

1 NATIONAL CAPITOL CONTRACTING

2 RPTS AVERETT

3 HJU030000

4 MARKUP OF H.R. 3808

5 Tuesday, January 30, 2018

6 House of Representatives,

7 Committee on the Judiciary,

8 Washington, D.C.

9 The committee met, pursuant to call, at 11:15 a.m., in
10 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
11 [chairman of the committee] presiding.

12 Present: Representatives Goodlatte, Smith, Chabot,
13 Issa, King, Gohmert, Jordan, Poe, Marino, Gowdy, Labrador,
14 Farenthold, DeSantis, Buck, Ratcliffe, Gaetz, Johnson of
15 Louisiana, Biggs, Rutherford, Handel, Nadler, Lofgren,
16 Jackson Lee, Cohen, Johnson of Georgia, Deutch, Jeffries,
17 Cicilline, Swalwell, Lieu, Raskin, Jayapal, Schneider, and
18 Demings.

19 Staff Present: Shelley Husband, Staff Director; Branden
20 Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian

21 and General Counsel; Paul Taylor, Chief Counsel,
22 Subcommittee on the Constitution and Civil Justice; Alley
23 Adcock, Clerk; James Park, Minority Chief Counsel; Mathew
24 Morgan, Minority Counsel; David Greengrass, Minority
25 Counsel; Danielle Brown, Minority Parliamentarian and Chief
26 Legislative Counsel; and Rachel Calanni, Minority
27 Professional Staff Member.

28 Chairman Goodlatte. Good morning. The Judiciary
29 Committee will come to order. Without objection, the chair
30 is authorized to declare a recess at any time. Pursuant to
31 notice, I now call up H.R. 3808 for purposes of markup and
32 move that the committee report the bill favorably to the
33 House. The clerk will report the bill.

34 Ms. Adcock. H.R. 3808. To preclude absolute liability
35 in any action against a property owner or contractor for
36 projects receiving Federal financial assistance for
37 infrastructure and transportation development, and for other
38 purposes.

39 [The bill follows:]

40 ***** INSERT 1 *****

41 Chairman Goodlatte. Without objection, the bill is
42 considered as read and open for amendment at any time, and I
43 will begin by recognizing myself for an opening statement.

44 I commend Representative John Faso from New York for
45 introducing H.R. 3808, the Infrastructure Expansion Act, a
46 commonsense piece of liability reform tied to Federal
47 funding in the context of Federal infrastructure and housing
48 programs. This bill, if enacted, would save billions of
49 dollars in Federal taxpayer money and facilitate the
50 construction of much-needed infrastructure and housing
51 projects.

52 Currently, New York is the only State that allows
53 absolute liability against property owners and contractors
54 for injuries sustained by construction workers through their
55 own fault, including intoxication and failure to use
56 provided safety equipment. That New York law, a statute
57 referred to as the Scaffold Law, was originally enacted in
58 1885, when skyscrapers were first being built and no other
59 worker safety regulations existed.

60 Under that law, one category of injured workers, those
61 who suffer gravity-related accidents, get the benefit of
62 absolute liability, not only against the worker's employer,
63 who is today already liable under workers' compensation, but
64 also against the parties who often have little to no
65 supervisory control over the project, such as property

66 owners and general contractors. Absolute liability is
67 imposed on these third parties with no limits on damages and
68 no consideration of fault or of the disregard of
69 instructions by the worker.

70 Because the Scaffold Law imposes such costly liability
71 on those involved with Federal infrastructure projects in
72 New York, the costs of federally funded projects that go
73 through New York have soared, and these costs are passed on
74 to Federal taxpayers and the construction industry
75 generally.

76 According to a 2013 study conducted by the Rockefeller
77 Institute of Government, a public policy research arm of the
78 State University of New York, New York taxpayers spend \$785
79 million annually for the insurance costs associated with
80 public construction projects due to the Scaffold Law.

81 The financial cost of the Scaffold Law is so large that
82 the added cost of insurance in New York can tip the scale
83 against a project altogether. For example, insurance costs
84 associated with the Scaffold Law were so high that several
85 disaster relief organizations gave up on helping New York
86 families affected by Superstorm Sandy, choosing instead to
87 help those in neighboring States.

88 Habitat for Humanity of New York supports this
89 legislation, saying in a letter to the editor of a New York
90 paper that "Habitat for Humanity and our volunteer partners

91 strive to create a safe environment for our staff,
92 contractors, and volunteers.

93 The Scaffold Law has hindered our efforts to build in
94 New York and should be reformed. The Times-Union editorial
95 board should support Congressman John Faso's effort and the
96 efforts of State legislators on behalf of worker safety, on
97 behalf of civil justice, and on behalf of all New Yorkers
98 who struggle to find affordable housing."

99 In 2014, Habitat for Humanity-New York City wrote that
100 "Many of our fellow nonprofit recovery organizations have
101 struggled to obtain necessary insurance coverage due to the
102 availability of crisis drive by the Scaffold Law. Make no
103 mistake, the Scaffold Law has directly and significantly
104 hindered organizations' ability to help hundreds of New
105 Yorkers return home after Superstorm Sandy."

106 H.R. 3808 would apply only where Federal funds were
107 used on an infrastructure project. In such cases, the bill
108 would apply a comparative negligence liability standard to
109 gravity-related injuries that occurred on such projects, a
110 standard that considers the comparative negligence of the
111 injured person when such negligence is a proximate cause of
112 an injury to a person.

113 Today, every State uses some form of comparative or
114 contributory negligence liability in tort cases generally.
115 I will offer a manager's amendment that will also allow

116 courts to use a contributory negligence standard, thereby
117 preserving all State law in this context and overriding only
118 New York's particular Scaffold Law, and only when Federal
119 funds are involved.

120 I urge all my colleagues to join me in supporting this
121 simple and fair reform legislation that will facilitate
122 Federal infrastructure projects, expand housing for the
123 homeless, and save billions of dollars in Federal taxpayer
124 money. It is now my pleasure to recognize the ranking
125 member of the committee, the gentleman from New York, Mr.
126 Nadler, for his opening statement.

127 [The prepared statement of Chairman Goodlatte follows:]

128 ***** COMMITTEE INSERT *****

129 Mr. Nadler. Thank you, Mr. Chairman. Mr. Chairman,
130 H.R. 3808, the so-called Infrastructure Expansion Act of
131 2017, has nothing to do with improving infrastructure, but
132 is rather a bald-faced attempt to undermine enforcement of a
133 New York State law that protects workers at construction
134 sites.

135 This law, known as the Scaffold Law, imposes absolute
136 liability on the property owners and general contractors at
137 construction sites for elevation- or gravity-related
138 injuries if they fail to provide a safe working environment;
139 only if they fail to provide a safe working environment.

140 The Scaffold Law has long been the subject of vigorous
141 debate in New York. There have been repeated attempts in
142 the State legislature to repeal or modify the law. But
143 there is no excuse for Congress doing an end run around this
144 process and for taking up this legislation, particularly in
145 the complete absence of hearings or legislative process.
146 For these reasons, I must oppose this bill.

147 H.R. 3808 effectively prohibits application of the
148 Scaffold Law when plaintiffs bring a case seeking damages
149 for injuries suffered while working on a construction
150 project that directly or indirectly receives Federal
151 financial assistances, terms that the bill does not define
152 and that potentially are broad enough to encompass most
153 construction projects. The bill requires that any lawsuits

154 alleging injury under such circumstances must allow for
155 consideration of the plaintiff's comparative negligence,
156 accordingly reducing or eliminating any damages the
157 defendant must pay.

158 The Scaffold Law, first enacted in 1885 by the New York
159 Legislature in response to its concern over unsafe working
160 conditions involving heights, provides that all building
161 contractors and owners and their agents must put in place a
162 variety of safety measures to protect workers at a
163 construction site.

164 1948; the New York Court of Appeals, the State's
165 highest court, interpreted the Scaffold Law to impose
166 absolute liability when an employer, contractor, property
167 owner, fails to provide proper scaffolding or other
168 elevation-related equipment at a construction site and such
169 failure was the proximate cause of the plaintiff's injury.

170 The court reasoned that the legislature, in passing the
171 Scaffold Law, absolutely imposed a flat and unvarying duty
172 on employers, contractors, and property owners to give
173 proper protection to workers, because the employers were in
174 the best position to protect workers from faulty or
175 inadequate equipment.

176 In every session of the New York Legislature going back
177 at least since I was a member in the 1980s and probably
178 further, bills have been introduced to amend, repeal, or

179 modify the Scaffold Law and its qualified strict liability
180 enforcement regime. Each time, the legislature chose not to
181 act on these bills. But supporters of this bill want to
182 take the decision out of the hands of New Yorkers and place
183 it into the hands of Congress, and they want to rush it
184 through the legislative process without even demonstrating
185 the need for it or understanding its potential consequences.

186 Opponents of the Scaffold Law argue that it is outdated
187 and out of step with the rest of the country. They also
188 argue that New York's law inhibits infrastructure investment
189 in the economy by increasing construction costs because of
190 high insurance premiums.

191 Supporters of the law, on the other hand, believe it is
192 a critical safety measure that protects workers. Whatever
193 the merits of maintaining, amending, or repealing New York's
194 Scaffold Law might be, however, the key point is that this
195 is a decision for the State of New York, and not for
196 Congress to make.

197 Tort law has always been a matter left to the States.
198 It is sheer arrogance to think that New York cannot govern
199 itself and that Congress knows best in this instance. H.R.
200 3808 represents a deep intrusion into State sovereignty, and
201 it is especially troubling because it targets just one
202 particular State's law. For all the foregoing reasons, I
203 must oppose this bill.

204 Before I close, I must make a separate but urgent
205 request. We have reached an inflection point in our
206 politics, Mr. Chairman. For months, my colleagues and I
207 have urged this committee to conduct meaningful oversight of
208 the Trump administration. Across the board, House
209 Republicans have failed in that responsibility.

210 Despite the intelligence community's unanimous
211 conclusion that our last election was compromised by a
212 foreign adversary and their warning that Russia and others
213 will certainly attempt to compromise our next elections,
214 they have taken no action to secure our next election from
215 foreign adversaries. The majority seems not to care that
216 President Trump has tried to pressure all three of his FBI
217 directors to make the Russia investigation go away.

218 The majority took the time to trash Deputy Director
219 McCabe in a letter last night but said nothing about the
220 President's attempt to fire Special Counsel Mueller or the
221 President's hints at removing Deputy Attorney General
222 Rosenstein or the President's months-long personal attack on
223 Mr. and Mrs. McCabe.

224 But before now, we could only say that the House
225 Republicans had ignored an obvious, coordinated attempt by
226 President -- to protect President Trump by undermining the
227 special counsel and the FBI. Over the past few days, Mr.
228 Chairman, that characterization has clearly changed.

229 Last night, the Intelligence Committee voted to release
230 a so-called Nunes memo, a set of talking points written by
231 Republican committee staff and based on highly classified
232 information related to an ongoing investigation. They did
233 so over the objection of the Department of Justice, without
234 regard for obvious national security concerns, and without
235 having read many of the documents that the Nunes memo
236 purports to summarize.

237 So, House Republicans are no longer simply ignoring an
238 obvious attempt to obstruct the work of the special counsel;
239 House Republicans are now complicit in an obvious attempt to
240 obstruct the work of the special counsel. They are
241 accessories to it.

242 Earlier this month, at your request, Mr. Chairman, the
243 Department of Justice allowed the two of us to review many
244 of the materials that would put the Nunes memo into context.
245 As far as I can tell, you and I are among the very few
246 members that have actually read these source documents.

247 I should add, Mr. Chairman, that your December 6th
248 letter asking the Department to provide us with these
249 documents cuts against most of your earlier explanations for
250 inaction. You can ask the committee to wait until the
251 special counsel has finished his work before we talk about
252 Russia, or you can assert our jurisdiction to obtain these
253 documents, but you cannot consistently do both.

254 You asked for these documents, the Department
255 delivered, and the investigation into connections between
256 the Trump campaign and the Russian Government are now fair
257 game for hearings and further discussion in this chamber.

258 Because these documents are critical to understanding
259 many of the gross inaccuracies of the Nunes memo, and
260 because so many members of this committee have openly
261 characterized that classified memo in the press without any
262 firsthand knowledge of the documents on which that memo is
263 supposedly based, it is imperative that every member of our
264 committee have access to this material without delay.

265 I wrote to you last week to ask you to work with me to
266 secure that access. I want to make that case again to you
267 now, but I cannot do so in an open setting. I therefore
268 move that the committee immediately move into executive
269 session for further discussion of this topic.

270 If we need to move into a classified setting after that
271 discussion, we can take that step as well. Mr. Chairman, I
272 make the motion that the committee immediately move into
273 executive session for further discussion of this topic.

274 Chairman Goodlatte. The gentleman should put his
275 motion in writing.

276 Mr. Nadler. It is being delivered to the desk right
277 now. It is at the desk.

278 Chairman Goodlatte. The clerk will report the motion.

279 Ms. Adcock. Motion to close committee proceedings,
280 offered by Ranking Member Nadler. I do hereby move that the
281 committee now go to executive session, because disclosure of
282 matters to be considered would endanger national security or
283 would compromise sensitive law enforcement information.

284 Chairman Goodlatte. So the chair recognizes himself in
285 opposition to the motion. We have before the committee
286 today matters related to a bill that was properly noticed
287 before the committee. And the committee should adhere to
288 the agenda of the committee and should not engage in this
289 type of effort to bring up something that is not before the
290 committee and which has not been noticed to the committee.
291 And I think it is inappropriate to have an executive session
292 at this time.

