MARKUP ON H.R. 1549, THE HELPING SICK AMERICANS NOW ACT;
H.R. 1580, A BILL TO AFFIRM THE POLICY OF THE UNITED STATES
REGARDING INTERNET GOVERNANCE; AND
H.R. 3, THE NORTHERN ROUTE APPROVAL ACT
WEDNESDAY, APRIL 17, 2013
House of Representatives,
Committee on Energy and Commerce
Washington, D.C.

The committee met, pursuant to call, at 9:11 a.m., in
Room 2123 of the Rayburn House Office Building, Hon. Fred
Upton [Chairman of the Committee] presiding.
Members present: Representatives Upton, Hall, Barton,
Whitfield, Pitts, Walden, Terry, Murphy, Burgess, Gingrey,
Scalise, Latta, McMorris Rodgers, Harper, Lance, Cassidy,
Guthrie, Olson, McKinley, Gardner, Pompeo, Kinzinger,
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Staff present: Nick Abraham, Legislative Clerk; Clay Alspach, Chief Counsel, Health; Gary Andres, Staff Director; Charlotte Baker, Press Secretary; Ray Baum, Senior Policy Advisor/Director of Coalitions; David Bell, Staff Assistant; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Allison Busbee, Policy Coordinator, Energy and Power; Karen Christian, Chief Counsel, Oversight; Patrick Currier, Counsel, Energy and Power; Brenda Destro, Professional Staff Member, Health; Andy Duberstein, Deputy Press Secretary; Paul Edattel, Professional Staff Member, Health; Steve Ferrara, Health Fellow; Neil Fried, Chief Counsel, Communications and Technology; Julie Goon, Health Policy Advisor; Brad Grantz, Policy Coordinator, Oversight and Investigations; Sydne Harwick, Legislative Clerk; Tom Hassenboehler, Chief Counsel, Energy and Power; Brittany Havens, Legislative Clerk; Sean Hayes, Counsel, Oversight and Investigations; Robert Horne, Professional Staff Member, Health; Kirby Howard, Legislative
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Clerk; Peter Kielty, Deputy General Counsel; Jason Knox, Counsel, Energy and Power; Ben Lieberman, Counsel, Energy and Power; Alexa Marrero, Deputy Staff Director; Nick Magallanes, Policy Coordinator, Commerce, Manufacturing, and Trade; David McCarthy, Chief Counsel, Environment and the Economy, Brandon Mooney, Professional Staff Member; Mary Neumayr, Senior Energy Counsel; Katie Novaria, Professional Staff Member, Health; Andrew Powaleny, Deputy Press Secretary; David Redl, Counsel, Telecom; Charlotte Savercool, Executive Assistant, Legislative Clerk; Heidi Stirrup, Health Policy Coordinator; Lyn Walker, Coordinator, Admin/Human Resources; Tom Wilbur, Digital Media Advisor; Phil Barnett, Democratic Staff Director; Jen Berenholz, Democratic Chief Clerk; Alison Cassady, Democratic Senior Professional Staff Member; Shawn Chang, Democratic Senior Counsel; Alli Corr, Democratic Policy Analyst; Caitlin Haberman, Democratic Policy Analyst; Ruth Katz, Democratic Chief Public Health Counsel; Elizabeth Letter, Democratic Assistant Press Secretary; Karen Lightfoot, Democratic Communications Director and Senior Policy Advisor; Karen Nelson, Democratic Deputy Committee Staff Director for Health; Anne Morris Reid, Democratic Professional Staff Member; Roger Sherman, Democratic Chief Counsel; Matt Siegler, Democratic Counsel; Alexandra Teitz,
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65 Democratic Senior Counsel, Environment and Energy; and Kara
66 van Stralen, Democratic Special Assistant.
The Chairman. We are going to get started. Good morning, everybody. The committee today is going to consider three bills for markup. Collectively, the bills put consumers first by standing up for Internet freedom, working to ensure the most vulnerable receive healthcare, and finally, delivering jobs and affordable energy to an important component of our plan for North American energy independence.

I would like to first discuss a bill that works to protect Internet freedom. Last Congress, both chambers, House and Senate, passed a resolution directing our delegation at the World Conference on International Telecommunications to promote a global Internet free from government control. That resolution helped unite the U.S. and more than 50 other countries in opposing treaty proposals that were subject to Internet regulations at the hands of a U.N. agency and facilitate Internet censorship by foreign governments.

Such threats unfortunately continue to grow. That is why we are taking the language from last year that unanimously passed the House and Senate, converting it from a sense of Congress about a specific treaty negotiation to a
general statement of U.S. policy. We work hard to address concerns raised by Ranking Member Waxman and Eshoo, and to gather support from a broad range of organizations who stand in support of our efforts to promote Internet freedom. With minor language changes that we all agree achieves our shared objective, the text is the same as the bill marked up in the subcommittee. This is an important step in showing our Nation’s resolve, and it will send an important signal to the international community, and I urge my colleagues to lock arms in bipartisan support for the current multi-stakeholder process and to vote for Internet freedom.

The committee will also consider H.R. 1549, the Helping Sick Americans Now Act, a bill on both sides of the aisle can support. While we may have our disagreements on health reform, both Republicans and Democrats agreed helping Americans with pre-existing conditions should be a top priority.

This language eliminates an unnecessary slush fund, and instead prioritizes the Nation’s most vulnerable who have been denied coverage because of Obamacare’s broken promises. On February 15, the Centers for Medicare and Medicaid Services announced that it was suspending enrollment in the Pre-Existing Condition Insurance Plan, PCIP, altogether due
to financial constraints, a year ahead of schedule. Two weeks ago, the committee heard testimony from a patient named Susan Zurface, who struggles with leukemia. Her application for PCIP was completed and ready to be sent when CMS announced they were suspending enrollment in that program. This bill would require the Secretary of HHS to transfer fiscal year 2013 through 2016 funding from the Prevention and Public Health Funds to PCIP. This transfer would allow CMS to enroll sick and chronically ill Americans who have been denied coverage because of CMS’ February 15 announcement that I referred to. The bill also would eliminate the statutory requirement that Americans remain uninsured for 6 months as a condition for eligibility. This bill is a win. It eliminates an unaccountable slush fund, it prioritizes funding for vulnerable Americans, and it cuts the deficit. I would like to thank Chairman Pitts and Dr. Burgess for their leadership.

Lastly, the committee will consider H.R. 3, the Northern Route Approval Act, a bipartisan legislation authored by Lee Terry that will allow construction of the Keystone XL pipeline. This project is a critical component of our North American energy independence plan. The American people have waited patiently for some 4-1/2 years for Keystone’s jobs and
energy supplies, and this bipartisan bill will finally end
the delays of this project once and for all. The majority of
Americans support construction of Keystone, as does the
majority of Congress. We expect strong bipartisan votes for
Keystone in this Congress as we saw last year, and I would
expect this bill to garner similar support in both the House
and the Senate.

During its 4-1/2 years of review, the State Department
has issued over 15,000 pages of documents. We had those on
the dais yesterday for the subcommittee markup. Keystone has
become the most studied pipeline in the history of the U.S.,
even surpassing the lengthy review process of the Alaska
pipeline in the ‘70s. Other pipeline projects requiring a
Presidential Permit usually take 18 to 24 months to review
and approve. There is no reason to delay this project any
further. It is time to move beyond the regulatory process
and build it. The Nation will be better for it. I yield
back the balance of my time, and yield for an opening
statement to the gentleman from California, Mr. Waxman, the
ranking member.

[The prepared statement of Mr. Upton follows:]

*************** COMMITTEE INSERT ***************
Mr. {Waxman.} Thank you, Mr. Chairman.

Today, the committee will consider three bills that contain provisions that should be very familiar to committee members. The first is H.R. 3, the Northern Route Approval Act. This is the committee’s third attempt in 2 years to grant special treatment to TransCanada’s Keystone XL tar sands pipeline. This bill waives the rules to get Canada’s dirty tar sands oil to the Gulf of Mexico, where it can be sent to other countries. That is a great deal for oil companies that produce, sell, or refine tar sands, like Coke or Valero and Shell, but it is a dangerous proposition for the rest of us. This bill would grant the Keystone permit by congressional fiat. It would lock out the public, eliminate the President’s responsibility to balance competing interests, and block federal agencies from minimizing destruction of wetlands and endangered species’ habitats.

But even if you support the pipeline, you should oppose this bill. I oppose both the bill and the pipeline because Keystone XL is a bad deal for America. We get all of the risks while the oil companies profit by expanding production of the dirtiest oil on the planet, and sending it overseas.

The second bill is a rework of our bipartisan, bicameral
efforts during the 112th Congress regarding the international Internet governance. Last year, we passed a concurrent resolution to express the sense of Congress. This year, we will consider a bill that affirms the policy of the United States by putting a policy statement into law.

I want to thank Chairman Upton, Chairman Walden, and their staff for working with Democrats to address the concerns we raised during last week’s subcommittee markup. At the time, I stated that many stakeholders, including officials from the FCC, NTIA, the State Department, and the DOJ told us that the ambiguities surrounding the term "free from government control" could unintentionally hinder our government’s flexibility to conduct foreign policy or engage in critical domestic activities online.

We were concerned about these unintended consequences, which could implicate such broad issues as the availability of the U.S. Government to initiate measures to prevent intellectual property theft online, prosecute online child pornography, or counter cyber attacks, and we were concerned that the effort might be used by opponents of the open Internet rules to undermine the FCC in courts.

The Majority did not share our concerns, but agreed to work with us to address these issues so we could come
together in support of a bipartisan bill. As a result of our
discussion, the words `free from government control'' were
dropped from Section 2, which is the operative provision of
the bill. This modification is significant because it makes
clear that this policy statement will not implicate the
legitimate activities of the U.S. Government online or the
authorities of the federal agencies. Some of the agencies we
have consulted with continue to have concerns about some of
the language in this bill, so I hope that we can continue to
refine this language as the bill works its way through the
process.

But I recognize the significant step forward that has
been taken, and urge my colleagues to support this measure so
we can, once again, send a strong united signal to the global
community.

I wish that we could all be united on the final bill we
are considering today, H.R. 1549, the Helping Sick Americans
Now Act. Unfortunately, this is not the case. I am glad my
Republican colleagues have embraced such a sudden and urgent
interest in providing coverage for uninsured Americans with
pre-existing health conditions. After years of fighting
tooth and nail to block the Affordable Care Act’s
comprehensive reforms to protect Americans with pre-existing
conditions, this is a welcome development.

I do not agree, however, with the means by which H.R. 1549 seeks to achieve this goal, which is to rob the Prevention and Public Health Fund of the resources in these to help keep people from developing pre-existing conditions such as diabetes and heart disease in the first place. This approach is simply a continuation of the relentless Republican attack on the fund and the Affordable Care Act in general.

Mr. Pallone will offer an amendment, which in my view, affords a much more reasonable and cost-effective approach to pay for the extension of PCIP, a small increase in the cigarette tax. This additional tax will allow us to achieve three important public health goals. Reopen enrollment and PCIP discourage people, especially children, from smoking and protect the Prevention Fund. If we can adopt the Pallone amendment, I will strongly support the health bill, but if it is rejected, I will oppose the legislation.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Waxman follows:]

*************** COMMITTEE INSERT ***************
The {Chairman.}  Thank you.  Other members wish to give an opening statement?  Chair would recognize the chairman of the Energy and Power Subcommittee, Mr. Whitfield, for 5 minutes.

Mr. {Whitfield.}  Mr. Chairman, thank you, and I am delighted that the committee today is taking up these three important bills, of which I am certainly going to support all of them.  But I just want to make a couple of remarks about our Northern Route Approval Act, H.R. 3, which was introduced by our friend Lee Terry of Nebraska.

The American people have made it very clear that the number one topic on their mind continues to be the economy. As you know, we have had a struggling economy.  We still have high unemployment.  One of the first benefits of constructing this pipeline will be 20,000 new jobs, direct jobs.  That is not including the thousands of indirect jobs.  Now, we have heard a lot of criticism about the environmental impacts of this proposed pipeline.  The State Department, through its environmental impact study on two separate occasions, as you have indicated, with over 15,500 pages in its NEPA analysis alone has indicated that there are no serious environmental issues with this pipeline.  Even the State of Nebraska, where
there was some concern about the route, and now is satisfied with the route. The governor has come out in support of this pipeline, and it would bring additional fuel, which will help our supply of refined products here in the United States.

Many people complain about this pipeline, criticize it, say they oppose it, because so much of the fuel would be exported to other countries. The Department of Energy in its analysis indicated that less than 2 percent may be exported. But even if it is exported, what is wrong with that? We have a huge trade deficit, and this export would help with that trade deficit.

I might also say that the President really needs no more time. The application was filed in September of 2008, over 1,600 days ago. This pipeline has undergone a more thorough analysis than any pipeline in history, and I might further say that many people say this is an exercise in futility because if it passed the House, it will never pass the Senate. And I would remind everyone that when the Senate adopted its budget just recently, there was an amendment in support of Keystone pipeline, and that was approved by a vote of 62 to 37, with 17 Democrats supporting it in the U.S. Senate. So I would urge everyone to support this important bill and help America become energy independent and rely less
on Middle Eastern oil and Venezuelan oil.

I yield back the balance of my time.

[The prepared statement of Mr. Whitfield follows:]

*************** COMMITTEE INSERT ***************
The Chairman yields back. Chair would recognize the gentleman from New Jersey, Mr. Pallone, for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman. Let me first state my disappointment in the committee process regarding H.R. 1549. It should be no surprise to my colleagues that I strongly believe in regular order. We have subcommittees for a reason, and the subcommittee process should play a critical role in the committee’s effort to make its best recommendations on any measure to the full House of Representatives. But today, you not only have bypassed the Health Subcommittee in marking up those bills, but you and Mr. Pitts made a decision even after a plea from myself and Mr. Waxman, to hold a hearing on this critical issue during the congressional recess, which I might add was also the Christian and Jewish holiday recess, and very few members were able to attend. So I would think that if you truly believe in helping sick Americans now, you would not have spent the past 2 years in power repealing the Affordable Care Act.

When we passed the Affordable Care Act in 2010, we intended to bring protection to patients across the United
States healthcare system by providing healthcare coverage to people when they get sick. Specifically, we believe that insurance companies for far too long were able to abuse the system and drop coverage for people when it truly mattered. Of course, we also aimed to reign in other insurance abuses, provide access to millions who couldn’t get coverage, and reduce costs. Crucial to immediately helping sick Americans was the inclusion of high risk insurance pools. The ACA’s federally-run Pre-existing Condition Insurance Plan, or PCIP, affords individuals with pre-existing conditions access to healthcare that they could otherwise be denied. These high risk insurance pools serve as a crucial bridge to January 1, 2014, when insurers will no longer be able to deny coverage to individuals with pre-existing conditions. Unfortunately, the program’s enrollees have serious immediate and costly healthcare needs that we did not fully anticipate and which were pushing the program’s budget. As a result, the Secretary of Health and Human Services determined that it was necessary to suspend enrollment in the program earlier this year.

Extending PCIP enrollment and ensuring that individuals with pre-existing conditions have access to the care they need is of the utmost importance to me, and I am glad we are
visiting the issue today. However, again, the process is failed because of the subcommittee being bypassed, but also the pay-for is unacceptable. Dipping into the Prevention and Public Health Fund is a short-sighted process. The Prevention Fund addresses one of the major deficiencies in our approach to health in the country, preventing illness before people get sick, and the fund was enacted as part of the ACA in response to overwhelming bipartisan support for prevention efforts, and recognition of a lack of a targeted and sustained federal initiative to address chronic and costly conditions such as diabetes, heart disease, cancer, and obesity. A study by the Trust for America’s Health found that investing in the kinds of community evidence-based programs the Prevention Fund supports could have a return on investment of $5.60 for every dollar spent. In these increasingly difficult budgetary times, this fund is the first and only federal program with dedicated and ongoing resources to improve the public’s health, and we need to protect this fund and continue to invest in preventative public health now if we are to see a reduction in costs in the long term.

So I and several of my colleagues have introduced a bill, H.R. 1578, that provides an alternative funding source
to extend the PCIP enrollment, a small increase in the tax on cigarettes. This is a much better approach to solving the PCIP extension funding gap, and I urge my colleagues to support these efforts.

Mr. Chairman, I do believe that there is general agreement in the committee that we should extend the PCIP program through January 1. Obviously, that was the intention all along, but I urge you to reconsider this misguided approach to paying for it and work with us to figure out a path forward.

I yield back the balance of my time.

[The prepared statement of Mr. Pallone follows:]

*************** COMMITTEE INSERT ***************
The Chairman yields back. Chair would recognize Mr. Pitts for 5 minutes for an opening.

Mr. Pitts. Thank you, Mr. Chairman. I would like to focus my remarks on H.R. 1549, the Helping Sick Americans Now Act.

In the context of health reform, helping those with pre-existing conditions obtain health insurance has been one of the few areas of agreement between Republicans and Democrats over the last several years. In fact, the Republican alternative to Obamacare included $25 billion to aid Americans suffering from pre-existing conditions through new universal access programs that reformed and expanded state-based high risk pools and reinsurance programs.

Obamacare unfortunately provided only $5 billion in its Pre-existing Condition Insurance Plan, PCIP. PCIP was intended to provide coverage to those with pre-existing conditions who had been without insurance for 6 months until January 1, 2014, when the exchanges are supposed to be up and running. However, on February 15, 2013, CMS announced that it was suspending enrollment in PCIP due to financial constraints, despite the fact that enrollment has been less than 30 percent of what had been expected. By some
estimates, 40,000 people would have enrolled in PCIP during the remainder of 2013.

On March the 5th, Speaker Boehner, Leader Cantor, Rick McCarthy, Conference Chair McMorris Rodgers, Chairman Upton, Dr. Burgess and I sent a letter to the President asking that he redirect funding from other Obamacare accounts to PCIP to allow the program to continue accepting new enrollees. While we asked him to work with us to help those most in need get coverage and care, it has been 5 weeks now and we have yet to receive a response. Additionally, in his fiscal year 2014 budget request, the President had the opportunity to include funding for PCIP for the last 3 months of this calendar year and chose not to. And so that is why I have introduced H.R. 1549. This bill would simply transfer funds from the Secretary’s Prevention and Public Health Fund to repeal the 6-month waiting period requirement and allow PCIP to continue enrollment through the rest of this year. Those with pre-existing conditions are currently among the most vulnerable Americans in terms of health insurance coverage, so I urge all of my colleagues to support this common sense bill, and I yield the remainder of my time to our vice chair, Dr. Burgess.

[The prepared statement of Mr. Pitts follows:]
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Dr. {Burgess.} And I thank the chairman for yielding.

You know, the Administration is taking money from other areas in the Affordable Care Act for an advertising program that we will see rolled out this summer, and I can just imagine what some of that advertising is going to be. Perhaps we will have someone from the Administration stand up and say Obamacare. Don’t leave home without it, unless you have got a pre-existing condition, in which case, we left you a long time ago.

You know, this is an opportunity that we have to correct one of the most egregious errors that has occurred in the Affordable Care Act, and the reason these egregious errors occurred, you know, honestly, this committee did the right work. We did a markup. We did a lot—we didn’t have a subcommittee markup, Mr. Ranking Member, but we did a markup in the full committee, and we heard amendments from both sides of the dais. But that is not the bill that got signed into law. Remember, the bill that got signed into law, the thing that now is Obamacare, was a rough draft that was passed at the last minute by the Senate so they could get home for Christmas ahead of a snowstorm, and you always thought you would have time to come back and make it right in
a conference committee, but you didn’t and the rough draft got signed into law, which is why we are having to deal with this multitude, this torrent of problems that has come out of this very flawed act.

So I thank the chairman of the subcommittee for yielding, and I will yield back to the chairman of the subcommittee.

[The prepared statement of Dr. Burgess follows:]
Mr. {Pitts.}  Mr. Chairman, I yield back.

Mr. {Whitfield.}  [Presiding]  Gentleman yields back.

At this time, I recognize the gentlelady from California, Ms. Eshoo, for 5 minutes.

Ms. {Eshoo.}  Thank you, Mr. Chairman.  I want to begin by thanking Chairman Upton and Chairman Walden, and their respective staffs for working with us to address the concerns raised during last week’s Communications and Technology Subcommittee markup.  From the beginning, I have stressed the importance of bipartisanship on this legislation, which is being closely watched by countries around the world.  And as I noted last week, any split, any daylight between Republicans and Democrats would send the wrong signal to the international community and undermine the efforts of our diplomats as they go forward.  So I am pleased that it has been worked out, and while I still have some concerns about at least some of the findings noted in Section 1 being misinterpreted, I understand that this is a compromise, and it is a compromise that I can live with and I believe my colleagues can as well.  So I am supporting the measure, and again, my thanks to both of you and your staffs.

As for the bill to gut the Prevention and Public Health
Fund, I can’t support it. This fund was designed to help restrain the rate of growth in healthcare costs by making critical investments in prevention and public health. I don’t think there is a member here or a member in the Congress that doesn’t understand how important prevention is and the role of public health in that. The best way to lower costs and keep people healthy is to prevent them from getting sick in the first place. I recognize the importance of creating a bridge for patients with pre-existing conditions to January 1 of next year when no one can be discriminated against based on their previous medical history, and that is why I have co-sponsored Ranking Member Pallone’s legislation to reopen the PCIP by increasing the cigarette tax.

Now, I don’t recall—and maybe my memory needs to be refreshed on this, but I don’t recall a time when our friends on the other side of the aisle voted to prohibit health insurers from discriminating against individuals based on pre-existing conditions, nor do I recall a vote from discriminating against individuals or to create the PCIP in the first place, so while I am pleased to see that there is now an interest in protecting this important program, I hope to see it extended.

Finally, I oppose the Northern Route Approval Act. The
Majority is eager to approve an export pipeline, and that is what it is. It is an export pipeline that will move through our country that in my view will harm the climate, put us at risk of a major spill, and cause domestic oil prices to be higher. Now because of better fuel standards and development of new oil resources, U.S. oil is now about 20 percent cheaper than the international price set by OPEC, but by connecting the Canadian tar sands to the international market, the Keystone XL pipeline will guarantee that U.S. consumers will pay OPEC prices for this oil. Not one drop of this is going back into our domestic market. There were some figures that were thrown around a little earlier, and I would like to know the basis for those figures. But the testimony that was received at the committee said that this is moving from the pipeline from Canada and it is all going out into the global market. This is not coming back and being used in the United States to lower our own prices. So this delivers an export route for the Canadian tar sands oil to the international market, and again, it is not going to do anything to enhance our energy security or the prices to the consumer at the pump in the United States of America.

And when this is combined with the harmful climate impacts of tar sands oil and the threat of a spill on our
soil, I think that is a serious case against it, so I can’t support the development of this pipeline. I don’t see the American public’s interest in this, and they are the ones that are supposed to come first, not OPEC and building something through our country that is going to ship everything out.

So with that, I yield back the balance of my time.

[The prepared statement of Ms. Eshoo follows:]

*************** COMMITTEE INSERT ***************
Mr. {Whitfield.} Gentlelady yields back. At this time, I recognize the gentleman from Texas, Mr. Barton, for 5 minutes.

Mr. {Barton.} Thank you, Mr. Chairman. I don’t think I will use all 5 minutes.

I want to rise in support of all three bills before the full committee today, and I want to comment just briefly on what my good friend from California just said about the effect of the Keystone pipeline oil coming from Canada through the United States to the refineries on the Gulf Coast.

It is about 830,000 barrels a day, I believe, if it was fully utilized. Some of that might be exported. Most of it would be kept here in the United States. And in terms of its effect on the price both in the United States and in world markets, any time you put more of a product into a market, at a minimum you are going to equalize the price, and in all probability, the prices are going to go lower because competitors for the product will have the option of more product to bid for. So I don’t know where these statistics come from that somehow putting more oil into the marketplace is going to drive the price up. It is true that the Canadian
lifting price is somewhat higher because of the nature of the method they use to have to extract the oil, but it will not sell unless it is at least as inexpensive as any other oil on the market at that given time and that given place. So that is what markets are for.

So if we put 830,000 barrels per day of oil into the market in the southwest for various refineries to compete for, over time, the U.S. price is going to go down and the world price is, at a minimum, going to stabilize and in all probability, go down because people will have to lower their price to get their market share back. So I am--

Ms. {Eshoo.} Would the gentleman yield?

Mr. {Barton.} Sure.

Ms. {Eshoo.} I thank the gentleman for yielding, my good friend.

The testimony at the committee was as follows, and if this is changed because of a recent mission of testimony, I would like to know, but the testimony was that everything that XL moves through this pipeline is refined in Texas and goes out into the international market. Now if that has changed, then we need to know who changed it and by what percentage and how much. But that was the testimony at the committee, that is why I used it.
Mr. {Barton.} Well, reclaiming--

Ms. {Eshoo.} Thank you.

Mr. {Barton.} --you know, time from my good friend from California, my guess is that the testifier to that testament was somebody that was opposed to the Keystone pipeline and probably didn’t have much of a degree in economics, but I will guarantee you, if you put product--if you put crude oil down in the market for refiners to compete for it in the southwest, whoever purchases that crude oil and refines it, they are going to sell it to the highest willing buyer. If that buyer is a domestic buyer in the United States, that is where it is going to go. If it somebody who wants to ship it overseas, that is where it is going to go. But there is no magic about a market. The highest bidder gets it and in terms of providing into the market, the lowest provider per product is purchased first.

With that, I yield back, Mr. Chairman.

[The prepared statement of Mr. Barton follows:]

*************** COMMITTEE INSERT ***************
Mr. {Whitfield.} Gentleman yields back. At this time, the chair recognizes the gentleman from Michigan, the chairman emeritus, Mr. Dingell, for 5 minutes.

Mr. {Dingell.} Mr. Chairman, I thank you for your courtesy, and I am happy to participate in this markup.

I would begin with a couple of adorations I think make a great deal of sense. First, do no harm. Second, haste makes waste. I fully support the construction of the pipeline, but we need to do it in accordance with the process laid down by President Bush’s Executive Order and the NEPA process. To do it that way will save time, and had we persisted in doing it that way last fall, we would not have wasted the time that it has taken. We might very well have the answer from the White House already. But Congress pushed the President to make a decision last year, and we got delay.

My friends on the other side know that this is not going to do much, except to create a political punching bag, instead of working on real and comprehensive energy legislation, and moving this pipeline forward. As author of NEPA, I can tell you it was created to provide transparency so people know what it is the impact of the project will be on the Nation, the environment, and on their communities.
This bill will circumvent that transparency, even as a public comment period is in progress and only create more delay, obfuscation, and ill will.

I also had a significant hand in writing the Clean Water Act, as well as the Endangered Species Act, and I would tell you that those two statutes have had enormous positive impacts. The laws were passed not as revolutionary, but simply common sense, and were passed on an overwhelmingly bipartisan basis, something that is pretty hard to find around this place these days.

Allowing the process provided under these laws and to carry out the directives issued by former President Bush does not mean that you have to be opposed to construction of the Keystone pipeline. I want to see the pipeline constructed. I want to see it go south. I want to see it meet the needs of this country, but I don’t believe that we can do this if we proceed on the course on which we are now going. I also would note that if we do it this way and do it well, we will do it much more quickly, and I observe that it is much more important for us to build a pipeline south so that the oil will be consumed in the United States, and so that the process of making the oil into usable consumer products will be conducted under U.S. law, rather than under the rather
questionable environmental practices which are used by the Chinese.

Having said these things, this legislation simply will stand in the way of those things and it gets in the way of this committee and this Congress making the necessary decisions we would have to make if the President does not address these matters in a way which the committee happens to think he should. In any event, what we are doing is we are simply wasting more time, delaying the process of fustigating the business of the House, and seeing to it that a lot of lawyers and a lot of folks are going to make a lot of time and a lot of money.

Having said this, the billing processes of the attorneys are going to look very good. There is going to be further delay, more litigation, and we should, if we observe the facts at some suitable time, get very red-faced out of the work that we are doing today.

I yield back 1 minute and 20 seconds. Thank you, Mr. Chairman.

[The prepared statement of Mr. Dingell follows:]

*************** COMMITTEE INSERT ***************
Mr. {Whitfield.} Gentleman yields back. At this time, the chair recognizes the chairman of the Telecom Subcommittee, Mr. Walden, for 5 minutes.

Mr. {Walden.} I thank the chairman.

Let me be clear why we are here today. The continuing threat to the Internet is very real. FCC Commissioner Robert McDowell sounded that alarm more than a year ago that countries determined to control the flow of information on the Internet were marshalling their forces for treaty negotiations at the World Conference on International Telecommunications in Dubai. He was absolutely correct. This committee led a strong bipartisan, bicameral effort last Congress, demonstrated the U.S. would not stand for attempts at the wicked to bring the Internet under governmental control. The House and Senate unanimously passed a resolution asking our Dubai delegation to promote a global Internet free from government control and to preserve and advance the current multi-stakeholder model that has served the Internet so well.

Under the multi-stakeholder governance model, non-regulatory institutions manage and operate the Internet by developing best practices with public and private sector
input. Government’s hands-off approach has enabled the Internet to grow and at an astonishing pace, and become perhaps the most powerful engine of social and economic freedom and job creation that the world has ever known. By all accounts, our resolution emboldened more than 50 nations to join the United States in opposing proposals to drag the Internet within the jurisdiction of the International Telecommunications Union, which is a United Nations agency. Unfortunately, 89 nations did sign that treaty, and international efforts to regulate the Internet will continue. And just as international opponents of an Internet free from government control are redoubling their efforts as the world prepares for the 2015 World Radio Conference, so too must we. That is why earlier this year, the Subcommittee on Communications and Technology held a hearing on this subject with two Foreign Affairs Subcommittees, and last week marked up our draft resolution of legislation that would elevate the language of last year’s resolution, which passed unanimously, to become the official policy of the United States. At the markup, Ranking Members Waxman and Eshoo expressed their belief that elevating the language promoting ‘‘a global Internet free from government control’’ to becoming the official U.S. policy might somehow interfere with the FCC’s
rules on network neutrality and possibly IP protection, child
pornography, other government action.

Now while it is true that the Supreme Court and the D.C. Circuit precedent that statements of policy can’t help delineate the contours of statutory authority, they don’t create statutorily mandated responsibilities. Consequently, I don’t believe the policy statement itself as passed in the subcommittee would have required or prohibited U.S. entities from making any particular action on network neutrality or any other matter.

