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4 MARKUP ON H.R. 2042, THE RATEPAYER PROTECTION ACT; AND

5 H.R. 2045, THE TARGETING ROGUE AND OPAQUE LETTERS (TROL) ACT

6 OF 2015

7 WEDNESDAY, APRIL 29, 2015

8 House of Representatives,

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Committee met, pursuant to call, at 10:05 a.m., in
12 Room 2123 of the Rayburn House Office Building, Hon. Fred
13 Upton [Chairman of the Committee] presiding.

14 Members present: Representatives Upton, Barton,
15 Whitfield, Shimkus, Pitts, Walden, Murphy, Burgess,
16 Blackburn, Scalise, Latta, McMorris Rodgers, Harper, Lance,
17 Guthrie, Olson, McKinley, Pompeo, Kinzinger, Griffith,
18 Bilirakis, Johnson, Long, Elmers, Bucshon, Flores, Brooks,

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19 Mullin, Hudson, Collins, Cramer, Pallone, Rush, Eshoo, Green,
20 DeGette, Capps, Doyle, Schakowsky, Butterfield, Matsui,
21 Castor, Sarbanes, McNeerney, Welch, Lujan, Tonko, Yarmuth,
22 Clarke, Loeb sack, Schrader, Kennedy, and Cardenas.

23 Staff present: Nick Abraham, Legislative Associate,
24 Energy and Power; Gary Andres, Staff Director; Charlotte
25 Baker, Deputy Communications Director; Ray Baum, Senior
26 Policy Advisor for Communications and Technology; Leighton
27 Brown, Press Assistant; Allison Busbee, Policy Coordinator,
28 Energy and Power; Karen Christian, General Counsel; James
29 Decker, Policy Coordinator, Commerce, Manufacturing, and
30 Trade; Graham Dufault, Counsel, Commerce, Manufacturing, and
31 Trade; Melissa Froelich, Counsel, Commerce, Manufacturing,
32 and Trade; Tom Hassenboehler, Chief Counsel, Energy and
33 Power; Brittany Havens, Oversight Associate, Oversight and
34 Investigations; Kirby Howard, Legislative Clerk; A.T.
35 Johnson, Policy Coordinator, Energy and Power; Peter Kielty,
36 Deputy General Counsel; Paul Nagle, Chief Counsel, Commerce,
37 Manufacturing, and Trade; Mary Neumayr, Senior Energy
38 Counsel; Tim Pataki, Professional Staff Member; Graham
39 Pittman, Legislative Clerk; Peter Spencer, Professional Staff
40 Member, Oversight; Olivia Trusty, Professional Staff,
41 Commerce, Manufacturing, and Trade; Greg Watson, Staff

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42 Assistant; Jessica Wilkerson, Oversight Associate, Oversight
43 and Investigations; Michelle Ash, Democratic Chief Counsel,
44 Commerce, Manufacturing, and Trade; Jen Berenholz, Democratic
45 Chief Clerk; Christine Brennan, Democratic Press Secretary;
46 Jeff Carroll, Democratic Staff Director; Elizabeth Ertel,
47 Democratic Deputy Clerk; Lisa Goldman, Democratic Counsel;
48 Michael Goo, Democratic Chief Counsel, Energy and
49 Environment; Caitlin Haberman, Democratic Professional Staff
50 Member; Brendan Hennessey, Democratic Policy and Research
51 Advisor; Ashley Jones, Democratic Director, Outreach and
52 Member Services; Rick Kessler, Democratic Senior Advisor and
53 Staff Director, Energy and Environment; Adam Lowenstein,
54 Democratic Policy Analyst; John Marshall, Democratic Policy
55 Coordinator; Tim Robinson, Democratic Chief Counsel; and Ryan
56 Skukowski, Democratic Policy Analyst.

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57 H.R. 2042

58 The {Chairman.} So the committee will come to order.

59 At the conclusion of opening statements yesterday, the

60 chair called up H.R. 2042, the Ratepayer Protection Act, and

61 the bill was open for amendment at any point. Are there any

62 bipartisan amendments to the bill? Seeing none, are there

63 any other amendments?

64 Mr. {Tonko.} Yes.

65 The {Chairman.} Answer is yes.

66 Mr. {Tonko.} Mr. Tonko to start--

67 The {Chairman.} Mr. Tonko, do you have an amendment?

68 Mr. {Tonko.} Yes, Mr. Chair, I do.

69 The {Chairman.} And the clerk will report the title of

70 the amendment.

71 The {Clerk.} Amendment to H.R. 2042, Ratepayer

72 Protection Act of 2015, offered by Mr. Tonko of New York.

73 [The amendment of Mr. Tonko follows:]

74 ***** INSERT 1 *****

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75 The {Chairman.} And the amendment will be considered as
76 read. And the gentleman will be recognized for 5 minutes in
77 support of his amendment, and the staff will distribute the
78 amendment.

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

80 I have a question for Counsel, but I would also be happy
81 to leave--happy to have the chair or the subcommittee chair
82 answer. Under the bill, are there any standards that apply
83 to a governor's decision to opt-out of a federal plan?

84 The {Chairman.} Mary?

85 {Counsel.} The bill sets out a process for a governor
86 to make a determination, including a consultation with other
87 state officials within the state.

88 Mr. {Tonko.} Are there standards in that?

89 {Counsel.} There are not specific standards set forth.

90 Mr. {Tonko.} Okay, I know a governor has to make a
91 determination that implementation of the federal plan will
92 cause an adverse ratepayer or reliability impact, but--

93 {Counsel.} Um-hum.

94 Mr. {Tonko.} --I don't believe--is there a judicial
95 review of that determination?

96 {Counsel.} Um-hum. There are standards set forth for

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97 the governor's determination in the legislation.

98 Mr. {Tonko.} But is there a judicial review?

99 {Counsel.} There is not an explicit provision--

100 Mr. {Tonko.} Okay.

101 {Counsel.} --triggering judicial review.

102 Mr. {Tonko.} Thank you. Well, I believe that, you
103 know, we need to know if that--if there would be a judicial
104 review, would it be in state or federal court, what standards
105 would apply, would EPA have to develop a federal plan or
106 would a governor be able to make a determination to opt-out
107 before EPA developed a federal plan.

108 So with that, I do have that amendment at the desk, and
109 my amendment would make the governor's decision to opt-out of
110 a federal plan subject to judicial review. It would also
111 strike Section 2 of the bill, which automatically extends
112 compliance times for the EPA Clean Power Plan by however long
113 the litigation takes, regardless of the merits or outcome of
114 the legal challenges.

115 Mr. Chair, the underlying bill allows--

116 {Voice.} Mr. Chair--

117 Mr. {Tonko.} --a governor to opt-out--

118 The {Chairman.} Gentleman is recognized.

119 Mr. {Tonko.} Thank you, Mr. Chair. The underlying bill

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120 allows a governor to opt-out of both a state plan and a
121 federal plan. This gives a governor the power to decide that
122 a federal law simply does not apply to his or her state.
123 This provision effectively amends the Clean Air Act, and
124 upsets the current federal state balance, which gives states
125 the flexibility to develop their own plan for reducing carbon
126 emissions, but says that EPA must step in with a federal plan
127 if the state fails or refuses to act. This bill purports to
128 empower a governor to make a determination that
129 implementation of the federal plan would have an adverse
130 impact on ratepayers or reliability. A governor does have to
131 notify EPA of its determination, but EPA is powerless to do a
132 thing about it. In fact, nobody can do anything about it
133 under this legislation. Basically, a governor is given the
134 absolute power to decide that the state does not have to
135 comply with any of the requirements of the Clean Power Plan,
136 so any governor can declare that he or she just doesn't want
137 to follow federal law. What kind of precedent, I would ask,
138 does that set?

139 My amendment aims to make this determination process a
140 little less absolute by making such a determination subject
141 to judicial review. That way, a federal court could decide
142 if the federal implementation plan would have the adverse

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143 impact the governor, indeed, says it would have. EPA and
144 many states are working hard, and will continue to work hard
145 to make sure that ratepayers and electric reliability will
146 not experience significant adverse impacts. Under my
147 amendment, if that is the case, then the governor would not
148 be allowed to opt-out of the plan unless a court agreed.

149 In offering my amendment, I want to call attention to
150 the fact that this bill gives the governor the ability to
151 opt-out of federal law without any checks and balances. This
152 bill truly is a just-say-no bill for states and governors
153 that don't care about taking action on manmade climate
154 change, and don't want to actually analyze or respond to
155 EPA's Clean Power Plan. Adoption of my amendment won't fix
156 this bad bill, and so I will continue to oppose it.

157 And I want everyone to understand that even though the
158 language of the bill suggests that a governor would only opt-
159 out due to ratepayer reliability impacts, the reality is the
160 language is completely unenforceable. A governor can make
161 such a determination without any analysis, and nobody can do
162 a thing about it.

163 So with that, I yield back, and ask support for the
164 amendment.

165 Mrs. {Blackburn.} [Presiding] The gentleman yields

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166 back. The gentleman from Kentucky is recognized.

167 Mr. {Whitfield.} I would just like to make a comment.

168 The whole purpose of this bill is to provide checks and

169 balance against a very extreme, radical action of EPA. And I

170 would like--Mr. Tonko, I would like to ask you the question,

171 the--I mean I don't know the answer so I am asking you, is

172 there a precedent for this action that you are taking in this

173 legislation? Can you give me an example of another situation

174 where a state governor takes action that is deemed a final

175 federal agency action?

176 Mr. {Tonko.} I think the actions here are based on

177 technical merit, and I believe that this makes for a

178 situation where judicial review would guarantee that this is

179 just not whim; it is based on analytical quantification,

180 which I think is very important. We are dealing with a

181 technical matter here. It is, perhaps, unlike other

182 situations.

183 Mr. {Whitfield.} But I would just say that we don't

184 view the EPA as the sole and exclusive domain of scientific

185 evidence, or the correct procedural in coming to a

186 conclusion, and we think that governors, through their

187 agencies, have a lot of experts, and this legislation directs

188 them to consult with various agencies of the State

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189 Government.

190 Mr. {Tonko.} If the gentleman would yield?

191 Mr. {Whitfield.} Yes, I would be happy to.

192 Mr. {Tonko.} I believe that the impacts of this opting
193 out of one state can have an effect on other states that are
194 addressing their carbon emission situation. So as a national
195 agenda, the impact of state-to-state here would be severe and
196 perhaps setting back the overall commitment--

197 Mr. {Whitfield.} But we were not requiring states to
198 opt-out or even make a decision that they are adversely
199 affected on their rates and/or their reliability. This is
200 such an extreme action by EPA. They, in effect, are shifting
201 ultimate authority for energy planning and decision-making
202 from the states to the Federal Government, which has never
203 been done before.

204 And so our legislation simply--and furthermore, EPA
205 generally gives states 3 years for state implementation
206 plans. This time, even though it is radical and extreme,
207 they are giving them 13 months. So we are simply saying with
208 this legislation, it is so controversial, let's let the
209 courts render a decision first, and those states--I mean I am
210 sure that California is not going to say their rates and
211 reliability is going to be adversely affected, but there are

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212 many states who have already filed suit, and this legislation
213 simply gives them an opportunity to respond to a radical,
214 unprecedented action by EPA.

215 And so for that reason, I would respectfully oppose the
216 gentleman's amendment, and would yield back--does anyone else
217 want to--

218 Mrs. {Blackburn.} The gentleman is yielding back his
219 time. Is there anyone else that wants to use the balance of
220 that time? If not, the gentleman yields back.

221 Is there anyone else seeking time?

222 Mr. {Rush.} Madam Chairman.

223 Mrs. {Blackburn.} The gentleman is recognized for 5
224 minutes.

225 Mr. {Rush.} Madam Chairman, I move to strike the last
226 word in support of Mr. Tonko's amendment.

227 Mrs. {Blackburn.} The gentleman is recognized for 5
228 minutes.

229 Mr. {Rush.} Madam Chairman, this amendment highlights
230 the true nature of this legislation, which is a little more
231 than a thinly-veiled excuse for states to do nothing about
232 climate change. Under the bill, a governor can decide to
233 block EPA from implementing a federal plan to reduce carbon
234 pollution, even if a state has failed to act. A governor is

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235 given unrestricted power which can be used at his own
236 discretion. Though the bill does require the governor to
237 make some cursory determination on the adverse impacts on
238 ratepayers and reliability before opting-out, the bill says
239 absolutely nothing about requiring the governor's
240 determination to be based on any factual facts or any
241 analysis. He must consult with various state agencies, but
242 they have absolutely no power to object substantively or to
243 reverse his determination--his or her determination. In
244 fact, nothing in the bill even requires that there be an
245 actual state or federal plan available for review before the
246 governor makes his determination. And if the governor has
247 already determined that he--that the requirements of neither
248 a state nor a federal plan should apply to sources in his
249 state, why should a state or EPA go to the trouble of
250 developing a federal plan at all? That itself would be a
251 huge waste of resources.

252 Madam Chairman, this legislation is unnecessary, is
253 premature, and it would be extremely disruptive to the
254 careful planning process that the EPA is developing in
255 cooperation with the states. Any legitimate issue regarding
256 rate or reliability impacts of a state, or of a federal plan,
257 would be worked out long in advance. That is the job of

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258 FERC. That is the job of the states, the RTOs, and the
259 utilities.

260 As witnesses before our subcommittee have testified,
261 implementation of environmental regulations have never been
262 the source of major rate or reliability issues. This rule
263 would be no different, especially given the flexibility and
264 the long-term compliance time frames the Clean Power Plan
265 provides. Therefore, there should be no objections to making
266 a governor's decision to opt-out of a federal plan subject to
267 judicial review if there really is a problem, and that--then
268 that decision will hold up in court. Governors should not be
269 given unbridled authority to reject the requirements of a
270 federal law.

271 Mrs.--Madam Chairman, I urge all my colleagues to
272 support this fine amendment, the Tonko Amendment.

273 I yield back.

274 Mrs. {Blackburn.} The gentleman yields back. Is there--
275 -gentleman from Illinois is recognized for 5 minutes.

276 Mr. {Shimkus.} Thank you, Madam Chairman, and I will be
277 brief.

278 You know, Laurence Tribe, you know, said it best in a
279 hearing that, you know, burning the Constitution is not an
280 energy policy. And under the Federal Power Act, states have

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281 previously and exclusive jurisdiction over intrastate
282 electricity matters. FERC Commission Clark testified that
283 the Clean Power Plan would result in a comprehensive, mother-
284 may-I relationship with EPA that has never before existed.
285 This is not cooperative federalism; this is coercive
286 federalism.

287 States, not the EPA, should have the last word when it
288 comes to the affordability and reliability of their
289 electricity systems. I ask my colleagues to vote no on the
290 amendment.

291 And I yield back my time.

292 Mrs. {Blackburn.} Gentleman yields back.

293 Are there others seeking recognition? If there is no
294 further discussion, the vote occurs on the amendment.

295 All those in favor shall signify by saying aye.

296 All those opposed, no.

297 The noes have it, and the amendment is not agreed to.

298 Are there other amendments?

299 Mr. {Rush.} Madam Chair, I have an amendment at the
300 desk.

301 Mrs. {Blackburn.} The gentleman is recognized. The
302 clerk will report the amendment.

303 The {Clerk.} Which number amendment please?

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304 Mr. {Rush.} 03.

305 The {Clerk.} Amendment to H.R. 2042, Ratepayer

306 Protection Act of 2015, offered by Mr. Rush of Illinois.

307 [The amendment of Mr. Rush follows:]

308 ***** INSERT 2 *****

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309 Mrs. {Blackburn.} Okay. The gentleman is recognized
310 for 5 minutes on his amendment.

311 Mr. {Rush.} Thank you, Madam Chair.

312 Madam Chair, according to the national climate
313 assessment, we can either invest now to address the worst
314 impacts of climate change, or we can pay even more dearly in
315 the future with more expensive and costly damages affecting
316 everything from negative health impacts to wear-and-tear of
317 our infrastructure and water systems, to stressing our
318 national security to the nth degree, up to and including
319 negatively impacting our overall long-term economic growth.

320 Madam Chairman, as part of President Obama's Climate
321 Action Plan to cut carbon pollution and help mitigate the
322 disastrous effects of climate change, the Clean Power Plan
323 will allow the EPA to use its existing authority under the
324 Clean Air Act to control carbon pollution from some of the
325 Nation's oldest, dirtiest and most inefficient power plants.

326 As we know, Madam Chairman, these power plants account
327 for the largest share of greenhouse gases from stationary
328 sources in the country, and they are responsible for about
329 1/3 of the total U.S. greenhouse gas emissions, with no
330 current federal limits on the amount of carbon pollution they

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331 are allowed to emit.

332 Madam Chairman, the Clean Power Plan seeks to cut carbon
333 emissions by 30 percent, compared with 2005 levels, by year
334 2030, and it gives states great flexibility when implementing
335 the rule, based on their existing utility infrastructure and
336 policies.

337 Madam Chairman, instead of allowing governors to just
338 say no to the Clean Power Plan without any accountability, my
339 amendment simply requires that a governor must certify that
340 within his state, any ratepayer increases associated with
341 implementing a state or federal plan will be greater than any
342 cost associated with responding to extreme weather events
343 associated with human-caused climate change, including
344 increased sea level or flooding, more frequent and intense
345 storms, more frequent and intense wildfires, and/or increased
346 drought.

347 Madam Chairman, before we go down this slippery slope
348 and give governors the power to turn back the clocks on
349 cooperative federalism that has been at the heart of a very
350 successful environmental policy structure, we should at least
351 make sure that we include at least a modest measure of
352 accountability. The fact of the matter is that states and
353 the Federal Government are already paying for extreme weather

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354 events caused by climate change, and we should not allow
355 individual governors to willy-nilly just say no to
356 implementing plans that would help to mitigate the risk of
357 these types of disasters.

358 Madam Chairman, this bill will set dangerous precedent,
359 both to the Clean Air Act and to overall public health, and
360 we--if it were ever to be enacted into law. So I urge all my
361 colleagues on both sides of the aisle to support my amendment
362 in order to ensure some sense of accountability, and to
363 protect the overall public interests.

364 With that, Madam Chair, I yield back the balance of my
365 time.

366 Mrs. {Blackburn.} The gentleman yields back.

367 Are there others? The gentleman is recognized.

368 Mr. {Griffith.} Madam Chairman, thank you so much.

369 You know, I just want the EPA to follow the law. I
370 don't believe they are following the law. And so then we get
371 into these debates that I think are just distracting about
372 all of these different issues that Mr. Rush has raised.

373 Now, this amendment would require certification by state
374 governors that costs to their ratepayers under EPA's 111(d)
375 rule, which I think they are in violation of the law on,
376 would exceed the costs associated with responding to extreme

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377 weather events. Now, that is kind of interesting because
378 this would require the state governors to make a
379 certification on something that the EPA itself will not and
380 cannot do, which is to show any direct benefits on climate
381 change from their rule under this new Clean Power Plan under
382 rule 111(d).

383 We know from testimony of the EPA itself the 111(d) rule
384 will not have an impact we can measure on climate events in
385 the United States. Just 2 weeks ago, Acting Assistant
386 Administrator McCabe indicated the EPA could not predict the
387 impact of the rule on any of its climate indicators. That
388 was in testimony in this room. This amendment is merely
389 distracting from the real issues that we are trying to
390 confront today, which are the complexities of the EPA's
391 pending rule, the legality of the EPA's pending rule, and the
392 feasibility of the pending rule.

393 These are real world impacts on real world people.
394 While we are playing games with the ratepayers, they are
395 playing games with the law. The risk is great to the
396 ratepayer. Let's at least first figure out whether or not
397 they even have the authority to go forward before we start
398 doing great damage to the ratepayers of the United States.
399 You know, State Corporation Commission of Virginia estimated

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400 that it would be billions of dollars for just one of the
401 providers of electricity in Virginia to comply with this
402 rule. This is a real world consequence for real world
403 ratepayers. And maybe the fat cats can afford to pay it, but
404 the folks in my district back home who are struggling now to
405 pay their electric bills can't afford this. And I think that
406 it is a reasonable bill, and I think this amendment just
407 distracts from the real purposes of the bill, and it should
408 be voted--and I urge my colleagues to vote no.

409 Mr. {Whitfield.} Will the gentleman yield?

410 Mr. {Griffith.} I would yield. Yield to the gentleman.

411 Mr. {Whitfield.} Thank you very much.

412 I also want to make a comment. We went back and looked
413 at some of the debates in the records of the discussion of
414 the original Clean Air Act, and there were a couple of
415 occasions when they--there was a discussion about regulating
416 CO2 under the Clean Air Act. And it was specifically
417 rejected by the--even former Congressman and chairman of this
418 committee, John Dingle, talked about it was never intended to
419 regulate CO2 under the Clean Air Act. And we find ourselves
420 in this position today because of the Massachusetts EPA
421 tailpipe decision, which has been now expanded to the rest of
422 our society.

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423 So that was a decision--the court didn't say to do it,
424 the court said for EPA to analyze it and make a decision,
425 which they did. But this is so broad, and so moving in such
426 an expansive way, an extreme way, a radical way, that
427 Congress needs to make a statement on this issue. And that
428 is what we are attempting to do today. And we are not even,
429 in this legislation, trying to repeal this regulation. We
430 are simply saying it is so outside the bounds of expectations
431 that we should allow the courts to render a decision before
432 states are put into this position. We know that some states
433 are supporting this, but we know many states are going to be
434 hurt in a dramatic way. Their economy is going to be
435 affected, their rates are going to go up, their reliability
436 is going to be challenged, and we are simply saying EPA has
437 never, ever tried to regulate the electric generating and
438 transmission system before, but that is precisely what they
439 are doing in this regulation.