293 Mr. Nadler. Mr. Chairman?

294 Chairman Goodlatte. For what purpose does the
295 gentleman from New York seek recognition?

296 Mr. Nadler. Mr. Chairman, we have been attempting to
297 get a discussion of these matters before this committee for
298 almost a year. We have written repeated letters to you. We
299 have spoken repeatedly; we have asked for full committee
300 access to the FISA materials that you and I have reviewed.
301 We have asked to discuss the interference with the FBI and
302 the special counsel by the President and others.

303 We have asked to discuss the circumstances surrounding

304 the firing of James Comey. We have asked to discuss the
305 foreign interference in Federal elections. We have asked to
306 discuss the many apparent ethics violations of the
307 administration, including the presence violation of the
308 foreign emoluments clause of the Constitution. In every
309 case, the committee has not acted.

310 The chairman has stated repeatedly that we did not have
311 to act on any of this because the special prosecutor was
312 doing the investigation. This, despite the fact that the
313 special counsel is limited in his jurisdiction to looking at
314 crimes, while we have the jurisdiction to look at the
315 circumstances and to look at the effects on the country and
316 on the Constitution.

317 We have been stonewalled. We have this memo now from
318 Mr. Nunes based allegedly on underlying documents, which I
319 can say, having read the underlying documents, it is totally
320 misleading. We have the release by the Intelligence
321 Committee of that document. We have other matters and ample
322 reason that this committee must get involved. And this
323 committee now, or at least the Republican members of this
324 committee, have been alleging various conspiracies and other
325 plots.

326 And I make this motion now, and we can discuss in
327 executive session know all the details and why, because we
328 have been asking for a long time for this committee to take

329 action or at least to discuss these matters which are in our
330 jurisdiction.

331 The FBI is subject to systematic attack by the
332 administration. The FBI is within our jurisdiction, not the
333 Intel Committee's jurisdiction or anybody else. The
334 Department of Justice is within our jurisdiction, and I
335 would submit it is our duty to look at the circumstances
336 under which the integrity of the FBI is being maligned and
337 its integrity assaulted. There is a very serious issue
338 before this country as to the integrity of our public
339 security agencies, and we have to get into that.

340 And I make this motion now to go into executive session
341 to discuss this, because we have tried every other means to
342 do so, and frankly, this is more important than the
343 Scaffolding Law, as important as that may be on either side.

344 Chairman Goodlatte. Would the gentleman yield?

345 Mr. Nadler. I will yield.

346 Chairman Goodlatte. I thank the gentleman for
347 yielding. Well, first of all, as the gentleman knows, we
348 have recognized in this committee that there is a special
349 counsel. I have always supported the work of the special
350 counsel, have never called for the termination of that work,
351 and believe that that work should continue. And we have not
352 a special counsel appointed to delve into the matters
353 related to the other side of the congressional campaign, the

354 campaign of Hillary Clinton, and many concerning matters
355 related to the behavior of the former FBI director and many
356 other people in the FBI, and some in the Department of
357 Justice during that timeframe.

358 And so, we launched, with the cooperation of the
359 gentleman from South Carolina, the chairman of the Oversight
360 and Government Reform Committee, an examination of that. We
361 have so far interviewed two witnesses; we have examined a
362 number of documents. And we have, as the gentleman knows,
363 adhered to in those confidential but not classified
364 interviews a rule that we would stay away from the matters
365 related to Trump/Russia, and we would examine the matters
366 related to other things.

367 Now, there is no question that other committees in the
368 Congress, including the House Intelligence Committee, are
369 doing work that is very much related to what the gentleman
370 is interested in this committee looking into. But I am
371 completely satisfied, and I think members on my side of the
372 aisle are satisfied to allow the special counsel to do the
373 work that the special counsel is doing and see what the
374 special counsel reports.

375 We do have an oversight responsibility. Your
376 predecessor and I have met with Mr. Mueller himself, with
377 the deputy FBI director, and certainly, if we have future
378 meetings in a confidential or classified setting to do that,

379 you would, of course, be included in that as well. Because
380 we do have a responsibility to make sure that this is a fair
381 and impartial investigation, but we are not going to get
382 into the underlying substance of that investigation.

383 So I am opposed to the gentleman's motion, because I
384 think it is directed in that direction. It is directed to
385 try to counter efforts going on in other committees of the
386 Congress which I am not engaging in, except that I may be
387 consulted by others in other committees. That is very
388 different than this committee launching an investigation,
389 and for that reason I must oppose the motion.

390 Mr. Nadler. Reclaiming my time for just a moment, I
391 would simply point out without contradicting, without
392 getting into the debate over what the chairman just said, it
393 is clear at this point that the FBI has been subjected to
394 attack.

395 Mr. Comey was fired. Mr. McCabe has now been forced
396 out. Mr. Rosenstein has been subject to criticism from on
397 high. It is clear that everybody associated with the
398 investigation or who supervises it -- even the Attorney
399 General has been criticized because of this, publicly, and
400 humiliated publicly. There is a concerted attack going on
401 against the integrity of the FBI and of the investigation.
402 And that, this committee cannot fob off on a different
403 committee. That, this committee must look into, and that is

404 part of what we are talking about today.

405 In a moment, I will insist on the motion, but some
406 other --

407 Mr. King. Mr. Chairman?

408 Chairman Goodlatte. For what purpose does the
409 gentleman from Iowa seek recognition?

410 Mr. King. Mr. Chairman, I move to table the motion to
411 close committee proceedings.

412 Chairman Goodlatte. The motion has been made to table
413 the motion of the gentleman from New York.

414 Mr. Cicilline. Mr. Chairman? Mr. Chairman?

415 Chairman Goodlatte. All those in favor of the motion,
416 respond by saying aye.

417 Those opposed, no.

418 In the opinion of the chair, the ayes have it and the
419 motion to table is agreed to.

420 Mr. Nadler. I request a recorded vote.

421 Chairman Goodlatte. A recorded vote is requested, and
422 the clerk will call the roll.

423 Ms. Adcock. Mr. Goodlatte?

424 Chairman Goodlatte. Aye.

425 Ms. Adcock. Mr. Goodlatte votes aye.

426 Mr. Sensenbrenner?

427 [No response.]

428 Mr. Smith?

429 [No response.]
430 Mr. Chabot?
431 [No response.]
432 Mr. Issa?
433 [No response.]
434 Mr. King?
435 Mr. King. Aye.
436 Ms. Adcock. Mr. King votes aye.
437 Mr. Gohmert?
438 [No response.]
439 Mr. Jordan?
440 Mr. Jordan. Yes.
441 Ms. Adcock. Mr. Jordan votes yes.
442 Mr. Poe?
443 Mr. Poe. Yes.
444 Ms. Adcock. Mr. Poe votes yes.
445 Mr. Marino?
446 Mr. Marino. Yes.
447 Ms. Adcock. Mr. Marino votes yes.
448 Mr. Gowdy?
449 Mr. Gowdy. Yes.
450 Ms. Adcock. Mr. Gowdy votes yes.
451 Mr. Labrador?
452 Mr. Labrador. Yes.
453 Ms. Adcock. Mr. Labrador votes yes.

454 Mr. Farenthold?
455 Mr. Farenthold. Yes.
456 Ms. Adcock. Mr. Farenthold votes yes.
457 Mr. Collins?
458 [No response.]
459 Mr. DeSantis?
460 Mr. DeSantis. Yes.
461 Ms. Adcock. Mr. DeSantis votes yes.
462 Mr. Buck?
463 Mr. Buck. Aye.
464 Ms. Adcock. Mr. Buck votes aye.
465 Mr. Ratcliffe?
466 [No response.]
467 Mrs. Roby?
468 [No response.]
469 Mr. Gaetz?
470 Mr. Gaetz. Yes.
471 Ms. Adcock. Mr. Gaetz votes yes.
472 Mr. Johnson of Louisiana?
473 Mr. Johnson of Louisiana. Aye.
474 Ms. Adcock. Mr. Johnson votes aye.
475 Mr. Biggs?
476 Mr. Biggs. Aye.
477 Ms. Adcock. Mr. Biggs votes aye.
478 Mr. Rutherford?

479 Mr. Rutherford. Aye.
480 Ms. Adcock. Mr. Rutherford votes aye.
481 Mrs. Handel?
482 Mrs. Handel. Aye.
483 Ms. Adcock. Mrs. Handel votes aye.
484 Mr. Nadler?
485 Mr. Nadler. No.
486 Ms. Adcock. Mr. Nadler votes no.
487 Ms. Lofgren?
488 Ms. Lofgren. No.
489 Ms. Adcock. Ms. Lofgren votes no.
490 Ms. Jackson Lee?
491 Ms. Jackson Lee. No.
492 Ms. Adcock. Ms. Jackson Lee votes no.
493 Mr. Cohen?
494 Mr. Cohen. No.
495 Ms. Adcock. Mr. Cohen votes no.
496 Mr. Johnson of Georgia?
497 Mr. Johnson of Georgia. No.
498 Ms. Adcock. Mr. Johnson votes no.
499 Mr. Deutch?
500 Mr. Deutch. No.
501 Ms. Adcock. Mr. Deutch votes no.
502 Mr. Gutierrez?
503 [No response.]

504 Ms. Bass?
505 [No response.]
506 Mr. Richmond?
507 [No response.]
508 Mr. Jeffries?
509 Mr. Jeffries. No.
510 Ms. Adcock. Mr. Jeffries votes no.
511 Mr. Cicilline?
512 Mr. Cicilline. No.
513 Ms. Adcock. Mr. Cicilline votes no.
514 Mr. Swalwell?
515 Mr. Swalwell. No.
516 Ms. Adcock. Mr. Swalwell votes no.
517 Mr. Lieu?
518 Mr. Lieu. No.
519 Ms. Adcock. Mr. Lieu votes no.
520 Mr. Raskin?
521 Mr. Raskin. No.
522 Ms. Adcock. Mr. Raskin votes no.
523 Ms. Jayapal?
524 [No response.]
525 Mr. Schneider?
526 Mr. Schneider. No.
527 Ms. Adcock. Mr. Schneider votes no.
528 Ms. Demings?

529 [No response.]

530 Chairman Goodlatte. The gentleman from Texas, Mr.

531 Gohmert?

532 Mr. Gohmert. Yes.

533 Ms. Adcock. Mr. Gohmert votes yes.

534 Chairman Goodlatte. Has every member voted who wishes
535 to vote?

536 For what purpose does the gentleman from New York seek
537 recognition?

538 Mr. Nadler. How am I recorded?

539 Chairman Goodlatte. The gentleman is recorded as a no
540 vote. The clerk will report.

541 Ms. Adcock. Mr. Chairman, 16 members voted aye; 12
542 members voted no.

543 Chairman Goodlatte. And the motion to table is agreed
544 to.

545 Mr. Cicilline. Mr. Chairman?

546 Mr. Deutch. Parliamentary inquiry, Mr. Chairman.

547 Chairman Goodlatte. The chair now recognizes the
548 chairman of the Subcommittee on the Constitution and Civil
549 Justice, Mr. King of Iowa, for his opening statement on the
550 legislation before the committee.

551 Mr. King. Thank you, Mr. Chairman. Mr. Chairman, I
552 join you, Chairman Goodlatte, and a good many other members
553 in supporting this necessary reform. It will facilitate

554 Federal infrastructure projects, expand housing for the
555 homeless, and save billions of dollars in Federal taxpayer
556 money. Legal reform is a vital component of the
557 administration's infrastructure plan, and this bill will
558 deliver it for the American people.

559 Philip Howard, the chairman of the bipartisan legal
560 reform group Common Good, wrote the following about this
561 bill in the New York Daily News: "New York is at the cusp of
562 a major infrastructure building boom, but an obsolete New
563 York statute from the 19th century called the Scaffold Law
564 has already wasted \$200 million on one project, the new
565 Mario Cuomo Tappan Zee Bridge.

566 "With the \$25 billion gateway rail tunnel project under
567 the Hudson River potentially nearing approval, it is vital
568 that the Scaffold Law be repealed in order to avoid wasting
569 as much as \$300 million on that project alone. That is the
570 Port Authority's estimate, which is part of a fuller
571 analysis of the Scaffold Law recently released by Common
572 Good, the nonprofit group I chair.

573 "Overriding the Scaffold Law should be the first step
574 in a larger legislative effort to repeal obsolete laws that
575 cause waste in infrastructure projects. Over many years" --
576 I continue to quote -- "the New York State legislature has
577 resisted all efforts to eliminate the Scaffold Law, which is
578 a favorite of trial lawyers because it creates absolute

579 liability with no limits on damages for many construction
580 injuries.

581 "Construction workers are already covered by worker's
582 compensation with their employer, but the Scaffold Law
583 imposes unlimited liability on property owners and others
584 who have little or sometimes no supervisory authority.

585 "In 2012, 16 of the 30 largest settlements in New York
586 involved the Scaffold Law. Largely as a result, New York's
587 general liability insurance costs for construction are the
588 highest among the 50 States. In Congress, John Faso
589 introduced a bill that would prohibit application of the
590 Scaffold Law to any projects receiving Federal funding.

591 "New Yorkers should rally behind that measure, which
592 will reap immediate savings. It is time for taxpayers to
593 let their elected officials in Congress know that they do
594 not want to pay for the waste from obsolete laws."

