188 national security interests, so that is an improvement.

189 The original Bill included a two-pronged assault on  
190 effective environmental review of cross-border oil and  
191 natural gas pipelines and transmission lines. First, the  
192 Bill explicitly stated that approval of cross-border  
193 pipelines and transmission lines shall not constitute a major  
194 federal action for purposes of the National Environmental  
195 Policy Act, and second, the Bill set an arbitrary 120-day  
196 deadline for agencies to approve projects, which is simply  
197 not enough time to perform an adequate environmental review.

198 Either one of these provisions would effectively  
199 eliminate federal environmental review of cross-border  
200 projects. This amendment would delete the language that  
201 explicitly exempt these--exempts these projects from NEPA  
202 review, and it would start 120-day deadline after NEPA review  
203 is complete, but it creates a new problem for environmental

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204 review. Under this amendment, instead of conducting an  
205 environmental review of the entire length of a pipeline that  
206 crosses the border with Canada or Mexico, the NEPA review  
207 would be limited to just the small segment of the pipeline  
208 crossing the border. That is a dramatic narrowing of the  
209 federal environmental review for oil pipelines.

210 For example, under this amendment, the environmental  
211 review of the Keystone XL Pipeline would only examine the  
212 environmental impacts of the little piece of the pipeline  
213 that crosses the border with Canada, not the impacts on  
214 climate change and moving all of that Tar Sands oil through  
215 the middle of the United States, not the impacts on aquifers  
216 or landowners in Nebraska, not the potential public safety  
217 for oil spill concerns. The new language is just another way  
218 of getting the federal environmental review for Tar Sands  
219 Pipelines.

220 There are other major problems with the Bill, even if  
221 this amendment passes. The Bill would still create a  
222 rebuttable presumption that Keystone XL and other Tar Sands  
223 Pipelines are in the public interest, tipping the scale in  
224 favor of their approval, and if the President rejects  
225 Keystone XL or another pipeline because it is not in the  
226 national interest, the Bill would still allow the rejected

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227 applicant to reapply under the new, much weaker process. The  
228 Bill also continues to exempt major expansions of existing  
229 pipelines, and reversals of pipeline flows from any approval  
230 process at all, and the Bill would still allow for unlimited  
231 exports of liquefied natural gas through Canada and Mexico  
232 with absolutely no controls or conditions.

233 It is fine to adopt this amendment, but I urge my  
234 colleagues to continue to oppose this unwise legislation.

235 The {Chairman.} Gentleman yields back.

236 Other Members wishing to speak on the amendment?

237 Seeing none--the gentlelady from Florida is recognized.

238 Ms. {Castor.} Thank you, Mr. Chairman.

239 Colleagues, this amendment includes some language that  
240 is similar to an amendment I offered during the subcommittee  
241 markup that--where it was rejected. I was planning to offer  
242 a similar amendment today to ensure that approval of these  
243 cross-boundary projects have to meet a public interest  
244 standard.

245 As drafted, H.R. 3301 exempts many cross-border  
246 pipelines and transmission projects from the requirement for  
247 a Presidential permit, and changes the permitting criteria  
248 for the remainder. Specifically, the Bill replaces the  
249 requirement that a project be in the public interest or

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250 national interest, with the requirement that the project be  
251 approved, unless it is not in the national security interest  
252 of the United States. And, of course, this would  
253 dramatically narrow what can be considered in evaluating  
254 these projects to just national security concerns.

255 Of course, national security is a critical  
256 consideration, but national security is not the only  
257 consideration at stake, and it certainly is not the only  
258 thing that matters to states and our local communities.

259 This amendment fixes this problem by upping the standard  
260 for approval from a national security test to a public  
261 interest test. That will allow federal agencies to examine  
262 the potential impact of these major projects on environmental  
263 matters, local concerns, climate change, property rights,  
264 pipeline safety, and other important areas of consideration,  
265 but this amendment, unfortunately, does not fix other core  
266 problems of the Bill. The Bill still eliminates effective  
267 environmental review of major cross-boundary energy projects  
268 by narrowing the scope of the review to just the part of the  
269 project that crosses the border. And the Bill still provides  
270 a way for controversial Tar Sands Pipelines, including  
271 Keystone, to slip through the backdoor for approval, even if  
272 the Administration determines that those pipelines are not in

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273 the national interest.

274 This Bill creates presumption that Keystone and other  
275 projects are in the national interest, and that is a subtle  
276 but significant change that makes it almost a guarantee that  
277 these projects will be approved, even if the record is  
278 complete and there are dramatic concerns remaining.

279 So while I appreciate my colleagues now agree that we  
280 should fix one of the big problems with the Bill, the Bill  
281 still would do more harm than good, so I urge my colleagues  
282 to continue to oppose the Bill.

283 I yield back.

284 The {Chairman.} Gentlelady yields back.

285 Other Members wishing to speak on the amendment?

286 The chair recognizes gentleman from Texas, Mr. Green.

287 Mr. {Green.} Thank you, Mr. Chairman.

288 And like I said earlier, I appreciate the effort to work  
289 together on this substitute.

290 Today in North America, we find an unprecedented  
291 opportunity. More than 2 decades after we signed NAFTA, the  
292 United States, Canada and Mexico are at a crossroads once  
293 again. In 2015, the United States, through hydraulic  
294 fracking, will produce more oil and gas than any other  
295 nation. Canada is developing resources that would solidify

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296 them as the number 1 supplier of crude oil for the United  
297 States. Mexico is undergoing major changes in their energy  
298 sector, and they are on the brink of an energy revolution.

299 Many have spoken about the benefits of the United North  
300 American Energy Sector. Secretary Kerry spoke about this  
301 yesterday. Others, including a Council on Foreign Relations,  
302 foreign affairs, Washington Post editorial board, the Wall  
303 Street Journal, and dozens of former Republican and Democrat  
304 administration officials have touted the importance of North  
305 American energy. To accomplish this, we need cross-border  
306 infrastructure.

307 Believe it or not, the State Department has issued  
308 cross-border permits before, without much fanfare. The last  
309 permit in 2009, the State Department issued stating  
310 additional crude oil pipeline capacity will advance a number  
311 of strategic interests in the United States. Approval of  
312 such a--sends a positive economic signal about the future  
313 reliability and availability of U.S. energy imports, and will  
314 provide construction jobs for workers in the U.S. And in  
315 their own national interest determination, the Department  
316 said the U.S. will continue to reducing GHG's, while  
317 conservation and energy efficiency measures like CAFE.  
318 Unfortunately, shortly after that, the politics of pipeline

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319 decisions and the use of NEPA as a tool of destruction began.  
320 In 2010, when the State Department released its first NEPA  
321 analysis to Keystone XL, the draft was rejected and the  
322 departments requested to better assess how Canadian policy  
323 decisions could affect U.S. energy and climate policy  
324 objectives. The State Department has further requested to  
325 address potential oil demand scenarios over the 50-year life  
326 of the project. It is important to recognize that the State  
327 Department's previous analysis of cross-border projects did  
328 not include these assessments. The Keystone analysis was  
329 supposed to include extraction process, transportation  
330 construction, and activities that occur on the Canadian side  
331 of the border.

332 As I mentioned in my opening statement yesterday, the  
333 Obama Administration has indicated these are not activities  
334 intended for assessment under the NEPA. Proponents of H.R.  
335 3301 understand the importance of GHG emissions and their  
336 effect on climate change, but it is important to identify the  
337 reality of the situation, especially as--if we are to assess  
338 Canadian policies. Canada has the right to develop their  
339 natural resources found within their borders. As their own--  
340 as our number one supplier of crude oil, Canada would prefer  
341 to send that commodity to the United States. And as a



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342 sideline, five refineries that are in eastern Harris County,  
343 in or near our district, were too old in the '90s to handle  
344 heavy Venezuelan crude. We would much rather have that  
345 heavier crude coming from Canada. However, that does not  
346 mean they should stop developing if the U.S. is not capable  
347 of meeting Canadian needs. In fact, I think my colleague  
348 from California might want to support H.R. 3301. California  
349 imports a majority of its oil. If we do not meet the  
350 transportation needs of the Canadian energy sector, they will  
351 export that oil to China, to dirtier refineries, and then  
352 import it back to California.

353 Currently, North American transportation needs are being  
354 met by trains and trucks. This is because of NAFTA.  
355 Commodities can enter our country by way of rail or road  
356 because of the existing free trade agreement. The rails and  
357 highways are built with a focus on NEPA review. Pipelines  
358 are needed to fully utilize the potential of the North  
359 American energy. And I have said it before; I can have 1,000  
360 car train filled with Canadian crude, and bring it across the  
361 border right now without a permit, but to build a pipeline it  
362 takes us 5 years to get a permit. It is estimated that the  
363 industry will invest \$200 billion by 2013--'35 in energy  
364 infrastructure. In 2013, 2 million jobs were created,

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365 sustained by \$2.27 trillion in exports, led by energy. If  
366 proponents of the H.R.--opponents of H.R. 3301 are concerned  
367 about GHG, keep in mind that 34 percent of our emissions come  
368 from the transportation sector. If opponents of H.R. 3301  
369 are concerned about safety, know that from 2009 to 2013,  
370 railcars carrying oil increased from 10,000 cars to 400,000  
371 cars.

372           However, 3301 is not about rail versus pipeline. Rail  
373 is needed now more than ever, even to move more commodities  
374 and people around our country. The demand is simply too high  
375 for rail to handle all the energy transportation needs. That  
376 is why H.R. 3301 is a priority. Pipelines are being  
377 disadvantaged due to an ill-defined process promulgated by  
378 executive order. H.R. 3301 creates definition, the amended  
379 legislation would structuralize the application approval  
380 process for cross-border facilities. The Bill sets forth  
381 reasonable timelines of 120 days after the NEPA process has  
382 been completed by the Department of State to issue a public  
383 interest determination.

384           For those who are concerned about limited national  
385 security tests, we have addressed that. For those who are  
386 concerned about the brief timeline, we have addressed that.  
387 For those who desire federal NEPA review for the first time,

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388 we will codify in law a NEPA review for cross-border  
389 pipelines. For those who want the State Department to review  
390 Canadian policies and 50 years of what-ifs scenarios, we  
391 don't do that in 3301, even the hopefully amended version,  
392 but 3301 aims to resolve an issue.

393       There are 10 cross-border facilities waiting for  
394 approval. Some have waited 2 years just for the change of  
395 names. To maximum the benefits and capitalize on the  
396 opportunity to secure our energy suppliers now and in the  
397 future, we must provide the Department of State with  
398 direction. H.R. 3301 does this while protecting public  
399 interest in the environment, and I urge you to support the  
400 Upland-Green amendment.

401       And I yield back my time.

402       The {Chairman.} Gentleman's time has expired.

403       Other Members wishing to speak on the amendment?

404       Seeing none, if there is no further discussion, the vote  
405 occurs on the amendment.

406       All those in favor, so signify by saying aye.

407       All opposed, say no.

408       The ayes have it, and the amendment is agreed to.

409       I would ask unanimous consent at this point that the  
410 Upton-Green amendment considered as the base text for any

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411 further agreements to H.R. 3301. So ordered. I would also  
412 ask that all technical and conforming changes necessary be  
413 made in order. And without objection, agreed to as well.

414 Are there other amendments to H.R. 3301?

415 Gentleman from California.

416 Mr. {McNerney.} I have an amendment at the desk.

417 The {Chairman.} The clerk will report the title.

418 The {Clerk.} Amendment to H.R. 3301, offered by Mr.

419 McNerney of California.

420 [The amendment of Mr. McNerney follows:]

421 \*\*\*\*\* INSERT 6 \*\*\*\*\*

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|  
422           The {Chairman.} Without objection, the amendment will  
423 be considered as read. The staff will distribute the  
424 amendment.

425           And the gentleman from California is recognized for 5  
426 minutes in support of his amendment.

427           Mr. {McNerney.} Thank you, Mr. Chairman.

428           Under current law, if a company wants to export natural  
429 gas, it must first obtain approval from the Department of  
430 Energy. Excuse me. For company--for countries without free  
431 trade agreement with the United States, the DOE examines  
432 whether the proposed export is in the public interest for  
433 countries with a free trade agreement. With the United  
434 States, including Canada and Mexico, the DOE is required to  
435 deem export applications consistent with the public interest,  
436 and grant them without delay. The DOE testified that these  
437 applications are relatively simple filings, and that the  
438 Department responds within 2 to 4 weeks of a request. The  
439 approvals can include conditions such as prohibitions against  
440 simply using Canada or Mexico as a pass-through before  
441 shipping gas to another country.

442           Section 4 of the Bill would modify this straightforward  
443 approval process for LNG exports to Canada and Mexico. The

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444 Bill amends current law to completely exempt a company  
445 exporting natural gas to Canada or Mexico from any approval  
446 at all. This unnecessary change would have significant  
447 consequences. Under the Bill, the DOE would no longer be  
448 able to include any conditions on the approvals. As a  
449 result, the Bill allows unrestricted exports of LNG to Canada  
450 or Mexico, and from there, it could be re-exported to any  
451 other country. These unlimited LNG exports through Canada  
452 and Mexico would no longer be subject to any DOE approval,  
453 review or conditions. There would be no public interest  
454 determinations or analyses of impacts on domestic natural gas  
455 prices, and the American consumers and manufacturers.

456 Canada and Mexico are two of our most important allies  
457 and trading partners, and we can easily send them natural gas  
458 now. There is no reason to allow for uncontrolled and  
459 unlimited LNG exports through Canada and Mexico. My  
460 amendment strikes Section 4 of this Bill, thereby eliminating  
461 the language that allows unlimited LNG exports to any  
462 destination with any public interest determination.

463 I urge my colleagues to support this amendment.

464 The {Chairman.} Gentleman yields back?

465 Mr. {McNerney.} Gentleman yields back.

466 The {Chairman.} Chair recognizes himself for 5 minutes

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467 in opposition to the amendment.

468 I would just note that, because of NAFTA, the U.S. does  
469 have free trade agreements, we know, with both Canada and  
470 Mexico. Currently under the Natural Gas Act, a company has  
471 to apply import or export of natural gas to free trade  
472 agreements, and those applications shall be granted without  
473 modifications or delay. That is the language.

474 So we have been importing and exporting natural gas to  
475 and from Mexico and Canada for over 80 years. I know that it  
476 has been beneficial to all these--all three countries for  
477 decades. It should be encouraged, not stifled. In fact,  
478 according to EIA, 20 percent of California's natural gas  
479 indeed comes from Canada. So nothing in this Bill as amended  
480 removes the ability of FERC to regulate the operation of the  
481 pipeline, especially if a company doesn't comply with the  
482 terms of the Natural Gas Act, Section 3 approval. Nothing in  
483 the legislation limits the President's power to stop natural  
484 gas exports under the Energy Policy and Conservation Act, and  
485 nothing in H.R. 3301 limits EIA's ability to collect data on  
486 exports from pipeline operators under 15 U.S. Code 772(b).

487 So Section 4 of this Bill, of 3301, is a small step  
488 towards bring our nation's energy policy in line with the  
489 world that we live in today, and I would ask that our Members

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490 oppose the amendment.

491 Other Members wishing to speak on the amendment?

492 The chair would recognize the gentleman from California,  
493 Mr. Waxman.

494 Mr. {Waxman.} Mr. Chairman, I urge support for the  
495 McNerney amendment.

496 If you look at what happened last week, the committee  
497 marked up a Bill to allow for unlimited LNG exports without  
498 any determination that they would be in the public interest.  
499 And Members raised a lot of concerns about the impacts of  
500 unlimited LNG exports on natural--on domestic natural gas  
501 prices, about the effects of higher prices on American  
502 consumers and manufacturers.

503 The Bill reported out had major problems, but the  
504 proponents of that Bill backed away from automatically  
505 approving unlimited LNG exports.

506 This Bill, H.R. 3301, brings us right back to where we  
507 started. Section 4 of this Bill would allow for unlimited  
508 LNG exports to any destination in the world, without any  
509 public interest determination or analysis of the potential  
510 impacts. As long as the LNG exports first go to Canada or  
511 Mexico, no approval is required. An LNG tanker ship could  
512 leave Louisiana or Texas, pause in Mexico, and then head off



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513 to Asia, completely bypassing existing legal requirements.

514 This provision is also unnecessary because Canada and  
515 Mexico have no problems obtaining U.S. natural gas for their  
516 own use. We have a free trade agreement with them, and  
517 approval of exports to Canada and Mexico is quick and  
518 automatic, but the Department of Energy is able to watch  
519 those exports to make sure they are not diverted to other  
520 countries. This provision eliminates DOE's ability to watch  
521 out for American consumers and manufacturers.

522 We should strike Section 4 of the Bill. That is what  
523 McNerney--Mr. McNerney's amendment does. I think it is a  
524 good amendment, it is consistent with the committee's actions  
525 last week, and I would encourage all Members to support it.

526 The {Chairman.} Gentleman yields back.

527 Other Members wishing to speak on the amendment?

528 Seeing none, the vote occurs on the amendment offered by  
529 the gentleman from California, Mr. McNerney.

530 All those in favor will say aye.

531 Those opposed, say no.

532 Opinion of the chair the noes have it.

533 The noes have it. The amendment is not agreed to.

534 Other amendments to the Bill?

535 Gentleman from the--no, not yet.

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536 Other amendments to the Bill?

