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RPTS WALTER

HIF119000

MARKUP OF:

H.R. 4978, NURTURING AND SUPPORTING HEALTHY  
BABIES ACT;

H.R. 4641, TO PROVIDE FOR THE ESTABLISHMENT  
OF AN INTER-AGENCY TASK FORCE TO REVIEW,  
MODIFY, AND UPDATE BEST PRACTICES FOR PAIN  
MANAGEMENT AND PRESCRIBING PAIN MEDICATION,  
AND FOR OTHER PURPOSES, AS AMENDED BY THE  
SUBCOMMITTEE ON HEALTH;

H.R. 3680, CO-PRESCRIBING TO REDUCE  
OVERDOSES ACT OF 2015, AS AMENDED BY THE  
SUBCOMMITTEE ON HEALTH;

H.R. 3691, IMPROVING TREATMENT FOR PREGNANT  
AND POSTPARTUM WOMEN ACT;

H.R. 1818, VETERAN EMERGENCY MEDICAL  
TECHNICIAN SUPPORT ACT OF 2015;

H.R. 4981, OPIOID USE DISORDER TREATMENT  
EXPANSION AND MODERNIZATION ACT, AS AMENDED  
BY THE SUBCOMMITTEE ON HEALTH;

H.R. 3250, DXM ABUSE PREVENTION ACT OF 2015;

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26 H.R. 4969, JOHN THOMAS DECKER ACT OF 2016,  
27 AS AMENDED BY THE SUBCOMMITTEE ON HEALTH;  
28 H.R. 4586, LALI=S LAW, AS AMENDED BY THE  
29 SUBCOMMITTEE ON HEALTH;  
30 H.R. 4599, REDUCING UNUSED MEDICATIONS ACT  
31 OF 2016, AS AMENDED BY THE SUBCOMMITTEE ON  
32 HEALTH;  
33 H.R. 4976, OPIOID REVIEW MODERNIZATION ACT  
34 OF 2016;  
35 H.R. 4982, EXAMINING OPIOID TREATMENT  
36 INFRASTRUCTURE ACT OF 2016;  
37 H.R. 4889, THE KELSEY SMITH ACT OF 2016, AS  
38 AMENDED BY THE SUBCOMMITTEE ON  
39 COMMUNICATIONS AND TECHNOLOGY;  
40 H.R. 4167, KARI=S LAW ACT OF 2015;  
41 H.R. 4111, RURAL HEALTH CARE CONNECTIVITY  
42 ACT OF 2015;  
43 H.R. 4190, SPECTRUM CHALLENGE PRIZE ACT OF  
44 2015;  
45 H.R. 3998, SECURING ACCESS TO NETWORKS IN  
46 DISASTERS ACT;  
47 H.R. 2031, ANTI-SWATTING ACT OF 2015;  
48 H.R. 2589, A BILL TO AMEND THE  
49 COMMUNICATIONS ACT OF 1943 TO REQUIRE THE  
50 FEDERAL COMMUNICATIONS COMMISSION TO PUBLISH

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51 ON ITS INTERNET WEBSITE CHANGES TO THE RULES  
52 OF THE COMMISSION NOT LATER THAN 24 HOURS  
53 AFTER ADOPTION;  
54 H.R. 2592, A BILL TO AMEND THE  
55 COMMUNICATIONS ACT OF 1934 TO REQUIRE THE  
56 FEDERAL COMMUNICATIONS COMMISSION TO PUBLISH  
57 ON THE WEBSITE OF THE COMMISSION DOCUMENTS  
58 TO BE VOTED ON BY THE COMMISSION;  
59 H.R. 2593, A BILL TO AMEND THE  
60 COMMUNICATIONS ACT OF 1934 TO REQUIRE  
61 IDENTIFICATION AND DESCRIPTION ON THE  
62 WEBSITE OF THE FEDERAL COMMUNICATIONS  
63 COMMISSION OF ITEMS TO BE DECIDED ON  
64 AUTHORITY DELEGATED BY THE COMMISSION; and,  
65 H.R. \_\_\_\_\_, PIPELINE SAFETY ACT OF 2016  
66 THURSDAY, APRIL 28, 2016  
67 House of Representatives,  
68 Committee on Energy and Commerce  
69 Washington, D.C.