As I also explained, there is a big difference between government control of the management and operation of the Internet, and punishing use of it to commit illegal acts.

Nonetheless, in the interest of bipartisanship, I instructed my staff to try to work on neutrally agreeable language, and as a result, the final text we agreed to introduced on a bipartisan basis as the bill for today’s full committee markup is slightly modified. It drops the reference to promoting a global Internet free from government control, and focuses on the remaining language making it U.S. policy to "preserve and advance a successful multi-stakeholder model that governs the Internet."

Make no mistake, I still oppose FCC’s network neutrality
rules regulating the Internet domestically, but was willing to make the change to our bill to send a unified message abroad. By elevating that language from a resolution to U.S. policy, this bill will show our country’s resolve to oppose efforts by authoritarian regimes to subvert the Internet for their own purposes, I hope will encourage other nations to join our cause.

I urge my colleagues to support this bipartisan bill, and I yield back the balance of my time.

[The prepared statement of Mr. Walden follows:]

*************** COMMITTEE INSERT ****************
Mr. {Whitfield.} The gentleman yields back the balance of him time. At this time, the chair recognizes the gentleman from Texas, Mr. Green, for 2 minutes.

Mr. {Green.} Thank you, Mr. Chairman, for holding the markup. Today we are here to discuss three different bills. The first is the Northern Route Approval Act, and I support the bill and that crude oil be refined by refineries along the Texas and Louisiana Gulf Coast. I do have some concerns about Section 4 through 8 of the bill, but I plan to support the bill. It is time the Administration makes a decision on the pipeline. The Energy and Information Administration acknowledges that our economy will rely on oil for at least the next 25 years, so we are going to have to get the oil from somewhere, and I would hope that my colleagues would share my view that it is better to get this product from an ally with strong environmental regulations than a hostile country with little or no deference to the environment.

That said, I hope the Energy and Power Subcommittee will start considering bills that hopefully will have a chance of becoming law, but I hope to send this message bill to the Senate.

I am a cosponsor to the Internet governance bill. I
appreciate the Majority’s willingness to work with Democrats
to address concerns that our members had with a previous
version of the bill. We should be working together to show a
united front on issues regarding international Internet
governance.

On the last bill, the Helping Sick Americans Now Act, I am pleased the Majority is seeking ways to extend the preexisting condition program, and I agree that this program
needs to be extended for 6 months; however, I disagree with
how the bill pays for this extension. The Prevention and
Public Health Fund, while it expenses up-front costs, aims to
reduce long-term costs by investing in preventative measures.
We should not undermine these efforts to fund the PCIP.
Insuring those with pre-existing conditions and investing in
prevention should not be mutually exclusive. I oppose this
bill and support Ranking Member Waxman and Pallone’s
alternative, and I yield back my time.

[The prepared statement of Mr. Green follows:]

*************** COMMITTEE INSERT ***************
Mr. {Whitfield.} Gentleman yields back. At this time, the chair—who seeks recognition for an opening statement? The chair recognizes the gentleman from Nebraska, Mr. Terry, for 2 minutes.

Mr. {Terry.} Thank you, Mr. Chairman.

My bill, H.R. 3, ends the long drawn out process of delay by review and allows us to begin building the Keystone pipeline. This issue has been studied in depth. There are more pages of environmental NEPA review of the Keystone pipeline than make up the Bible, War and Peace, Atlas Shrugged, and Obamacare combined. The scientists at the State Department continue to say that there will be no significant impacts to the environment. There is no reason why we should continue the delays. Seventy percent of Americans do not believe that we are on a path to energy security or independence; however, with the right policies, they believe that we could be on that path. The Keystone pipeline is key to our future policies of energy security. I believe this bill is necessary, and I urge my colleagues to join me in passing H.R. 3.

I yield back.

[The prepared statement of Mr. Terry follows:]
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.
Mr. {Whitfield.} Gentleman yields back. At this time, the chair recognizes the gentlelady from Colorado, Ms. DeGette, for 2 minutes.

Ms. {DeGette.} Thank you very much, Mr. Chairman.

I want to associate myself with Mr. Green’s comments about the funding mechanism for the first legislation, the implementation of the Affordable Care Act and the Pre-existing Condition Insurance Program. I am glad the committee has embraced the goals of PCIP and the goal of health reform to end pre-existing condition exclusions. In my own family, we have at least three people who have pre-existing conditions. But I really think that it is robbing Peter to pay Paul to take the money from the Prevention and Public Health Trust Fund. That fund is the largest commitment to public health that Congress has made in this Nation’s history, and all 50 states have benefitted from the fund. In Colorado, it is invested in tobacco cessation programs, breast and cervical cancer screenings, and vaccines, and I think with an investment in evidence-based prevention programs, you can save both money and lives. So I really don’t think that is the way to fund it. I wish that we could all work together to find a better way to fund it.
I just want to talk about the other bill—one of the other bills, which is the Northern Route Approval Act, and again, we do need to have energy, but this bill waives the National Environmental Policy Act, the Clean Water Act, and the Endangered Species Act, and it also limits judicial review regarding the pipeline. So regardless of how you feel about the pipeline itself, the process is simply inadequate and I think we would live to regret it.

Now on a positive note, I am very glad that Ranking Member Eshoo and Chairman Walden worked together on the consensus on the legislation of the multi-stakeholder process for making sure the Internet grows.

So thanks a lot, Mr. Chairman, for having this markup. I think if we spent a little more time working together, we could work out some of these other little glitches.

Thanks, and I yield back.

[The prepared statement of Ms. DeGette follows:]
Mr. {Whitfield.} The gentlelady yields back. At this time, the chair recognizes the gentleman from Texas, Mr. Hall, for 2 minutes.

Mr. {Hall.} Thank you, Mr. Chairman. I speak in support of all three of these bills.

This bill basically says, and I quote, `Mr. President, if you aren’t going to approve the Keystone pipeline, then we in Congress will' or `if you won’t help push, then get out from in front of us.' We need the jobs and we need the energy. We are finally on a path to energy independence, and this bill takes us one step closer to that goal. We need to lead because the President has been sitting on this permit that would get the U.S. back to work and lead us to a more secure energy future. This is from an op-ed that my governor of Texas and the Premier of Saskatchewan wrote for the Hill last week. `Over the operating life of the pipeline, U.S. can expect $20 billion in private sector investment, $5.2 billion in property taxes. In Texas alone, the project would potentially bring 13,000 jobs, $2.3 billion in spending, $48 million in tax revenue, and $1.9 billion in gross state products.'

Mr. Chairman, now is the time to act. I yield back my
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

865 time.

866 [The prepared statement of Mr. Hall follows:]

867 ****************** COMMITTEE INSERT ******************
Mr. {Whitfield.} The chair yields back. Mr. Doyle, do you seek recognition for an opening? Ms. Schakowsky is recognized for 2 minutes.

Ms. {Schakowsky.} Thank you. I am glad we could come to an agreement on the Internet governance bill, but the other two I have strong reservations and I oppose them. While I am concerned about the effects of the suspension of the Pre-existing Condition Insurance Program, I strongly oppose stripping funding from the Prevention and Public Health Fund. H.R. 1549 would require us to choose between protecting those who currently suffer from the burdens of chronic conditions, and those that we can prevent from developing such conditions. That is just a choice we don’t have to make. I strongly support the Pallone proposal that would raise tobacco taxes a little bit, and not have us make this terrible choice.

Today’s markup provides another reminder about why we must support the full implementation of Obamacare, which will end discrimination and expand access to coverage.

I strongly oppose H.R. 3. The Keystone XL pipeline would not promote energy independence or reduce gas prices for consumers, but it would increase air pollution and pad
the already enormous profits of big oil. A new report came out yesterday that said that the emissions compare to 37.7 million more cars on the road each year. That is more cars than are now registered in California. Ask the people in Arkansas how they like a tar sands pipeline that ruined a neighborhood. But beyond that, signs show that if global temperatures rise another 2 degrees Celsius, the planet will face catastrophic consequences. The tar sands oil that would travel through Keystone XL would result in 17 percent more greenhouse gas pollution than natural crude. This is a very dirty fuel source, and if Keystone XL is approved, Alberta producers plan to triple tar sands by 2030. We owe it to our children and grandchildren, my colleagues, to shift toward clean energy technologies.

I yield back.

[The prepared statement of Ms. Schakowsky follows:]

*************** COMMITTEE INSERT ******************
Mr. {Whitfield.} Gentlelady yields back. Chair recognizes Mr. Murphy of Pennsylvania for 2 minutes. Does Mr. Murphy--oh, Dr. Burgess is recognized for 2 minutes.

Dr. {Burgess.} I thank the chairman for the recognition. I will confine my remarks this morning to H.R. 1549, dealing with the federal pre-existing program that was set up under the Affordable Care Act.

It was set up because there are people who are ill, who are chronically ill. My preference would have been for us to work with the states that already have risk pools and not set up yet another federal bureaucracy, but we got what we got in the Affordable Care Act. But this program today is providing coverage to 100,000 individuals. The Administration announced in February that it would suspend enrollment. It is a costly issue to deal with people who are chronically ill, but Mr. President, a promise is a promise. So this bill, H.R. 1549, would correct yet another broken promise from this Administration to the American people. I will note, H.R. 1549, unlike many of the complaints that the federal pre-existing program has faced, this bill, 1549, did not require those with pre-existing conditions to jump through hoops or remain uninsured for 6 months before being
eligible for coverage.

The Administration’s approach should concern every single one of us on this committee. What happens when the Affordable Care Act proves too costly? The Administration says it will never happen, and yet, here we are. The Administration is turning its back on the sickest people. Not healthy, childless adults, but the sickest people from a program that was specifically designed to help them. We have seen the year delay of the small business health exchanges. The fact is that every part of the Affordable Care Act is expendable by this Administration if it suits their political purpose at the time. The Administration has willfully transferred hundreds of millions of dollars from the Prevention and Public Health Fund in order to pay for the operation of the exchanges, in fact, adding to the implementation fund for the Affordable Care Act. So if they are willing to transfer money for the exchanges, which are not yet even operational, surely they have the ability to use these funds to take care of people that are supposed to be taken care of during this year. I think every single person who is left in the void between the federal pre-existing enrollment suspension and 2014 is a testament to these being very real concerns worthy of this committee asking the
Thank you, Mr. Chairman. I will yield back.

[The prepared statement of Dr. Burgess follows:]
Before we conclude the opening statements, during my opening statement I made the comment because of criticism about so much of this oil not being used in the U.S. but being exported to other countries. I made the comment that because of a Department of Energy memo that we had read that only 2 percent of this oil would be exported to other countries, and one of the members on the other side of the aisle, my friend Ms. Schakowsky of Illinois, questioned me about it. And so I want to clarify, and I am going to make—without objection, I will enter this into the record.

This memorandum was written by Dr. Carmine Difiglio, Deputy Assistant Secretary for Policy Affairs at the United States Department of Energy on June 22, 2011, and he wrote it in response to a paper by Philip Verleger, entitled "The Tar Sands Road to China" and in that paper, Mr. Verleger asserted that the Keystone pipeline, if approved by the State Department, would not transport Alberta’s diluted bitumen to the refiners in Texas, but suggested that that would be loaded onto tankers at Port Arthur for delivery to Asian refineries. And in this memorandum, Dr. Difiglio stated they concluded that the refiners in Texas will likely consume
additional Canadian oil sands well in excess of what would be
provided by the Keystone pipeline. It also concluded that
exports of Canadian oil sands from Port Arthur are unlikely.
I had said 2 percent because of an analysis that we had
conducted on some other figures, but this memo says that
there won’t be any exports or that they are unlikely.

So anyway--

Mr. {Waxman.} Would the gentleman yield?

Ms. {Schakowsky.} But that doesn’t refer to refined
products, however. It doesn’t refer to the refined products
being exported.

Mr. {Whitfield.} Well, it says they would be going to
the refiners to refine, and it said that they conclude that
the exports of Canadian oil sands from Port Arthur refined
product are unlikely. And I mean, I understand that other
people are disagreeing with that, but I was simply responding
to your--

Ms. {Schakowsky.} Can I say one sentence?

Mr. {Whitfield.} Sure.

Ms. {Schakowsky.} This memo, I am told, was referring
only to the crude and whether or not the crude would be
exported or whether or not it would be refined in the United
States of America. That was the purpose of that memo, as I
understand it.

Mr. {Whitfield.} Well, we have a disagreement on that, but I would be happy to give you a copy of it, and if anyone else wants a copy we have it here. And if there is no objection, I will just enter it into the record. Without objection.

[The information follows:]

*************** COMMITTEE INSERT ***************
Mr. {Whitfield.} At this time, Mr. Barrow is recognized for 2 minutes, the gentleman from Georgia.

Mr. {Barrow.} I thank the chair.

I want to speak in support of H.R. 3, the Keystone pipeline bill. I am a cosponsor of the bill and I intend to support it. I think it is appropriate for us to have these kinds of debates, provide the appropriate oversight, and to argue about the implementation of the construction of this project to make sure it is done as safely and efficiently as possible. But for my constituents and for me, the question of whether or not we should move forward has already been answered.

Critics claim that this project will make us more dependent upon oil for our transportation energy in this country, but we are already dependent upon oil for our transportation energy in this country. You can’t be more dependent on something than 100 percent. The only question here is whether or not we are going to be dependent upon friendly allies like Canada for as much oil as we are currently importing from hostile rivals, like Venezuela.

Critics also claim that this project will increase global warming, but this argument has been demolished by the
State Department’s own supplemental Environmental Impact Statement, which has concluded that because this source of oil is going to be produced and processed either by pipeline elsewhere or by rail here, the cumulative emissions load from both processing, producing, and consuming this source is going to be the same whether we approve this project or not. Once again, the only question is whether or not we are going to depend upon friendly allies like Canada for the source of energy we need for transportation in this country, or become more dependent than we already are on hostile rivals, like Venezuela. For this reason, I believe that on balance this project is good for the country. It is good for our economy, and we should pass this legislation to get this project going.

With that, I yield back.

[The prepared statement of Mr. Barrow follows:]
Mr. {Whitfield.} Gentleman yields back. Who seeks recognition on our side of the aisle? Dr. Gingrey is recognized for 2 minutes.

Dr. {Gingrey.} Mr. Chairman, thank you.

My colleagues across the aisle continually argue that we must pay our current and future obligations in full, yet here we have this Pre-existing Condition Insurance Plan, PCIP, which had to be shut down almost a year earlier than was promised. The suspension of the program wasn’t due to an unexpected influx of people into the system, but due to the fact that Obamacare simply refused to fund the program appropriately. We talked about that 4 years ago during the markup right here in this room of this bill, that it was clearly not appropriately funded, not adequately funded.

Mr. Chairman, H.R. 1549 seeks to allow our government to fulfill its promise to our sick and chronically ill that are in the most need of medical services by passing this bill and allowing CMS to again begin—to begin enrolling our most medically needy we will be helping to protect access to coverage for this group of individuals, and all of us should be for that.

Mr. chairman, I am also concerned that H.R. 3, the
Northern Route Approval Act, is up for consideration today. The bill seeks to allow the construction of the Keystone XL pipeline, a decision that we have been waiting for since 2008 for approval, and one that the Obama Administration should have long ago made. Look, I know our colleague from Massachusetts--and I respect him for this--has suspended his campaign in the aftermath of the tragic situation of the Boston Marathon, but I am hearing my colleagues on the other side of the aisle, it seems like they are campaigning for him in regards to where these refined products, this million barrels a day are going to end up going. You know, if American Girl in New York City all of a sudden triples the size of their operation and made all these additional dolls that could be sold all across the world, would we be opposed to that, as an example? I mean, that argument is just so fallacious.

So I think my colleagues on this side of the aisle are absolutely right about that. Mr. Chairman, this bill will allow for the movement of approximately 830,000 barrels of oil per day from Canada, and it would also handle product from our booming Bakken oil fields in North Dakota. The project would inject up to $7 billion private sector dollars into our economy, mainly in blue collar jobs which have seen
the--been most affected by the country’s slow recovery. Even
the Department of State estimates this project would create
over 42,000 direct and indirect jobs over the construction
period. It is past time for this project to be approved. It
is up to this committee to pass H.R. 3, provide this approval
that will help create jobs and spur energy production.
I will yield back my time. Thank you.
[The prepared statement of Dr. Gingrey follows:]

*************** COMMITTEE INSERT ***************
Mr. {Whitfield.} Gentleman’s time is expired. The chair, at this time, will recognize Dr. Christensen for 2 minutes.

Dr. {Christensen.} Thank you, Mr. Chairman. My constituents in the U.S. Virgin Islands know firsthand what a hardship it is not to be able to get individual health insurance, even if they have no pre-existing disease. But although we were not included, I supported and still support the PCIP.

Today, I fully support expanding access and eligibility to this program, but feel that given the situation in my and the other delegate’s district, any expansion should include our constituents. Also, though, as important as this program is, depleting the Prevention and Public Health Fund is not the solution. We should not be pitting this important program against an also vitally important Prevention and Public Health Fund, as H.R. 1549 does. Instead, we should be expanding and strengthening both of them, because like the Pre-existing Condition Insurance Program, the Prevention and Public Health Fund pays a critically important role in dramatically improving healthcare and thus the wellness of millions of Americans. And transferring money from this fund
would wipe out the savings that would be realized with
prevention and public health initiatives, savings that over
time would reduce healthcare spending.

Everyone wants to help sick Americans now, and everyone
should also want to support the--fully support the Affordable
Care Act instead of trying to repeal it, as well as the tri-
caucus efforts to eliminate disparities in healthcare, but
sadly, that is not the case. We need to fully fund
prevention and public health efforts, and make sure that
Americans, all Americans, can secure health insurance.

So I will be supporting the Pallone amendment, but
fairness, equity, and justice demand that U.S. citizens who
happen to reside in offshore areas also be included, and
therefore, I will be offering an amendment to have the
territories included in the PCIP.

I have already stated my opposition to H.R. 3, the
Northern Route Approval Act, in several hearings and
yesterday’s markup, so that is already on the record.

There is one bill before us today that I can support. I
do support this committee’s bipartisan bill to affirm the
policy of the United States regarding protecting the
integrity of the Internet and preserving its current multi-
stakeholder model.
And with that, thank you. I yield back the balance of my time.

[The prepared statement of Dr. Christensen follows:]

*************** COMMITTEE INSERT ***************
Mr. Olson, thank you for holding today’s markup on these very important bills. As a Texan, I know how blessed this country is to be undergoing an energy revolution. The U.S. has long been the Saudi Arabia of coal, but we are quickly becoming the Saudi Arabia of natural gas and oil. But all these new resources we have won’t mean a thing if we can’t bring them to market. The Keystone XL pipeline has been reviewed, rerouted, and reviewed again. It has been approved by bipartisan majorities here in this body, and the full House. It was endorsed by the Senate with a bipartisan vote, 62 to 37. The governor of Nebraska has approved a modified route for the pipeline, and yet the Obama administration fails to approve the pipeline. This has to stop. It stops here today.

I also support H.R. 1549 and H.R. 1580. H.R. 1549, the Helping Sick Americans Now Act, fixes another broken promise of Obamacare. Obamacare’s funding for pre-existing conditions was grossly inadequate. H.R. 1549 fixes that problem until we fully repeal Obamacare. And H.R. 1580 affirms what all of us in this community support, that the UN
should not regulate the Internet. I support all three of these bills, and urge my colleagues to do the same. Thank you, Mr. Chairman. I yield back.

[The prepared statement of Mr. Olson follows:]

*************** COMMITTEE INSERT ***************
The {Chairman.} Are there any other members that--Mr. Sarbanes, recognized for 2 minutes.

Mr. {Sarbanes.} Thank you, Mr. Chairman. With respect to H.R. 1549, I am concerned about the pay for in this. Obviously we want to try to keep these high risk insurance pools strong because of the opportunity they provide to people, but to raid the Prevention and Public Health Fund, as seems to be the impulse over and over again by members on the other side of the aisle, doesn’t make sense. I remember a hearing a couple years ago, we had a hearing about the public health system in America, and at the end of that hearing the witnesses pretty much conceded that we don’t have a public health system in this country the way there exists in many other peer nations around the world. We have pockets of very good infrastructure when it comes to public health, but we really don’t have a system in place, and the Prevention and Public Health Fund offers us that opportunity, if we continue to resources it properly going forward. And it would be a huge mistake to raid that fund for this purpose, or any other purpose, so I support the amendments that are going to be put forward by Mr. Waxman and Pallone in the respect.

As far as H.R. 3 is concerned, I have reservations about
that as well, serious ones, both from an environmental standpoint, but also because the job picture that is presented, which is a legitimate one, in terms of construction of that pipeline, I think can be rivaled by other job scenarios we can paint as part of a serious and constructive energy policy going forward. And we ought to be laying those scenarios next to it so it is not a jobs versus no jobs picture, but it is a jobs by one effort versus the jobs that could come from other efforts, and we ought to be pursuing that instead. And with that, I yield back my time.

[The prepared statement of Mr. Sarbanes follows:]
The {Chairman.} Gentleman yields back. The Chair would remind all members that, pursuant to Committee rules, all members’ opening statements will be made part of the record. Are there further opening statements? Chair would recognize the gentlelady from California for 2 minutes.

Ms. {Matsui.} Thank you, Mr. Chairman. We all recognize the need to fund the pre-existing condition insurance program through the end of 2013, but I am very concerned that H.R. 1549 would pay for this by slashing the Prevention and Public Health Fund. This is an irresponsible solution. Cutting prevention now will only lead to increased health costs down the road. Congressman Pallone’s alternative proposal to fund PCIP through a very small cigarette tax is a far more responsible pay for. I was pleased to be an original co-sponsor of his bill, and I thank him for his leadership on this vital issue.

The Prevention and Public Health Fund provides much needed funding to support initiatives, such as efforts to reduce diabetes and heart disease. Chronic diseases account for 70 percent of all deaths and 75 percent of all Medicare spending. Public health programs have already borne more than their fair share of the responsibility for deficit
reduction, with 2 straight years of funding cuts. The fund is not the root cause of fiscal crisis, and should not be perpetually used as an offset.

A report from Trust for America’s Health found that investments being made by the prevention and public fund have a tremendous potential. Investing $10 per person per year, improving community prevention programs, could save this country more than $16 billion annually within 5 years. That is a return of $5.60 for every $1 spent. Repealing the fund would greatly increase the prevalence and cost of treating chronic diseases and subsequent disabilities. I urge you to reconsider this misguided approach to funding this program.

And thank you, Mr. Chairman, yield back the balance of my time.

[The prepared statement of Ms. Matsui follows:]

*************** COMMITTEE INSERT ***************
The {Chairman.} Gentlelady yields back. Other members wish to make an opening statement? Gentleman from California, Mr. McNerney.

Mr. {McNerney.} Thank you, Mr. Chairman. I certainly appreciate my colleagues on the other side of the aisle, their passion on getting the XL pipeline approved, and the hard work that they have done, but I have some serious reservations about what H.R. 3 will do. First, I don’t believe the pipeline will impact domestic gas prices. On the other hand, increasing the fuel efficiency standards, as this administration has done, will have a much greater impact on domestic gas prices.

Second, like the majority of climate scientists, I believe that climate change is in progress, is mostly caused by human activities, and is a significant threat to our nation’s wellbeing. We have a responsibility and a duty to do no harm, and encouraging exploitation of tar sands will do harm to our environment and our economy.

Third, I am very concerned about the process of deeming that the pipeline will not impact the endangered species or migrating bird pathway. Why don’t we just deem that pi equals 3.15, or the E equal MC cubed? We don’t, because it
would be an outrageous farce, which is what I think this process does. Thank you, Mr. Chairman, I yield back.

[The prepared statement of Mr. McNerney follows:]

*************** COMMITTEE INSERT ***************
H.R. 1549

The {Chairman.} Gentleman yields back. Other members wishing to give an opening statement? Seeing none, the Chair would now call up H.R. 1549 and ask the clerk to report.

The {Clerk.} H.R. 1549, to amend Public Law 111-148 to transfer fiscal year 2013 through fiscal year 2016 funds from the Prevention and Public Health Fund to carry out the temporary high risk health insurance pool program for individuals with pre-existing conditions, and to extend access to such program to such individuals who have had credible coverage during the 6 months prior to application for coverage through such program.

[H.R. 1549 follows:]

*************** INSERT 1 ***************
The {Chairman.} Without objection, the first reading of the bill is dispensed with. The bill will be open for amendment at any point. So ordered. Are there any bipartisan amendments to the bill? Mr. Pallone? Chair would recognize Mr. Pallone for what purpose? For an amendment?

Mr. {Pallone.} I have an amendment at the desk, Mr. Chairman.

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

The {Clerk.} Amendment to H.R. 1549 offered by Mr. Pallone of New Jersey.

[The amendment of Mr. Pallone follows:]
The {Chairman.} And the amendment will be considered as read.

Mr. {Terry.} Mr. Chairman, I reserve a point of order against the amendment.

The {Chairman.} Point of order is reserved, and the amendment will be considered as read. The staff will distribute the amendment, and the gentleman from New Jersey is recognized for 5 minutes in support of his amendment.

Mr. {Pallone.} Thank you, Mr. Chairman. My amendment would make the same changes to the PCIP program that the underlying bill does. It would direct the Secretary to reopen enrollment in the program, and it would remove the requirement that applicants be without coverage for at least 6 months prior before they can enroll. While it is important to remember that CMS has made adjustments to the program to ensure that existing enrollees will continue to enjoy coverage through the end of the year, I believe both sides of the aisle agree that reopening enrollment in the program is a good idea.

CBO has estimated that reopening enrollment and eliminating the 6 month waiting period will cost $2.8 billion. While the underlying bill is paid for by
essentially eliminating the Prevention and Public Health Fund through 2016, my amendment is fully paid for through a 4 cent per pack increase in the tax on cigarettes. It is a much better idea to pay for expanding the PCIP program with a policy that will help limit disease and lower healthcare costs. In fact, just last summer, the Congressional Budget Office confirmed the health and economic benefits of increasing taxes on cigarettes. Not to mention that eliminating the Prevention and Public Health Fund takes away dedicated resources to keep people from developing the very same chronic and preventable conditions that lead them to rely on the PCIP program in the first place.

High cost conditions like cancer and heart disease are what drive the high per enrollee cost of PCIP, and high risk pools in general. These high cost conditions are a big part of why the changes we are discussing in PCIP today will cost $2.8 billion just to reopen coverage for the next 7-1/2 months. I believe that slashing funding for prevention is penny wise and pound foolish. Keep in mind, as I said before, that with the underlying bill, the Republican pay for, you would essentially be eliminating the Prevention and Public Health Fund for the next 3 to 4 years. You know, I know that this prevent fund has already been cut back from
what it was originally proposed, but at least there is some
money left. If we go ahead and pass this bill, and it became
law, there would be nothing at all, no prevention fund
whatsoever.

So I urge my colleagues to support my amendment. A 4
cent per pack increase is a reasonable step to responsively
fund the changes to PCIP that was all agree on. I yield back
the balance of--I yield to Ranking Member Mr. Waxman.

Mr. {Waxman.} Thank you, Mr. Pallone. I support your
amendment. I would like to see the continuation of this high
risk pool until people are able to get their policies, even
though they have pre-existing conditions, because that
discrimination will be stopped under the Affordable Care Act,
beginning in 2014.

I know the Republicans have always been for this kind of
fund, to help people with pre-existing conditions get
insurance, and then help them pay for it, but this doesn’t
spread the risk at all. It just simply provides more money
to pay for their care. And that is why the Affordable Care
Act, I thought, had a much better solution for those people
that have not been able to get insurance, or out-priced in
the market because of pre-existing conditions.

Nevertheless, the Obama bill did provide for this high
risk funding in the period of time, particularly when people
couldn’t get insurance because of discrimination. So the
question is whether we can continue to keep it in place when
the funding is not adequate because the Congress has refused
to provide further funding for the administration to carry
out the promotion of the Affordable Care Act, to make it work
when it goes into effect beginning next year.

So Republicans have said, well, let us continue it, but
let us take the money out of the prevention fund. Well, that
doesn’t make sense. Prevention fund is to try to keep people
from getting diseases, for which many will never be able to
get insurance if the existing law stayed in effect, because
of their pre-existing conditions. So you take people with
pre-existing conditions and help them, but then create the
situation where a lot of people are going to have illnesses
that will keep them from getting health insurance, unless we
allow them to be able to get insurance.

So what Mr. Pallone does is says, keep the program, the
high risk program, but don’t fund it by taking it away from
prevention. Take the tobacco tax and increase it. It has a
number of positive impacts. It would reduce the use of these
deadly products. That, in effect, would save lives. They
are supported by the American public, this bill, and other
acts the administration have taken to curb tobacco use, especially among our children. So I support the Pallone amendment, and thank him for yielding. The Gentleman’s time has expired. Does the gentleman from Nebraska insist on his point of order?

Mr. Yes, I must. I regret that I have to, but it so clearly violates Clause 7 of Rule 16 of the Rules of the House as not being germane that I must insist.

The Gentleman insists, and as much as I am a good friend of Dave Camp, I do have to rule on the point of order. And, as gentleman noted, Clause 7 of Rule 16 of the Rules of the House prohibits the Committee from considering non-germane amendments. The precedents of the House set forth several general tests for germaneness. They include the fundamental purpose test, the jurisdiction test, and the subject matter test. And, having reviewed the amendment, and listened to the arguments, the Chair finds that the amendment does violate the subject matter test, with respect to the underlying bill, and therefore, as we all know, I must sustain the point of order.

Are there other amendments to the bill? Gentlelady from California.

Mrs. Mr. Chairman, I do have an amendment at
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1417 the desk. It is Number 1.
1418 The {Chairman.} The Clerk will report the title of the
1419 amendment.
1420 The {Clerk.} Amendment to H.R. 1549, offered by Mrs.
1421 Capps of California.
1422 [The amendment of Mrs. Capps follows:]

1423 *************** INSERT 3 ****************
The amendment will be considered as read. The staff will distribute the amendment, and the gentlelady is recognized for 5 minutes in support of her amendment.

Mrs. Capps. Thank you, Mr. Chairman. Pre-existing Condition Insurance Plan, or PCIP, is an important bridge to cover for thousands of people with pre-existing conditions. And for many individuals, this is the first time they have ever had comprehensive insurance coverage since becoming sick, due to the discriminatory decisions of insurance companies. And we should all be thankful that this bridge was provided for in Obamacare, and that by next year pre-existing condition discrimination will be behind us.

