

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 8330
OFFERED BY MS. HAGEMAN OF WYOMING

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Stop Climate Shake-
3 downs Act”.

4 SEC. 2. CONGRESSIONAL DECLARATION; PURPOSES; FIND-
5 INGS.

6 (a) CONGRESSIONAL DECLARATION.—Congress de-
7 clares that the general welfare and the common defense
8 and security require effective action—

9 (1) to develop, and increase the efficiency of, all
10 energy sources to meet the needs of present and fu-
11 ture generations;

12 (2) to increase the productivity of the economy
13 of the United States and strengthen the position of
14 the United States in regard to international trade;

15 (3) to make the United States self-sufficient in
16 energy; and

17 (4) to promote and preserve affordable energy
18 for families and businesses in the United States.

1 (b) PURPOSES.—The purposes of this Act are—

2 (1) to provide for the regulation of interstate
3 commerce; and

4 (2) to promote the production and use of af-
5 fordable, abundant, and reliable energy resources.

6 (c) FINDINGS.—Congress finds that—

7 (1) affordable, abundant, and reliable energy
8 resources are a necessary component of the general
9 welfare of the United States;

10 (2) the production and use of abundant energy
11 resources promotes—

12 (A) the national security of the United
13 States; and

14 (B) the health, safety, and welfare of the
15 citizens of the United States;

16 (3) the regulation of interstate, international,
17 and transboundary emissions in the ambient air is
18 within the exclusive jurisdiction of Federal law;

19 (4) the efforts of States to impose liability on
20 persons engaged in the energy business for inter-
21 state and global emissions, whether through State
22 tort law, consumer protection claims, the passage
23 and enforcement of so-called “climate superfund
24 laws”, or other civil actions, invade the exclusive ju-
25 risdiction of the Federal Government;

1 (5) the efforts to attribute local weather pat-
2 terns and the local harms that result from meteoro-
3 logical events, such as floods, droughts, hurricanes,
4 wildfires, or heat waves, to persons engaged in the
5 energy business lack scientific credibility and are,
6 therefore, arbitrary;

7 (6) the efforts of States and municipalities to
8 impose retroactive liability on persons engaged in
9 the energy business for otherwise lawful conduct of-
10 fends elementary considerations of fairness and the
11 Constitution of the United States;

12 (7) the efforts described in paragraphs (4), (5),
13 and (6)—

14 (A) are a strain on the judiciary;

15 (B) erode public confidence in the adminis-
16 tration of justice;

17 (C) threaten to destabilize entire industries
18 that are lawfully engaging in commerce in the
19 United States; and

20 (D) burden the interstate, Tribal, and for-
21 eign commerce of the United States;

22 (8) the efforts described in paragraphs (4), (5),
23 and (6) undermine the national security of the
24 United States, as affordable, abundant, and reliable
25 energy is critical for the readiness of the Armed

1 Forces of the United States and the ability to deploy
2 those Armed Forces to deter and counter the adver-
3 saries of the United States;

4 (9) the efforts described in paragraphs (4), (5),
5 and (6) offend the equal sovereign dignity that each
6 of the States enjoys, invading the autonomy of the
7 other States within their respective spheres;

8 (10) the Commerce Clause of section 8 of arti-
9 cle I of the Constitution of the United States au-
10 thorizes Congress to regulate all commerce among
11 the several States, with foreign nations, and with In-
12 dian Tribes; and

13 (11) to discharge the constitutional duties of
14 Congress, the Commerce Clause of section 8 of arti-
15 cle I of the Constitution of the United States em-
16 powers Congress to craft legislation under such
17 terms and conditions as are necessary and proper.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) CLIMATE SUIT.—The term “climate suit”
21 means any suit in law or equity that is brought
22 against any person engaged in the energy business
23 that seeks damages, including punitive damages, in-
24 junctive or declaratory relief, or abatement, restituti-
25 on, or any form of equitable or other relief for al-

1 leged past or future harm resulting directly or indi-
2 rectly from climate change, including because of
3 marketing, alleged misrepresentation, alleged failure
4 to warn, or any other speech.