595 Well, the Rockefeller Institute also compared the
596 construction worker injury rate in New York with that of
597 Illinois after Illinois repealed its own version of the
598 Scaffold Law in 1995 and found that New York's Scaffold Law
599 encouraged more injuries, presumably because workers are
600 incentivized to engage in more personal responsibility when
601 they cannot blame others for their own negligence. And so,
602 it appears New York's Scaffold Law not only makes
603 infrastructure projects more expensive, it also seems to

604 encourage more injuries.

605 H.R. 3808 is based on the policy that Federal taxpayers
606 should not have to pay for the uniquely limitless liability
607 New York Scaffold Law imposes on property owners and on
608 general contractors involved in federally funded
609 infrastructure projects in New York.

610 New York has a right to enact its own laws governing
611 the people of New York and its State taxpayers, but Congress
612 has the clear constitutional authority to break down such
613 barriers to national infrastructure projects when Federal
614 taxpayer money is involved.

615 And I would point out in addition that we are going to
616 hear a State of the Union address tonight. I am very
617 confident that the President is going to bring up his
618 infrastructure an initiative. And it is also a fact that
619 the President is from the State of New York, and I am very
620 well confident that he is well-versed with the existing
621 Scaffold Law, and he would eagerly like to see this arrive
622 at his desk.

623 Our timing is good; the cause is good. I congratulate
624 Congressman Faso for bringing this before this committee. I
625 thank the chairman, and I urge its adoption. I yield back
626 the balance of my time.

627 [The prepared statement of Mr. King follows:]

628

***** COMMITTEE INSERT *****

629 Chairman Goodlatte. Thank you, Mr. King. I would now
630 like to recognize the ranking member of the Subcommittee --
631 Mr. Deutch. Mr. Chairman, parliamentary inquiry,
632 please.

633 Chairman Goodlatte. The gentleman will state his
634 parliamentary inquiry.

635 Mr. Deutch. Mr. Chairman, can this House Judiciary
636 Committee, by unanimous consent, agree to bring up
637 legislation to finally protect the special counsel from the
638 ongoing efforts on the part of the leadership of the House
639 Intelligence Committee and the White House to sow discord
640 and confusion and distraction and threaten the very
641 investigation that the President tried to end in June when
642 he ordered that the special counsel be filed? Can this
643 committee by unanimous consent agree to bring up that
644 legislation?

645 Chairman Goodlatte. I think that the gentleman should
646 follow the proper rules and procedure and notice
647 requirements, but there is no unanimous consent for what the
648 gentleman suggests. So, the committee will resume.

649 Mr. Deutch. Mr. Chairman?

650 Chairman Goodlatte. The parliamentary inquiry has been
651 addressed.

652 Mr. Deutch. Mr. Chairman, it has not been addressed.
653 I would like the chairman to simply answer this

654 parliamentary inquiry. Can this committee by unanimous
655 consent agree to take up those bills?

656 Chairman Goodlatte. It would violate House rules.

657 Mr. Cicilline. Point of order, Mr. Chairman.

658 Mr. Deutch. If the chairman would elaborate on those
659 House rules that would be violated?

660 Chairman Goodlatte. There is a 24-hour notice
661 requirement to bring the legislation.

662 Mr. Deutch. I understand, Mr. Chairman. Can that be
663 waived by unanimous consent?

664 Chairman Goodlatte. It is a House rule.

665 Mr. Deutch. But can it be waived with the concurrence
666 of the chairman?

667 Chairman Goodlatte. No, not without the concurrence of
668 the House. It is a House rule. The gentleman's inquiry is
669 academic, however, because there is not unanimous consent.

670 Mr. Cicilline. Well, you have not asked.

671 Chairman Goodlatte. The type of motion the gentleman
672 just suggested he wanted to bring up.

673 Mr. Jeffries. Mr. Chairman?

674 Mr. Deutch. Let me, if I may --

675 Chairman Goodlatte. I will now recognize the ranking
676 member of the Subcommittee on the Constitution and Civil
677 Justice, Mr. Cohen of Tennessee, for his opening statement.

678 Mr. Cohen. Thank you. Firstly, I would like to say

679 some of us attended a hearing in New York about the Grammys,
680 and I want to reflect on my friend Warren Zevon's Grammy in
681 2003 for the song "Disorder in the House." "The land of the
682 free and the land of the brave, where the less you know the
683 better off you will be."

684 With that homage, I go on to my statement. This bill,
685 H.R. 3808, has nothing to do with expanding infrastructure
686 or bolstering our economy. It has nothing to do with people
687 on scaffolds taking higher risks so they can get better
688 judgments from a court and risking their lives 50 stories
689 above the ground. That is ludicrous. Hold that up, please.
690 These people, men and women, that get up on scaffolds do not
691 do daring stunts to get money through trial lawyers. That
692 is baloney. This is aimed at overturning at the absolute or
693 strict liability regime of the State of New York's labor law
694 known as the Scaffold Law.

695 Under that statute, contractors and owners on
696 construction projects have an absolute duty to provide safe
697 scaffolding, ladders, hoists, or other elevation equipment.
698 It prohibits any absolute liability lawsuit -- this bill
699 does -- based on a claim for injury stemming from the
700 failure to provide such equipment for any project that
701 directly or indirectly receives Federal financial
702 assistance. That is ludicrous.

703 Would you want to get up there? Would this be a safe

704 place to work? Would not you want the best rules, the best
705 laws, and the best sureties that you could have to say that
706 you would not lose your life and your family would not lose
707 their breadwinner? I think you would, and New York does,
708 too.

709 New York courts have interpreted the Scaffold Law to
710 impose absolute liability, but only when a contractor owner
711 has failed to provide proper and safe equipment and that
712 failure was the proximate cause of the worker's injury.
713 That makes sense. That is family values.

714 The ultimate goal of imposing such modified absolute
715 liability on contractors and owners is to assure that those
716 who are in the best position to guarantee workplace safety
717 take the greatest care to do so, not builders who build
718 large buildings or casinos in cities and do not care about
719 their workers and only care about greed and profit.

720 The facts arising from recent Scaffold Law-related
721 litigation demonstrates the prevalence of elevation-related
722 injuries, particularly in New York City, and the continuing
723 need for the Scaffold Law.

724 For instance, in June 2017, a construction worker in
725 Brooklyn died after falling from scaffolding. A supervisor
726 blamed the man's fall on a slip, but the Fire Department of
727 New York requested an inspection after finding a loose
728 scaffold shortly after the accident. That same month, six

729 construction workers in Queens received nine life-
730 threatening injuries in a scaffold collapse.

731 In September 2017, two workers at two separate
732 construction sites in Manhattan died from falls. In October
733 2017, two workers were seriously injured at a Bronx
734 construction site after falling 20 feet as a result of
735 shoddy scaffolding.

736 As these recent incidents demonstrate, there is ample
737 reason why the New York legislature would want to keep the
738 Scaffold Law to protect the citizens of New York who get up
739 on these scaffolds and do the work to build all those
740 skyscrapers that we all saw when we were in New York. They
741 are everywhere, and somebody has got to build them and risk
742 their lives.

743 As these recent incidents demonstrate, there is ample
744 reason why the New York legislature want to keep the
745 Scaffold Law and a strict regime in place despite numerous
746 attempts to weaken that for greed, for money for the
747 developer -- the developer.

748 Given the particularly large amounts of high-rise
749 building construction that takes place in New York, in New
750 York City in particular, it makes sense the legislature want
751 to respond to particularly heightened local dangers and
752 risks by enacting particularly strict workplace safety
753 mechanisms.

754 Notwithstanding the New York construction industry's
755 well-documented risk of elevation- or gravity-related risk,
756 a coalition of property developers, people who can make big
757 campaign contributions, contractors, and tort reform groups
758 support H.R. 3808 on the grounds that the Scaffold Law
759 increases insurance premiums and infrastructure costs, yet
760 such assertions are unsupported by any publicly available
761 data that can be scrutinized.

762 H.R. 3808 attempts to impose a one-size-fits-all
763 standard that ignores local conditions that defeats the
764 whole point of having a Federal system where States are
765 responsible for much of the health and safety laws that
766 protect workers and others, precisely because conditions
767 vary from State to State.

768 New York is where they build big buildings on broad
769 shoulders, and they do not want those people's broad
770 shoulders to fall down on their rears, and we should not
771 allow it. We need to be a safety net.

772 Because H.R. 3808 inappropriately circumvents the New
773 York Legislature's determination an absolute liability
774 regime is the best approach for enforcing the duty of
775 contractors and owners to ensure workplace safety. And
776 because this bill has not even had a hearing -- not even a
777 hearing -- I strongly oppose this bill and urge the
778 community to reject -- this committee to reject it, go back

779 to regular order, have hearings, have facts established, and
780 then vote on what is the best thing for State-Federal
781 relations and for workers. I yield back the balance of my
782 time.

783 [The prepared statement of Mr. Cohen follows:]

784 ***** COMMITTEE INSERT *****

785 Chairman Goodlatte. For what purpose does the
786 gentleman from Rhode Island seek recognition?

787 Mr. Cicilline. Mr. Chairman, I move to strike the last
788 word, and I have a motion at the desk.

789 Chairman Goodlatte. The gentleman is recognized for 5
790 minutes.

791 Mr. Cicilline. Thank you, Mr. Chairman. I am asking
792 the committee to take --

793 Chairman Goodlatte. Do you want us to report the
794 motion?

795 Mr. Cicilline. Yes. Sorry.

796 Chairman Goodlatte. The clerk will report the motion.

797 Ms. Adcock. Motion to move into classified setting,
798 offered by Mr. Cicilline of Rhode Island. I do hereby move
799 that the committee move into a classified setting, because
800 disclosure of matter to be considered would endanger
801 national security by revealing highly sensitive
802 intelligence, asset, and source materials, and would
803 compromise sensitive law enforcement investigations.

804 Mr. Cicilline. Thank you, Mr. Chairman.

805 Chairman Goodlatte. The gentleman is recognized for 5
806 minutes.

807 Mr. Cicilline. I am asking the committee to take
808 a temporary reprieve from overruling the duly-elected
809 decisions of the people of New York by considering a bill to

810 enrich wealthy New York developers at the expense of working
811 people, to consider my motion.

812 And I thank the ranking member for an earlier motion to
813 move us into executive committee. This motion is to request
814 that we move into a classified setting so we can address
815 many of the issues that have been raised.

816 The notion that we are too busy to do this, or we have
817 not raised the sufficiently, is nonsense. We have written
818 to the chairman of this committee time and time again,
819 imploring him to take up the responsibilities of oversight
820 by this committee to address the issues of the ongoing
821 attack on the FBI, the Department of Justice, an ongoing
822 effort to undermine the credibility of the investigation and
823 the integrity of Robert Mueller, and the American people's
824 demand to know the truth. Those calls have gone unanswered.

825 We now see a new effort underway with a compilation of
826 a so-called report by a person so partisan that he was
827 removed from leading the investigation, we know now that
828 there is information that the report was occasioned in part
829 by a campaign online, "Release the Memo," with significant
830 Russian participation.

831 So the responsibly we have to provide really meaningful
832 oversight while this FBI is under such sustained attack; we
833 see the firing of the FBI director Comey, driving-out of
834 Andrew McCabe, undermining of Mr. Rosenstein, and the list

835 goes on and on. This is the committee. And the chairman is
836 quite right: Many other committees are doing their work.
837 They are fulfilling their oversight responses. We do
838 nothing. We remain silent.

839 What we are asking is to go into a classified setting
840 to give us the opportunity to make the case to you, to the
841 other members on the other side of the aisle. Now, you will
842 make a motion to table, and you will deny every member of
843 this committee the opportunity to be heard on this motion.

844 You will pat yourselves on the back, very proud of
845 that, and you will have disrespected the demands of the
846 American people to know the truth and for the members of
847 this committee to fulfill their responsibilities when we
848 took the oath of office to provide meaningful oversight over
849 the Department of Justice and the FBI, and to safeguard the
850 integrity of this ongoing and serious investigation.

851 And so, I am asking the members of this committee, when
852 you make the motion to table to vote against it, to respect
853 the American people enough to go into executive session and
854 face us face to face; make your arguments.

855 If you are so proud of your effort to enable and aid
856 and abet in the cover-up by this administration, then be
857 willing to say it in public. Be part of the debate and vote
858 to go into executive session or closed session and have this
859 debate with us and respect the American people enough to

860 know they demand to know the truth, and do not continue in
861 this ongoing effort to prevent real oversight by this
862 committee. And I will yield the balance of my time to the
863 gentleman from California, Mr. Swalwell.

864 Mr. Swalwell. Thank you, Mr. Chairman. I thank the
865 gentleman from Rhode Island for his motion. This is the
866 House Judiciary Committee. It is a privilege for all of us
867 to sit on this committee. And at this dark hour in our
868 country, Mr. Chairman, we are considering laws with respect
869 to scaffolding.

870 Now, we should be talking about scaffolding, but the
871 scaffolding of our democracy, because it is under attack by
872 a wrecking ball. Not just from the Trump administration,
873 not just from the President anymore, but by his allies in
874 Congress.

875 Tonight, he will address the House and the Senate and
876 the American people, and the State of our Union, Mr.
877 Chairman, is lawless. It was lawless when the President
878 tried to fire and did fire James Comey. It was lawless when
879 he put pressure on Jeff Sessions to fire Andrew McCabe. And
880 it is lawless as he continues to use his allies in Congress
881 to undermine and fire Bob Mueller.