537 Chair would recognize the gentleman--does the gentleman  
538 from Vermont have an amendment at the desk?

539 Mr. {Welch.} I do, Mr. Chairman.

540 The {Chairman.} The clerk will read the title.

541 The {Clerk.} Amendment to the Upton-Green amendment to  
542 H.R. 3301, offered by Mr. Welch of Vermont.

543 [The amendment of Mr. Welch follows:]

544 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|  
545           The {Chairman.} And without objection, the amendment is  
546 considered as read, and the gentleman from Vermont is  
547 recognized for 5 minutes in support of his amendment.

548           Mr. {Welch.} Thank you very much, Mr. Chairman.

549           H.R. 3301 has a number of problems. One very serious  
550 concern to me is that under this Bill, there will be  
551 literally no federal review at all for projects that make  
552 major changes to existing cross-border pipelines.

553           The Bill, as you know, provides a blanket exemption from  
554 federal review for every pipeline modification, no matter how  
555 large, how significant, or how controversial. The  
556 modifications can be huge, multibillion dollar projects with  
557 significant safety, environmental and economic impacts in  
558 communities along the pipeline. And we can certainly, in  
559 this committee, in this Congress, have a big debate about  
560 whether a project should or should not go forward, but should  
561 we have legislation that denies the citizens in our  
562 communities the opportunity to weigh-in and participate in  
563 the permit process, when the project is going to have  
564 significant implications for their communities.

565           You know, under current law, many of these projects that  
566 will sail through generally need a revised presidential

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567 permit, and potentially an environmental review, under the  
568 National Environmental Policy Act. And this does ensure that  
569 project impacts are understood, allows public participation,  
570 allows the Federal Government to set permit conditions,  
571 including safety measures that are necessary to protect  
572 landowners.

573 Under the Bill, H.R. 3301, all of these safeguards would  
574 be extinguished. The Bill exempts all pipeline modifications  
575 from the requirement to obtain a presidential permit. This  
576 should alarm, and does alarm, communities that are traversed  
577 by cross-border pipelines, and it is a very significant  
578 concern for citizens in my home state of Vermont. Vermont is  
579 home to a stretch of the Portland-Montreal Pipeline, and that  
580 was built to transport light sweet crude oil from Maine,  
581 across New Hampshire and Vermont, to Montreal, Canada. And  
582 there are growing indications now that some intend to reverse  
583 the flow of this pipeline to transport 600,000 barrels a day  
584 of Canadian Tar Sands crude in the other direction, from  
585 Canada, across Vermont to the coast of Maine. Now, that  
586 raises a lot of concerns to people in my community, as well  
587 as other states. For one, a spill of that heavy Tar Sands  
588 oil would cause incredible damage, much worse than anything  
589 that could occur with a spill of light sweet crude.

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590 Vermonters are further concerned that reversing the  
591 pipeline will accelerate the development of the Canadian Tar  
592 Sands, and again, we can have a debate about that. We can  
593 have--we do have different points of view on that, but should  
594 anybody be denied the opportunity of public participation in  
595 that debate. Forty-two of the towns and municipalities in my  
596 state of Vermont have passed resolutions opposing this  
597 project. Let us let them have a hearing in the existing  
598 permit process. But H.R. 3301 would require no federal  
599 review at all. It is a blanket exemption, and it is as  
600 though by exempting from consideration any issues related to  
601 environment or health or safety, there aren't issues of  
602 environment or health and safety, and it would be a great  
603 world if that is all it took. We passed a law saying there  
604 shall be no spills, but it doesn't work that way.

605 The Bill sponsors say that it makes no sense to require  
606 presidential permit review for changes in pipeline ownership.  
607 I agree with that. My amendment would still exempt all such  
608 minor modifications to existing projects, but major  
609 modifications such as increasing a pipeline's volume,  
610 expanding its physical infrastructure, or reversing its flow,  
611 can and do pose significant risk.

612 Under my amendment, major modifications would continue

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613 to be subject to federal review, information on project  
614 impacts would be developed, and the public would not be shut  
615 out. This won't fix all the problems of the Bill, but it is  
616 a significant improvement, and I urge all Members to support  
617 my amendment.

618 I yield back.

619 The {Chairman.} The gentleman yields back.

620 Chair would recognize himself for 5 minutes.

621 I would just say to the gentleman from Vermont, I  
622 appreciate your amendment. We didn't see it until last  
623 night. It was not considered in the subcommittee markup or  
624 hearing that we had before. I would ask--I understand your  
625 concerns, and I am willing to work with the gentleman. This  
626 amendment we can't accept the way that it is, particularly as  
627 it relates to the definition of what is a minor modification.  
628 And I would perhaps ask the gentleman if he might withdraw  
629 the amendment, and we will, in earnest, try to work with the  
630 gentlemen with the--between the time that this Bill gets  
631 scheduled for the floor, it is not going to be up for  
632 probably at least a month, and give us a little time to  
633 perhaps--to work on a proposal that we both can accept. But  
634 in current form, we can't accept it in. Gentleman is  
635 entitled to do whatever he wants, but I just make that offer.

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636 If the gentleman might withdraw it and we will work in good  
637 faith.

638 Mr. {Welch.} You know what, Mr. Chairman, if you say  
639 you will work in good faith--

640 The {Chairman.} Absolutely.

641 Mr. {Welch.} --I believe you will work in good faith.

642 The {Chairman.} Yeah.

643 Mr. {Welch.} So I am willing to take that--

644 Mr. {Shimkus.} And--

645 Mr. {Welch.} --proposal.

646 Mr. {Shimkus.} --will the Chairman yield?

647 Mr. {Welch.} Yes.

648 The {Chairman.} Yeah, I will be glad--who is--

649 Mr. {Shimkus.} Just for a second.

650 The {Chairman.} The chair yields to the gentleman from  
651 Illinois.

652 Mr. {Shimkus.} I just want to clear that. There is a  
653 problem with the vague language of minor modifications, and I  
654 am learning that we need to be very, very careful with vague  
655 language. What--you know, there is this debate about the  
656 imperial presidency, whether it is Obama or Bush, how  
657 powerful can the Executive Branch get, and they get powerful  
658 because we are vague.

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659           So I would encourage the Chairman to work with you to  
660 boil down that portion of the language. There is great  
661 concern that it is too vague for us to understand what that  
662 means.

663           The {Chairman.} It is my--I will yield to the  
664 gentlelady from California.

665           Ms. {Eshoo.} Mr. Chairman, thank you for your  
666 willingness to work with Mr. Welch.

667           I support his amendment.

668           There are two really very basic things in the public  
669 square, and that is public health and public safety. And  
670 there is a lot of talk about regulations and what they do,  
671 and whether we should have them, and that--but around public  
672 health and public safety, no matter what place you go in this  
673 country, people will stand next to that. And contained in  
674 this amendment, Mr. Chairman, are really those 2 bookends.

675           And so I am encouraged that you will work with Mr.  
676 Welch, because I think that is really what the amendment is  
677 about. And I don't think that is vague, I think that that is  
678 really--I had some really terrific talking points on this,  
679 but since you are take--going to--you are willing to work  
680 with him, I won't go through all of this. But public health  
681 and public safety, we are the ones that need to step up and



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682 assure the American people in each one of our districts that  
683 we have addressed that.

684 So thank you for yielding time to me on it.

685 The {Chairman.} And my--I yield back the balance of my  
686 time.

687 The gentleman from California is recognized.

688 Mr. {Waxman.} Yeah, thanks. I didn't need the full 5  
689 minutes. It looks like the amendment is going to be  
690 withdrawn and we will work on it. I just want to emphasize  
691 why it is important to work out this amendment, because if we  
692 exempt all modifications from federal review, I think some of  
693 these modifications amount to a whole new project, and they  
694 need to be examined.

695 I would just want to underscore that when we have these  
696 promises to work with us in committee, that there actually be  
697 a negotiation. The Chairman expressed concern that hadn't--  
698 they hadn't seen the amendment--Mr. Welch's amendment before  
699 last night. Well, we never saw all the things that are  
700 before us today, except for an hour or 2 before the markup,  
701 so let us try to establish a complete communications and  
702 negotiation. I think we can do a lot of good that way, and I  
703 think it is important to work at this amendment because it is  
704 an important amendment to have in the Bill.

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705 Yield back.

706 The {Chairman.} Gentleman yields back.

707 Other Members wishing to speak on the amendment?

708 Does the gentleman wish to withdraw, or you want to  
709 proceed?

710 Mr. {Welch.} In view of your assurances--

711 The {Chairman.} Yeah.

712 Mr. {Welch.} --that you will--

713 The {Chairman.} Yeah, we will.

714 Mr. {Welch.} --work in good faith with us, I will  
715 withdraw, but I do want to say, the more we can work together  
716 on some of these tough issues the better in getting things--  
717 amendments to you sooner, the Bill to us sooner. I think  
718 that helps us, Mr. Chairman. So thanks for your willingness  
719 to work with us on that, and I look forward to seeing if we  
720 can make some progress.

721 The {Chairman.} Yeah.

722 Mr. {Welch.} And I will withdraw my amendment.

723 The {Chairman.} With--by unanimous consent, the  
724 amendment is withdrawn.

725 Are there further amendments to the Bill?

726 Gentleman from California is recognized.

727 Mr. {Waxman.} I have an amendment at the desk--

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728           The {Chairman.} Clerk will report the title.

729           Mr. {Waxman.} --number 3.

730           The {Clerk.} Amendment to the Upton-Green amendment to  
731 H.R. 3301, offered by Mr. Waxman of California.

732           [The amendment of Mr. Waxman follows:]

733           \*\*\*\*\* INSERT 7 \*\*\*\*\*

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|  
734           The {Chairman.} And the amendment will be considered as  
735 read, and the staff will distribute the amendment.

736           And the gentleman is recognized for 5 minutes in support  
737 of his amendment.

738           Mr. {Waxman.} Thank you, Mr. Chairman.

739           We have been told that this Bill is not about approving  
740 Keystone XL Tar Sands Pipeline. Unfortunately, this Bill  
741 meddles once again in the Administration's decision-making  
742 process on Keystone XL. In fact, if the State Department  
743 rejects Keystone XL, this Bill would allow the project to  
744 reapply to a new decision-maker under a new process designed  
745 to rubberstamp permits. H.R. 3301 establishes a new  
746 permitting process that aims to assure rapid approval of  
747 every cross-border pipeline or transmission project.

748           The adopted Upton-Green amendment doesn't change the  
749 fact that this Bill would make it very difficult for federal  
750 agencies to do anything other than approve the proposed  
751 projects. The Bill still has a rebuttable presumption of  
752 approval. It narrows the environmental analyses under NEPA  
753 to just the cross-border portion of the proposed project,  
754 even though these energy projects could have widespread  
755 impacts. The Bill excludes from this new permitted process

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756 any project with permit approval pending on the date of  
757 enactment, but that exclusion operates only for a limited  
758 time. The exclusion ends as soon as a pending project has  
759 been denied, or for any still-pending project, the exclusion  
760 ends as of July 1, 2016.

761 Currently-pending projects would become subject to the  
762 new permitting process as soon as the exclusion ends. If a  
763 decision has not been made on Keystone XL by July 1, 2016,  
764 the pipeline would then proceed under the new process, and it  
765 likely would be approved by November 1, 2016. And if  
766 President Obama finds that Keystone XL Pipeline is not in the  
767 public interest, and denies the permit under the Bill, the  
768 project could be brought back to life, spring right back to  
769 life. TransCanada could reapply, this time to the Commerce  
770 Department. Under the new criteria, the project might be  
771 approved by November 1, 2015, just a year and a half from  
772 now. That is why I called this the Zombie Pipeline Act. I  
773 find it particularly troubling that this Bill would force the  
774 Administration to allow a second bite at the apple for a  
775 pipeline that the Administration had already found contrary  
776 to the public interest.

777 Keystone XL is a massive, multibillion dollar project  
778 that will seize land from thousands of American landowners,

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779 and transport a hazardous substance across the United States  
780 for the benefit of a foreign country. The project will  
781 facilitate more rapid expansion of the Tar Sands, the  
782 dirtiest source of crude available with respect to carbon  
783 pollution. This project will be in place for 50 to 100  
784 years, and its effects could last even longer. Yet, even if  
785 the President finds that permitting the Keystone XL Pipeline  
786 is not in the best interests of the American people, H.R.  
787 3301 won't take no for an answer.

788 My amendment fixes only one of the many problems with  
789 this Bill, and even if it is adopted, I will still oppose the  
790 Bill, absent other changes. But this amendment asks the  
791 Bill's sponsors to put their money where their mouth is. If  
792 you want to leave Keystone XL alone, you need to provide a  
793 real exemption for pending projects. And that is all my  
794 amendment would do. It doesn't affect any other aspect of  
795 the Bill.

796 Whether you support or oppose Keystone XL, this  
797 amendment would simply leave the decision to the current  
798 process. And if H.R. 3301 is really about driving approval  
799 of every proposed pipeline, including Keystone XL, then you  
800 should oppose my amendment, but if you vote no, please don't  
801 try to tell us this Bill isn't about Keystone XL.

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802           So I urge support for this amendment.

803           The {Chairman.} The gentleman yields back.

804           And chair will recognize himself in opposition to the  
805 amendment.

806           And I would note that there are more than a dozen  
807 applications that are currently pending, not only for new oil  
808 pipeline presidential permits, but also for natural gas  
809 pipelines and transmission lines. So the unintended  
810 consequence of this amendment would mean that projects that  
811 could bring more electricity to states like New York and New  
812 Hampshire, and other states, would forever be barred from  
813 being approved.

814           According to CRS, there are currently two applications  
815 pending for natural gas pipelines, four applications pending  
816 for new transmission lines, and one application pending for a  
817 new oil pipeline. There are many more applications pending  
818 for new presidential permits for existing projects across  
819 both borders that would be impacted by the amendment, and  
820 that is why I would urge my colleagues to vote no on this  
821 amendment.

822           Other members wishing to speak on--chair would recognize  
823 the gentleman from New York for 5 minutes.

824           Mr. {Tonko.} Thank you, Mr. Chair.

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825 I support Mr. Waxman's amendment.

826 This amendment simply makes H.R. 3301 do no more or no  
827 less than what its supporters say they want it to; to  
828 establish a new process for permitting cross-border pipelines  
829 and transmission lines.

830 That new process should apply prospectively. If,  
831 instead, the Bill gets bogged down in picking winners and  
832 losers in current controversies, we won't be able to have a  
833 real conversation about what the new permit process should  
834 look like. Consideration of this Bill, as with many--so many  
835 of this committee's hearings, markups and floor time over the  
836 past few years, will continue to be all about the Keystone XL  
837 Tar Sands Pipeline.

838 There are Democratic members on both sides of the  
839 Keystone XL Pipeline issue, but most of us agree that whether  
840 we support or oppose that pipeline, the decision should be  
841 made based on sound analysis, and certainly on the best  
842 interests of this Nation.

843 That is why most of us opposed the previous Bills in  
844 this committee, to set an arbitrary deadline for a decision,  
845 or to simply approve the pipeline.

846 H.R. 3301 limits the Administration's existing authority  
847 over the Keystone XL Pipeline. It purports to exempt the



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848 pending projects, such as Keystone XL, from the new permit  
849 process established under the Bill, but Keystone XL is only  
850 exempt if the President approves the project, and does so  
851 before July 1 of 2016. After that date, H.R. 3301 provides  
852 that Keystone XL would be subject to the new permitting  
853 process, and if the President rejects Keystone XL,  
854 TransCanada could apply--or, excuse me, reapply, and would be  
855 subject to the new permitting process even sooner, as of July  
856 1 of 2015.

857 My colleagues across the aisle say they don't intend  
858 this Bill to be about Keystone XL, and I take them at their  
859 word. They say they just want Congress to set up a process  
860 for approval of cross-border energy projects. Unfortunately,  
861 the text of this Bill doesn't match their intent. So let us  
862 vote for Mr. Waxman's amendment, and take Keystone XL out of  
863 this discussion.

864 And I urge my colleagues to vote yes on this amendment.

865 And I yield back, Mr. Chair.

866 The {Chairman.} Gentleman yields back.

867 Other Members wishing to speak on the amendment?

868 Seeing none, the vote occurs on the amendment offered by  
869 Mr. Waxman.

870 All those in favor will say aye.

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871 Those opposed say no.

872 Opinion of the chair roll call is requested. The clerk

873 will call the roll.

874 The {Clerk.} Mr. Hall.

875 Mr. {Hall.} No.

876 The {Clerk.} Mr. Hall votes no.

877 Mr. Barton.

878 Mr. {Barton.} No.

879 The {Clerk.} Mr. Barton votes no.

880 Mr. Whitfield.

881 [No response.]

882 The {Clerk.} Mr. Shimkus.

883 Mr. {Shimkus.} No.

884 The {Clerk.} Mr. Shimkus votes no.

885 Mr. Pitts.

886 Mr. {Pitts.} No.

887 The {Clerk.} Mr. Pitts votes no.

888 Mr. Walden.

889 Mr. {Walden.} No.

890 The {Clerk.} Mr. Walden votes no.

891 Mr. Terry.

892 Mr. {Terry.} No.

893 The {Clerk.} Mr. Terry votes no.

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894 Mr. Rogers.

895 [No response.]

896 The {Clerk.} Mr. Murphy.

897 [No response.]

898 The {Clerk.} Mr. Burgess.

899 [No response.]

900 The {Clerk.} Mrs. Blackburn.

901 [No response.]