Starting next year, all Americans, regardless of their health status, or their pre-existing conditions, will finally have access to quality, affordable coverage. Finally, hardworking parents won’t have to worry that they are only one illness away from bankruptcy. And I agree that we should do all we can to help individuals with pre-existing conditions to make it to January 2014. But if we really want to help people, why not make a good faith effort to create a realistic bipartisan solution that can fix this problem for
good?

Instead, I am disappointed to see that the majority has decided to play politics, literally, with people’s lives. And while the extension of PCIP and the removal of the waiting period are important steps forward, taking nearly 4 years of the Prevention and Public Health Fund, nearly all of it, to pay for it, makes a bipartisan idea only a partisan gimmick. As it is currently written, this is nothing but another attempt to dismantle healthcare reform, and attack the very programs that can help curb our nation’s rising healthcare costs. It robs Peter to pay Paul, without recognizing that we all pay more in the end.

That is why my amendment would simply strike the controversial pay for, allowing us time to work together on a responsible way to fund the program. By striking this poison pill, we can move forward together to quickly continue enrollment in high risk pools, and extend access to thousands of people who have been waiting. We can, and we must, work together on this, and I know we can do it. I have a record, as many of us here do, of working across the aisle, putting aside our differences, finding compromise. We have done this before. We can do it again today.

Trading 4 years of the only dedicated source of public
health funding we have for 9 months of bridge insurance coverage is shortsighted. The Prevention and Public Health Fund is a critical investment in both our nation’s health and our economic future. Its value cannot be understated. A healthy parent can better raise a child. A healthy child will be able to concentrate in school. A healthy worker is more productive for American businesses. Moreover, this fund is the critical piece to bring down the overall healthcare costs. So let us not make it a partisan issue. If we are really serious about extending coverage to Americans with pre-existing conditions, let us work together to make it happen now. Accepting this straightforward amendment is a first step.

So I urge a yes vote on my amendment to ensure that we do not lose step--

Mr. {Waxman.} Gentlelady.

Mrs. {Capps.} --in the fight against chronic disease to give all Americans a chance for a healthier life. I yield back--

Mr. {Waxman.} Could the gentlelady yield to me, if she would?

Mrs. {Capps.} I am sorry, I thought you were cutting me off. I assume you were the Chairman. But--and I wouldn’t--
Mr. {Waxman.} We could deem it to be so, but--

Mrs. {Capps.} I know.

Mr. {Waxman.} But if the gentlelady would yield?

Mrs. {Capps.} I would be happy--

Ms. {Waxman.} I support her amendment. Look, we all agree, on both sides of the aisle, we want to continue the program that allows people with pre-existing conditions to get insurance through these high risk pools. We all agree we want to do that. It is only going to be until January 2014, but we don’t have enough money to keep those people in those pools. So the question is not whether we are going to continue the program. We agree on that. The question is how we are going to pay for that, and the underlying bill takes the money away from the prevention programs. I don’t like that idea. I would hope a lot of Republicans, and Democrats, would agree with me, it is just robbing from one important public health area to pay for another public health area.

So if we struck this part of the bill, then the Chairman’s good friend, and my good friend, Dave Camp, could figure out some other way to pay for it. I like Congressman Pallone’s approach of a cigarette tax. Maybe that would be accepted, but maybe not. We don’t have the jurisdiction, obviously, to put in an alternative pay for. So let us
strike this pay for, and then have the pay for inserted before the bill goes to the floor, and have those with the jurisdiction define the pay fors, come up with them.

So it is your time. I yield back, thank you, to you. Mrs. {Capps.} And I don’t have any more statements to make, but I did want to make sure that three additional letters are on record from some of our leading health care organizations, Mr. Chairman, which all support the policy of reopening the PCIP program, but strongly oppose H.R. 1549 because it drains the Prevention and Public Health trust fund and harms public health. These letters are from the Trust for America’s Health, they are from the American Public Health Association. They are also from National Association of County and City Health Officials, which I would like to submit for the record.

[The information follows:]
The {Chairman.} Without objection it will be inserted in the record, and the Chair will recognize Mr. Pitts for 5 minutes.

Mr. {Pitts.} Thank you, Mr. Chairman. I ask unanimous consent to submit a letter from a list of 18 patient advocacy groups in support of H.R. 1549, along with a statement from the Leukemia and Lymphoma Society supporting the reauthorization of the PCIP program, and list of patient stories submitted by the Leukemia and Lymphoma Society at the April 3 subcommittee hearing.

[The information follows:]

*************** COMMITTEE INSERT ***************
The {Chairman.} Without objection.

Mr. {Pitts.} Mr. Chairman, the President has already signed legislation that would divert some of the money from the Prevention and Public Health Fund. On February 22, 2012 President Obama signed into law a bill that took $6.25 billion out of the Prevention and Public Health Fund. And I know some of my colleagues like the idea of the Prevention Fund, but the money, so far, in fiscal year 2013, disbursements from the Prevention and Public Health Fund have gone to prevention, prevention screenings for cancer, et cetera.

The administration has tabbed $54 million from the Prevention Fund to pay individuals and community groups to sign people up for Obamacare exchanges. $304 million is about to be tapped for enrollment in advertising campaigns for Obamacare. And some programs have received funding from the Prevention Fund, like the CDC’s Communities Putting Prevention to Work, and the Community Transformation grant program, have spent money on highly questionable and potentially illegal activities. The program is rife with abuse. They received monies from both the stimulus and prevention funds. For instance, Pitt County, North Carolina
was the recipient of a CPPW grant funded by healthcare law, used these taxpayer funds to place ``signage to promote recreational destinations, including public parks, bike lanes, and more''. The city of Nashville, which received $7-1/2 million Community Putting Prevention to Work grant paid staff to promote free pet spaying and neutering. The city of Boston received $1 million for city gardening projects. The New York Department of Health used a $3 million taxpayer funded grant to lobby for a soda tax initiative.

According to a presentation by CPPW program director Rebecca Bodell, the program’s early successes resulted in a 9 month moratorium on fast food construction in Baldwin Park, California, and increased cigarette taxes in South Carolina. The Cascade Bicycle Club Education Foundation received a portion of the $3 million grant awarded to Seattle, and King County Public Health, and used the taxpayer dollars to ``improve the walking and biking environment''.

So we have put forward a plan that prioritizes those with pre-existing conditions. Given our strong commitment to this vulnerable population, the House Republican leadership, along with Chairman Upton, and Dr. Burgess and I, sent a letter to the President, asking that he redirect funding from other Obamacare accounts to PCIP to allow the program to
continue accepting sick Americans for enrollment, and it has been 5 weeks. We are still awaiting answers.

We must set priorities. We heard testimony in this committee from a patient with a chronic form of leukemia whose application was denied because her application came days late. CMS’s decision to shut down the pool left her with no options. I can think of no greater priority than those with pre-existing condition, and the H.R. 1549 will help those most in need get the coverage and care that they deserve. I urge my colleagues to support the bill, oppose this amendment, and yield 1 minute to Dr. Burgess.

Dr. {Burgess.} And I thank the gentleman for yielding. For those who couldn’t be here for the hearing on the 2nd of April, that is really a shame, because we did hear from a woman who literally just missed the deadline. She was waiting that 6 month period that she had to wait without insurance in order to get into the pre-existing program, and they slammed the door on her right before that 6 month waiting period was up. She has got a tough diagnosis. She has got a tough road ahead. She was looking forward to this as a way through her problem. She was trying to work through it responsibly, and the administration pulled the rug out from under her.
I have some other things I would like to add, but perhaps, with the Chairman’s okay, I will just move to strike the last word at the moment.

The {Chairman.} Gentleman from Pennsylvania’s time has expired. Chair will recognize the gentleman from New Jersey, Mr. Pallone, for 5.

Mr. {Pallone.} Thank you, Mr. Chairman. I just very much disagree with my Subcommittee Ranking Member, Mr. Pitts. What I want to stress is that I understand that the President, and that some of this, you know, cut back on the Prevention Fund when he signed that bill, and I understand that there have been many efforts, Democrat and Republican, to use the Prevention Fund, you know, for other purposes, other health related purposes. But the problem with what you are proposing today is it wipes it out completely for the next 4 years. In other words, these other initiatives cut back on it, but we still had money left, and that money is being used for very good purposes.

I mean, I know that the gentleman picked out certain things that he thought were, you know, not health related that some states may have been spending this money on, but I assure you that that is not the case, for the most part. If I could use my own state, just for an example, in New Jersey,
you know, I will just give you some example of what we have been using the Prevention Fund—we received about 600,000 in the last fiscal year that went to tobacco use prevention. We got another 200,000 to screen women aged 40 to 64 for breast and cervical cancer. We received almost a million to help communities integrate primary care services with community health and community based behavior health settings. We also got a grant for 750,000 to build a statewide prevention program to fight chronic disease, which is exactly what the high risk pool is about.

So, please, don’t just, you know, give us some isolated examples of what some states are doing. Fact of the matter is that this Prevention Fund is unique. It is the first time that there is a Federal funding source dedicated to public health and prevention, and it is a unique opportunity to reduce long term health costs. 75 percent of all healthcare costs in our country are spent on the treatment of chronic diseases, many of which could be easily prevented. And it is just very shortsighted to get rid of this for the next 4 years.

I mean, you know, I know a lot of times it is hard to figure out, you know, what the benefits of prevention are going to be, because it is not something that you can put
your hand on immediately and say, this is the person that we are treating, or this is the disease that we are treating. But to eliminate this program completely I just think is a huge mistake, and it doesn’t have to be. As Mr. Waxman said, we can find another funding source. I talked about a small increase in the cigarette tax. I know that is in Ways and Means. But there has to be a better way of doing this, rather than just taking away all the prevention funds for the next 4 years.

And, you know, I have mentioned this to my colleagues on the other side about, you know, whenever we try to score prevention, oftentimes CBO won’t score it. It is very hard to put your hand on exactly what prevention does, but we all know that it is a crucial part of the healthcare system. We have this unique fund. We should not be eliminating it for the next 4 years, and not give it an opportunity to bear fruit. I just don’t understand it, and I have to say let us not do this, and let us support the Capps amendment.

Yes, I will yield to the gentlewoman.

Mrs. {Capps.} Thank you, and I wanted to associate myself with your remarks too, and respond to what my colleague on the other side said, Dr. Burgess. I really appreciate what you did say, and I think this provision gives
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us an opportunity to really work together to help the patients, like the woman who missed the deadline just by 1 day. That is something that can be addressed, but we need a realistic product. We know that the Senate is going to pass this piece of legislation, and the President won’t sign it, but we can find a way to pay for it. We can pull together to help. Anyone who has a member of their family with a chronic condition, or we ourselves who might have them, know what barriers there are to getting coverage now, and this is a way to come together and really address this issue. Thank you very much, and I yield back.

Mr. {Pallone.} Thank you, and I yield back my time, Mr. Chairman.

The {Chairman.} Chairman yields back. I am going to strike the last line, and yield most of my time to Dr. Burgess. I just want to say, in testimony by Secretary Sebelius over in the Senate before a question for Senator Hatch, she said this, ``I have, for 2013, used by my transfer authority, which is statutory in our budget, as well as the non-reoccurring expense fund for one time IT costs, and a portion of the funding for the prevention fund'', the one that we are using here, ``to use for outreach and education.''' That is our point, and I think the examples
that Mr. Pitts raised, for a variety of different projects all coming out of this fund is why this fund was tapped for something that we feel is important. And I yield the balance of my time to Dr. Burgess.

Dr. {Burgess.} I thank the Chairman, and, Mr. Chairman, I would like to ask unanimous consent that the letter submitted by you, and Chairman Pitts, and myself to the President, to the administration, I would like to submit that for the record, and ask unanimous consent to do so.

The {Chairman.} Without objection.

[The information follows:]

*************** COMMITTEE INSERT ***************
Dr. {Burgess.} And, further, if I could ask a question of Counsel about the fund itself? Can you give me sort of a ballpark figure, say down to the nearest dime, of how much of the Prevention and Public Health Fund has been used on prevention activities in 2013?

{Counsel.} Mr. Burgess, we don’t believe any money has been transferred to those activities for fiscal year 2013.

Dr. {Burgess.} So here is the deal. We have got a big bunch of money that is lying there inert, and the Secretary has transfer authority to move it other activities. And that is why you get the headlines that Chairman Pitts talked about, the signs for bike lanes, the pet neutering project, the gardening projects, lobbying to pass a soda tax. Because it actually sounds like funding for the United Nations Agenda 21, and not for the Prevention Fund. Or perhaps that is time for another discussion.

We are asking about putting a small slice of the $2 trillion in the healthcare law back into the high risk pool. I mean, it is less than 2/10 of 1 percent of the funding of the healthcare law. So why couldn’t we come together and redirect 2/10 of 1 percent of money under the Affordable Care Act to spend it on things that we know that work, which is
providing people with chronic illness access to a health insurance policy. And we are not asking to do it until the end of time. We are simply saying for the rest of this year. I mean, again, for those of you who missed the testimony of the young woman with lymphoma, she had been biding her time, trying to make the payments to her healthcare providers, to her doctors and nurses, to get through to the time where she could be covered on the pre-existing program, and then they slammed the door in her face. It didn’t feel right. And why the President will not respond to what is a reasonable request by the Chairman of the full committee and Chairman of the subcommittee, I simply do not understand why they won’t at least respond to the question. So we have got all these projects that we are funding, we have got Americans with pre-existing conditions who are counting on this program being there until the end of the year. I have got to tell you, if the administration is willing to throw 100,000 very vulnerable people under the bus, who is next?

We all know this law is fraught with difficulty. I have already outlined why the reason for that is so. Once again, it underscores the very damaging aspect of this legislation that was passed under such difficult circumstances 3 years ago. And we are going to be reaping the difficulties of this
law for the next 3 or 4 decades if we don’t do something about it. Today we got a chance to fix a little part of it. I think it is a good thing, because, number 1, it prevents a Secretary from doing other things with the money, things other than what was intended. So I think let us do the right thing, and defeat this amendment, and pass the underlying bill. And I will yield back.

The {Chairman.} Gentleman yields back his time. Or yields to the gentlelady from California? All right. That is right, I control the time. I will be glad to yield to the gentlelady from California. Sorry, she put her hand up.

Mrs. {Capps.} Thank you. I know ``Congressional Quarterly'' is not maybe an official answer, but I was concerned and curious about where Counsel got the figures. And this is from CQ, but, just as one example, the CDC has appropriated almost $463 million for the Prevention Fund for fiscal year 2012, and some of the examples are nutrition, physical activities, and obesity activities, diabetes prevention program, viral hepatitis, public health workforce, cancer prevention and control, million hearts programs. There is a list of it looks like close to 20 items here. This is just for the Centers for Disease Control, in terms of the use, what the actual use for Prevention and Public Health
Funds are. There are many more on this list, which I will just add to what I have submitted for the record, if I could do that? And I am—

The {Chairman.} Without—

Mrs. {Capps.} --to yield.

The {Chairman.} Without objection. It is my time, so my time is—

Mrs. {Capps.} All right.

The {Chairman.} So I will—

Mrs. {Capps.} Thank you, Mr. Chairman. I will yield back.

The {Chairman.} Are there other members wishing to speak? Chair would recognize the gentleman from California.

Mr. {Waxman.} Thank you, Mr. Chairman. The Counsel is called upon on occasion to give us a legal interpretation of the proposals before us, or the existing law. Counsel was asked a question about expenditure of money, and he just said, none of the money has been spent on that fund. Yet Ms. Capps has pointed out that article in the CQ, where close to $463 million, for example, was reported to be given to the CDC. How did you come up with your answer? And I guess a question to the Chair, why would a Counsel be asked a question like that? What is your expertise? Are you a
lawyer?

Dr. {Burgess.} Will the gentleman yield?

Mr. {Waxman.} No.

{Counsel.} Mr. Waxman, my answer was related to fiscal year 2013 funding, and based on conversations with the Congressional Budget Office, we have been told that no money has been transferred to those activities for fiscal year 2013. You are correct, and Ms. Capps is correct, that the activities list for fiscal year--

Mr. {Waxman.} Mr. Chairman, on my time, I think that statement is incorrect, and if we want to hear from the Budget Office, or someone else, they are the best witnesses to that effect. But the fact of the matter is a lot of money, millions of dollars, have been used for nutrition programs, diabetes prevention programs, health screening, cancer screening, tobacco prevention, workplace wellness, million hearts program, racial and ethnic approaches to community health. Now, these are prevention programs. These are the programs that are going to be starved if we take the money out of this Prevention and Public Health Fund and use it for another worthwhile purpose, but we are taking from one important purpose and giving it to another.

The administration has used money in the Prevention and
Public Health Fund, and I wish they hadn’t. But they used it because the President requested funds to implement the Affordable Care Act. Because the Republicans in the Congress are still fighting that fight, and they want to stop this bill from being successful and implemented as a law, the budget request for $1.5 million to ensure the exchanges, or the marketplaces, would be ready to serve more than 25 million Americans was rejected. So the administration has cobbled together what funds they could to go ahead and implement the law.

Yeah, a lot of members in this community didn’t like the law, but the law is the law, and the law ought to be implemented. So the President used the Prevention Fund, and what the Republicans are seeking to do in this bill is to use the rest of it for an 8 month period. We are talking about funds for people with pre-existing conditions to get their coverage until the Affordable Care Act goes into effect in January, where they can no longer be discriminated against. They will be able to buy insurance.

This Prevention and Public Health Fund is a fund that is supposed to be over a 10 year period, as I understand it, and we are taking money from that fund for a 10 year period and using for a worthwhile program an 8 month program. And I
yield to Mr. Pallone.

Mr. {Pallone.} Thank you, Mr. Waxman. Look, Counsel is taking a very short period of time. I think he mentioned fiscal year 2013, which, of course, I guess we are 6 months into it, but with, you know, the Republican leadership’s nonsense over the last 6 months, you know, with the short term continuing resolutions and whatever, I don’t know, you know, what all that means. I will tell you, though, that, you know, I gave you figures just for my own state, and my figures were for fiscal year 2011 and 2012, and, you know, those were for, as I said, reducing tobacco use, breast and cervical cancer screening, fighting chronic disease.

This is a document from the Trust for Health, which says that over the next 10 years, which says fiscal 2013 through 2022, the Prevention Fund will invest a total of 12.5 billion in cross-cutting prevention programs that include community transformation grants and national tobacco education, strategies to reduce hospital associated infections, the very types of things that I know the money is currently being used for in New Jersey.

Mr. {Waxman.} May I reclaim just the--

Mr. {Pallone.} Yes, sure.

Mr. {Waxman.} --last 10 seconds of my time by just
pointing out I was in error, saying that it is going to eliminate the fund. It takes the funding for 4 years for the Prevention and Public Health Fund, uses it for these people for an 8 month period. But for 4 years we won’t have that fund available for the important services that it is now providing in your state, and others.

Mr. Pallone. Right. And it may very well be that, over the next 6 months, that all these things will continue to be funded. So I think it is very shortsighted to just say, so far, in 2013, to have done this or that. I mean, that is not what we are talking about here. We are talking about what this fund has been doing over the last few years, and will continue to do. I don’t know what is going on in a particular month this year. I don’t think that is terribly relevant.

Mr. Walden. Mr. Chairman?

The Gentleman’s time has expired. Are there other members wishing--

Mr. Walden. Move to strike the last word.

The Gentleman from Oregon is recognized.

Mr. Walden. Thank you, Mr. Chairman. Look, we have to make tough choices in this business, and this fund wasn’t properly created, this program wasn’t properly done, it
wasn’t properly vetted, and now it has run out of money. And if I hear the debate correctly, we are being asked to choose about prevention programs, which I am advocate of, versus people with pre-existing conditions that can’t get access to healthcare because of the illness, and whatever their situation is. This should not be a hard choice.

I think we would all agree we want to take care of people who have no other access to care. And we have an ability to go dip into this fund to solve a problem created by a bill that was passed so quickly nobody had a chance to read it, and the former Speaker of the House said we had to pass it so we could find out what is in it. Well, we found out what is in it, and there are problems with it. In fact, with bipartisan basis, we repealed part of the problems. Class act, and some of the other things, actually, we admit they are problems. Both sides of the aisle have done this. The President has even signed into law some of the repeal provisions.

Look, I spent 5 years on a community hospital board. I worked hard in the Oregon legislature to address issues of people in my district then who didn’t have access to healthcare. We changed Oregon law to try and do this. I am a big believer that you should have the ability to get into a
high risk pool. You should have the ability to go through this process to get access so you are not devastated, and your family devastated.

And, within our jurisdiction, we have the ability to make a decision here. And the decision is, for 4 years we will use the funds that are there for prevention and some other things, to actually pay for people who have an urgent, life threatening situation. That is what Republicans are for, is taking care of these people who are otherwise going to be left behind. I think Dr. Burgess said thrown under the bus. And this gets all obfuscated with this other debate, but clearly Mr. Pitts, the Chairman of the Subcommittee, has pointed out where this fund hasn’t been used appropriately. It hasn’t been used appropriately, or at least what I would say is appropriate, given that, you know, we are all borrowing about 40 cents on the dollar around here. We have got a debt problem.

And, you know, within our jurisdiction we have the opportunity to take care of those who, through no fault of their own, have no access to healthcare. And because a lot of us said the way this was structured in the beginning, it was destined to have these very sorts of problems, and they are paying out now, we are actually coming to the table with
a solution, with a funded solution, with a solution that will
take care of these people who are otherwise going to be left
behind by a Federal law that was crammed through.

We talk about the Counsel and CBO. I remember the day
we were granted the great privilege in this committee to have
the head of the Congressional Budget Office before us. And I
remember that day clearly, because the doors had to be
closed, the public had to be excused, the press had to be
dismissed, and it was only us and our staff that were allowed
to ask questions of the head of the Congressional Budget
Office. Now, why that had to be done behind closed doors in
secrecy, I have no idea, but I think we are starting to find
out why.

Mrs. {Capps.} Would the Chairman--

Mr. {Walden.} Well, when I am finished, I will be happy
to.

Mrs. {Capps.} Sure.

Mr. {Walden.} That was the only time, and, as a guy
with a journalism degree, I was, frankly, offended that this
work had to be done behind closed doors, when this committee,
and the Obama administration, was on a path to basically
nationalize healthcare, take over 1/6 of the economy, and
have a direct and dynamic impact on the Federal taxpayers and
budget. And we could only meet with the head of the Congressional Budget Office, Doug Elmendorf, one time officially before the committee, and it wasn’t even official. I don’t think the cameras were running. The lights were off, the cameras were darkened. It had to be done in secret. That is how the Democrats ran this committee when healthcare was debated for it. It was an abuse then. And so the notion that somehow we can’t rely on our Counsel to give us both counsel and factual information is absurd, and I just think we have an opportunity to solve a problem.

Why do all these things have to become partisan? We have got the ability to solve this problem. We have got the ability to use the fund that exists to set a priority to care for people who, through no fault of their own, and have no other ability to get access to healthcare insurance healthcare through the existing pool. We can do that. We could do that today, and we are ready to do that, and we brought it before this committee. And we would encourage Democrats not to just defend Obamacare at all costs. Can’t we make a change here that will take care of the people who need this care?

We didn’t agree to how the high risk fund was set up, but we are willing to help fund it and get it done so that
people aren’t left on the streets with nowhere to turn for healthcare. I think my time has expired.

The {Chairman.} Gentleman’s time is expired. Other members? The gentlelady from Colorado.

Ms. {DeGette.} I yield to the gentlelady from California.

Mrs. {Capps.} I just want to thank my colleague for yielding, and I just want to salute the fact that we do agree about the importance of the access for people with very severe and chronic conditions finally having that chance to get health insurance. The only disagreement comes over how to pay for it. And that is not an easy decision, but surely we can seize on the fact that we have an agreement that appears to be bipartisan, by the comments that have been made, and that if we can simply pass this, because, as it is presented, the underlying bill has no chance of making it through the Senate, or being signed into law. The pay for is egregious.

But surely we can work together and find a way to fund this for this short period of time that neither side will object to. And that is all my amendment seeks to do, give us the time to do that on behalf of our constituents, and our family members and loved ones who really are depending now,
really for their very lives, for this time when this
insurance program is so important.
Ms. {DeGette.} I will just add on, I would also say
that I am extremely glad we are finally looking at how to
make the Affordable Care Act work, and I think that what
would really be productive as we go along is that we look at
all of these programs and see how they can improve. I have
already talked to my Chairman, Mr. Murphy, about doing some
oversight hearings on this, and I think it would be really
helpful if we quit dredging up all of the real and perceived
injustices of the past, and move forward with this. And with
that, I yield back.

The {Chairman.} Gentlelady yields back. I think we are
ready to vote on this amendment.

All those in favor of the amendment will say aye.
All those opposed say no.
The recorded vote is asked. The Clerk will call--
Mrs. {Capps.} Roll call vote, please.
The {Chairman.} Clerk will call the roll.
The {Clerk.} Mr. Hall?
Mr. {Hall.} No.
The {Clerk.} Mr. Hall votes no.
Mr. Barton?
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

2037 Mr. {Barton.} No.
2038 The {Clerk.} Mr. Barton votes no.
2039 Mr. Whitfield?
2040 [No response.]
2041 The {Clerk.} Mr. Shimkus?
2042 [No response.]
2043 The {Clerk.} Mr. Pitts?
2044 The {Chairman.} Mr. Shimkus did not vote, by the way, so—
2045 The {Clerk.} Mr. Pitts votes no.
2046 Mr. Walden?
2047 Mr. {Walden.} No.
2048 The {Clerk.} Mr. Walden votes no.
2049 Mr. Terry?
2050 Mr. {Terry.} No.
2051 The {Clerk.} Mr. Terry votes no.
2052 Mr. Rogers?
2053 [No response.]
2054 The {Clerk.} Mr. Murphy?
2055 Mr. {Murphy.} No.
2056 The {Clerk.} Mr. Murphy votes no.
2057 Mr. Burgess?
2058 Dr. {Burgess.} No.
Mr. Burgess votes no.

Mrs. Blackburn?

[No response.]

Mr. Gingrey?

Dr. Gingrey. No.

Mr. Gingrey votes no.

Mr. Scalise?

Mr. Scalise. No.

Mr. Scalise votes no.

Mr. Latta?

Mr. Latta. No.

Mr. Latta votes no.

Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. No.

Mrs. McMorris Rodgers votes no.

Mr. Harper?

[No response.]

Mr. Lance?

Mr. Lance. No.

Mr. Lance votes no.

Mr. Cassidy?

Dr. Cassidy. No.

Mr. Cassidy votes no.
Mr. Guthrie?

[No response.]

The {Clerk.} Mr. Olson?

Mr. {Olson.} No.

The {Clerk.} Mr. Olson votes no.

Mr. McKinley?

Mr. {McKinley.} No.

The {Clerk.} Mr. McKinley votes no.

Mr. Gardner?

Mr. {Gardner.} No.

The {Clerk.} Mr. Gardner votes no.

Mr. Pompeo?

Mr. {Pompeo.} No.

The {Clerk.} Mr. Pompeo votes no.

Mr. Kinzinger?

Mr. {Kinzinger.} No.

The {Clerk.} Mr. Kinzinger votes no.

Mr. Griffith?

Mr. {Griffith.} No.

The {Clerk.} Mr. Griffith votes no.

Mr. Bilirakis?

Mr. {Bilirakis.} No.

The {Clerk.} Mr. Bilirakis votes no.
Mr. Johnson?
No.
The {Clerk.} Mr. Johnson votes no.
Mr. Long?
No.
The {Clerk.} Mr. Long votes no.
Mrs. Ellmers?
No.
The {Clerk.} Mrs. Ellmers votes no.
Mr. Waxman?
Aye.
The {Clerk.} Mr. Waxman votes aye.
Mr. Dingell?
Dingell votes aye.
The {Clerk.} Mr. Dingell votes aye.
Mr. Markey?
[No response.]
The {Clerk.} Mr. Pallone?
Aye.
The {Clerk.} Mr. Pallone votes aye.
Mr. Rush?
Aye.
The {Clerk.} Mr. Rush votes aye.
Ms. Eshoo?
Ms. {Eshoo.}  Aye.
The {Clerk.}  Ms. Eshoo votes aye.
Mr. Engel?
[No response.]
The {Clerk.}  Mr. Green?
Mr. {Green.}  Aye.
The {Clerk.}  Mr. Green votes aye.
Ms. DeGette?
Ms. {DeGette.}  Aye.
The {Clerk.}  Ms. DeGette votes aye.
Mrs. Capps?
Mrs. {Capps.}  Aye.
The {Clerk.}  Mrs. Capps votes aye.
Mr. Doyle?
Mr. {Doyle.}  Yes.
The {Clerk.}  Mr. Doyle votes aye.
Mrs. Schakowsky?
Ms. {Schakowsky.}  Aye.
The {Clerk.}  Ms. Schakowsky votes aye.
Mr. Matheson?
[No response.]
Mr. {Butterfield.} Aye.
The {Clerk.} Mr. Butterfield votes aye.

Mr. Barrow?
Mr. {Barrow.} Aye.
The {Clerk.} Mr. Barrow votes aye.

Ms. Matsui?
Ms. {Matsui.} Aye.
The {Clerk.} Ms. Matsui votes aye.

Ms. Christensen?
Dr. {Christensen.} Aye.
The {Clerk.} Ms. Christensen votes aye.

Ms. Castor?
[No response.]
The {Clerk.} Mr. Sarbanes?
Mr. {Sarbanes.} Mr. Sarbanes votes aye.

Mr. McNerney?
Mr. {McNerney.} Aye.
The {Clerk.} Mr. McNerney votes aye.

Mr. Braley?
[No response.]
The {Clerk.} Mr. Welch?
Mr. {Welch.} Aye.
The {Clerk.} Mr. Welch votes aye.
113

Mr. Lujan?

Mr. {Lujan.} Aye.

The {Clerk.} Mr. Lujan votes aye.

Mr. Tonko?

Mr. {Tonko.} Aye.

The {Clerk.} Mr. Tonko votes aye.

Chairman Upton?

The {Chairman.} No.

The {Clerk.} Chairman Upton votes no.

Chairman Upton votes no.

The {Chairman.} Members wishing to vote?