440 And so I would just reiterate what my friend from
441 Virginia stated. EPA itself has said this regulation will
442 not in any way dramatically affect or reduce climate change.
443 And so at a time when the U.S. is taking these extreme
444 actions, we have China announcing they are spending \$38
445 billion to build new coal plants in Pakistan, they are

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446 negotiating with India to build up to 400 new coal plants in
447 India, and yet we unilaterally, because of commitments made
448 by this President in international agreements, are putting
449 America at a disadvantage.

450 And so I will say once again, we are not trying to
451 repeal; just trying to give states additional time. Even EPA
452 normally gives them up to 3 years, and now they are giving
453 them 13 months. So with that, I would respectfully oppose
454 the gentleman's amendment as well.

455 Mr. {Griffith.} And thank you, and I yield back.

456 Mrs. {Blackburn.} The gentleman yields back.

457 Ms. Castor is seeking recognition for 5--

458 {Voice.} Madam Chairman--

459 Mrs. {Blackburn.} --5 minutes.

460 {Voice.} I am sorry.

461 Mrs. {Blackburn.} Ms. Castor, you are recognized.

462 Ms. {Castor.} Thank you, Madam Chairman.

463 I move to strike the last word and speak in favor of the
464 Rush amendment.

465 Mrs. {Blackburn.} You are recognized for 5 minutes.

466 Ms. {Castor.} Thank you very much.

467 Colleagues, this is a very important amendment because
468 if this republican bill passes, to consumers and businesses

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469 across America I would say hold on to your wallets, because
470 you are going to be asked to bear the increasing costs of the
471 changing climate, because this republican bill says, okay,
472 our formal policy out of the United States Congress, in the
473 face of scientific consensus and the changing climate, is to
474 do nothing, which is, in essence, to deny the problem and
475 ignore it. And that is going to be very costly to the United
476 States of America.

477 You may want to get out your calculators because here
478 are the increase in costs on our neighbors back home.
479 Property insurance, with increased extreme weather events,
480 their property insurance bills are going to continue to rise.
481 Whether it is flooding, whether it is tropical storms,
482 tornados, droughts, those kinds of things, the consumers and
483 businesses across the country are going to be paying more
484 when it comes to their property insurance. Flood insurance.
485 We had a huge policy debate last year on how we pay for flood
486 insurance in America. We came up with a pretty good
487 compromise, but there is still various--very serious
488 questions of what we are going to do along the coastlines of
489 America. And in a state like Florida where we have an \$82
490 billion tourism industry, we rely on healthy coastlines and
491 beaches that are robust and inviting. And this is going to

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492 be--we are going to pay more probably in the future.

493 Property taxes back home. As a Member of Congress, we
494 don't deal a lot with property tax issues, but you know what,
495 when salty water begins to intrude into our freshwater
496 drinking supplies, into our aquifers, property taxes are
497 going to rise to pay to protect drinking water supplies,
498 storm water systems at home, so these things continue to add
499 up.

500 Then what we do deal with here in Congress is increased
501 federal emergency aid when we have these emergency events.
502 Whether it is Super Storm Sandy, the drought in California,
503 where I believe my California colleagues can speak directly
504 to it. So this is an important amendment that we--so that we
505 consider all of the costs of the change in climate. And I
506 would recommend that this bill be tabled and put away because
507 otherwise you are just saying to consumers, we are going to
508 ignore it, you are going to bear increased costs, the costs
509 are going to increase year after year after year while we
510 stick our heads in the sand here in Washington. The changing
511 climate cannot be ignored. To do so is to heap--continue to
512 heap huge costs on American families and businesses.

513 So I urge adoption of the Rush amendment, and yield back
514 my time.

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515 Mrs. {Blackburn.} The gentlelady yields back.

516 The gentleman is recognized--Mr. Bucshon is recognized
517 for 5 minutes.

518 Mr. {Bucshon.} Thank you. And I would just like to
519 reiterate to my colleague that just spoke that Administrator
520 McCarthy has acknowledged that there are unlikely to have a
521 meaningful impact on any of the indicators the agency uses to
522 track climate change. So even if you make the assumption
523 that all of the things just described will happen or are
524 true, this has been acknowledged by the EPA that this rule
525 will have no meaningful impact on the indicators the agency
526 uses to track climate change.

527 And I yield back.

528 Mrs. {Blackburn.} The gentleman is yielding back.

529 Are there others seeking recognition? If there is no
530 further discussion, the vote occurs on the amendment.

531 All those in favor shall signify by saying aye.

532 Mr. {Rush.} Roll call, Madam Chair.

533 Mrs. {Blackburn.} The gentleman has asked for a roll
534 call vote.

535 The clerk will call the roll.

536 The {Clerk.} Mr. Barton?

537 [No response.]

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538 The {Clerk.} Mr. Whitfield?
539 Mr. {Whitfield.} No.
540 The {Clerk.} Mr. Whitfield votes no.
541 Mr. Shimkus?
542 Mr. {Shimkus.} No.
543 The {Clerk.} Mr. Shimkus votes no.
544 Mr. Pitts?
545 Mr. {Pitts.} No.
546 The {Clerk.} Mr. Pitts votes no.
547 Mr. Walden?
548 [No response.]
549 The {Clerk.} Mr. Murphy?
550 Mr. {Murphy.} No.
551 The {Clerk.} Mr. Murphy votes no.
552 Mr. Burgess?
553 Mr. {Burgess.} No.
554 The {Clerk.} Mr. Burgess votes no.
555 Mrs. Blackburn?
556 Mrs. {Blackburn.} No.
557 The {Clerk.} Mrs. Blackburn votes no.
558 Mr. Scalise?
559 [No response.]
560 The {Clerk.} Mr. Latta?

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561 Mr. {Latta.} No.

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

563 Mrs. McMorris Rodgers?

564 [No response.]

565 The {Clerk.} Mr. Harper?

566 Mr. {Harper.} No.

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

568 Mr. Lance?

569 Mr. {Lance.} No.

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

571 Mr. Guthrie?

572 Mr. {Guthrie.} No.

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

574 Mr. Olson?

575 Mr. {Olson.} No.

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

577 Mr. McKinley?

578 Mr. {McKinley.} No.

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

580 Mr. Pompeo?

581 Mr. {Pompeo.} No.

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

583 Mr. Kinzinger?

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584 Mr. {Kinzinger.} No.

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

586 Mr. Griffith?

587 Mr. {Griffith.} No.

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

589 Mr. Bilirakis?

590 Mr. {Bilirakis.} No.

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

592 Mr. Johnson?

593 Mr. {Johnson.} No.

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

595 Mr. Long?

596 Mr. {Long.} No.

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

598 Mrs. Ellmers?

599 [No response.]

600 The {Clerk.} Mr. Bucshon?

601 Mr. {Bucshon.} No.

602 The {Clerk.} Mr. Bucshon votes no.

603 Mr. Flores?

604 Mr. {Flores.} No.

605 The {Clerk.} Mr. Flores votes no.

606 Mrs. Brooks?

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607 Mrs. {Brooks.} No.

608 The {Clerk.} Mrs. Brooks votes no.

609 Mr. Mullin?

610 Mr. {Mullin.} No.

611 The {Clerk.} Mr. Mullin votes no.

612 Mr. Hudson?

613 Mr. {Hudson.} No.

614 The {Clerk.} Mr. Hudson votes no.

615 Mr. Collins?

616 [No response.]

617 The {Clerk.} Mr. Cramer?

618 [No response.]

619 The {Clerk.} Mr. Pallone?

620 [No response.]

621 The {Clerk.} Mr. Rush?

622 Mr. {Rush.} Aye.

623 The {Clerk.} Mr. Rush votes aye.

624 Ms. Eshoo?

625 Ms. {Eshoo.} Aye.

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

627 Mr. Engel?

628 [No response.]

629 The {Clerk.} Mr. Green?

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630 [No response.]

631 The {Clerk.} Ms. DeGette?

632 [No response.]

633 The {Clerk.} Mrs. Capps.

634 Mrs. {Capps.} Aye.

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

636 Mr. Doyle?

637 Mr. {Doyle.} Yes.

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

639 Ms. Schakowsky.

640 Ms. {Schakowsky.} Aye.

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

642 Mr. Butterfield?

643 [No response.]

644 The {Clerk.} Ms. Matsui?

645 [No response.]

646 The {Clerk.} Ms. Castor?

647 Ms. {Castor.} Aye.

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

649 Mr. Sarbanes?

650 Mr. {Sarbanes.} Aye.

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

652 Mr. McNerney?

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653 Mr. {McNerney.} Aye.

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

655 Mr. Welch?

656 Mr. {Welch.} Aye.

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

658 Mr. Lujan?

659 Mr. {Lujan.} Aye.

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

661 Mr. Tonko?

662 Mr. {Tonko.} Aye.

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

664 Mr. Yarmuth?

665 Mr. {Yarmuth.} Aye.

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

667 Ms. Clarke?

668 [No response.]

669 The {Clerk.} Mr. Loeb sack?

670 Mr. {Loeb sack.} Aye.

671 The {Clerk.} Mr. Loeb sack votes aye.

672 Mr. Schrader?

673 Mr. {Schrader.} Aye.

674 The {Clerk.} Mr. Schrader votes aye.

675 Mr. Kennedy?

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676 Mr. {Kennedy.} Aye.

677 The {Clerk.} Mr. Kennedy votes aye.

678 Mr. Cardenas?

679 Mr. {Cardenas.} Aye.

680 The {Clerk.} Mr. Cardenas votes aye.

681 Chairman Upton?

682 [No response.]

683 The {Clerk.} Mrs. McMorris Rodgers?

684 Mrs. {McMorris Rodgers.} No.

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

686 Mr. Walden?

687 Mr. {Walden.} No.

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

689 Mrs. {Blackburn.} Mr. Pallone? Okay.

690 The {Clerk.} Mr. Cramer?

691 Mr. {Cramer.} No.

692 The {Clerk.} Mr. Cramer votes no.

693 Ms. DeGette?

694 Ms. {DeGette.} Aye.

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

696 Mrs. {Blackburn.} Pallone?

697 Mr. {Pallone.} Pallone votes aye.

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

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

699 Mrs. {Blackburn.} Butterfield?

700 Mr. {Butterfield.} Butterfield, yes.

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

702 Mrs. {Blackburn.} Are there others wishing to vote or
703 change the vote?

704 Clerk will report.

705 The {Clerk.} Madam Chairman, on that vote there were 19
706 ayes and 26 nays.

707 Mrs. {Blackburn.} The amendment is not agreed to.

708 At this time, we are going to recess for the Joint
709 Session. We will reconvene as soon as the session is
710 completed. I will remind all members we are on H.R. 2042
711 when we return.

712 We are adjourned.

713 [Recess.]

714 Mr. {Whitfield.} [Presiding] I would like to call this
715 markup to order.

716 We are--at the time of the recess, we were considering
717 amendments, and we have taken care of 2 amendments--
718 considered 2, and so the Floor will be open if anyone has an
719 amendment that they would like to make to the bill.

720 Mr. {Pallone.} I have an amendment, Mr. Chairman.

721 Mr. {Whitfield.} For purposes of the gentleman from New

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722 Jersey seeks recognition.

723 Mr. {Pallone.} I have an amendment at the desk which I
724 think is 06.

725 Mr. {Whitfield.} Will the clerk report the amendment?

726 The {Clerk.} Amendment to H.R. 2042, Ratepayer
727 Protection Act of 2015, offered by Mr. Pallone of New Jersey.

728 [The amendment of Mr. Pallone follows:]

729 ***** INSERT 3 *****

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|

730 Mr. {Whitfield.} Without objection, the reading of the
731 amendment is dispenses with, and the gentleman from New
732 Jersey is recognized for 5 minutes in support of his
733 amendment.

734 Mr. {Pallone.} Thank you, Mr. Chairman.

735 The purpose of my amendment is a simple one. It is to
736 guarantee that the decision to opt-out of the Clean Power
737 Plan and any federal implementation plan is one that reflects
738 the people of that state, not just one individual.

739 As currently drafted, the legislation before us puts the
740 decision to opt-out of the Clean Power Plan solely in the
741 hands of a single individual in the form of a governor. I
742 think we have already demonstrated that there are no
743 meaningful standards required, and no judicial review of any
744 governor's determination and decision to opt-out of the Clean
745 Power Plan under this legislation, nor is there any recourse
746 for neighboring or downwind states that are harmed by another
747 state's decision not to comply. But if you and my republican
748 colleagues are determined to go down that road, let's at
749 least make sure that the decision to ignore the Clean Power
750 Plan is a decision supported by the state as a whole and not
751 just by one individual. And the way to do that is to require

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752 that a governor's decision to opt-out is supported not by a
753 judge or a federal official, but by that state's own
754 legislature.

755 The premise of my amendment is simple. A governor's
756 decision under this legislation should be ratified by that
757 state's legislature in the form of a law. My amendment is
758 borne out of a very real situation we have faced in my home
759 state of New Jersey. In late 2011, Governor Chris Christie
760 is attempting to--was attempting to unilaterally withdraw our
761 state from the Regional Greenhouse Gas Initiative, or RGGI; a
762 successful regional mechanism for managing carbon emissions
763 in a cost-effective manner. Governor Christie's actions were
764 taken without the support of the people of New Jersey, or the
765 approval of the state legislature in order to advance his own
766 personal agenda. As a result, according to a report last
767 month by the Acadia Center, our state has foregone some \$130
768 million in RGGI action proceeds, and could miss out on as
769 much as another \$359 million by 2020. This is money our
770 state could desperately use to invest in clean energy,
771 resiliency projects, or any number of other related issues.
772 But we don't have that money, and the decision to forego
773 those hundreds of millions of dollars was made by Governor
774 Christie without even consultation with our legislature, let

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775 alone its consent.

776 So that is why I believe that this legislation at least
777 needs to include a check on runaway chief executives. In New
778 Jersey, the legislature is keeping up the fight against what
779 many believe was an unlawful and unilateral decision by
780 Governor Christie to attempt to withdraw from RGGI.

781 My amendment is an attempt to make clear that state
782 legislatures across the country, as is the case in my home
783 state, have the opportunity to play an active role in this
784 critical process. My amendment first strikes the dangerous
785 and unnecessary ``invitation to endless litigation'' in
786 Section 2, because there is no need to delay the effective
787 date of a rule when you create a mechanism for opting out of
788 that rule. Next, my amendment simply adds a requirement that
789 once a governor checks the box on the--determination required
790 under this legislation, he or she must have that
791 determination ratified by the state's legislature in the form
792 of a law. My amendment doesn't attempt to add any other
793 conditions on the determination, just ensures that the
794 elected state legislators, as well as the elected chief
795 executive, have the opportunity to play a role in affirming
796 the decision to ignore the Clean Power Plan.

797 And so I urge all of you to consider carefully the

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798 dangerous ramifications of vesting so much power in one
799 person, because if you do, you will see the need to pass my
800 amendment.

801 I yield back, Mr. Chairman.

802 Mr. {Whitfield.} Gentleman yields back the balance of
803 his time.

804 I will recognize myself for 5 minutes to speak on the
805 gentleman's amendment.

806 As the gentleman indicated, this amendment would
807 eliminate the ability of a governor to determine that a state
808 plan would result in significant adverse effects on
809 ratepayers, as well as affect the reliability. It would also
810 limit the governor's ability to make a determination
811 regarding a federal plan by requiring any determination be
812 approved by the state legislature.

813 As I had said earlier, we introduced this bill simply
814 because the actions by EPA have been so unprecedented, on top
815 of the fact that no one ever imagined that CO2 would be
816 administered or regulated under the Clean Air Act. And I
817 would like to remind everyone again that a number of lawsuits
818 have been filed by states, they are in federal court right
819 now, on this regulation. Now, we don't know--they may be
820 premature, they may not be ripe yet, but 17 State Attorney

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821 Generals have specifically said that EPA is hiding behind a
822 fig leaf of federalism and flexibility, while, in effect,
823 forcing major changes, in other words, mandating changes to
824 the state's administration of electricity consumption and
825 generation. Now, this has never been done before.

826 So with our legislation, the governor is the highest
827 elected office in each state. Our legislation is not trying
828 to repeal the regulation. We are simply providing additional
829 time for the states because, as I had said earlier,
830 generally, EPA gives 3 years on these regulations, and this
831 time, this complex, unprecedented regulation, they are giving
832 13 months to file a state implementation plan. So we want to
833 give the governors the opportunity to look closely at the
834 effect on ratepayers and on reliability. And our legislation
835 does not say governors may, it says governors shall. In
836 other words, they must do an analysis with the state EPA, the
837 state health officials, the state economic groups, the
838 reliability councils that are responsible in that state. And
839 then we don't even mandate that the governor take the action.

840 So I think it is really a reasonable approach. It is
841 simply giving more time, not repealing, giving the states an
842 opportunity to further analyze and not being rushed into a
843 state implementation plan. And for that reason, although I

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844 have great admiration and respect for the gentleman from New
845 Jersey, I would respectfully oppose his amendment, and--

846 Mr. {Pallone.} Mr. Chairman, could I just ask you to
847 yield for--

848 Mr. {Whitfield.} Yeah, I would be happy to--

849 Mr. {Pallone.} --a short time?

850 Mr. {Whitfield.} --yield. I would be happy to yield.

851 Mr. {Pallone.} I obviously don't agree with the whole
852 premise of the underlying legislation.

853 Mr. {Whitfield.} Yes.

854 Mr. {Pallone.} But all I am simply saying is, if you do
855 insist that, you know, that the state have this power, that
856 it not just be a decision by the governor. And again,
857 because in our state, the governor didn't even consult with
858 the legislature, and we had--we were part of this regional
859 agreement, which is one way of fulfilling the obligations of
860 the Clean Power Plan, and the governor simply opted out of it
861 without even consultation. So I am saying, given that even
862 though I don't agree with what you are trying to do with the
863 underlying bill, I still think it makes sense that this not
864 just be a unilateral decision by the governor, but a joint
865 decision in the form of legislation that would be sponsored
866 by the legislature and then signed by the governor.

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867 But I yield back. Thank you, Mr. Chairman.

868 Mr. {Whitfield.} Gentleman yields back.

869 And I recognize the--Mr. Cramer, do you seek--can I
870 yield you time?

871 Mr. {Cramer.} Yes, thank you, Mr. Chairman.

872 You know, I spent 10 years as an energy and utility
873 regulator in North Dakota. I was an elected public utilities
874 commissioner. In most states the commissioners are appointed
875 by governors. But, you know, if you are going to rely on
876 anybody, it would be the governor where the buck stops, this
877 is a representative government, representative democracy, and
878 he or she would consult the experts, as the chairman says,
879 and as the bill states. And in my case in North Dakota, I
880 can tell you the--ratemaking is a very complex science. It
881 involves resource planning. In many cases you are talking
882 about vertically integrated utilities, multi-jurisdictions
883 within just an--a distribution utility. You have diversity
884 of resources, you have regional transmission organizations
885 that are responsible for dispatching the grid. There--it is
886 very complex stuff, and I don't think you want legislators,
887 any more than you want, you know, Congress micromanaging
888 these things. You want it to be the people that are the
889 experts that you are going to defer to, and which a governor

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890 would defer to in studying the implications of all of this,
891 and can take--is in the best position and best equipped to
892 take into consideration all the complexities of this rule and
893 other rules. So I, you know, again, I respect the ranking
894 member as well, but would certainly oppose this amendment and
895 support the bill.

896 Mr. {Whitfield.} My time has expired. Does anyone seek
897 recognition to speak on the Pallone Amendment? Any--chair
898 recognized the gentleman from California for 5 minutes.

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

900 Mr. Chairman, I understand your frustration. I believe
901 I understand it. For one thing, you have repeatedly referred
902 to the 13 months as too short, and maybe it is, but if you
903 stick to that, we may get somewhere. The opt-out is what is
904 giving us heartburn on this side. And we are going to fight
905 it, and I think it is going to get fought on the Floor. I
906 don't think it is going to get past the White House.

907 This would be something--the time extension might be
908 something we could work with republicans on, as a suggestion,
909 but, you know, we are just repeating entrenched positions on
910 this and it is frustrating. It would be good to find a
911 language that we can agree on. To us, it looks like you are
912 going to try to kill the bill with the opt-out, and it looks

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913 like it will also harm the Clean Air Act, which is a standard
914 that we hold in pretty high regard. So I would ask you to
915 sort of reconsider the basis of this bill, and maybe this
916 amendment, give the governor not total authority over the
917 state but work with the state legislature, might be a big--a
918 good way to start.

919 Mr. {Pallone.} Would the gentleman yield?

920 Mr. {McNerney.} Yes.

921 Mr. {Pallone.} I just wanted to point out, I guess you
922 guys already know it, but the problem in the case of New
923 Jersey, and I think it might happen elsewhere, is that the
924 state legislature had agreed, and a bill was signed into law,
925 that had New Jersey join a regional agreement, and that
926 regional agreement would be used by New Jersey, and by other
927 states that are part of it, to meet the standards that are
928 set forth by the EPA in the Clean Power Plan, and then the
929 governor just unilaterally decided, you know, we are not
930 going to do that anymore. So I understand that the gentleman
931 talked about expertise, but I think that in this case, you
932 know, the legislature decided in their expertise that this
933 was a good way to go, and I think that this is something that
934 should be--if you really believe that this should be a
935 decision that is based on expertise and sort of a consensus,

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936 it would make sense to not just let the governor
937 unilaterally, you know, get out of it. That is my whole
938 point. But again, I guess--I think I am belaboring this,
939 so--

940 Mr. {Whitfield.} Would the gentleman--

941 Mr. {Pallone.} --I--

942 Mr. {Whitfield.} Would the gentleman yield--

943 Mr. {McNerney.} Yes.

944 Mr. {Whitfield.} --time to me? I would--and now I am
945 speaking for myself, but I know many members on our side of
946 the aisle are very much concerned about these time limits,
947 and I personally am telling you that I would be happy to work
948 with you, Mr. Green, Mr. Pallone, anyone, as we go to the
949 Floor, even go into the Rules Committee with you if you--if
950 we can come together with an amendment that would focus on
951 extending the time for states in some way. Maybe you don't
952 like the way we did it here, and--but if the--you all would
953 like to try to get together to come up with some language, I
954 personally will sit down with you, will sincerely try to work
955 with you, because I do believe it is a major concern, the
956 time.