882 If there ever was a time when the Judiciary Committee
883 should set aside its ordinary business, it is at this very,
884 very troubling time for our democracy.

885 And I would hope that we could go into a classified
886 setting and discuss the Democratic memo that every single
887 Republican on the House Intelligence Committee refused to
888 allow the public to see, a 10-page memo that rebukes and
889 shines light on the memo the Republicans have put out as a
890 brainwashing effort to the public.

891 It rebukes it, and not only rebukes it; it provides a
892 mountain of new evidence that provides more and more
893 credibility for the investigation the FBI is conducting.
894 So, I second the gentleman's motion. I hope all of my
895 colleagues will move to go into classified section at this
896 important time for our country. I yield back.

897 Chairman Goodlatte. For what purpose does the
898 gentleman from Texas, Mr. Gohmert, seek recognition?

899 Mr. Gohmert. I move to strike the last word.

900 Chairman Goodlatte. The gentleman is recognized for 5
901 minutes.

902 Mr. Gohmert. I have not long ago watched the Watergate
903 hearings and have been struck by the concern about liberty
904 and about this little experiment as a democratic republic
905 that Republicans took an active interest in pursuing what
906 the Nixon administration had done.

907 We have now come into evidence that not only was the
908 IRS weaponized -- we were not able to do much about it
909 because our friends across the aisle were stopping us at

910 every turn -- we now have evidence that the DOJ and our
911 intelligence agencies have been weaponized. And that the
912 DOJ and some intelligence assets, combined with a political
913 campaign to surveil a presidential candidate from the
914 opposing party -- and even after he was elected -- to
915 potentially even bring down his presidency.

916 My friends across the aisle have been very loud this
917 morning. We are just trying to debate over a bill so that
918 the Federal Government does not end up being screwed over
919 for money that could go to help children, perhaps, with
920 health insurance. But my friends are going to be on the
921 wrong side of history, if we have history 40, 50 years from
922 now, as a democratic republic.

923 And people like us are looking back and seeing that the
924 Republican elected representatives wanted to find out and
925 get to the bottom of how deep the weaponization went, and
926 root it out, and try to make sure that nothing like that
927 would happen for another 40 or 50 years. And this other
928 party was doing everything they could to prevent us getting
929 to the bottom of just how disastrous this constitutional
930 crisis had become. It is not going to look good.

931 And my friends, when others 40, 50 years from now are
932 seeing the tapes and seeing the righteous indignation to
933 prevent us from being able not only to get to the bottom of
934 the outrageous weaponization of our intel and our Justice

935 Department, but also to just carry on, pass a bill, like
936 being taken up here, so that we can actually move forward,
937 save money for the Federal Government, make sure her people
938 are taken care of, but without running up the price tag on
939 the American taxpayers.

940 So, you know, I have come to develop very warm feelings
941 of friendship with some of the folks on the other side of
942 the aisle. And I am just saying it is not going to look
943 good in the decades to follow when people look back. And
944 they do not see Democrats the way the Republicans were
945 during the Watergate hearings. They see obstruction;
946 obfuscation; pointing here, there, and beyond; righteous
947 indignation to prevent us from correcting when it may be the
948 most disastrous constitutional crisis, certainly, in my
949 lifetime. But that is the reason I now move to table the
950 gentleman's motion.

951 Chairman Goodlatte. A motion has been made to table
952 the motion of the gentleman from Rhode Island.

953 All those in favor, respond by saying aye.

954 Those opposed, no.

955 In the opinion of the chair, the ayes have it and the
956 motion is --

957 Mr. Cicilline. I request a recorded vote, Mr.
958 Chairman.

959 Chairman Goodlatte. A recorded vote is requested and

960 the clerk will call the roll.

961 Ms. Adcock. Mr. Goodlatte?

962 Chairman Goodlatte. Aye.

963 Ms. Adcock. Mr. Goodlatte votes aye.

964 Mr. Sensenbrenner?

965 [No response.]

966 Mr. Smith?

967 Mr. Smith. Aye.

968 Ms. Adcock. Mr. Smith votes aye.

969 Mr. Chabot?

970 Mr. Chabot. Aye.

971 Ms. Adcock. Mr. Chabot votes aye.

972 Mr. Issa?

973 [No response.]

974 Mr. King?

975 Mr. King. Aye.

976 Ms. Adcock. Mr. King votes aye.

977 Mr. Gohmert?

978 Mr. Gohmert. Aye.

979 Ms. Adcock. Mr. Gohmert votes aye.

980 Mr. Jordan?

981 Mr. Jordan. Yes.

982 Ms. Adcock. Mr. Jordan votes yes.

983 Mr. Poe?

984 Mr. Poe. Yes.

985 Ms. Adcock. Mr. Poe votes yes.
986 Mr. Marino?
987 Mr. Marino. Yes.
988 Ms. Adcock. Mr. Marino votes yes.
989 Mr. Gowdy?
990 Mr. Gowdy. Yes.
991 Ms. Adcock. Mr. Gowdy votes yes.
992 Mr. Labrador?
993 Mr. Labrador. Yes.
994 Ms. Adcock. Mr. Labrador votes yes.
995 Mr. Farenthold?
996 Mr. Farenthold. Aye.
997 Ms. Adcock. Mr. Farenthold votes aye.
998 Mr. Collins?
999 [No response.]
1000 Mr. DeSantis?
1001 Mr. DeSantis. Yes.
1002 Ms. Adcock. Mr. DeSantis votes yes.
1003 Mr. Buck?
1004 Mr. Buck. Aye.
1005 Ms. Adcock. Mr. Buck votes aye.
1006 Mr. Ratcliffe?
1007 [No response.]
1008 Mrs. Roby?
1009 [No response.]

1010 Mr. Gaetz?

1011 Mr. Gaetz. Aye.

1012 Ms. Adcock. Mr. Gaetz votes aye.

1013 Mr. Johnson of Louisiana?

1014 Mr. Johnson of Louisiana. Aye.

1015 Ms. Adcock. Mr. Johnson votes aye.

1016 Mr. Biggs?

1017 Mr. Biggs. Aye.

1018 Ms. Adcock. Mr. Biggs votes aye.

1019 Mr. Rutherford?

1020 Mr. Rutherford. Aye.

1021 Ms. Adcock. Mr. Rutherford votes aye.

1022 Mrs. Handel?

1023 Mrs. Handel. Yes.

1024 Ms. Adcock. Mrs. Handel votes yes.

1025 Mr. Nadler?

1026 Mr. Nadler. No.

1027 Ms. Adcock. Mr. Nadler votes no.

1028 Ms. Lofgren?

1029 [No response.]

1030 Ms. Jackson Lee?

1031 [No response.]

1032 Mr. Cohen?

1033 Mr. Cohen. No.

1034 Ms. Adcock. Mr. Cohen votes no.

1035 Mr. Johnson of Georgia?
1036 Mr. Johnson of Georgia. No.
1037 Ms. Adcock. Mr. Johnson votes no.
1038 Mr. Deutch?
1039 Mr. Deutch. No.
1040 Ms. Adcock. Mr. Deutch votes no.
1041 Mr. Gutierrez?
1042 [No response.]
1043 Ms. Bass?
1044 [No response.]
1045 Mr. Richmond?
1046 [No response.]
1047 Mr. Jeffries?
1048 Mr. Jeffries. No.
1049 Ms. Adcock. Mr. Jeffries votes no.
1050 Mr. Cicilline?
1051 Mr. Cicilline. No.
1052 Ms. Adcock. Mr. Cicilline votes no.
1053 Mr. Swalwell?
1054 Mr. Swalwell. No.
1055 Ms. Adcock. Mr. Swalwell votes no.
1056 Mr. Lieu?
1057 [No response.]
1058 Mr. Raskin?
1059 Mr. Raskin. No.

1060 Ms. Adcock. Mr. Raskin votes no.

1061 Ms. Jayapal?

1062 [No response.]

1063 Mr. Schneider?

1064 Mr. Schneider. No.

1065 Ms. Adcock. Mr. Schneider votes no.

1066 Ms. Demings?

1067 [No response.]

1068 Chairman Goodlatte. The clerk will report.

1069 Ms. Adcock. Mr. Chairman, 18 members voted aye; 9

1070 members voted no.

1071 Chairman Goodlatte. And the amendment to table is

1072 agreed to.

1073 Mr. Raskin. Mr. Chairman?

1074 Chairman Goodlatte. I now recognize myself for

1075 purposes of offering an amendment. And we are waiting for

1076 that amendment to arrive at the clerk's desk momentarily.

1077 Mr. Raskin. Mr. Chairman?

1078 Mr. Johnson of Georgia. Mr. Chairman? Mr. Chairman?

1079 Chairman Goodlatte. There -- I have recognized myself.

1080 I am controlling the time.

1081 Mr. Johnson of Georgia. I move to strike the last

1082 word.

1083 Chairman Goodlatte. I have recognized myself for that

1084 purpose.

1085 Mr. Johnson of Georgia. I ask the gentleman to yield
1086 to me so that I can move to strike the last word.

1087 Chairman Goodlatte. I am sure the gentleman's purpose
1088 would be great, but I am happy to have the clerk report the
1089 amendment in the nature of a substitute.

1090 Ms. Adcock. Amendment in the nature of a substitute to
1091 H.R. 3808, offered by Mr. Goodlatte of Virginia. Strike all
1092 that follows --

1093 [The amendment of Chairman Goodlatte follows:]

1094 ***** COMMITTEE INSERT *****

1095 Chairman Goodlatte. Without objection, the amendment
1096 will be considered as read, and I recognize myself to
1097 explain the amendment in the nature of a substitute.

1098 As I mentioned previously, H.R. 3808 would apply only
1099 where Federal funds were used on an infrastructure project.
1100 In such cases, the bill would apply a comparative negligence
1101 liability standard to gravity-related injuries that occurred
1102 on such projects, a standard that considers the comparative
1103 negligence of the injured person, when such negligence is a
1104 proximate cause of an injury to a person. The base bill
1105 applied that standard because it is the majority's standard,
1106 and also applies in New York outside the scaffolding
1107 context.

1108 However, some States also use a contributory negligence
1109 standard. Because, today, every State uses some form of
1110 comparative contributory negligence liability in tort cases
1111 generally, I am offering this amendment in the nature of a
1112 substitute that will also allow courts to use the
1113 contributory negligence standard, thereby preserving all
1114 State law general liability standards, other than New York's
1115 Scaffold Law, when Federal funds are involved.

1116 States should be free to impose their own laws, State
1117 laws, where State interests govern. But where Federal laws
1118 are involved, no State should be able to impose an absolute
1119 liability rule that substantially increases infrastructure

1120 and housing costs to Federal taxpayers. I urge my
1121 colleagues to join me in supporting this amendment in the
1122 nature of a substitute.

1123 Are there any amendments --

1124 Mr. Raskin. Mr. Chairman?

1125 Chairman Goodlatte. Are there any amendments to the
1126 amendment in the nature of a substitute?

1127 Mr. Raskin. Would you yield for --

1128 Chairman Goodlatte. For what purpose does the
1129 gentleman from Maryland seek recognition?

1130 Mr. Raskin. For a question for you, Mr. Chairman,
1131 about the nature of your amendment.

1132 Chairman Goodlatte. Yes. The gentleman is recognized
1133 for 5 minutes.

1134 Mr. Raskin. Thank you very much. Just to address this
1135 amendment first -- and I wanted to go back to something that
1136 Mr. Gohmert said as well.

1137 But as I am reading your amendment to H.R. 3808, it
1138 says that for any project -- I am reading from Line 15 --
1139 "for any project for which Federal financial assistance is
1140 used, a State shall for any claim brought by a covered
1141 person otherwise available against a property owner and
1142 contractor for any injury associated with elevation or
1143 gravity-related risk, apply a comparative negligence
1144 liability standard that considers the comparative negligence

1145 of the injured person or a contributory negligence liability
1146 standard, that considers the contributory negligence of the
1147 injured person, when such negligence is a proximate cause of
1148 an injury to a person."

1149 Am I understanding this correctly, Mr. Chairman, that
1150 you are giving each State, and each State court, the choice
1151 of a comparative or a contributory negligence standard? And
1152 is it in each case that it may choose, or is it in this
1153 category of cases? And who does the choosing? Is it the
1154 State judiciary or is it the State legislature that is being
1155 essentially imposed upon by this legislation?

1156 Chairman Goodlatte. The answer is yes, the State can
1157 choose, but only in this category.

1158 Mr. Raskin. Okay. And when you say, "The State can
1159 choose," this operates directly on the courts. So, the
1160 court can say, "We will use a comparative negligence
1161 standard or a contributory negligence standard."

1162 Chairman Goodlatte. Yeah. This is the standard that
1163 already applies in the courts in every other State.

1164 Mr. Raskin. Okay. But for the first time -- so, for
1165 example, my State has a contributory negligence standard.
1166 But now my State could apply either a comparative or a
1167 contributory negligence standard under this new Federal law
1168 that we are imposing on all 50 States?

1169 Chairman Goodlatte. Well, if there is a statute in the

1170 State of Maryland that requires a standard to be imposed,
1171 the court will be able to apply that standard. Whereas,
1172 under the --

1173 Mr. Raskin. Well, it is being overruled by this law,
1174 is not it? In other words, this law supersedes all 50 State
1175 laws, does not it? So, the courts, presumably, under this
1176 Federal legislation, would be able to say, "We are going to
1177 use comparative or the contributory."