Mr. Matheson?

Mr. {Matheson.} Aye.

The {Clerk.} Mr. Matheson votes aye.

Mr. Guthrie?

Mr. {Guthrie.} No.

The {Clerk.} Mr. Guthrie votes no.

Mr. Whitfield?

Mr. {Whitfield.} No.

The {Clerk.} Mr. Whitfield votes no.

Mr. Engel?

Mr. {Engel.} Aye.

The {Clerk.} Mr. Engel votes aye.

Mr. Braley?

The {Chairman.} Mr. Braley?
Mr. {Braley.} Aye.

Mr. Braley votes aye.

Mr. Harper?

Mr. Harper votes no.

Mr. Harper votes no.

Other members wishing to cast a vote?

Seeing none, the Clerk will report the tally.

Mr. Chairman, on that vote, there were 22 ayes and 27 nos.

Twenty-two ayes, 27 nos, the amendment is not agreed to. Other amendments to the bill? Gentlelady from the Virgin Islands.

Thank you, Mr. Chairman. I have an amendment at the desk.

The Clerk will report the title.

Amendment to H.R. 1549 offered by Ms. Christensen.

[The amendment of Dr. Christensen follows:]

*************** INSERT 4 ***************
The amendment will be considered as read, and the gentlelady is recognized for 5 minutes in support of her amendment.

Dr. Christensen. Thank you, Mr. Chairman. I am offering my amendment, which would include the U.S. Virgin Islands and the other U.S. territories in the pre-existing insurance program. But given that the Pallone amendment was deemed non-germane, I am going to withdraw it.

At the outset, as we began to write the Affordable Care Act, we members of Congress representing Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Marianas, and the U.S. Virgin Islands asked for equity and state-like treatment. We accomplished this in the case of the PCIP in the House Affordable Care Act, but along with the change in our match which was included in the House bill, but lost in the other body, we were excluded in the Senate bill because of how the term state was defined.

As a direct result, tens of thousands of Americans in the U.S. territories were left out of this reform in the healthcare system, unable to access the very same benefits that other Americans have accessed simply because of this oversight. The amendment simply defines state to include the
District of Columbia and the territories as the customary, or
default, definition. So, really, it basically says that the
term state shall have the same definition as contained in
Section 2F of the Public Health Service Act, 42 U.S.C.
201(f).

Without access to care, the Americans in the U.S.
territories have experienced poor health as a direct result.
Not only has this contributed to the health disparities that
plagued the Americans in the territories, it is unfair.
While I am withdrawing the amendment, I remain keenly
interested in working with my colleagues on both sides of the
aisle to make healthcare reform a reality for all Americans,
and I yield back.

Mr. {Waxman.} And before the lady yields back, I just
want to--

Dr. {Christensen.} I yield to the Chairman--to the
Ranking Member.

The {Chairman.} Thank you.

Mr. {Waxman.} --identify with her remarks. It really
is unfair the way we treated the territories. These are
American citizens, and to not allow them to participate in
the same program available for other Americans is
regrettable, and I hope at some point we can correct that.
Dr. {Christensen.} Thank you, Mr. Chairman. I yield back my time.

The {Chairman.} Does the gentlelady withdraw her amendment?

Dr. {Christensen.} And I withdraw the amendment. Thank you.

The {Chairman.} Amendment is withdrawn. Are there further amendments to the bill? Gentleman from Texas, Dr. Burgess.

Dr. {Burgess.} Mr. Chairman, I have an amendment at the desk.

The {Chairman.} Clerk will report the title.

The {Clerk.} Amendment to H.R. 1549, offered by Mr. Burgess.

[The amendment of Dr. Burgess follows:]

*************** INSERT 5 ***************
The amendment will be considered as read.

Mr. Reserve a point of order.

Mr. Point of order is reserved, and the gentleman from Texas is recognized for 5 minutes in support of his amendment, and the staff will distribute the amendment.

Dr. Thank you, Mr. Chairman. This amendment provides minor clarification to the underlying bill. Since the administration announced the closing of the pre-existing insurance plan, we want to ensure that the funding provided in this bill, 1549, gets to patients as quickly as possible.

Mr. Will the gentleman yield to me?

Dr. Yes.

Mr. I, first of all, wanted to withdraw my point of order. And, secondly, I want to support your amendment, and let you know that I think it is a good amendment. It is a good technical amendment. I urge our colleagues to adopt it.

Dr. I thank the ranking member, and I will yield back the balance of my time, and urge support of the amendment.
The {Chairman.} Gentleman yields back. Are there further speakers seeking time? Seeing none, the vote occurs on the amendment. Those in favor will say aye.

Those opposed, say no.

In the opinion of the Chairman, the ayes have it. The amendment is agreed to.

Are there further amendments to the bill?

Mr. {Waxman.} I have an amendment, but I just want to ask unanimous consent that the Prevention and Public Health Fund, Detailed Activities by Agency, a document, be inserted into the record.

The {Chairman.} Without objection.

[The information follows:]

*************** COMMITTEE INSERT ***************
The {Chairman.} The vote now occurs on the bill as amended. All those in favor will say aye.

Those opposed say no.

Mr. {Pitts.} Mr. Chairman?

The {Chairman.} I might have had to call it no.

Mr. {Pitts.} I would like a recorded vote.

The {Chairman.} Recorded vote is asked for. The Clerk will call the roll on final passage as amended.

The {Clerk.} Mr. Hall?

Mr. {Hall.} Yes.

The {Clerk.} I am sorry, could you repeat that? Yeah.

Aye? Mr. Hall votes aye.

Mr. Barton?

[No response.]

The {Clerk.} Mr. Whitfield?

Mr. {Whitfield.} Aye.

The {Clerk.} Mr. Whitfield votes aye.

Mr. Shimkus?

[No response.]

The {Clerk.} Mr. Pitts?

Mr. {Pitts.} Aye.

The {Clerk.} Mr. Pitts votes aye.
Mr. Walden?

Mr. {Walden.} Yes.

The {Clerk.} Mr. Walden votes aye.

Mr. Terry?

[No response.]

The {Clerk.} Mr. Rogers?

[No response.]

The {Clerk.} Mr. Murphy?

Mr. {Murphy.} Aye.

The {Clerk.} Mr. Murphy votes aye.

Mr. Burgess?

Dr. {Burgess.} Aye.

The {Clerk.} Mr. Burgess votes aye.

Mrs. Blackburn?

[No response.]

The {Clerk.} Mr. Gingrey?

Dr. {Gingrey.} Aye.

The {Clerk.} Mr. Gingrey votes aye.

Mr. Scalise?

[No response.]

The {Clerk.} Mr. Latta?

Mr. {Latta.} Aye.

The {Clerk.} Mr. Latta votes aye.
Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. Aye.

The Clerk. Mrs. McMorris Rodgers votes aye.

Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper votes aye.

Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance votes aye.

Mr. Cassidy?

Dr. Cassidy. Aye.

The Clerk. Mr. Cassidy votes aye.

Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie votes aye.

Mr. Olson?

Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Gardner?

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

2382 The {Clerk.} Mr. Gardner votes aye.
2383 Mr. Pompeo?
2384 Mr. {Pompeo.} Aye.
2385 The {Clerk.} Mr. Pompeo votes aye.
2386 Mr. Kinzinger?
2387 Mr. {Kinzinger.} Aye.
2388 The {Clerk.} Mr. Kinzinger votes aye.
2389 Mr. Griffith?
2390 Mr. {Griffith.} Aye.
2391 The {Clerk.} Mr. Griffith votes aye.
2392 Mr. Bilirakis?
2393 Mr. {Bilirakis.} Aye.
2394 The {Clerk.} Mr. Bilirakis votes aye.
2395 Mr. Johnson?
2396 Mr. {Johnson.} Aye.
2397 The {Clerk.} Mr. Johnson votes aye.
2398 Mr. Long?
2399 Mr. {Long.} Aye.
2400 The {Clerk.} Mr. Long votes aye.
2401 Mrs. Ellmers?
2402 Mrs. {Ellmers.} Aye.
2403 The {Clerk.} Mrs. Ellmers votes aye.
2404 Mr. Waxman?
Mr. {Waxman.} No.

Mr. Waxman votes no.

Mr. Dingell?

Mr. {Dingell.} No.

Mr. Dingell votes no.

Mr. Markey?

[No response.]

Mr. Pallone?

Mr. {Pallone.} No.

Mr. Pallone votes no.

Mr. Rush?

[No response.]

Ms. Eshoo?

Ms. {Eshoo.} No.

Ms. Eshoo votes no.

Mr. Engel?

[No response.]

Mr. Green?

Mr. {Green.} No.

Mr. Green votes no.

Ms. DeGette?

Ms. {DeGette.} No.

Ms. DeGette votes no.
Mrs. Capps?
Mrs. {Capps.} No.
The {Clerk.} Mrs. Capps votes no.
Mr. Doyle?
Mr. {Doyle.} No.
The {Clerk.} Mr. Doyle votes no.
Ms. Schakowsky?
Ms. {Schakowsky.} No.
The {Clerk.} Ms. Schakowsky votes no.
Mr. Matheson?
Mr. {Matheson.} No.
The {Clerk.} Mr. Matheson votes no.
Mr. Butterfield?
Mr. {Butterfield.} No.
The {Clerk.} Mr. Butterfield votes no.
Mr. Barrow?
Mr. {Barrow.} No.
The {Clerk.} Mr. Barrow votes no.
Ms. Matsui?
[No response.]
The {Clerk.} Ms. Christensen?
Dr. {Christensen.} No.
The {Clerk.} Ms. Christensen votes no.
Ms. Castor?

Ms. {Castor.} No.

The {Clerk.} Ms. Castor votes no.

Mr. Sarbanes?

Mr. {Sarbanes.} No.

The {Clerk.} Mr. Sarbanes votes no.

Mr. McNerney?

Mr. {McNerney.} No.

The {Clerk.} Mr. McNerney votes no.

Mr. Braley?

Mr. {Braley.} No.

The {Clerk.} Mr. Braley votes no.

Mr. Welch?

Mr. {Welch.} No.

The {Clerk.} Mr. Welch votes no.

Mr. Lujan?

Mr. {Lujan.} No.

The {Clerk.} Mr. Lujan votes no.

Mr. Tonko?

Mr. {Tonko.} No.

The {Clerk.} Mr. Tonko votes no.

Chairman Upton?

The {Chairman.} Votes aye.
The {Clerk.} Chairman Upton votes aye.

Other members wishing to vote?

Mr. Barton?

Yes.

Mr. Barton votes aye.

Mr. Scalise?

Aye.

Mr. Scalise votes aye.

Mr. Terry?

Aye.

Mr. Terry votes aye.

Other members wishing to cast a vote?

Seeing none, the Clerk will report the tally.

Mr. Chairman, on that vote, there were 27 ayes and 20 nos.

Twenty-seven ayes, 20 nos, the bill is favorably reported, as amended.
H.R. 1580

The {Chairman.} The Chair now calls up H.R. 1580, and asks the Clerk to report.

The {Clerk.} H.R. 1580, to affirm the policy of the United States regarding Internet governance.

[H.R. 1580 follows:]

*************** INSERT 6 ***************
The bill will be considered as read, and members have the copies of the bill. Are there amendments to the bill? Seeing none, the vote occurs on H.R. 1580. Those in favor will say aye. Those opposed will say no. In the opinion of the Chair, the ayes have it, and the amendment is agreed to, and is favorably reported.
130

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

| 2506 H.R. 3 |
2507 The {Chairman.} The Chair now calls up H.R. 3, and asks |
2508 the Clerk to report. |
2509 The {Clerk.} H.R. 3, to approve the construction, |
2510 operation, and maintenance of the Keystone XL pipeline, and |
2511 for other purposes. |
2512 [H.R. 3 follows:]

2513 **************** INSERT 7 ****************
The {Chairman.} Without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any point, so ordered. Are there any bipartisan amendments to the bill? Seeing none, the Chair now asks are there any amendments to the bill? And with that, the Chair would recognize the gentleman from California, Mr. Waxman, for 5 minutes.

Mr. {Waxman.} Mr. Chairman, first of all, I would like the amendment to be reported.

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

The {Clerk.} Amendment to H.R. 3, offered by Mr. Waxman of California.

[The amendment of Mr. Waxman follows:]

*************** INSERT 8 ***************
The amendment will be considered as--

Mr. With that, Mr. Chairman, I agree with you. I was--

The I am sorry. Yeah.

Mr. --my statement, but--

The Yeah.

Mr. --I have no opposition--

The The amendment will be considered as read. The staff will distribute the amendment, and the gentleman is recognized for 5 minutes.

Mr. Thank you, Mr. Chairman, and my colleagues. I am strongly opposed to the Keystone pipeline. We need to build a clean energy future, not one that uses the dirtiest source of oil imaginable. But this Committee is going to report a bill approving Keystone, and that appears to be the case.

The The gentleman would suspend for a moment? Gentleman will continue.

Mr. If this Committee is going to approve a bill approving the Keystone pipeline, the least we could do is ensure that the extra emissions from Keystone are fully
offset, and that is the point of this amendment.

The biggest problem with getting oil from the tar sands, in my opinion, is that the tar sands don’t contain oil. They contain bitumen, which is a heavy hydrocarbon substance, with a consistency of tar. To get oil from bitumen, you have to mine it, and then melt it, or you have to melt it underground and extract it. And then it must be upgraded, or diluted, so that it can be moved through a pipeline. Even then, it still requires higher temperatures and pressures to move it. And refining bitumen is harder than refining conventional crude oil, because bitumen has more contaminants. All of these extra steps take extra energy, a lot of extra energy. One estimate used by the State Department is that a gallon of gasoline from the tar sands is responsible for about 17 percent more carbon pollution than the average U.S. gallon of gasoline.

At a time when we need to be doing everything we can to reduce carbon pollution, increasing our reliance on tar sands crude is a huge step in the wrong direction. We don’t need this extra pollution. With the boom in U.S. shale oil production, we could be using more light oil from the Bakken and Eagle Ford deposits, rather than moving to dirtier tar sands.
My amendment takes the simple step of holding TransCanada and the tar sands producers accountable for their additional pollution. It says that they have to reduce their emissions to the level of conventional oil, or obtain offsets for the extra emissions. My amendment is a level playing field amendment. It says that if tar sands are going to come into the United States, the producers have to make it at least as clean as conventional gasoline.

Under this amendment, the tar sands producers have a lot of compliance options. They could apply carbon capture and sequestration technology, or they could reduce carbon pollution from other sources. But what they can’t do is make our climate problem worse by selling a product that is more polluting than gasoline. Offsetting the extra carbon pollution from the tar sands moved through the Keystone XL pipeline won’t get us closer to our climate goals, but at least we wouldn’t be making the situation worse.

I want to emphasize one point. The extra carbon pollution from the tar sands crude in the pipeline isn’t even the biggest climate problem with Keystone XL. The larger problem is the signal it sends if we approve this project. Approving Keystone XL tells the oil industry and investors to move full speed ahead on their plans to triple tar sands
production. It tells them that they could expand, because they will be able to get their oil to market. At the hearing on this bill, we heard testimony that there is no plausible scenario in which we triple tar sands production and avoid a catastrophic level of climate change.

So make no mistake, even with this amendment, the Keystone XL pipeline would be a disaster for the climate, but this amendment would help. It would avoid a lot of carbon pollution, and it would tell the tar sands producers and Alberta that they need to do a lot more to address climate change. To do otherwise would be to award these oil companies a windfall for increasing pollution and threatening the wellbeing of future generations.

So I would urge my colleagues to support this amendment, and yield back the balance of my time.

The {Chairman.} Gentleman yields back. Chair would recognize the gentleman from Kentucky, Mr. Whitfield, 5 minutes.

Mr. {Whitfield.} Thank you, Mr. Chairman, and I rise in opposition to the gentleman’s amendment. As he had said, the amendment would require that, for the bill to be effective, the President must find greenhouse gas emissions from increased use of tar sands crude oil would be offset by
TransCanada or oil sands producers.

I would point out, first of all, that, even today, we are importing in excess of a million barrels of oil a day from the oil sands. In April 2013, the U.S. Energy Information Administration reported that energy related carbon dioxide emissions in the U.S. are at their lowest level since 1994. The Energy Information Agency also projects that U.S. energy related carbon dioxide levels will remain more than 5 percent below their 2005 level through 2040. The draft supplemental environmental impact statement on this pipeline concluded that the pipeline project would have little impact on crude oil production. The State Department stated that approval or denial of the proposed project is unlikely to have a substantial impact on the rate of development in the oil sands, or in the amount of heavy crude refined in the Gulf Coast area.

But it will make an impact on U.S. economic development and job creation. It will improve our strategic competitiveness in world markets. It will add to our efforts to ensure affordable, abundant, and secure energy supplies so that all of us can be confident of a strong economic future. We support policies that focus on spurring innovation, and the development of more efficient, which means less costly
and cleaner, and diverse ways of producing and consuming energy. There are many examples of this rapid change happening in the marketplace at the state level, and in Canada, as producers become more efficient with water recycling technologies, using more natural gas instead of diesel run engines and vehicles, and new advancements with multi-pad drilling to lessen impacts on land.

Our vision, embodied in this legislation today, embraces the tremendous opportunities of North American energy, and the ability to be energy independent. We should choose a path that ensures a bright American economic future, not one that will be mired in rationing, taxing, and economic red tape.

So I would recommend, and hope, that all of us would oppose the gentleman’s amendment, and I would yield back the balance of my time.

The Gentleman yields back. Other members wishing to speak? Gentlelady from California, Mrs. Capps.

Mrs. Capps. Thank you. I would just strike the last word, Mr. Chairman, and I strongly support the Waxman amendment.

You know, as policymakers, we have a responsibility to pursue policies that advance the long term interests of our
nation as a whole, not just individual companies, or even industries. The world’s best scientists agree carbon pollution from burning fossil fuels is polluting our air, it is causing irreversible damage to our climate, and we are seeing the impacts all around us. More frequent and extreme weather events, higher sea levels, severe drought, extreme wildfires. The Keystone pipeline doubles down on these polluting policies and only makes the situation worse.

The tar sands crude that would come through the Keystone pipeline is a far more carbon intensive material than conventional crude. Replacing just 3 million barrels per day of common crude with tar sands oil would be the equivalent of adding 22 million passenger cars to the road. Now, I think this is a backwards policy. The Waxman amendment would help to minimize these impacts by simply requiring tar sands producers, like TransCanada, to offset the additional carbon emissions from the increased use of tar sands crude.

We can’t end our dependence on fossil fuels overnight, but at least we can try to prevent the situation from getting worse. This amendment would help to do that, and I urge my colleagues to support it, and I am prepared to yield to someone.

The {Chairman.} Ms. Schakowsky was looking for time.
Mrs. {Capps.} To my colleague, Ms. Schakowsky. Where is she? I don’t see her.

Mr. {Waxman.} Will the gentlelady yield?

Mrs. {Capps.} I will yield to Mr. Waxman.

Mr. {Waxman.} I just want to identify myself with your remarks. We need to look at the long term problem. We may have reached a lower level of carbon dioxide emissions from this fossil fuel combustion in 2012, we are now back at 1994 levels, but I don’t think we will find any expert that will say that we are on track to decline in the future by the amount needed to prevent dangerous climate change. And so I think that if we are going to go the path of the XL pipeline, the biggest problem I have with it is the amount of carbon it puts into the atmosphere. And if they are going to do that, they ought to offset it, either by technology, or by providing other carbon reductions, and that is the purpose of this amendment.

Thank you for yielding to me.

The {Chairman.} Gentlelady yields back. Other members wishing to speak on the amendment? Seeing none, the vote occurs on the amendment offered by the gentleman from California.

All those in favor will say aye.
Those opposed say no.

Opinion of the Chair, the nos have it. The amendment is not agreed to.

Are there other amendments to the bill? Gentlelady from California.

Mrs. (Capps.) Thank you, Mr. Chairman. I do have an amendment at the desk.

The (Chairman.) The Clerk will report the title.

Mrs. (Capps.) The title is introduction of the liability trust fund.

The (Clerk.) Amendment to H.R. 3, offered by Mrs. Capps of California.

[The amendment of Mrs. Capps follows:]

*************** INSERT 9 ******************
The {Chairman.} And the amendment will be considered as read, and the gentlelady is recognized for 5 minutes in support of her amendment, as the staff distributes it.

Mrs. {Capps.} Thank you very much, Mr. Chairman. In the event of an oil spill, the Federal government pays for the costs it incurs in responding to the spill out of the Oil Spill Liability Trust Fund. My amendment would simply close an egregious loophole that is giving importers of tar sands oil a free ride from making their share of contributions to this trust fund.

The trust fund is funded by an 8 cent per barrel excise tax on crude oil and petroleum products, but the IRS has ruled that tar sands bitumen is not crude oil under the law, and therefore is not subject to this tax. While I disagree with the tax exemption, the IRS is correct that bitumen is in some ways very different from conventional oil, and that is a point that I highlighted in our hearing on this bill last week.

Tar sands oil is more of a solid than a liquid, and you actually have to mine it or melt it to get it out of the ground. That means it has a much higher carbon pollution on a lifecycle basis. And, as we have seen in Kalamazoo,
Michigan, when it spills, bitumen is actually much harder to clean up than conventional oil. Nearly 3 years after that spill, the cleanup is still going on, and the costs are approaching a billion dollars. But exempting tar sands products from contributing their fair share to the Oil Spill Liability Trust Fund simply makes no sense. There simply is no such thing as spill proof pipeline.

Tar sands spill just as often as conventional oil, and when tar sands spill, they cause just as much, or even greater, damage to human health, property, and natural resources. In fact, recent experience indicates that tar sands spills appear to be even more costly to clean up.

This tar sands loophole created by the IRS has caused several serious problems. First, oil companies producing tar sands get a free ride when it comes to the Oil Spill Liability Trust Fund. If the Keystone XL pipeline leaks, then the Federal government, and other oil companies, could be forced to pick up the tab for cleaning up the mess.

The recent Exxon Mobil spill in Mayflower, Arkansas gave us a vivid picture of the damage caused by oil spills. Officials are still determining the extent of the spill, but thousands of barrels of heavy crude gushed from a 2 inch wide, 22 foot long gash in the Pegasus pipeline and poured...
into neighborhoods, damaging property and wildlife. TransCanada says it will implement lots of safety measures, but accidents do happen. In fact, accidents have already happened 14 times on the existing TransCanada Keystone pipeline. They happened in Kalamazoo in Arkansas, and they will almost certainly happen on the proposed Keystone pipeline too. My amendment would simply ensure that those responsible for the oil spills are paying to clean them up.

Second reason for this amendment is this tar sands exemption deprives the Federal government of millions of dollars of revenue. If the Keystone XL pipeline is approved, the tar sands crude oil will literally get a free ride through the United States. Mr. Markey’s staff on the Natural Resources Committee released a report last year estimating the size of this tax holiday if the XL pipeline comes online. This reports that the Oil Spill Trust Fund could lose $400 million in revenue from tar sands oil production if this tax loophole is allowed to stand. My amendment would prevent that from happening by leveling the playing field for all oil producers. It simply ensures that diluted bitumen and synthetic crude oil from the tar sands are treated as crude oil for purposes of paying into the Oil Spill Trust Fund.
You know, Mr. Chairman, we may disagree on many things in this committee, but I hope we could all agree that there is no reason to exempt tar sands crude from a tax that applies to every other type of crude oil. So I urge my colleagues to support this amendment, and I yield back the balance of my time.

The Gentlelady yields back. Chair would recognize the gentleman from Nebraska, Mr. Terry, for 5--

Mr. Terry. Thank you, and I rise in opposition of the gentlelady’s amendment. I do agree that this is a discussion we need to have. This is, of all the amendments that I have seen, is probably the one most worthy of discussion. This just is not the appropriate time or the place. This is mostly a Ways and Means issue, and we need to encourage that committee, and the other committees what will be involved in this, to review this. It deals with the larger issue of taxation, and overall tax reform, and a bill to approve this bill is not the appropriate place for just placing it on a single pipeline.

So when we are talking about the synthetic, or the heavier crudes that come from this, and whether they should be taxed as other crudes, that is a discussion we need to have, and so she brings up a legitimate issue. But just
choosing it for this pipeline at this time is, in my view, not the right time or the place for the discussion, and I encourage my--

Mr. {Barton.} Would the gentleman yield?

Mr. {Terry.} Yeah, sure.

Mr. {Barton.} I would like permission to ask Counsel a question. How would this pipeline be treated under current law, in terms of payments into the Oil Spill Liability Trust Fund and taxation? Why would this one be any different than any other pipeline that is already in existence?

{Counsel.} Sir, the problem, and this was actually discussed in the IRS issued document, there is still a little bit of confusion over how exactly you would be able to segment out the oil that comes from synthetic oil that would come from Canada versus crude that comes from conventional sources. So--

Mr. {Barton.} But it is not synthetic. It is oil.

{Counsel.} Certainly.

Mr. {Barton.} It is not man made. It is international, but it is not--

{Counsel.} Yes, sir.

Mr. {Barton.} --it is just a heavier crude. I mean, I am not an expert, but I am surprised that it would be treated
any differently than any other oil, and that is why I think the gentleman from Nebraska is saying it is worthy of discussion.

Mr. {Waxman.} Would the gentleman from Nebraska yield to me?

Mr. {Barton.} I will give back the--

Mr. {Terry.} Are you finished? Reclaim my time.

Mr. {Barton.} I will yield back to Mr. Terry.

Mr. {Terry.} Reclaim my time, and yield to the gentleman from California.

Mr. {Waxman.} I thank you very much. It doesn’t make any sense that they are treated differently. In 1990, after the Exxon-Valdez oil spill, Congress passed a law saying that the responsible party has to pay for cleanup up to the financial limits. But above these limits, where they cannot pay, there is an Oil Spill Liability Trust Fund. So everybody pays into that trust fund, and I think most people would have assumed that the oil, even from tar sands, would apply.

But in 2011, a few IRS lawyers decided this tax should not apply to tar sands crude oil. I don’t see how they could reach that conclusion. Maybe they took some strict words in the law, but I don’t think Congress would have ever intended-
-in fact, one could argue that tar sands oil should be subject to a higher per barrel tax because tar sands oil spills are both more difficult and costly to clean up. Nearly 3 years ago we had a tar sands oil spill in Kalamazoo, Michigan. Cleanup efforts are still ongoing, and the costs are approaching a billion dollars a year.

I don’t think this should wait for overall tax reform.

Mr. {Terry.} Well--

Mr. {Waxman.} If I just could--

Mr. {Terry.} Reclaiming my time--

Mr. {Waxman.} Well, let me just--

Mr. {Terry.} --but the--yeah, the..

Mr. {Waxman.} Would you let me just read the sentence?

Mr. {Terry.} Pardon me?

Mr. {Waxman.} I was going to offer something that I thought was helpful.

Mr. {Terry.} Okay. I will continue. Yield back.

Mr. {Waxman.} I don’t think that we ought to wait for overall tax reform. I think we ought to go with this bill, but I understand the gentleman’s reluctance. I think that, as this bill moves forward, if it is a Ways and Means issue, or something else, I would hope that the leaders on this bill, on this issue, will argue for the equitable--
Mr. {Terry.} Yeah.

Mr. {Waxman.} --treatment of--

Mr. {Terry.} I think it should be equitably, and the reality is, because of that decision, Ways and Means has to make it taxable. And so we will encourage continued study and resolution of this issue, but this is not the right time for this amendment. Yield back.

The {Chairman.} Gentleman’s time has expired. Chair would recognize the gentleman from Texas, Mr. Green.

Mr. {Green.} Mr. Chairman, I will be really brief, but this amendment’s needed. This might not be the jurisdiction, but I have some concern, opposite from some of my colleagues, that I don’t think we ought to have our domestic producers at a competitive disadvantage for this fee, coming from a state that is expanding our production, and even North Dakota. So I think, ultimately, before this bill passes, hopefully we will see this correction, because I think it is a good amendment. It just may not be the jurisdiction for it. And I yield back.

The {Chairman.} If the gentleman will yield, let me just say this. I believe that there are two committees, actually, with some jurisdiction here as well. One is Transportation Committee, as well as Ways and Means. And I
might suggest, this bill is not in the radar screen to be up on the House floor this month. And I might ask if the gentlelady might want to withdraw her amendment? We will see if we can have some constructive discussion and dialogue with the other committees, and see if there is something that we might jointly be able to support.

And, though her amendment would likely fail today, would certainly protect her right to offer an amendment on the House floor, should we not be able to resolve it before the Rules Committee. I might make that offer?

Mrs. {Capps.} Would the gentleman yield?

The {Chairman.} It is not my time. It is the--

Mr. {Green.} I will gladly--

The {Chairman.} --gentleman from Texas’s time.

Mrs. {Capps.} I appreciate that offer, I guess I will call it that, but I would note that Natural Resources has dealt with this issue.

The {Chairman.} Maybe Natural Resources Committee. I might have--

Mrs. {Capps.} So I want to be firmly convinced that this does get a good discussion, and the promise of a vote.

The {Chairman.} Well, I will protect your right to offer an amendment on the floor, whether it be this amendment
or something different, but just see if we can’t get into some dialogue between the respective committees of jurisdiction.

Mrs. {Capps.} Thank you very much, and I accept that offer, and will yield back to you.

The {Chairman.} And withdraw the amendment?

Mrs. {Capps.} I withdraw the amendment, for the time being.

The {Chairman.} Thank you.

Mrs. {Capps.} Thank you.

The {Chairman.} Amendment is withdrawn. Are there other amendments to the bill?

Mr. {Rush.} Chairman?

The {Chairman.} Gentleman from Illinois.

Mr. {Rush.} Mr. Chairman, I have an amendment at the desk.

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

The {Clerk.} Amendment to H.R. 3, offered by Mr. Rush of Illinois.

[The amendment of Mr. Rush follows:]

*************** INSERT 10 ***************
The amendment will be considered as read, and the staff will distribute the amendment, and the gentleman is recognized for 5 minutes in support of his amendment.

Mr. Rush. Well, thank you, Mr. Chairman. Mr. Chairman, in the past 2-1/2 years, the majority has scheduled exactly 1 hearing dedicated to learning about the actual science of climate change, and that was held way back in March 2011, in the E and P Subcommittee, before the record drought, before the record flooding, before the record heat wave of 2012, and only after committee Democrats threatened to exercise our rights, and demand a minority hearing under House Rule 11.