957 Mr. {McNerney.} Well, thank you. I appreciate the
958 offer, Mr. Chairman, and I am sure that we will find a way to

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959 work together. Hopefully we will find something. It is just
960 that the opt-out seems to me to give a bad precedent, which
961 could be--which could have fall-down--or, you know, follow
962 through on other aspects of the Clean Air Act. So that is
963 really what is giving us a lot of heartburn, in addition to
964 the actual implications.

965 Thank you, Mr. Chairman. I yield back.

966 Mr. {Whitfield.} Anyone on our side of the aisle seek
967 recognition to speak on the Pallone Amendment?

968 Okay, if there is no further discussion, then we will
969 vote on the Pallone Amendment.

970 All in favor of the Pallone Amendment say aye.

971 All opposed, no.

972 In the opinion of the chair, the nays have it. The--so
973 the amendment is not agreed to.

974 Are there further amendments to the bill at this time?

975 Okay, for what purpose does the gentleman from Illinois seek
976 recognition?

977 Mr. {Rush.} Mr. Chairman, I have an amendment at the
978 desk, and--

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

980 The {Clerk.} Amendment to H.R. 2042, Ratepayer

981 Protection Act of 2015, offered by Mr. Rush of Illinois.

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982 [The amendment of Mr. Rush follows:]

983 ***** INSERT 4 *****

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|

984 Mr. {Rush.} It is amendment--

985 Mr. {Whitfield.} Without objection, the reading of the
986 amendment is dispenses with, and the gentleman from Illinois
987 is recognized for 5 minutes in support of his amendment.

988 Mr. {Rush.} I want to thank you, Mr. Chairman. Mr.
989 Chairman, as the U.S. Surgeon General, Vivek Murthy, noted in
990 the 2015 National Public Health Week, I will quote him, ``We
991 know that climate change means higher temperatures overall.
992 It also means longer and hotter heatwaves. Higher
993 temperatures can mean worse air in cities, and more smog and
994 more ozone. We know that more intense wildfires will mean
995 increased smoke in the air, and we know that earlier springs
996 and longer summers mean longer allergy seasons.'' In
997 addition, Mr. Chairman, the American Lung Association warns
998 us that the impacts of climate change contribute to
999 respiratory problems such as asthma attacks, while also
1000 leading to heatstroke and to premature deaths.

1001 Mr. Chairman, when implementing the Clean Power Plan
1002 would help to reduce carbon pollution by hundreds of millions
1003 of tons, decreasing particle pollution such as sulfur dioxide
1004 and nitrogen oxides by hundreds of thousands of tons
1005 annually, and help to protect the health of our most

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1006 vulnerable citizens such as children, older adults, and
1007 lower-income and minority communities.

1008 Mr. Chairman, instead of simply allowing governors to
1009 just say no to the Clean Power Plan, my amendment will
1010 require that a governor must certify that withdrawal from a
1011 state or federal implementation plan will not have a
1012 significant adverse effect on public health inputs, including
1013 avoiding asthma attacks and heart attacks, as well as fewer
1014 hospital admissions, and missed school days and work days.

1015 Mr. Chairman, not only do the vast majority of the
1016 American people believe that climate change is a serious
1017 problem, and that the government should take action to
1018 address it, but also the overwhelming majority of our
1019 Nation's doctors, they believe so also. Just last month, a
1020 study by the American Thoracic Society found that a huge
1021 margin--by a huge margin, most doctors believe that climate
1022 change is already negatively impacting their patients'
1023 health, with 77 percent of respondents reporting that
1024 increases in air pollution caused by climate change is making
1025 their patients' illnesses even more severe; a trend, that
1026 they add, that they expect will steadily increase in the
1027 future. These findings are in line with a similar study
1028 conducted by the National Medical Association, which last

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1029 year found that older Americans, low-income communities, and
1030 the sick, would be all disproportionately impacted by climate
1031 change if we fail to act.

1032 Mr. Chairman, with 1 in 10 children in this country
1033 already suffering from respiratory diseases such as asthma,
1034 it is imperative that we act to mitigate the devastating
1035 impacts of climate change before we start to even--see even
1036 more additional illnesses, injuries and damages due to severe
1037 weather, allergic reactions, and heat-related health issues.

1038 Mr. Chairman, we should not allow governors to play
1039 politics with the Clean Power Plan, and the risk of causing
1040 even more harm to the public health.

1041 Mr. Chairman, I urge all my colleagues on both sides of
1042 the aisle to support this amendment.

1043 And with that, I yield back the balance of my time.

1044 The {Chairman.} Gentleman yields back. Chair
1045 recognizes the gentleman from Indiana for 5 minutes.

1046 Mr. {Bucshon.} Thank you, Mr. Chairman.

1047 I just want to clear up some of the information about
1048 what was quoted from the American Lung Association. Most of
1049 you know, I was a thoracic surgeon prior to coming to
1050 Congress, and I have reviewed their information extensively,
1051 and they are talking about particulate pollution as it

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1052 relates to disease processes like asthma, and the reality is
1053 most of the studies they quote in their particulate
1054 information is from--has been paid for by left-lead global
1055 warming groups, in fairness. And I have met with the medical
1056 director of the American Lung Association. So we are talking
1057 about apples and oranges here, and really that information
1058 has no applicability to the bill that we are discussing
1059 today.

1060 With that, I yield back.

1061 Mr. {Whitfield.} Would the gentleman yield?

1062 Mr. {Rush.} Would the gentleman yield?

1063 Mr. {Bucshon.} I will yield.

1064 Mr. {Rush.} And can you identify those leftwing--

1065 Mr. {Bucshon.} I yield to Chairman Whitfield.

1066 The {Chairman.} Gentleman yields to the gentleman from
1067 Kentucky, Mr. Whitfield.

1068 Mr. {Whitfield.} Would the gentleman yield to the
1069 gentleman from Illinois?

1070 The {Chairman.} Will yield to the gentleman from
1071 Illinois.

1072 Mr. {Rush.} Would the gentleman--

1073 Mr. {Whitfield.} Sure. Okay, I want to make--one
1074 comment I wanted to make. There has been a lot of discussion

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1075 about climate change and direct--and its effect on health.
1076 The point I would make is that the EPA has made it very
1077 clear, unequivocally clear, that their regulation would not
1078 have any significant impact on reducing climate change. So
1079 this bill of ours is certainly not going to do anything to
1080 weaken any EPA regulation relating to health. And the mere
1081 fact that EPA has acknowledged itself that its regulation is
1082 not going to have any significant impact on climate health,
1083 if you are saying climate change affects health, then there
1084 is no additional reason to do this. And the governors are
1085 already required to consult with public health officials.

1086 And I would yield back to the gentleman from Indiana, if
1087 he wants to yield to some other member.

1088 Mr. {Shimkus.} Would the gentleman yield?

1089 The {Chairman.} Gentleman from Indiana has the time.

1090 Gentleman yields to the gentleman from Illinois--

1091 {Voice.} Yes.

1092 Mr. {Shimkus.} Yeah, thank you. And--

1093 The {Chairman.} --Mr. Shimkus.

1094 {Voice.} Let's--

1095 Mr. {Shimkus.} I agree with my good friend from
1096 California, Mr. McNerney, that we are going to be in
1097 entrenched opposites on this debate, and we will get

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1098 through the discussion, but history is also instructive.
1099 When the Clean Air Act was passed, it was on 4 criteria
1100 pollutants. One of them was particulate matter, which is
1101 what my colleague from Indiana was mentioning. So
1102 particulate matter is also regulated under the Clean Air Act.

1103 The thing with carbon dioxide is it was based upon the
1104 Supreme Court ruling of Massachusetts v. EPA, which then gave
1105 the EPA the authority to say if there--if you can find
1106 endangerment to human health then you could regulate it. We
1107 are--that is what they ruled. We have concerns that the EPA,
1108 in determining what is endangerment to human health, didn't
1109 take specific individual health into consideration, but the
1110 health of the world population, and all these other activity,
1111 which we think is a pretty big stretch. That is why we--if
1112 the riders and--the House Members and the President, who
1113 passed the Clean Air Act, wanted it to be enshrined in law
1114 that carbon dioxide should be regulated, they would have
1115 passed it. It would have been part of a law. This provision
1116 was created by the judicial system and court cases.

1117 So now we have the EPA moving further on this, and now
1118 they have designed a system that breaks the traditional
1119 balance between states and the national government involving
1120 the regulation of utilities, and pricing and distribution in

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1121 their states. The testimony we had before this committee, or
1122 the subcommittee, is pretty clear, that this is illegal, this
1123 is unconstitutional, and that is what part of our fight is on
1124 this side. And we can have that fight, public opinion, we
1125 can move legislature, but the citizens of this country so far
1126 have empowered their elected members to, in essence, fight
1127 against the EPA moving into the direction that they are not
1128 by statute passed by a legislative branch, signed by the
1129 President, are enshrined. So that is part of our fight.

1130 I agree with my friend, Mr. McNerney, that I don't think
1131 we are going to come to any conclusion; we will just keep
1132 fighting until we have to finally get to the end of the boat.

1133 So with that, I yield back to my--

1134 Mr. {Bucshon.} I yield back to the--

1135 The {Chairman.} Gentleman's time has expired.

1136 Other members wishing to speak? The gentlelady from
1137 Florida had asked me for--so gentlelady is recognized for 5
1138 minutes.

1139 Ms. {Castor.} Thank you, Mr. Chairman.

1140 I would like to speak in favor of this other great Rush
1141 Amendment, and it is very important. The--because the bill
1142 before us is the Climate Change Denial Bill. It is a real
1143 disservice to America. It will heap costs on consumers. It

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1144 really puts blinders on when it comes to the health of our
1145 neighbors, and it is--it essentially shirks responsibility
1146 for addressing the costly impacts of climate change.

1147 The bill we are considering today shows that my
1148 republican friends' plan is to just say no, to let our
1149 children and grandchildren suffer the effects of climate
1150 change. Unfortunately, the republicans' plan is to stop any
1151 meaningful action to reduce harmful carbon pollution from the
1152 largest sources in the country. This position is
1153 indefensible and it is costly. You are essentially thumbing
1154 your nose at the Clean Air Act, giving states a free pass
1155 when they refuse to comply with the requirements of the Clean
1156 Power Plan. Under this bill, governors can just opt-out from
1157 the Clean Air Act. That is very poor public policy.
1158 Disregarding the health effects on increased carbon emissions
1159 around the globe and in America is especially myopic. The
1160 world's leading scientists agree that warming temperatures
1161 that stem from human-caused climate change will contribute to
1162 more frequent and intense extreme weather events and
1163 wildfires. They say that these trends will worsen as the
1164 temperatures rise. Scientists tell us that the signs of
1165 climate change are already here. That is not news to the
1166 Americans who already are experiencing those damaging

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1167 impacts, like many of my neighbors in the State of Florida.

1168 Fortunately, Pope Francis recently announced that he
1169 intends to devote a significant amount of time to educating
1170 people across the globe on the impacts of climate change. He
1171 is particularly concerned with the impacts of displacement,
1172 of populations, and health impacts on children.

1173 Just last year, the United States experienced 8 severe
1174 weather, flood and drought events, each causing at least \$1
1175 billion in damage across 35 states. Overall, these disasters
1176 caused more than \$19 billion in damage, and according to OMB,
1177 over the past decade, extreme weather and fire alone have
1178 cost taxpayers \$300 billion. These events have cost us all
1179 real money. These examples are just a shot--snapshot of the
1180 overwhelming costs that we can expect in the future with
1181 exacerbated climate change. That is why this bill of
1182 sticking your head in the sand and ignoring it is the wrong
1183 way to go. We should be working together to address early
1184 the impacts of climate change, otherwise we are going to pay
1185 a lot more down the road.

1186 Mr. Rush's amendment is very important. It is a second
1187 amendment that says let's consider the real impacts of
1188 climate change, rather than just letting states off the hook.
1189 You cannot, and you should not, assume that just saying no to

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1190 acting on climate will cost nothing. It is said that an
1191 ounce of prevention is worth a pound of cure, and that is
1192 especially true for the cost of our rapidly changing climate.

1193 I urge a yes vote on the Rush Amendment, and yield the
1194 balance of my time to Mr. Rush.

1195 Mr. {Rush.} I want to thank the lady--the gentlelady
1196 from Florida for yielding.

1197 Mr. Chairman, my colleagues on the other side of the
1198 aisle keep insisting that the EPA has admitted that the Clean
1199 Power Plan would do nothing to halt the threat of climate
1200 change. They are wrong. EPA has made no such admission. If
1201 my colleagues on the other side want to keep insisting that
1202 they have made such an admission, then I would ask them to
1203 produce it in the record.

1204 Mr. Chairman, neither EPA Administrator McCarthy nor
1205 Assistant Administrator McCabe have made such a ridiculous
1206 admission. In fact, the EPA rule makes it clear that it is
1207 about climate change, and the EPA has said, and I quote,
1208 ``Climate change is not just a problem for the future. We
1209 are facing its impacts today. Average temperatures have
1210 risen in most states since 1901, with 7 of the top 10 warmest
1211 years on record occurring since 1998. Climate and weather
1212 disasters in 2012 cost the American economy more than \$100

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1213 billion.''

1214 Would someone yield--

1215 The {Chairman.} Gentleman's time has--the gentlelady's
1216 time has expired.

1217 Mr. {Rush.} Someone claim the time and yield?

1218 The {Chairman.} But--

1219 Mr. {Pallone.} Mr. Chairman, I could move to strike the
1220 last word so--

1221 The {Chairman.} Yeah, let me--yeah, okay. By unanimous
1222 consent, I will give the gentleman another minute.

1223 Mr. {Rush.} Power plants are the largest concentrated
1224 source of carbon dioxide emissions in the U.S., making up
1225 roughly 1/3 of all domestic greenhouse gas emissions. There
1226 are currently no national limits on carbon pollution levels.
1227 Nationwide by 2030, the Clean Power Plan will help cut carbon
1228 pollution from the power sector by approximately 30 percent
1229 from the 2005 levels.

1230 Mr. Chairman, the EPA has estimated the climate benefits
1231 from the Clean Power Plan and its regulatory impact analysis,
1232 which was approved by the Office of Budget--Office of
1233 Management and Budget, indicates that, and I quote, ``In
1234 2020, this proposal will yield monetized climate benefits of
1235 approximately \$17 million relative to the 2020 base case.''

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1236 Mr. Chairman--

1237 The {Chairman.} Gentleman--

1238 Mr. {Rush.} --with that, I yield back.

1239 The {Chairman.} Gentleman yields back.

1240 Chair would recognize the gentlelady from Washington
1241 State, Mrs. McMorris Rodgers.

1242 Mrs. {McMorris Rodgers.} Thank you, Mr. Chairman. I
1243 want to speak in opposition to the amendment. And, you know,
1244 I have a lot of concerns too about the rule coming out of
1245 EPA, the 111(d) rule, and I have a lot of concerns about the
1246 impact it is going to have on my state, the impact that it is
1247 going to have, real economic impacts.

1248 I come from Washington State which has--is actually one
1249 of the cleanest, greenest states in the country; the great
1250 Pacific Northwest. We are largely hydropower, we have
1251 nuclear. Our one coal plant is actually being phased out.
1252 And I have yet to find someone who can explain the formula,
1253 because we get asked to reduce our carbon emissions more than
1254 any other state in the country. We are at the top of the
1255 list. And I believe that it really highlights that the rule
1256 is arbitrary and that we need answers, and we need to be
1257 working together. We need to be working with the states, and
1258 we need to be giving the states more authority as we move

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1259 forward.

1260 So I would urge opposition to this amendment.

1261 Mr. {Whitfield.} Would the gentlelady yield?

1262 Mrs. {McMorris Rodgers.} I would be happy to yield to
1263 the gentleman from Kentucky.

1264 Mr. {Whitfield.} One--we all recognize that EPA has
1265 made a lot of comments about climate change and its effects
1266 on a lot of different aspects of our atmosphere and every
1267 other identifying situation, but Administrator McCarthy
1268 acknowledged and has said that the impact of the Clean Power
1269 Plan on global temperatures or sea-rise levels is so small
1270 EPA has not even measured it. In response to questions for
1271 the record, EPA indicated that it did not model these impacts
1272 even though it has done so for other rules. So they did not
1273 measure it for the--these impacts on this regulation.

1274 And I remember the gentleman from Kansas, Mr. Pompeo,
1275 specifically went through a line of questions with the
1276 Assistant Administrator, I think it was Ms. McCabe when she
1277 was here, asking her directly would this regulation
1278 dramatically impact the reduction of climate change, and she
1279 said no, and she said they had not measured it.

1280 So I would like to yield to the gentleman from Kansas if
1281 he would like to make a comment about it.

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1282 Mr. {Pompeo.} Thank you. Thank you, Mr. Chairman. I
1283 did. I have asked repeatedly with respect to this rule in
1284 particular if EPA has any science, any evidence that would
1285 indicate how many or which of the EPA's own climate
1286 indicators would be impacted by this rule, and if so, if they
1287 could tell us how much. And in each case I was told that
1288 they did not. In one case I was told that actually I wasn't
1289 asking the right question, and was told that the truth is
1290 this is just about global leadership. So we have been
1291 inquiring to try and find the science behind this rule, and
1292 what true health impacts it will have, and have been unable
1293 to get the answers from the agency for many, many months now.

1294 And I yield back.

1295 The {Chairman.} Gentlelady yields back.

1296 And the chair would recognize the gentlelady from
1297 Illinois, Ms. Schakowsky, for 5 minutes.

1298 Ms. {Schakowsky.} Thank you, Mr. Chairman.

1299 I was particularly struck by the gentleman from
1300 Indiana's remark about leftwing research informing, I guess,
1301 the Lung Association--

1302 Mr. {Bucshon.} Will the gentlelady yield?

1303 Ms. {Schakowsky.} Yes.

1304 Mr. {Bucshon.} Funded by those organizations, not

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1305 research done by.

1306 Ms. {Schakowsky.} Okay.

1307 Mr. {Bucshon.} There is a difference.

1308 Ms. {Schakowsky.} Okay.

1309 Mr. {Bucshon.} Thank you.

1310 Ms. {Schakowsky.} Even so--

1311 Mr. {Bucshon.} Yield back.

1312 Ms. {Schakowsky.} --funded by, that somehow, certainly,
1313 the implication was that it is tainted by these ideological
1314 organizations. And the letter that we received then must
1315 call into question not only a letter from the American Lung
1316 Association, which states very clearly the undersigned public
1317 health and medical organizations urge you to oppose the
1318 Ratepayer Protection Act, far from protecting Americans, this
1319 bill would put lives at risk by delaying and blocking
1320 critical clean air protections. It is signed by the Allergy
1321 and Asthma Network, the American Lung Association, American
1322 Public Health Association, American Thoracic Society, Asthma
1323 and Allergy Foundation of America, Healthcare Without Harm,
1324 National Association of County and City Health Officials,
1325 National Association of Hispanic Nurses, Trust for America's
1326 Health. And I think that the idea that all of these
1327 organizations have somehow been snookered by leftwing-funded

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1328 organizations, that this causes a problem for health, I kind
1329 of take this personally because my son--my grandson, rather,
1330 has asthma, relies on, what do you call them, inhalers. And
1331 to your point, again, to the gentleman from Indiana, it says
1332 not only would the Clean Power Plan give states flexible
1333 tools to reduce the carbon pollution that causes climate
1334 change, these crucial tools would also lower other deadly
1335 pollutants at the same time; preventing up to 6,600 premature
1336 deaths, and 150,000 asthma attacks every year by 2030.

1337 So it seems to me that the gentleman's amendment, which
1338 would provide a guarantee for me that if my governor, for
1339 example, back home in Illinois, decides he wants to delay EPA
1340 protections, I would be able to have some sort of guarantee
1341 that it would not have an adverse impact on health outcomes
1342 in my district or in my family, and I would like to be able
1343 to have that guarantee that this amendment would provide.

1344 And I think that really smearing the--these organizations of
1345 great integrity by questioning their conclusions because of
1346 ideology is really out of line.

1347 And I am prepared to yield to anybody who--on our side
1348 who like to speak to this. Otherwise then--

1349 Mr. {Bucshon.} Will the gentlelady yield for--

1350 Ms. {Schakowsky.} Then I yield back. Yes, I would

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1351 yield to the gentleman.

1352 Mr. {Bucshon.} Yeah. The information on potential
1353 improvements in health are based on computer modeling, you
1354 may or may not know that, not based on actual patient data.
1355 And the computer models have been shown to be inaccurate for
1356 decades. So there is no actual patient data, and that is--it
1357 is referring to particulates, and we can dispute--we are
1358 talking about CO2 today.