902 The {Clerk.} Mr. Gingrey.

903 Dr. {Gingrey.} No.

904 The {Clerk.} Mr. Gingrey votes no.

905 Mr. Scalise.

906 Mr. {Scalise.} No.

907 The {Clerk.} Mr. Scalise votes no.

908 Mr. Latta.

909 Mr. {Latta.} No.

910 The {Clerk.} Mr. Latta votes no.

911 Mrs. McMorris Rodgers.

912 Mrs. {McMorris Rodgers.} No.

913 The {Clerk.} Mrs. McMorris Rodgers votes no.

914 Mr. Harper.

915 Mr. {Harper.} No.

916 The {Clerk.} Mr. Harper votes no.

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917 Mr. Lance.

918 Mr. {Lance.} No.

919 The {Clerk.} Mr. Lance votes no.

920 Mr. Cassidy.

921 [No response.]

922 The {Clerk.} Mr. Guthrie.

923 Mr. {Guthrie.} No.

924 The {Clerk.} Mr. Guthrie votes no.

925 Mr. Olson. Mr. McKinley.

926 Mr. {McKinley.} No.

927 The {Clerk.} Mr. McKinley votes no.

928 Mr. Gardner.

929 Mr. {Gardner.} No.

930 The {Clerk.} Mr. Gardner votes no.

931 Mr. Pompeo.

932 [No response.]

933 The {Clerk.} Mr. Kinzinger.

934 Mr. {Kinzinger.} No.

935 The {Clerk.} Mr. Kinzinger votes no.

936 Mr. Griffith.

937 Mr. {Griffith.} No.

938 The {Clerk.} Mr. Griffith votes no.

939 Mr. Bilirakis.

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940 Mr. {Bilirakis.} No.

941 The {Clerk.} Mr. Bilirakis votes no.

942 Mr. Johnson.

943 Mr. {Johnson.} No.

944 The {Clerk.} Mr. Johnson votes no.

945 Mr. Long.

946 Mr. {Long.} No.

947 The {Clerk.} Mr. Long votes no.

948 Mrs. Ellmers.

949 Mrs. {Ellmers.} No.

950 The {Clerk.} Mrs. Ellmers votes no.

951 Mr. Waxman.

952 Mr. {Waxman.} Aye.

953 The {Clerk.} Mr. Waxman votes aye.

954 Mr. Dingell.

955 Mr. {Dingell.} Aye.

956 The {Clerk.} Mr. Dingell votes aye.

957 Mr. Pallone.

958 Mr. {Pallone.} Aye.

959 The {Clerk.} Mr. Pallone votes aye.

960 Mr. Rush.

961 [No response.]

962 The {Clerk.} Ms. Eshoo.

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963 Ms. {Eshoo.} Aye.

964 The {Clerk.} Ms. Eshoo votes aye.

965 Mr. Engel.

966 [No response.]

967 The {Clerk.} Mr. Green.

968 Mr. {Green.} No.

969 The {Clerk.} Mr. Green votes no.

970 Ms. DeGette.

971 Ms. {DeGette.} Aye.

972 The {Clerk.} Ms. DeGette votes aye.

973 Mrs. Capps.

974 Mrs. {Capps.} Aye.

975 The {Clerk.} Mrs. Capps votes aye.

976 Mr. Doyle.

977 Mr. {Doyle.} Aye.

978 The {Clerk.} Mr. Doyle votes aye.

979 Ms. Schakowsky.

980 [No response.]

981 The {Clerk.} Mr. Matheson.

982 [No response.]

983 The {Clerk.} Mr. Butterfield.

984 [No response.]

985 The {Clerk.} Mr. Barrow.

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986 Mr. {Barrow.} No.

987 The {Clerk.} Mr. Barrow votes no.

988 Ms. Matsui.

989 Ms. {Matsui.} Aye.

990 The {Clerk.} Ms. Matsui votes aye.

991 Ms. Christensen.

992 [No response.]

993 The {Clerk.} Ms. Castor.

994 Ms. {Castor.} Aye.

995 The {Clerk.} Ms. Castor votes aye.

996 Mr. Sarbanes.

997 Mr. {Sarbanes.} Aye.

998 The {Clerk.} Mr. Sarbanes votes aye.

999 Mr. McNerney.

1000 Mr. {McNerney.} Aye.

1001 The {Clerk.} Mr. McNerney votes aye.

1002 Mr. Braley.

1003 Mr. {Braley.} Aye.

1004 The {Clerk.} Mr. Braley votes aye.

1005 Mr. Welch.

1006 Mr. {Welch.} Aye.

1007 The {Clerk.} Mr. Welch votes aye.

1008 Mr. Lujan.

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1009 Mr. {Lujan.} Aye.

1010 The {Clerk.} Mr. Lujan votes aye.

1011 Mr. Tonko.

1012 Mr. {Tonko.} Aye.

1013 The {Clerk.} Mr. Tonko votes aye.

1014 Mr. Yarmuth.

1015 Mr. {Yarmuth.} Aye.

1016 The {Clerk.} Mr. Yarmuth votes aye.

1017 Chairman Upton.

1018 The {Chairman.} Votes no.

1019 The {Clerk.} Chairman Upton votes no.

1020 The {Chairman.} Other Members wishing to cast a vote?

1021 Dr. Murphy?

1022 Mr. {Murphy.} No.

1023 The {Clerk.} Dr. Murphy votes no.

1024 The {Chairman.} Mr. Pompeo?

1025 Mr. {Pompeo.} No.

1026 The {Clerk.} Mr. Pompeo votes no.

1027 The {Chairman.} Mr. Olson?

1028 Mr. {Olson.} No.

1029 The {Clerk.} Mr. Olson votes no.

1030 The {Chairman.} Other Members wishing to cast a vote?

1031 Seeing none, the clerk will report the tally.



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1032 Mr. {Dingell.} Mr. Chairman.

1033 The {Chairman.} The gentleman will hold just for one  
1034 second.

1035 Mr. {Dingell.} Okay.

1036 The {Chairman.} The gentleman recorded, right?

1037 Mr. {Dingell.} I have an amendment--

1038 The {Chairman.} Yeah--

1039 Mr. {Dingell.} --that I would like to offer.

1040 The {Chairman.} --just wait until we do this vote and  
1041 then we--I will recognize you.

1042 The {Clerk.} Mr. Chairman, on that vote, there were 16  
1043 ayes and 27 nays.

1044 The {Chairman.} Sixteen ayes, 27 nays.

1045 The amendment is not agreed to.

1046 Are there further amendments to the Bill?

1047 The chair would recognize the gentleman from the great  
1048 state of Michigan.

1049 Mr. {Dingell.} I thank you, Mr. Chairman, and I begin  
1050 by--

1051 The {Chairman.} Will the gentleman--

1052 Mr. {Dingell.} --commending you for the fairness which  
1053 you have engaged here today.

1054 I have an amendment which I offer at this particular

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1055 time.

1056 The {Chairman.} The clerk will report the title of the  
1057 amendment.

1058 The {Clerk.} Amendment to--

1059 Mr. {Dingell.} And I--

1060 The {Clerk.} --the Upton-Green--

1061 Mr. {Dingell.} --ask unanimous consent that the reading  
1062 of the amendment be dismissed.

1063 [The amendment of Mr. Dingell follows:]

1064 \*\*\*\*\* INSERT 8 \*\*\*\*\*

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|  
1065           The {Chairman.} Without objection, the reading of the  
1066 amendment is completed. The staff will distribute the  
1067 amendment, and the gentleman from the great state of Michigan  
1068 is recognized for 5 minutes in support of his amendment.

1069           Mr. {Dingell.} While the amendment is being passed out,  
1070 Mr. Chairman, I will begin by thanking both you and Mr. Green  
1071 for your introduction of legislation. I believe you have  
1072 made a very serious and sincere effort to address the  
1073 uncertainties surrounding the process. And while I  
1074 appreciate your efforts to find a middle ground, I continue  
1075 to have concerns about this Bill.

1076           As the House author of NEPA years ago, I can tell you  
1077 that it was created to provide transparency, so that people  
1078 would know what the impact of a project would be on their  
1079 communities and upon their lives. However, H.R. 3301 will  
1080 circumvent that transparency, making our lands vulnerable to  
1081 spills, leaks, and other pipeline hazards.

1082           You and I have recently had an experience, Mr. Chairman,  
1083 with what happens when there is carelessness in the operation  
1084 of a pipeline, or when there is a spill or some kind of  
1085 unfortunate event associated with the operation of the  
1086 pipeline.

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1087 I want--this amendment is offered so that we can make  
1088 certain that proper diligence is given to protect the  
1089 public's interest. And I have observed that the long-term  
1090 lasting effect of a spill from a pipeline is a very serious  
1091 matter, particularly in our area, the Great Lakes, but also  
1092 in other areas, and that an explosion of a pipeline can be an  
1093 event of great seriousness to all concerned.

1094 Now, we are here trying at this amendment to see to it  
1095 that NEPA review is conducted for the entire length of all  
1096 cross-border projects. We can guarantee all proposals will  
1097 get the full scope of review necessary to preserve and  
1098 protect our previous natural resources, particularly we who  
1099 live in the Great Lakes. Unfortunately, H.R. 3301 falls  
1100 short of this, and I would note that the Bill would limit  
1101 NEPA review to cross-border segments of an oil pipeline. I  
1102 am not altogether clear what that is, whether it is a couple  
1103 of millimeters or a couple of inches, or maybe a few feet,  
1104 but it is a serious matter and does require very clear  
1105 understanding of what it is we are doing to ourselves, and  
1106 the risks and dangers that are attendant upon this matter.

1107 If H.R. 3301 were to become law, a federal NEPA review  
1108 would not be triggered for the entire length of a cross-  
1109 border oil pipeline. There is also a NEPA exemption for

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1110 modifications made to cross-border segments. In other words,  
1111 if a company wanted to build a small cross-border segment,  
1112 and triple that in size a year later, those modifications  
1113 would be exempted from undergoing a federal NEPA review.  
1114 Furthermore, the definition of a cross-border segment is left  
1115 geographically vague and no one, I think here, can tell us  
1116 what that means. Would NEPA review of a cross-border segment  
1117 cover inches, yards, miles? I fear that this lack of  
1118 congressional guidance, coupled with the NEPA exemptions to  
1119 modifications, and the unclarity or the lack of clarity here,  
1120 has an extremely dangerous potential for those of us who are  
1121 concerned about pipeline safety and about protection of  
1122 treasures like the Great Lakes, which constitute some 20  
1123 percent of the water--the worlds' freshwater supply, and, of  
1124 course, all the tremendous hunting and fishing areas that  
1125 belong there.

1126 Not too long ago, we had a serious problem, as you will  
1127 recall, with an oil pipeline leaking approximately 1 million  
1128 gallons down 35 miles of the Kalamazoo River. My concern is,  
1129 if this pipeline had been crossing into the Detroit River or  
1130 the Saint Clair River, what would have happened. If a  
1131 pipeline were to leak oil into one of these rivers, it would  
1132 flow down the Saint Clair River, down 28 miles into Detroit

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1133 River, past my district and into Lake Erie. Along the way,  
1134 it would affect state and federal lands in Michigan and Ohio,  
1135 Canada and the rest of the Great Lakes basin. It would also  
1136 have a significant adverse potential on fish, wildlife, the  
1137 health of our people, and, of course, also the risk to people  
1138 who would be dependent on that for water and water supplies.  
1139 Oil, electric and natural gas projects create a lot of good  
1140 American jobs, and I want to see to it that when we do these  
1141 things, we do them carefully so that we are not setting  
1142 ourselves up with some of kind of awful consequences because  
1143 we didn't do this thing carefully enough in the beginning.

1144 I urge my colleagues to support the amendment.

1145 And I yield back the balance of my--

1146 The {Chairman.} Gentleman--

1147 Mr. {Dingell.} --time.

1148 The {Chairman.} Gentleman yields back.

1149 And I, as--recognize myself for 5 minutes in opposition  
1150 to the amendment.

1151 I just want to say appreciate the gentleman's kind  
1152 words, and yes, we did work very closely together the two of  
1153 us, and really every member of this committee, when we  
1154 enacted--saw the enactment signed by President Obama on the  
1155 Pipeline Safety Bill in the last sessions of Congress, which

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1156 remains in effect today and will be reauthorized, I believe,  
1157 next year.

1158           So--but what I am concerned about with this amendment is  
1159 that you are asking for a federal citing authority for oil  
1160 pipelines which does not currently exist. It would also  
1161 trigger federal imminent domain authority. This Bill, H.R.  
1162 3301's, establishment of a certificate of crossing for the  
1163 cross-border segment of a project and corresponding federal  
1164 view is aligned with FERC and DOE precedent for approving  
1165 cross-border natural gas pipelines and certain electricity--  
1166 electric transmission facilities, but when a natural gas  
1167 pipeline operator applies for a cross-border natural gas  
1168 pipeline approval under Section 3 of the Natural Gas Act, it  
1169 triggers a NEPA review on the border facilities, and although  
1170 FERC is given discretion on the precise boundaries, it is  
1171 understood that this is a border facility and the NEPA focus  
1172 is on that area. If a company also applies for a Section 7  
1173 interstate pipeline permit, then the NEPA extends to cover  
1174 that too.

1175           So I don't think this amendment is necessary at all, and  
1176 I would urge my colleagues to respectfully oppose it.

1177           And would yield back the balance of my time.

1178           Recognize the gentleman from California, Mr. Waxman.

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1179 Mr. {Waxman.} Mr. Chairman, with all due respect, I  
1180 disagree with you and I do support the Dingell amendment.

1181 The underlying Bill, H.R. 3301, makes an end-run around  
1182 NEPA. The Upton-Green amendment purports to fix the Bill's  
1183 NEPA problems but, unfortunately, these changes are only  
1184 cosmetic.

1185 The amendment simply finds a new way to eliminate any  
1186 meaningful review of the environmental impacts of large  
1187 trans-boundary infrastructure projects. So under the Upton-  
1188 Green amendment, which has now been adopted and that is part  
1189 of the Bill, we redefine and significantly narrow the scope  
1190 of NEPA's environmental review. While NEPA review is  
1191 supposed to look at the impacts of an entire project, the  
1192 Upton-Green amendment restricts NEPA review to only that  
1193 small portion of a project that physically crosses the  
1194 border. That just doesn't make any sense. These massive  
1195 projects are more than just a border crossing. When we  
1196 approve a trans-boundary pipeline or transmission line, we  
1197 are approving multibillion dollar infrastructure that may  
1198 stretch hundreds of miles and will last for decades. These  
1199 projects pass through private property, and sensitive lands,  
1200 and over aquifers. They transport hazardous substances that,  
1201 if spilled or ignited, can cause serious damage.



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1202           Before making decisions about whether to approve such  
1203 projects, we need to carefully consider their potential  
1204 impacts on the environment and on communities along the  
1205 route, and we should be looking at the effects of the project  
1206 as a whole. That is not what the Upton-Green amendment  
1207 provides, and I think the Dingell amendment corrects this  
1208 problem. It doesn't cure all the issues with the legislation  
1209 itself, but I think it is an important amendment and I would  
1210 urge its support.

1211           The {Chairman.} Gentleman yields back.

1212           Other gentleman--chair would recognize the gentleman  
1213 from Illinois, Mr. Shimkus.

1214           Mr. {Shimkus.} Thank you, Mr. Chairman.

1215           I respectfully disagree. I think the Upton and Green  
1216 amendment does exactly what it says it is going to do and,  
1217 you know, because some opponents have tried to claim the Bill  
1218 exempts cross-border energy infrastructure from all  
1219 environmental laws, and permitting requirements, including  
1220 NEPA. That is just not true. However, the amendment to the  
1221 Bill preserves NEPA. That is exactly what Upton-Green did.  
1222 Specifically, it provides a certificate of crossing cannot be  
1223 issued until final NEPA action has been taken. Moreover, the  
1224 Bill, as revised, does not limit the time. I wish it did.

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1225 My preference would be that there be a limited time, and that  
1226 we would move expeditiously, but this Bill, and Upton-Green  
1227 has no shot clock on the cross-border segment. Nothing in  
1228 this Bill would limit the application of NEPA to the rest of  
1229 the project. So, for example, if a project requires a right-  
1230 of-way across federal lands, NEPA would likely apply to the  
1231 right-of-way approval.

1232 I could go on longer, but, for the record, you know,  
1233 that needs to be placed.

1234 And I yield back.

1235 The {Chairman.} Gentleman yields back.

1236 Other Members--chair would recognize the gentleman from  
1237 Texas, Mr. Green. Mr. Doyle.

1238 {Voice.} From Pennsylvania.

1239 {Voice.} The gentleman from--

1240 The {Chairman.} Mr. Doyle from Pennsylvania is  
1241 recognized for 5 minutes.

1242 {Voice.} Okay, I need--

1243 Mr. {Doyle.} Don't confuse me with being from Texas.

1244 Thank you, Mr. Chairman. I would like to yield my time  
1245 to Mr. Dingell.

1246 Mr. {Dingell.} I thank the gentleman for his kindness  
1247 to me.

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1248           And I think both my good friend, the Chairman, and my  
1249   dear friend, Mr. Shimkus, have made the case. First of all,  
1250   there is now not adequate protection with regard to oil  
1251   pipelines. This would assure that there is no new protection  
1252   for oil pipelines, and that oil pipelines continue to hold  
1253   the inherent lack of safety which is there. And the result  
1254   is, and I am just talking about the Great Lakes, my two  
1255   colleagues over there both understand the Great Lakes because  
1256   they come from the Great Lakes basin. The result of a major  
1257   pipeline event causing the pipelines to leak enormous sums  
1258   of--enormous amounts of oil, and remember, this going to be a  
1259   huge pipeline, into the Great Lakes basin, could have an--  
1260   appalling consequences on fish, wildlife, and on water  
1261   supply, on industry and recreation, and on the peoples'  
1262   enjoyment up there. It also could impact, for example,  
1263   things like drinking water and things of that kind.