70  
71  
72  
73 The committee met, pursuant to call, at 10:00 a.m., in Room  
74 2123 Rayburn House Office Building, Hon. Fred Upton [chairman of  
75 the committee] presiding.

Members present: Representatives Upton, Barton, Whitfield, Shimkus, Pitts, Walden, Murphy, Burgess, Blackburn, Scalise, Latta, McMorris Rodgers, Harper, Lance, Guthrie, Olson, McKinley, Pompeo, Kinzinger, Griffith, Bilirakis, Johnson, Long, Ellmers, Bucshon, Flores, Brooks, Mullin, Hudson, Collins, Cramer, Pallone, Rush, Eshoo, Engel, Green, DeGette, Capps, Doyle, Schakowsky, Butterfield, Matsui, Castor, Sarbanes, McNerney, Welch, Lujan, Tonko, Yarmuth, Clarke, Loeb sack, Schrader, Kennedy, and Cardenas.

Staff present: Gary Andres, Staff Director; Will Batson, Legislative Clerk, Energy and Power, Environment and the Economy; Mike Bloomquist, Deputy Staff Director; Leighton Brown, Deputy Press Secretary; Rebecca Card, Assistant Press Secretary; Karen Christian, General Counsel; Paul Edattel, Chief Counsel, Health; Gene Fullano, Detailee, Telecom; Giulia Giannangeli, Legislative Clerk, Commerce, Manufacturing, and Trade; Kelsey Guyselman, Counsel, Telecom; Peter Kielty, Deputy General Counsel; Grace Koh, Counsel, Telecom; David McCarthy, Chief Counsel, Environment and the Economy; Tim Pataki, Professional Staff Member; Graham Pittman, Legislative Clerk; David Redl, Chief Counsel, Telecom; Chris Sarley, Policy Coordinator, Environment and the Economy; Charlotte Savercool, Professional Staff, Communications and Technology; Heidi Stirrup, Health Policy Coordinator; Dylan Vorbach, Deputy Press Secretary; Gregory Watson, Legislative Clerk, Communications and Technology; Jen Berenholz, Minority

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Chief Clerk; Jeff Carroll, Minority Staff Director; Elizabeth Ertel, Minority Deputy Clerk; Kyle Fischer, Minority Health Fellow; David Goldman, Minority Chief Counsel, Communications and Technology; Waverly Gordon, Minority Professional Staff Member; Tiffany Guarascio, Minority Deputy Staff Director and Chief Health Advisor; Jerry Leverich, Minority Counsel; Lori Maarbjerg, Minority FCC Detailee; Tim Robinson, Minority Chief Counsel; Samantha Satchell, Minority Policy Analyst; Matt Schumacher, Minority Press Assistant; Ryan Skukowski, Minority Senior Policy Analyst; and Andrew Souvall, Minority Director of Communications, Outreach and Member Services.

The Chairman. Thank you, Elizabeth. As much as I would like you to be my daughter because you are just as cute as my

126 daughter, you are not. But it is Bring Your Daughter To Work Day,  
127 and so this is Elizabeth. She is Jeff's daughter. Where did Jeff  
128 go? Oh, did you get a picture?

129 Voice. I did.

130 The Chairman. And so she is a Republican for at least a  
131 minute today, and she is going to help us out a little bit today  
132 too. Thank you. It is good to have you here.

133 All right. So the chair is going to call up H.R. 4889 as  
134 amended by the Subcommittee on Communications and Technology.