1359 Ms. {Schakowsky.} I also--

1360 Mr. {Bucshon.} So on the particulate side, you know,
1361 you can make a fair argument, but on the CO2 side there is no
1362 data to support it. And it is based on--these projections on
1363 lives saved are based on computer models--

1364 Ms. {Schakowsky.} Okay, so--

1365 Mr. {Bucshon.} --not on actual patients--

1366 Ms. {Schakowsky.} So reclaiming my time--

1367 Mr. {Bucshon.} But they are false.

1368 Ms. {Schakowsky.} If the gentleman wants to go on
1369 record in saying that CO2 pollution has nothing to do with
1370 climate or health effects, then so be it, but I think that
1371 this is a moment in time when this committee actually has an
1372 opportunity to do something to stem the overwhelming climate
1373 change that we are seeing, you know, talk to people in

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1374 California about today's effect of climate change on the
1375 drought that--the rising sea levels, et cetera, I mean I
1376 think at this point in history, for us to be sitting in this
1377 committee and arguing that CO2 pollution is--you know, that
1378 the computer models are wrong and that there is no effect on
1379 climate is absolutely ridiculous.

1380 And I do yield back my time.

1381 The {Chairman.} Gentlelady yields back.

1382 I think we are prepared to vote.

1383 Mr. {Pallone.} Well, I think Mr.--if I could just
1384 strike the last word and yield some time to Mr. Rush.

1385 Mr. {Rush.} Mr. Chairman, I sincerely believe that we
1386 are really--this is a new low for this great committee. I
1387 mean I--

1388 {Voice.} Would up now.

1389 Mr. {Rush.} I have heard arguments on the other side
1390 that are pretty alarming because they--witnesses come before
1391 this subcommittee or from--before this committee, and they
1392 come with--trying to reach and satisfy the levels of
1393 expectation for the American citizens, and also members of
1394 the committee. They make certain statements. They are
1395 treated fairly rudely in many indications by members on
1396 either side, they are asked questions, and before the witness

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1397 can answer the questions then they are cut off for all kind
1398 of reasons, and they are treated so very, very rudely. But
1399 then the same individuals have the gall to come before the
1400 full committee here and try to put words in the mouth the
1401 witnesses; words that they didn't say. They twisted the
1402 words--they twist the words around, and the record is pretty
1403 clear that these words, these--this revision of what the
1404 witnesses actually said, but these revisions don't meet--
1405 don't answer or don't even fully truly testify to what these
1406 witnesses said at the witness table. And I speak directly to
1407 Ms. McCarthy, or let's go to--Mr. Pompeo, and I remember this
1408 real clearly--Pompeo, he asked Ms. McCabe some questions and
1409 he kept cutting her off, and then he indicated Ms.--he asked
1410 a question, let's get to health. You are talking about
1411 asthma, how many fewer asthma cases as a result of the Clean
1412 Power Plan? Ms. McCabe: We predict that there will be
1413 thousands of fewer exacerbated asthma. How many? What is
1414 the report? What is the study that shows exactly how many
1415 asthma--how many fewer asthma? Ms. McCabe answered, these
1416 particulars are laid out in our regulatory impact analysis.
1417 How much more increased snowpack as a result of the Clean
1418 Power Plan? Listen to this answer. That is not something
1419 that we predicted, and that is not something that you can

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1420 predict from, and she was cut off.

1421 So this is just an indication. I have here Senate
1422 testimony with Administrator McCarthy, same kind of format.
1423 So, Mr. Chairman, let us cease to put words and to indicate
1424 meaning that our witnesses before this committee did not say,
1425 and certainly did not mean, just for--just to buttress our
1426 own arguments. Let the witnesses' testimony speak for
1427 themselves. There is no way that the EPA have said to this
1428 committee, to the subcommittee, some of the things that are
1429 being testified or that are being said today, and the quotes
1430 that are being quoted.

1431 So, Mr. Chairman, I think that we have reached, again,
1432 an all-time low. Here we are putting words, revising
1433 testimony, and human--certain appearances that are not there
1434 as it relates to the position of the EPA on climate change.
1435 And I think that we should cease that.

1436 And I yield back. Or the gentleman--I thank the
1437 gentleman for yielding me the time.

1438 Mr. {Pallone.} I yield back. Thank you.

1439 The {Chairman.} Gentleman yields back.

1440 Mr. {Pallone.} I ask for a roll call when we--

1441 The {Chairman.} Roll call is asked.

1442 Let me just say, it is my understanding that we are

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1443 likely to have only one more amendment. It is the
1444 expectation that we are going to have votes at the House
1445 Floor, a series of votes, at about 1:15. So my hope is that
1446 we--roll call vote is asked for here, I am hoping that we can
1447 dispense with--if it is only one more minute, and then get to
1448 final--and finish this bill prior to votes on the Floor.

1449 So with that, the debate has ended. The clerk will call
1450 the roll.

1451 The {Clerk.} Mr. Barton?

1452 [No response.]

1453 The {Clerk.} Mr. Whitfield?

1454 Mr. {Whitfield.} No.

1455 The {Clerk.} Mr. Whitfield votes no.

1456 Mr. Shimkus?

1457 Mr. {Shimkus.} No.

1458 The {Clerk.} Mr. Shimkus votes no.

1459 Mr. Pitts?

1460 Mr. {Pitts.} No.

1461 The {Clerk.} Mr. Pitts votes no.

1462 Mr. Walden?

1463 Mr. {Walden.} No.

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

1465 Mr. Murphy?

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1466 Mr. {Murphy.} No.

1467 The {Clerk.} Mr. Murphy votes no.

1468 Mr. Burgess?

1469 Mr. {Burgess.} No.

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

1471 Mrs. Blackburn?

1472 [No response.]

1473 The {Clerk.} Mr. Scalise?

1474 Mr. {Scalise.} No.

1475 The {Clerk.} Mr. Scalise votes no.

1476 Mr. Latta?

1477 Mr. {Latta.} No.

1478 The {Clerk.} Mr. Latta votes no.

1479 Mrs. McMorris Rodgers?

1480 [No response.]

1481 The {Clerk.} Mr. Harper?

1482 Mr. {Harper.} No.

1483 The {Clerk.} Mr. Harper votes no.

1484 Mr. Lance?

1485 Mr. {Lance.} No.

1486 The {Clerk.} Mr. Lance votes no.

1487 Mr. Guthrie?

1488 Mr. {Guthrie.} No.

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1489 The {Clerk.} Mr. Guthrie votes no.
1490 Mr. Olson?
1491 [No response.]
1492 The {Clerk.} Mr. McKinley?
1493 Mr. {McKinley.} No.
1494 The {Clerk.} Mr. McKinley votes no.
1495 Mr. Pompeo?
1496 Mr. {Pompeo.} No.
1497 The {Clerk.} Mr. Pompeo votes no.
1498 Mr. Kinzinger?
1499 Mr. {Kinzinger.} No.
1500 The {Clerk.} Mr. Kinzinger votes no.
1501 Mr. Griffith?
1502 Mr. {Griffith.} No.
1503 The {Clerk.} Mr. Griffith votes no.
1504 Mr. Bilirakis?
1505 Mr. {Bilirakis.} No.
1506 The {Clerk.} Mr. Bilirakis votes no.
1507 Mr. Johnson?
1508 Mr. {Johnson.} No.
1509 The {Clerk.} Mr. Johnson votes no.
1510 Mr. Long?
1511 Mr. {Long.} No.

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1512 The {Clerk.} Mr. Long votes no.
1513 Mrs. Ellmers?
1514 Mrs. {Ellmers.} No.
1515 The {Clerk.} Mrs. Ellmers votes no.
1516 Mr. Bucshon?
1517 Mr. {Bucshon.} No.
1518 The {Clerk.} Mr. Bucshon votes no.
1519 Mr. Flores?
1520 [No response.]
1521 The {Clerk.} Mrs. Brooks?
1522 Mrs. {Brooks.} No.
1523 The {Clerk.} Mrs. Brooks votes no.
1524 Mr. Mullin?
1525 Mr. {Mullin.} No.
1526 The {Clerk.} Mr. Mullin votes no.
1527 Mr. Hudson?
1528 Mr. {Hudson.} No.
1529 The {Clerk.} Mr. Hudson votes no.
1530 Mr. Collins?
1531 Mr. {Collins.} No.
1532 The {Clerk.} Mr. Collins votes no.
1533 Mr. Cramer?
1534 Mr. {Cramer.} No.

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1535 The {Clerk.} Mr. Cramer votes no.
1536 Mr. Pallone?
1537 Mr. {Pallone.} Aye.
1538 The {Clerk.} Mr. Pallone votes aye.
1539 Mr. Rush?
1540 Mr. {Rush.} Aye.
1541 The {Clerk.} Mr. Rush votes aye.
1542 Ms. Eshoo?
1543 Ms. {Eshoo.} Aye.
1544 The {Clerk.} Ms. Eshoo votes aye.
1545 Mr. Engel?
1546 [No response.]
1547 The {Clerk.} Mr. Green?
1548 Mr. {Green.} Aye.
1549 The {Clerk.} Mr. Green votes aye.
1550 Ms. DeGette?
1551 Ms. {DeGette.} Aye.
1552 The {Clerk.} Ms. DeGette votes aye.
1553 Mrs. Capps.
1554 Mrs. {Capps.} Aye.
1555 The {Clerk.} Mrs. Capps votes aye.
1556 Mr. Doyle?
1557 Mr. {Doyle.} Yes.

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1558 The {Clerk.} Mr. Doyle votes aye.
1559 Ms. Schakowsky.
1560 Ms. {Schakowsky.} Aye.
1561 The {Clerk.} Ms. Schakowsky votes aye.
1562 Mr. Butterfield?
1563 [No response.]
1564 The {Clerk.} Ms. Matsui?
1565 Ms. {Matsui.} Aye.
1566 The {Clerk.} Ms. Matsui votes aye.
1567 Ms. Castor?
1568 Ms. {Castor.} Aye.
1569 The {Clerk.} Ms. Castor votes aye.
1570 Mr. Sarbanes?
1571 Mr. {Sarbanes.} Aye.
1572 The {Clerk.} Mr. Sarbanes votes aye.
1573 Mr. McNerney?
1574 Mr. {McNerney.} Aye.
1575 The {Clerk.} Mr. McNerney votes aye.
1576 Mr. Welch?
1577 Mr. {Welch.} Aye.
1578 The {Clerk.} Mr. Welch votes aye.
1579 Mr. Lujan?
1580 Mr. {Lujan.} Aye.

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1581 The {Clerk.} Mr. Lujan votes aye.
1582 Mr. Tonko?
1583 Mr. {Tonko.} Aye.
1584 The {Clerk.} Mr. Tonko votes aye.
1585 Mr. Yarmuth?
1586 [No response.]
1587 The {Clerk.} Ms. Clarke?
1588 Ms. {Clarke.} Aye.
1589 The {Clerk.} Ms. Clarke votes aye.
1590 Mr. Loeb sack?
1591 Mr. {Loeb sack.} Aye.
1592 The {Clerk.} Mr. Loeb sack votes aye.
1593 Mr. Schrader?
1594 Mr. {Schrader.} Aye.
1595 The {Clerk.} Mr. Schrader votes aye.
1596 Mr. Kennedy?
1597 Mr. {Kennedy.} Aye.
1598 The {Clerk.} Mr. Kennedy votes aye.
1599 Mr. Cardenas?
1600 Mr. {Cardenas.} Aye.
1601 The {Clerk.} Mr. Cardenas votes aye.
1602 Chairman Upton?
1603 The {Chairman.} Votes no.

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1604 The {Clerk.} Chairman Upton votes no.

1605 The {Chairman.} Other members wishing to cast a vote?

1606 Gentleman--

1607 The {Clerk.} Olson.

1608 The {Chairman.} --from Texas?

1609 Mr. {Olson.} No.

1610 The {Clerk.} Mr. Olson votes no.

1611 The {Chairman.} Mr. Olson.

1612 Other members wishing to cast a vote?

1613 Seeing none, the clerk will report the tally.

1614 Mr. Barton? How is Mr. Barton recorded?

1615 Mr. {Barton.} The Chair will--

1616 The {Chairman.} It is your--you are an independent

1617 thinker.

1618 The {Clerk.} Mr. Barton votes no.

1619 The {Chairman.} Clerk will report the tally.

1620 The {Clerk.} Mr. Chairman, on that vote there were 20

1621 ayes and 28 nays.

1622 The {Chairman.} Twenty ayes, 28 nays. The amendment is

1623 not agreed to.

1624 Are there further amendments to the bill? Gentleman

1625 from New Jersey has an amendment at the desk.

1626 Mr. {Pallone.} Thank you, Mr. Chairman. I have an

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1627 amendment at the desk that is--

1628 The {Chairman.} Number--

1629 Mr. {Pallone.} 05.

1630 The {Chairman.} 05.

1631 Mr. {Pallone.} Deals directly with climate change.

1632 The {Chairman.} Clerk will report the title of the

1633 amendment.

1634 The {Clerk.} Amendment to H.R. 2042, Ratepayer

1635 Protection Act of 2015, offered by Mr. Pallone of New Jersey.

1636 [The amendment of Mr. Pallone follows:]

1637 ***** INSERT 5 *****

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|

1638 The {Chairman.} And the amendment is considered as
1639 read, and the gentleman is recognized for 5 minutes in
1640 support of his amendment.

1641 Mr. {Pallone.} Thank you, Mr. Chairman.

1642 My amendment deals directly with the issue of climate
1643 change. It is identical to the one recently offered by
1644 Senator Bennet and approved during the budget process. It is
1645 simple enough, and I quote, ``The Federal Government should
1646 promote national security, economic growth, and public health
1647 by addressing human-induced climate change through the
1648 increased use of clean energy, energy efficiency, and
1649 reductions in carbon pollution.''

1650 This clear and concise language passed with the support
1651 of 7 republican Senators, along with all the democratic
1652 Senators. Republican senators like Dean Heller, Mark Kirk,
1653 and Rob Portman. It includes the Chair of the Senate Energy
1654 Committee, Senator Murkowski, who is from Alaska, where the
1655 impacts of climate change are undeniable. But let me start
1656 by quoting pro-coal Senator Manchin who said, and I quote,
1657 ``There is no question that climate change is real, and that
1658 billions of people have impacted the world's climate. This
1659 amendment supports investment in clean energy technology,

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1660 including advanced fossil energy, and supports energy
1661 efficiency which reduces carbon, while saving consumers
1662 money. We can protect the environment for future generations
1663 while ensuring that we have affordable and reliable energy
1664 sources today.''

1665 Mr. Chairman, I think we should be clear about where
1666 members of this esteemed committee stand on the reality of
1667 human-induced climate change, and whether or not it needs to
1668 be addressed. Senators have had to stand up and be counted,
1669 and let's do the same here. Some on your side of the aisle
1670 have said that they are not climate deniers, and this should
1671 be a very easy vote for them, but it would not surprise me if
1672 some or all on the republican side oppose this amendment.
1673 Last week, it was voted down on party lines in the
1674 subcommittee.

1675 But let me be clear, this amendment is the simple sense
1676 of the Congress. It doesn't change the substance of the
1677 bill. It is for anyone who believes in human-induced climate
1678 change, regardless of their views on various approaches, to
1679 deal with the problem. You can vote for this amendment and
1680 still oppose the Clean Power Plan, if that is what you want
1681 to do. But if you vote against this amendment, it can only
1682 mean that you are against any solution to climate change.

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1683 So thank you, and I yield back.

1684 Mr. {Whitfield.} [Presiding] The gentleman yields
1685 back.

1686 The chair recognizes the gentleman from Virginia for 5
1687 minutes.

1688 Mr. {Griffith.} Thank you, Mr. Chairman.

1689 You know, one of the problems with this debate today is
1690 that everybody wants to talk about this as if it were a
1691 climate change bill. This is not a climate change bill, this
1692 is a let's-follow-the-law bill.

1693 In 1995, the Clean Air Act was interpreted in regard to
1694 111(d) by the EPA. Now, understand 1995 there wasn't some
1695 rightwing republican in charge of the White House or the EPA.
1696 That would be the Clinton Administration. And they
1697 interpreted, they couldn't use 111(d) and use 112 to regulate
1698 clean power or any other kind of power in the country. You
1699 had to use one or the other. You could choose.

1700 Then we flash forward to 2008, and we had the case of
1701 New Jersey v. EPA, 517 F.3d 574, in which it--the court rules
1702 this requires vacation of CAMR's regulations for both new and
1703 existing EGUs. EPA promulgated the CAMR regulations under--
1704 for existing EGUs, that is electric generation units, and
1705 CAMR refers to the Clean Air Mercury Rule, they regulated

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1706 under Section 111(d), but under EPA's own interpretation of
1707 the section, it cannot be used to regulate sources listed
1708 under Section 112. EPA, thus, concedes that if EGUs remain
1709 listed under 112, they cannot be used to do the CAMR rule.
1710 Further, in 2010, in a Supreme Court case--and that case came
1711 out of the D.C. Circuit, in a Supreme Court case, the court
1712 noted there is an exception, EPA may not employ 7411(d),
1713 which is what we--111(d), if existing stationary sources of
1714 the pollutant in question are regulated under the National
1715 Ambient Air Quality Standard Program, or the Hazardous Air
1716 Pollutants Program, 112, or 7412 as they put it in there.
1717 And then they reference the code section. All we are asking
1718 is that we give some flexibility to the states to say, hey,
1719 if you think there is a great harm to your ratepayers, let's
1720 wait until after the courts have determined whether the EPA
1721 has authority because, frankly, I do not believe they have
1722 authority. The Supreme Court footnoted it, the D.C. Circuit,
1723 not appealed by the EPA, D.C. Circuit in 2008 said they can't
1724 do it both ways. EPA has now come up with this unique,
1725 unusual theory of law that says we can suddenly change what
1726 has been the law for 20 years and come up with something new.
1727 Didn't come through Congress, it is just the way we
1728 reinterpret it. Ladies and gentlemen, this bill is about

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1729 following the law. This amendment goes the other direction.
1730 It wants to make it--everybody think this is a climate change
1731 bill. That is not what this bill is. What we are saying is
1732 if you are going to ask the states, like my home State of
1733 Virginia, to spend just on one of their electric companies
1734 \$5.5 to \$6 billion, according to the Virginia State
1735 Corporation Commission, for just one of the power companies
1736 to deal with this rule, that is going to be passed on to the
1737 ratepayer. The threat to the ratepayer is great, and we need
1738 to give the ratepayer some protection here because the threat
1739 from this rule is great to the ratepayer. And, you know, one
1740 of the things we talked about a minute ago was--were the
1741 health concerns, and one of the interesting things about the
1742 EPA is they have never looked at what happens when people
1743 can't afford their electric bill to their health. I would
1744 submit it is negative. They have never put that in the
1745 balance.

1746 So with that, I would yield to the gentleman from West
1747 Virginia.

1748 Mrs. {Blackburn.} [Presiding] The gentleman from West
1749 Virginia.

1750 Mr. {McKinley.} Thank you. I don't know if I can do
1751 this in a minute and 1/2, but let me just quickly--we should

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1752 look at the issues that we have been discussing about health.
1753 I am just curious, maybe some folks on the other side of the
1754 aisle have some superior information or privileged
1755 information that we are not--has--I have been asking for 4
1756 years from the EPA they--when they have testified here time
1757 and time again. How do you differentiate from the outdoor
1758 air quality from indoor air quality, when the EPA itself has
1759 said the indoor air quality is probably 100 times worse than
1760 our outdoor air quality? And when we look at what the
1761 chamber--or, excuse me, what the American Lung Association or
1762 what other groups have put out, we know the health conditions
1763 in our homes and our offices--keep in mind, we spend 90
1764 percent of our time indoors. Sixty percent of our time is in
1765 our homes. We are confronted with formaldehyde, pesticides,
1766 dust mites, pollen, there are so many issues on the inside, I
1767 just simply ask, when we deal with asthma, how do you know
1768 that you are getting a problem that has been exacerbated by
1769 outdoor air quality when you spend 90 percent of your time
1770 indoors? The American Lung Association supports this
1771 concern, others have done it, the EPA has done it, but yet we
1772 continue to fight out outdoor air quality, when it is our
1773 indoor air quality is where we face our biggest problem.

1774 And then I will just close with the fact that--just keep

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1775 in mind, as we said during testimony, if you shut down air--
1776 Mrs. {Blackburn.} Gentleman's time has expired.
1777 Gentleman yield back?
1778 Mr. {McKinley.} Yield--I will yield back.
1779 Mrs. {Blackburn.} Gentleman yields back.
1780 Mr. {Rush.} Madam Chair. Madam Chair, I--
1781 Mrs. {Blackburn.} Mr. Rush?
1782 Mr. {Rush.} I move to strike the last word.
1783 Mrs. {Blackburn.} You are recognized for 5 minutes.
1784 Mr. {Rush.} Madam Chair, I support Ranking Member
1785 Pallone's amendment. This amendment could be--could not be
1786 more timely because, as demonstrated by the recent poll
1787 conducted by the New York Times, Stanford University and the
1788 Resources for the Future, an overwhelming majority of
1789 Americans, a whopping 81 percent, believe that climate change
1790 is caused by human activity, and a staggering 74 percent of
1791 the Americans believe that the Federal Government should be
1792 doing a substantial amount to combat climate change, both
1793 inside our homes and outside of our homes.
1794 Mr. Chairman--Madam Chairman, how can this committee or
1795 jurisdiction--this committee possibly act to address what may
1796 be the most serious threat to our--that our Nation faces if
1797 the members who make up this committee cannot even admit that

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1798 manmade climate change exists, and that there is a problem?
1799 As the elected representatives of the American people, we
1800 should be leading on this issue, rather than allowing our own
1801 parochial interests cause us to delay an ignore a problem
1802 that the overwhelming majority of scientists tell us is
1803 happening; that Mother Nature herself is showing us is
1804 currently happening, and that the American people themselves
1805 know to be happening.