1178 Chairman Goodlatte. Whatever the State of Maryland
1179 requires is what will be imposed here, because the State of
1180 Maryland has passed legislation that dictates that. And we
1181 simply want to recognize that the State of Maryland might
1182 have a standard different than was set forth in the
1183 underlying bill. And so, this amendment in the nature of a
1184 substitute gives Maryland the authority to recognize the
1185 standard that they recognize now.

1186 Mr. Raskin. Well, what if a State -- and many of them
1187 do -- have a common-law standard that has been adopted by --
1188 either contributory or comparative negligence. Would this
1189 not overrule the common law in order to say that the State
1190 courts would have to apply or could apply either a
1191 comparative or a contributory standard?

1192 Chairman Goodlatte. Well, would the gentleman yield?
1193 This would allow that State to recognize that common-law
1194 standard that they recognize under their law.

1195 Mr. Raskin. I just do not read this language in that
1196 way. I mean, it seems to me -- I understand, if that is --
1197 if your purpose is basically to say that any State can
1198 choose contributory or comparative negligence and have that
1199 as its rule or that the current law is not superseded,
1200 except in New York, then it could be in that way.

1201 But I think what this says is that any State -- and I
1202 do not know whether -- I mean, again, because this is a
1203 rather radical overruling of federalism in State law. But I
1204 read it to say that the courts could choose to adopt one of
1205 the other, regardless of what the State legislature has
1206 said. That is the import of this Federal legislation.

1207 Chairman Goodlatte. The court is going to look to
1208 their State law and apply that.

1209 Mr. Raskin. Well, why is this necessary, then? I
1210 mean, in other words, if you are just silent on it, why
1211 would not you just go back to it?

1212 Mr. Biggs. Will the gentleman yield?

1213 Chairman Goodlatte. The bill simply says, whatever the
1214 law is, the State continues to apply.

1215 Mr. Biggs. Will the gentleman yield?

1216 Mr. Raskin. I will yield in one second. But here is
1217 the issue I am having, just conceptually. And again, we are
1218 not having an ideological disagreement here. We are just
1219 trying to figure out what this language means.

1220 Right now there is a spectrum of laws in the States.
1221 There are pure contributory negligence. There are modified
1222 contributory negligence. There is pure comparative
1223 negligence standard. There is modified comparative
1224 negligence. There is strict liability, which this seems to
1225 be targeting. And then you say, everything has got to fit
1226 into peg A or peg B; square A or square B.

1227 And it is also not clear whether that is operating
1228 directly on the State legislature or directly on the courts.
1229 Because you know, as I understand it, we have never done
1230 this before. We are basically usurping the State's power to
1231 define tort law. But I do not know what the import of this
1232 is, and I am happy to yield.

1233 Mr. Biggs. Thank you. I thank the gentleman for
1234 yielding. It might be clarified if you inserted a clause
1235 following on line 5 on page 2, simply, that said, "According
1236 to the laws of the State." So, you have effectively
1237 repealed the strict liability provision that is the
1238 scaffolding law, but you have allowed the States to apply
1239 the laws of their State vis-a-vis comparative negligence or
1240 contributory negligence.

1241 Mr. Raskin. Can you draw that up? Would you draw that
1242 up? I would be very happy to look at that.

1243 But right now, I want every member in this room to
1244 understand, this is targeting your State's law, because

1245 right now this says that every State's law is thrown into
1246 doubt, in essence, that the State courts in your State can
1247 impose contributory, even if you are in a modified
1248 comparative jurisdiction. Or you can impose comparative if
1249 you are in a strict contributory negligence jurisdiction.

1250 I think that this needs to be written, at the very
1251 least, in order to clarify what it is saying. I mean, we
1252 are obviously in dangerous territory when we are trying to
1253 change the law of one State, which is what this bill is all
1254 about, by the explicit account of its own authors. But the
1255 language is written in such a way as to level what is going
1256 on across the States and to force everybody into one camp or
1257 another.

1258 And again, it is not clear to me whether this is
1259 operating on the State legislatures; whether their processes
1260 are being commandeered so they have got to change their law
1261 or whether the courts themselves are supposed to interpret
1262 the meaning of this Federal legislation.

1263 Chairman Goodlatte. If the gentleman would yield.

1264 Mr. Raskin. Yes, by all means.

1265 Chairman Goodlatte. I would just simply, again, say to
1266 the gentleman that I think his reading of the amendment in
1267 the nature of a substitute is not correct, and that States
1268 will -- as they should -- impose the law. Any subset of
1269 either comparative negligence or contributory negligence

1270 that they have their State will continue to be imposed under
1271 this amendment.

1272 Mr. Raskin. Well, it does not say that, Mr. Chairman.
1273 I would be very happy to look at an amendment that does --
1274 Chairman Goodlatte. I just have to disagree with the
1275 gentleman.

1276 Mr. Raskin. Okay. Well, I am happy to yield back.
1277 Chairman Goodlatte. Are there any amendments to H.R.
1278 3808?

1279 Mr. Johnson of Georgia. Mr. Chairman, I would ask to
1280 strike the last word as to the amendment in the nature of a
1281 substitute.

1282 Chairman Goodlatte. The gentleman is recognized for 5
1283 minutes.

1284 Mr. Johnson of Georgia. Thank you, Mr. Chairman. Mr.
1285 Chairman, let's not get this bill twisted up in terms of
1286 legalese and wording.

1287 The bottom line about this bill is that it seeks to
1288 usurp a 100-year-old New York statute so that it can protect
1289 big money New York developers like President Donald Trump,
1290 big money real estate developers in New York; Donald Trump.
1291 Let's not get this twisted up. This is legislation designed
1292 to protect Donald Trump, who has been the subject of
1293 scaffolding lawsuits -- he and his enterprises -- throughout
1294 the years of his doing business, where workers have been

1295 killed or grievously injured as a result of scaffolding
1296 collapses or falling off of scaffolding.

1297 So this legislation is exactly what Donald Trump wants.
1298 And whatever Donald Trump wants, Donald Trump gets from this
1299 Congress. It does not matter which committee it is; whether
1300 or not it is Judiciary, whether or not it is Intelligence,
1301 whether or not it is Oversight and Investigations. He gets
1302 whatever he wants. He uses his bully pulpit in a blustery,
1303 overbearing, and badgering way to intimidate people here in
1304 Congress -- Republicans -- into doing whatever he wants them
1305 to do.

1306 This is an example of it -- one day -- less than one
1307 day after the House Intelligence Committee Republicans take
1308 the astoundingly dangerous step of agreeing to release a
1309 memo with classified information in it that has not been
1310 approved by our intelligence apparatus nor by our law
1311 enforcement apparatus. In fact, DOJ has warned of how
1312 dangerous and inappropriate the release of that Devin Nunes
1313 memo would be.

1314 But yet, Republicans on the Intelligence Committee
1315 voted to release the document. Would not even accommodate
1316 the Senate Intelligence Committee, who requested to see the
1317 document before it was released, before the vote of the
1318 House Intelligence Committee. The House Intelligence
1319 Committee refused to share the classified document prepared

1320 by Nunes with the Senate.

1321 I mean, it is stunningly inappropriate for this
1322 Congress to act this way. So, across the board, we see
1323 people do everything they can to protect the Trump
1324 administration and to protect the private enterprises of
1325 this President, Donald Trump.

1326 It is amazing what is going on in America today, on all
1327 levels in this Congress. It speaks to why it is so
1328 important for the voters to pay attention to what is going
1329 on, connect the dots.

1330 And they are not hard to connect because every time you
1331 look around now, there is something that this Congress is
1332 doing to protect Donald Trump. And they will do it
1333 regardless of whether or not it hurts America or not.

1334 There is a reason why this American flag that I have on
1335 my lapel sits above this congressional pin that I am
1336 wearing. This flag is what this congressional pin is all
1337 about.

1338 So, in other words, we should be here not to protect
1339 the politician and to enhance our partisan politics. We
1340 should be about protecting the Republic, which is
1341 represented by this flag. And this Republican-controlled
1342 Congress is showing exactly the opposite.

1343 I wish that every legislator would think about the
1344 Framers of our Constitution and what, from their graves,

1345 they must be thinking about when they watch what is going on
1346 in Congress today, when they see in every committee
1347 throughout this Congress what is being perpetrated on our
1348 constitution, how you are trying to destroy our way of life.
1349 And with that, Mr. Chairman, I will yield back.

1350 Chairman Goodlatte. The chair thanks the gentleman.
1351 For what purpose does the gentleman from Texas seek
1352 recognition?

1353 Mr. Poe. Mr. Speaker, I move to strike the last --
1354 Chairman Goodlatte. The gentleman is recognized for 5
1355 minutes.

1356 Mr. Poe. Mr. Chairman, I just want to express my
1357 resentment to the gentleman who just spoke. Labeling
1358 Congress as a rubber stamp for the President, to do whatever
1359 the President wants, that is what Congress does -- I resent
1360 that. I am a Member of Congress, and I make my vote based
1361 upon what is best for the country and the people in Texas
1362 that I represent. I just want the gentleman to know that I
1363 resent his remarks a great deal, accusing Congress of, I
1364 think, malfeasance, especially the Republicans.

1365 The issue before us today is not President Trump. The
1366 issue today before this committee on this bill is really
1367 pretty simple. It is whether or not Congress, this
1368 committee, should pass a specific law in the State of New
1369 York to change New York's liability's laws. And the

1370 argument I hear is, "Well, we need to save taxpayer money."
1371 So, that is the federalism issue before us, whether there is
1372 a Federal issue of saving taxpayer money because of the law
1373 in New York.

1374 It seems to me that the 10th Amendment, what is left of
1375 it, continues to be eroded away. And I personally do not
1376 have a stake in what happens in New York at all. I seldom
1377 agree with the ranking member -- I know this makes him
1378 nervous, that I am agreeing with him today -- but I do not
1379 think Congress has any business at all dealing with this.

1380 This is not our issue. It is a States issue, and if
1381 the State of New York wants to have strict liability and it
1382 costs more money to whoever -- the insurance companies --
1383 well, that is not our business. It is New York's business.

1384 And I do not think Congress ought to be involved in
1385 this issue at all. What is next? What State are we going
1386 to pick on next to go in and change their liability laws?
1387 So, in all due respect to the chairman and the members who
1388 have sponsored this bill, this is a federalism issue. It is
1389 not Congress' issue. It is New York's problem or issue.
1390 They do not want to deal with it? Then, New York: do not
1391 deal with it. But it certainly should not be our issue.

1392 And big Federal Government comes in and says, "Well,
1393 you do not have the liability laws we like. We are going to
1394 change it based upon money factor." So, I will not support

1395 the legislation. But I do want to make it clear that I base
1396 my vote -- and I think most members on both sides base their
1397 vote totally on what is best for the country, what is best
1398 for the Constitution, and what is best for the people that
1399 we represent. So, I yield back to the chairman.

1400 Chairman Goodlatte. Would the gentleman yield?

1401 Mr. Poe. Yes.

1402 Chairman Goodlatte. I thank the gentleman for
1403 yielding, and I appreciate his sentiments. But I just want
1404 to make this very clear: this bill relates directly to
1405 federally-funded infrastructure projects that connect State
1406 roads and bridges. It is squarely within Congress'
1407 constitutional spending clause and commerce clause
1408 authorities, the very same clauses that support Congress'
1409 authority to establish a Federal highway system itself.

1410 Under this bill, if New York wants to preserve its
1411 Scaffold Law, it is entirely free to do so by simply
1412 refusing Federal funds. If State and private funds are the
1413 only funds involved in an infrastructure project in New
1414 York, the Scaffold Law will continue to apply. But if New
1415 York wants Federal taxpayer dollars, those dollars are going
1416 to have to come with reasonable conditions, including a
1417 requirement that Federal taxpayer money not be used to pay
1418 for things that are the fault of others.

1419 True federalism allows Federal conditions to follow the

1420 use of Federal funds. False federalism, federalism turned
1421 on its head, demands that Federal taxpayer dollars subsidize
1422 the cost of State laws. This bill stands for the principle
1423 of true federalism. Federal taxpayers, through their
1424 elected Federal representatives, should control how their
1425 Federal taxpayer dollars are spent. I respect the
1426 gentleman, but I respectfully disagree.

1427 Mr. Poe. Reclaiming my time, we do disagree, Mr.
1428 Chairman. I think that this is the responsibility for the
1429 State of New York. It is not our issue. And I think that
1430 we -- in all due respect -- I think this is a 10th Amendment
1431 issue totally. And then I yield back my time.

1432 Chairman Goodlatte. I thank the gentleman for yielding
1433 to me. For what purpose does the gentleman from New York
1434 seek recognition?

1435 Mr. Nadler. Strike the last word on the manager's
1436 amendment and the amendment in the nature of a substitute.

1437 Chairman Goodlatte. The gentleman is recognized for 5
1438 minutes.

1439 Mr. Nadler. Thank you. Let me begin by pointing out
1440 to the gentleman from Texas, I thank him for agreeing on
1441 this, but I also want to point out we agreed on the FISA
1442 amendments in section 702. So, this is not unique.