And yet here we are again today, debating yet another Keystone bill, when everyone in this room understands that the bill before us would never, ever be signed into law by President Obama. Mr. Chairman, I urge the majority party to make better use of the Committee’s time and take up the issue of climate change, and the Subcommittee also, by inviting actual scientists and climate experts who can talk informatively about the likely impacts of unabated climate change on human health, the environment, and the economy, and
stop putting your collective heads into proverbial sand.

Mr. Chairman, I strongly urge, and strongly disagree, with the majority side’s process of trying to immediately expedite the approval of the Keystone XL pipeline, even at the expense of limiting ordinary citizens’ right to file a claim against this project, both in terms of where they may be filed, and the time period at which they must be filed.

This bill is just another example of the majority party putting industry interests before the public interest, as this bill curtails the environmental review process, while also limiting the ability of average citizens to seek redress through the judicial system.

H.R. 3 would take all the cases out of the hands of the Federal District Courts and transfer those cases to the D.C. Circuit Court of Appeals, barring intervention by the Supreme Court. Mr. Chairman, if the American citizens, in any place in America other than D.C., if they wanted to sue in order to get a redress in Federal Court, then they would have to afford the expense of coming to Washington, D.C. to file their claim in the District Court in Washington, D.C.

Something is wrong with that requirement, and so my amendment is a straightforward amendment. It would simply strike Section 4, the judicial review clause, to help
ordinary American citizens keep their rights intact, and not limit their ability to file a legal claim. Mr. Chairman, the intent of this clause is clear. It is designed to limit citizens’ ability to file a lawsuit against the Keystone pipeline project. Many constituents may be unjustly affected by losing their legal right to file a claim in their own home districts, or due to ambiguous time limits placed on them when they may file a claim, as this bill certainly does. Mr. Chairman, I urge all of my colleagues to support my amendment, and to vote for my amendment, and I yield back the balance of my time.

The Gentleman yields back. Chair would recognize the gentleman from Kentucky, Mr. Whitfield.

Mr. Whitfield. Well, thank you, Mr. Chairman, and I certainly have great respect and admiration for our friend from Illinois, Mr. Rush. I would disagree, though. I think the time that this Committee spends on this legislation particularly is vitally important, because we have a vision that recognizes that a bright economic future is within our grasp, a future of energy self-efficiency, and sufficiency. A future that will produce 20,000 jobs with the stroke of a pen. A future where America turns the tables on its international energy competitors. A future of jobs and
booming economic growth. The American people are looking for economic growth and jobs. This legislation assures that that will happen.

Now, I know that Mr. Rush is quite concerned about the environment, and I genuinely do not believe that any pipeline has undergone the scrutiny of environmental impact this pipeline has undergone. We have already talked about how there has been 15,500 pages of documents related to the NEPA analysis alone. We talked about the application being filed in September of 2008. Almost 5 years has gone by. We have talked about the State Department, and its Environmental Impact Statement, twice, saying that there is no major environmental issue with this pipeline.

As far as the specifics of the gentleman’s amendment relating to striking the provisions on judicial review, I might say that the language in this bill basically mirrors the language that was in the Alaskan Natural Gas Pipeline Act that became law in 2004, so there is not anything particularly unusual about the language. I might also say that this was also included in a military construction appropriation bill that passed by unanimous consent in both the House and Senate.

We know that there are already a number of lawsuits
pending against this bill, and we expect more to be filed, so
Section 4 simply vests, except for review by the Supreme
Court, the U.S. Court of Appeals for the District of Columbia
with sole jurisdiction over specifically listed legal
challenges regarding this pipeline. I might also say that,
in addition to the Alaskan Natural Gas Pipeline Act, there
were limits of judicial review in bills, such as the Waxman-
Markey cap and trade legislation, the failed stimulus bill,
and the Dodd-Frank legislation. This does not limit the
ability to bring a suit, but because of the national
significance of the pipeline, and the already public lawsuits
and continued threats to sue, it sets up a process that has
been enshrined in the law before.

So I think this is a very important piece of
legislation. It will provide immediate jobs, help us be more
energy independent, and less reliant on Middle Eastern oil
and oil from Venezuela. And so I would respectfully ask that
we oppose the gentleman’s amendment, and I would yield back
the balance of my time.

The {Chairman.} Gentleman yields back. Other members
wishing to speak on the amendment?

Seeing none, the vote occurs on the amendment offered by
the gentleman from Illinois.
Those in favor will say aye.
Those opposed will say no.
The nos appear to have it. The nos have it. The amendment is not agree to.
Are there other amendments to the bill? Gentleman from New Mexico, Mr. Lujan, has an amendment at the desk.
Mr. {Lujan.} Mr. Chairman, I have an amendment.
The {Chairman.} And the Clerk will report the title.
The {Clerk.} Which number, sir?
Mr. {Lujan.} 85. I apologize, 86.
The {Chairman.} 86.
Mr. {Lujan.} I apologize, it is filed as 85. I think it is listed on the list of amendment as 86, but formal, the number is 85.
The {Clerk.} Amendment to H.R. 3, offered by Mr. Ben Ray Lujan of New Mexico.
[The amendment of Mr. Lujan follows:]

*************** INSERT 11 ***************
The amendment will be considered as read. The staff will distribute the amendment, and the gentleman is recognized for 5 minutes in support of his amendment.

Mr. Chairman, thank you very much, and we have heard a lot over the past few days about prices at the pump, and how this pipeline is going to lower the cost for consumers. If that is the case, Mr. Chairman, then there should be unanimous support for my amendment. My amendment ensures that the benefits of oil flowing through the Keystone XL pipeline will go to American consumers, and not for the sole benefit of foreign companies and refineries.

Mr. Chairman, in 1973 there was a piece of legislation that moved forward an Alaskan Pipeline Act, and in that piece of legislation, which passed the Congress with a 361 to 14 vote in the House, there was language in there that said that the oil flowing through that pipeline would be for domestic consumption. Subsequently, it was passed in the United States Senate by 80 to 5, similar to the language that we are trying to offer here today, Mr. Chairman.

And under this bill that is being offered with the XL pipeline today, there is no guarantee that one drop of tar
sands oil or fuels generated will stay in the United States.
Companies have said they plan to refine the Canadian crude at
the same facility they are building in Port Arthur, Texas
because doing so leverages its export logistics, and says
that growing global diesel demand is an export opportunity
for their refineries. Here is the problem, this pipeline has
been sold to the American public as a way to bring down gas
prices for the American people. Again, no guarantee in the
underlying legislation that anything moving in this pipeline
will stay in the United States.

Motiva, a joint refining venture owned by Saudi Armco
and Saudi Arabian Oil Company is another one of TransCanada’s
customers who will be refining Canadian tar sands crude in
Texas and shipping it out of the company. And the rest of
TransCanada’s customers include a French company, 2 Canadian
companies, and a multi-national venture based in the
Netherlands. It does not appear that any of TransCanada’s
customers have the intention of helping American consumers
keep prices low at the pump with this project.

Additionally, Port Arthur, Texas, where the Keystone XL
pipeline will potentially be refined, with the crude flowing
through it, is considered a foreign trade zone. So when
these refiners re-export diesel and other fuels they make
using the oil from the Keystone XL, they won’t pay U.S. taxes, no contributions to the United States.

My amendment is straightforward, and will require that the Act does not take effect until the President determines that the Keystone XL oil and refined products will be sole in the United States. And, additionally, the President may make exceptions to this requirement if he finds that doing so is in the national interest. Again, this President, or any other President, which is, in my language, that the three conditions must be met.

First, the President must find that making such an exception would not lead to an increase in imports of crude oil or refined petroleum products from countries hostile to the United States, or with political or economic instability that compromises the security of supply. Second, the President will be required to determine that making an exception will not lead to higher costs for oil refineries, or higher gas prices for the American consumers. And, third, would allow for oil swaps between the United States and other countries in which equivalent amounts of crude oil and refined products move between the U.S. and friendly foreign nations, and continues to preserve other bilateral agreements and existing authority.
So, Mr. Chairman, let us make sure that the crude flowing through this pipeline will be required to stay in the U.S. for domestic consumption, as we had back in 1973, when we saw unease in the Middle East, and other impacts pertaining to the United States. And so, with that, Mr. Chairman, I would yield back the balance of my time.

The Gentleman yields back. Chair would recognize the gentleman from Colorado, Mr. Gardner.

Mr. Gardner. Thank you, Mr. Chairman, and I would oppose the amendment. And I think, pointing back to Chairman Whitfield’s memorandum that he expressed earlier from the Department of Energy, at the first page, in the summary sentences, it says, "This study concludes that the Texas pad 3 refineries will likely consume additional Canadian oil sands well in excess of what would be provided by the Keystone XL pipeline. It also concludes that exports of Canadian oil sands from Port Arthur are unlikely." Repeat that last sentence, "It also concludes that exports of Canadian oil sands from Port Arthur are unlikely."

So that is just sort of the facts of where we are, according to a memo within the Department of Energy. But I think it is important to point out that banning exports in this case could perhaps result in the banning of many
products that we export right now that make this country very successful. What happens to products that are used and utilized, manufactured with our crude oil products? Does that mean fertilizers, plastics, cosmetics? Does it mean pharmaceuticals will also be banned because crude goes into the production of these products? Export of value added products is what made this nation a world power, and this would cripple our economy, in banning the kids of exports that have made this nation strong.

I also want to point out what the President said when the President agreed to approve the southern leg of the pipeline. Here is a quote from the press secretary, President Obama’s press secretary, about the southern leg of the Keystone pipeline. "Moving oil from the Midwest to the world class state of the art refineries on the Gulf Coast will modernize our infrastructure, create jobs, and encourage American energy production." So apparently, at least the White House’s own press secretary says this would be a good thing for American energy, unless they are disconnecting somehow the northern leg of the pipeline from the southern leg of the pipeline. It would be a little bit like saying the right leg is for walking, the left leg is for standing at the exact same time.
I think we have got an opportunity here to increase American jobs, to increase American energy security, and clearly this amendment would have an unintended consequence of hurting our economy. Again, we export very little from this country, and the goal is certainly not to export petroleum products. The Keystone’s goal is not to export. It is about delivering more opportunity for American emergency production, American energy refiners, and the jobs that would be created. The U.S. is the largest consumer of petroleum products in the world, and because of that, we export very little.

So, again, I think if you look at the Department of Energy comments that have been made, the Energy Department comments that have been made about the Keystone XL pipeline, the exports from Port Arthur are unlikely. You look at the unintended consequences of this amendment, I actually think the Keystone pipeline is going to stabilize crude prices, and allow American producers to keep developing our shale resources.

And don’t forget, just a couple of weeks ago we had testimony from Daniel Yergin, who talked about North American energy production. Daniel Yergin, in his testimony, said that our sanctions against Iran are working because of energy
production within North America. And I think if we start saying no to American energy development, no to American energy production, to allow the Keystone pipeline to be blocked, despite the fact that even the White House press secretary says that the southern leg would create jobs and opportunity, then we would hurt our ability overseas to bring more security to the world, and make sure that we are doing what we can from point of sanction. With that--

Dr. {Gingrey.} Will the gentleman yield--

Mr. {Gardner.} --yield my time to--

Dr. {Gingrey.} --to me for just a second?

Mr. {Gardner.} I yield my time to the gentleman from Georgia.

Dr. {Gingrey.} And I appreciate the gentleman from Colorado yielding to me, and I will just take a second. I mean, this whole opposition to this bill, to H.R. 3, proves once again that our colleagues on the other side of the aisle would torch a village to save a gnat. And I yield back my time, and I thank my colleagues.

Mr. {Gardner.} Thank the gentleman from Georgia. I would yield the minute to the gentleman from Texas, Mr. Green.

Mr. {Green.} Thank you, Mr. Chairman, and this will
save us some time later. This amendment, I am amazed by it, because the facts on the ground now, we import crude oil from Mexico. We export refined products to Mexico. Are we going to use the same standard of this amendment to crude oil we import from Mexico? We export refined products to Brazil. We export computers from California, or Microsoft, to other countries. Are we going to use that on every export item that is important to us? We are not going to export the crude oil from Canada out of the Gulf Coast. We have lots of refineries who can use that crude oil. But if we are going to limit what we can get into the export market, then we ought to do it to everything that is precious to our country, including our software that we send all over the world.

So let us see what kind of standard we are using here, because I just happen to have an industry that can export low sulfur diesel to Europe. So we are going to say, no, we are not going to do it, but yet other parts of the country have industries that do other things. Well, maybe we ought to prohibit exporting that, because that might raise the cost to our own constituents.

Export actually means somebody else is paying for the jobs that are created in our communities, so why would we do that? This amendment just doesn’t make any sense, simply
because if we want to do this to other products, then maybe we ought to do it as a bill separately, that we ought to product our domestic production of refined product, of computers, of everything else that some of us may think that is so important to our country. And I thank my colleague for yielding to me.

Mr. Gardner. I thank the gentleman from Texas, and just point out again a no vote on this amendment. The environmental impact statement, that I believe was right here just yesterday, 2 or 3 feet tall, as the environmental impact statement determined, Keystone would reduce the bottleneck of crude in the Midwest. There is no evidence of the increased prices. I would oppose this amendment. Yield back my time.

The Chairman. Gentleman’s time is expired. Chair would recognize the gentlelady from California.

Ms. Eshoo. Thank you, Mr. Chairman. I move to strike the last word, and I support Mr. Lujan’s amendment. At the hearing last week on this bill, we heard over and over that the Keystone XL pipeline will enhance America’s energy security and reduce our dependence on oil from unstable nations. With all of this talk of energy security, one would think that this bill guarantees that the United States will actually be the end consumer of this Canadian tar sands
crude. It does not. The pipeline will finally give tar sands oil producers the critical missing piece for their expansion plans, access to the ocean and overseas markets. Gulf Coast refineries can sell their products to the highest bidder, and they are even located in tax free foreign trade zones.

Now, as a result, all this bill guarantees is that the United States of America will become Canada’s conduit for increased exports to China and elsewhere. It is all going into the global market. So this whole premise that this is somehow going to reduce the price for Americans at the pump is nonsense. There isn’t anything to support it. Gulf Coast refiners and oil companies will boost their profits for sure. Of course, many of these refineries are actually owned by foreign companies.

But consumers in the Midwest, and I think this is really something that hasn’t been zeroed in on, consumers in the Midwest will pay higher prices at the pump, as the oil flows to the Gulf, away from the Midwest refineries. Communities along the pipeline would be at risk for oil spills, like the one that recently happened in Arkansas, and everyone would suffer from the harm to the climate from expanding production of some of the dirtiest crude oil on the planet. I think
that is a pretty bad deal, unless you are an oil refiner, or oil producer.

The Republicans tell us that the oil companies won’t send most of the tar sands crude oil or refined products to China or other countries. Maybe they won’t, or maybe not right away, but given the right market conditions, the oil companies will have a strong incentive to export. If they can make more money exporting the refined tar sands products to China, doesn’t anyone here really think they will choose patriotism over profits? I mean, come on. We may be elected, or I may be elected, but I am not a fool. After all, the CEO of Valero, which is pushing for Keystone XL, has said that, ‘The future of refining in the U.S. is in exports.’

Earlier today Mr. Whitfield referenced a memo that he claimed rebutted these concerns about exports, but that memo wasn’t even looking at exports of refined products. Already the United States has more than doubled its exports of refined petroleum products since 2007. We have more than tripled our exports of petroleum products to Brazil, and increased our exports to China by a factor of 6.

So my colleague’s amendment states that the provisions of this bill will not take effect until the President
determines the tar sands crude pumped through the Keystone XL pipeline will be used domestically, or if he determines that it is in the national interest to export Keystone XL crude without hurting American consumers, or our energy security. I think this should be called the American Patriots Amendment.

So the amendment doesn’t bar exports, but it does prevent oil companies from using the United States as a fast track to the Asian market. Is it really too much to ask that we be guaranteed some reward in return for all of the risk, as a country, we are going to take on with TransCanada’s pipeline? That is why I urge my colleagues to support Mr. Lujan’s amendment.

Mr. {Lujan.} Will the gentlelady from California yield? Ms. {Eshoo.} I would be glad to yield the remainder of my time.

Mr. {Lujan.} I thank the gentlelady very much, and I respect very much the comments by my colleague from Texas as well. This amendment is simply to bring attention so that we can be honest with the American people. It is not about declining opportunities for exports. What has been said is that this pipeline will lower prices for the American consumers, and that this is going to be used for domestic
consumption. If it is for exports, that is fine. Let us just call it what it is and be honest to the American people. That is what we are trying to bring attention to, so we are honest with the American people about the facts associated with this case. And I thank the gentlelady very much, and I yield back the balance of my time.

Mr. {Whitfield.} Mr. Upton, I would like one comment.

The {Chairman.} Gentilelady’s time has expired. The gentleman from Kentucky is recognized for 5.

Mr. {Whitfield.} I would like to just make one comment. The Department of Energy also issued a memorandum to the Department of State on June 22, 2011 that stated, "Crude oil prices and gasoline prices in key areas of the country would be lower due to the increase of supply from Keystone." So one of the objectives is, yeah, we want to be less dependent on foreign oil, which this pipeline will allow us to be. We also hope to lower prices of gasoline, which the Department of Energy’s June 22 report to the Department of State says would happen. And if we do export some oil, or some product from this, what is wrong with that? We have a huge trade deficit, so decreasing that trade deficit would be helpful to all of us. And with that, I would yield back the balance--

Mr. {Terry.} Would you yield to me?
Mr. {Whitfield.} I would yield to the gentleman from Nebraska.

Mr. {Terry.} Yeah. This amendment is simply a tool to somehow give official status to the misinformation that is being put out, that somehow, even though these are refiners in the United States that have contracts to distribute gasoline within the United States, that they won’t do what is economically feasible for them and distribute within the United States. I mean, there is not one shred of evidence that the refined gasoline is not going to be used in the United States. It is a fallacious argument that has just been repeated so many times, it is kind of, you know, like, you repeat a lie long enough, and soon people start believing it.

But what this amendment really does, in a variety of different ways, is really forces endless delay of this pipeline. First of all, we already know if we didn’t produce one barrel of oil here, we would still export some of its byproducts, but that is not allowed in this amendment. Secondly, where it says the President has to determine several things, like it won’t lead to an increase in domestic consumption of crude oil from other countries, like Venezuela, this pipeline offsets 100 percent of Venezuelan
oil, that we don’t have to ship into the United States.

Do we really think that a President that has intentionally delayed this for 4 years is now empowered to just do nothing, and then force further delays. Will not lead to higher costs to refiners of such oil. Well, my goodness, Eagle Ford and both Bakken fields are lighter crude. You are not even comparing apples to apples here, so of course there is going to be price differences. There is no way to certify that. Will not lead to higher gasoline costs to consumers. Gasoline spikes up and down for a variety of different reasons, most of which are not understandable to the general public. But the reality is, if we have got a consistent supply, this is about energy security. This is about having a reliable, affordable source of oil coming into the United States, where our own refineries are expanding, and creating tens of thousands of permanent jobs to take on this oil.

And so no individual could ever certify that gas prices won’t go up and down. Hell, they go up and down every day. Where an exchange of crude or refined products, the President has to certify the exchange of crude oil or refined product provides no net loss of crude oil for refined product consumed domestically. Again, that is impossible to do. So
the reality is not only does it give license for the
President to further delay in perpetuity, but he can’t
physically do this. So it is a messaging amendment at best,
but it is not credible at all, and I encourage everyone to
vote against it.

The {Chairman.} Gentleman yields back. Chair would
recognize the gentlelady from Illinois, Ms. Schakowsky.

Ms. {Schakowsky.} You know, everybody is entitled to
their opinion, but they are not entitled to their own facts,
and that report that was referred to by my good friend, Mr.
Whitfield, does not say anything about the export of the
refined oil from the United States. It refers only to the
crude, to the tar sands that are refined in the United States
of America. And it is responding to a paper by Philip
Verleger. It says, "Verleger suggests that the dilbit'',
that is the diluted bitumen, "would instead be loaded onto
tankers at Port Arthur for delivery to Asian refineries.''
And it says that his report concludes that the exports of
Canadian oil sands from Port Arthur are unlikely. It says
nothing about an unlikely situation of the export of refined
oil.

Now, you know, my dear colleague from Texas talked about
exports, and how we should encourage those, but the goal here
in this Energy and Commerce Committee, and with the Keystone XL pipeline, my understanding was, to increase the supply of oil in the United States, and hopefully to lower the cost as well. But we found the owner and operator of the pipeline, TransCanada, told the Canadian government the Keystone XL will increase revenues for Canadian tar sands producers by increasing oil prices in the Midwest because the pipeline will reduce the supply of oil to Midwest refineries. We have the end of the Keystone pipeline in Illinois. And at a hearing on this topic, Mr. Rush asked the TransCanada witness whether he would assure American families in the Midwest that higher crude prices would not translate into higher gasoline prices. The TransCanada witness could not provide such assurances.

So, you know, it is not ridiculous for us to ask for some assurance that prices will not go up in the United States, and, in fact, we are going to see that this is going to be some advantage. Right now I would label this whole Keystone XL pipeline project is all risk, and no reward when it comes to the United States. And asking for reward, to make sure that there is some reward, it seems to me, is the responsibility of this Committee. And, therefore, I would strongly urge support for the Lujan amendment, and a fairly
similar one that I am going to introduce shortly. Isn’t this our job?

Thank you, I yield back.

The {Chairman.} Gentile lady yields back. Are there other members wishing to speak on the amendment?

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

All those in favor will say aye.

All those opposed say no.

Opinion of the Chair the nos have it. The nos have it, and the amendment is not--

Mr. {Lujan.} Mr. Chairman, could I have a recorded vote?

The {Chairman.} Recorded vote is requested, and the Clerk will call the roll.

The {Clerk.} Mr. Hall?

[No response.]

The {Clerk.} Mr. Barton?

Mr. {Barton.} No.

The {Clerk.} Mr. Barton votes no.

Mr. Whitfield?

Mr. {Whitfield.} No.

The {Clerk.} Mr. Whitfield votes no.
Mr. Shimkus?

[No response.]

Mr. Pitts?

Mr. Pitts. No.

Mr. Pitts votes no.

Mr. Walden?

[No response.]

Mr. Terry?

[No response.]

Mr. Rogers?

[No response.]

Mr. Murphy?

[No response.]

Mr. Burgess?

[No response.]

Mrs. Blackburn?

[No response.]

Mr. Gingrey?

Dr. Gingrey. No.

Mr. Gingrey votes no.

Mr. Scalise?

Mr. Scalise. No.

Mr. Scalise votes no.
Mr. Latta?  
Mr. {Latta.} No.  
Mrs. McMorris Rodgers?  
Mrs. {McMorris Rodgers.} No.  
Mrs. McMorris Rodgers votes no.  
Mr. Harper?  
[No response.]  
Mr. Lance?  
Mr. {Lance.} No.  
Mr. Lance votes no.  
Mr. Cassidy?  
Dr. {Cassidy.} No.  
Mr. Cassidy votes no.  
Mr. Guthrie?  
Mr. {Guthrie.} No.  
Mr. Guthrie votes no.  
Mr. Olson?  
Mr. {Olson.} No.  
Mr. Olson votes no.  
Mr. McKinley?  
Mr. {McKinley.} No.  
Mr. McKinley votes no.
Mr. Gardner?
Mr. {Gardner.} No.
The {Clerk.} Mr. Gardner votes no.
Mr. Pompeo?
Mr. {Pompeo.} No.
The {Clerk.} Mr. Pompeo votes no.
Mr. Kinzinger?
Mr. {Kinzinger.} No.
The {Clerk.} Mr. Kinzinger votes no.
Mr. Griffith?
Mr. {Griffith.} No.
The {Clerk.} Mr. Griffith votes no.
Mr. Bilirakis?
Mr. {Bilirakis.} No.
The {Clerk.} Mr. Bilirakis votes no.
Mr. Johnson?
Mr. {Johnson.} No.
The {Clerk.} Mr. Johnson votes no.
Mr. Long?
Mr. {Long.} No.
The {Clerk.} Mr. Long votes no.
Mrs. Ellmers?
Mrs. {Ellmers.} No.
The {Clerk.} Mrs. Ellmers votes no.

Mr. Waxman?

[No response.]

The {Clerk.} Mr. Dingell?

Mr. {Dingell.} No.

The {Clerk.} Mr. Dingell votes no.

Mr. Markey?

[No response.]

The {Clerk.} Mr. Pallone?

[No response.]

The {Clerk.} Mr. Rush?

[No response.]

The {Clerk.} Ms. Eshoo?

Ms. {Eshoo.} Aye.

The {Clerk.} Ms. Eshoo votes aye.

Mr. Engel?

[No response.]

The {Clerk.} Mr. Green?

Mr. {Green.} No.

The {Clerk.} Mr. Green votes no.

Ms. DeGette?

[No response.]

The {Clerk.} Mrs. Capps?
Mrs. Capps. Aye.
The Clerk. Mrs. Capps votes aye.
Mr. Doyle?
Mr. Doyle.) No.
The Clerk. Mr. Doyle votes no.
Ms. Schakowsky?
Ms. Schakowsky.) Aye.
The Clerk. Ms. Schakowsky votes aye.
Mr. Matheson?
Mr. Matheson.) No.
The Clerk. Mr. Matheson votes no.
Mr. Butterfield?
Mr. Butterfield.) Aye.
The Clerk. Mr. Butterfield votes aye.
Mr. Barrow?
Mr. Barrow.) Aye.
The Clerk. Mr. Barrow votes aye.
Ms. Matsui?
Ms. Matsui.) Aye.
The Clerk. Ms. Matsui votes aye.
Ms. Christensen?
Dr. Christensen.) Aye.
The Clerk. Ms. Christensen votes aye.
Ms. Castor?

Ms. {Castor.} Aye.

The {Clerk.} Ms. Castor votes aye.

Mr. Sarbanes?

Mr. {Sarbanes.} Aye.

The {Clerk.} Mr. Sarbanes votes aye.

Mr. McNerney?

Mr. {McNerney.} No.

The {Clerk.} Mr. McNerney votes no.

Mr. Braley?

Mr. {Braley.} Votes aye.

The {Clerk.} Mr. Braley votes aye.

Mr. Welch?

[No response.]

The {Clerk.} Mr. Lujan?

Mr. {Lujan.} Aye.

The {Clerk.} Mr. Lujan votes aye.

Mr. Tonko?

Mr. {Tonko.} Aye.

The {Clerk.} Mr. Tonko votes aye.

Chairman Upton?

The {Chairman.} Votes no.

The {Clerk.} Chairman Upton votes no.
The {Chairman.} Members wishing to vote? Mr. Pallone?

Mr. {Pallone.} Aye.

The {Clerk.} Mr. Pallone votes aye.

The {Chairman.} Mr. Hall?

The {Clerk.} Mr. Hall?

Mr. {Hall.} Votes no.

The {Clerk.} Mr. Hall votes no.

The {Chairman.} Mr. Burgess?

Dr. {Burgess.} Votes no.

The {Clerk.} Mr. Burgess votes no.

The {Chairman.} Mr. Harper?

Mr. {Harper.} No.

The {Clerk.} Mr. Harper votes no.

The {Chairman.} Mr. Terry?

Mr. {Terry.} No.

The {Clerk.} Mr. Terry votes no.

The {Chairman.} Mr. Walden?

Mr. {Walden.} No.

The {Clerk.} Mr. Walden votes no.

The {Chairman.} Mr. Scalise, are you registered? Other Members wishing to cast a vote? Seeing none, the clerk will report the tally.

The {Clerk.} Mr. Chairman, on that vote there were 13
ayes and 31 nos.

The {Chairman.} Thirteen ayes, 31 nos. The amendment is not agreed to.

Are there further amendments to the bill? The gentleman from New York, Mr. Tonko, has an amendment at the desk.

Mr. {Tonko.} Thank you, Mr. Chair. I have an amendment at the desk. I believe it is number 10, amendment number 10?

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

The {Clerk.} Amendment to H.R. 3 offered by Mr. Tonko of New York.

[The amendment of Mr. Tonko follows:]

*************** INSERT 12 ***************
The {Chairman.} The amendment will be considered as read, and the gentleman is recognized for 5 minutes in support of his amendment as the staff circulates the amendment.

Mr. {Tonko.} Thank you, Mr. Chair. Over the last few years, there have been a series of tragic pipeline failures all around the country, from California to Montana to Michigan, Pennsylvania and New York. We have seen natural gas pipeline explosions and ruptured oil pipeline spilling oil into rivers. Just 3 weeks ago there was a serious oil pipeline spill in Mayflower, Arkansas. People were evacuated from their homes, and the cleanup is still going on.

I have a diagram here that shows pipeline spills over the last 20 years. In fact, I would ask if the clerk could distribute those to the committee. At a minimum, it shows that where you have a pipeline, you will have spills.

There are real risks that need to be fully examined. But this bill just rubber-stamps the Keystone XL Pipeline. It deems all of the requirements met and all of the permits issued. Under this bill all of the permitting processes meant to protect public health and the environment from oil spills will come to an abrupt halt. I think that is the
wrong approach. At the very least, we need to be sure that our pipeline safety regulations are adequate for a pipeline that will carry diluted bitumen like the Keystone XL Pipeline.

My amendment simply says that we should not cut off the permitting process until the Secretary of Transportation has determined that the pipeline safety regulations are adequate. When we passed the Pipeline Safety Bill in 2011, everyone agreed that the Pipeline Safety Agency should review its regulations to determine whether they are sufficient to ensure the safety of pipelines used to transport diluted bitumen. This committee unanimously passed the Pipeline Safety Bill that required such a review, and the House and Senate both passed that bill without a single Member of Congress voting against it.

Congress has required a review of the pipeline safety standards, and we should get the results of that review before allowing this huge tar sands pipeline to be approved and built. It makes no sense to require a rubber stamp-approval of Keystone XL Pipeline before we know whether our safety standards are adequate. We are not talking about an indefinite delay. Under existing law, the Secretary of Transportation is required to complete his review of the
regulations and make a determination by June 3. That is just 7 weeks from now. The National Academy of Sciences is currently examining whether diluted bitumen poses increased risks of a spill, and the pipeline safety bill provision requires the Secretary to also consider whether diluted bitumen is harder to clean up than ordinary oil when it does spill. I think it is a bad idea to cut the process short. It is really just common sense that we should get the results of the safety review before taking action. Waiting for the Secretary’s determination makes sense because it is far less costly to build the pipeline right than to try to fix or replace the pipeline once it is already built. The recent oil spills that have occurred, particularly the spills from TransCanada’s existing Keystone Pipeline are a warning to all of us that we need to get this right.