1806 Over the past few years, Madam Chairman, we have
1807 experienced more and more frequent extreme weather events due
1808 to climate change, with disastrous effects being felt in
1809 communities all across this Nation. In fact, no region has
1810 been safe from the impacts of climate change, with almost
1811 annual wildfires and heat waves in the West and Southwest,
1812 perennial flooding along the coast, and damaging and costly
1813 droughts, and crop loss from the West to the Plains and to
1814 the Midwest.

1815 Madam Chairman, just saying no, either to climate change
1816 or the plans for mitigating the risk of climate change, to
1817 outside environment to inside environment, and the Clean
1818 Power Plan would do is not a strategy. Mr. Pallone's
1819 amendment is an opportunity for all members to affirm that--
1820 their beliefs in human-induced climate change, and agree that

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1821 the government should play a role in the reduction of carbon
1822 emissions, no matter what state they come from. This is a
1823 similar statement of fact, and it should be an easy vote.
1824 Even a majority of the Senate, including 7 republican
1825 Senators, and many pro-coal democratic Senators were able to
1826 agree to the exact same language that we have before us here
1827 today in the Pallone Amendment. Instead of authorizing
1828 states to do nothing to reduce harmful carbon emissions, let
1829 us come together today and show the American people that we
1830 understand that manmade climate change is real, it is
1831 happening, and we understand that as leaders, we must do
1832 something about it before it is too late.

1833 I urge my colleagues to vote in favor of the Pallone
1834 Amendment. Should not be a hard vote for those who believe
1835 in taking action to fight human-induced climate change.

1836 With that, I yield back.

1837 Mr. {Whitfield.} Mr. Chairman.

1838 The {Chairman.} Gentleman yields back.

1839 The chair would recognize the gentleman from Kentucky.

1840 Mr. {Whitfield.} I just want to make a couple of
1841 comments. First of all, I don't think there is anyone in
1842 this room, even on our side of the aisle, that does not
1843 acknowledge that there is climate change. We do differ with

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1844 the President on the priority that he places on it. We think
1845 that there are other issues that are more pressing worldwide
1846 right now than climate change. And to be truthful, this
1847 markup is not about a climate change; this markup is about
1848 the EPA trying to take direct revolutionary control of the
1849 way electricity is produced in America. And we don't need
1850 for the government to do much more than it is doing in
1851 climate change already. A report to the United Nations in
1852 2014 said that the Obama Administration identified 60 federal
1853 programs that are working on greenhouse gases and climate
1854 change. They reported that they are spending \$22 billion in
1855 2013 alone. They intend to spend \$77 billion by the year--
1856 between 2008 and 2013. They have 18 federal agencies
1857 involved in climate change-related activities. So it is not
1858 that we don't recognize the climate is changing; there is
1859 simply a difference in priority. And this legislation is not
1860 about climate change, it is about trying to stop EPA taking
1861 over the way electricity is produced in America.

1862 And with that, I would--unless someone else would--I
1863 would like to yield time to--I hope that you all forgive me
1864 for my enthusiastic response there, but I just wanted to say
1865 it. So I yield back the balance of my time.

1866 The {Chairman.} Gentleman yields back.

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1867 Chair would recognize the gentlelady from Illinois, Ms.
1868 Schakowsky, for 5 minutes.

1869 Ms. {Schakowsky.} This amendment is really basic. It
1870 expresses the sense of Congress that we should promote
1871 national security, economic growth, and that we should
1872 promote these by addressing the threat of climate change, and
1873 including public health.

1874 The Pentagon says that climate change poses immediate
1875 risks to our national security. The Risky Business Project,
1876 coauthored by republican former Treasury Secretaries Hank
1877 Paulson and George Schultz, and former CEO of Cargill,
1878 Gregory Page, found that ``Over time, weather extremes will
1879 become the new normal.'' And they refer to decimating
1880 thousands of miles of coastland, our agricultural sector, and
1881 industries from construction to tourism. Scientists are now
1882 as certain that global warming is a real manmade threat as
1883 they are that cigarettes kill. They are more certain about
1884 climate change than they are--that vitamins make you healthy,
1885 or that dioxin in superfund sites is dangerous. That is what
1886 we call consensus, and yet many of my colleagues on the other
1887 side of the aisle say the jury is still out. And as I have
1888 said before, history will judge climate deniers harshly.
1889 And, frankly, I say to my friend across the aisle from

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1890 Kentucky, and those who make climate change and dealing with
1891 it a low priority as well, at a time when we can really do
1892 something about it, and maybe even worse, your grandchildren
1893 will not look kindly on your failure to recognize this threat
1894 at a time when we can make a difference. So I think everyone
1895 should consider, before you put anti-science statements on
1896 the permanent record, you ought to rethink your positions.
1897 This is an easy vote. I urge my colleagues to support this
1898 amendment.

1899 And I yield back. And I--actually, I yield to the
1900 gentlewoman from Colorado.

1901 Ms. {DeGette.} Thank you very much.

1902 I just want to point out to Mr. Whitfield's comment, I
1903 am happy to know that our colleagues on the other side of the
1904 aisle recognize that climate change exists, and as I read
1905 this particular amendment, I don't think it is a very radical
1906 amendment. It basically says it is the sense of Congress
1907 that we should promote national security, economic growth,
1908 and public health by addressing climate change. And I think
1909 that is probably why there was bipartisan support for this
1910 concept in the Senate, because it is something we should be
1911 able to work on across the aisle. We might have different
1912 ideas about how we are going to work on climate change, but

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1913 really, this is something we don't want to get wrong. We
1914 should really start working on this now, and I would think
1915 something that is a pretty moderate, reasonable sense of
1916 Congress would be exactly the way to start.

1917 I thank the gentlelady for yielding, and I yield back to
1918 Ms. Schakowsky.

1919 Ms. {Schakowsky.} Anyone else? Yes, I yield to the
1920 gentlewoman from California.

1921 Ms. {Eshoo.} I thank the gentlewoman.

1922 I have listened to the discussion here the better part
1923 of today, and I have to tell you it makes me sad. Why?
1924 Because this committee, of all the committees in the
1925 Congress, has the broadest, deepest, most powerful
1926 jurisdictions to help bring about change and good in our
1927 country. And I have to say that I think we are squandering
1928 it. I think that we are squandering it.

1929 I am going to dig back and hand out to all the members,
1930 because there are so many new members on the committee on
1931 both sides of the aisle, to several years ago when Ed Markey
1932 was on the committee and myself, and we did a joint hearing
1933 because I had an assignment at the House Intelligence
1934 Committee, and so it was Energy and Commerce and HIPSI, and
1935 the whole issue was about the climate changing and the

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1936 impacts not only in our country but around the world, and
1937 what a national security threat it posed. All of our
1938 witnesses were from the military. So I want to pass--I am
1939 going to get that and pass it out. I hope you will take the
1940 time to read it, honestly. And that may be something that
1941 helps to open the door of peoples' minds to start thinking,
1942 to have a deeper and broader appreciation that this is our
1943 time, this is our generation that has a responsibility for
1944 the next one, and for whatever years we have left on the face
1945 of this earth. We are the stewards of it, but I really think
1946 that we need to--maybe we should have some breakout small
1947 working sessions where people are not really shouting past
1948 one another, and see if we can create a better climate for
1949 change without our committee.

1950 So I thank the gentlewoman for yielding.

1951 The {Chairman.} Gentlelady's time has expired.

1952 Other members wishing to speak on the amendment? Seeing
1953 none, the vote occurs on the amendment offered by Mr.
1954 Pallone.

1955 We will have a roll call vote. The clerk will call the
1956 roll.

1957 The {Clerk.} Mr. Barton?

1958 Mr. {Barton.} No.

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1959 The {Clerk.} Mr. Barton votes no.
1960 Mr. Whitfield?
1961 Mr. {Whitfield.} No.
1962 The {Clerk.} Mr. Whitfield votes no.
1963 Mr. Shimkus?
1964 [No response.]
1965 Mr. Pitts?
1966 Mr. {Pitts.} No.
1967 The {Clerk.} Mr. Pitts votes no.
1968 Mr. Walden?
1969 [No response.]
1970 The {Clerk.} Mr. Murphy?
1971 [No response.]
1972 The {Clerk.} Mr. Burgess?
1973 Mr. {Burgess.} No.
1974 The {Clerk.} Mr. Burgess votes no.
1975 Mrs. Blackburn?
1976 Mrs. {Blackburn.} No.
1977 The {Clerk.} Mrs. Blackburn votes no.
1978 Mr. Scalise?
1979 [No response.]
1980 The {Clerk.} Mr. Latta?
1981 Mr. {Latta.} No.

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1982 The {Clerk.} Mr. Latta votes no.
1983 Mrs. McMorris Rodgers?
1984 [No response.]
1985 The {Clerk.} Mr. Harper?
1986 Mr. {Harper.} No.
1987 The {Clerk.} Mr. Harper votes no.
1988 Mr. Lance?
1989 Mr. {Lance.} No.
1990 The {Clerk.} Mr. Lance votes no.
1991 Mr. Guthrie?
1992 Mr. {Guthrie.} No.
1993 The {Clerk.} Mr. Guthrie votes no.
1994 Mr. Olson?
1995 Mr. {Olson.} No.
1996 The {Clerk.} Mr. Olson votes no.
1997 Mr. McKinley?
1998 Mr. {McKinley.} No.
1999 The {Clerk.} Mr. McKinley votes no.
2000 Mr. Pompeo?
2001 Mr. {Pompeo.} No.
2002 The {Clerk.} Mr. Pompeo votes no.
2003 Mr. Kinzinger?
2004 Mr. {Kinzinger.} No.

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2005 The {Clerk.} Mr. Kinzinger votes no.
2006 Mr. Griffith?
2007 Mr. {Griffith.} No.
2008 The {Clerk.} Mr. Griffith votes no.
2009 Mr. Bilirakis?
2010 Mr. {Bilirakis.} No.
2011 The {Clerk.} Mr. Bilirakis votes no.
2012 Mr. Johnson?
2013 Mr. {Johnson.} No.
2014 The {Clerk.} Mr. Johnson votes no.
2015 Mr. Long?
2016 Mr. {Long.} No.
2017 The {Clerk.} Mr. Long votes no.
2018 Mrs. Ellmers? Mrs. Ellmers?
2019 Mrs. {Ellmers.} No.
2020 The {Clerk.} Mrs. Ellmers votes no.
2021 Mr. Bucshon?
2022 Mr. {Bucshon.} No.
2023 The {Clerk.} Mr. Bucshon votes no.
2024 Mr. Flores?
2025 [No response.]
2026 The {Clerk.} Mrs. Brooks?
2027 Mrs. {Brooks.} No.

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2028 The {Clerk.} Mrs. Brooks votes no.
2029 Mr. Mullin?
2030 Mr. {Mullin.} No.
2031 The {Clerk.} Mr. Mullin votes no.
2032 Mr. Hudson?
2033 Mr. {Hudson.} No.
2034 The {Clerk.} Mr. Hudson votes no.
2035 Mr. Collins?
2036 Mr. {Collins.} No.
2037 The {Clerk.} Mr. Collins votes no.
2038 Mr. Cramer?
2039 Mr. {Cramer.} No.
2040 The {Clerk.} Mr. Cramer votes no.
2041 Mr. Pallone?
2042 Mr. {Pallone.} Aye.
2043 The {Clerk.} Mr. Pallone votes aye.
2044 Mr. Rush?
2045 Mr. {Rush.} Aye.
2046 The {Clerk.} Mr. Rush votes aye.
2047 Ms. Eshoo?
2048 Ms. {Eshoo.} Aye.
2049 The {Clerk.} Ms. Eshoo votes aye.
2050 Mr. Engel?

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2051 [No response.]

2052 The {Clerk.} Mr. Green?

2053 Mr. {Green.} Aye.

2054 The {Clerk.} Mr. Green votes aye.

2055 Ms. DeGette?

2056 Ms. {DeGette.} Aye.

2057 The {Clerk.} Ms. DeGette votes aye.

2058 Mrs. Capps.

2059 Mrs. {Capps.} Aye.

2060 The {Clerk.} Mrs. Capps votes aye.

2061 Mr. Doyle?

2062 Mr. {Doyle.} Yes.

2063 The {Clerk.} Mr. Doyle votes aye.

2064 Ms. Schakowsky.

2065 Ms. {Schakowsky.} Aye.

2066 The {Clerk.} Ms. Schakowsky votes aye.

2067 Mr. Butterfield?

2068 Mr. {Butterfield.} Aye.

2069 The {Clerk.} Mr. Butterfield votes aye.

2070 Ms. Matsui?

2071 Ms. {Matsui.} Aye.

2072 The {Clerk.} Ms. Matsui votes aye.

2073 Ms. Castor?

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2074 Ms. {Castor.} Aye.

2075 The {Clerk.} Ms. Castor votes aye.

2076 Mr. Sarbanes?

2077 Mr. {Sarbanes.} Aye.

2078 The {Clerk.} Mr. Sarbanes votes aye.

2079 Mr. McNerney?

2080 Mr. {McNerney.} Aye.

2081 The {Clerk.} Mr. McNerney votes aye.

2082 Mr. Welch?

2083 Mr. {Welch.} Aye.

2084 The {Clerk.} Mr. Welch votes aye.

2085 Mr. Lujan?

2086 Mr. {Lujan.} Aye.

2087 The {Clerk.} Mr. Lujan votes aye.

2088 Mr. Tonko?

2089 Mr. {Tonko.} Aye.

2090 The {Clerk.} Mr. Tonko votes aye.

2091 Mr. Yarmuth?

2092 Mr. {Yarmuth.} Aye.

2093 The {Clerk.} Mr. Yarmuth votes aye.

2094 Ms. Clarke?

2095 Ms. {Clarke.} Aye.

2096 The {Clerk.} Ms. Clarke votes aye.

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2097 Mr. Loeb sack?

2098 Mr. {Loeb sack.} Aye.

2099 The {Clerk.} Mr. Loeb sack votes aye.

2100 Mr. Schrader?

2101 Mr. {Schrader.} Aye.

2102 The {Clerk.} Mr. Schrader votes aye.

2103 Mr. Kennedy?

2104 Mr. {Kennedy.} Aye.

2105 The {Clerk.} Mr. Kennedy votes aye.

2106 Mr. Cardenas?

2107 Mr. {Cardenas.} Aye.

2108 The {Clerk.} Mr. Cardenas votes aye.

2109 Chairman Upton?

2110 The {Chairman.} Votes no.

2111 The {Clerk.} Chairman Upton votes no.

2112 The {Chairman.} Other members wishing to cast votes?

2113 Dr. Murphy?

2114 The {Clerk.} Mr. Murphy votes no.

2115 The {Chairman.} Mr. Walden?

2116 Mr. {Walden.} No.

2117 The {Clerk.} Mr. Walden votes no.

2118 The {Chairman.} Mr. Shimkus?

2119 Mr. {Shimkus.} No.

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2120 The {Clerk.} Mr. Shimkus votes no.

2121 The {Chairman.} Dr. Murphy, we are going to vote on
2122 final in a second.

2123 Other members wishing to cast a vote? Seeing none, the
2124 clerk will report the tally.

2125 The {Clerk.} Mr. Chairman, on that vote, there were 23
2126 ayes and 28 nays.

2127 The {Chairman.} Twenty-three ayes, 28 nays. The
2128 amendment is not agreed to.

2129 Are there further amendments to the bill? Seeing none,
2130 the question now occurs on favorably reporting H.R. 2042 to
2131 the House. And we will have a roll call vote.

2132 All those in favor will say aye.

2133 All those opposed, say no.

2134 And roll call vote. Clerk will call the roll.

2135 The {Clerk.} Mr. Barton?

2136 Mr. {Barton.} Aye.

2137 The {Clerk.} Mr. Barton votes aye.

2138 Mr. Whitfield?

2139 Mr. {Whitfield.} Aye

2140 The {Clerk.} Mr. Whitfield votes aye.

2141 Mr. Shimkus?

2142 Mr. {Shimkus.} Aye.

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2143 The {Clerk.} Mr. Shimkus votes aye.
2144 Mr. Pitts?
2145 Mr. {Pitts.} Aye
2146 The {Clerk.} Mr. Pitts votes aye.
2147 Mr. Walden?
2148 Mr. {Walden.} Aye.
2149 The {Clerk.} Mr. Walden votes aye.
2150 Mr. Murphy?
2151 Mr. {Murphy.} Aye.
2152 The {Clerk.} Mr. Murphy votes aye.
2153 Mr. Burgess?
2154 Mr. {Burgess.} Aye.
2155 The {Clerk.} Mr. Burgess votes aye.
2156 Mrs. Blackburn?
2157 Mrs. {Blackburn.} Aye.
2158 The {Clerk.} Mrs. Blackburn votes aye.
2159 Mr. Scalise?
2160 [No response.]
2161 The {Clerk.} Mr. Latta?
2162 Mr. {Latta.} Aye.
2163 The {Clerk.} Mr. Latta votes aye.
2164 Mrs. McMorris Rodgers?
2165 [No response.]

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2166 The {Clerk.} Mr. Harper?
2167 Mr. {Harper.} Aye.
2168 The {Clerk.} Mr. Harper votes aye.
2169 Mr. Lance?
2170 Mr. {Lance.} Aye.
2171 The {Clerk.} Mr. Lance votes aye.
2172 Mr. Guthrie?
2173 Mr. {Guthrie.} Aye.
2174 The {Clerk.} Mr. Guthrie votes aye.
2175 Mr. Olson?
2176 Mr. {Olson.} Aye.
2177 The {Clerk.} Mr. Olson votes aye.
2178 Mr. McKinley?
2179 Mr. {McKinley.} Aye.
2180 The {Clerk.} Mr. McKinley votes aye.
2181 Mr. Pompeo?
2182 Mr. {Pompeo.} Aye.
2183 The {Clerk.} Mr. Pompeo votes aye.
2184 Mr. Kinzinger?
2185 Mr. {Kinzinger.} Aye.
2186 The {Clerk.} Mr. Kinzinger votes aye.
2187 Mr. Griffith? Mr. Griffith?
2188 Mr. {Griffith.} Aye.

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2189 The {Clerk.} Mr. Griffith votes aye.
2190 Mr. Bilirakis?
2191 Mr. {Bilirakis.} Aye.
2192 The {Clerk.} Mr. Bilirakis votes aye.
2193 Mr. Johnson?
2194 Mr. {Johnson.} Aye.
2195 The {Clerk.} Mr. Johnson votes aye.
2196 Mr. Long?
2197 Mr. {Long.} Aye.
2198 The {Clerk.} Mr. Long votes aye.
2199 Mrs. Ellmers? Mrs. Ellmers?
2200 Mrs. {Ellmers.} Aye.
2201 The {Clerk.} Mrs. Ellmers votes aye.
2202 Mr. Bucshon?
2203 Mr. {Bucshon.} Aye.
2204 The {Clerk.} Mr. Bucshon votes aye.
2205 Mr. Flores?
2206 [No response.]
2207 The {Clerk.} Mrs. Brooks?
2208 Mrs. {Brooks.} Aye.
2209 The {Clerk.} Mrs. Brooks votes aye.
2210 Mr. Mullin?
2211 Mr. {Mullin.} Aye.

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2212 The {Clerk.} Mr. Mullin votes aye.
2213 Mr. Hudson?
2214 Mr. {Hudson.} Aye.
2215 The {Clerk.} Mr. Hudson votes aye.
2216 Mr. Collins?
2217 Mr. {Collins.} Aye.
2218 The {Clerk.} Mr. Collins votes aye.
2219 Mr. Cramer?
2220 Mr. {Cramer.} Aye.
2221 The {Clerk.} Mr. Cramer votes aye.
2222 Mr. Pallone?
2223 Mr. {Pallone.} No.
2224 The {Clerk.} Mr. Pallone votes no.
2225 Mr. Rush?
2226 Mr. {Rush.} No.
2227 The {Clerk.} Mr. Rush votes no.
2228 Ms. Eshoo?
2229 Ms. {Eshoo.} No.
2230 The {Clerk.} Ms. Eshoo votes no.
2231 Mr. Engel?
2232 [No response.]
2233 The {Clerk.} Mr. Green?
2234 Mr. {Green.} No.

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2235 The {Clerk.} Mr. Green votes no.
2236 Ms. DeGette?
2237 Ms. {DeGette.} No.
2238 The {Clerk.} Ms. DeGette votes no.
2239 Mrs. Capps.
2240 Mrs. {Capps.} No.
2241 The {Clerk.} Mrs. Capps votes no.
2242 Mr. Doyle?
2243 Mr. {Doyle.} No.
2244 The {Clerk.} Mr. Doyle votes no.
2245 Ms. Schakowsky.
2246 Ms. {Schakowsky.} No.
2247 The {Clerk.} Ms. Schakowsky votes no.
2248 Mr. Butterfield?
2249 Mr. {Butterfield.} No.
2250 The {Clerk.} Mr. Butterfield votes no.
2251 Ms. Matsui?
2252 Ms. {Matsui.} No.
2253 The {Clerk.} Ms. Matsui votes no.
2254 Ms. Castor?
2255 Ms. {Castor.} No.
2256 The {Clerk.} Ms. Castor votes no.
2257 Mr. Sarbanes?

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2258 Mr. {Sarbanes.} No.

2259 The {Clerk.} Mr. Sarbanes votes no.

2260 Mr. McNerney?

2261 Mr. {McNerney.} No.

2262 The {Clerk.} Mr. McNerney votes no.

2263 Mr. Welch?

2264 Mr. {Welch.} No.

2265 The {Clerk.} Mr. Welch votes no.

2266 Mr. Lujan?

2267 Mr. {Lujan.} No.

2268 The {Clerk.} Mr. Lujan votes no.

2269 Mr. Tonko?

2270 Mr. {Tonko.} No.

2271 The {Clerk.} Mr. Tonko votes no.

2272 Mr. Yarmuth?

2273 Mr. {Yarmuth.} No.

2274 The {Clerk.} Mr. Yarmuth votes no.

2275 Ms. Clarke?

2276 Ms. {Clarke.} No.

2277 The {Clerk.} Ms. Clarke votes no.

2278 Mr. Loeb sack?

2279 Mr. {Loeb sack.} No.

2280 The {Clerk.} Mr. Loeb sack votes no.

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2281 Mr. Schrader?