5 (2) ENERGY.—The term “energy” means crude
6 oil, natural gas, lease condensates, natural gas liq-
7 uids, refined petroleum products, or coal.

8 (3) ENERGY PENALTY LAW.—The term “energy
9 penalty law” means any State law, regulation, or or-
10 dinance that purports to require compensatory pay-
11 ments from, or otherwise expose to liability, any per-
12 son engaged in the energy business that the law,
13 regulation, or ordinance deems, either directly or
14 through an administrative process, responsible for
15 alleged costs or harms resulting directly or indirectly
16 from climate change, including because of mar-
17 keting, alleged misrepresentation, alleged failure to
18 warn, or any other speech.

19 (4) GREENHOUSE GAS.—The term “greenhouse
20 gas” means a gas released into the atmosphere that
21 traps heat, including carbon dioxide, methane, and
22 nitrous oxide.

23 (5) PERSON.—The term “person” means any
24 individual, corporation, company, association, firm,
25 partnership, society, joint stock company, trade as-

1 society, or other entity, including any govern-
2 mental entity, such as a State.

3 (6) PERSON ENGAGED IN THE ENERGY BUSI-
4 NESS.—The term “person engaged in the energy
5 business” means a person that devotes time, atten-
6 tion, or labor to the mining, extraction, production,
7 refinement, transportation, distribution, manufac-
8 ture, or sale of energy as a regular course of busi-
9 ness in or affecting interstate commerce.

10 (7) QUALIFIED LIABILITY ACTION.—The term
11 “qualified liability action” means a climate suit or
12 any action or proceeding to implement or enforce an
13 energy penalty law that is brought by any person
14 against a person engaged in the energy business.

15 (8) STATE.—The term “State” includes—

16 (A) each of the several States, the District
17 of Columbia, the Commonwealth of Puerto
18 Rico, the United States Virgin Islands, Guam,
19 American Samoa, and the Commonwealth of
20 the Northern Mariana Islands;

21 (B) any other territory or possession of the
22 United States;

23 (C) any political subdivision or instrumen-
24 tality of an entity described in subparagraph
25 (A) or (B); and

1 (D) any State official acting in their offi-
2 cial capacity.

3 (9) TRADE ASSOCIATION.—The term “trade as-
4 sociation” means any corporation, unincorporated
5 association, federation, business league, or profes-
6 sional or business organization—

7 (A) that is not organized or operated for
8 profit;

9 (B) that is an organization described in
10 subsection (c)(6) of section 501 of the Internal
11 Revenue Code of 1986 and exempt from tax-
12 ation under subsection (a) of that section; and

13 (C) 2 or more members of which are peo-
14 ple engaged in the energy business.

15 **SEC. 4. PROHIBITION ON ENERGY PENALTY LAWS AND THE**
16 **BRINGING OF QUALIFIED LIABILITY ACTIONS**
17 **IN FEDERAL OR STATE COURT.**

18 (a) IN GENERAL.—A qualified liability action may
19 not be filed or maintained in any Federal or State court.

20 (b) DISMISSAL OF PENDING ACTIONS.—Any quali-
21 fied liability action that is pending on the date of enact-
22 ment of this Act shall be immediately dismissed by the
23 court in which the qualified liability action is brought or
24 is currently pending.

1 (c) EFFECT ON STATE LAWS.—Each energy penalty
2 law is void and of no effect.

3 (d) FEDERAL PREEMPTION.—

4 (1) IN GENERAL.—The regulation of green-
5 house gas emissions and climate change is and con-
6 tinues to be governed exclusively by Federal law and
7 regulated by Federal agencies with authority dele-
8 gated to those Federal agencies by Congress.

9 (2) NO PRIVATE RIGHT OF ACTION.—No pri-
10 vate right of action or claim shall be maintained, im-
11 plied, or inferred under any State law with respect
12 to climate change-related harms from greenhouse
13 gas emissions.

14 **SEC. 5. SEVERABILITY.**

15 If any provision of this Act or the application of such
16 provision to any person or circumstance is held to be un-
17 constitutional, the remainder of this Act and the applica-
18 tion of the provision to any other person or circumstance
19 shall not be affected.