For these reasons, Mr. Chair, I urge you to support this amendment and all of our colleagues, and I yield the remainder of my time, yield back the remainder of time. Thank you.

The gentleman yields back. The chair would recognize the gentleman from Nebraska, Mr. Terry.

Mr. Terry. Thank you. And this is another one of those amendments to simply just continue the process of
As discussed in our subcommittee yesterday, and we had 15,000, over 15,000 pages of NEPA environmental studies. And so frankly, the repeated term of rubber stamp is really misplaced here. The reality is with 15,000 pages of study of this pipeline, most of which was completed 18 months ago at least, they have had ample time to review it so it is not a rubber stamp. And we had hearings last year when PHMSA, the head of PHMSA, the Pipeline and Hazardous Materials Safety Agency, testified that they were an agency that reviewed the pipeline, they deemed it safe. They said that the bitumen and dilutants have been used in pipelines throughout the United States before and have done so for many years. And so that is obviously part of their review.

They found or made several requests, additional requests, above and beyond what the appropriate standards are for the pipeline. There were 37 additional requests, like making the pumps closer to each other, those type of things. TransCanada accepted all 37 of those. So the reality is not only did the Pipeline and Hazardous Materials Agency testify before this committee that they felt that this was a pipeline that met all of the requirements under the law and then some, so this makes this the most modern, advanced-engineered
pipeline in the history of the world. So to sit here and just say we need another study on this particular pipeline is really an obvious ploy to delay this. And I would recommend voting no on this amendment as well.

I yield to the chairman, subcommittee chairman from Kentucky.

Mr. {Whitfield.} Yeah, I just want to make the comment and remind everyone once again that we already are bringing in about 1.4 million barrels a day of oil from the oil sands without any safety issues, and as Mr. Terry said, the Pipeline and Hazardous Materials Safety Administration is requiring, according to our records, 57 additional safety standards for this pipeline that have normally not been required.

And I would yield back to the gentleman.

Mr. {Terry.} Well, I appreciate you catching it. I think I said 37. It was actually 57. So this far exceeds all of the standards. There is no reason to again study it.

I yield back my time.

The {Chairman.} The gentleman yields back. The chair would announce that in consultation with Mr. Waxman, we have agreed that we will not have recorded votes on votes requested before 1:00. So Members, know that if a recorded
vote is asked for, we will roll that until--I expect we will have a vote on final passage. We will roll those amendment votes where a recorded vote is asked until just prior to final passage. But Members are known that they are protected now until 1:00 for roll call votes. Other Members wishing to speak? The chair would recognize the gentlelady from California, Ms. Eshoo, for 5 minutes.

Ms. {Eshoo.} Thank you, Mr. Chairman. I support Mr. Tonko’s common-sense amendment because I think that is exactly what it is.

Our first priority I believe as Members is to ensure public safety. That is something that they cannot do for themselves. So this is a high calling in terms of our positions.

The proposed Keystone XL Pipeline is a massive project that will carry tar sand sludge through the middle of America. Even supporters of this pipeline should agree that it shouldn’t be built until we have some assurance that it will be safe. And the Keystone XL Pipeline poses real risks. Over the last few years a litany of tragic failures has reinforced the need for strong pipeline safety standards in our country. At the end of March and Exxon Mobil pipeline spilled about 5,000 barrels of oil in Mayflower, Arkansas.
Residents had to flee their homes. A lot of cleanup work still needs to be done. In 2011, another Exxon Mobile pipeline ruptured in Montana spilling crude oil into the Yellowstone River. The oil was carried hundreds of miles down the river threatening the livelihoods of ranchers. In July 2010, a pipeline carrying tar sands oil ruptured near Marshall, Michigan. Over 800,000 gallons of oil spilled into the Talmadge Creek and then flowed into the Kalamazoo River. It has been almost 3 years, but the cleanup continues, and it is expected to cost hundreds of millions of dollars to clean up. Because the diluted bitumen is heavier than water and sinks to the bottom of the river, it is proven harder to clean up than conventional crude oil.

TransCanada and its supporters have repeatedly assured the public and the Congress that we shouldn’t worry about the pipeline carrying tar sand sludge through the middle of America, and the Ogallala aquifer because it would be an ultra-safe, state-of-the-art pipeline. The problem with the assurance of safety is that we have heard it before. TransCanada’s first Keystone Pipeline which brings Canadian tar sands soil to refineries in Illinois and Oklahoma do not inspire confidence. This was a brand-new, supposedly state-of-the-art pipeline. It was predicted to spill no more than
once every 7 years. But in its first year of operation, it recorded 14 separate oil spills. That is quite a record. Anybody want to deal with that or respond to it here? I mean, these are facts. The largest oil spill occurred on May 7, 2011, when approximately 20,000 gallons of oil erupted from the pipeline in North Dakota. There was literally a 60-foot high geyser of oil. Amazingly, this spill was not detected by TransCanada but was reported by a local farmer. In response to this spill and others, on June 3, 2011, the Pipeline Safety Agency issued a corrective action order temporarily shutting down the original Keystone Pipeline. The agency based this action on a finding that the continued operation of the pipeline, without corrective action, would be hazardous to life, property and the environment.

Now, with this track record, I think we need a thorough review of whether the standards necessary to safely transport tar sands oil are in place. Regardless of its final route through Nebraska, this tar sands pipeline would cross the Ogallala aquifer. Millions of Americans depend on this aquifer for their drinking water and for their livelihoods. If there is an oil spill, the consequences could be devastating to the Americans who depend on this precious
water source.
So in closing, I again want to state that I believe all of us have an obligation to protect these Americans. A basic first step is to make sure that the safety standards are adequate for a pipeline that is going to transport tar sands oil, and that is why I encourage my colleagues to support the Tonko amendment.

And with that, I yield back.

The {Chairman.} The gentlelady yields back. Other Members wishing to speak on the amendment? The gentlelady from California is recognized.

Mrs. {Capps.} Thank you, Mr. Chairman. I will be brief, but I also want to add my support for the Tonko amendment.

You know, whether it is drilled on land, off-shore or transported via pipeline, oil spills are inevitable. We have seen it time and time again. Deep Water Horizon. Kalamazoo, Michigan. Mayflower, Arkansas. These are only the most recent examples. I know there have been numerous assurances that this project is going to be safer and spill risk will be minimal. But safer simply does not equal safe, especially when transporting tar sands crude. Tar sands crude is not only more corrosive and more dangerous than conventional
crude, it is far more difficult to clean up in the event of a spill.

In 1969, my home district on the central coast of California was victim to one of the worst oil spills in the United States’ history. So I know first-hand as do my constituents that local communities really are the ones who bear the brunt of oil spills. The proposed pipeline would cut straight through America’s heartland putting numerous communities at risk. These farmers and ranchers depend on clean soil and clean water to grow the crops and raise the livestock that are feeding our entire Nation. A spill anywhere along this pipeline would have devastating effects on local wildlife, public health, our economy and our Nation’s food supply. These impacts would last for decades. Spills will happen, and they will continue to happen regardless of what we are told by the oil companies building and maintaining the pipelines. This Tonko amendment would help to minimize these risks by simply requiring the Secretary of Transportation to certify that current pipeline safety rules are adequate to ensure the safety of pipelines that transport tar sands crude.

Mr. Chairman, the Keystone Pipeline is all risk and no reward. We are the ones who have a responsibility to the
American people to minimize, at least minimize, these risks.

The Tonko amendment is a step in the right direction. I urge my colleagues to support it.

I yield back.

Mr. {Whitfield.} [Presiding] The gentlelady yields back the balance of her time. Is there further discussion on the Tonko amendment? If not, then the vote will occur on the Tonko amendment.

All those in favor of the Tonko amendment will signify by saying aye.

All those opposed, no. No.

In the opinion of the chair, the nos have it.

Mr. {Tonko.} Mr. Chair? I ask a recorded vote.

Mr. {Whitfield.} The gentleman asked for a recorded vote, and pursuant to the announcement made just a few minutes ago, that will be rolled until we finish the debate on the amendments.

Are there further amendments to the bill? Dr. Christensen?

Dr. {Christensen.} Thank you, Mr. Chairman. I have an amendment at the desk.

Mr. {Whitfield.} The clerk will report the amendment.

The {Clerk.} Amendment to H.R. 3 offered by Ms.
Christensen of Virgin Islands.

[The amendment of Dr. Christensen follows:]

*************** INSERT 13 ***************
Mr. {Whitfield.} Without objection, the reading of the amendment will be dispensed with, and the gentlelady is recognized for 5 minutes to explain her amendment.

Dr. {Christensen.} Thank you. My amendment focuses on the health effects of increased air pollution from refining tar sands imported on the Keystone XL Pipeline. Mr. Chairman, petroleum refineries are a major source of toxic air pollution in the United States. In 2011, petroleum refineries released 20 million pounds of hazardous air pollutants, including substances linked to cancer and other serious health impacts.

In my own district of the U.S. Virgin Islands, I work with the Department of Interior and university to support a study on the incidence of cancer and respiratory diseases in populations nearest to our industrial zone which was, up until last year, the home to the third-largest oil refinery in the Western Hemisphere refining heavy Venezuela crude. My constituents aren’t the only ones suffering from pollution from oil refineries. Low income and minority communities near Gulf Coast refineries in Houston; Port Arthur, Texas; and Baton Rouge, Louisiana, already suffer high rates of cancer and other diseases because of the
exposure to pollution. Increasing the amount of tar sands crude that is refined can only make this problem worse. Tar sands oil is the dirtiest oil on the planet. This is the oil that is so thick and heavy that you literally have to dig it out of the ground. Tar sands oil contains more sulfur, more nitrogen, more lead, more nickel and more toxic pollutions than conventional crude oil. The refining process cleans up the crude oil by removing many of these contaminants, but in the process, some of these pollutants are released into the air, polluting nearby and downwind communities. People in these communities are rightfully worried that refining more tar sands crude will add to the pollution that is already harming their health.

Now, I understand that a draft supplemental environmental analysis prepared by the State Department concluded that the Keystone XL Pipeline won’t worsen pollution from the coast refineries. I wish this were the case. But unfortunately, the State Department makes a series of assumptions that all of which must be accurate for this conclusion to hold true. For example, the State Department assumes that the tar sands oil will make it to the refineries with or without the Keystone XL Pipeline. They assume that refineries would only use tar sands crude to replace other
heavy crude they are already refining rather than refining more heavy crude. They assume that swapping in tar sands crude won’t change the mixture of air pollutants that escapes from the refinery. They also assume that this new source of tar sands crude won’t drive refineries to make modifications allowing them to process that heavy crude. And they assume that absent Keystone XL, Gulf Coast refineries won’t turn to the cleaner, lighter U.S. crudes from the Bakken and other shale deposits. Essentially, the State Department assumes that pumping up to 800,000 barrels a day of the dirtiest crude on the planet for refining along the Gulf Coast will change nothing from an air pollution perspective, that it would be status quo, business as usual. The State Department didn’t even attempt to quantify the emissions from refining tar sands crude transported by the Keystone XL Pipeline or quantify the human health impacts of those emissions or describe the disproportionate impacts of these emissions on low-income and minority communities.

The State Department might be right. I hope they are right that things won’t get any worse in these communities, but we really can’t rely on hopes alone. My amendment is simple. It simply states that this bill will have no effect unless the President determines that refining more tar sands
crude imported through the Keystone XL Pipeline will not harm
the health of children and senior citizens living in
communities close to refineries that are processing this
crude. If one believes that the Keystone XL Pipeline won’t
harm the health of our children and seniors, there is no
reason to oppose my amendment, and if one is concerned about
the effects of tar sands crude on our kids’ health, then my
amendment should be supported. I urge my colleagues to
support this amendment to provide assurance to those already
beleaguered communities.

And I yield back my time.

The {Chairman.} The gentlelady yields back. Other
Members wishing to speak? Mr. Terry?

Mr. {Terry.} Thank you, Mr. Chairman, and I rise in
opposition of this amendment, although I think the
gentlelady’s intents are pure here, but this is really
unnecessary because we already have existing laws, rules and
regulations from the Clean Air Act of which the EPA—we just
got through a whole year of hearings, how they are
ratcheting down the levels of emissions and how those rules
are based on the health and welfare of those nearby whatever
emissions occur. So in essence, what we are doing is
replacing kind of a generic standard in replacing the already
existing rather stringent emission controls that the EPA requires. And by the way, all of these refineries in the United States are in compliance with the Clean Air Act as the rules and regulations require under the Clean Air Act and the EPA.

So this is really not necessary, and I am going to go--
gee, I don’t think I would have ever said this, but I think the EPA’s rules and regulations are pretty firm on this one. And I will yield to the gentleman from Texas.

Mr. {Green.} Thank you, Mr. Chairman. I thank my colleague for yielding to me. There seems to be a misconception that somehow refineries get a different standard for emissions based on their fuel supply, and that is just not the case, whether it is Canadian crude that now comes in sometimes by train but into the Midwest by pipeline, or off-shore crude coming in. There are no exceptions in my area for those emissions.

Now, I understand the gentlelady’s concern, and I am concerned about emissions in my district every day. But they are in compliance. And you know, to say that there is going to be some special exception for Canadian crude oil, it is just not there. We bring in heavy Venezuelan crude right now and use in our district refineries. They don’t get an
exception. In fact, I know the gentlelady had a refinery in St. Croix, and there were issues with environmental safety and we deal with that every day. But there is no exemption in the emissions for the refineries in the Gulf Coast, whether Louisiana or Texas, based on their fuel supply.

So the amendment is really not needed, and I wouldn’t support any lower standards than we currently have.

Mr. {Terry.} I reclaim my time.

Mr. {Green.} Thank you.

Mr. {Terry.} Thank you. Yield to the gentleman from Kentucky.

Mr. {Whitfield.} Thank you. I just wanted to mention, as we already know, we are bringing in about 1.4 million barrels of crude oil from Canada already, and for refineries, between 1990 and 2010, emissions of hazardous air pollutants, as reported by EPA, are estimated to have decreased by 70 percent. So I think we are doing a great job, and for that reason, I would respectfully oppose the gentlelady’s amendment.

Mr. {Terry.} Yield back.

The {Chairman.} The gentleman yields back. Are there other Members wishing to speak on the amendment? The gentleman from New York is recognized.
Mr. {Tonko.} Yes, thank you, Mr. Chair. I support my colleague’s amendment. As Ms. Christensen explained, toxic air pollution is a dangerous byproduct of refining crude oil, and the communities living in the shadows of these refineries bear the brunt of the health effects from breathing this toxic pollution. I share my colleagues’ concerns about the Keystone XL Pipeline making this situation worse. Every day the pipeline would carry hundreds of thousands of barrels of the dirtiest crude in the world to refineries on the Gulf Coast.

There is no question that refining this crude produces more pollution than refining conventional oil. As she indicated, all oil is not created equal. Tar sands crude oil is much heavier and dirtier than crude oil from the Bakken and Eagle Ford shales, for example. The question remains. Would the refineries process the same amount of very heavy crude in absence of this Keystone XL Pipeline or might they process more light oil from the Bakken and Eagle Ford shale formations? Will the Keystone XL Pipeline provide an incentive for refineries to shift even more of their capacity to processing very heavy crudes? These questions go to the heart of the matter.

The Keystone XL Pipeline is likely to increase the
amount of dirty crude refined in these communities. That is
going to have a heavy impact. Ms. Christensen’s amendment
would ensure that we take the health of communities located
near the refineries into consideration before ending all
review of these issues and mandating approval of this
pipeline by congressional fiat. The amendment prohibits this
bill from taking effect until the President determines that
the Keystone XL Pipeline won’t harm the health of children
and senior citizens in low-income and minority communities by
increasing toxic air pollution from refineries.
With that, I urge my colleagues to support Ms.
Christensen’s amendment.
Dr. {Christensen.} Would you yield?
Mr. {Tonko.} I yield back.
Dr. {Christensen.} Would you yield?
Mr. {Whitfield.} Yes, I would.
Dr. {Christensen.} Thank you, and thank you for your
support, but the amendment does not change any regulations or
the threshold for where regulations would kick in. It simply
says that unless the President determines that the refining
of more tar sands imported through the Keystone XL would not
harm the health of children and seniors that the bill would
have no effect. But it has nothing to do with the regulation
itself or make any changes or assume any changes to regulations. It just states that unless the President determines that no harm would come to minorities and seniors and low-income communities, that the law would have no effect. And I thank you again for your support.

The {Chairman.} Other Members wishing to speak on the amendment? Seeing none, the vote occurs on the amendment. Those in favor will say aye. Those opposed say no. No. In the opinion of the chair, the nos have it. The nos have it, and the amendment is not agreed to.

Are there further amendments to the bill? The gentlelady from Illinois?

Ms. {Schakowsky.} Thank you. Amendment number three I have at the desk. I am sorry. What is the number now? Four? Four. 004. Do you have it?

The {Chairman.} 004? The clerk will report the title of the amendment.

The {Clerk.} Amendment to H.R. 3 offered by Ms. Schakowsky of Illinois.

[The amendment of Ms. Schakowsky follows:]

*************** INSERT 14 ***************
The {Chairman.} And the amendment will be considered as read, and the gentlelady is recognized for 5 minutes in support of her amendment.

Ms. {Schakowsky.} Originally my amendment provided that the bill would not go into effect unless the President determines the operation of Keystone XL will reduce gasoline prices in the United States. But since that has been considered just ridiculous by some on the other side of the aisle that the President who has expressed, in their view, opposition to the pipeline, would never do that, I changed the amendment and it now reads this act shall not become effective unless the Energy and Commerce Committee of the United States House of Representatives finds that the operation of Keystone XL Pipeline is projected to reduce gasoline prices in the United States.

At last week’s hearing, both Chairman Upton and Chairman Whitfield claim that the Keystone XL Pipeline would be the solution to high gasoline prices. And at a number of times during this committee hearing, it was viewed as certainly going to increase the supply of oil and therefore would reduce the cost of gasoline. And so it seems to me that getting that kind of approval from the committee, it sounds
to me, would be a simple matter.

I disagree. It seems that transporting more crude oil by pipeline from Canada to the Gulf Coast won’t lower gasoline prices in the United States because that is just how the oil market works as almost every witness on this topic has told us. It is a global commodity, and absent unique regional market conditions, prices are generally set by the world market. According to the Energy Information Administration, the United States is producing the most oil it has in almost 20 years. The EIA expects that the United States will produce more crude oil than it imports at the end of the year, the first time that will have occurred since early 1995. But that increased production is not, in fact, driving down U.S. gasoline prices since oil is traded on a global market. EIA expects that the retail price for regular gasoline will average more than $3.60 this summer.

The Keystone XL Pipeline will have a negligible, if any, impact on world oil prices. In fact, the pipeline will give tar sands producers greater access to world markets by linking Canada with Gulf Coast refineries and export terminals. Again, contrary to what has been said, it is likely then to be exported. By forging a new path from Canada to the Gulf Coast, tar sands producers can bypass
Midwest refineries. As a result, the Keystone XL Pipeline could actually increase gasoline prices in the Midwest. And as I said before but I will repeat, there is a glut of tar sands oil in the Midwest, and as a result, Midwest refineries are paying lower prices.

The owner and operator of the pipeline, TransCanada, told the Canadian Government that Keystone XL will increase revenues for Canadian tar sands producers by increasing oil prices in the Midwest because the pipeline will reduce the supply of oil to Midwest refineries. And I mentioned before that Mr. Rush asked TransCanada whether he could assure, the witness could assure American families in the Midwest that higher crude prices would not translate into higher gasoline prices, and the witness could not provide such assurance.

Keystone XL would certainly benefit Canadian oil producers who stand to make an additional $3.9 billion a year as a result of the XL pipeline, but it could harm consumers.

I oppose this pipeline because of the profound implications for global climate change, but if Members who support the Keystone XL Pipeline and this bill are going to promise Americans that the pipeline will lower gasoline prices, then this committee ought to back up those promises with some words of guarantee.
So my amendment now is very simple. It says that the provisions of the bill won’t go into effect unless this very committee finds that the Keystone XL Pipeline will reduce gasoline prices in the United States of America.

And I yield back.

The gentleman from Nebraska, Mr. Terry.

Mr. Terry. Thank you, Mr. Chairman. It would be nice to be able to guarantee it, but you know, I can’t guarantee that Kim Jong Un isn’t going to send troops over the border into South Korea or shoot a missile toward Japan or Iran, again threaten to shut the Strait of Hormuz, all of which will influence in the price of gasoline at the pumps in the United States.

So it is a real fallacy, and the real asset to the 700,000 to a million barrels of oil coming through the pipeline each day is that it gives us security so if Argentina, because of their socialist government in nationalizing their oil industry and their production falls so they can’t get us the 700,000 barrels per day we need from them, those influence. But this allows us that level of security that we have a reliable, friendly source of oil just a couple hundred miles north of our border.
So there is a security and stabilization effect of using our own resources within North America. Now, it is interesting, even the NRDC that is always here to testify against the pipeline and has declared the pipeline their number one target to kill and then they are going to move onto fracking and the one that coined the phrase high risk, low reward, when in fact this is low risk, high reward, and this 15,000 pages of study showed that it is low risk and provides our country a higher level of energy security and reliability. The NRDC testified that shipping by rail, which is occurring, is about $31 per barrel. Trucks also carry the oil from the oil sands into the United States to its refineries, and that is even higher than $31. But the cost to transport by pipeline is around $8 per barrel. So obviously the efficiencies and the cost reductions of the transportation costs could be reflected in overall gasoline prices, which would even be enhanced by the distance then that the refined product, the gasoline, in the transportation costs to the gas pumps. And yeah, there are several refineries around the Gulf Coast that have contracted for this, but there are also refineries in Oklahoma and Kansas that are using this, refineries in Illinois that use the oil sands. So it will be
cheaper, it will be more efficient, it will be more reliable to use this pipeline.

And I yield to the gentleman from Kentucky.

Mr. {Whitfield.} Well, thank you very much, and I certainly understand the gentlelady’s from Illinois concern about price, and referring once again to this Department of Energy letter, on page 3 and 4, they basically are saying that right now, Midwest refiners have a price advantage because that oil is coming in from the north, Bakken field and so forth. If this pipeline is built, there is going to be more of that crude oil going to the Gulf Coast, and according to this article, that means there is going to be more competition between the Gulf Coast refiners and the Midwest refiners, and they say specifically the crude cost to the PAD III or the Gulf Coast refiners would be lower and therefore gasoline prices in all markets served by the PAD III refiners, which they do serve the Midwest, that gasoline prices would decrease, including the Midwest because there would be more competition when this pipeline opens up to those Gulf Coast refiners.

The Department of Energy’s experts have looked at this in great detail, and they conclude that the gasoline prices would be lower. And I know that is not the reason the
gentlelady is opposed to this pipeline, but at least from the analysis that I have seen, there seems to be strong argument that gasoline prices are going to be lower. So I would yield back to the gentleman.

Mr. {Whitfield.} All right. Thank you, and I will yield back my time to the chairman.

The {Chairman.} The chair would recognize the gentlelady from California.

Ms. {Eshoo.} Thank you, Mr. Chairman, and I will yield my time to representative Schakowsky.

Ms. {Schakowsky.} So I am hearing assurances, and we have been hearing assurances all morning and now into the afternoon, that this is not going to raise prices, that the oil is going to be in the United States of America, that it is going to decrease the price. We could go back on the transcript and find all kinds of assurances, not just that it would stabilize but in fact, including the last assurance that the Department of Energy has said. So why in the world would not the proponents of this pipeline in fact say on the record and vote for an amendment that would clearly state that this pipeline is going to reduce prices? And I would say because there is no way to do that because the evidence simply isn’t there, and the evidence actually is to the
contrary.

But if everyone over there feels so confident, it seems to me saying it not just in--although it is on the record, and we will be able to read that back in some time if this goes through. If the pipeline happens, we will be able to go back and check on spills, and we will be able to go check on prices and we will be able to check on all kinds of things that have been stated here as unequivocal.

But I challenge you to vote for an amendment and put your vote where your comments lie.

I yield back.

The Chairman. Any Members wishing to speak on the amendment? The gentleman from Texas recognized for 5 minutes.

Mr. Olson. I thank the Chair. I have been very patiently sitting here, listening to my Democratic colleagues expound about Canadian oil and fears of exporting American products. What I haven’t heard from my Democratic colleagues is the word jobs, jobs, jobs. The main concern of the American people is jobs. Keystone XL Pipeline creates 20,000 American jobs. Most of these jobs are small businesses. But don’t take my word. Take the word of the Port Arthur News, the city paper for Port Arthur, Texas, one of the ports that
the Keystone XL Pipeline will deliver that oil to.

Two days ago they wrote an article entitled, "Keystone Pipeline Money Already Reaching Southeast Texas." Here is a sample of the dollars and the jobs that the Keystone XL Pipeline is creating right now. There is a company called Quality Mats from Beaumont, Texas. It started in 1974, family built, family owned, and proudly, family operated. They are the largest mat maker, manufacturer, in America.

Coastal Welding from Beaumont, Texas, started in 1963. One distribution center when they started, six now. They benefit the Keystone XL Pipeline. Another company, Kat Excavation and Construction from Sour Lake, Texas. They have a fleet of 14 tandems, trucks and pups, and belly under loaders. They benefit from the Keystone XL Pipeline. Another company, small business, Read Ice, from Kountze, Texas, wholesale ice supplier. And one final small business from that area that benefits from the pipeline with more income, more jobs, is Colvin Auto Parts in Livingston, Texas. They are right on Church Street right next to the high school football stadium, a small business on Church Street next to the football stadium, high school stadium. That is Texas.

And take the word of the county judge there in Jefferson County which includes Port Arthur and Beaumont. His name is
Jeff Branick, and here is his quote. "Sales receipts at the county level 10 years ago compared to what they are today shows the numbers have almost doubled, doubled right now.''

So let us talk about support. Quality Mats from Beaumont, Texas, supports the pipeline. Coastal Welding from Beaumont, Texas, supports the pipeline. Kat Excavation and Construction from Sour Lake, Texas, supports the pipeline. Read Ice from Kountze, Texas, supports the pipeline. Colvin Auto Parts from Livingston, Texas, supports the pipeline. The Jefferson County judge supports the pipeline. The United States Senate with a bipartisan vote in their budget supports the pipeline. The House of Representatives, here in this body, this committee, and on the Floor, bipartisan, support the Keystone XL Pipeline. The Governor of Nebraska, the State of so much concern, supports the pipeline.

This debate has gone on too long. The American people need this pipeline, we need this oil, we need this economy, we need these jobs. Let us vote yes to this bill and move this thing to the Floor.

Yield back the balance of my time.

The {Chairman.} The gentleman yields back. The chair would recognize the gentlelady from Florida, Ms. Castor.

Ms. {Castor.} Thank you very much, and I am very glad
that my colleague raised the jobs point, and I hope everyone realizes that the point of so many of these Democratic amendments are to preserve jobs all across America. We are not that far removed from the BP blowout from 2010, and let me tell you what happens when we don’t follow the necessary safety precautions, what happens to small businesses and jobs across a community. I represent a district on the West Coast of Florida, and you know what? The oil from the BP blowout didn’t come anywhere near us, but it had such a detrimental impact on small businesses up and down the West Coast, the mom and pop motels and hotels, the small businesses, the fishing industry, all of those shrimpers that go out every day on those very difficult assignments to try to earn a living, what happened to all of the related businesses. It was one of the most colossal economic impacts, not just environmental impacts but economic impacts because for so long the oil companies insisted that all of their operations were safe and they elevated the profits over safety. That has been borne out in testimony and hearings in this committee, in the oil spill commission report and it is on trial right now.

So I would recommend to my colleagues on the other side of the aisle if they are concerned about jobs, they need to
follow the rules, and that is the problem with the bill. The overarching goal of this bill is to override safety standards and environmental reviews and economic reviews. Why would you do that? You are again falling into the same trap that--you didn’t learn the lesson from the BP blowout where they elevated profits over safety. And I would strongly recommend to you that you take a good, hard look, learn the lessons of the past, and don’t highlight a short-term gain over what is necessary to protect the health, safety and welfare of small businesses, all sorts of businesses of our families and the environmental resources of this country.

I yield to Mr. Lujan.

Mr. {Lujan.} I thank the gentlelady for yielding. You know, I think that the point of the amendment is to get to the point that many of our colleagues on the other side of the aisle have contended that XL pipeline will lead to lower prices at the pump for the American people for domestic consumption. That is the point we are getting at. I heard from a few colleagues today that stated that it should drive down or would drive down prices at the pump for the American people. I would agree with my colleague from Nebraska who stated there is no way to guarantee this, which is why I think my colleagues from the other side of the aisle have a
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4407 concern with the amendment, but it is this simple.
4408 In short, I don’t think anyone can guarantee that this
4409 project will lower gasoline prices for American consumers,
4410 but if the bill proponents want to justify special treatment
4411 for Keystone XL on the grounds that it will lower gas prices,
4412 then we should make sure that the project will deliver on
4413 that point alone.
4414 This isn’t about an export argument or any other one.
4415 If the proponents want to state that it will lower gas
4416 prices, and that’s why it deserves special treatment, then
4417 let us make sure that the project will deliver on that
4418 promise. This amendment simply requires a finding by the
4419 committee that the rhetoric is true, that consumers will
4420 experience an upside and see lower prices at the pump.
4421 Mr. Chairman, I appreciate the conversation again, and I
4422 thank the gentlelady for yielding.
4423 The {Chairman.} The gentlelady yields back. Other
4424 Members wishing to speak on this amendment? Seeing none, the
4425 vote occurs on the amendment offered by the gentlelady from
4426 Illinois.
4427 All those in favor will say aye.
4428 Those opposed say no. No.
4429 In the opinion of the chair, the nos have it. The
gentlelady asked for a recorded vote, and as we indicated earlier, we will roll that vote prior to the vote on final. The gentleman from California is recognized.

Mr. Waxman. Mr. Chairman, I have an amendment at the desk. It is number 11.

The chairman. The clerk will report the title of the amendment.

The clerk. Amendment to H.R. 3 offered by Mr. Waxman of California.