2282 Mr. {Schrader.} No.

2283 The {Clerk.} Mr. Schrader votes no.

2284 Mr. Kennedy?

2285 Mr. {Kennedy.} No.

2286 The {Clerk.} Mr. Kennedy votes no.

2287 Mr. Cardenas?

2288 Mr. {Cardenas.} No.

2289 The {Clerk.} Mr. Cardenas votes no.

2290 Chairman Upton?

2291 The {Chairman.} Votes aye.

2292 The {Clerk.} Chairman Upton votes aye.

2293 The {Chairman.} Other members wishing to cast a vote?

2294 Seeing none, the clerk will report the tally.

2295 The {Clerk.} Mr. Chairman, on that vote there were 28

2296 ayes and 23 nays.

2297 The {Chairman.} Twenty-eight ayes, 23 nays. The bill,

2298 H.R. 2042, is approved. And without objection, yeah, we will

2299 correct the--all right, so it has passed.

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2300 H.R. 2045

2301 The {Chairman.} The chair now calls up H.R. 2045, and
2302 asks the clerk to report.

2303 The {Clerk.} H.R. 2045, to provide that certain bad
2304 faith communications in connection with the assertion of a
2305 United States patent are unfair or deceptive acts or
2306 practices, and for other purposes.

2307 [The bill follows:]

2308 ***** INSERT 6 *****

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2309 The {Chairman.} And without objection, the first
2310 reading of the bill is dispensed with. The bill will be open
2311 for amendment at any point.

2312 I would note that we are closing on the House Floor with
2313 speakers, so I think rather doing an amendment, we will
2314 adjourn and come back after the 2 votes that we have in the
2315 House.

2316 So with that, the committee stands adjourned.

2317 [Recess.]

2318 The {Chairman.} We are going to wait a few minutes
2319 before we restart, wait until we have a quorum. We just had
2320 votes on the Floor. I know there are some people--okay, we
2321 will reconvene. When we recessed, we called up H.R. 2045,
2322 and the clerk reported the title of the bill.

2323 And let me ask if there are any bipartisan amendments to
2324 the bill? Seeing none, are there any other amendments to the
2325 bill? And I would recognize the gentlelady from California.
2326 Is the amendment at the desk?

2327 Ms. {Eshoo.} Thank you, Mr. Chairman.

2328 The {Chairman.} And the clerk--

2329 Ms. {Eshoo.} I do have an amendment at the desk. It is
2330 Bad Faith 01.

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2331 The {Chairman.} 01? The clerk will report the title of
2332 the amendment.

2333 The {Clerk.} Amendment to H.R. 2045, offered by Ms.
2334 Eshoo.

2335 [The amendment of Ms. Eshoo follows:]

2336 ***** INSERT 7 *****

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|

2337 The {Chairman.} And the amendment will be considered as
2338 read, and the gentlelady will be offered 5 minutes in support
2339 of her amendment.

2340 Ms. {Eshoo.} Thank you very much, Mr. Chairman.

2341 Patent trolls and the abusive demand letters they send
2342 represent a very serious threat and a drain. The drain is on
2343 our national economy, the threat is to--is the negative
2344 impact on innovation. And I commend Representative Burgess
2345 for his good faith effort to address this problem--to try and
2346 address the problem, and I want to work with him to produce
2347 legislation that stops this. And the bill that preempts
2348 strong state consumer protection laws and leaves loopholes
2349 for abusers to exploit them really does not provide the kind
2350 of hammer I think that we need to effectively stomp out this
2351 well-documented problem. I am very familiar with it. Very
2352 familiar with it in my congressional district, which is a
2353 Silicon Valley district.

2354 Now, the gentleman in--from Texas and I share a common
2355 goal. We want to stop patent trolls and the abusive demand
2356 letters that they send. Under the bill's current bad faith
2357 requirement though, the FTC, the Federal Trade Commission,
2358 would have to prove, excuse me, would have to prove in court

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2359 that the sender of an abusive demand letter made knowingly
2360 false or knowingly misleading statements, that they made the
2361 statements with reckless disregard as to the false or
2362 misleading nature of the statements, or made the statements
2363 with an awareness of high probability that they were meant to
2364 deceive, and the sender intentionally avoided the truth.

2365 Mr. Chairman, and members of the committee, this is a
2366 very, very high evidentiary bar, and it is nearly impossible
2367 to meet in many of the demand letter cases we have seen to
2368 date. A case in point in the National Association of
2369 Realtors. During their testimony before the committee, and
2370 in an April 23 letter to the committee, they stated the
2371 following. ``Recipients of demand letters can be harmed by
2372 misrepresentations for omissions regardless of whether the
2373 party making them knows them to be false or misleading.''

2374 So this amendment aligns the bill with a much tougher
2375 standard to address unfair or deceptive acts or practices.
2376 Now, many times, there are members that don't want something
2377 to be tougher. The only way that you are going to put a stop
2378 to these abuses of the demand letters is to have the
2379 toughest, most enforceable law on the books. So simply put,
2380 the vague and deceptive unfair practices of patent trolls,
2381 and this is something Congress really needs to take very

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2382 seriously. I mean they are really putting a severe dent in
2383 our economy. This has to stop.

2384 Now, the Judiciary Committee has something on patent
2385 trolls, we are doing this here, and really overall, what this
2386 means is that we need legislation that provides really
2387 effective enforcement. If you don't have effective
2388 enforcement then really I think that we are wasting our time.
2389 And that is not a diminution of the author of the bill, but
2390 that that section of the bill, I think is really left
2391 wanting.

2392 So for all of these reasons, I am urging my colleagues
2393 to support the amendment. I would be happy to work with Mr.
2394 Burgess to really beef-up this section. I don't know what
2395 the genesis was to make it weaker, but weaker is not going to
2396 do. You really need teeth in this thing, and again, what is
2397 in the bill sets a very, very high evidentiary bar which is
2398 nearly impossible to meet in so many of the demand letter
2399 cases that we have seen in my office to date and in my
2400 district, and from other parts of the country as well.

2401 So I don't know if anyone would like me to yield them
2402 any time, but if not, I yield back, and thank you.

2403 The {Chairman.} Gentlelady yields back.

2404 Other members wishing to speak? Dr. Burgess, recognized

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2405 for 5 minutes.

2406 Mr. {Burgess.} Thank you, Mr. Chairman. Move to strike
2407 the requisite number of words to speak in opposition to the
2408 amendment.

2409 Mr. Chairman, you know, there is a significant body of
2410 law that preserves the patent holder's rights to assert their
2411 patents in good faith. Imposing a bad faith requirement
2412 helps to ensure that the legislation will not be vulnerable
2413 to a challenge on First Amendment grounds.

2414 We are required here to balance competing interests, and
2415 sometimes that is different--difficult. We have the
2416 legitimate interests of patent holders, and we have the
2417 recipients of letters from people who are exercising fraud,
2418 and the appropriate balance was a bad faith threshold. We
2419 don't want to make it harder for legitimate patent holders to
2420 protected their federally granted and constitutionally
2421 protected property rights. Without the bad faith threshold,
2422 those patent holders would live in fear of Federal Trade
2423 Commission or a State Attorney General taking an action
2424 against them for what might amount to a simple mistake.
2425 Requiring bad faith is essential to distinguishing bad actors
2426 from those who make innocent mistakes, or have legitimate
2427 reasons for not disclosing certain information enumerated in

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2428 the bill.

2429 Where a letter doesn't meet the bad faith standard
2430 because of an innocent mistake or otherwise there is--and
2431 there is otherwise consumer harm, the FTC can and should, and
2432 should, use its Section 5 injunctive authority. A bad faith
2433 standard does not undermine the bill's effectiveness in
2434 targeting truly abusive demand letter practices, and it is
2435 expressing--expressly reserves existing Federal Trade
2436 Commission Section 5 authority to go after any new, false or
2437 deceptive practices that may be used in the future.
2438 Standards similar to the bad faith standard used here can be
2439 found in Federal Trade Commission cases involving when the
2440 officer of a company liable for restitution, the False Claims
2441 Act or Fair Credit Reporting Act, bankruptcy and intentional
2442 discrimination in employment, among others.

2443 The hard-fought agreement is based on FTC law. The
2444 phrase reckless indifference and awareness of a high
2445 probability also comes from the world of FTC enforcement. I
2446 would emphasize that since the beginning of the year, in
2447 fact, I will go back further because this bill was heard in a
2448 markup last year in the subcommittee, it has been no surprise
2449 to anyone that this bill was coming forward. We indeed have
2450 had 2 hearings; 1 general hearing and 1 legislative hearing,

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2451 leading up to the subcommittee markup last week. This
2452 information has been out there and available to all
2453 stakeholders. Of course, there is willingness on the part of
2454 myself and on the part of the committee staff to work in good
2455 faith with members who--and constituents who feel they have
2456 difficulty with this, but we truly believe this is the best
2457 way to provide an enforceable standard.

2458 And, Mr. Chairman, I will yield--I will be happy to
2459 yield to the gentleman from Virginia.

2460 Mr. {Griffith.} Thank you, I appreciate you yielding.

2461 I have some concerns, as you have just stated, and I was
2462 sitting here doing the what-if or the put case situation. So
2463 if Mom invents a gizmo and then she dies, leaving children
2464 and a--maybe even of different fathers, and then you have a
2465 battle over the estate, one could send something that
2466 misrepresented their interest, but not be doing so in bad
2467 faith, but send it thinking that they are the heir to the
2468 patent. They could send out a letter, this would make them
2469 liable for being a troll, in spite of the fact that it was
2470 their ancestor that actually invented the gizmo to begin
2471 with. I think you have to come up with something. Maybe
2472 what you have now isn't exactly right, but certainly, we have
2473 to come up with something.

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2474 So I would ask that we vote no on the amendment until we
2475 have all the language worked out to make sure that we are not
2476 stepping on, as Mr. Burgess said, the First Amendment rights,
2477 or just the rights of a person who thinks they own the
2478 patent, and has a legitimate claim maybe to the patent, but
2479 finds to that they don't at a later time.

2480 I yield back.

2481 Mr. {Burgess.} And certainly--

2482 The {Chairman.} Would the gentleman yield?

2483 Mr. {Burgess.} Yes.

2484 The {Chairman.} And let me just say, you know, this is
2485 a very complex issue, we all know that, and I am not
2486 convinced that the bill that we have is perfect, but I think
2487 we are going to have some time to work on this before it
2488 moves ever to the Floor. So I just--we are going to be very
2489 open with working with different parties, but we are putting
2490 our stake in the ground and we will continue to work, you
2491 know, in the probably months ahead to try and get this
2492 resolved.

2493 Mr. {Barton.} Would the gentleman yield for point of
2494 personal privilege?

2495 The {Chairman.} It is no longer my time, but I will--
2496 ask unanimous consent the gentleman get another 2 minutes

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2497 and--

2498 Mr. {Barton.} Ask unanimous--I want to yield to
2499 Congressman Gus Bilirakis of Florida. He has a distinguished
2500 visitor in the audience, and I would like him to introduce
2501 him.

2502 Mr. {Bilirakis.} Thank you. Thank you. Appreciate it
2503 very much, Mr. Barton.

2504 I have--it is an honor for me to introduce my father,
2505 Congressman Mike Bilirakis, who served on this committee for
2506 22 years, and was the vice chairman of the committee. Thank
2507 you. Welcome, Dad. God bless you.

2508 The {Chairman.} The good news is he looks just the
2509 same, as we all do. Yeah, better.

2510 All right, gentleman's time has expired. And are there
2511 other members wishing to seek time on the amendment? The
2512 gentleman from New Jersey is recognized.

2513 Mr. {Pallone.} Thank you, Mr. Chairman. I want to
2514 speak in support of Ms. Eshoo's amendment, but let me just
2515 tell--let me just say that Mike Bilirakis, your son, has very
2516 ably continued in your tradition, and I know it most because
2517 of the Hellenic Caucus where he continues to champion
2518 Hellenic issues, so I just wanted to say that.

2519 I also wanted to say, Mr. Chairman, that I appreciated

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2520 your remarks about Ms. Eshoo's amendment, and the possibility
2521 of working together with Ms. Eshoo to try to improve the
2522 bill. But in the meantime, I wanted to speak in support of
2523 the amendment. Multiple stakeholders testified about the
2524 problems created by misleading patent assertion letters,
2525 which include unjustified demands for licensing fees, and
2526 threats of cost of litigation, and these unfair and deceptive
2527 acts by so-called patent trolls can frustrate innovation, and
2528 they can burden entities and individuals who purchase or use
2529 even the most common kinds of technology, such as bank ATMs,
2530 Wi-Fi or document scanners. This legislation was brought
2531 forward to incentivize enforcement against bad actors, but
2532 unfortunately, some provisions in the bill may actually
2533 hinder the FTC's ability to protect consumers. Currently,
2534 the FTC and State Attorney Generals can bring cases on a
2535 finding of deception, and they do not have to collect
2536 evidence to prove knowledge or intent. And consumer
2537 protection laws focus on the effect of unfair or deceptive
2538 acts on the consumer, and consumers can be harmed by
2539 misrepresentations regardless of whether the party making the
2540 assertions knows that they are false. But this bill would
2541 require the FTC and State Attorney Generals to prove
2542 knowledge or intent, in addition to proving a violation, and

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2543 the enforcing agency must collect evidence that proves
2544 knowledge or intent. So even in the cases for which it is
2545 clear to all that the sender of the letters is a bad actor,
2546 the enforcers may not be able to bring a case. The bad faith
2547 requirement is hurdle that almost certainly makes it too
2548 difficult for the agency to bring cases, and I think is a
2549 disincentive to enforcement and it is not a step forward.

2550 Under Ms. Eshoo's amendment, which strikes the bad faith
2551 requirement, the burden of proving unfair or deceptive acts
2552 is consistent with traditional consumer protection laws. It
2553 reflects the recognition and enforcement actions for unfair
2554 and deceptive practices and the sending of demand letters are
2555 just like every other standard, unfair and deceptive practice
2556 case. So if we are going to legislate, we must ensure that
2557 the legislation is effective, and this amendment would ensure
2558 that the TROL Act is effective, and that is why I would urge
2559 support for the amendment, and as--and also to work to try to
2560 correct the problem in the future, as you have suggested.

2561 So I yield back, unless someone else wants part of my
2562 time. Sure, I yield to Ms. Eshoo.

2563 Ms. {Eshoo.} Thank you. Let me just add this to the
2564 layer of things that I mentioned in introducing the
2565 amendment. If--we all want to defend patents. If you want

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2566 strong defense of solid patents, then you want strong
2567 enforcement for these bad actors who are the patent trollers,
2568 and their abusive demand letters. So, you know, I salute
2569 anyone that introduces legislation that wants to remedy this,
2570 but it is a--what is set in the bill--in the underlying bill
2571 is a very weak standard. It is a very weak standard, the bad
2572 faith standard. And it sets the bar so high for evidence
2573 that it is like have a sieve and you have really giant holes
2574 in it. You pour the spaghetti in the sieve, the noodles come
2575 out, not just the water that you are trying to drain out of
2576 it. And I don't think that is the intent here from anyone on
2577 either side of the aisle. So I congratulate Mr. Burgess for
2578 wanting to do something about it. My only intention here is
2579 to make it strong enough so that the patent is--the patent
2580 holder is really--is protected.

2581 And I want to place in the record, Mr. Chairman, let's
2582 see, 1, 2, 3 letters of support here. One from the National
2583 Association of Realtors, another United for Patent Reform,
2584 and the other the Association for Convenience and, get this,
2585 Joe Barton, Petroleum Retailing. How is that? And this
2586 United for Patent Reform--

2587 Mr. {Barton.} Why are you calling me out?

2588 Ms. {Eshoo.} Well, no, because you would like it,

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2589 because it has got petroleum in it. These are your friends.
2590 These are your friends. But I--just on a serious note, the
2591 coalition--this coalition includes a cross-section of
2592 America's Main Street businesses. They are retailers,
2593 restaurants, home builders, grocers, realtors, hotel owners,
2594 and convenience store, and some of the country's most well-
2595 known technology companies. So this is not a partisan thing.
2596 This is--we need a tough standard.

2597 And, Mr. Chairman, thank you for saying what you said in
2598 being willing to work to make the bill the best bill we could
2599 put forward. I don't think it is because I don't think this
2600 section is as strong as it can be, but obviously, I will work
2601 with you. Thank you.

2602 The {Chairman.} Time has expired.

2603 Other members wishing to speak on the amendment?

2604 Gentleman from Texas, Mr. Barton.

2605 Mr. {Barton.} Well, thank you. Thank you, Mr.
2606 Chairman. And welcome, Mr. Bilirakis. It is good to have
2607 you back. With that applause, don't think about running in
2608 the primary against your son now. We love you but we love
2609 him too. He is doing a good job.

2610 Mr. Chairman, I was almost prepared to vote for Ms.
2611 Eshoo's amendment until she called me out about it, but

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2612 having said that, I have an amendment to that same issue,
2613 that of the 6 items in her amendment, 4 of them are in my
2614 amendment. So I share the same concerns. The amendment that
2615 I am going to offer at the appropriate time in the markup
2616 addresses the same issue in a slightly different way, and I
2617 think in a slightly better way. But the gentlelady from
2618 California has correctly identified one of the imperfections
2619 in the subcommittee bill. I am not on the subcommittee, and
2620 I respect the work product of the subcommittee. They have
2621 tried to thread the needle, but this issue of bad faith, the
2622 groups that are supporting the subcommittee print by and
2623 large, Mr. Chairman, are groups that have legitimate issues
2624 with patents, but they are not groups that, to my knowledge,
2625 have ever sent one of these mass demand letters. The group
2626 that we are trying to help, that actually is the recipient of
2627 these demand letters, as you well know, all oppose the
2628 current subcommittee print because, in their mind, they are
2629 not receiving adequate protection against these, I don't want
2630 to say frivolous, but these damaging demand letters, would be
2631 a good word.

2632 So I am not going to support the gentlelady's amendment
2633 at this time, but I do support what she is attempting to do,
2634 and I hope later in the markup to offer an amendment that

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2635 addresses it, and I will explain at that point in time how it
2636 is different and why I think it is slightly better.

2637 And with that, Mr. Chairman, I would yield to you or
2638 yield back to anybody that needs the time.

2639 The {Chairman.} Anybody wishing the time?

2640 Mr. {Barton.} I will yield to Ms. Schakowsky, if she
2641 wants to take my time.

2642 Ms. {Schakowsky.} I am happy to, and I thank you for
2643 that.

2644 I do support the gentlelady's amendment, but I also
2645 really support the idea that we are going to--we may be able
2646 to work together to make this better and to address it.

2647 The proving knowledge of--and intent is a very high
2648 threshold, as the author of this amendment has said. For
2649 example, if there is a failure to include basic and essential
2650 information in a demand letter that causes actual harm, well,
2651 then it doesn't really matter what the intent of the sender
2652 really had in mind. All that matters is that the
2653 communication sent from a patent assertion entity
2654 misrepresents or falsely states facts that must be included
2655 under the bill, which are made very clear. That allows
2656 action to be taken against bad actors without having to prove
2657 their mindset at the time the demand letters were sent. And,

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2658 you know, legitimate patent holders should be able to
2659 identify themselves and include information related to the
2660 patent that has allegedly been infringed upon. What
2661 technology infringes the patent, how the technology infringes
2662 the patent, how the patent holder can be contacted to address
2663 this issue, very basic information. It is not a heavy burden
2664 for someone who is seeking financial or legal restitution for
2665 legitimate patent infringement. So I certainly am going to
2666 support the gentlelady's amendment at this time, and hope
2667 that at a future time we can work out something that we can
2668 all agree on.

2669 The {Chairman.} Yields back the time.

2670 Gentleman from Texas yields back. Other members wishing
2671 to speak on the amendment? Gentleman from California, Mr.
2672 McNerney.

2673 Mr. {McNerney.} Thank you, Mr. Chairman. You know, I
2674 am a patent holder and I want to see the little guy
2675 protected. We certainly want to stop--or find a way to stop
2676 the tolls. They are really wrecking up the system, but I
2677 think Ms. Eshoo's amendment, and perhaps Mr. Barton's will go
2678 a long way in satisfying that need.

2679 So I support the amendment. Andi yield back.

2680 The {Chairman.} Gentleman yields back.

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2681 Other members wishing to speak? Seeing none, the vote
2682 occurs on the amendment offered by the gentlelady from
2683 California.

2684 {Voice.} Roll call.

2685 The {Chairman.} All those in favor, say aye.

2686 Roll call is asked for. Clerk will call the tally.

2687 The {Clerk.} Mr. Barton?

2688 Mr. {Barton.} Aye.

2689 The {Clerk.} Mr. Barton votes aye.

2690 Mr. Whitfield?

2691 [No response.]

2692 The {Clerk.} Mr. Shimkus?

2693 [No response.]

2694 The {Clerk.} Mr. Pitts?

2695 Mr. {Pitts.} No.

2696 The {Clerk.} Mr. Pitts votes no.

2697 Mr. Walden?

2698 [No response.]