135 [The Bill H.R. 4889 follows:]

136

137 \*\*\*\*\*INSERT 1\*\*\*\*\*

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138           The Chairman. And I ask the clerk to -- and Elizabeth, are  
139 you going to go down and sit down with -- oh, are you going to  
140 sit here? Okay. Ask the Clerk to report.

141           The Clerk. H.R. 4889, to amend the Communications Act of  
142 1934 to require providers of a covered service to provide call  
143 location information concerning the telecommunications device of  
144 a user of such service to an investigative or law enforcement  
145 officer in an emergency situation involving risk of death or  
146 serious physical injury, or in order to respond the users call  
147 for emergency services.

148           The Chairman. And without objection, the first reading of  
149 the bill is dispensed with. The bill will be open for amendment  
150 at any point. Are there any bipartisan amendments to the bill?  
151 Are there any amendments to the bill?

152           Mr. Walden. Mr. Chairman.

153           The Chairman. The gentleman from Oregon is recognized.

154           Mr. Walden. Thank you, Mr. Chairman. I have an amendment  
155 at the desk, it is Hold Harmless-01.

156           [The Amendment offered by Mr. Walden follows:]

157

158 \*\*\*\*\*INSERT 2\*\*\*\*\*

159           The Chairman. The clerk will report the title of the  
160 amendment.

161           The Clerk. Amendment H.R. 4889 offered by Mr. Walden.

162           The Chairman. And the amendment will be considered as read.  
163 The staff will distribute the amendment, and the gentleman from  
164 Oregon is recognized for 5 minutes.

165           Mr. Walden. Thank you, Mr. Chairman. This amendment  
166 inserts a small technical change to make the liability protection  
167 of the bill consistent with that adopted in previous iterations  
168 and at the state level in multiple states. It is a change that  
169 we have discussed with our minority colleagues and accurately  
170 reflects our agreement on the Hold Harmless provision, and so I  
171 would urge my colleagues to support this amendment.

172           In addition, Mr. Chairman, I have a number of letters for  
173 in support of the Kelsey Smith Act that I would like to ask  
174 unanimous consent be entered into the record.

175           The Chairman. Without objection.

176           [The information follows:]

177

178 \*\*\*\*\*COMMITTEE INSERT 3\*\*\*\*\*



179 Mr. Walden. And with that I would call on my colleagues to  
180 support the amendment and yield back the balance of my time.

181 The Chairman. Other members wishing to speak on the  
182 amendment? Seeing none -- oh, the gentleman from Texas.

183 Mr. Barton. And I will be brief, Mr. Chairman. I had  
184 informed my staff to inform your staff and the subcommittee staff  
185 that I would oppose this bill today. My legislative director did  
186 an unusual thing. She asked me to read the bill and I did read  
187 the bill, and when I read the bill I realized that it was only  
188 if somebody made a 911 call requesting assistance, so that  
189 obviously if you are making a 911 call you want the law enforcement  
190 people to know where you are, you want them to get to you.

191 And so I want to apologize to you and your staff because  
192 yesterday afternoon we burned up the lines trying to figure out  
193 a way for me to offer some amendments, but when I actually sat  
194 down and read the bill I am now totally supportive of the bill.

195 The Chairman. Well, normally you are an engineer from A&M,  
196 I am glad that you have read it.

197 Mr. Barton. So I am open-minded enough on occasion to do  
198 the right thing and to read this, and this is a good piece of  
199 legislation so I support it. And I support the Manager's  
200 Amendment.

201 The Chairman. Right, thank you. The gentleman yields back  
202 his time. Others wishing to speak on the amendment by the  
203 gentleman from Oregon? Seeing none, the vote occurs on the

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204 amendment.

205 Those in favor will say aye.

206 Those opposed say no.

207 In the opinion of the chair, the ayes have it and the  
208 amendment is agreed to.

209 Are there further amendments to the bill? The gentleman  
210 from New Jersey has an amendment at the desk. And the clerk will  
211 report 01.