1443 But the gentleman is correct. This is a federalism
1444 issue. And we have too often invaded the provinces of the

1445 States. It used to be a standard Republican argument --
1446 maybe I am showing my age by remembering this -- but it used
1447 to be a standard Republican argument against most Federal
1448 spending proposals of any sort that it would be used to
1449 tamper with States' rights to make their own decisions. And
1450 that was an argument, and many of us dismissed that argument
1451 by saying that would not happen, and the States' sovereignty
1452 would continue to be respected.

1453 But here, we are showing -- at least to some extent --
1454 the validity of that old Republican argument. I do not
1455 think it is valid to say we should not spend money on the
1456 Federal level, but we should refrain from dictating to the
1457 States. And I rise in opposition to the amendment in the
1458 nature of a substitute, which would add the ability for a
1459 defendant in a case covered under the bill to avoid
1460 liability by citing plaintiff's contributory negligence.

1461 This amendment in no way addresses my principal concern
1462 with the bill, which is that any changes to the enforcement
1463 scheme of New York's Scaffold Law should be considered by
1464 New York's Legislature, not by Congress. And I must say,
1465 this makes me feel younger, because I remember debating this
1466 bill in the legislature when I was a member of the assembly
1467 about 30 years ago. Under a contributory negligence regime,
1468 even if a plaintiff is only 1 percent at fault, the
1469 defendant is entirely free from paying any damages at all.

1470 It is an old tort rule that only a handful of States
1471 still retain because of its manifest unfairness -- and
1472 especially unfair in a situation like this, where the
1473 employer sets the conditions of the work. The employer
1474 decides what kind of scaffolding to have. The employer --
1475 the contractor, the employer -- decides what safety
1476 protections will be in place. The worker works at the risk
1477 of whatever safety is in place.

1478 The State of New York has decided that in order to
1479 protect the workers, the only thing that works is to have
1480 strict liability, not in the normal tort sense, but in the
1481 sense that if you do not maintain -- you, the contractor --
1482 do not maintain a safe working environment, and if it is
1483 shown that the failure to maintain that safe working
1484 environment contributed to the injury, then you are at
1485 fault.

1486 And we are not looking at a comparative injury
1487 provision, or, even worse, contributory, under the amendment
1488 in the nature of a substitute, if the employer refuses to
1489 have any safety mechanisms at all. And as a result, 99
1490 percent of the fault for the injury, for the death of the
1491 worker, for example, is because of the refusal to maintain
1492 proper safety standards, which is the choice of the
1493 employer, not the employee.

1494 But if the employee was at all negligent -- 1 percent -

1495 - then the employer is totally off. Under that standard,
1496 you are not going to see very many safety protections. That
1497 is why the New York Legislature chose, in the 1880s and the
1498 1980s and currently, to maintain the law the way it is in
1499 New York.

1500 We can debate the intelligence of the law, but it is a
1501 federalism issue. It is a New York law. The statistics, by
1502 the way, that were cited before about the insurance costs --
1503 the reports that was cited before that the Scaffold Law
1504 greatly increases the insurance costs and so forth -- that
1505 report has been attacked on the grounds that it does not
1506 rely on actuarially-grounded data to support the assertion
1507 that the law causes an increase in insurance premiums, and
1508 insurance companies have refused to allow the public to
1509 scrutinize their data and have opposed past New York State
1510 legislative proposals to make such data available for public
1511 review.

1512 One assumes that if, in fact, the data which the
1513 insurance companies have supported the assertion that, in
1514 fact, the insurance premiums are substantially higher and
1515 the costs are higher because of the Scaffolding Law, they
1516 would let the government of New York see this information.
1517 One has to assume that because they refused to let anybody
1518 see this information, it is because that information does
1519 not support this assertion.

1520 So we have an amendment here which makes the bill even
1521 worse because it says that you can have contributory, not
1522 comparative, negligence, where, no matter how egregious the
1523 violation of safety standards and refusal of the employer to
1524 have safety standards, if there is any negligence by the
1525 employee, the employee is liable, not the manager.

1526 The predictable result of this bill, if it passed, is a
1527 great reduction in investment in scaffolding and in other
1528 safety measures and a great increase in deaths and injuries
1529 to workers. And because the manager's amendment would cause
1530 this, and because it does not address the concern with
1531 overriding New York State law, which we have no reason to do
1532 -- it may, in fact, exacerbate the federalism concern -- I
1533 must oppose the amendment. I yield back.

1534 Chairman Goodlatte. Are there any amendments to the
1535 amendment in the nature of a substitute? Does the gentleman
1536 from New York care to offer an amendment?

1537 Mr. Nadler. No.

1538 Chairman Goodlatte. All right. The question occurs on
1539 the --

1540 Mr. Nadler. Wait, wait, wait.

1541 Ms. Lofgren. Mr. Chairman, I move to strike the last
1542 word.

1543 Chairman Goodlatte. The gentlewoman is recognized for
1544 5 minutes.

1545 Ms. Lofgren. And I yield to Mr. Raskin from Maryland.

1546 Mr. Raskin. I want to thank the gentlelady for
1547 yielding. So, if all of this is really designed to have us
1548 sit as the super-legislature of New York and overturn the
1549 laws of New York, I am wondering about what the concrete
1550 effects of passing this legislation are. The only one who
1551 might be able to predict this is Mr. Nadler, since he served
1552 in New York Legislature.

1553 But let's say that we enact this legislation, and the
1554 New York Legislature takes the position that, under the
1555 Prince v. United States case in 1997, or the hazardous waste
1556 control case, or South Dakota v. Dole, that is a totally
1557 unconstitutional, and they refuse to enact a statute
1558 codifying either comparative or contributory negligence.

1559 And they cite all of their legislative history about
1560 the unique dangers associated with, you know, working at
1561 skyscraper-level on scaffolding, and they invoke the dozens
1562 of people who have fallen to their deaths that way. And
1563 they say the strict liability regime is working, but they
1564 say it has been debated in the legislature, but this is
1565 where they come out. And they say, "We are not doing
1566 anything else."

1567 At that point, as I understand it, the New York State
1568 courts would have to interpret Federal law. But given the A
1569 or B under Mr. Goodlatte's amendment, is it left up to the

1570 judge to determine whether they are applying comparative
1571 negligence or contributory negligence at that point? Does
1572 the court get to decide? So, this is one of the baffling
1573 brainteasers caused by Congress sitting as a super-
1574 legislature for the State of New York.

1575 If you do not care about New York's Legislature and
1576 their federalism -- and I do want to salute Mr. Poe for his
1577 distinguished and principled federalism that he has just
1578 stated here -- but let's say you do not care about the
1579 people of New York. You say, "It is a blue State; we do not
1580 care if we trample their laws."

1581 What about the laws in your State? Most States have a
1582 comparative negligence law, but this Federal legislation
1583 says that the courts can apply either comparative negligence
1584 standard or a contributory negligence standard, at least as
1585 unclarified at this point.

1586 It just throws a bunch of mush into the State law of
1587 every one of our States, and so if you want to make a
1588 surgical strike against New York and say, "We do not like
1589 the balance of power in the New York Legislature; we are
1590 going to overrule you, and we are going to use a
1591 sledgehammer to do it," then do that. At least do that.

1592 Target the people in New York if that is what really
1593 what you are after, but this throws the tort laws of every
1594 State in the union completely up into the air. And we do

1595 not know whether this applies against the States, which is
1596 almost certainly unconstitutional; against the courts, which
1597 just introduces all kinds of vagueness and uncertainty into
1598 the tort law system.

1599 So, I think this is a good argument for the design of
1600 the Framers, for the design of the 10th Amendment, and for
1601 our respecting the rights and the powers of the people of
1602 the States to decide tort law for themselves. And if we do
1603 not want to spend our money in New York, let's not spend our
1604 money in New York. Fine. Let's not do it, but let's not
1605 try to use the spending of Federal money as a lever by which
1606 to overrule the considered legislative judgment of the
1607 people of New York. And so --

1608 Ms. Lofgren. Reclaiming my time --

1609 Mr. Raskin. Yes.

1610 Ms. Lofgren. I would note that there are a long line
1611 of cases indicating use of the funding authority in this way
1612 will fail on constitutional grounds, as the member from
1613 Maryland has pointed out as a former constitutional law
1614 professor. But it is also bad policy, you know.

1615 Why do we think that we know better what the tort law
1616 ought to be in the various States? I have never voted to do
1617 that insofar as I can recall and often oppose it, even when
1618 I might have, on the merits of a bill, agreed. That is just
1619 not the proper role for the Congress. And with that, Mr.

1620 Chairman, I yield back.

1621 Mr. Gohmert. Mr. Chairman?

1622 Chairman Goodlatte. For what purpose does the
1623 gentleman from Texas seek recognition?

1624 Mr. Gohmert. I rise in support of the manager's
1625 amendment.

1626 Chairman Goodlatte. The gentleman is recognized for 5
1627 minutes.

1628 Mr. Gohmert. I have made the prior chairman from my
1629 own State, who is a very, very dear friend, very, very angry
1630 in our prior efforts to change medical malpractice laws in
1631 all States in the union. Originally, there was just
1632 basically no Federal nexus, and it was totally
1633 inappropriate, and the arguments were made here "Yeah, but
1634 you did tort reform in Texas; do you not want Illinois and
1635 every other State to have your good tort reform?" And my
1636 response was always "That is up to the individual State."

1637 In this case -- and I appreciated the comments from my
1638 friend Mr. Raskin, because it did make me look again at the
1639 language -- as a former judge that would have had to apply
1640 this kind of law, I think there is enough federalism at play
1641 here. When the Federal Government is going to be paying for
1642 a project, and especially when tonight I expect the
1643 President to lay out a program for helping with
1644 infrastructure around the country in places where the

1645 Federal role is appropriate.

1646 If a State is saying it is going to be strict
1647 liability, so the Federal Government -- "You are going to do
1648 infrastructure in our State; you are going to have to pay a
1649 whole lot more because you are going to be strictly liable"
1650 -- then I think, as the chairman pointed out, the question
1651 is, well, do you want the Federal help or not? Because if
1652 you do, and there is an injury that results, then it comes
1653 back to the judge.

1654 And as it says here, you know, "Where there is Federal
1655 financial assistance a State shall" -- and you get over the
1656 top of Page Two -- "apply a comparative negligence liability
1657 standard or a contributory negligence liability standard,"
1658 whatever the State has.

1659 And if this were a law I was having to apply in one of
1660 the lawsuits in my court, then I would look at the State law
1661 -- which do we use here in Texas -- and that is what we
1662 would use. This bill gives that opportunity. So, I
1663 certainly appreciate the concern of my friend, Mr. Raskin,
1664 but I think this is adequate to give enough --

1665 Mr. Nadler. Would the gentleman yield?

1666 Mr. Gohmert. Yes, I yield.

1667 Mr. Nadler. Thank you. I would point, Mr. Gohmert,
1668 the amendment in the nature of a substitute does not talk
1669 about only, you know, if we are giving the States money,

1670 where you might make a case. It says, "Federal financial
1671 assistance is used directly or indirectly." This could be a
1672 tax credit. It could be an SBA loan. And it is undefined,
1673 and we have had no hearings. So, we are not talking
1674 necessarily about a Federal expense at all.

1675 We are saying if there is a tax benefit of a fixed
1676 amount, if there is an SBA loan of a fixed amount, then we
1677 are dictating to the State what its tort law ought to be.
1678 And somebody may say that does not include that, but it
1679 says, "Federal financial assistance is used directly or
1680 indirectly," which seems to include that.

1681 And again, we have had no hearings in which to
1682 elucidate the meanings of these terms. So, I could
1683 understand the gentleman's argument -- I would not agree
1684 with it, but I could understand it -- if the bill were
1685 limited to where the Federal Government is paying for part
1686 of the project with direct cash grants. Then you could say,
1687 "Well, if we are paying for 10 percent, 10 percent of a
1688 larger expense is a larger amount of money this is costing,
1689 so this tort rule in New York is costing the Federal
1690 Government money." But we are talking also, apparently,
1691 about a tax credit, or about an SBA loan, where it does not
1692 cost the Federal Government any money.

1693 Mr. Gohmert. Well, reclaiming my time, I see what the
1694 gentleman is saying about for any project there at the top

1695 of A. It does say "directly or indirectly," and then that
1696 addresses the absolute liability issue. But then, down at
1697 line 15, it is "any project for which Federal financial
1698 assistance is used," and does not use the term "directly or
1699 indirectly" in setting out the use of comparative or
1700 contributory negligence.

1701 So I think it would need to be more direct than
1702 indirect, and I would see that being left up to the State
1703 judge, as I was.

1704 But the gentleman makes a good point, but I think this
1705 may be an exception where I will come down on the side of
1706 the manager's amendment and be one of the rare cases where I
1707 do not have the chairman furious at me in this area. And I
1708 yield back.

1709 Ms. Jackson Lee. Mr. Chairman?

1710 Chairman Goodlatte. The chair thanks the gentleman.
1711 For what purpose does the gentlewoman from Texas seek
1712 recognition?

1713 Ms. Jackson Lee. I move to strike the last word.

1714 Chairman Goodlatte. The gentlewoman is recognized for
1715 5 minutes.

1716 Ms. Jackson Lee. Thank you very much, Mr. Chairman.
1717 First of all, the usual standard bearers of the question of
1718 States' rights are my friends to my right, so I am somewhat
1719 speechless in moving to strike the last word, Mr. Chairman,

1720 on the context of this legislation.

1721 First of all, for those of us who had the opportunity
1722 to live in New York for a period of time, to travel to New
1723 York for a period of time, we realize that New York, and New
1724 York City in particular, has a proclivity for heights.