2699 The {Clerk.} Mr. Murphy?

2700 Mr. {Murphy.} No.

2701 The {Clerk.} Mr. Murphy votes no.

2702 Mr. Burgess?

2703 Mr. {Burgess.} No.

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2704 The {Clerk.} Mr. Burgess votes no.
2705 Mrs. Blackburn?
2706 Mrs. {Blackburn.} No.
2707 The {Clerk.} Mrs. Blackburn votes no.
2708 Mr. Scalise?
2709 [No response.]
2710 The {Clerk.} Mr. Latta?
2711 Mr. {Latta.} No.
2712 The {Clerk.} Mr. Latta votes no.
2713 Mrs. McMorris Rodgers?
2714 [No response.]
2715 The {Clerk.} Mr. Harper?
2716 Mr. {Harper.} No.
2717 The {Clerk.} Mr. Harper votes no.
2718 Mr. Lance?
2719 Mr. {Lance.} No.
2720 The {Clerk.} Mr. Lance votes no.
2721 Mr. Guthrie?
2722 Mr. {Guthrie.} No.
2723 The {Clerk.} Mr. Guthrie votes no.
2724 Mr. Olson?
2725 Mr. {Olson.} No.
2726 The {Clerk.} Mr. Olson votes no.

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2727 Mr. McKinley?

2728 Mr. {McKinley.} No.

2729 The {Clerk.} Mr. McKinley votes no.

2730 Mr. Pompeo?

2731 [No response.]

2732 The {Clerk.} Mr. Kinzinger?

2733 Mr. {Kinzinger.} No.

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

2735 Mr. Griffith?

2736 Mr. {Griffith.} No.

2737 The {Clerk.} Mr. Griffith votes no.

2738 Mr. Bilirakis?

2739 Mr. {Bilirakis.} No.

2740 The {Clerk.} Mr. Bilirakis votes no.

2741 Mr. Johnson?

2742 Mr. {Johnson.} No.

2743 The {Clerk.} Mr. Johnson votes no.

2744 Mr. Long?

2745 Mr. {Long.} No.

2746 The {Clerk.} Mr. Long votes no.

2747 Mrs. Ellmers?

2748 Mrs. {Ellmers.} No.

2749 The {Clerk.} Mrs. Ellmers votes no.

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2750 Mr. Bucshon?

2751 Mr. {Bucshon.} No.

2752 The {Clerk.} Mr. Bucshon votes no.

2753 Mr. Flores?

2754 Mr. {Flores.} No.

2755 The {Clerk.} Mr. Flores votes no.

2756 Mrs. Brooks?

2757 Mrs. {Brooks.} No.

2758 The {Clerk.} Mrs. Brooks votes no.

2759 Mr. Mullin?

2760 Mr. {Mullin.} No.

2761 The {Clerk.} Mr. Mullin votes no.

2762 Mr. Hudson?

2763 Mr. {Hudson.} No.

2764 The {Clerk.} Mr. Hudson votes no.

2765 Mr. Collins?

2766 Mr. {Collins.} No.

2767 The {Clerk.} Mr. Collins votes no.

2768 Mr. Cramer?

2769 Mr. {Cramer.} No.

2770 The {Clerk.} Mr. Cramer votes no.

2771 Mr. Pallone?

2772 Mr. {Pallone.} Aye.

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2773 The {Clerk.} Mr. Pallone votes aye.
2774 Mr. Rush?
2775 Mr. {Rush.} Aye.
2776 The {Clerk.} Mr. Rush votes aye.
2777 Ms. Eshoo?
2778 Ms. {Eshoo.} Aye.
2779 The {Clerk.} Ms. Eshoo votes aye.
2780 Mr. Engel?
2781 [No response.]
2782 The {Clerk.} Mr. Green?
2783 [No response.]
2784 The {Clerk.} Ms. DeGette?
2785 Ms. {DeGette.} Aye.
2786 The {Clerk.} Ms. DeGette votes aye.
2787 Mrs. Capps.
2788 Mrs. {Capps.} Aye.
2789 The {Clerk.} Mrs. Capps votes aye.
2790 Mr. Doyle?
2791 Mr. {Doyle.} Yes.
2792 The {Clerk.} Mr. Doyle votes aye.
2793 Ms. Schakowsky.
2794 Ms. {Schakowsky.} Aye.
2795 The {Clerk.} Ms. Schakowsky votes aye.

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

2796 Mr. Butterfield?

2797 Mr. {Butterfield.} Aye.

2798 The {Clerk.} Mr. Butterfield votes aye.

2799 Ms. Matsui?

2800 Ms. {Matsui.} Aye.

2801 The {Clerk.} Ms. Matsui votes aye.

2802 Ms. Castor?

2803 Ms. {Castor.} Aye.

2804 The {Clerk.} Ms. Castor votes aye.

2805 Mr. Sarbanes?

2806 Mr. {Sarbanes.} Aye.

2807 The {Clerk.} Mr. Sarbanes votes aye.

2808 Mr. McNerney?

2809 Mr. {McNerney.} Aye.

2810 The {Clerk.} Mr. McNerney votes aye.

2811 Mr. Welch?

2812 Mr. {Welch.} Aye.

2813 The {Clerk.} Mr. Welch votes aye.

2814 Mr. Lujan?

2815 Mr. {Lujan.} Aye.

2816 The {Clerk.} Mr. Lujan votes aye.

2817 Mr. Tonko?

2818 Mr. {Tonko.} Aye.

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2819 The {Clerk.} Mr. Tonko votes aye.
2820 Mr. Yarmuth?
2821 [No response.]
2822 The {Clerk.} Ms. Clarke?
2823 Ms. {Clarke.} Aye.
2824 The {Clerk.} Ms. Clarke votes aye.
2825 Mr. Loeb sack?
2826 Mr. {Loeb sack.} Aye.
2827 The {Clerk.} Mr. Loeb sack votes aye.
2828 Mr. Schrader?
2829 [No response.]
2830 The {Clerk.} Mr. Kennedy?
2831 Mr. {Kennedy.} Aye.
2832 The {Clerk.} Mr. Kennedy votes aye.
2833 Mr. Cardenas?
2834 Mr. {Cardenas.} Aye.
2835 The {Clerk.} Mr. Cardenas votes aye.
2836 Chairman Upton?
2837 The {Chairman.} Votes no.
2838 The {Clerk.} Chairman Upton votes no.
2839 Mr. {Chairman.} Other members wishing to cast vote?
2840 Mr. Whitfield?
2841 Mr. {Whitfield.} No.

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2842 The {Clerk.} Mr. Whitfield votes no.

2843 The {Chairman.} Mr. Walden?

2844 Mr. {Walden.} No.

2845 The {Clerk.} Mr. Walden votes no.

2846 The {Chairman.} Mr. Shimkus?

2847 Mr. {Shimkus.} No.

2848 The {Clerk.} Mr. Shimkus votes no.

2849 The {Chairman.} And how is Mr. Barton recorded?

2850 The {Clerk.} Mr. Barton is recorded as aye.

2851 Mr. {Barton.} Mr. Chairman, I have been correctly told-

2852 -been told that I said I would vote no, and I always keep my

2853 word so I want to change to no.

2854 The {Clerk.} Mr. Barton votes no.

2855 The {Chairman.} Mrs. Kathy McMorris Rodgers?

2856 Mrs. {McMorris Rodgers.} No.

2857 The {Clerk.} Mrs. McMorris Rodgers votes no.

2858 The {Chairman.} Other members wishing to cast a vote?

2859 Seeing none, the clerk will report the tally.

2860 The {Clerk.} Mr. Chairman, on that vote there were 19

2861 ayes and 29 nays.

2862 The {Chairman.} Nineteen ayes, 29 nays. The amendment

2863 is not agreed to.

2864 Are there further amendments to the bill?

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2865 Mr. {Barton.} Mr. Chairman.

2866 The {Chairman.} Gentleman from Texas.

2867 Mr. {Barton.} Mr. Chairman, I have an amendment at the
2868 desk. I think it is Barton 14.

2869 The {Chairman.} Clerk will report the title of the
2870 amendment.

2871 The {Clerk.} Amendment to H.R. 2045, offered by Mr.
2872 Barton of Texas.

2873 [The amendment of Mr. Barton follows:]

2874 ***** INSERT 8 *****

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|

2875 The {Chairman.} And the amendment will be considered as
2876 read, and the gentleman is recognized for 5 minutes in
2877 support of his amendment.

2878 Mr. {Barton.} Thank you, Mr. Chairman.

2879 This amendment addresses the same issue that Ms. Eshoo's
2880 amendment just addressed. It does it in a slightly different
2881 way. The issue of bad faith and who bears the burden is at
2882 the crux of the disagreement between the proponents of the
2883 subcommittee bill and the opponents of the subcommittee bill.
2884 The amendment that is now before the full committee is an
2885 amendment that was drafted by majority staff and offered to
2886 the stakeholders that are in opposition to the bill. They
2887 rejected it when it was offered because they felt that it put
2888 too high of a burden of proof on the recipients of these
2889 demand letters.

2890 What this amendment does is take the offer that
2891 subcommittee staff--majority staff made to the stakeholders
2892 in opposition and add some language to it that puts the
2893 burden of proof in these frivolous demand letters on the
2894 sender of the letter. In other words, if I want to send a
2895 demand letter claiming infringement of my patent, in that
2896 letter, first, I have to tell the truth, second, I have to

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2897 show what the infringement is, and I have to believe when I
2898 send the letter that what I am saying is factually correct.
2899 If the recipient of the demand letter doesn't believe those
2900 are true, they simply alert the FTC, and the FTC has the
2901 option of conducting an investigation to determine where the
2902 facts are, but the burden of proving there is an infringement
2903 is on the sender of the letter.

2904 I think if this amendment were to be voted on and
2905 accepted, the opposition, which is numerous and growing, and
2906 includes some of the largest grassroots stakeholders,
2907 activists groups in the country, like the realtors and the
2908 home builders and the restaurant owners and the credit
2909 unions, I could go on and on, I believe that they would go
2910 from opposing to supportive. And the people that are
2911 currently supporting the bill, Mr. Chairman, are not harmed
2912 by this amendment. I had an opportunity to talk to an
2913 individual who has numerous patents and who is the director
2914 of one of the most prestigious medical research hospitals in
2915 the country, and he had a concern about my amendment but when
2916 I explained it, and I asked him, have you ever sent a demand
2917 letter to 10,000 people, and he said, never, never. I
2918 believe that those that support the current bill would be
2919 happy with this.

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2920 So what I would like to ask, Mr. Chairman, if you and
2921 Dr. Burgess, with Ms. Eshoo and others on the minority side,
2922 will agree that if I withdraw this amendment, that there will
2923 be a good faith effort to bring the stakeholders from both
2924 sides into a meeting where we meet, hear both sides, and try
2925 to reach a middle ground that is acceptable to both sides.
2926 This is a solvable problem. There is nobody in this
2927 committee that supports these trolls sending thousands of
2928 letters to people with some nebulous claim of patent
2929 infringement, hoping that a small percentage will decide to
2930 send money and not fight it. We are united in that. I don't
2931 claim this amendment I am offering is perfect, but I do think
2932 it goes to improve the subcommittee print, and with your
2933 support and Dr. Burgess' and Mr. Pallone's and Ms. Eshoo's
2934 and others, I think we can solve this problem before you take
2935 the bill any further. And if you will make that commitment,
2936 I will be more than happy to withdraw the amendment.

2937 The {Chairman.} Well, let me--if the gentleman will
2938 yield, I will make that commitment. I do think that, with
2939 some time, we can work this out to the satisfaction of most,
2940 if not all, of the parties. I commend you and Ms. Eshoo too
2941 for your work. I know that even last night, you were meeting
2942 for hours after--

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2943 Mr. {Barton.} And the committee staff voluntarily
2944 participated in did an outstanding job.

2945 The {Chairman.} And we are not quite there yet, but I
2946 am certainly led to believe that we have a good amount of
2947 time before this bill will reach the Floor, which will allow
2948 us to work in earnest to find a--an agreement that all of us,
2949 I think, can support, and would work to make that germane on
2950 the Floor and as part of our bill, which his likely to be an
2951 amendment on the Floor, but absolutely extend my sincere word
2952 that we will work very closely on this, because this if not
2953 perfect, I know that, but we have some time to work on it.

2954 Mr. {Barton.} Okay. Well, I would like to see if there
2955 is any discussion--

2956 The {Chairman.} Yeah.

2957 Mr. {Barton.} --but at the appropriate time, I will
2958 withdraw it.

2959 The {Chairman.} And maybe--would you like to yield your
2960 remaining time of which--

2961 Mr. {Barton.} My negative time?

2962 The {Chairman.} --your magic 2 seconds to the
2963 gentlelady from California?

2964 Ms. {Eshoo.} [Audio malfunction in hearing room.]

2965 Mr. {Barton.} One, two. Mine works.

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2966 Ms. {Eshoo.} [Audio malfunction in hearing room.] So I
2967 look forward to working with Mr. Barton, Mr. Upton, anyone
2968 from my side, our ranking member, and see what we can bring
2969 back to, you know, to the committee on this, because [audio
2970 malfunction in hearing room.]

2971 The {Chairman.} Gentleman withdraw his amendment?

2972 Mr. {Barton.} If there is no other discussion, Mr.--

2973 The {Chairman.} Right.

2974 Mr. {Pallone.} Mr. Chairman, if I could just strike the
2975 last word.

2976 The {Chairman.} Gentleman from New Jersey is recognized
2977 to strike the last word.

2978 Mr. {Collins.} New York, but that is close.

2979 The {Chairman.} No, no, no, no, no, I am going to New
2980 Jersey first and then to you. I see you here, but although I
2981 looked at you, I was listening to Mr. Pallone. Yeah.

2982 Mr. {Pallone.} Thank you. I just wanted to associate
2983 myself with the remarks that Ms. Eshoo made and with Mr.
2984 Barton as well. I do think that even with the Barton
2985 amendment the way it is set forth we still have the bad faith
2986 requirement, and I would like to remove that requirement
2987 altogether.

2988 So again, I wouldn't have opposed this, but I want

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2989 members to know that it doesn't resolve, you know, the
2990 fundamental issue with the bill, so I still would urge
2991 members to vote no on final passage while we are trying to
2992 work this out. But I do appreciate the fact, Mr. Chairman,
2993 that you and Mr. Barton are going to try to work with us on
2994 it.

2995 Can I ask a question though? If we are going to--if we
2996 are working this out, why do we need to pass the bill today?

2997 The {Chairman.} Time will help us. Time will help us.

2998 Mr. {Pallone.} Yeah, but I am saying does it--given
2999 that we are all in such good spirits here, why do we need to
3000 move to pass the bill?

3001 The {Chairman.} I think that is the Blackburn candy
3002 that passed down here--down the aisle.

3003 Mrs. {Blackburn.} That is right. I have more.

3004 Mr. {Pallone.} You have more? Okay. All right, well,
3005 in any case, let's work together, but at this point, the--
3006 obviously, I would encourage members to vote no on final.

3007 The {Chairman.} Gentleman from New York is recognized.

3008 Mr. {Collins.} Yeah, I am sorry about that mistake. I
3009 mean there are times people think the New York Jets are
3010 actually the New York Jets and the New Jersey Jets, so that
3011 was part of that confusion there.

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3012 As the representative of the only New York football
3013 team, the Buffalo Bills. But I want to thank the gentleman
3014 from Texas for introducing this. I have many of the same
3015 concerns. Someone that has spent my entire life in the
3016 business world, my worry is that the issue of intent, the
3017 burden falls on the person who received the demand letter,
3018 and to prove intent is a very difficult, if not impossible,
3019 hurdle to get across. So I am very happy to hear The
3020 Chairman agree to try to work through this so that we tighten
3021 down a little bit and put the onus where it should be; on the
3022 person sending the letters, and not on the poor innocent
3023 victim who is receiving these letters. So again, thank you
3024 for acknowledging this is an issue we need to address, and
3025 certainly I would like to put my 2 cents worth in at the
3026 right opportunity.

3027 And I yield back.

3028 The {Chairman.} Gentleman yields back. Does the
3029 gentleman from Texas withdraw his amendment?

3030 Mr. {Barton.} Mr. Chairman, I do withdraw the
3031 amendment.

3032 The {Chairman.} Amendment is withdrawn.

3033 Are there further amendments to the bill? Gentlelady
3034 from Illinois has an amendment. Schakowsky.

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3035 Ms. {Schakowsky.} Thank you, Mr. Chairman. I have an
3036 amendment at the desk. Common_01.

3037 The {Chairman.} Clerk will report the title of the
3038 amendment.

3039 The {Clerk.} Amendment to H.R. 2045, offered by Ms.
3040 Schakowsky.

3041 [The amendment of Ms. Schakowsky follows:]

3042 ***** INSERT 9 *****

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|

3043 The {Chairman.} And the amendment will be considered as
3044 read, and the gentlelady is recognized for 5 minutes in
3045 support of her amendment.

3046 Ms. {Schakowsky.} The draft bill includes a savings
3047 clause in Section 4(a)(2) that reflects the intent to
3048 preserve state common law and state general consumer
3049 protection laws. And I agree with Chairman Burgess that this
3050 law should not preempt common law or state consumer
3051 protection laws.

3052 Here is the problem. The language in the preemption
3053 provision itself plainly preempts state common law. The
3054 terms ``requirement, standard, and other provision' having
3055 the force and effect of law'' have been held by the U.S.
3056 Supreme Court to encompass common law. So these 2 paragraphs
3057 are in direct conflict with each other. I don't think we
3058 should be voting on a draft bill that contains inconsistent
3059 or actually conflicting language. So unless we correct the
3060 language, the preemption provision will, at best, be open for
3061 unnecessary litigation, and ultimately left to judicial
3062 interpretation, which may not reflect the intent of the
3063 drafters.

3064 Therefore, the amendment I am offering today simply

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3065 makes the intent to preserve common law clear. It removes
3066 the conflicting language and closes the door for protracted
3067 legal battles over the intended scope of the preemption, and
3068 we should strive to limit inconsistencies whenever possible.
3069 We must ensure that federal legislation does not weaken
3070 consumer protections by, I think, unintentionally limiting
3071 the state enforcement authority.

3072 And I urge all my colleagues to support this amendment.

3073 The {Chairman.} Does the gentlelady yield back?

3074 Ms. {Schakowsky.} Yes, I am sorry. And I yield--or to
3075 anyone.

3076 The {Chairman.} Frank, do you want to--

3077 Mr. {Pallone.} Could--would the gentlewoman yield to
3078 me?

3079 Ms. {Schakowsky.} Yes, of course.

3080 Mr. {Pallone.} I just--I don't want to repeat what Ms.
3081 Schakowsky said, but I think that, you know, basically, she
3082 is correct and she is saying that the preemption language
3083 contradicts the savings clause, and her amendment ensures
3084 that the intent, which I believe is the intent to preserve
3085 common law and state general consumer protection law, is
3086 preserved. So I would urge my colleagues to join us in
3087 supporting this amendment. You--it is her--

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3088 Ms. {Schakowsky.} Reclaiming my time. In some ways,
3089 you could consider this kind of a technical amendment that
3090 makes the bill consistent, and does what seems to be--an idea
3091 that has been expressed on both sides of the aisle, that
3092 common law should be protected. And--

3093 Mr. {Pallone.} The gentleman from Vermont--

3094 Ms. {Schakowsky.} --I yield back.

3095 Mr. {Pallone.} Do you want time? Did you want to
3096 yield?

3097 Ms. {Schakowsky.} I am sorry, did--Pete--

3098 {Voice.} Well, how much time?

3099 Ms. {Schakowsky.} Mr. Welch, did you want time?

3100 Mr. {Welch.} Yeah. Thank you.

3101 I will support the amendment. I am frustrated and
3102 disappointed in the bill. I--this is a problem we all know
3103 exists, and here is what has happened. We had 2 competing
3104 groups in here. We had some of the companies that had very
3105 valuable patents that they legitimately want to protect. We
3106 had a lot of the small guys, including like low-income,
3107 nonprofits, who were on the receiving end of the patent
3108 trolls, that are pumped out by ``lawyers'' that operate
3109 basically out of shopping centers or in trailers, just kind
3110 of reach out and rip off people. And we had to find a

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3111 balance because the big patent holders, with legitimate
3112 patent protection requirements, don't want to have a standard
3113 that will, in any way, even possibly interfere with what they
3114 see as their rights.

3115 On the other hand, the patent trolls, without strong
3116 legislation, are going to continue to essentially prey on the
3117 small companies and the nonprofits. And the question is
3118 where is the balance? And here is the deal. We didn't
3119 strike the balance. The big companies, they can protect it,
3120 they have a muscled-up patent department. If one of those
3121 shopping center lawyers sends a letter to one of these big
3122 companies, they have a whole operation with really smart
3123 lawyers, really well-funded systems, where they are going to
3124 crush that patent troll. But if is the Lincoln Street
3125 nonprofit and they get the letter, they are terrified. It is
3126 literally somebody making \$20,000 a year and volunteering an
3127 immense amount of time to help disabled kids, or it is a
3128 small business with folks that don't have a patent law
3129 operation. So should we have the balance be a little bit
3130 more on the side of the little guy, the nonprofit, or are we
3131 going to resolve every benefit of the doubt in favor of these
3132 companies that, yes, they have legitimate patent protection
3133 needs, but they have an enormous capacity to protect them?

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3134 So I would like to see us go back to the drawing board
3135 on the bill and try to help out the folks in all of our
3136 districts who are just getting hammered by patent troll
3137 abuse.

3138 I yield back.

3139 The {Chairman.} Gentlelady's time has expired.

3140 Other members wishing to speak on the amendment? Dr.
3141 Burgess is recognized for 5 minutes.

3142 Mr. {Burgess.} Mr. Chairman, I do believe the
3143 appropriate way to address this issue is at the federal
3144 level, and set a national standard that is enforced by the
3145 Federal Trade Commission and State Attorneys General.