212 Mr. Pallone. Yes, it is 01.

213 [The Amendment offered by Mr. Pallone follows:]

214

215 \*\*\*\*\*INSERT 4\*\*\*\*\*

216 The Chairman. The clerk will report the title of the  
217 amendment.

218 The Clerk. Amendment to H.R. 4889 offered by Mr. Pallone.

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

222 Mr. Pallone. Thank you, Mr. Chairman. Last Congress, the  
223 committee considered another version of the Kelsey Smith Act and  
224 voted that bill out of committee on a voice vote, but we are not  
225 considering that version today. Today the bill before us does  
226 not follow the framework in that compromise. H.R. 4889  
227 disregards this committee's hard work on the Kelsey Smith Act.

228 When the committee first considered the Kelsey Smith Act it  
229 heard concerns about the bill's potential risk to consumers'  
230 privacy and Fourth Amendment rights, and the committee together  
231 in a bipartisan way to address some of these concerns and favorably  
232 reported the Kelsey Smith Act to the floor. This amendment would  
233 offer another opportunity to take up the compromise that was  
234 worked out last Congress. And the amendment requires that 48  
235 hours after law enforcement makes an emergency request that the  
236 officer making that request seek a court order stating whether  
237 he or she has probable cause to believe that there was in fact  
238 an emergency. As a result, the amendment addresses some of the  
239 concerns that civil liberties groups have raised regarding  
240 potential abuse in H.R. 4889, while also ensuring that law

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241 enforcement have quick access to lifesaving location data when  
242 they are presented with an emergent situation.

243         So I just wanted to stress again, Mr. Chairman, that nothing  
244 in my amendment would stop law enforcement from acting swiftly  
245 to get the accurate location data needed to respond to  
246 life-threatening emergencies. That is a goal that we all agree  
247 on. But at the subcommittee markup last week, concerns were  
248 raised about the impact my amendment would have on existing state  
249 laws, and I heard those concerns and have modified my amendment  
250 to include a savings clause to address that issue. So  
251 essentially, if states want to be more restrictive or less  
252 restrictive they can.

253         And again, understand that if it is a situation where they  
254 had an emergency, they went and got the information, and then they  
255 showed later that they did not have probable cause that doesn't  
256 preclude the information from being used. This is just a way of  
257 providing some privacy and Fourth Amendment rights without in any  
258 way limiting the ability to get the information in an emergency.  
259 I yield back, Mr. Chairman.

260         The Chairman. The gentleman yields back. Other members  
261 wishing to speak?

262         Mr. Walden. Mr. Chairman.

263         The Chairman. The gentleman from Oregon is recognized for  
264 5 minutes.

265         Mr. Walden. Thank you, Mr. Chairman. I appreciate that.

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266 I understand the concerns regarding privacy and I believe this  
267 bill strikes the right balance between safeguarding privacy and  
268 giving law enforcement the tools to save lives in an emergency.  
269 Let me explain why.

270 The circumstances where it applies are very narrow, only when  
271 the officers reasonably believe that there is substantial risk  
272 of death or serious physical harm. The data are accessible only  
273 very narrowly, only the location data of the device. This does  
274 not allow any access to data on the device, call records, text  
275 messages, emails, pictures, or any other personal data. All that  
276 is off limits. It simply pertains to the routine contact between  
277 the device and the cell tower.

278 So these are very targeted and very narrow and very specific  
279 parameters that will significantly limit and prevent overuse or  
280 abuse of this legislation. Now states have the discretion to  
281 adopt additional protections if they so wish. We allow that here.  
282 We do not preempt that ability. However, several of the states  
283 that have adopted a Kelsey Smith Act do not contain the additional  
284 requirements that the minority is requesting, and we believe we  
285 should not overrule the will of the states that have already made  
286 that decision as Oregon has.