1264           I hope that the members of this committee will  
1265   understand how important it is that we do the things that we  
1266   have to, to see to it that we protect these treasures. The  
1267   Great Lakes are 20 percent of the world's freshwater, and to  
1268   simply lightly go on and say, well, we don't protect them now  
1269   so we are not going to protect them in the future is, I  
1270   think, an extremely unwise and dangerous statement of

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1271 philosophy or the effect that is going to impact our people.

1272 This is no small matter. We just had a small pipeline

1273 break up there in the district--rather, in the general area

1274 that is served by my dear friend, the chairman of the

1275 committee, and I, and it caused no end of fuss, and it is

1276 going to cause no end of problems in terms of getting that

1277 mess cleaned up. And the consequences to fish, wildlife,

1278 water, recreation, industry and public health are very

1279 serious. And understand also that this is not going--that

1280 the Bill is not going to provide the necessary assurance and

1281 protection that are necessary with regard to natural gas and

1282 other things. These are matters of the utmost importance,

1283 and I would just point out, any member of this committee that

1284 is going to confront the fact that he has--he or she has not

1285 properly protected the great treasures that we have of water

1286 and fish and wildlife and recreation, and municipal and

1287 industrial water supplies, is going to have a very, very

1288 serious problem, both with his conscience and with his

1289 politics.

1290 I would urge the adoption of the amendment. I would

1291 like to have it go further, but regrettably this is about as

1292 far as I can do it with the tremendous rules and the other

1293 problems.

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1294           Now I want to thank my good friend from Pennsylvania.  
1295   He has been so kind to me on so many occasions. Thank you.  
1296           Mr. {Doyle.} Thank you.  
1297           Mr. {Dingell.} Mr. Chairman, I said what I said with  
1298   regard to you and our colleague, Mr. Shimkus, with a great  
1299   deal of affection and respect.  
1300           The {Chairman.} I know--  
1301           Mr. {Doyle.} I yield back, Mr. Chairman.  
1302           The {Chairman.} I know that.  
1303           Gentleman yields back.  
1304           Other Members wishing to speak on the amendment?  
1305           Seeing none, the vote occurs on the Dingell amendment.  
1306           Those--  
1307           {Voice.} Mr. Chairman, I would ask for roll call.  
1308           The {Chairman.} Roll call is requested. The clerk will  
1309   call the roll.  
1310           The {Clerk.} Mr. Hall.  
1311           Mr. {Hall.} No.  
1312           The {Clerk.} Mr. Hall votes no.  
1313           Mr. Barton.  
1314           [No response.]  
1315           The {Clerk.} Mr. Whitfield.  
1316           [No response.]

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1317           The {Clerk.} Mr. Shimkus.  
1318           Mr. {Shimkus.} No.  
1319           The {Clerk.} Mr. Shimkus votes no.  
1320           Mr. Pitts.  
1321           Mr. {Pitts.} No.  
1322           The {Clerk.} Mr. Pitts votes no.  
1323           Mr. Walden.  
1324           Mr. {Walden.} No.  
1325           The {Clerk.} Mr. Walden votes no.  
1326           Mr. Terry.  
1327           Mr. {Terry.} No.  
1328           The {Clerk.} Mr. Terry votes no.  
1329           Mr. Rogers.  
1330           [No response.]  
1331           The {Clerk.} Mr. Murphy.  
1332           [No response.]  
1333           The {Clerk.} Mr. Burgess.  
1334           [No response.]  
1335           The {Clerk.} Mrs. Blackburn.  
1336           Mrs. {Blackburn.} No.  
1337           The {Clerk.} Mrs. Blackburn votes no.  
1338           Mr. Gingrey.  
1339           Dr. {Gingrey.} No.

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1340           The {Clerk.} Mr. Gingrey votes no.  
1341           Mr. Scalise.  
1342           Mr. {Scalise.} No.  
1343           The {Clerk.} Mr. Scalise votes no.  
1344           Mr. Latta.  
1345           Mr. {Latta.} No.  
1346           The {Clerk.} Mr. Latta votes no.  
1347           Mrs. McMorris Rodgers.  
1348           Mrs. {McMorris Rodgers.} No.  
1349           The {Clerk.} Mrs. McMorris Rodgers votes no.  
1350           Mr. Harper.  
1351           Mr. {Harper.} No.  
1352           The {Clerk.} Mr. Harper votes no.  
1353           Mr. Lance.  
1354           Mr. {Lance.} No.  
1355           The {Clerk.} Mr. Lance votes no.  
1356           Mr. Cassidy.  
1357           Dr. {Cassidy.} No.  
1358           The {Clerk.} Mr. Cassidy votes no.  
1359           Mr. Guthrie.  
1360           Mr. {Guthrie.} No.  
1361           The {Clerk.} Mr. Guthrie votes no.  
1362           Mr. Olson.

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1363 [No response.]

1364 The {Clerk.} Mr. McKinley.

1365 Mr. {McKinley.} No.

1366 The {Clerk.} Mr. McKinley votes no.

1367 Mr. Gardner.

1368 Mr. {Gardner.} No.

1369 The {Clerk.} Mr. Gardner votes no.

1370 Mr. Pompeo.

1371 Mr. {Pompeo.} No.

1372 The {Clerk.} Mr. Pompeo votes no.

1373 Mr. Kinzinger.

1374 [No response.]

1375 The {Clerk.} Mr. Griffith.

1376 Mr. {Griffith.} No.

1377 The {Clerk.} Mr. Griffith votes no.

1378 Mr. Bilirakis.

1379 Mr. {Bilirakis.} No.

1380 The {Clerk.} Mr. Bilirakis votes no.

1381 Mr. Johnson.

1382 Mr. {Johnson.} No.

1383 The {Clerk.} Mr. Johnson votes no.

1384 Mr. Long.

1385 Mr. {Long.} No.



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1386           The {Clerk.} Mr. Long votes no.  
1387           Mrs. Ellmers.  
1388           Mrs. {Ellmers.} No.  
1389           The {Clerk.} Mrs. Ellmers votes no.  
1390           Mr. Waxman.  
1391           Mr. {Waxman.} Aye.  
1392           The {Clerk.} Mr. Waxman votes aye.  
1393           Mr. Dingell.  
1394           Mr. {Dingell.} Mr. Dingell votes aye.  
1395           The {Clerk.} Mr. Dingell votes aye.  
1396           Mr. Pallone.  
1397           Mr. {Pallone.} Aye.  
1398           The {Clerk.} Mr. Pallone votes aye.  
1399           Mr. Rush.  
1400           [No response.]  
1401           The {Clerk.} Ms. Eshoo.  
1402           Ms. {Eshoo.} Aye.  
1403           The {Clerk.} Ms. Eshoo votes aye.  
1404           Mr. Engel.  
1405           Mr. {Engel.} Aye.  
1406           The {Clerk.} Mr. Engel votes aye.  
1407           Mr. Green.  
1408           Mr. {Green.} No.

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1409           The {Clerk.} Mr. Green votes no.  
1410           Ms. DeGette.  
1411           Ms. {DeGette.} Aye.  
1412           The {Clerk.} Ms. DeGette votes aye.  
1413           Mrs. Capps.  
1414           Mrs. {Capps.} Aye.  
1415           The {Clerk.} Mrs. Capps votes aye.  
1416           Mr. Doyle.  
1417           Mr. {Doyle.} Yes.  
1418           The {Clerk.} Mr. Doyle votes aye.  
1419           Ms. Schakowsky.  
1420           [No response.]  
1421           The {Clerk.} Mr. Matheson.  
1422           Mr. {Matheson.} Aye.  
1423           The {Clerk.} Mr. Matheson votes aye.  
1424           Mr. Butterfield.  
1425           [No response.]  
1426           The {Clerk.} Mr. Barrow.  
1427           Mr. {Barrow.} Aye.  
1428           The {Clerk.} Mr. Barrow votes aye.  
1429           Ms. Matsui.  
1430           Ms. {Matsui.} Aye.  
1431           The {Clerk.} Ms. Matsui votes aye.

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1432 Ms. Christensen.

1433 [No response.]

1434 The {Clerk.} Ms. Castor.

1435 Ms. {Castor.} Aye.

1436 The {Clerk.} Ms. Castor votes aye.

1437 Mr. Sarbanes.

1438 Mr. {Sarbanes.} Aye.

1439 The {Clerk.} Mr. Sarbanes votes aye.

1440 Mr. McNerney.

1441 Mr. {McNerney.} Aye.

1442 The {Clerk.} Mr. McNerney votes aye.

1443 Mr. Braley.

1444 Mr. {Braley.} Aye.

1445 The {Clerk.} Mr. Braley votes aye.

1446 Mr. Welch.

1447 Mr. {Welch.} Aye.

1448 The {Clerk.} Mr. Welch votes aye.

1449 Mr. Lujan.

1450 Mr. {Lujan.} Aye.

1451 The {Clerk.} Mr. Lujan votes aye.

1452 Mr. Tonko.

1453 Mr. {Tonko.} Aye.

1454 The {Clerk.} Mr. Tonko votes aye.

**This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.**

1455 Mr. Yarmuth.

1456 Mr. {Yarmuth.} Aye.

1457 The {Clerk.} Mr. Yarmuth votes aye.

1458 Chairman Upton.

1459 The {Chairman.} Votes no.

1460 The {Clerk.} Chairman Upton votes no.

1461 The {Chairman.} Other Members wishing to cast a vote?

1462 Gentleman--Mr. Olson?

1463 Mr. {Olson.} No.

1464 The {Clerk.} Mr. Olson votes no.

1465 The {Chairman.} Ms. Schakowsky?

1466 Ms. {Schakowsky.} Yes.

1467 The {Clerk.} Ms. Schakowsky votes aye.

1468 The {Chairman.} Dr. Murphy?

1469 Mr. {Murphy.} No.

1470 The {Clerk.} Mr. Murphy votes no.

1471 The {Chairman.} Other Members seeking to cast a vote?

1472 Mr. Barton?

1473 Mr. {Barton.} Can I ask something?

1474 The {Chairman.} No. No, no, no, it is the Dingell

1475 amendment. Yeah.

1476 Mr. {Barton.} No.

1477 The {Clerk.} Mr. Barton votes no.

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1478           The {Chairman.} I was answering his question.

1479           Other Members wishing to cast a vote on the Dingell  
1480 amendment?

1481           Seeing none, the clerk will report the tally.

1482           Dr. Burgess, are you recorded?

1483           Mr. Butterfield?

1484           Mr. {Butterfield.} Butterfield votes aye.

1485           The {Clerk.} Mr. Butterfield votes aye.

1486           The {Chairman.} Other Members--Mr. Kinzinger?

1487           Mr. {Kinzinger.} No.

1488           The {Clerk.} Mr. Kinzinger votes no.

1489           The {Chairman.} Dr. Burgess?

1490           Dr. {Burgess.} No.

1491           The {Clerk.} Dr. Burgess votes no. Okay.

1492           The {Chairman.} Other Members?

1493           Seeing none, the clerk will report the tally.

1494           The {Clerk.} Mr. Chairman, on that vote, there were 21  
1495 ayes and 29 nays.

1496           The {Chairman.} Twenty-one ayes, 29 nays.

1497           The amendment offered by the gentleman from Michigan is  
1498 not agreed to.

1499           Are there further amendments to the Bill?

1500           Seeing none, the question now occurs on favorably

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1501 reporting H.R. 3301 as amended to the House.

1502 All those in favor shall signify by saying aye.

1503 All those opposed, say no.

1504 Ayes appear to have it. The--roll call is requested.

1505 The clerk will call the roll. Final passage.

1506 The {Clerk.} Mr. Hall.

1507 Mr. {Hall.} Aye.

1508 The {Clerk.} Mr. Hall votes aye.

1509 Mr. Barton.

1510 Mr. {Barton.} Aye.

1511 The {Clerk.} Mr. Barton votes aye.

1512 Mr. Whitfield.

1513 [No response.]

1514 The {Clerk.} Mr. Shimkus.

1515 Mr. {Shimkus.} Aye.

1516 The {Clerk.} Mr. Shimkus votes aye.

1517 Mr. Pitts.

1518 Mr. {Pitts.} Aye.

1519 The {Clerk.} Mr. Pitts votes aye.

1520 Mr. Walden.

1521 Mr. {Walden.} Aye.

1522 The {Clerk.} Mr. Walden votes aye.

1523 Mr. Terry.

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1524 Mr. {Terry.} Aye.

1525 The {Clerk.} Mr. Terry votes aye.

1526 Mr. Rogers.

1527 [No response.]

1528 The {Clerk.} Mr. Murphy.

1529 Mr. {Murphy.} Aye.

1530 The {Clerk.} Mr. Murphy votes aye.

1531 Mr. Burgess.

1532 Dr. {Burgess.} Aye.

1533 The {Clerk.} Mr. Burgess votes aye.

1534 Mrs. Blackburn.

1535 Mrs. {Blackburn.} Aye.

1536 The {Clerk.} Mrs. Blackburn votes aye.

1537 Mr. Gingrey.

1538 Dr. {Gingrey.} Aye.

1539 The {Clerk.} Mr. Gingrey votes aye.

1540 Mr. Scalise.

1541 Mr. {Scalise.} Aye.

1542 The {Clerk.} Mr. Scalise votes aye.

1543 Mr. Latta.

1544 Mr. {Latta.} Aye.

1545 The {Clerk.} Mr. Latta votes aye.

1546 Mrs. McMorris Rodgers.

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1547 Mrs. {McMorris Rodgers.} Aye.

1548 The {Clerk.} Mrs. McMorris Rodgers votes aye.

1549 Mr. Harper.

1550 Mr. {Harper.} Aye.

1551 The {Clerk.} Mr. Harper votes aye.

1552 Mr. Lance.

1553 Mr. {Lance.} Aye.

1554 The {Clerk.} Mr. Lance votes aye.

1555 Mr. Cassidy.

1556 Dr. {Cassidy.} Aye.

1557 The {Clerk.} Mr. Cassidy votes aye.

1558 Mr. Guthrie.

1559 Mr. {Guthrie.} Aye.

1560 The {Clerk.} Mr. Guthrie votes aye.

1561 Mr. Olson.

1562 Mr. {Olson.} Aye.

1563 The {Clerk.} Mr. Olson votes aye.

1564 Mr. McKinley.

1565 Mr. {McKinley.} Aye.

1566 The {Clerk.} Mr. McKinley votes aye.

1567 Mr. Gardner.

1568 Mr. {Gardner.} Aye.

1569 The {Clerk.} Mr. Gardner votes aye.



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1570 Mr. Pompeo.

1571 Mr. {Pompeo.} Aye.

1572 The {Clerk.} Mr. Pompeo votes aye.

1573 Mr. Kinzinger.

1574 Mr. {Kinzinger.} Aye.

1575 The {Clerk.} Mr. Kinzinger votes aye.

1576 Mr. Griffith.

1577 Mr. {Griffith.} Aye.

1578 The {Clerk.} Mr. Griffith votes aye.

1579 Mr. Bilirakis.

1580 Mr. {Bilirakis.} Aye.

1581 The {Clerk.} Mr. Bilirakis votes aye.

1582 Mr. Johnson.

1583 Mr. {Johnson.} Aye.

1584 The {Clerk.} Mr. Johnson votes aye.

1585 Mr. Long.

1586 Mr. {Long.} Aye.

1587 The {Clerk.} Mr. Long votes aye.

1588 Mrs. Ellmers.

1589 Mrs. {Ellmers.} Aye.

1590 The {Clerk.} Mrs. Ellmers votes aye.

1591 Mr. Waxman.

1592 Mr. {Waxman.} No.

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1593           The {Clerk.} Mr. Waxman votes no.  
1594           Mr. Dingell.  
1595           Mr. {Dingell.} No.  
1596           The {Clerk.} Mr. Dingell votes no.  
1597           Mr. Pallone.  
1598           Mr. {Pallone.} No.  
1599           The {Clerk.} Mr. Pallone votes no.  
1600           Mr. Rush.  
1601           [No response.]  
1602           The {Clerk.} Ms. Eshoo.  
1603           Ms. {Eshoo.} No.  
1604           The {Clerk.} Ms. Eshoo votes no.  
1605           Mr. Engel.  
1606           Mr. {Engel.} No.  
1607           The {Clerk.} Mr. Engel votes no.  
1608           Mr. Green.  
1609           Mr. {Green.} Yes.  
1610           The {Clerk.} Mr. Green votes aye.  
1611           Ms. DeGette.  
1612           Ms. {DeGette.} No.  
1613           The {Clerk.} Ms. DeGette votes no.  
1614           Mrs. Capps.  
1615           Mrs. {Capps.} No.