3146 This issue epitomizes the impact of interstate commerce
3147 on local businesses. A patent assertion entity sending
3148 thousands of letters from one location across the country
3149 should not be able to hide, depending upon which states have
3150 passed laws and what standards are set in those laws. We are
3151 talking about a federally conferred right created by the
3152 Constitution. The effectiveness of existing state laws is
3153 still unclear. It is very possible that the federal courts
3154 will find that the states are preempted from acting in this
3155 space as a result of some previously established legal
3156 doctrines.

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3157 And, Mr. Chairman, if I could, I also want to take a
3158 moment and--I know I introduced these at the subcommittee
3159 level, but for the benefit of people here at the full
3160 committee level, I have letters of support for the underlying
3161 bill from the Coalition for 21st Century Patent Reform, The
3162 American Conservative Union, The American Intellectual
3163 Property Law Association, The Eagle Forum, and The Innovation
3164 Alliance, and I would ask unanimous consent those be inserted
3165 into the record.

3166 The {Chairman.} Gentleman yields back?

3167 Mr. {Burgess.} I ask unanimous consent that these
3168 letters--

3169 The {Chairman.} Without objection.

3170 [The information follows:]

3171 ***** COMMITTEE INSERT *****

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|

3172 Mr. {Burgess.} Thank you, Mr. Chairman. I will yield
3173 back.

3174 The {Chairman.} Gentleman yields back.

3175 Other members wishing to speak on the bill? Gentleman
3176 from Washington.

3177 Mr. {Schrader.} Close enough. Oregon.

3178 Would just like to reiterate briefly what Peter Welch
3179 said. You have a conservative blue dog democrat agreeing
3180 with a liberal wild fanatic from Vermont that is on the more
3181 passionate side, and I think that speaks volumes. This is
3182 something I think we all want to get resolved. Didn't quite
3183 happen in the way that some of us would have liked. I
3184 appreciate the good efforts. I agree with Mr. Burgess, we
3185 need a federal solution to this because this is federal law,
3186 and should have a federal solution to it at the end of the
3187 day. But it doesn't quite strike the right balance, and
3188 sorry for that, I would like to work on this bill a little
3189 bit more.

3190 And I yield back.

3191 The {Chairman.} Thank the gentleman from the good State
3192 of Oregon.

3193 Other members wishing to speak? Gentleman from New

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3194 Jersey.

3195 Mr. {Lance.} Thank you, Mr. Chairman.

3196 I want to commend Dr. Burgess on all the work that he
3197 has done on this bill, and I associate myself with his
3198 remarks. It seems to me that a patchwork of state laws is
3199 not the most effective way to address this issue, and really,
3200 the effectiveness of existing state laws is still unclear.
3201 It is quite possible that the federal courts will find that
3202 the states are preempted from acting in this space as a
3203 result of the Noerr-Pennington Doctrine, and if this were to
3204 happen, it would leave states only able to act in the event
3205 of sham litigation, and that only applies if the patent
3206 assertion is objectively baseless. And, of course, this is
3207 an extremely high burden to carry, and was rejected as a
3208 standard by both the FTC and the recipient community very
3209 early in our negotiations.

3210 Seems to me, the 50 state laws with different court
3211 interpretations will add expense and complication to an
3212 already complicated field, and it has the potential of
3213 hurting innovation. Moreover, mistakes, innocent though they
3214 might be, will inevitably be made, adding additional costs.

3215 I support setting a single national standard that will
3216 ensure that we act to stop patent trolls. We are not adding

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3217 to the compliance burden or confusion for businesses.

3218 And, Mr. Chairman, I also note that the TROL Act's
3219 preemption clause only preempts common law expressly related
3220 to the transmission or contents of communications relating to
3221 the assertion of patent rights. I think that this is a good
3222 bill. I encourage further discussions, but I shall be
3223 supporting it, and I certainly support the tremendous work
3224 the chairman of the subcommittee, Dr. Burgess, has done.

3225 And finally, Mr. Chairman, I certainly agree with my
3226 colleague from the State of New York, Mr. Collins, that the
3227 only football team in New York is the Buffalo Bills, and we
3228 in New Jersey have 2 football teams; the Giants and the Jets.

3229 The {Chairman.} Gentleman's time is rapidly expiring.

3230 Are there other members wishing to speak on the
3231 amendment? Seeing none, the vote occurs on the amendment.

3232 Those in favor will say aye.

3233 {Voice.} Roll call.

3234 The {Chairman.} A roll call is asked for.

3235 Clerk will call the roll.

3236 The {Clerk.} Mr. Barton?

3237 [No response.]

3238 The {Clerk.} Mr. Whitfield?

3239 [No response.]

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3240 The {Clerk.} Mr. Shimkus?

3241 Mr. {Shimkus.} No.

3242 The {Clerk.} Mr. Shimkus votes no.

3243 Mr. Pitts?

3244 Mr. {Pitts.} No.

3245 The {Clerk.} Mr. Pitts votes no.

3246 Mr. Walden?

3247 [No response.]

3248 The {Clerk.} Mr. Murphy?

3249 Mr. {Murphy.} No.

3250 The {Clerk.} Mr. Murphy votes no.

3251 Mr. Burgess?

3252 Mr. {Burgess.} No.

3253 The {Clerk.} Mr. Burgess votes no.

3254 Mrs. Blackburn?

3255 Mrs. {Blackburn.} No.

3256 The {Clerk.} Mrs. Blackburn votes no.

3257 Mr. Scalise?

3258 [No response.]

3259 The {Clerk.} Mr. Latta?

3260 Mr. {Latta.} No.

3261 The {Clerk.} Mr. Latta votes no.

3262 Mrs. McMorris Rodgers?

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

3263 Mrs. {McMorris Rodgers.} No.

3264 The {Clerk.} Mrs. McMorris Rodgers votes no.

3265 Mr. Harper?

3266 Mr. {Harper.} No.

3267 The {Clerk.} Mr. Harper votes no.

3268 Mr. Lance?

3269 Mr. {Lance.} No.

3270 The {Clerk.} Mr. Lance votes no.

3271 Mr. Guthrie?

3272 [No response.]

3273 The {Clerk.} Mr. Olson?

3274 Mr. {Olson.} No.

3275 The {Clerk.} Mr. Olson votes no.

3276 Mr. McKinley?

3277 Mr. {McKinley.} No.

3278 The {Clerk.} Mr. McKinley votes no.

3279 Mr. Pompeo?

3280 [No response.]

3281 The {Clerk.} Mr. Kinzinger?

3282 [No response.]

3283 The {Clerk.} Mr. Griffith?

3284 Mr. {Griffith.} No.

3285 The {Clerk.} Mr. Griffith votes no.

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

3286 Mr. Bilirakis?

3287 Mr. {Bilirakis.} No.

3288 The {Clerk.} Mr. Bilirakis votes no.

3289 Mr. Johnson? Mr. Johnson?

3290 Mr. {Johnson.} No.

3291 The {Clerk.} Mr. Johnson votes no.

3292 Mr. Long?

3293 Mr. {Long.} No.

3294 The {Clerk.} Mr. Long votes no.

3295 Mrs. Ellmers?

3296 Mrs. {Ellmers.} No.

3297 The {Clerk.} Mrs. Ellmers votes no.

3298 Mr. Bucshon?

3299 Mr. {Bucshon.} No.

3300 The {Clerk.} Mr. Bucshon votes no.

3301 Mr. Flores?

3302 Mr. {Flores.} No.

3303 The {Clerk.} Mr. Flores votes no.

3304 Mrs. Brooks?

3305 Mrs. {Brooks.} No.

3306 The {Clerk.} Mrs. Brooks votes no.

3307 Mr. Mullin?

3308 Mr. {Mullin.} No.

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3309 The {Clerk.} Mr. Mullin votes no.
3310 Mr. Hudson?
3311 [No response.]
3312 The {Clerk.} Mr. Collins?
3313 Mr. {Collins.} No.
3314 The {Clerk.} Mr. Collins votes no.
3315 Mr. Cramer?
3316 Mr. {Cramer.} No.
3317 The {Clerk.} Mr. Cramer votes no.
3318 Mr. Pallone?
3319 Mr. {Pallone.} Aye.
3320 The {Clerk.} Mr. Pallone votes aye.
3321 Mr. Rush?
3322 Mr. {Rush.} Aye.
3323 The {Clerk.} Mr. Rush votes aye.
3324 Ms. Eshoo?
3325 Ms. {Eshoo.} Aye.
3326 The {Clerk.} Ms. Eshoo votes aye.
3327 Mr. Engel?
3328 [No response.]
3329 The {Clerk.} Mr. Green?
3330 Mr. {Green.} Aye.
3331 The {Clerk.} Mr. Green votes aye.

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3332 Ms. DeGette?

3333 Ms. {DeGette.} Aye.

3334 The {Clerk.} Ms. DeGette votes aye.

3335 Mrs. Capps.

3336 Mrs. {Capps.} Aye.

3337 The {Clerk.} Mrs. Capps votes aye.

3338 Mr. Doyle?

3339 Mr. {Doyle.} Yes.

3340 The {Clerk.} Mr. Doyle votes aye.

3341 Ms. Schakowsky.

3342 Ms. {Schakowsky.} Aye.

3343 The {Clerk.} Ms. Schakowsky votes aye.

3344 Mr. Butterfield?

3345 Mr. {Butterfield.} Aye.

3346 The {Clerk.} Mr. Butterfield votes aye.

3347 Ms. Matsui?

3348 Ms. {Matsui.} Aye.

3349 The {Clerk.} Ms. Matsui votes aye.

3350 Ms. Castor?

3351 Ms. {Castor.} Aye.

3352 The {Clerk.} Ms. Castor votes aye.

3353 Mr. Sarbanes?

3354 [No response.]

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

- 3355 The {Clerk.} Mr. McNerney?
- 3356 Mr. {McNerney.} Aye.
- 3357 The {Clerk.} Mr. McNerney votes aye.
- 3358 Mr. Welch?
- 3359 Mr. {Welch.} Aye.
- 3360 The {Clerk.} Mr. Welch votes aye.
- 3361 Mr. Lujan?
- 3362 Mr. {Lujan.} Aye.
- 3363 The {Clerk.} Mr. Lujan votes aye.
- 3364 Mr. Tonko?
- 3365 [No response.]
- 3366 The {Clerk.} Mr. Yarmuth?
- 3367 [No response.]
- 3368 The {Clerk.} Ms. Clarke?
- 3369 Ms. {Clarke.} Aye.
- 3370 The {Clerk.} Ms. Clarke votes aye.
- 3371 Mr. Loeb sack?
- 3372 Mr. {Loeb sack.} Aye.
- 3373 The {Clerk.} Mr. Loeb sack votes aye.
- 3374 Mr. Schrader?
- 3375 Mr. {Schrader.} Aye.
- 3376 The {Clerk.} Mr. Schrader votes aye.
- 3377 Mr. Kennedy?

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- 3378 Mr. {Kennedy.} Aye.
- 3379 The {Clerk.} Mr. Kennedy votes aye.
- 3380 Mr. Cardenas?
- 3381 Mr. {Cardenas.} Aye.
- 3382 The {Clerk.} Mr. Cardenas votes aye.
- 3383 Chairman Upton?
- 3384 The {Chairman.} Votes no.
- 3385 The {Clerk.} Chairman Upton votes no.
- 3386 The {Chairman.} Other members wishing to vote?
- 3387 Gentleman from Maryland, Mr. Sarbanes?
- 3388 Mr. {Sarbanes.} Aye.
- 3389 The {Clerk.} Mr. Sarbanes votes aye.
- 3390 The {Chairman.} Gentleman--Mr. Guthrie?
- 3391 Mr. {Guthrie.} No.
- 3392 The {Clerk.} Mr. Guthrie votes no.
- 3393 The {Chairman.} Mr. Walden?
- 3394 Mr. {Walden.} Walden votes no.
- 3395 The {Clerk.} Mr. Walden votes no.
- 3396 The {Chairman.} Mr. Kinzinger?
- 3397 Mr. {Kinzinger.} No.
- 3398 The {Clerk.} Mr. Kinzinger votes no.
- 3399 The {Chairman.} Mr. Whitfield?
- 3400 Mr. {Whitfield.} No.

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3401 The {Clerk.} Mr. Whitfield votes no.

3402 The {Chairman.} Other members wishing to cast a vote?

3403 Mr. Tonko?

3404 Mr. {Tonko.} Yes.

3405 The {Clerk.} Mr. Tonko votes aye.

3406 The {Chairman.} Other members? Seeing--Mr. Barton, how

3407 does Mr. Barton vote? No. Mr. Barton votes no.

3408 The {Clerk.} Mr. Barton votes no.

3409 The {Chairman.} The clerk will report the tally. I

3410 think we--she is tallying up, I think that was the last

3411 amendment, so we will go right to final and roll call.

3412 Right? Yeah.

3413 Mr. {Hudson.} Mr. Chairman.

3414 The {Chairman.} Mr. Hudson. Mr. Hudson--

3415 Mr. {Hudson.} No.

3416 The {Chairman.} --votes no.

3417 The {Clerk.} Mr. Hudson votes no. Mr. Chairman, on

3418 that vote there were 21 ayes and 29 nays.

3419 The {Chairman.} Twenty-one ayes, 29 nays. The

3420 amendment is not agreed to.

3421 Are there further amendments to the bill? Seeing none,

3422 the question now occurs on favorably reporting H.R. 2045 to

3423 the House. And we will have a roll call vote.

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3424 All those in favor will say aye.

3425 Those opposed, say no.

3426 The clerk will call the roll.

3427 The {Clerk.} Mr. Barton?

3428 Mr. {Barton.} Aye.

3429 The {Clerk.} Mr. Barton votes aye.

3430 Mr. Whitfield?

3431 Mr. {Whitfield.} Aye.

3432 The {Clerk.} Mr. Whitfield votes aye.

3433 Mr. Shimkus?

3434 Mr. {Shimkus.} Aye.

3435 The {Clerk.} Mr. Shimkus votes aye.

3436 Mr. Pitts?

3437 Mr. {Pitts.} Aye.

3438 The {Clerk.} Mr. Pitts votes aye.

3439 Mr. Walden?

3440 Mr. {Walden.} Aye.

3441 The {Clerk.} Mr. Walden votes aye.

3442 Mr. Murphy?

3443 Mr. {Murphy.} Aye.

3444 The {Clerk.} Mr. Murphy votes aye.

3445 Mr. Burgess?

3446 Mr. {Burgess.} Aye.

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3447 The {Clerk.} Mr. Burgess votes aye.
3448 Mrs. Blackburn?
3449 Mrs. {Blackburn.} Aye.
3450 The {Clerk.} Mrs. Blackburn votes aye.
3451 Mr. Scalise?
3452 [No response.]
3453 The {Clerk.} Mr. Latta?
3454 Mr. {Latta.} Aye.
3455 The {Clerk.} Mr. Latta votes aye.
3456 Mrs. McMorris Rodgers?
3457 Mrs. {McMorris Rodgers.} Aye.
3458 The {Clerk.} Mrs. McMorris Rodgers votes aye.
3459 Mr. Harper?
3460 Mr. {Harper.} Aye.
3461 The {Clerk.} Mr. Harper votes aye.
3462 Mr. Lance?
3463 Mr. {Lance.} Aye.
3464 The {Clerk.} Mr. Lance votes aye.
3465 Mr. Guthrie?
3466 Mr. {Guthrie.} Aye.
3467 The {Clerk.} Mr. Guthrie votes aye.
3468 Mr. Olson?
3469 Mr. {Olson.} Aye.

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

3470 The {Clerk.} Mr. Olson votes aye.
3471 Mr. McKinley?
3472 Mr. {McKinley.} Aye.
3473 The {Clerk.} Mr. McKinley votes aye.
3474 Mr. Pompeo?
3475 [No response.]
3476 The {Clerk.} Mr. Kinzinger?
3477 Mr. {Kinzinger.} Aye.
3478 The {Clerk.} Mr. Kinzinger votes aye.
3479 Mr. Griffith?
3480 Mr. {Griffith.} Aye.
3481 The {Clerk.} Mr. Griffith votes aye.
3482 Mr. Bilirakis?
3483 Mr. {Bilirakis.} Aye.
3484 The {Clerk.} Mr. Bilirakis votes aye.
3485 Mr. Johnson?
3486 Mr. {Johnson.} Aye.
3487 The {Clerk.} Mr. Johnson votes aye.
3488 Mr. Long? Mr. Long?
3489 Mr. {Long.} Yes.
3490 The {Clerk.} Mr. Long votes aye.
3491 Mrs. Ellmers?
3492 Mrs. {Ellmers.} Aye.

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3493 The {Clerk.} Mrs. Ellmers votes aye.
3494 Mr. Bucshon?
3495 Mr. {Bucshon.} Aye.
3496 The {Clerk.} Mr. Bucshon votes aye.
3497 Mr. Flores?
3498 Mr. {Flores.} Aye.
3499 The {Clerk.} Mr. Flores votes aye.
3500 Mrs. Brooks?
3501 Mrs. {Brooks.} Aye.
3502 The {Clerk.} Mrs. Brooks votes aye.
3503 Mr. Mullin?
3504 Mr. {Mullin.} Aye.
3505 The {Clerk.} Mr. Mullin votes aye.
3506 Mr. Hudson?
3507 Mr. {Hudson.} Aye.
3508 The {Clerk.} Mr. Hudson votes aye.
3509 Mr. Collins?
3510 Mr. {Collins.} Aye.
3511 The {Clerk.} Mr. Collins votes aye.
3512 Mr. Cramer?
3513 Mr. {Cramer.} Aye.
3514 The {Clerk.} Mr. Cramer votes aye.
3515 Mr. Pallone?

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3516 Mr. {Pallone.} No.

3517 The {Clerk.} Mr. Pallone votes no.

3518 Mr. Rush?

3519 Mr. {Rush.} No.

3520 The {Clerk.} Mr. Rush votes no.

3521 Ms. Eshoo?

3522 Ms. {Eshoo.} No.

3523 The {Clerk.} Ms. Eshoo votes no.

3524 Mr. Engel?

3525 Mr. {Engel.} No.

3526 The {Clerk.} Mr. Engel votes no.

3527 Mr. Green?

3528 Mr. {Green.} No.

3529 The {Clerk.} Mr. Green votes no.

3530 Ms. DeGette?

3531 Ms. {DeGette.} No.

3532 The {Clerk.} Ms. DeGette votes no.

3533 Mrs. Capps? Mrs. Capps?

3534 Mrs. {Capps.} No.

3535 The {Clerk.} Mrs. Capps votes no.

3536 Mr. Doyle?

3537 Mr. {Doyle.} No.

3538 The {Clerk.} Mr. Doyle votes no.

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

3539 Ms. Schakowsky.

3540 Ms. {Schakowsky.} No.

3541 The {Clerk.} Ms. Schakowsky votes no.

3542 Mr. Butterfield?

3543 Mr. {Butterfield.} No.

3544 The {Clerk.} Mr. Butterfield votes no.

3545 Ms. Matsui?

3546 Ms. {Matsui.} No.

3547 The {Clerk.} Ms. Matsui votes no.

3548 Ms. Castor?

3549 Ms. {Castor.} No.

3550 The {Clerk.} Ms. Castor votes no.

3551 Mr. Sarbanes?

3552 Mr. {Sarbanes.} No.

3553 The {Clerk.} Mr. Sarbanes votes no.

3554 Mr. McNerney?

3555 Mr. {McNerney.} No.

3556 The {Clerk.} Mr. McNerney votes no.

3557 Mr. Welch?

3558 Mr. {Welch.} No.

3559 The {Clerk.} Mr. Welch votes no.

3560 Mr. Lujan?

3561 Mr. {Lujan.} No.

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

3562 The {Clerk.} Mr. Lujan votes no.
3563 Mr. Tonko?
3564 Mr. {Tonko.} No.
3565 The {Clerk.} Mr. Tonko votes no.
3566 Mr. Yarmuth?
3567 [No response.]
3568 The {Clerk.} Ms. Clarke?
3569 Ms. {Clarke.} No.
3570 The {Clerk.} Ms. Clarke votes no.
3571 Mr. Loeb sack?
3572 Mr. {Loeb sack.} No.
3573 The {Clerk.} Mr. Loeb sack votes no.
3574 Mr. Schrader?
3575 Mr. {Schrader.} No.
3576 The {Clerk.} Mr. Schrader votes no.
3577 Mr. Kennedy?
3578 Mr. {Kennedy.} No.
3579 The {Clerk.} Mr. Kennedy votes no.
3580 Mr. Cardenas?
3581 Mr. {Cardenas.} No.
3582 The {Clerk.} Mr. Cardenas votes no.
3583 Chairman Upton?
3584 The {Chairman.} Votes aye.

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3585 The {Clerk.} Chairman Upton votes aye.

3586 The {Chairman.} Other members wishing to cast a vote?

3587 Mr. Scalise?

3588 The {Clerk.} Mr. Scalise?

3589 Mr. {Scalise.} Aye.

3590 The {Clerk.} Mr. Scalise votes aye.

3591 The {Chairman.} Other members wishing to cast a vote?

3592 Seeing none, the clerk will report the tally.

3593 The {Clerk.} Mr. Chairman, on that vote there were 30

3594 ayes and 22 nays.

3595 The {Chairman.} Thirty ayes, 22 nays. The bill is

3596 favorably reported. And without objection, staff is

3597 authorized to make technical and conforming changes to the

3598 bills reported by the committee today. So ordered.

3599 Pursuant to House Rule 1121, all members will be given 2

3600 calendar days to file written and signed views of the bills

3601 approved by the committee today.

3602 Without objection, the committee stands adjourned.

3603 [Whereupon, at 3:28 p.m., the Committee was adjourned.]