[The amendment of Mr. Waxman follows:]}

*************** INSERT 15 *****************
The Chairman. And the amendment will be considered as read. The staff will distribute the amendment, and the gentleman is recognized for 5 minutes in support of his amendment.

Mr. Waxman. Thank you, Mr. Chairman. The legislation we are considering today is at the heart of the Republican plan for jobs for Americans. It seems to be the one concrete idea they have returned to time and time again for 2 years. They ran ads on it during the Presidential campaign. They devoted more congressional attention to it than almost any other proposal. They seem to have an almost endless amount of time to spend on Keystone XL. To hear them explain it, if we can only build the Keystone XL Pipeline, the Nation’s unemployment challenges would be over.

But I would like to review some facts. The State Department has consulted with TransCanada and analyzed potential job impacts. The department projects that construction of this pipeline would potentially support approximately 42,100 1-year jobs across the United States. Let me be more specific. Building this pipeline would lead to approximately 3,900 1-year jobs in construction. After construction of the Keystone XL Pipeline is completed in 2
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years, operation of the pipeline would potentially support approximately 35 jobs per year. Thirty-five jobs per year. To put that in context, a typical fast-food restaurant, chain restaurant, employs 40 to 60 people per year. So congratulations to my Republican friends. When the year 2015 rolls around, the number one jobs policy could be responsible for almost as many jobs as opening a new drive-thru for burgers and shakes. As sad as that is, it is even worse when you think about it in the context of the automatic reductions in government funding known as the sequester. According to the Congressional Budget Office, the sequester will eliminate approximately 750,000 jobs in 2013 alone. The sequester should have been stopped, but the Republicans, including many on this committee, embraced the sequester. In fact, one Member of this committee called the sequester a home run. What does the sequester mean? 250 workers laid off at the Hanford Nuclear Reservation in Washington State; 185 contract employees for Continental Maritime laid off instead of repairing U.S. Navy ships; 418 contract workers fired from the Tobyhanna Army Depot in Pennsylvania; 414 jobs lost at the Red River Army Depot in Texarkana, Texas; and the list goes on and on and on, government employees furloughed,
contractors losing their jobs.

My amendment doesn’t change the Republicans’ policy at all. It is stated as a finding that states the facts about jobs. It provides a little truth in advertising.

One of our Republican colleagues a few minutes ago said he didn’t hear anybody on the Democratic side of the aisle talk about what is really important in this bill, jobs, jobs, jobs. Well, this is not a jobs bill. I wish the Republicans would work with the Democrats and the President in providing help for the unemployed in this country instead of taking care of the oil companies in the TransCanada pipeline by signaling them out, getting them approved, notwithstanding all of the reviews that the State Department and the President is still conducting.

So I want people to know just how little this bill will do for job creation in the United States. I urge my colleagues to support this amendment. It is a finding in the bill. It doesn’t change anything, but it points out in the findings the low amount of jobs that are going to be created.

And I ask people to compare that to a sequestration which is leading to job losses at a time when we need to be creating new jobs all across the country.

I yield back my time.
The gentleman yields back. The chair will recognize Mr. Whitfield for 5 minutes.

Mr. Whitfield. Thank you, Mr. Chairman, and I respectfully rise to oppose the gentleman’s amendment.

I must say first of all, I don’t think sequestration has anything whatsoever to do with building this pipeline, and I will remind everyone that when the super committee was appointed over a year ago, the President was the one that first came up with the idea of sequestration. And so we all can take our blame for sequestration, but it has nothing to do with this pipeline.

And while this pipeline will create jobs and the labor unions that have all testified have indicated how much they support this pipeline because of the construction jobs it will create, I don’t think any of us are really supporting it simply because of the jobs. We are supporting it because it gives us an opportunity in America to be energy independent. With the discoveries in the Bakken field and other fields in Texas and with the pipeline coming in from Canada, we genuinely have the opportunity to be energy independent and less dependent upon fuel from Venezuela, crude oil from the Middle East, from parts of the world that are not supporters of ours.
So we genuinely believe and have a vision that this legislation will be a first step in helping us become less dependent on foreign oil. And while one of the offshoots of that is more jobs, that is not the primary reason that we have been supporting it.

So this is a pipeline about jobs, it is about being less dependent on foreign sources of oil in the Middle East, it is about lowering gas prices in the United States, it is about being more competitive in creating jobs. And I would say why. When I look at Solyndra, when I look at just a plant—they have spent $1.2 billion on a plant right across the state line from my home county. There is about $170 million of taxpayer dollars for the Hemlock Corporation to build these chips for solar panels. They announce in January this year that they are not going to complete the construction of that plant, although they spent $1.2 billion. There is not one dime of taxpayer dollars in this pipeline. It is all private capital. And while the number of jobs may not be what we want, 20,000 construction jobs is immensely important as illustrated by the labor unions that have come in one after another testifying in support of this pipeline.

So I would respectfully oppose the gentleman’s amendment. I would be happy to yield additional time to Mr.
Terry.

Mr. {Terry.} I would just echo your comments. I find it odd that those that supported a stimulus package that was supposedly all about infrastructure in creating that type of construction job are now criticizing this project because infrastructure projects have a beginning and an end. I just think it is odd that somehow if you are an ironworker and when the iron is put up and your job is done, that somehow that is not a worthy job anymore or the International Brotherhood of Electrical Workers that are going to be doing all of the wiring or the jobs that aren’t counted in here or the people that work for the public power that is going to have to run new power lines. That is not a direct, but those are all new jobs. To hear that somehow those are not worthy jobs is really disconcerting to me.

So I just would add that, and I will yield back to Ed.

Mr. {Whitfield.} I yield back.

The {Chairman.} Gentleman yields back. Other Members wish? The gentleman from Pennsylvania, Mr. Doyle.

Mr. {Doyle.} Thank you, Mr. Chairman. I move to strike the last word, and I would like to yield my time to Mr. Waxman.

Mr. {Waxman.} I thank you for yielding to me. I don’t
know where these numbers are coming from that we hear about all these construction jobs. The State Department took the information from TransCanada. They said that there would be 4,000 direct construction jobs for a year, and then there would be 38,000 indirect jobs that will come about as a result. But this is for a 2-year period, and that is all it is, for a 2-year period. They are coming up with a higher number that is being thrown around.

But let me go to the point that this bill isn’t about jobs. That is what the chairman of the Subcommittee on Energy said. This bill isn’t about jobs. Well, that is an interesting correction of the record because for 2 years this has been all the Republicans have had to offer about getting people jobs. The stimulus bill got people working. It wasn’t enough. I would have been in favor of an additional stimulus bill. But if this is a stimulus bill the Republicans want for jobs, it is pretty anemic.

If this bill is not about jobs and it is simply about energy independence, fine. We don’t change that argument. What we want is a statement in the findings which is the authoritative one about the amount of jobs that will be created according to the State Department in consultation with TransCanada. Let us have a truth of labeling in the
findings of this bill about how weak it is in terms of jobs that will be created. And of course, after that 2-year period, there are very few jobs left, about the amount of a McDonald’s chain restaurant or some other chain restaurant.

So I submit this amendment. It ought to be in the findings. It doesn’t change the bill one iota, but it points out that this is not a jobs bill and it shouldn’t be talked of as a jobs bill, even though that has been the approach for the last 2 years.

I thank the gentleman for yielding to me. I yield back.

The gentleman from Colorado, Mr. Gardner.

Mr. Gardner. I thank you Mr. Chairman, and I oppose this amendment because it seems to me as if we are belittling jobs that are going to be created by the Keystone XL Pipeline. And it is unfortunate that we would be put in the position to vote on an amendment that simply ignores jobs that will be created. You can disagree on 22,000 jobs, 23,000, 45,000 jobs, but when you start saying these jobs are no good, that is, I think, something that this committee should not--

Mr. Waxman. Will the gentleman yield? Did anybody
Mr. {Gardner.} I will not yield because I think there is a frustration that needs to be addressed. If you want to talk about the amendment saying 35 permanent jobs, that is 35 permanent jobs more than Solyndra. That is 35 more permanent jobs than Abound and there are countless stimulus projects that 35 jobs are more than. But the problem with the amendment is it is not to provide information. It is to belittle the kinds of jobs that would be created in the Keystone XL Pipeline.

If you come to my district in eastern Colorado, you will see that there are jobs being created because of the Alberta oil sands, jobs that exist right now because of the Alberta oil sands. And the fact that you would have the opportunity to develop more jobs because the Keystone pipeline would further that development I think holds great potential.

And so when we come to vote on this amendment, I think we have got to look at it more than just this is just simply to state the facts. Let us look at the arguments behind it, and that is to point out that apparently some jobs are better than others and these jobs are no good. And I would hope that the construction workers around the country, the people who are involved in the labor unions that are supportive of
this would realize what is happening in this committee, would realize the arguments against the Keystone pipeline because for some reason their jobs are inferior to other jobs in this country. We have got an unemployment rate in this country that is unacceptably high. Maybe some states are better off than others, probably are. Maybe some areas are better off than others. But the bottom line is we have a chance to create thousands of jobs, whether that is working on the pipeline itself, whether it is working in the manufacturing sector that is going to build the pipeline, whether it is working on the technology as they are in Colorado that is creating jobs that goes into the Alberta oil sands production.

But I don’t think we can sit here and belittle the number of jobs, this is only going to create this many jobs. Tell that to the family that is getting their food, thanks to the job that was provided by the Keystone XL Pipeline. Tell that to the family in Colorado whose jobs is reliant on energy production thanks to the Alberta oil sands, thanks to the expansion of the development of the Alberta oil sands. Again, I think we have reached a low point in this committee when we start saying you know what? If you would have just had a job in a different place on a better project, we would
be for you, but because of this, because it is a pipeline, because we don’t like where it comes from, we are going to oppose it. We are going to oppose your job. We are going to oppose your family.

With that, Mr. Chairman, I will yield back.

The gentleman yields back. The chair would recognize the gentlelady from Illinois, Ms. Schakowsky.

Ms. Schakowsky. You know, if we added up all the pipes and the pipelines that are leaking in this country, there is a lot of pipe work that needs to be done to save the oil that is already flowing through but is leaking out, maybe minor leaks, minor holes. We know they exist. We could catalogue them, and we could put to work many more people that are going to work on this one-time project making sure that accidents like that that happened in Arkansas just recently and all the other ones that were listed don’t happen again. We could make our pipelines in the United States of America safer, and we could put people to work. The underground infrastructure that we have, the pipes that we need for our water systems, our sanitation systems, all of those are important jobs where we could put thousands and thousands of people to work to make well.

I know that in the municipalities that I go to, when I
talk to them about what they need, they talk to me about
their water systems, their sanitation systems and how they
are leaking and how they are old and how they need work. So
it is not as if these particular jobs are unnecessary. To
the contrary. We need people fixing leaks and repairing
pipes right now in the United States in America. But to
create a new pipeline that could create new problems for the
environment and also in the way of more leaks, we do not need
to do that. We need to get off of fossil fuels. We need to
stop destroying the planet, and putting people to work at
jobs that are critically needed right now in this country.
And it is the same workers, the same people who would be put
to work on Keystone XL that are very much needed in these
other capacities.

And I would happily yield to anyone or yield back. I
yield to Representative Lujan.

Mr. {Lujan.} I thank the gentlelady for yielding. Mr.
Chairman, I take a little offense that it is being suggested
that anyone on this side is saying that jobs of construction
workers, iron workers, electrical workers, is a demeaning
job.

My father put food on the table for my family as a union
iron worker, and for that to be suggested in the language
that Mr. Waxman has added here is mindboggling. But let us not forget who delayed this project, the XL pipeline, for being approved already.

(Voice.) The President.

Mr. {Lujan.} When our Republican colleagues were debating a piece of legislation, they inserted language that said the President needs to move things forward as opposed to going through the process. The way that I look at the calendar, that process would have already elapsed. The President would have been forced to make a decision based on the record had that not been done.

And so, you know, we can’t forget about the facts and the process. But again, I certainly hope that, you know, in my father’s memory, that we talk about anyone on this side suggesting that these jobs as demeaning is untrue, and I would hope that we would be able to talk about these amendments and these bills in a much different fashion.

And with that, I thank the gentlelady for yielding her time.

The {Chairman.} The gentlelady yields back, and I think we are prepared to vote on this--okay, the gentlelady from Florida is recognized.

Ms. {Castor.} Thank you, Mr. Chairman. I support Mr.
Waxman’s amendment, and actually, we all ought to be able to agree to this amendment because I understand the proponents of this legislation want to push through the Keystone pipeline, and they want to build it so badly that they are proposing a sweetheart deal that other companies are not provided with. They are willing to curtail public participation. They are willing to waive requirements under the Clean Air Act, the Endangered Species Act, the National Historic Preservation Act, and the Migratory Birds Act, and that is very controversial and it is poor public policy. But this amendment wouldn’t change any of that or any of those controversial provisions.

So the supporters of the bill can agree to this amendment without in any way affecting the policy they are proposing because as I read it, instead, this amendment would just add a finding that explains what we know about the jobs associated with the project. The State Department has analyzed the potential job impacts of the pipeline. The department projects the construction of this pipeline would potentially support approximately 42,000 1-year jobs across the country with approximately 3,900 direct construction jobs.

But it is surprising that after construction the
pipeline, once it is completed in 2 years, would potentially support only 35 jobs per year, and I am sure those are 35 important jobs. But what this amendment really highlights is how hollow the rhetoric on jobs rings from the other side because while we are arguing over thousands of jobs at most 42,000. My colleagues on the other side of the aisle really had an opportunity to stem huge job losses caused by the sequester that they refused to replace. This committee had an opportunity to take a stand on behalf of thousands and thousands, millions of jobs across this country and yet continued to allow the sequester to sit there and cause the hemorrhaging of jobs across this country.

On February 13, Ranking Member Waxman and subcommittee Ranking Members Pallone, Rush, Eshoo, DeGette, Schakowsky and Tonko sent a letter to Chairman Upton requesting hearings on the impact of the sequester, and the cuts affect almost every agency within this committee’s jurisdiction and will result in more than 85 billion in cuts to key domestic priorities and defense programs. The hearings would have allowed this committee to understand how the sequester would adversely affect services and jobs.

So again, to my Republican colleagues, this debate over jobs solely related to the pipeline rings a little bit hollow
because we have not been able to have the larger debate about huge job losses caused by the sequester that my Republican colleagues will not replace. You won’t even have the debate in this committee on the importance of jobs in medical research at the NIH that this committee has direct responsibility for.

According to the Congressional Budget Office, the sequester will eliminate approximately 750,000 jobs in 2013 alone. Unfortunately, this committee did nothing, and the sequester went into effect.

So let us all understand what is going on here. We are told that we must pass this bill to create jobs, and yet when we have a chance to save hundreds of thousands of jobs over that related to this committee’s jurisdiction, this committee did nothing. So Mr. Chairman, this doesn’t make any sense.

I doubt anyone could understand how the committee could turn up its nose at 750,000 to a million jobs and yet debate this item today and couch it in terms of it is going to create a lot of jobs. It just rings very hollow. But in any event, I urge all the members to support this amendment.

The {Chairman.} The gentlelady yields back. I think we are ready to vote on this amendment.

All those in favor of the Waxman amendment will say aye.
Those opposed say no. No.

In the opinion of the chair, the nos have it. The nos have it. The amendment is not agreed to.

Are there further amendments to the bill? The chair would recognize the gentleman from New Mexico, Mr. Lujan.

Mr. Lujan. Mr. Chairman, I have an amendment, Lujan, 086 at the desk.

The And the clerk will report the title.

The Amendment to H.R. 3 offered by Mr. Ben Ray Lujan of New Mexico.

[The amendment of Mr. Lujan follows:]

*************** INSERT 16 ******************
The amendment will be considered as read, and the gentleman is recognized for 5 minutes.

Mr. Lujan. Mr. Chairman, this—more than a few areas of concern surrounding protection of cultural and sacred sites for Native American tribes. More specifically, Section 3 of the bill deems the pipeline compliant with the National Historic Preservation Act which is designed to protect historical and cultural sites and is something the Obama administration has been fully engaged in. By deeming the EIS as satisfactory of all NEPA and National Historic Preservation Act requirements, this would be detrimental to any sacred sites not previously identified by the 2011 EIS and would prevent future consultation with the tribes from taking place and would be contrary to the administration’s commitment to protect sacred sites as outlined in the March 5, 2013, action plan to implement the memorandum of understanding regarding interagency coordination and collaboration for the protection of Indian sacred sites.

The northern route encompasses many areas that Native American tribes consider important for their cultural and religious identity. The states of Montana, North Dakota, South Dakota and Nebraska encompass many Native American
tribes who historically inhabited regions where the pipeline is to be constructed. These tribes have expressed grave concerns about the impact of the pipeline, and the National Congress of American Indians passed two resolutions expressing extreme concern the Keystone project citing that tribal consultation has not been sufficient enough to protect tribal sacred sites.

That is why I offer my amendment today. My amendment will ensure the cultural and sacred sites of Native American tribes are protected by mandating that the Act not become effective unless the President determines that Native American tribes, in states where the pipeline will be located, will be fully consulted and that the culture and paleological sites significant to such tribes will be protected by the fullest extent possible during construction and operation of the Keystone XL Pipeline.

Mr. Chairman, we cannot forget the trust responsibility we have to tribal nations and the obligations we have to ensure that cultural sites are protected. While this bill deeming the pipeline compliant with the National Historic Preservation Act without letting the administration finalize the tribal consultation process, it is important to ensure cultural and sacred sites are protected, and my amendment
237

Mr. Chairman, there was an article in which Lou Thompson, who is the TransCanada liaison with Native Americans, was quoted that there is no legal obligation to work with the tribes, that they do it because they have a policy. They believe it is a good, neighborly thing to do and that the pipeline is not passing through any tribal lands. Well, Mr. Chairman, there is an article and a study that was done by the Washington Post points out, this makes sense if someone and all of us do not regard the treaties as law in the United States. The consultation process is broken, Mr. Chairman, and this is clearly an area where I would hope that we as a Congress would not put it to question the notion of protecting religious, sacred sites and desecrating them. I don’t think any one of us would allow someone to go into our places of worship where our religious leaders worship at the altar and desecrate those sites, to go into the altars that they consider that maybe off of their reservations, on lands that were taken away by Native Americans. We would not allow someone to go and desecrate the places where our loved ones are laid to rest. These are the same places I am suggesting that we protect and that I would hope is an oversight in the drafting of this
legislation that we are able to work together to correct.

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

The {Chairman.} Did the gentleman yield back?

Mr. {Lujan.} Mr. Chairman, I did yield back the balance.

The {Chairman.} All right. The gentleman yields back.

Mr. {Whitfield.} Mr. Chairman, I would just mention briefly that the Department of State contacted over 95 tribes in reviewing this project. A thorough traditional, cultural property study was conducted as part of the final EIS that was issued in August 2011. Compliance with the National Historic Preservation Act was also closely adhered to. The Department of State also developed a programmatic agreement with all tribes that wished to participate regarding this pipeline that established guidelines for the construction and how historic properties would be treated.

And so I would respectfully request that we oppose the gentleman’s amendment.

The {Chairman.} Gentleman yields back. Is there further discussion on the amendment? Seeing none, the votes occurs on the Lujan amendment.
Those in favor will say aye.

Those opposed say no.  No.

In the opinion of the chair, the nos have it and the amendment is not agreed to.

Are there further amendments to the bill?  The gentleman from New York.  Has an amendment.

Mr. {Tonko.}  Thank you, Mr. Chairman.

Mr. {Lujan.}  Mr. Chair, I apologize. On that vote, could I ask for a recorded vote?

The {Chairman.}  You know what?  I will give you a chance for a recorded vote.  We will do that and it will be rolled prior to the final passage.

Gentleman from New York.

Mr. {Tonko.}  Thank you, Mr. Chair.  I have an amendment, Tonko 004, at the desk.

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

The {Clerk.}  Amendment to H.R. 3 offered by Mr. Tonko of New York.

[The amendment of Mr. Tonko follows:]

****************** INSERT 17 ******************
The {Chairman.} It will be considered as read, and the staff will distribute it. The gentleman is recognized for 5 minutes.

Mr. {Tonko.} Thank you, Mr. Chair. My amendment addresses the rights of the many residents, farmers, business owners and ranchers, that own private property along the proposed pathway of this pipeline.

My understanding is that most of the pipeline will cross private land, not public lands, involving more than 800 landowners, and I believe that number is conservative.

My amendment attempts to level the playing field a bit for those private property owners. When there is a disagreement between a Fortune 500 international company and a private landowner, the individual landowner is at a distinct disadvantage with respect to the resources they can bring to represent their interests. There continue to be numerous reports of TransCanada using a heavy hand with property owners along the path of this pipeline, threatening to use eminent domain to obtain easements and ownership of private property. Some people have been willing to negotiate with TransCanada and accept compensation for their land. Others have acquiesced because they felt they had no choice.
The effort and cost to obtain legal representation and go to court were too daunting to undertake. But some people have chosen to take their case to court. That is their right. Property owners in Texas and Oklahoma brought a number of cases that are still working their way through state courts. With construction already underway, it will be a bitter victory if these landowners prevail.

My amendment blocks the provisions of this legislation until all court cases associated with disputes between private property owners along the pipeline and TransCanada are resolved. This would ensure that property owners are not prematurely pressured into giving up their land without due process. It would ensure that property takings, where necessary, are in accordance with our laws. An article in the New York Times in October of 2011 cited numerous cases in which TransCanada was threatening landowners all along the pipeline’s proposed route with eminent domain. My amendment would send a clear message to TransCanada that they should stop bullying these private property owners. TransCanada is asking these same people to trust the company to be a good steward of the natural resources it is acquiring. It is not a good way to start what will be a very long-term relationship. This is the least we can do for the people
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4977 along this 1,700-mile corridor.
4978 With that, I urge support for my amendment, and I yield
4979 back the remainder of my time, Mr. Chairman.
4980 The {Chairman.} The gentleman yields back. The chair
4981 would recognize the gentleman from Nebraska, Mr. Terry.
4982 Mr. {Terry.} Thank you, Mr. Chairman, and we all want
4983 to make sure that the landowners receive their appropriate
4984 compensation, not be bullied. The reality of this amendment,
4985 though, it interferes with state laws and procedures and
4986 rights. Every state, Montana, South Dakota, Nebraska,
4987 Kansas, all of them have their specific state laws that deal
4988 with the land within those states and common carriers, and
4989 the rights of those common carriers--I shouldn’t say rights,
4990 but the legal ability under those laws to negotiate and if
4991 not possible, to reach a conclusion in negotiations to invoke
4992 an eminent domain so that one landowner can’t stop a project
4993 like this one. Most of the time it is used in electric
4994 wires, transmission wires, but it is also applicable to
4995 infrastructure projects like pipelines.
4996 So what this would be doing in essence is placing the
4997 federal laws and courts to a position where it subverts the
4998 states’ rights, the states’ laws, to resolve land disputes
4999 within their own borders, and I recommend for a lot of legal
reasons as well as practical reasons that we reject this amendment.

Yeah, I would yield to the gentleman from Kentucky.

Mr. {Whitfield.} I would just make one other comment. There is no federal eminent domain authority for oil pipelines, and this legislation does not grant TransCanada that kind of authority.

So I yield back.

The {Chairman.} The gentleman yields back. Are there further Members wishing to discuss the amendment? Seeing none the--

Mr. {Lujan.} Mr. Chairman?

The {Chairman.} The gentleman from New Mexico.

Mr. {Lujan.} I would yield to Mr. Tonko from New York.

Mr. {Tonko.} I thank the gentleman for yielding. I would just clearly state that the spirit of the amendment is to make certain that the property rights of these private-sector landowners are indeed honored, and if it takes the Federal Government to provide that support, I think it is important to do that. This is a major impact, and I think due process here is something that should be honored.

So with that, I would draw my request and thank my colleague for the opportunity. I yield back the remainder of
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5023  time.
5024    The {Chairman.} The gentleman yields back from--
5025    Mr. {Lujan.} Mr. Chairman, I yield back. It is my
time.
5026    The {Chairman.} Are there Members wishing to further
5027    comment on the amendment? Seeing none, the vote occurs on
5028    the amendment offered by the gentleman from New York.
5029    Those in favor will say aye.
5030    Those opposed say no. No.
5031    In the opinion of the chair, the nos have it. the
5032    amendment is not agreed to.
5033    Mr. {Tonko.} Mr. Chair, I would ask a recorded vote on
5034    the amendment.
5035    The {Chairman.} The gentleman asks for a recorded vote.
5036    We will do that prior to final passage on the bill.
5037    Are there further amendments to the bill? The gentleman
5038    from New York.
5039    Mr. {Tonko.} Mr. Chair, thank you. I offer amendment
5040    number 083 and would like to state the purpose of the
5041    amendment and then would withdraw the amendment.
5042    The {Chairman.} Before you do that--
5043    Mr. {Terry.} I reserve the right to object.
5044    The {Chairman.} --I guess reserve a point of order.
The gentleman is--the clerk will report the title of the amendment.

The {Clerk.} Amendment to H.R. 3 offered by Mr. Tonko of New York.

[The amendment of Mr. Tonko follows:]

*************** INSERT 18 ***************
The amendment will be considered as read, and the gentleman is recognized for 5 minutes.

Mr. Tonko. Thank you, Mr. Chairman. My amendment is very simple. It strikes Section 7 and 8 of the bill. These sections are unnecessary and eliminate vital protections for our natural resources.

Section 7 short-circuits the permitting process under the Clean Water Act. Section 8 undermines our commitment to migratory birds, a commitment this country made and has honored since 1918. Section 7 greatly accelerates the permitting process for the Keystone XL Pipeline under the Clean Water Act by granting all permits without further discussion or participation by the public. The Clean Water Act is the major law that protects our lakes, our rivers, tributaries, creeks and our wetlands. The Keystone XL Pipeline stretches nearly 1,700 across the landscape and along the route it crosses thousands of water bodies. The draft supplemental EIS indicates it would traverse over 1,000 surface water bodies—

The Chairman. Would the gentleman yield for one second?

Mr. Tonko. Yes, sir.
The Chairman. I just want to say this is the last amendment, and Mr. Tonko indicated he is planning to withdraw it. So at that point, the votes on the Floor are a little bit--they have not started yet. So my sense is if your staffs can alert those members not here that we will have four roll calls on the pending amendments and be able to do final before we have to go to the Floor. So we anticipate doing this in the next 5 minutes or so. So with that, I yield. I appreciate the gentleman from yielding, and I wanted to make that announcement. I yield back to Mr. Tonko.

Mr. Tonko. Oh, thank you. Thank you, Mr. Chair. The EIS indicates it would traverse over 1,000 surface water bodies in Montana, South Dakota and Nebraska alone. The southern section in Oklahoma and Texas crosses still more. In Nebraska alone, the pipeline’s route would cross six major watersheds and 160 water bodies according to the State’s recent evaluation.

Keystone XL would cross the Missouri, the Yellowstone, the Platte and the Niobrara Rivers and several wetland systems that are long recognized to be unique and important natural resources and habitats; the Prairie Pothole Region in Montana, South Dakota and northern Nebraska; and the Sand Hills Region and the Rainwater Basin Region in Nebraska. And
of great concern to many people is the fact that this pipeline crosses over the Ogallala aquifer, a vital water source for agriculture in this region.

I am sure my colleagues from Nebraska will point out that the revised path for the pipeline through Nebraska avoids the Sand Hills area. No such reprieve is available for the Ogallala aquifer or the many other sensitive, unique areas traversed by the pipeline. Past and recent experiences tell us that spills are a real threat. It is true that we need energy to fuel our modern society, but we cannot survive at all without water. We already have a number of pipelines crossing major rivers, lakes and other water sources. The permitting process is essential to ensure the safety of these resources. Spills are not easy to clean up if they can ever really be cleaned up. Just ask the people living near the Kalamazoo River. We can replace oil with other forms of energy and other materials, but there is no substitute indeed for water. None. Building this pipeline through these essential and valuable water resources is a risky venture with the best planning. Short circuiting the deliberations that are part of the permitting process under the Clean Water Act is unnecessary and very foolish. The ground and surface waters of this region are essential to support agriculture.
and every other economic and social activity, including operation of the pipeline. With wise management, they will continue to support agriculture for decades. We are putting a sustainable land use in jeopardy to enable a few companies to have greater access to the world’s oil market. There is no reason for bypassing the permit process established under the Migratory Bird Treaty. The central United States is a major flyway for migratory birds. Nebraska boasts the large spring migration of Sandhill Cranes in the world, the largest spring migration. The only wild population of the rare Whooping Crane annually visits Nebraska. Thanks to a dedicated group of biologists, this species was saved from extinction. But there are less than 200 individual birds in this migration population. Over 30 species of shore birds travel through Nebraska on their travels between the Arctic Circle and the tropics.

The Missouri River is a major migration route for eagles, hawks and geese. The list of important game species is extensive, Blue- and Green-winged Teal, Northern Shovelers, Pintails, just to name a few. These bird populations do not belong to use alone. They are a shared resource with other nations in North and Central America. We should not ignore our stewardship responsibility. We hear a
lot about the jobs this project will create, but recreation activities and tourism are important businesses also. The pipeline is a threat to the ecosystems that support those businesses. A more thoughtful process would take these other land use and jobs into consideration. It is ironic that only last week the Energy and Power Subcommittee held a hearing on legislation to add whole new categories of burdensome analyses to EPA’s regulatory efforts. Apparently it is important to conduct biased analyses designed to block regulations to protect public health and the environment, but any action that benefits the oil industry must be expedited at all costs.

Before we sacrifice vital, unique public resources, we should at least require TransCanada to make a good-faith effort to obey our laws and obtain our permits through regular order.

With that, I urge my colleagues to support this amendment. As I said, I would withdraw amendment 083 and thank the chair for the opportunity to explain the amendment.

With that, I yield back the remainder of time.

The {Chairman.} Gentleman withdraws his amendment.

Mr. {Terry.} Did he withdraw? Because I heard him say support.
The {Chairman.} He did.

Mr. {Terry.} But I would ask him to withdraw.

The {Chairman.} The gentleman withdraws his amendment? Is that correct?

Mr. {Tonko.} Yes, Mr. Chair. I withdraw amendment 83.

Mr. {Terry.} And I withdraw my--

The {Chairman.} All right. The gentleman withdraws.