1725 They also have a proclivity for very old buildings, and
1726 they have had over my recent time in Congress building
1727 collapses, large equipment falling into buildings, and in
1728 the mix there are construction workers. So, first premise
1729 is that we are eliminating States' rights by New York's
1730 determination on how they would solve the problem of
1731 construction with heights.

1732 In a letter to our ranking member, dated September 21,
1733 2017, the New York State AFL-CIO -- not the national, so
1734 this is States' rights and state information -- says,
1735 "Construction, particularly work at heights, is extremely
1736 dangerous." Maybe we were not aware of that. One workplace
1737 death is one too many, but some parts of the State -- New
1738 York City, for example -- there has been or they have seen
1739 an epidemic in construction death. The last thing we can do
1740 is for it to roll back safety.

1741 Now, let me say that I am a strong advocate for Habitat
1742 for Humanity. They do enormous work. But in this instance,
1743 I would wish the Habitat for Humanity's national entity
1744 representing their great work would meet with Members of

1745 Congress and meet with the legislators in New York, besides
1746 sending a letter, and so that we could explain the
1747 inadequacy of snatching from the State its rights to
1748 regulate its workplaces, and that there can be some
1749 respectable acknowledgment of entities like Habitat for
1750 Humanity.

1751 And, obviously, I know everyone builds high, up, in New
1752 York. I am not familiar of them building skyscrapers. So,
1753 if it has been an hindrance to helping Hurricane Sandy
1754 victims, I will be the first to find a pathway for them to
1755 do that.

1756 But if you read the manager's amendment, rather than
1757 full rights for the injured or deceased individuals'
1758 families -- let me just read this for you. So, this nexus
1759 is, of course, Federal financial assistance. By the time we
1760 get through with the tax bill, we will not have a dime
1761 anyhow to provide any financial assistance -- but the
1762 financial assistance.

1763 And it says, "For any claim brought by a covered person
1764 otherwise available against a property owner or contractor
1765 for any injury associated with an elevation- or gravity-
1766 related risk, apply a comparative negligence liability
1767 standard that considers the comparative negligence of the
1768 injured person or a contributory negligence liability
1769 standard that considers the contributory negligence of the

1770 injured person when such negligence is a proximate cause of
1771 an injury to a person."

1772 Now, if anyone has seen individuals on scaffolding,
1773 many of them individuals who are immigrants, many of them
1774 vulnerable people who are intimidated by any form of
1775 government, and you are going to argue, "I assume the
1776 employer is responsible for a drunk employee, because you
1777 know that employee is drunk; they should not be on the
1778 scaffolding anyhow."

1779 But what is the negligence of an individual at 102
1780 stories or 90 stories, and the wind comes, and they fall?
1781 And who is there to document the negligence of that employee
1782 should have had two feet strapped down with chains; they did
1783 not take the chains up there.

1784 This is an abomination, and it goes to the well-meaning
1785 but unfortunate insensitivity of knowing what it means to
1786 work for a living. There are other ways to address the
1787 question of Habitat for Humanity. This is only addressing
1788 the question of the pocketbook of large construction
1789 companies interfering with the legitimate legal structure
1790 and choices made by New York State.

1791 Chairman Goodlatte. The time of the gentlewoman has
1792 expired.

1793 Ms. Jackson Lee. I am sorry, Mr. Chairman. I oppose
1794 the underlying bill and the amendment in the nature of a

1795 substitute.

1796 Chairman Goodlatte. For what purpose does the
1797 gentleman from Arizona seek recognition?

1798 Mr. Biggs. I move to strike the last word.

1799 Chairman Goodlatte. The gentleman is recognized for 5
1800 minutes.

1801 Mr. Biggs. Thank you, Mr. Chairman. I support the
1802 amendment in the nature of a substitute. And I appreciate
1803 this discussion, how it has turned to the federalism issue,
1804 because when I first read the underlying bill, I immediately
1805 had some federalism concerns. But I got to thinking, you
1806 know, we in Arizona, we pay a lot of Federal tax, too.

1807 And when I saw the limitation in this bill and in the
1808 amendment in the nature of a substitute in line 15, which
1809 particularly talks about for which Federal financial
1810 assistance is used, I became comfortable, because we are
1811 chasing Federal tax dollars that my constituents would
1812 otherwise be on the hook for. That is what this became for
1813 me. But I am very excited to hear what I think the
1814 gentlewoman from Texas just said, and I think I wrote down
1815 her comment. She is concerned that we are "snatching
1816 States' rights to regulate its workplaces."

1817 I worked on the fall legislation in Arizona, and we
1818 were greatly constrained in regulating our workplace by not
1819 just State laws but, oddly enough, the Federal OSHA

1820 requirements. And those Federal OSHA requirements come into
1821 play at low heights and at great heights in the scaffolding
1822 and in the construction industry.

1823 So I am just excited to hear my friends across the
1824 aisle now say they want the States to regulate its
1825 workplaces. I hope that expands to everything, and we can
1826 start saying, "Well, OSHA, get out of the States' ways.
1827 They are going to start regulating."

1828 So I am bit surprised that my friends across the aisle
1829 have turned this into a federalist issue on this one lone
1830 aspect, but they are willing to let federalism go away on
1831 the actual regulation part of it.

1832 So, Mr. Chairman, I think federalism applies here
1833 because the Federal taxpayer is on the hook. And so, with
1834 that, I yield back, Mr. Chairman.

1835 Mr. Deutch. Mr. Chairman?

1836 Chairman Goodlatte. For what purpose does the
1837 gentleman from Florida seek recognition?

1838 Mr. Deutch. I move to strike the last word.

1839 Chairman Goodlatte. The gentleman is recognized for 5
1840 minutes.

1841 Mr. Deutch. Thanks, Mr. Chairman. I will leave the
1842 federalism argument to others. I am going to just try to be
1843 really simple about this. The fact is, as most people do
1844 not work on scaffolds; they do not work high above the

1845 ground. But if you ask them anywhere -- your district, my
1846 district, anywhere in America -- if they think that there
1847 should be some liability if there is an accident if, and
1848 only if, the contractor or owner failed to provide proper
1849 protection, they would say, "Yeah, that sounds about right."

1850 That is what the New York law is. I do not understand
1851 why we would want to reject that. It seems pretty clear
1852 that the people who are in the best position to protect
1853 workers are the ones who ought to take those measures.

1854 Mr. Raskin. Would the gentleman yield?

1855 Mr. Deutch. I will not at the moment. But I want to
1856 just make another observation. To the extent that there is
1857 anyone who happens to be taking a look at their television
1858 listings, and they see that there is a meeting of the
1859 Judiciary Committee of the House of Representatives, they
1860 might have tuned in this morning.

1861 And they probably thought, "Well, gee, since the last
1862 time the House met last Thursday, we learned that the
1863 President of the United States attempted to fire -- not just
1864 attempted; demanded that the special counsel be fired last
1865 Thursday. So, clearly, the House Judiciary Committee is
1866 going to want to take that up."

1867 And then, we get into this week, and the day before our
1868 committee, the House Judiciary Committee, they would they
1869 would look at the news and see that there is an

1870 investigation of the Department of Justice and the FBI that
1871 the Intelligence Committee is pursuing. They see that the
1872 Republican leadership on the Intelligence Committee has
1873 chosen to selectively release classified information against
1874 the advice of law enforcement, potentially putting at risk
1875 sources and methods.

1876 All of that fall squarely within the Judiciary's
1877 jurisdiction. And they might think, "I am going to tune in,
1878 because clearly this is something the House Judiciary
1879 Committee is going to take up today." And they might put
1880 this in the broader context of the investigation into --
1881 let's remember -- the Russian interference in our last
1882 election, an investigation that at this point has already
1883 produced guilty pleas and indictments against the
1884 President's campaign manager and the President's former
1885 national security adviser and others.

1886 It is an investigation that has already disclosed and
1887 uncovered a secret meeting that took place at Trump Tower
1888 between the President's son and Jared Kushner and agents of
1889 the Russian Government.

1890 All of this is going on. Clearly, the House Judiciary
1891 Committee has got to be a part of that. There has got to be
1892 outrage. Given these efforts to discredit Mueller, those on
1893 this committee who refer to a coup d'etat being waged, the
1894 secret society allegation, all of this; the Judiciary

1895 Committee has got to be outraged. They are going to want to
1896 do something about it, are they not? Well, obviously, the
1897 answer to that is no.

1898 And, Mr. Chairman, I would just ask unanimous consent
1899 to put into the record the text of rule XI -- this is the
1900 rules of the House of Representatives. Rule XI, clause 2,
1901 section G-3(b) and section G-4; these are the rules that
1902 make clear that the House -- this committee -- with less
1903 than a week's notice or 3 days' notice to members can
1904 actually call for a hearing; the chairman, with the
1905 concurrence of the ranking minority member or a majority of
1906 the committee. And then G-4, which is the provision that
1907 says that legislation can be brought up in less than 24
1908 hours; again, using that same standard. And I ask that that
1909 be entered into the record.

1910 Chairman Goodlatte. Without objection, that will be
1911 made a part of the record.

1912 [The information follows:]

1913 ***** COMMITTEE INSERT *****

1914 Mr. Deutch. I appreciate that, Mr. Chairman. And
1915 given that information, my hope is that as we go forward
1916 from here today, knowing that the rules permit us to move
1917 quickly to take action, that we will, in fact, quickly move
1918 a majority of this committee to bring up H.R. 3771, which is
1919 the Special Counsel Integrity Act, a bill that on the Senate
1920 side we all must acknowledge is a bipartisan effort to
1921 protect the special counsel so that he can continue to do
1922 his work into the attacks on our democracy by Russia.

1923 Because ultimately that is really what we are focused
1924 on, and that that investigation lead to wherever the
1925 investigation takes the special counsel. I hope that we
1926 will be able to do that, Mr. Chairman, and I yield back the
1927 balance of my time.

1928 Chairman Goodlatte. Are there any further amendments
1929 to the amendment in the nature of a substitute?

1930 Mr. Jeffries. Mr. Chairman?

1931 Chairman Goodlatte. For what purpose does the
1932 gentleman from New York seek recognition?

1933 Mr. Jeffries. I move to strike the last word.

1934 Chairman Goodlatte. The gentleman is recognized for 5
1935 minutes.

1936 Mr. Jeffries. Mr. Chairman, I just rise at this moment
1937 to address something that was said by one of our colleagues
1938 on the other side who mentioned that, in defense of his

1939 perspective that this does not implicate federalism, his
1940 constituents in Arizona were on the hook. I would just
1941 argue that his constituents in Arizona are not on the hook
1942 for a dime.

1943 There are two types of States in this country, donor
1944 States and taker States. Donor States -- like New York, New
1945 Jersey, Connecticut, California, Illinois -- regularly send
1946 more money to the Federal Government than we get back in
1947 return. Then there are taker States, many in the Deep
1948 South, many represented by my colleagues on the other side
1949 of the aisle, who regularly receive more from the Federal
1950 Government than you give back in return.

1951 Every year, New York sends \$40 billion more to the
1952 Federal Government than our taxpayers get back, so do not
1953 lecture us about taxpayers you represent being on the hook.
1954 That is a joke.

1955 I want to thank the distinguished gentleman from Texas,
1956 Mr. Poe, for his ideological consistency, and I would humbly
1957 suggest that more of that is needed on both sides of the
1958 aisle. But I thank the gentleman from Texas, Mr. Poe, for
1959 his persistence in this regard.

1960 And let me simply just posit a few questions. I am
1961 struggling to figure out what the Republican party
1962 represents. I really am struggling. You claim to be the
1963 party of fiscal responsibility, yet you saddle our children

1964 and grandchildren with \$1.5 trillion in additional debt
1965 simply to pay for tax cuts for millionaires, billionaires,
1966 corporations, and big donors. Are you for fiscal
1967 responsibility, or are you against it?

1968 You claim to be the party of law and order, yet
1969 regularly attack Department of Justice officials and FBI
1970 agents who are simply doing their job to keep the country
1971 safe. Are you for law and order, or are you against it?

1972 You claim to be the party of foreign policy hawks, yet many
1973 are providing aid and comfort to Russian spies who
1974 interfered with our election, according to 17 different
1975 intelligence agencies for the purpose of helping to
1976 artificially elect 45. Are you foreign policy hawks, or are
1977 you not?

1978 You claim to be the party of the rule of law, and yet
1979 many regularly attack Special Prosecutor Bob Mueller, who
1980 prior to his appointment was widely regarded on both sides
1981 of the aisle as a talented, pristine law enforcement
1982 professional who has sacrificed much for our country. Are
1983 you for the rule of law, or are you against it?

1984 You claim to be the party of family values, and yet the
1985 highest-ranking Republican official in the land endorsed and
1986 supported and campaigned for an accused pedophile and child
1987 molester for United States Senate seat. Are you for family
1988 values, or are you against it?

1989 And then, on today, you claim to be the party of
1990 States' rights, and yet we have got a bill before the
1991 committee that implicates a single donor State on a question
1992 of tort law that has never been a matter of Federal
1993 jurisprudence. Are you for States' rights? Are you for
1994 federalism? Or are you against it?

1995 Mr. Swalwell. Will the gentleman yield?

1996 Chairman Goodlatte. Will the gentleman yield back?

1997 Mr. Jeffries. I yield back.

1998 Chairman Goodlatte. The gentleman yields back. Are
1999 there further amendments to the amendment in the nature of a
2000 substitute to H.R. 3808?