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1616 The {Clerk.} Mrs. Capps votes no.  
1617 Mr. Doyle.  
1618 Mr. {Doyle.} No.  
1619 The {Clerk.} Mr. Doyle votes no.  
1620 Ms. Schakowsky.  
1621 Ms. {Schakowsky.} No.  
1622 The {Clerk.} Ms. Schakowsky votes no.  
1623 Mr. Matheson.  
1624 Mr. {Matheson.} Aye.  
1625 The {Clerk.} Mr. Matheson votes aye.  
1626 Mr. Butterfield.  
1627 Mr. {Butterfield.} No.  
1628 The {Clerk.} Mr. Butterfield votes no.  
1629 Mr. Barrow.  
1630 Mr. {Barrow.} Votes aye.  
1631 The {Clerk.} Mr. Barrow votes aye.  
1632 Ms. Matsui.  
1633 Ms. {Matsui.} No.  
1634 The {Clerk.} Ms. Matsui votes no.  
1635 Mr.--Ms. Christensen.  
1636 [No response.]  
1637 The {Clerk.} Ms. Castor.  
1638 Ms. {Castor.} No.

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1639           The {Clerk.} Ms. Castor votes no.  
1640           Mr. Sarbanes.  
1641           Mr. {Sarbanes.} No.  
1642           The {Clerk.} Mr. Sarbanes votes no.  
1643           Mr. McNerney.  
1644           Mr. {McNerney.} No.  
1645           The {Clerk.} Mr. McNerney votes no.  
1646           Mr. Braley.  
1647           Mr. {Braley.} No.  
1648           The {Clerk.} Mr. Braley votes no.  
1649           Mr. Welch.  
1650           Mr. {Welch.} No.  
1651           The {Clerk.} Mr. Welch votes no.  
1652           Mr. Lujan.  
1653           Mr. {Lujan.} No.  
1654           The {Clerk.} Mr. Lujan votes no.  
1655           Mr. Tonko.  
1656           Mr. {Tonko.} No.  
1657           The {Clerk.} Mr. Tonko votes no.  
1658           Mr. Yarmuth.  
1659           Mr. {Yarmuth.} No.  
1660           The {Clerk.} Mr. Yarmuth votes no.  
1661           Chairman Upton.

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1662           The {Chairman.} Votes aye.

1663           The {Clerk.} Chairman Upton votes aye.

1664           The {Chairman.} Are there other Members wishing to cast  
1665 a vote on this Bill as amended?

1666           Seeing none, the clerk will report the tally.

1667           The {Clerk.} Mr. Chairman, on that vote there were 31  
1668 ayes and 19 nays.

1669           The {Chairman.} Thirty-one ayes and 19 nays.

1670           The Bill as amended is approved.

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|

1671 H.R. 4342

1672 The {Chairman.} And the chair would now call up H.R.  
1673 4342, and ask the clerk to report.

1674 The {Clerk.} H.R. 4342, to prohibit the National  
1675 Telecommunications and Information Administration from  
1676 relinquishing responsibility over the internet domain name  
1677 system until the Comptroller General of the United States  
1678 submits to Congress a report on the role of the NTIA with  
1679 respect to such system.

1680 [H.R. 4342 follows:]

1681 \*\*\*\*\* INSERT B \*\*\*\*\*

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|  
1682           The {Chairman.} And without objection, the first  
1683 reading of the Bill is dispensed with, and the Bill will be  
1684 open for amendment at any point. So ordered.

1685           Are there any bipartisan amendments to the Bill? Are  
1686 there any amendments to the Bill?

1687           Seeing--we are--chair would recognize the gentlelady  
1688 from California to offer an amendment to--

1689           Ms. {Eshoo.} Thank you, Mr. Chairman.

1690           I have an amendment at the desk.

1691           The {Chairman.} The clerk will report the title of the  
1692 amendment.

1693           The {Clerk.} Amendment in the nature of a substitute to  
1694 H.R. 4342, offered by Ms. Eshoo.

1695           [The amendment of Ms. Eshoo follows:]

1696           \*\*\*\*\* INSERT 9 \*\*\*\*\*

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|  
1697           The {Chairman.} And the amendment will be considered as  
1698 read. The staff will distribute the amendment, and the  
1699 gentlelady is recognized for 5 minutes in support of her  
1700 amendment.

1701           Ms. {Eshoo.} Thank you again, Mr. Chairman.

1702           The {Chairman.} Just before the--

1703           Ms. {Eshoo.} I don't know if the committee is in order,  
1704 Mr. Chairman.

1705           The {Chairman.} The gentlelady is correct. If--hush.

1706           The gentlelady is recognized.

1707           Ms. {Eshoo.} Thank you.

1708           Leading up to the WCIT conference in Dubai in 2012, both  
1709 chambers of Congress unanimously supported a resolution,  
1710 stating that the United States should continue to preserve  
1711 and advance the multi-stakeholder governance model under  
1712 which the Internet has thrived. Our diplomats told us that  
1713 this resolution had an extraordinarily positive impact  
1714 because it demonstrated to other countries that the entire  
1715 U.S. Government and Congress were unified in support of this  
1716 approach.

1717           As further evidence of our unanimity, the House

1718 reaffirmed this position last year by voting 413 to 0 in



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1719 support of H.R. 1580.

1720 Now, perhaps some Members didn't read what they voted  
1721 for. The heart of my amendment is verbatim to the operative  
1722 language in H.R. 1580, and I want to quote it. ``It is the  
1723 policy of the United States to preserve and advance the  
1724 successful multi-stakeholder model that governs the  
1725 Internet.''

1726 While I have modified some of the findings to make it  
1727 germane to the underlying Bill, and added one finding to make  
1728 it relevant to this discussion, the core message remains the  
1729 same. A vote for my amendment is a reaffirmation of the vote  
1730 that every Member of this subcommittee of the--of our  
1731 subcommittee took last year, supporting the multi-stakeholder  
1732 model.

1733 And I urge my colleagues to support this amendment to  
1734 allow NTIA to continue what has been U.S. policy. I don't  
1735 think--Mr. Chairman, this is so distracting.

1736 The {Chairman.} Wait.

1737 Ms. {Eshoo.} It really is.

1738 The {Chairman.} The gentlelady is correct.

1739 Ms. {Eshoo.} Geez. Thank you, Mr. Chairman.

1740 I raise that because, really, if people don't want to  
1741 pay attention to what each Member is saying, and you haven't

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1742 read the amendment, then what--how do we make a determination  
1743 of what the heck we are voting on? So I appreciate it.

1744 So while I have modified some of the findings to make it  
1745 germane to the underlying Bill, and added one finding to make  
1746 it relevant to this discussion, the core message remains the  
1747 same. A vote for this amendment is a reaffirmation of the  
1748 vote that every Member took last year, supporting the multi-  
1749 stakeholder model.

1750 So I urge my colleagues, Republicans and Democrats, to  
1751 support the amendment, and allow NTIA to continue what has  
1752 been U.S. policy since 1998. Transitioning the governmental  
1753 role in the domain name system administration to the private  
1754 sector, multi-stakeholder global community. And I would also  
1755 ask that those Members that disagree, if you could explain,  
1756 having voted for it, and what has changed your mind because  
1757 we had a vote in the House of 413 to 0. I think it would  
1758 really be helpful to the debate and the discussion here.

1759 So thank you, Mr. Chairman, and I yield back the balance  
1760 of--

1761 Mr. {Engel.} Would you yield to me?

1762 Ms. {Eshoo.} I would be glad to yield to Mr. Engel.

1763 Mr. {Engel.} Well, I thank the gentlewoman for yielding  
1764 to me, and I rise in support of her amendment.

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1765           Today's economy is becoming more intertwined and more  
1766 globalized on a daily basis, thanks largely to the Internet.  
1767 More specifically, it is thanks to the unhindered flow of  
1768 knowledge that the Internet allows. So, Mr. Chairman, I  
1769 believe it is essential that we do not pose a hindrance to  
1770 that flow of information. To suddenly halt the move toward a  
1771 multi-stakeholder model of Internet governance would be to  
1772 implement a sudden hurdle to the progress the Internet has  
1773 long afforded us. So as such, I support Ms. Eshoo's  
1774 amendment because to maintain the multi-stakeholder model is  
1775 to maintain the benefits that the Internet offers.

1776           I yield.

1777           Ms. {Eshoo.} I just want to put something--

1778           Mr. {Engel.} I yield back to Ms. Eshoo.

1779           Ms. {Eshoo.} Mr. Chairman, I ask unanimous consent to  
1780 submit for the record a letter that is addressed to both you  
1781 and Ranking Member Waxman from CCSIA, the Computer and  
1782 Communications Industry Association, representing the wide  
1783 range of technology companies that are dependent on a well-  
1784 functioning Internet, free of government control or  
1785 censorship. So I ask unanimous consent to place this in the  
1786 record.

1787           And I yield back the balance of my time.

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1788           The {Chairman.} Without objection, it will be included

1789 as part of the record.

1790           [The information follows:]

1791   \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

1792           The {Chairman.} Chair would recognize the gentleman  
1793 from Illinois, Mr. Shimkus.

1794           Mr. {Shimkus.} Thank you, Mr. Chairman.

1795           And I, you know, I appreciate my colleagues. I work  
1796 very closely with Anna on numerous things, also Eliot in the  
1797 committee, but also in international affairs, so I don't, you  
1798 know, take this debate lightly, and I think we just need to  
1799 continue to talk because the question is posed what has  
1800 changed. I would argue Russia's invasion of Crimea. I would  
1801 argue Turkey's control of the Twitter feeds. I would argue  
1802 that the world is significantly different today than it was  
1803 when the WCIT conference met. And as--through--as we move  
1804 this process through, I have been kind of unabashed, and I  
1805 know there are differing views.

1806           So what we tried to do was--even the head of ICANN said  
1807 we need to go slow, we need to do due diligence, we need to  
1808 have transparency. This is just an audit. This is just a  
1809 review. This is just an attempt for us to get some  
1810 definitional language. When you talk to industry, which I  
1811 have great respect for, they will say this is an industry-  
1812 led, multi-stakeholder model. When you hear Vladimir Putin,  
1813 what does he say? He says this will be an international

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1814 country-led, multi-stakeholder model.

1815           So the question I pose is, what is it? And the answer  
1816 is, we can't get a definition. We don't know. So that is  
1817 why I have colleagues on our side that would like to be even  
1818 more stringent on this process, and outright prohibition. We  
1819 are trying to believe what the process in which we thought we  
1820 were heading, again, in a different era, in a different world  
1821 environment, so that is why we said trust but verify. Let us  
1822 have nonpartisan GAO do an analysis. Doesn't stake out what  
1823 that position will be, doesn't determine what our response  
1824 will be. There is time, it is due diligence. And I guess we  
1825 will get a chance to talk about this numerous times  
1826 throughout this amendment process, but I know my friends on  
1827 the other side, you know, have seen me try to legislate for  
1828 many, many years. I mean this is not--I am not trying to be,  
1829 you know, to blow up the process, I am just trying to say it  
1830 doesn't hurt to look and ease fears when the world has  
1831 significantly changed.

1832           I would be happy to yield.

1833           Ms. {Eshoo.} I thank the gentleman. And in no way do I  
1834 question your motives. You are a good friend and a good  
1835 colleague.

1836           Let me just comment on the changes, the menacing changes

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1837 that we see in different parts of the world, and actions  
1838 taken by governments that we don't agree with.

1839 What is key in this is that this--the progress toward  
1840 this transition to a multi-stakeholder model is supported by  
1841 Democratic governments, and so this strengthens the hand of  
1842 those that we want to hold hands with. It is not the other  
1843 way around. And I think that that is a very, very important  
1844 consideration for colleagues to make.

1845 So I thank the gentleman for what he has said.  
1846 Obviously, we don't agree, but there are other parts of this  
1847 that we have worked out, but I just--well, let me just leave  
1848 it there. And I thank you for--

1849 Ms. {Shimkus.} No, and I appreciate it.

1850 Ms. {Eshoo.} --the time--

1851 Mr. {Shimkus.} I reclaim my time, and I appreciate  
1852 those kind words, and I would point out, yesterday, in  
1853 talking to a group I had, the Freedom House, charts of  
1854 Internet freedom by country, and I would just pose the fact  
1855 that most countries are listed as less free or not free than  
1856 free. So if you move to a multi-stakeholder model, and you  
1857 have more countries involved that are either less free or not  
1858 free, I think there is a risk there. I don't think it is  
1859 asking too much to give us some more confidence.

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1860           And with that, my--I will yield back my time. Thank  
1861 you, Mr. Chairman.

1862           The {Chairman.} The gentleman yields back.

1863           Chair would recognize the gentleman from California for  
1864 5 minutes.

1865           Mr. {Waxman.} Thank you, Mr. Chairman.

1866           I support the Eshoo amendment. I think it is an  
1867 excellent substitute because it reaffirms our support for the  
1868 multi-stakeholder model, and that, by the way, is not a  
1869 partisan position. This has been the position, it is a  
1870 linchpin of U.S. policy through the Clinton, Bush and Obama  
1871 Administrations, and it is the entire rationale for having  
1872 ICANN in the first place.

1873           I would like to ask unanimous consent that we put into  
1874 the record a memorandum prepared by our staff regarding the  
1875 Republican statements of support of the multi-stakeholder  
1876 model.

1877           The {Chairman.} Without objection.

1878           [The information follows:]

1879 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



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|  
1880 Mr. {Shimkus.} Reserve the right to object, only if  
1881 there is--my statement is included in there. So I hope there  
1882 is a statement from me saying that I supported that when it  
1883 came to the floor. Just joking--

1884 Mr. {Waxman.} Well, the document--

1885 Mr. {Shimkus.} --I obviously--

1886 Mr. {Waxman.} --speaks for itself.

1887 Mr. {Shimkus.} --without objection.

1888 Mr. {Waxman.} Thank you.

1889 The NTIA's recent transition announcement is part of a  
1890 16-year-long effort to move management of the domain name  
1891 system away from governments and into the private sector.  
1892 This objective has been bipartisan. The diplomats who have  
1893 fought hard to preserve Internet freedom from governmental  
1894 control in global forums tell us that having this transition  
1895 is a critical continuation of our efforts to build upon the  
1896 success of the multi-stakeholder model of Internet  
1897 governance, and we should stand united in support of this  
1898 transition, and reaffirm our commitment to this model within  
1899 this new context. And Ms. Eshoo's amendment offers an  
1900 opportunity to do precisely that.

1901 We have heard the specter of Russia or China taking over

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1902 the Internet. The threats against Internet openness are  
1903 real, but claiming this Bill does anything to address them is  
1904 plain false. Under what possible scenario would a supposed  
1905 Chinese Internet takeover be stopped by a Bill that seeks to  
1906 delay the end of the IANA contract. How exactly would GAO's  
1907 examination help convince Russia to give up its attempts to  
1908 wrestle away control from ICANN?

1909 Those of my colleagues who support this Bill either show  
1910 a lack of understanding of what the NTIA contract actually  
1911 does, or a lack of confidence in the multi-stakeholder model  
1912 and its ability to resist governmental control. Both serve  
1913 to weaken our role on the global stage, not to strengthen it.

1914 The best defense we can have against a governmental  
1915 takeover of the domain name system is to empower our allies  
1916 in the multi-stakeholder process, and now is the time to  
1917 continue our unwavering support of that model.

1918 I highly doubt the human rights and civil society  
1919 groups, multinational corporations, academics and engineers,  
1920 as well as freedom-loving nations who participate in ICANN's  
1921 deliberative process will reverse course and throw themselves  
1922 into the hands of any intergovernmental entity, not to  
1923 mention Iran or Venezuela. So I--that is why I strongly urge  
1924 my colleagues to support the Eshoo amendment, reaffirming our

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1925 commitment to the multi-stakeholder model through an official  
1926 policy statement of the United States.

1927 And yield back the balance of my time.

1928 The {Chairman.} Gentleman yields back.

1929 Chair would recognize the gentleman from Oregon, Mr.

1930 Walden.

1931 Mr. {Walden.} I thank the chairman very much, and I

1932 appreciate the debate we are having, although I have to

1933 confess I don't fully understand the opposition to this

1934 legislation.

1935 What we are dealing with here is something that is

1936 extraordinarily important to the future of freedom of the

1937 Internet. I have got the contract before me that the United

1938 States Government has in force and effect with ICANN. I have

1939 read through it multiple times, and it says things such as

1940 the contractor must perform the required services for this

1941 contract as a prime contract, not as an agent or

1942 subcontractor. The contractor shall not enter into any

1943 subcontracts, et cetera, et cetera. Has to be a wholly-owned

1944 and operated firm, or fully accredited United States

1945 university or collage operating in one of the 50 states of

1946 the United States, or District of Columbia, incorporated

1947 within one of the 50 states, or the District of Columbia,

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1948 organized under the laws of the United States. This is all  
1949 existing contract with ICANN.

1950 Further, if you go to Section 1 of the contract clauses,  
1951 are all the--by reference, clauses of, pardon me, existing  
1952 law regarding restrictions on subcontractor sales to the  
1953 government, anti-kickback procedures, limitations on payments  
1954 to influence certain federal transactions. I mean there is a  
1955 whole list of these. This is the way the system works today.  
1956 This is the way the system works today. And all we are  
1957 saying here is, before ICANN and whoever comes together and  
1958 releases ICANN, or whoever the future contractor is, from all  
1959 of these things that have been in place, and are in place  
1960 today, why wouldn't we get an independent look from the GAO  
1961 about what that proposal, which none of here today knows what  
1962 it is, why don't we get GAO to take a look before any actions  
1963 are taken by the United States Government, inform the  
1964 Congress and the American people from their view, and I think  
1965 we all have pretty good faith and trust in the GAO's  
1966 independence and integrity and ability, have them take a look  
1967 at whatever the proposal is that comes forward, and give us  
1968 the benefit of their view before the government and whatever  
1969 Administration happens to be in power at the time, takes  
1970 action. That is all we are saying here.