Are there further amendments to the bill? Seeing none, the votes occur on four amendments that recorded votes were asked the Tonko amendment, the Schakowsky amendment, the Lujan amendment and the Tonko amendment, at which point we will then get the final passage. So the clerk will call the roll on the Tonko 10 amendment that was offered some time ago.

The clerk will call the roll.

The {Chairman.} Recorded vote is requested, and the Clerk will call the roll.

The {Clerk.} Mr. Hall?

Mr. {Hall.} No.

The {Clerk.} Mr. Hall votes no.

Mr. Barton?

Mr. {Barton.} No.

The {Clerk.} Mr. Barton votes no.

Mr. Whitfield?
Mr. {Whitfield.}  No.
The {Clerk.}  Mr. Whitfield votes no.
Mr. Shimkus?
[No response.]
The {Clerk.}  Mr. Pitts?
Mr. {Pitts.}  No.
The {Clerk.}  Mr. Pitts votes no.
Mr. Walden?
Mr. {Walden.}  No.
The {Clerk.}  Mr. Walden votes no.
Mr. Terry?
Mr. {Terry.}  No.
The {Clerk.}  Mr. Terry votes no.
Mr. Rogers?
[No response.]
The {Clerk.}  Mr. Murphy?
Mr. {Murphy.}  No.
The {Clerk.}  Mr. Murphy votes no.
Mr. Burgess?
Dr. {Burgess.}  No.
The {Clerk.}  Mr. Burgess votes no.
Mrs. Blackburn?
[No response.]
The Clerk. Mr. Gingrey?

Dr. Gingrey. No.

The Clerk. Mr. Gingrey votes no.

Mr. Scalise?

Mr. Scalise. No.

The Clerk. Mr. Scalise votes no.

Mr. Latta?

Mr. Latta. No.

The Clerk. Mr. Latta votes no.

Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. No.

The Clerk. Mrs. McMorris Rodgers votes no.

Mr. Harper?

Mr. Harper. No.

The Clerk. Mr. Harper votes no.

Mr. Lance?

Mr. Lance. No.

The Clerk. Mr. Lance votes no.

Mr. Cassidy?

Dr. Cassidy. No.

The Clerk. Mr. Cassidy votes no.

Mr. Guthrie?

[No response.]
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5235 The {Clerk.} Mr. Olson?
5236 Mr. {Olson.} No.
5237 The {Clerk.} Mr. Olson votes no.
5238 Mr. McKinley?
5239 Mr. {McKinley.} No.
5240 The {Clerk.} Mr. McKinley votes no.
5241 Mr. Gardner?
5242 Mr. {Gardner.} No.
5243 The {Clerk.} Mr. Gardner votes no.
5244 Mr. Pompeo?
5245 Mr. {Pompeo.} No.
5246 The {Clerk.} Mr. Pompeo votes no.
5247 Mr. Kinzinger?
5248 Mr. {Kinzinger.} No.
5249 The {Clerk.} Mr. Kinzinger votes no.
5250 Mr. Griffith?
5251 Mr. {Griffith.} No.
5252 The {Clerk.} Mr. Griffith votes no.
5253 Mr. Bilirakis?
5254 Mr. {Bilirakis.} No.
5255 The {Clerk.} Mr. Bilirakis votes no.
5256 Mr. Johnson?
5257 Mr. {Johnson.} No.
Mr. Johnson votes no.

Mr. Long?

Mr. Long votes no.

Mrs. Ellmers?

[No response.]

Mr. Waxman?

(voice.) He votes yes.

Mr. Waxman. Yes.

Mr. Waxman votes aye.

Mr. Dingell?

Mr. Dingell. Votes aye.

Mr. Dingell votes aye.

Mr. Markey?

[No response.]

Mr. Pallone?

[No response.]

Mr. Rush?

[No response.]

Ms. Eshoo?

Ms. Eshoo. Aye.

Ms. Eshoo votes aye.

Mr. Engel?
Mr. Engel. Aye.

Mr. Engel votes aye.

Mr. Green?

[No response.]

Ms. DeGette?

Ms. DeGette votes aye.

Mrs. Capps?

Mrs. Capps votes aye.

Mr. Doyle?

Mr. Doyle votes aye.

Ms. Schakowsky?

Ms. Schakowsky votes aye.

Mr. Matheson?

Mr. Matheson votes no.

Mr. Butterfield?

Mr. Butterfield votes aye.

Mr. Barrow?
Mr. {Barrow.}  Votes no.

The {Clerk.}  Mr. Barrow votes no.

Ms. Matsui?

[No response.]

The {Clerk.}  Ms. Christensen?

[No response.]

The {Clerk.}  Ms. Castor?

Ms. {Castor.}  Aye.

The {Clerk.}  Ms. Castor votes aye.

Mr. Sarbanes?

Mr. {Sarbanes.}  Aye.

The {Clerk.}  Mr. Sarbanes votes aye.

Mr. McNerney?

[No response.]

The {Clerk.}  Mr. Braley?

[No response.]

The {Clerk.}  Mr. Welch?

[No response.]

The {Clerk.}  Mr. Lujan?

Mr. {Lujan.}  Aye.

The {Clerk.}  Mr. Lujan votes aye.

Mr. Tonko?

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

Chairman Upton?

The {Chairman.} Votes no.

The {Clerk.} Chairman Upton votes no.

The {Chairman.} Members wishing to vote? Mr. Pallone?

Mr. {Pallone.} Aye.

The {Clerk.} Mr. Pallone votes aye.

The {Chairman.} Mr. Green?

Mr. {Green.} No.

The {Clerk.} Mr. Green votes no.

The {Chairman.} Ms. Matsui?

Ms. {Matsui.} Aye.

The {Clerk.} Ms. Matsui votes aye.

The {Chairman.} Mr. Griffith? Is Mr. Griffith recorded?

The {Clerk.} Mr. Griffith is recorded.

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

Seeing none, the clerk will report the tally. Was Mr. Guthrie recorded? Mr. Guthrie?

Mr. {Guthrie.} No.

The {Clerk.} Mr. Guthrie. Mr. Guthrie votes no. Did McNerney vote?

The {Clerk.} Mr. Chairman, on that vote--
The {Chairman.} Wait, is Mr. McNerney recorded?

The {Clerk.} No, he is not recorded.

The {Chairman.} Mr. McNerney?

Mr. {McNerney.} Votes yes.

The {Chairman.} Mr. Welch?

Mr. {Welch.} Yes.

The {Chairman.} Mr. Welch votes aye. Mr. McNerney votes aye. Other Members wishing to be recorded? Okay, the clerk will report the tally.

The {Clerk.} Mr. Chairman, on that vote there were 17 ayes and 29 nos.

The {Chairman.} Seventeen ayes, 29 nos. The amendment is not agreed to.

The next recorded vote will be on the Schakowsky amendment, and the clerk will call the roll.

The {Chairman.} Recorded vote is requested, and the Clerk will call the roll.

The {Clerk.} Mr. Hall?

Mr. {Hall.} No.

The {Clerk.} Mr. Hall votes no.

Mr. Barton?

Mr. {Barton.} No.

The {Clerk.} Mr. Barton votes no.
Mr. Whitfield?

Mr. {Whitfield.} No.

The {Clerk.} Mr. Whitfield votes no.

Mr. Shimkus?

[No response.]

The {Clerk.} Mr. Pitts?

Mr. {Pitts.} No.

The {Clerk.} Mr. Pitts votes no.

Mr. Walden?

Mr. {Walden.} No.

The {Clerk.} Mr. Walden votes no.

Mr. Terry?

Mr. {Terry.} No.

The {Clerk.} Mr. Terry votes no.

Mr. Rogers?

[No response.]

The {Clerk.} Mr. Murphy?

Mr. {Murphy.} No.

The {Clerk.} Mr. Murphy votes no.

Mr. Burgess?

Dr. {Burgess.} No.

The {Clerk.} Mr. Burgess votes no.

Mrs. Blackburn?
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5396 [No response.]
5397 The {Clerk.} Mr. Gingrey?
5398 Dr. {Gingrey.} No.
5399 The {Clerk.} Mr. Gingrey votes no.
5400 Mr. Scalise?
5401 Mr. {Scalise.} No.
5402 The {Clerk.} Mr. Scalise votes no.
5403 Mr. Latta?
5404 Mr. {Latta.} No.
5405 The {Clerk.} Mr. Latta votes no.
5406 Mrs. McMorris Rodgers?
5407 Mrs. {McMorris Rodgers.} No.
5408 The {Clerk.} Mrs. McMorris Rodgers votes no.
5409 Mr. Harper?
5410 Mr. {Harper.} No.
5411 The {Clerk.} Mr. Harper votes no.
5412 Mr. Lance?
5413 Mr. {Lance.} No.
5414 The {Clerk.} Mr. Lance votes no.
5415 Mr. Cassidy?
5416 Dr. {Cassidy.} No.
5417 The {Clerk.} Mr. Cassidy votes no.
5418 Mr. Guthrie?
Mr. {Guthrie.}  No.
The {Clerk.}  Mr. Guthrie votes no.
Mr. Olson?
Mr. {Olson.}  No.
The {Clerk.}  Mr. Olson votes no.
Mr. McKinley?
Mr. {McKinley.}  No.
The {Clerk.}  Mr. McKinley votes no.
Mr. Gardner?
Mr. {Gardner.}  No.
The {Clerk.}  Mr. Gardner votes no.
Mr. Pompeo?
Mr. {Pompeo.}  No.
The {Clerk.}  Mr. Pompeo votes no.
Mr. Kinzinger?
Mr. {Kinzinger.}  No.
The {Clerk.}  Mr. Kinzinger votes no.
Mr. Griffith?
Mr. {Griffith.}  No.
The {Clerk.}  Mr. Griffith votes no.
Mr. Bilirakis?
Mr. {Bilirakis.}  No.
The {Clerk.}  Mr. Bilirakis votes no.
Mr. Johnson?

Mr. {Johnson.} No.

The {Clerk.} Mr. Johnson votes no.

Mr. Long?

Mr. {Long.} No.

The {Clerk.} Mr. Long votes no.

Mrs. Ellmers?

[No response.]

The {Clerk.} Mr. Waxman?

Mr. {Waxman.} Aye.

The {Clerk.} Mr. Waxman votes aye.

Mr. Dingell?

Mr. {Dingell.} Votes no.

The {Clerk.} Mr. Dingell votes no.

Mr. Markey?

[No response.]

The {Clerk.} Mr. Pallone?

[No response.]

The {Clerk.} Mr. Rush?

[No response.]

The {Clerk.} Ms. Eshoo?

Ms. {Eshoo.} Aye.

The {Clerk.} Ms. Eshoo votes aye.
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

5465 Mr. Engel?
5466 Mr. {Engel.} Aye.
5467 The {Clerk.} Mr. Engel votes aye.
5468 Mr. Green?
5469 Mr. {Green.} No.
5470 The {Clerk.} Mr. Green votes no.
5471 Ms. DeGette?
5472 Ms. {DeGette.} Aye.
5473 The {Clerk.} Ms. DeGette votes aye.
5474 Mrs. Capps?
5475 Mrs. {Capps.} Aye.
5476 The {Clerk.} Mrs. Capps votes aye.
5477 Mr. Doyle?
5478 Mr. {Doyle.} No.
5479 The {Clerk.} Mr. Doyle votes no.
5480 Ms. Schakowsky?
5481 Ms. {Schakowsky.} Aye.
5482 The {Clerk.} Ms. Schakowsky votes aye.
5483 Mr. Matheson?
5484 Mr. {Matheson.} No.
5485 The {Clerk.} Mr. Matheson votes no.
5486 Mr. Butterfield?
5487 Mr. {Butterfield.} Aye.
Mr. Butterfield votes aye.

Mr. Barrow?

Mr. Barrow votes no.

Ms. Matsui?

Ms. Matsui votes aye.

Ms. Christensen?

Dr. Christensen votes aye.

Ms. Castor?

Ms. Castor votes aye.

Mr. Sarbanes?

Mr. Sarbanes votes aye.

Mr. McNerney?

Mr. McNerney votes aye.

Mr. Braley?

[No response.]

Mr. Welch?

Mr. Welch votes aye.
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

The {Clerk.} Mr. Welch votes aye.

Mr. Lujan?

Mr. {Lujan.} Aye.

The {Clerk.} Mr. Lujan votes aye.

Mr. Tonko?

Mr. {Tonko.} Aye.

The {Clerk.} Mr. Tonko votes aye.

Chairman Upton?

The {Chairman.} Votes no.

The {Clerk.} Chairman Upton votes no.

The {Chairman.} Members wishing to vote? Mr. Pallone?

Mr. {Pallone.} Votes aye.

The {Clerk.} Mr. Pallone votes aye.

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

Seeing none, the clerk will report the tally.

The {Clerk.} Mr. Chairman, on that vote there were 16 ayes and 31 nos.

The {Chairman.} Sixteen ayes, 31 nos. The amendment is not agreed to.

The next recorded vote will be the Lujan amendment, and the clerk will call the roll.

The {Clerk.} Mr. Hall?

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

Mr. Barton?

Mr. {Barton.} No.

The {Clerk.} Mr. Barton votes no.

Mr. Whitfield?

Mr. {Whitfield.} Votes no.

The {Clerk.} Mr. Whitfield votes no.

Mr. Shimkus?

[No response.]

The {Clerk.} Mr. Pitts?

Mr. {Pitts.} No.

The {Clerk.} Mr. Pitts votes no.

Mr. Walden?

Mr. {Walden.} No.

The {Clerk.} Mr. Walden votes no.

Mr. Terry?

Mr. {Terry.} No.

The {Clerk.} Mr. Terry votes no.

Mr. Rogers?

[No response.]

The {Clerk.} Mr. Murphy?

Mr. {Murphy.} No.

The {Clerk.} Mr. Murphy votes no.
5557 Mr. Burgess?
5558 Dr. {Burgess.} No.
5559 The {Clerk.} Mr. Burgess votes no.
5560 Mrs. Blackburn?
5561 [No response.]
5562 The {Clerk.} Mr. Gingrey?
5563 Dr. {Gingrey.} No.
5564 The {Clerk.} Mr. Gingrey votes no.
5565 Mr. Scalise?
5566 Mr. {Scalise.} No.
5567 The {Clerk.} Mr. Scalise votes no.
5568 Mr. Latta?
5569 Mr. {Latta.} No.
5570 The {Clerk.} Mr. Latta votes no.
5571 Mrs. McMorris Rodgers?
5572 Mrs. {McMorris Rodgers.} No.
5573 The {Clerk.} Mrs. McMorris Rodgers votes no.
5574 Mr. Harper?
5575 Mr. {Harper.} No.
5576 The {Clerk.} Mr. Harper votes no.
5577 Mr. Lance?
5578 Mr. {Lance.} No.
5579 The {Clerk.} Mr. Lance votes no.
Mr. Cassidy?

Dr. {Cassidy.} No.

The {Clerk.} Mr. Cassidy votes no.

Mr. Guthrie?

Mr. {Guthrie.} No.

The {Clerk.} Mr. Guthrie votes no.

Mr. Olson?

Mr. {Olson.} No.

The {Clerk.} Mr. Olson votes no.

Mr. McKinley?

Mr. {McKinley.} No.

The {Clerk.} Mr. McKinley votes no.

Mr. Gardner?

Mr. {Gardner.} No.

The {Clerk.} Mr. Gardner votes no.

Mr. Pompeo?

Mr. {Pompeo.} No.

The {Clerk.} Mr. Pompeo votes no.

Mr. Kinzinger?

Mr. {Kinzinger.} No.

The {Clerk.} Mr. Kinzinger votes no.

Mr. Griffith?

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

Mr. Bilirakis?

Mr. {Bilirakis.} No.

The {Clerk.} Mr. Bilirakis votes no.

Mr. Johnson?

Mr. {Johnson.} No.

The {Clerk.} Mr. Johnson votes no.

Mr. Long?

Mr. {Long.} No.

The {Clerk.} Mr. Long votes no.

Mrs. Ellmers?

[No response.]

The {Clerk.} Mr. Waxman?

Mr. {Waxman.} Votes aye.

The {Clerk.} Mr. Waxman votes aye.

Mr. Dingell?

Mr. {Dingell.} Aye.

The {Clerk.} Mr. Dingell votes aye.

Mr. Markey?

[No response.]

The {Clerk.} Mr. Pallone?

Mr. {Pallone.} Aye.

The {Clerk.} Mr. Pallone votes aye.
Mr. Rush?

[No response.]

Ms. Eshoo?

Ms. Eshoo votes aye.

Mr. Engel?

Mr. Engel votes aye.

Mr. Green?

Mr. Green votes no.

Ms. DeGette?

Ms. DeGette votes aye.

Mrs. Capps?

Mrs. Capps votes aye.

Mr. Doyle?

Mr. Doyle votes aye.

Ms. Schakowsky?

Ms. Schakowsky votes aye.
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Mr. Matheson?
Mr. Matheson. No.
The Clerk. Mr. Matheson votes no.
Mr. Butterfield?
Mr. Butterfield. Aye.
The Clerk. Mr. Butterfield votes aye.
Mr. Barrow?
Mr. Barrow. Votes no.
The Clerk. Mr. Barrow votes no.
Ms. Matsui?
Ms. Matsui. Aye.
The Clerk. Ms. Matsui votes aye.
Ms. Christensen?
Dr. Christensen. Aye.
The Clerk. Ms. Christensen votes aye.
Ms. Castor?
Ms. Castor. Aye.
The Clerk. Ms. Castor votes aye.
Mr. Sarbanes?
Mr. Sarbanes. Aye.
The Clerk. Mr. Sarbanes votes aye.
Mr. McNerney?
Mr. McNerney. Aye.
The Clerk. Mr. McNerney votes aye.

Mr. Braley?

[No response.]

The Clerk. Mr. Welch?

Mr. {Welch.} Aye.

The Clerk. Mr. Welch votes aye.

Mr. Lujan?

Mr. {Lujan.} Aye.

The Clerk. Mr. Lujan votes aye.

Mr. Tonko?

Mr. {Tonko.} Aye.

The Clerk. Mr. Tonko votes aye.

Chairman Upton?

The Chairman. Votes no.

The Clerk. Chairman Upton votes no.

The Chairman. Other Members wishing to cast a vote?

Seeing none, the clerk will report the tally.

The Clerk. Mr. Chairman, on that vote there were 18 ayes and 29 nos.

The Chairman. Eighteen ayes, 29 nos. The amendment is not agreed to.

The last amendment before we get to final is the Tonko amendment. The clerk will call the roll.
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The {Clerk.} Mr. Hall?

Mr. {Hall.} No.

The {Clerk.} Mr. Hall votes no.

Mr. Barton?

Mr. {Barton.} No.

The {Clerk.} Mr. Barton votes no.

Mr. Whitfield?

Mr. {Whitfield.} No.

The {Clerk.} Mr. Whitfield votes no.

Mr. Shimkus?

[No response.]

The {Clerk.} Mr. Pitts?

Mr. {Pitts.} No.

The {Clerk.} Mr. Pitts votes no.

Mr. Walden?

Mr. {Walden.} No.

The {Clerk.} Mr. Walden votes no.

Mr. Terry?

Mr. {Terry.} No.

The {Clerk.} Mr. Terry votes no.

Mr. Rogers?

[No response.]

The {Clerk.} Mr. Murphy?
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

5718  Mr. {Murphy.}  No.

5719  The {Clerk.}  Mr. Murphy votes no.

5720  Mr. Burgess?

5721  Dr. {Burgess.}  No.

5722  The {Clerk.}  Mr. Burgess votes no.

5723  Mrs. Blackburn?

5724  [No response.]

5725  The {Clerk.}  Mr. Gingrey?

5726  Dr. {Gingrey.}  No.

5727  The {Clerk.}  Mr. Gingrey votes no.

5728  Mr. Scalise?

5729  Mr. {Scalise.}  No.

5730  The {Clerk.}  Mr. Scalise votes no.

5731  Mr. Latta?

5732  Mr. {Latta.}  No.

5733  The {Clerk.}  Mr. Latta votes no.

5734  Mrs. McMorris Rodgers?

5735  Mrs. {McMorris Rodgers.}  No.

5736  The {Clerk.}  Mrs. McMorris Rodgers votes no.

5737  Mr. Harper?

5738  Mr. {Harper.}  No.

5739  The {Clerk.}  Mr. Harper votes no.

5740  Mr. Lance?
Mr. {Lance.}  No.

Mr. Lance votes no.

Mr. Cassidy?

Dr. {Cassidy.}  No.

Mr. Cassidy votes no.

Mr. Guthrie?

Mr. {Guthrie.}  No.

Mr. Guthrie votes no.

Mr. Olson?

Mr. {Olson.}  No.

Mr. Olson votes no.

Mr. McKinley?

Mr. {McKinley.}  No.

Mr. McKinley votes no.

Mr. Gardner?

Mr. {Gardner.}  No.

Mr. Gardner votes no.

Mr. Pompeo?

Mr. {Pompeo.}  No.

Mr. Pompeo votes no.

Mr. Kinzinger?

Mr. {Kinzinger.}  No.

Mr. Kinzinger votes no.
Mr. Griffith?

Mr. {Griffith.} No.

The {Clerk.} Mr. Griffith votes no.

Mr. Bilirakis?

Mr. {Bilirakis.} No.

The {Clerk.} Mr. Bilirakis votes no.

Mr. Johnson?

Mr. {Johnson.} No.

The {Clerk.} Mr. Johnson votes no.

Mr. Long?

Mr. {Long.} No.

The {Clerk.} Mr. Long votes no.

Mrs. Ellmers?

[No response.]

The {Clerk.} Mr. Waxman?

Mr. {Waxman.} Aye.

The {Clerk.} Mr. Waxman votes aye.

Mr. Dingell?

Mr. {Dingell.} Votes no.

The {Clerk.} Mr. Dingell votes no.

Mr. Markey?

[No response.]

The {Clerk.} Mr. Pallone?
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

5787  Mr. {Pallone.}  Aye.
5788  The {Clerk.}  Mr. Pallone votes aye.
5789  Mr. Rush?
5790  [No response.]
5791  The {Clerk.}  Ms. Eshoo?
5792  Ms. {Eshoo.}  Aye.
5793  The {Clerk.}  Ms. Eshoo votes aye.
5794  Mr. Engel?
5795  Mr. {Engel.}  Aye.
5796  The {Clerk.}  Mr. Engel votes aye.
5797  Mr. Green?
5798  Mr. {Green.}  No.
5799  The {Clerk.}  Mr. Green votes no.
5800  Ms. DeGette?
5801  Ms. {DeGette.}  Aye.
5802  The {Clerk.}  Ms. DeGette votes aye.
5803  Mrs. Capps?
5804  Mrs. {Capps.}  Aye.
5805  The {Clerk.}  Mrs. Capps votes aye.
5806  Mr. Doyle?
5807  Mr. {Doyle.}  No.
5808  The {Clerk.}  Mr. Doyle votes no.
5809  Ms. Schakowsky?
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

5810  Ms. {Schakowsky.} Aye.
5811  The {Clerk.} Ms. Schakowsky votes aye.
5812  Mr. Matheson?
5813  Mr. {Matheson.} No.
5814  The {Clerk.} Mr. Matheson votes no.
5815  Mr. Butterfield?
5816  Mr. {Butterfield.} Aye.
5817  The {Clerk.} Mr. Butterfield votes aye.
5818  Mr. Barrow?
5819  Mr. {Barrow.} Votes no.
5820  The {Clerk.} Mr. Barrow votes no.
5821  Ms. Matsui?
5822  Ms. {Matsui.} Aye.
5823  The {Clerk.} Ms. Matsui votes aye.
5824  Ms. Christensen?
5825  Dr. {Christensen.} Aye.
5826  The {Clerk.} Ms. Christensen votes aye.
5827  Ms. Castor?
5828  Ms. {Castor.} Aye.
5829  The {Clerk.} Ms. Castor votes aye.
5830  Mr. Sarbanes?
5831  Mr. {Sarbanes.} Aye.
5832  The {Clerk.} Mr. Sarbanes votes aye.
Mr. McNerney?
Mr. McNerney votes aye.

Mr. Braley?
Mr. Braley votes aye.

Mr. Welch?
Mr. Welch votes aye.

Mr. Lujan?
Mr. Lujan votes aye.

Mr. Tonko?
Mr. Tonko votes aye.

Chairman Upton?
Chairman Upton votes no.

Other Members wishing to cast a vote?

Seeing none, the clerk will report the tally.

Mr. Chairman, on that vote there were 17 ayes and 31 nos.

Seventeen ayes, 31 nos. The amendment
is not agreed to.

The vote now occurs on final passage of H.R. 3. The clerk will call the roll.

The {Clerk.} Mr. Hall?

Mr. {Hall.} Aye.

The {Clerk.} Mr. Hall votes aye.

Mr. Barton?

Mr. {Barton.} Aye.

The {Clerk.} Mr. Barton votes aye.

Mr. Whitfield?

Mr. {Whitfield.} Aye.

The {Clerk.} Mr. Whitfield votes aye.

Mr. Shimkus?

[No response.]

The {Clerk.} Mr. Pitts?

Mr. {Pitts.} Aye.

The {Clerk.} Mr. Pitts votes aye.

Mr. Walden?

Mr. {Walden.} Aye.

The {Clerk.} Mr. Walden votes aye.

Mr. Terry?

Mr. {Terry.} Aye.

The {Clerk.} Mr. Terry votes aye.
Mr. Rogers?
[No response.]
The {Clerk.} Mr. Murphy?
Mr. {Murphy.} Aye.
The {Clerk.} Mr. Murphy votes aye.
Mr. Burgess?
Dr. {Burgess.} Aye.
The {Clerk.} Mr. Burgess votes aye.
Mrs. Blackburn?
[No response.]
The {Clerk.} Mr. Gingrey?
Dr. {Gingrey.} Aye.
The {Clerk.} Mr. Gingrey votes aye.
Mr. Scalise?
Mr. {Scalise.} Aye.
The {Clerk.} Mr. Scalise votes aye.
Mr. Latta?
Mr. {Latta.} Aye.
The {Clerk.} Mr. Latta votes aye.
Mrs. McMorris Rodgers?
Mrs. {McMorris Rodgers.} Aye.
The {Clerk.} Mrs. McMorris Rodgers votes aye.
Mr. Harper?
Mr. {Harper.}  Aye.

The {Clerk.}  Mr. Harper votes aye.

Mr. Lance?

Mr. {Lance.}  Aye.

The {Clerk.}  Mr. Lance votes aye.

Mr. Cassidy?

Dr. {Cassidy.}  Aye.

The {Clerk.}  Mr. Cassidy votes aye.

Mr. Guthrie?

Mr. {Guthrie.}  Aye.

The {Clerk.}  Mr. Guthrie votes aye.

Mr. Olson?

Mr. {Olson.}  Aye.

The {Clerk.}  Mr. Olson votes aye.

Mr. McKinley?

Mr. {McKinley.}  Aye.

The {Clerk.}  Mr. McKinley votes aye.

Mr. Gardner?

Mr. {Gardner.}  Aye.

The {Clerk.}  Mr. Gardner votes aye.

Mr. Pompeo?

Mr. {Pompeo.}  Aye.

The {Clerk.}  Mr. Pompeo votes aye.
Mr. Kinzinger?
Mr. {Kinzinger.} Aye.
The {Clerk.} Mr. Kinzinger votes aye.
Mr. Griffith?
Mr. {Griffith.} Aye.
The {Clerk.} Mr. Griffith votes aye.
Mr. Bilirakis?
Mr. {Bilirakis.} Aye.
The {Clerk.} Mr. Bilirakis votes aye.
Mr. Johnson?
Mr. {Johnson.} Aye.
The {Clerk.} Mr. Johnson votes aye.
Mr. Long?
Mr. {Long.} Aye.
The {Clerk.} Mr. Long votes aye.
Mrs. Ellmers?
[No response.]
The {Clerk.} Mr. Waxman?
Mr. {Waxman.} No.
The {Clerk.} Mr. Waxman votes no.
Mr. Dingell?
Mr. {Dingell.} Votes no.
The {Clerk.} Mr. Dingell votes no.
Mr. Markey?

[No response.]

The {Clerk.} Mr. Pallone?

Mr. {Pallone.} No.

The {Clerk.} Mr. Pallone votes no.

Mr. Rush?

[No response.]

The {Clerk.} Ms. Eshoo?

Ms. {Eshoo.} No.

The {Clerk.} Ms. Eshoo votes no.

Mr. Engel?

Mr. {Engel.} No.

The {Clerk.} Mr. Engel votes no.

Mr. Green?

Mr. {Green.} Aye.

The {Clerk.} Mr. Green votes aye.

Ms. DeGette?

Ms. {DeGette.} No.

The {Clerk.} Ms. DeGette votes no.

Mrs. Capps?

Mrs. {Capps.} No.

The {Clerk.} Mrs. Capps votes no.

Mr. Doyle?
Mr. {Doyle.} No.

Mr. {Matheson.} Aye.

Mr. {Butterfield.} No.

Mr. {Barrow.} Votes aye.

Ms. {Matsui.} No.

Ms. {Christensen.} No.

Ms. {Castor.} No.
Mr. Sarbanes?

Mr. {Sarbanes.} No.

The {Clerk.} Mr. Sarbanes votes no.

Mr. McNerney?

Mr. {McNerney.} No.

The {Clerk.} Mr. McNerney votes no.

Mr. Braley?

Mr. {Braley.} Aye.

The {Clerk.} Mr. Braley votes aye.

Mr. Welch?

Mr. {Welch.} No.

The {Clerk.} Mr. Welch votes no.

Mr. Lujan?

Mr. {Lujan.} No.

The {Clerk.} Mr. Lujan votes no.

Mr. Tonko?

Mr. {Tonko.} No.

The {Clerk.} Mr. Tonko votes no.

Chairman Upton?

The {Chairman.} Votes aye.

The {Clerk.} Chairman Upton votes aye.

The {Chairman.} Are there other Members wishing to cast

a vote on final? Seeing none, the clerk will report the
tally.

The {Clerk.} Mr. Chairman, on that vote there were 30 ayes and 18 nos.

The {Chairman.} Thirty ayes, 18 nos. The bill, H.R. 3, is approved, and without objection, the staff is authorized to make technical and conforming changes to the bills reported by the committee, so ordered without objection. The committee stands in adjournment.

[Whereupon, at 2:01 p.m., the Committee was adjourned.]