2001 Mr. Swalwell. Mr. Chairman?

2002 Chairman Goodlatte. For what purpose does the
2003 gentleman from California, Mr. Swalwell, seek recognition?

2004 Mr. Swalwell. Thank you, Mr. Chairman. I appreciate
2005 the bipartisan concerns about this bill. It truly is
2006 bipartisan. And I will not rehash them, but one of my
2007 biggest concerns is that the work that people do when they
2008 are on scaffolding, whether it is in New York or any other
2009 State, is inherently dangerous work.

2010 These are typically low- or middle-class workers who do
2011 not have a lot of the insurance policies and safety nets
2012 that the developers and builders who employ them have. But
2013 what they have always had has been a justice system that

2014 promises that if wrongdoing occurs at their job site, that
2015 the lawmakers in this country and the courts in this country
2016 will have their back and will make them whole. That is a
2017 promise that has always been made under our justice system
2018 in this country.

2019 It has gone through iterations, it has seen abuses,
2020 but, today, workers are better protected because in a
2021 bipartisan way we have come together to protect them. And
2022 this bill would certainly undermine that and reduce an
2023 injured worker's or a grieving family's ability to become
2024 whole again or at least find some sense of recovery.

2025 But I also want to address this absurd suggestion that
2026 New York's Scaffold Law is a strict liability scheme. It
2027 has been a while since I went to law school. Certainly was
2028 not at the top of my class, but strict liability means that
2029 you are liable regardless of your culpability.

2030 That is not the New York law. You can only be liable
2031 if a court finds a violation of the statute's requirements
2032 that the contractor, employer, or property owner did not
2033 provide proper protection. So, there has to be a finding
2034 under this statute in New York that proper protection was
2035 not provided.

2036 You go to any bar, any church, any gathering of people
2037 in our country, and you say, "Hey, do you think workers
2038 should be protected in our justice system and be made whole

2039 if the employer did not provide proper protection and they
2040 were injured? Should their families find relief if they
2041 were killed?" Who would be opposed to that? I do not know
2042 a single person who would be opposed to that. So, this bill
2043 is really just a solution in search of a problem that does
2044 not exist. It looks like New York State got it right.

2045 But the larger issuer here, and I will yield to my
2046 friend from Maryland in a moment, is this committee would
2047 set a precedent of going after any State, county,
2048 municipality, water board policy that we do not like,
2049 completely disrespecting any constitutional norms or notions
2050 of federalism, and doing the bidding of people who, one, do
2051 not need it, like developers and builders, at the cost of
2052 people who have always counted on us: working Americans.
2053 So, I am opposed to this. And, Mr. Chairman, I will yield
2054 to the gentleman from Maryland.

2055 Mr. Raskin. I thank the gentleman from California very
2056 much for yielding. The language here appears to apply to
2057 change the laws of all 50 States. That is an interest that
2058 has been disclaimed by the authors and by the chairman.
2059 Apparently, it applies only to one State, to New York, but
2060 based on what was just suggested by Mr. Swalwell, it is not
2061 clear that it applies even to New York.

2062 The language says, "No action on the basis of absolute
2063 liability may be instituted by a covered person against a

2064 property owner," but New York's law is not one of absolute
2065 liability. It is not enough to show that you were on the
2066 premises and you were injured by the scaffolding in a
2067 gravity accident, because if it is your fault, if the only
2068 proximate cause is your own behavior, if you get drunk and
2069 you fall off, that is an absolute defense in New York.

2070 So, I am not sure that this language applies to any
2071 State, at least based on the representations and based on
2072 fair inferences from the language. I am not even sure New
2073 York has got anything to fear from this, because it does not
2074 have an absolute liability regime. It does have this
2075 defense if the sole proximate cause of the injuries are the
2076 actions of the employee him- or herself. All of which goes
2077 again to say let's let the States work out their own tort
2078 law systems. Let's not sit as a super-legislature for the
2079 people of New York. I yield back.

2080 Mr. Cicilline. Mr. Chairman?

2081 Mr. Nadler. Mr. Chairman, I ask unanimous consent to
2082 insert into the record a number of letters in opposition to
2083 this bill.

2084 Chairman Goodlatte. Without objection, they will be
2085 submitted into the record.

2086 [The information follows:]

2087 ***** COMMITTEE INSERT *****

2088 Chairman Goodlatte. We have very limited time. There
2089 will be a vote on the floor.

2090 Mr. Cicilline. Mr. Chairman?

2091 Chairman Goodlatte. For what purpose does the
2092 gentleman from Rhode Island seek recognition?

2093 Mr. Cicilline. I move to strike the last word.

2094 Chairman Goodlatte. Will the gentleman be brief?

2095 Mr. Cicilline. Yes, I will, Mr. Chairman.

2096 Chairman Goodlatte. The gentleman is recognized.

2097 Mr. Cicilline. Thank you, Mr. Chairman. I rise in
2098 opposition to this bill as amended. First of all, for the
2099 obvious reason that the responsibility to make this judgment
2100 rests with the New York Legislature, and it is both, I
2101 think, a violation of federalism but also a violation of the
2102 practice of this committee.

2103 And as Mr. Deutch said, people tuning in might think we
2104 would be taking up important issues, whether it is our
2105 oversight responsibility, whether it is fixing our broken
2106 immigration system, whether it is doing something to reduce
2107 gun violence or to reform our criminal justice system, and
2108 instead they see us meddling with the judgment made by duly-
2109 elected people serving in the New York State Legislature.

2110 Second point is, these are incredibly dangerous jobs.
2111 There is a reason that the General Assembly of New York
2112 enacted this statute a long time ago, because it recognized

2113 that this is dangerous work, that these are difficult jobs
2114 and difficult conditions, and when people get hurt they have
2115 a right to ensure that they are compensated, and their
2116 families are compensated.

2117 And the notion that Congress is going to intervene in a
2118 way that protects the big, wealthy developers at the expense
2119 of working people. This is exactly what people think
2120 Washington does. They intervene to help the fat cats at the
2121 expense of working people.

2122 This is a terrible idea. I urge my colleagues to vote
2123 against this, to recognize the difficult and hard work that
2124 these individuals do --

2125 Ms. Jackson Lee. Will the gentleman yield --

2126 Mr. Cicilline. -- and their right to be protected. I
2127 yield to the gentlelady.

2128 Ms. Jackson Lee. -- for a moment for something to be
2129 submitted into the record, Mr. Chairman?

2130 Chairman Goodlatte. For what purpose does the
2131 gentlewoman seek recognition?

2132 Ms. Jackson Lee. To submit into the record, with one
2133 qualifying sentence, life should not be measured by dollars
2134 and cents. And so, this bill undermines the very thought
2135 that a loss of life --

2136 Chairman Goodlatte. Without objection, the document --

2137 Ms. Jackson Lee. What I would like to submit is the

2138 idea of what we should be doing, Mr. Chairman, is H.R. 3654,
2139 which is my legislation with 40 other members of Congress,
2140 the Special Counsel Independence Protection Act --

2141 Chairman Goodlatte. The gentlewoman --

2142 Ms. Jackson Lee. I ask unanimous consent.

2143 Chairman Goodlatte. Without objection, made a part of
2144 the record.

2145 [The information follows:]

2146 ***** COMMITTEE INSERT *****

2147 Ms. Jackson Lee. Thank you.

2148 Chairman Goodlatte. And the question occurs on the
2149 amendment in the nature of a substitute.

2150 All those in favor, respond by saying aye.

2151 Those opposed, no.

2152 The ayes have it, and the amendment in the nature of a
2153 substitute is agreed to.

2154 The question occurs on the passage of H.R. 3808. A
2155 reporting quorum being present, the question is on the
2156 motion to report the bill H.R. 3808 as amended favorably to
2157 the House.

2158 Those in favor, respond by saying aye.

2159 Those opposed, no.

2160 The ayes have it, and the bill is ordered reported
2161 favorably.

2162 Mr. Nadler. Mr. Chairman, I ask for a recorded vote.

2163 Chairman Goodlatte. A recorded vote is requested, and
2164 the clerk will call the roll.

2165 Ms. Adcock. Mr. Goodlatte?

2166 Chairman Goodlatte. Aye.

2167 Ms. Adcock. Mr. Goodlatte votes aye.

2168 Mr. Sensenbrenner?

2169 [No response.]

2170 Mr. Smith?

2171 Mr. Smith. Aye.

2172 Ms. Adcock. Mr. Smith votes aye.
2173 Mr. Chabot?
2174 Mr. Chabot. Aye.
2175 Ms. Adcock. Mr. Chabot votes aye.
2176 Mr. Issa?
2177 Mr. Issa. Aye.
2178 Ms. Adcock. Mr. Issa votes aye.
2179 Mr. King?
2180 Mr. King. Aye.
2181 Ms. Adcock. Mr. King votes aye.
2182 Mr. Gohmert?
2183 Mr. Gohmert. Aye.
2184 Ms. Adcock. Mr. Gohmert votes aye.
2185 Mr. Jordan?
2186 [No response.]
2187 Mr. Poe?
2188 Mr. Poe. No.
2189 Ms. Adcock. Mr. Poe votes no.
2190 Mr. Marino?
2191 Mr. Marino. Yes.
2192 Ms. Adcock. Mr. Marino votes yes.
2193 Mr. Gowdy?
2194 Mr. Gowdy. Aye.
2195 Ms. Adcock. Mr. Gowdy votes aye.
2196 Mr. Labrador?

2197 [No response.]

2198 Mr. Farenthold?

2199 Mr. Farenthold. Aye.

2200 Ms. Adcock. Mr. Farenthold votes aye.

2201 Mr. Collins?

2202 [No response.]

2203 Mr. DeSantis?

2204 Mr. DeSantis. Aye.

2205 Ms. Adcock. Mr. DeSantis votes aye.

2206 Mr. Buck?

2207 Mr. Buck. Aye.

2208 Ms. Adcock. Mr. Buck votes aye.

2209 Mr. Ratcliffe?

2210 Mr. Ratcliffe. Yes.

2211 Ms. Adcock. Mr. Ratcliffe votes yes.

2212 Mrs. Roby?

2213 [No response.]

2214 Mr. Gaetz?

2215 [No response.]

2216 Mr. Johnson of Louisiana?

2217 Mr. Johnson of Louisiana. Aye.

2218 Ms. Adcock. Mr. Johnson votes aye.

2219 Mr. Biggs?

2220 Mr. Biggs. Aye.

2221 Ms. Adcock. Mr. Biggs votes aye.

2222 Mr. Rutherford?
2223 Mr. Rutherford. Aye.
2224 Ms. Adcock. Mr. Rutherford votes aye.
2225 Mrs. Handel?
2226 Mrs. Handel. Yes.
2227 Ms. Adcock. Mrs. Handel votes yes.
2228 Mr. Nadler?
2229 Mr. Nadler. No.
2230 Ms. Adcock. Mr. Nadler votes no.
2231 Ms. Lofgren?
2232 Ms. Lofgren. No.
2233 Ms. Adcock. Ms. Lofgren votes no.
2234 Ms. Jackson Lee?
2235 Ms. Jackson Lee. No.
2236 Ms. Adcock. Ms. Jackson Lee votes no.
2237 Mr. Cohen?
2238 Mr. Cohen. No.
2239 Ms. Adcock. Mr. Cohen votes no.
2240 Mr. Johnson of Georgia?
2241 Mr. Johnson of Georgia. No.
2242 Ms. Adcock. Mr. Johnson votes no.
2243 Mr. Deutch?
2244 Mr. Deutch. No.
2245 Ms. Adcock. Mr. Deutch votes no.
2246 Mr. Gutierrez?

2247 [No response.]

2248 Ms. Bass?

2249 [No response.]

2250 Mr. Richmond?

2251 [No response.]

2252 Mr. Jeffries?

2253 Mr. Jeffries. No.

2254 Ms. Adcock. Mr. Jeffries votes no.

2255 Mr. Cicilline?

2256 Mr. Cicilline. No.

2257 Ms. Adcock. Mr. Cicilline votes no.

2258 Mr. Swalwell?

2259 Mr. Swalwell. No.

2260 Ms. Adcock. Mr. Swalwell votes no.

2261 Mr. Lieu?

2262 [No response.]

2263 Mr. Raskin?

2264 Mr. Raskin. No.

2265 Ms. Adcock. Mr. Raskin votes no.

2266 Ms. Jayapal?

2267 Ms. Jayapal. No.

2268 Ms. Adcock. Ms. Jayapal votes no.

2269 Mr. Schneider?

2270 Mr. Schneider. No.

2271 Ms. Adcock. Mr. Schneider votes no.

2272 Ms. Demings?

2273 Ms. Demings. No.

2274 Ms. Adcock. Ms. Demings votes no.

2275 Chairman Goodlatte. Has every member voted who wishes
2276 to vote? The clerk will report.

2277 Ms. Adcock. Mr. Chairman, 16 members voted aye; 14
2278 members voted no.

2279 Chairman Goodlatte. The ayes have it, and the bill is
2280 ordered reported favorably to the House. Members will have
2281 2 days to submit views.

2282 Without objection, the bill will be reported as a
2283 single amendment in the nature of a substitute,
2284 incorporating all adopted amendments, and staff is
2285 authorized to make technical and conforming changes.

2286 This concludes our business for today. Thanks to all
2287 our members for attending. Markup is adjourned.

2288 [Whereupon, at 1:29 p.m., the committee was adjourned.]