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1971 Ms. {Eshoo.} Would the gentleman yield?

1972 Mr. {Walden.} Not yet. I--

1973 Ms. {Eshoo.} Um-hum.

1974 Mr. {Walden.} --would be happy to in a moment. But

1975 that is all we are saying here is if you come up with a

1976 proposal before the Federal Government of the United States

1977 says we are all for it, you are done, go on, let us just find

1978 out what it means, give us a pause, they--we give them

1979 appropriate time to do their study, and then we move forward,

1980 but meanwhile, when you read the contract, and I would

1981 encourage my colleagues to do it, there are a lot of really

1982 responsible provisions in the contract that have worked well

1983 for ICANN, and before we set it free, I think we have an

1984 obligation to know as much as we can about whatever proposal

1985 this is that we don't know today, because it has not been

1986 negotiated yet. We don't know. Nobody on this panel knows.

1987 And what we are saying is can we just stop a minute and get

1988 GAO to take a look before an action is taken by the Federal

1989 Government. Most likely, it won't be the Obama

1990 Administration, for my friends on the right. For my friends

1991 on the left, I want you to think through what if it is a

1992 Republican Administration, how you might react to that. All

1993 we are saying is let us get a GAO report after we get a

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1994 proposal back, because once you let go of this, it is the  
1995 equivalent of going to the ridge top in a high wind, cutting  
1996 a pillow open, the feathers blow away, you will never put  
1997 them back in the pillow. I asked that during our hearings.  
1998 I have asked that--what is our recourse once we let this go.  
1999 Nobody knows because we don't know the government structure  
2000 and the proposal yet.

2001 I just think it is highly irresponsible and, in effect,  
2002 just to say we are done, have at it, whatever you come up  
2003 with is fine, we don't want any time to consider it,  
2004 government, whoever is in charge, go forth, we are fine, I  
2005 know we trust you and everything will be well. I don't buy  
2006 that. I don't buy that. And so I think we have a very  
2007 thoughtful, responsible piece of legislation here, authored  
2008 by my friend and colleague from Illinois, that just says GAO,  
2009 once we get a proposal, take the look, give us your  
2010 independent view of it, that is it. It is all done. I think  
2011 that is pretty reasonable and thoughtful and responsible.

2012 So with that, I would yield to my friend from  
2013 California, Ms. Eshoo.

2014 Ms. {Eshoo.} I think I am not going to take this  
2015 limited amount of time, but I appreciate it. I think someone  
2016 else is going to yield their time to me.

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2017 Mr. {Walden.} Then I--

2018 Ms. {Eshoo.} Thank you.

2019 Mr. {Walden.} --reclaim my time and--in opposition to  
2020 the amendment. And I thank the gentlelady.

2021 The {Chairman.} The gentleman yields back.

2022 The chair recognizes the gentleman from New Jersey, Mr.  
2023 Pallone.

2024 Mr. {Pallone.} And I yield to Ms. Eshoo.

2025 Ms. {Eshoo.} I thank the gentleman.

2026 For the Members that are not on the subcommittee, we  
2027 have had this debate there, and so now you are hearing it in  
2028 the full committee.

2029 The gentleman from Oregon has made a passionate and, he  
2030 believes, obviously, a rational presentation on why he  
2031 opposes this amendment.

2032 Now, there are a couple of things that I want to point  
2033 out about this. It mentioned the GAO report about 5 or 7  
2034 times at least, and it is presented as something that is very  
2035 tidy, without any menace to it whatsoever, but it is not. It  
2036 is not, because what is tied to the language in the GAO  
2037 report is to simply tie up the hands of NTIA, of the Agency,  
2038 so that nothing can happen. So it is not just the GAO  
2039 looking at something and giving a report back to us. And so

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2040 that throws sand in the gears in terms of what you all voted  
2041 for, 413 to 0, a bipartisan effort.

2042 This is not something new, my colleagues. This has been  
2043 the exact policy, as Mr. Waxman said, of 3 Administrations;  
2044 Clinton, Bush, Obama. The Congress has weighed in on it. I  
2045 don't know where these suspicions have come from, that there  
2046 is some black helicopter, something or other in this. It is  
2047 very disturbing to me that as we come to the time where the  
2048 process is supposed to move forward, that regardless of what  
2049 you have said, and there are all of these quotes including  
2050 Mr. Walden, Lee Terry, Mr. Walden, Mr. Scalise, Marsha  
2051 Blackburn, all praising the very process that we are  
2052 referring to today. I don't know what has entered your minds  
2053 that has--have you make a U-turn, but the GAO report is not,  
2054 with all due respect to what Mr. Walden--the way it has been  
2055 described. This process is not opening--tearing open a  
2056 pillow and letting feathers go to the wind, and that we allow  
2057 dark governments that are non-Democratic to take over the  
2058 Internet. Who amongst us would be for that? That is a  
2059 terrible charge against any Member of Congress. That is not  
2060 who and what we are. We are proud Americans. We are  
2061 patriots, and we have a responsibility to our national  
2062 security.



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2063           So--

2064           Mr. {Waxman.} The gentlelady yield?

2065           Ms. {Eshoo.} I would be glad to.

2066           So I--let me just close by saying, what Mr. Walden said  
2067 sounds like it is not menacing, but what is buried in the  
2068 words of this legislation are really being misrepresented I  
2069 believe, because it is not what it is about.

2070           I will yield to Mr. Waxman.

2071           {Voice.} With--

2072           Mr. {Waxman.} Thank you very much for yielding.

2073           Mr. Walden said we could trust GAO, but this underlying  
2074 Bill, without the Eshoo amendment, says we don't trust  
2075 everybody that has been working on the--on this process, and  
2076 we don't trust the--our own NTIA, and we don't trust--

2077           Ms. {Eshoo.} It was '98.

2078           Mr. {Waxman.} --Congress to come back and review it  
2079 before it goes into effect. We haven't delegated everything  
2080 to others, we still have an opportunity if it--

2081           Mr. {Walden.} Well--

2082           Mr. {Waxman.} --if it is unacceptable to take action to  
2083 prevent something from happening, but it sends a signal that  
2084 we don't trust anybody but GAO. And I--that is not just a  
2085 holding pattern, it sends the wrong message and undermines

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2086 the very idea of a multi-stakeholder process.

2087 Thank you for yielding.

2088 The {Chairman.} Gentlelady yields back.

2089 Chair recognizes the gentleman from Pennsylvania, Mr.

2090 Pitts.

2091 Mr. {Pitts.} I yield to Mr. Walden.

2092 Mr. {Walden.} I thank the gentleman for yielding.

2093 And I am sort of stunned by the attacks coming toward me

2094 because the plain language of the Bill says something

2095 different.

2096 It says this in line three, retention and

2097 responsibilities: until the Comptroller General of the

2098 United States submits the report required by Subsection B,

2099 the Assistant Secretary of Communication--Commerce for

2100 Communication and Information may not relinquish or agree to

2101 any proposed--proposal relating to the relinquishment of the

2102 responsibility of NTIA over Internet domain name system

2103 functions. Okay, so it says you can't do anything once you

2104 get the proposal until we hear from the GAO.

2105 In line 15, it says GAO has 1 year. No more than 1

2106 year. Not later than 1 year after the date on which NTIA

2107 receives a proposal relating to the relinquishment of the

2108 responsibility of NTIA over Internet domain name system

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2109 functions, that was developed in the process, et cetera, et  
2110 cetera, they have to go through and do this analysis for us,  
2111 and for the American people.

2112 Now, let us talk about how odorous this is. A  
2113 discussion and analysis of the advantages and disadvantages  
2114 of the relinquishment of the responsibility of NTIA over  
2115 Internet domain name system functions, including  
2116 responsibility with respect to the authoritative root zone  
2117 file, Internet assigned numbers authority functions, and  
2118 related root zone management functions. Okay, what does the  
2119 new proposal do to that? I guess nobody wants to know. B,  
2120 any principles or criteria that the NTIA sets for proposals  
2121 for such relinquishment. C, each proposal received by NTIA  
2122 for such relinquishment. D, the processes used by NTIA and  
2123 the federal agencies for evaluating such proposals. E, any  
2124 national security concerns raised by such relinquishment, and  
2125 two, a definition of the term multi-stakeholder model as used  
2126 by the NTIA with respect to Internet policy making governance  
2127 and of definitions, and any other terms necessary to  
2128 understand the matter covered by the report. That is the  
2129 entire scope of the questions to GAO.

2130 In short, it says before NTIA does whatever they want to  
2131 do, and by the way, if they got a report--if they got a

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2132 proposal in, tell me where in statute today it says Congress  
2133 gets the first bite at the apple. It is not there. What  
2134 this Administration is proposing says, in effect, we can  
2135 decide and we can cut it free, regardless of what Congress  
2136 may or may not think, and without the benefit of an  
2137 independent look from the Government Accountability Office.  
2138 And by the way, within the contract that already controls  
2139 operations of ICANN is the GAO. They have the right to audit  
2140 today.

2141 This is just absurd that somehow we are against the  
2142 multi-stakeholder process. Somehow we have no confidence in  
2143 that because we want the GAO to evaluate some new proposal  
2144 that upends the entire history of management of the--this  
2145 process.

2146 Mr. {Waxman.} Gentleman yield to me?

2147 Mr. {Walden.} And so I take offense to some of the  
2148 charges coming our way, frankly, because all we are saying is  
2149 let us get a GAO report, can't take more than a year, tell us  
2150 the facts, give us your opinion. It doesn't delegate  
2151 authority to the GAO, it doesn't do anything other than say  
2152 halt to the Federal Government, let us find out the  
2153 implications of this new proposal. That, by the way, would  
2154 give Congress an opportunity to weigh in when we get the

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2155 report.

2156 And I would be happy to yield for the gentleman from  
2157 California.

2158 Mr. {Waxman.} Well, my question to you is what do we  
2159 need the Bill for? There is going to be--

2160 Mr. {Walden.} Well, simply, reclaiming my time--

2161 Mr. {Waxman.} --we could all get a GAO report. There  
2162 is going to be an opportunity for hearings and evaluation,  
2163 why do we need to stop the process--

2164 Mr. {Walden.} Well, reclaiming my time--

2165 Mr. {Waxman.} --and--

2166 Mr. {Walden.} --I will answer the question. Because  
2167 there is nothing in statute today that gives Congress that  
2168 opportunity. The government could act absent Congress just  
2169 like that and say we are all for this new idea of how to run  
2170 this, and we are out of time and they already enter into a  
2171 new agreement and cut it free. Where is it in statute that  
2172 prevents the government from acting before we have a chance  
2173 to evaluate?

2174 Shouldn't the Congress, shouldn't this great committee,  
2175 have the opportunity before unelected agency operates to have  
2176 our shot at it, to get independent information? I mean we  
2177 are talking years out there probably before they come to us

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2178 with a proposal, and I think it just makes sense. I--if it  
2179 were my business, I would say I want to know the implications  
2180 of this in a timely manner before I cut this loose.

2181 Remember, we created, through ARPA, the Internet. The United  
2182 States Government and our great institutions of higher  
2183 learning created this. We have embraced the multi-  
2184 stakeholder process, we--and I am willing to do that. I have  
2185 supported these resolutions, but all we are saying here is  
2186 can we at least know what happens when you cut this loose.  
2187 And again, I would suggest, go read the contract, there are  
2188 lots of good things in there that have worked well, that have  
2189 given us the free and open Internet we have today. We are  
2190 taking blind trust to say go figure it out, bureaucrats, do  
2191 whatever you want, see you later. We are just saying let us  
2192 get an independent report.

2193 The {Chairman.} Gentleman's time has expired.

2194 Other Members wishing to speak on the amendment?

2195 Seeing none, the vote occurs on the amendment offered by  
2196 the gentlelady from California.

2197 All those in favor will say aye.

2198 {Voice.} I request roll call vote.

2199 The {Chairman.} Roll call vote is requested. The clerk  
2200 will call the roll.

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2201           The {Clerk.} Mr. Hall.

2202           Mr. {Hall.} No.

2203           The {Clerk.} Mr. Hall votes no.

2204           Mr. Barton.

2205           [No response.]

2206           The {Clerk.} Mr. Whitfield.

2207           [No response.]

2208           The {Clerk.} Mr. Shimkus.

2209           [No response.]

2210           The {Clerk.} Mr. Pitts.

2211           Mr. {Pitts.} No.

2212           The {Clerk.} Mr. Pitts votes no.

2213           Mr. Walden.

2214           Mr. {Walden.} No.

2215           The {Clerk.} Mr. Walden votes no.

2216           Mr. Terry.

2217           Mr. {Terry.} No.

2218           The {Clerk.} Mr. Terry votes no.

2219           Mr. Rogers.

2220           [No response.]

2221           The {Clerk.} Mr. Murphy.

2222           Mr. {Murphy.} No.

2223           The {Clerk.} Mr. Murphy votes no.

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2224 Mr. Burgess.

2225 Dr. {Burgess.} No.

2226 The {Clerk.} Mr. Burgess votes no.

2227 Mrs. Blackburn.

2228 Mrs. {Blackburn.} No.

2229 The {Clerk.} Mrs. Blackburn votes no.

2230 Mr. Gingrey.

2231 Dr. {Gingrey.} No.

2232 The {Clerk.} Mr. Gingrey votes no.

2233 Mr. Scalise.

2234 [No response.]

2235 The {Clerk.} Mr. Latta.

2236 Mr. {Latta.} No.

2237 The {Clerk.} Mr. Latta votes no.

2238 Mrs. McMorris Rodgers.

2239 Mrs. {McMorris Rodgers.} No.

2240 The {Clerk.} Mrs. McMorris Rodgers votes no.

2241 Mr. Harper.

2242 Mr. {Harper.} No.

2243 The {Clerk.} Mr. Harper votes no.

2244 Mr. Lance.

2245 Mr. {Lance.} No.

2246 The {Clerk.} Mr. Lance votes no.



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2247 Mr. Cassidy.

2248 Dr. {Cassidy.} No.

2249 The {Clerk.} Mr. Cassidy votes no.

2250 Mr. Guthrie.

2251 Mr. {Guthrie.} No.

2252 The {Clerk.} Mr. Guthrie votes no.

2253 Mr. Olson.

2254 Mr. {Olson.} No.

2255 The {Clerk.} Mr. Olson votes no.

2256 Mr. McKinley.

2257 Mr. {McKinley.} No.

2258 The {Clerk.} Mr. McKinley votes no.

2259 Mr. Gardner.

2260 Mr. {Gardner.} No.

2261 The {Clerk.} Mr. Gardner votes no.

2262 Mr. Pompeo.

2263 Mr. {Pompeo.} No.

2264 The {Clerk.} Mr. Pompeo votes no.

2265 Mr. Kinzinger.

2266 Mr. {Kinzinger.} No.

2267 The {Clerk.} Mr. Kinzinger votes no.

2268 Mr. Griffith.

2269 Mr. {Griffith.} No.

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2270 The {Clerk.} Mr. Griffith votes no.  
2271 Mr. Bilirakis.  
2272 Mr. {Bilirakis.} No.  
2273 The {Clerk.} Mr. Bilirakis votes no.  
2274 Mr. Johnson.  
2275 Mr. {Johnson.} No.  
2276 The {Clerk.} Mr. Johnson votes no.  
2277 Mr. Long.  
2278 Mr. {Long.} No.  
2279 The {Clerk.} Mr. Long votes no.  
2280 Mrs. Ellmers.  
2281 Mrs. {Ellmers.} No.  
2282 The {Clerk.} Mrs. Ellmers votes no.  
2283 Mr. Waxman.  
2284 Mr. {Waxman.} Aye.  
2285 The {Clerk.} Mr. Waxman votes aye.  
2286 Mr. Dingell.  
2287 Mr. {Dingell.} Dingell votes aye.  
2288 The {Clerk.} Mr. Dingell votes aye.  
2289 Mr. Pallone.  
2290 Mr. {Pallone.} Aye.  
2291 The {Clerk.} Mr. Pallone votes aye.  
2292 Mr. Rush.

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2293 [No response.]

2294 The {Clerk.} Ms. Eshoo.

2295 Ms. {Eshoo.} Aye.

2296 The {Clerk.} Ms. Eshoo votes aye.

2297 Mr. Engel.

2298 Mr. {Engel.} Aye.

2299 The {Clerk.} Mr. Engel votes aye.

2300 Mr. Green. Mr. Green.

2301 Mr. {Green.} Aye.

2302 The {Clerk.} Mr. Green votes aye.

2303 Ms. DeGette.

2304 Ms. {DeGette.} Aye.

2305 The {Clerk.} Ms. DeGette votes aye.

2306 Mrs. Capps.

2307 Mrs. {Capps.} Aye.

2308 The {Clerk.} Mrs. Capps votes aye.

2309 Mr. Doyle.

2310 Mr. {Doyle.} Aye.

2311 The {Clerk.} Mr. Doyle votes aye.

2312 Ms. Schakowsky.

2313 Ms. {Schakowsky.} Aye.

2314 The {Clerk.} Ms. Schakowsky votes aye.

2315 Mr. Matheson.

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2316 Mr. {Matheson.} Aye.

2317 The {Clerk.} Mr. Matheson votes aye.

2318 Mr. Butterfield.

2319 Mr. {Butterfield.} Aye.

2320 The {Clerk.} Mr. Butterfield votes aye.

2321 Mr. Barrow.

2322 Mr. {Barrow.} No.

2323 The {Clerk.} Mr. Barrow votes no.

2324 Ms. Matsui.

2325 Ms. {Matsui.} Aye.

2326 The {Clerk.} Ms. Matsui votes aye.

2327 Ms. Christensen.

2328 [No response.]

2329 The {Clerk.} Ms. Castor.

2330 Ms. {Castor.} Aye.

2331 The {Clerk.} Ms. Castor votes aye.

2332 Mr. Sarbanes.

2333 Mr. {Sarbanes.} Aye.

2334 The {Clerk.} Mr. Sarbanes votes aye.

2335 Mr. McNerney.

2336 Mr. {McNerney.} Aye.

2337 The {Clerk.} Mr. McNerney votes aye.

2338 Mr. Braley.

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2339 Mr. {Braley.} Aye.

2340 The {Clerk.} Mr. Braley votes aye.

2341 Mr. Welch.

2342 Mr. {Welch.} Aye.

2343 The {Clerk.} Mr. Welch votes aye.

2344 Mr. Lujan.

2345 Mr. {Lujan.} Aye.

2346 The {Clerk.} Mr. Lujan votes aye.

2347 Mr. Tonko.

2348 Mr. {Tonko.} Aye.

2349 The {Clerk.} Mr. Tonko votes aye.

2350 Mr. Yarmuth.

2351 Mr. {Yarmuth.} Aye.

2352 The {Clerk.} Mr. Yarmuth votes aye.

2353 Chairman Upton.

2354 The {Chairman.} Votes no.

2355 The {Clerk.} Chairman Upton votes no.

2356 The {Chairman.} Other Members wishing to vote?

2357 Mr. Shimkus?

2358 Mr. {Shimkus.} Votes no.

2359 The {Clerk.} Mr. Shimkus votes no.

2360 The {Chairman.} Mr. Scalise?

2361 Mr. {Scalise.} No.

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2362 The {Clerk.} Mr. Scalise votes no.

2363 The {Chairman.} Other Members wishing to cast a vote?

2364 Seeing none--Mr. Griffith, have you--are you recorded?

2365 Seeing none, the clerk will report the tally.

2366 The {Clerk.} Mr. Chairman, on that vote there were 21

2367 ayes and 28 nays.

2368 The {Chairman.} Twenty-one ayes, 28 nays. The

2369 amendment is not agreed to.

2370 Are there further amendments to the Bill?

2371 Gentleman from Pennsylvania.

2372 Mr. {Doyle.} Thank you, Mr. Chairman. I have an

2373 amendment at the desk.

2374 The {Chairman.} Clerk will report the title.

2375 The {Clerk.} Amendment to H.R. 4342, offered by Mr.

2376 Doyle.

2377 [The amendment of Mr. Doyle follows:]

2378 \*\*\*\*\* INSERT 10 \*\*\*\*\*

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|  
2379           The {Chairman.} The amendment will be considered as  
2380 read. The staff will distribute the amendment, and the  
2381 gentleman from Pennsylvania is recognized for 5 minutes in  
2382 support of his amendment.

2383           Mr. {Doyle.} Thank you, Mr. Chairman.

2384           Mr. Chairman, my amendment would instruct the  
2385 Comptroller General to examine the history of the U.S.  
2386 Government efforts to promote the multi-stakeholder model,  
2387 and privatize the administration of the domain name system,  
2388 as well as examining the transition proposal for the IANA  
2389 contract.

2390           This is the same amendment that I offered during  
2391 subcommittee markup on this Bill. I want to say I am open to  
2392 working with my colleagues on the other side of the aisle on  
2393 a GAO study examining these issues, but I strongly oppose  
2394 provisions in this Bill that would tie NTIA's hands and  
2395 unnecessarily delay this process.

2396           Now, we have heard supporters of the DOTCOM Act claim  
2397 that this is just about Congress requesting a GAO report, and  
2398 that Democrats are opposing transparency in the way NTIA  
2399 transitions management of the domain name system. I  
2400 appreciate my colleagues' concern that authoritarian regimes

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2401 may try to hijack any form or process related to Internet  
2402 governance, but it is precisely because of these concerns  
2403 that we must recommit to the multi-stakeholder model. All of  
2404 us want to see the successful bottom-up approach to Internet  
2405 governance continue.

2406       Last month at the NETmundial Meeting in Brazil,  
2407 stakeholders from around the world representing governments,  
2408 companies, academics, institutions, civil society and users,  
2409 discussed the future of Internet governance. This diverse  
2410 group came together and adopted a statement in support of the  
2411 multi-stakeholder approach. Delaying this transition allows  
2412 anti-Democratic nations to continue to use the IANA contract  
2413 as a red herring to falsely claim the U.S. Government  
2414 controls the Internet, and argue for a greater role for  
2415 government entities like the United Nations.

2416       We are playing right into the bad guys' hands by trying  
2417 to pass this Bill today. NTIA's transition process will make  
2418 it clear once and for all that this is not the case, however,  
2419 I understand my colleagues across the aisle have concerns  
2420 about this process, so my amendment preserves a role for GAO  
2421 to analyze a transition plan put forward by the global  
2422 community. What it does not do, however, is allow the GAO  
2423 report be used as a restriction on NTIA's authority, or an



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2424 artificial excuse for delay.

2425           We have heard concerns from supporters of the multi-  
2426 stakeholder model that the DOTCOM Act is at odds with the  
2427 longstanding American commitment to a global Internet free  
2428 from government control. The underlying Bill reflects a  
2429 fundamental misunderstanding of the U.S. Government's role in  
2430 Internet management. The technical functions of the Internet  
2431 domain name system have never been controlled by the U.S.  
2432 Government. Let me say that again. The technical functions  
2433 of the Internet domain name system have never been controlled  
2434 by the U.S. Government. The Bill refers to the  
2435 relinquishment of the responsibility of the National  
2436 Telecommunications and Information Administration over  
2437 Internet domain name system functions. The NTIA has no legal  
2438 or statutory responsibility for the management of the  
2439 Internet domain name system. The Internet is governed by the  
2440 technology that allows it to operate, and the companies,  
2441 institutions, governments and users that connect, deliver and  
2442 create content Online. The United States has never been able  
2443 to dictate to other countries how they operate the Internet  
2444 within their own borders. Any argument that the United  
2445 States controls all of his is misguided.

2446           This is a commonsense amendment that would produce a GAO

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2447 study that would inform the Congress and enhance the multi-  
2448 stakeholder governance model for the global Internet that we  
2449 have all supported for many years.

2450 I would urge my colleagues to support this amendment.

2451 And I yield back.

2452 Mr. {Walden.} Gentleman--

2453 The {Chairman.} Gentleman yields back.

2454 The chair would recognize the gentleman from Oregon.

2455 Mr. {Walden.} I thank the gentleman, and I appreciate  
2456 his comments.

2457 I want to say a couple of things. One, this reminds me  
2458 of a former speaker who said we had to pass something so we  
2459 could find out what was in it. This is a lot like that.  
2460 NTIA, you can go ahead and adopt this, and then we will allow  
2461 a GAO report to figure out what the implications are. And I  
2462 think that is kind of the wrong approach, obviously. So it  
2463 sort of eviscerates the purpose of the Bill, which is before  
2464 NTIA acts, that we get the GAO to just look and tell us,  
2465 within a year's time, by statute, what are the implications  
2466 of whatever proposal comes forward.

2467 Now, as to the U.S. role in all of this, in a  
2468 presentation with ICANN, and an introduction to IANA dated  
2469 September 29 of 2008, this is their own documents now I am

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2470 reading from, it says with--U.S. Government and IANA, today  
2471 the IANA is administered under the terms of a contract  
2472 between ICANN and the U.S. Government. IANA is not a legal  
2473 entity in itself, rather, a set of functions performed by the  
2474 IANA department within ICANN. The contract stipulates the  
2475 scope of the IANA services, as well as defines reporting  
2476 requirements for ICANN on how it administers the IANA  
2477 functions. ICANN is required to report on a monthly basis to  
2478 the U.S. Government on how it is administering requests  
2479 relating to all the contract-related facets of IANA. This is  
2480 from ICANN, ``With respect to the operation of the DNS root  
2481 zone, the U.S. Government has a more direct role in  
2482 authorizing all changes before they are implemented. In  
2483 practice, this means that once IANA has completed processing  
2484 of a change request to the root zone, it is sent to the U.S.  
2485 Government to review. After this review and their  
2486 authorization is received, it is then implemented in the DNS  
2487 root zone.'' So I have referenced the contract before. I am  
2488 now reading from ICANN's own presentation notes about how the  
2489 process works, and the interaction with the Federal  
2490 Government of the United States.

2491 Now, we may well move to this multi-stakeholder process.  
2492 The point is before we release this piece that has worked so

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2493 well for so long, let us figure out what the new proposal  
2494 looks like, because nobody on either side of the aisle can  
2495 tell us are there any requirements where the future ICANN  
2496 will be domiciled. Under which country's laws will it be  
2497 governed. Will the provisions that have made it work today  
2498 be there to make it work tomorrow? We don't know because  
2499 there is no proposal before us. All we are saying is  
2500 Republicans on this side of the aisle, and with some of our  
2501 help from our friends on the other side, is can't we just say  
2502 once you get a proposal, NTIA, pause, GAO, give us your  
2503 evaluation of this independent, high-integrity organization,  
2504 already involved by contract in ICANN, tell us what this  
2505 means. It doesn't say you can't go forward after that, but  
2506 it would give Congress a chance to digest, and the American  
2507 people a chance to digest, the world community a chance to  
2508 digest whatever this new proposal is, because once this  
2509 contract is gone, I don't see the provision of how you ever  
2510 get it back. So we had better get it right and know every  
2511 possible bit of information we can find before a few folks  
2512 downtown here make a decision and it is gone.

2513 So I yield back the balance of my time.

2514 The {Chairman.} Gentleman yields back.

2515 The chair would recognize the gentlelady from

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2516 California.

2517 Ms. {Eshoo.} Thank you, Mr. Chairman.

2518 I want to thank Mr. Doyle for his amendment. I think it  
2519 is spot on because it does instruct the GAO to examine the  
2520 history of our government's efforts to promote the multi-  
2521 stakeholder model, and transition the administration of the  
2522 domain name system to the private sector.

2523 Boy, there is like a lot of noise in the room. I just--  
2524 it really kind of takes my breath away. There are facts that  
2525 we all need to appreciate. We have had U.S. policy from 1998  
2526 to this very moment, to transition the government's role. I  
2527 don't know why the Republicans don't embrace this because it  
2528 is all about transitioning the role to the private sector,  
2529 and that's what this speaks to.

2530 For those in need of a history lesson, the Doyle  
2531 amendment provides a thorough examination into the U.S.  
2532 Government's role in Internet governance, and it would do so  
2533 without undermining the legitimacy of the multi-stakeholder  
2534 process, and this should be more than sufficient to alleviate  
2535 all of these fears of a Chinese Government takeover or  
2536 whatever. I don't know where this stuff has come from, but,  
2537 boy, is it out there, and I don't think it really adds  
2538 anything to this, and it is a total U-turn on how people--

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2539 Members have voted. So very importantly for everyone to  
2540 appreciate, I think, is that Mr. Doyle's amendment  
2541 demonstrates that our side of the aisle does not oppose--we  
2542 are not opposed to greater transparency, and a review of the  
2543 history that got us to this point. And that is why I thank  
2544 him for the amendment. I think it is a solid one, and I  
2545 would urge my colleagues to support it.

2546 And with that, I yield back.

2547 The {Chairman.} Gentlelady yields back.

2548 Other Members wishing to speak on the amendment?

2549 Mr. {Lujan.} Mr. Chairman.

2550 The {Chairman.} Gentleman from New Mexico.

2551 Mr. {Lujan.} I move to strike the last word.

2552 I echo the concerns that both Ms. Eshoo and Mr. Doyle  
2553 have both raised today. Congress beating its chest and  
2554 claiming a unilateral right to supervised global Internet  
2555 infrastructure could further mobilize support among the  
2556 world's governments for a more nationalistic approach to  
2557 Internet management. In fact, a number of the Bill  
2558 supporters have voiced this very concern.

2559 I am glad that we are hearing that some of my colleagues  
2560 are asking that their statements be entered into the record,  
2561 and be included as part of this debate. I would like to read

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2562 a few of those quotes. One, ``We need a--we need to send a  
2563 strong message to the world that the Internet has thrived  
2564 under a decentralized, bottom-up, multi-stakeholder  
2565 governance model.' ' ``And part of their--'', referring to  
2566 the Internet technology companies', ``--success, the fact  
2567 that they are growing so big in a tough economy is because we  
2568 have got this multi-stakeholder governance, that you are not  
2569 having to worry about government interference from county to  
2570 country.' ' ``The Internet will only continue to thrive if  
2571 governments refrain from regulating it, and if it can remain  
2572 under a multi-stakeholder--

2573 Ms. {Eshoo.} Excuse me, Mr. Chairman--

2574 Mr. {Lujan.} --governance model.' '

2575 Ms. {Eshoo.} --the committee is not in order.

2576 Mr. {Lujan.} Thank you, Mr. Chairman.

2577 Do you want me to repeat those quotes, Mr. Chairman, or  
2578 should I just go on?

2579 The {Chairman.} We got them.

2580 Mr. {Lujan.} Got--I thank you, Mr. Chairman.

2581 The announcement by NTIA last month was precisely the  
2582 kind of measure that will help alleviate this risk, yet the  
2583 Bill we are considering today seeks to undermine that effort,  
2584 and is contrary to the longstanding support of this

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2585 committee, by both parties, 413 to 0 for the global multi-  
2586 stakeholder model. In so doing, we play into our opponents'  
2587 narrative that the United States prefers a unilateral role  
2588 exercising control over the Internet and practice, and our  
2589 support for the multi-stakeholder model is nothing more than  
2590 lip service. I think the country is tired of that.

2591 Adding to my confusion on this legislation are my  
2592 colleagues' attempts to equate the FCC's net neutrality rules  
2593 with government censorship in the same breath that they cite  
2594 governmental efforts to censor Online content as part of  
2595 their motivation for advancing this bill.

2596 Net neutrality actually protects free speech, and our  
2597 democratic discourse Online. In fact, an instance of a  
2598 wireless carrier blocking political speech over text messages  
2599 is one of the instances that demonstrated the need for these  
2600 rules in the first place. Our domestic and international  
2601 policy goals should be exactly the same, promoting a free and  
2602 open Internet that is accessible to all. We have voted three  
2603 times over the past 2 years in support of a multi-stakeholder  
2604 model, but as soon as the Administration takes a step  
2605 forward--stake--takes a step toward fulfilling that vision,  
2606 my Republican colleagues are suddenly opposed.

2607 Instead of working together to promote a free Internet,



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2608 the House majority has only rehashed tired partisan talking  
2609 points against President Obama, and promoted yet another  
2610 conspiracy theory in a week that has already seen many.

2611         These amendments are modeled after the policy statement  
2612 that the House has already passed unanimously, 413 to 0 in  
2613 support of a multi-stakeholder approach to Internet  
2614 governance. It is important and more effective than the  
2615 DOTCOM Act in expressing our unambiguous opposition to  
2616 efforts by countries like Russia and Iran to control and  
2617 censor the Internet. I hope we can find a way to get through  
2618 this, Mr. Chairman, and, you know, we know what the numbers  
2619 are today. My--one of the early lessons my father taught me  
2620 in life was how to count, and clearly, we can see what  
2621 numbers will yield today, but in an effort to get to where we  
2622 hopefully can be, in an effort where the Congress has agreed  
2623 on this, I hope there is still some room for us to work  
2624 together.

2625         Mr. {Walden.} Will the gentleman yield?

2626         Mr. {Lujan.} I would. I would. Yield to my chairman.

2627         Mr. {Walden.} You know, I--we have no problem with this  
2628 addition in terms of what the GAO could look at. We could  
2629 probably accept this as a secondary amendment to a new  
2630 section, and add it to the finding, you know, add it to the

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2631 request of the GAO. If the issue is about getting more  
2632 information on ICANN, NTIA and all that, I think that could  
2633 be acceptable as a secondary amendment, create a new Section  
2634 3, we could--we have got counsel at the table that could tell  
2635 us how to do that.

2636 Mr. {Lujan.} Well, Mr. Chairman--

2637 Mr. {Walden.} Would that be acceptable to the  
2638 gentleman?

2639 Mr. {Lujan.} --not being the author of the amendment, I  
2640 would have to refer back to my ranking member and the author  
2641 of the amendment, but I appreciate the words of my chairman  
2642 on the subcommittee.

2643 And with that, Mr. Chairman, I yield back the balance of  
2644 my time.

2645 The {Chairman.} Gentleman yields back.

2646 Other Members wishing to speak on the amendment?

2647 Gentlelady from Tennessee.

2648 Mrs. {Blackburn.} Thank you, Mr. Chairman.

2649 I know that we have many Members that are wanting to  
2650 move away from the hearing and get onto other events, but I  
2651 think that as we listen to the debate, one of the things that  
2652 is worth putting in bold print is the fact that we are moving  
2653 forward in a structure that is basically trust but verify,

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2654 and it is an important step for this committee to take as we  
2655 talk with our constituents, as we talk with innovators who  
2656 are utilizing the Internet, as we talk with companies and  
2657 deal with the issues of privacy and data security, one of the  
2658 things that concerns them is what the posture of ICANN would  
2659 be a decade from now, 2 decades from now, and where that  
2660 would be housed, what country, and as Mr. Walden said, under  
2661 whose rules would this operate. We are a nation that  
2662 treasures and values free speech, and the Internet has been  
2663 well served by that grounding, and because of that, it is  
2664 vitally important that we carefully approach this, that we  
2665 have a full review, and that come back to us. Mr. Shimkus  
2666 has done great work on this, as has Mr. Rokita. I have been  
2667 pleased to work with them. And, of course, Chairman Walden  
2668 continues to be vigilant, and we would be wise to slow down,  
2669 take a thorough review, and realize that once it is gone, it  
2670 is gone.

2671 With that, Mr. Walden, did you want additional time?

2672 Mr. {Walden.} I am good.

2673 Mrs. {Blackburn.} You are good?

2674 I yield back.

2675 The {Chairman.} Gentlelady yields back.

2676 Are there further Members that are wishing to speak on

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2677 the amendment? If not, the vote occurs on the amendment.

2678 All those in favor will say aye.

2679 Those opposed, say no.

2680 Opinion of the chair the noes have it.

2681 {Voice.} Roll call please.

2682 The {Chairman.} Roll call vote is requested. Clerk

2683 will call the roll.

2684 The {Clerk.} Mr. Hall.

2685 Mr. {Hall.} No.

2686 The {Clerk.} Mr. Hall votes no.

2687 Mr. Barton.

2688 Mr. {Barton.} No.

2689 The {Clerk.} Mr. Barton votes no.

2690 Mr. Whitfield.

2691 [No response.]

2692 The {Clerk.} Mr. Shimkus.

2693 Mr. {Shimkus.} No.

2694 The {Clerk.} Mr. Shimkus votes no.

2695 Mr. Pitts.

2696 Mr. {Pitts.} No.

2697 The {Clerk.} Mr. Pitts votes no.

2698 Mr. Walden.

2699 Mr. {Walden.} No.

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2700 The {Clerk.} Mr. Walden votes no.  
2701 Mr. Terry.  
2702 Mr. {Terry.} No.  
2703 The {Clerk.} Mr. Terry votes no.  
2704 Mr. Rogers.  
2705 Mr. {Rogers.} No.  
2706 The {Clerk.} Mr. Rogers votes no.  
2707 Mr. Murphy.  
2708 Mr. {Murphy.} No.  
2709 The {Clerk.} Mr. Murphy votes no.  
2710 Mr. Burgess.  
2711 Dr. {Burgess.} No.  
2712 The {Clerk.} Mr. Burgess votes no.  
2713 Mrs. Blackburn.  
2714 Mrs. {Blackburn.} No.  
2715 The {Clerk.} Mrs. Blackburn votes no.  
2716 Mr. Gingrey.  
2717 Dr. {Gingrey.} No.  
2718 The {Clerk.} Mr. Gingrey votes no.  
2719 Mr. Scalise.  
2720 Mr. {Scalise.} No.  
2721 The {Clerk.} Mr. Scalise votes no.  
2722 Mr. Latta.

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2723 Mr. {Latta.} No.

2724 The {Clerk.} Mr. Latta votes no.

2725 Mrs. McMorris Rodgers. Mrs. McMorris Rodgers.

2726 Mrs. {McMorris Rodgers.} No.

2727 The {Clerk.} Mr.--Mrs. McMorris Rodgers votes no.

2728 Mr. Harper.

2729 Mr. {Harper.} No.

2730 The {Clerk.} Mr. Lance--I am sorry, Mr. Harper votes

2731 no.

2732 Mr. Lance.

2733 Mr. {Lance.} No.

2734 The {Clerk.} Mr. Lance votes no.

2735 Mr. Cassidy.

2736 [No response.]

2737 The {Clerk.} Mr. Guthrie.

2738 Mr. {Guthrie.} No.

2739 The {Clerk.} Mr. Guthrie votes no.

2740 Mr. Olson.

2741 Mr. {Olson.} No.

2742 The {Clerk.} Mr. Olson votes no.

2743 Mr. McKinley.

2744 Mr. {McKinley.} No.

2745 The {Clerk.} Mr. McKinley votes no.

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2746 Mr. Gardner.

2747 Mr. {Gardner.} No.

2748 The {Clerk.} Mr. Gardner votes no.

2749 Mr. Pompeo.

2750 Mr. {Pompeo.} No.

2751 The {Clerk.} Mr. Pompeo votes no.

2752 Mr. Kinzinger.

2753 Mr. {Kinzinger.} No.

2754 The {Clerk.} Mr. Kinzinger votes no.

2755 Mr. Griffith.

2756 Mr. {Griffith.} No.

2757 The {Clerk.} Mr. Griffith votes no.

2758 Mr. Bilirakis.

2759 Mr. {Bilirakis.} No.

2760 The {Clerk.} Mr. Bilirakis votes no.

2761 Mr. Johnson.

2762 Mr. {Johnson.} No.

2763 The {Clerk.} Mr. Johnson votes no.

2764 Mr. Long.

2765 [No response.]

2766 The {Clerk.} Mrs. Ellmers.

2767 Mrs. {Ellmers.} No.

2768 The {Clerk.} Mrs. Ellmers votes no.

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2769 Mr. Waxman.

2770 Mr. {Waxman.} Aye.

2771 The {Clerk.} Mr. Waxman votes aye.

2772 Mr. Dingell.

2773 Mr. {Dingell.} Votes aye.

2774 The {Clerk.} Mr. Dingell votes aye.

2775 Mr. Pallone.

2776 Mr. {Pallone.} Aye.

2777 The {Clerk.} Mr. Pallone votes aye.

2778 Mr. Rush.

2779 [No response.]

2780 The {Clerk.} Ms. Eshoo.

2781 Ms. {Eshoo.} Aye.

2782 The {Clerk.} Ms. Eshoo votes aye.

2783 Mr. Engel.

2784 [No response.]

2785 The {Clerk.} Mr. Green.

2786 Mr. {Green.} Aye.

2787 The {Clerk.} Mr. Green votes aye.

2788 Ms. DeGette.

2789 Ms. {DeGette.} Aye.

2790 The {Clerk.} Ms. DeGette votes aye.

2791 Mrs. Capps.



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2792 Mrs. {Capps.} Aye.

2793 The {Clerk.} Mrs. Capps votes aye.

2794 Mr. Doyle.

2795 Mr. {Doyle.} Yes.

2796 The {Clerk.} Mr. Doyle votes aye.

2797 Ms. Schakowsky.

2798 Ms. {Schakowsky.} Aye.

2799 The {Clerk.} Ms. Schakowsky votes aye.

2800 Mr. Matheson.

2801 Mr. {Matheson.} Aye.

2802 The {Clerk.} Mr. Matheson votes aye.

2803 Mr. Butterfield.

2804 Mr. {Butterfield.} Aye.

2805 The {Clerk.} Mr. Butterfield votes aye.

2806 Mr. Barrow.

2807 Mr. {Barrow.} No.

2808 The {Clerk.} Mr. Barrow votes no.

2809 Ms. Matsui.

2810 Ms. {Matsui.} Aye.

2811 The {Clerk.} Ms. Matsui votes aye.

2812 Ms. Christensen.

2813 [No response.]

2814 The {Clerk.} Ms. Castor.

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2815 Ms. {Castor.} Aye.

2816 The {Clerk.} Ms. Castor votes aye.

2817 Mr. Sarbanes.

2818 Mr. {Sarbanes.} Aye.

2819 The {Clerk.} Mr. Sarbanes votes aye.

2820 Mr. McNerney.

2821 Mr. {McNerney.} Aye.

2822 The {Clerk.} Mr. McNerney votes aye.

2823 Mr. Braley.

2824 Mr. {Braley.} Aye.

2825 The {Clerk.} Mr. Welch--aye. Mr. Braley votes aye.

2826 Mr. Welch.

2827 Mr. {Welch.} Aye.

2828 The {Clerk.} Mr. Welch votes aye.

2829 Mr. Lujan.

2830 Mr. {Lujan.} Aye.

2831 The {Clerk.} Mr. Lujan votes aye.

2832 Mr. Tonko.

2833 Mr. {Tonko.} Aye.

2834 The {Clerk.} Mr. Tonko votes aye.

2835 Mr. Yarmuth.

2836 Mr. {Yarmuth.} Aye.

2837 The {Clerk.} Mr. Yarmuth votes aye.

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2838 Chairman Upton.

2839 The {Chairman.} Votes no.

2840 The {Clerk.} Chairman Upton votes no.

2841 The {Chairman.} Other Members wishing to cast a vote?

2842 Mr. Long?

2843 Mr. {Long.} No.

2844 The {Clerk.} Mr. Long votes no.

2845 The {Chairman.} Dr. Cassidy?

2846 Dr. {Cassidy.} No.

2847 The {Clerk.} Mr. Cassidy votes no.

2848 The {Chairman.} Is Ms. Kathy McMorris--Ms. McMorris

2849 Rodgers, she has voted?

2850 Other Members wishing to cast a vote?

2851 Seeing none, the clerk will report the tally.

2852 The {Clerk.} Mr. Chairman, on that vote, there were 20

2853 ayes and 30 nays.

2854 The {Chairman.} Twenty ayes, 30 nays. The amendment is

2855 not agreed to.

2856 Are there further amendments to the Bill?

2857 Seeing none, the question now occurs on favorably

2858 reporting H.R. 4342 to the House.

2859 All those in favor will say aye.

2860 All those opposed, say no.

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2861           Ayes appear to have it. The ayes have it and the Bill

2862 is favorably reported.

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|

2863 H.R. 4572

2864 The {Chairman.} The chair now calls up H.R. 4572, and  
2865 asks the clerk to report.

2866 The {Clerk.} H.R. 4572, to amend the Communications Act  
2867 of 1934 to extend expiring provisions relating to the  
2868 retransmission of signals of television broadcast stations  
2869 and for other purposes.

2870 [H.R. 4572 follows:]

2871 \*\*\*\*\* INSERT D \*\*\*\*\*

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|  
2872           The {Chairman.} Without objection, the first reading of  
2873 the Bill is dispensed with, and the Bill will be open for  
2874 amendment at any point. So ordered.

2875           Chair now recognizes Mr. Gardner for the purpose of  
2876 offering an amendment.

2877           Mr. {Gardner.} Thank you, Chairman Upton, Chairman  
2878 Walden, and thank you, Mr. Lujan. I appreciate the  
2879 opportunity to offer the Gardner amendment--

2880           The {Chairman.} Clerk--

2881           Mr. {Gardner.} --which I do so at this time.

2882           The {Chairman.} Clerk will report the title of the  
2883 amendment.

2884           Mr. {Gardner.} Gardner-Lujan amendment, excuse me.

2885           The {Clerk.} Amendment to H.R. 4572, offered by Mr.  
2886 Gardner of Colorado, and Mr. Ben Ray Lujan of New Mexico.

2887           [The amendment of Mr. Gardner and Mr. Lujan follows:]

2888           \*\*\*\*\* INSERT 11 \*\*\*\*\*

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|  
2889           The {Chairman.} The amendment will be considered as  
2890 read. The staff will distribute the amendment.

2891           And the gentleman from Colorado will be recognized for 5  
2892 minutes in support of his amendment.

2893           Mr. {Gardner.} I thank you, Mr. Chairman, and again, I  
2894 thank the chairman and Chairman Walden and Mr. Lujan for  
2895 working together on this amendment today.

2896           I commend everyone in this room and all of the industry  
2897 from work--for working hard to get a product today that works  
2898 for everyone, and gets us on a path to fixing a concern that  
2899 I have worked on in the state legislature and continue to  
2900 now.

2901           As many of you know, there are two counties in southwest  
2902 Colorado that only receive Albuquerque local stations because  
2903 of Nielsen's DMA lines. As you can imagine, these customers  
2904 value local programming that comes from their--

2905           The {Chairman.} Will the gentleman suspend? I think  
2906 they have circulated a Lujan-Gardner amendment.

2907           Mr. {Gardner.} Thank you, Mr. Chairman. I was  
2908 wondering what the change had been.

2909           The {Chairman.} So we will reset the clock. For what  
2910 purpose does the gentleman from New Mexico seek recognition?

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2911 Mr. {Lujan.} Mr. Chairman, I have an amendment at the  
2912 desk.

2913 The {Chairman.} The clerk will read the title of the  
2914 amendment again.

2915 The {Clerk.} Amendment to H.R. 4572, offered by Mr. Ben  
2916 Ray Lujan of New Mexico and Mr. Gardner of Colorado.

2917 The {Chairman.} And without objection, the gentleman  
2918 from New Mexico is recognized for 5 minutes.

2919 Mr. {Lujan.} Mr. Chairman, thank you very much.

2920 Over the past decade, American consumers have enjoyed an  
2921 explosion of new options for viewing video content,  
2922 traditional services such as over-the-air broadcast cable and  
2923 satellite companies have been joined by new alternatives such  
2924 over-the-top content, Internet protocol television and other  
2925 services, depending upon broadband providers.

2926 Despite these new technological innovations, television  
2927 viewers remain limited to broadcasts that are intended for  
2928 their designated market areas or DMA's. The FCC has  
2929 delegated the role of defining these DMA's to the Nielsen  
2930 Company, a privately held, for profit marketing research  
2931 company that claims to have never sought this power. Nielsen  
2932 has divided up the country into separate DMA's based upon the  
2933 reach of stations, antiquated broadcast antennas. These



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2934 antennas which were considered cutting-edge technology back  
2935 in the 1950's, which are now relied on by a much smaller  
2936 population, inexplicably continue to determine the broadcast  
2937 stations available at any given location in the country.

2938 My amendment would allow the FCC to embrace the future  
2939 of broadcasting, and to explore the possibilities of cutting-  
2940 edge technologies. With a broadband connection, viewers can  
2941 watch an almost infinite amount of on-demand video Online  
2942 with a smartphone, tablet or other mobile device. They can  
2943 watch this content from a Wi-Fi hotspot or virtually anywhere  
2944 with wireless service.

2945 Through the Internet, consumers can listen to radio  
2946 signals from around the globe, but Nielsen's maps of almost  
2947 obsolete antenna networks continue to block consumers from  
2948 accessing programming from outside of their DMA's.

2949 It is time to begin preparing for new ways to define  
2950 broadcasting markets that are based upon the newest  
2951 technologies. My amendment builds upon a study of DMA's  
2952 commissioned by the last STELA Bill in 2010 which required  
2953 the FCC to update its earlier efforts, and to explore how new  
2954 broadcasting markets could be created if they were based upon  
2955 the potential of current and future technologies, instead of  
2956 limitations of aging broadcast antennas.

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2957 I offered my amendment and withdrew it at markup in the  
2958 subcommittee in order to get additional insight and support  
2959 from the broadcast, satellite and cable industries, and I  
2960 understand I now have a cosponsor on the amendment as well.

2961 I urge my colleagues to support this amendment, and  
2962 embrace a more vibrant future for the video marketplace.

2963 And with that, Mr. Chairman, I yield back the balance of  
2964 my time.

2965 The {Chairman.} Gentleman yields back his time.

2966 And are there other Members wishing to speak on the  
2967 amendment?

2968 Gentleman from Colorado.

2969 Mr. {Gardner.} Thank you, Mr. Chairman.

2970 I thank my colleague, Mr. Lujan, from New Mexico for his  
2971 work on this amendment, and something that we have been  
2972 working on in Colorado for some time, in the state  
2973 legislatures here, and here as well.

2974 Two southwest Colorado counties only receive  
2975 Albuquerque's local stations because of Nielsen's DMA lines.  
2976 As you can imagine, these customers value local programming  
2977 that comes from their home state, both local news and their  
2978 local sports teams. They want to watch Colorado programming,  
2979 which I think everyone in this room can understand.

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2980           As Mr. Lujan stated, our amendment does two simple  
2981 things; asks for a report with an analysis of which consumers  
2982 are watching broadcast programming outside their local  
2983 markets, and two, it asks for information on whether there  
2984 are technologically and economically feasible alternatives to  
2985 the use of DMA's in order to provide consumers with more  
2986 programming options.

2987           By requiring the commission to produce this report, we  
2988 will be providing necessary information to industry,  
2989 government and consumers about how vast the problem actually  
2990 is, and how best we can fix it. And I look forward to  
2991 working with Mr. Lujan and others on this issue as we move  
2992 forward.

2993           And I yield back my time.

2994           The {Chairman.} Gentleman yields back.

2995           Other Members wishing to speak on the amendment?

2996           Seeing none, the vote occurs on the amendment offered by  
2997 the gentleman from New Mexico.

2998           All those in favor will say aye.

2999           All those opposed say no.

3000           Opinion of the chair the ayes have it.

3001           The ayes have it and the amendment is agreed to.

3002           Are there further amendments to the Bill?

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3003           Seeing none, the question now occurs on favorably

3004 reporting H.R. 4572 as amended to the House.

3005           All those in favor will say aye.

3006           All those opposed, say no.

3007           Opinion of the chair the ayes have it.

3008           The ayes have it and the Bill is favorably reported.

3009           Without objection, staff is authorized to make technical

3010 and conforming changes to the legislation reported by the

3011 committee today.

3012           So ordered. And without objection, the committee stands

3013 adjourned. Thank you.

3014           [Whereupon, at 12:18 p.m., the Committee was adjourned.]