287 This approach allows those states to keep their current law  
288 but does not prevent states that wish to adopt more stringent  
289 requirements for their officers from doing so. So the states can  
290 still adopt rules for law enforcement to follow when obtaining

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the data whether it is sworn statement or after-the-fact judicial approval of the request. Consequences already exist, they already exist for law enforcement officers who don't tell the truth or misrepresent circumstances to gain access to information.

So with that Mr. Chairman, I reluctantly must oppose the gentleman's amendment, and yield back.

The Chairman. The gentleman yields back. Other members wishing to speak on the amendment? The gentleman from Pennsylvania, Mr. Doyle, is recognized.

Mr. Doyle. Thank you, Mr. Chairman. I would like to strike the last word.

Mr. Chairman, I would like to speak in favor of the Pallone amendment. I believe that law enforcement deserves timely access to cell phone location data. In this day and age people are more likely to have their cell phones on them than their wallets, and in emergency situations I agree that this can really be the difference between life and death. However, I also believe that it is incumbent upon us to ensure that there is proper procedures in place to ensure this information is not abused.

I agree with many that say location data reveals a great deal about our personal lives and should be protected. This bill, as drafted, lacks critical safeguards to ensure that law enforcement does not abuse the privilege Congress is granting them. I supported the bipartisan version of this bill that we voted out

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316 of committee last year, but I have to tell you I have serious  
317 reservations about advancing this bill as is, and urge the  
318 chairman to work with us before this bill goes to the floor to  
319 come up with a compromise that balances our public safety while  
320 protecting America's privacy.

321 We heard at the hearing when we asked the gentleman in charge  
322 of Fairfax 911 if he had any objections to after-the-fact  
323 notification so that a person knows that if their location data  
324 has been revealed that they are notified of this, so that they  
325 know someone has done that and if there was no reason for that  
326 to be done that there is some recourse for them. We also asked  
327 that gentleman from Fairfax 911 if he had any problem with  
328 after-the-fact certifying that this was really an emergency. In  
329 both of those instances he said that wasn't a problem as far as  
330 he was concerned.

331 We all want to pass this bill and provide this lifesaving  
332 information for the families, so there is no argument about that.  
333 We are all in agreement about that. But I do think this becomes  
334 a much better bill when it addresses the privacy concerns after  
335 the fact, after we do the location data, and adds the critical  
336 safeguards to make sure that people's privacy is protected.

337 So Mr. Chairman, I hope we can work together between now and  
338 when the bill goes to the floor, and I thank you for the time and  
339 I yield back.

340 The Chairman. The gentleman yields back. Other members --

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341 the gentleman from Virginia.

342 Mr. Griffith. Thank you, Mr. Chairman, speaking to the  
343 amendment. Mr. Chairman, I think -- I am going to oppose the  
344 amendment, but I do think there is at least one point in there  
345 that we ought to take a look at and that is the paragraph dealing  
346 with form of request.

347 As the bill currently reads, the request theoretically could  
348 be an oral request. In an emergency you may want to do that, but  
349 I do think at some point there needs to be a written statement  
350 as to why you believe that there is an emergency situation. I  
351 think we can work on language to do that particularly for those  
352 areas that we have jurisdiction over.

353 I would also point out that one of my problems with the bill,  
354 and we may have passed it last year and I regret that I didn't  
355 read it more carefully last year, but when you start looking at  
356 the court order section, 48 hours may be good for Fairfax, as the  
357 gentleman just said Fairfax 911 said they didn't have a problem  
358 with it, but if you are in the rural part of the country the court  
359 of competent jurisdiction may not be there. Also, our paragraph  
360 doesn't say anything about which court. Obviously, we wouldn't  
361 want to have a bankruptcy court saying, oh yes, that is fine. It  
362 needs to be a court of competent jurisdiction.

363 So I have to oppose the amendment, but I do think that it  
364 wouldn't be a bad idea to have a sworn written statement. I don't  
365 care if it is electronic, so there is at least a record every time

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366 an officer makes such a request that there is a record of it so  
367 that later if you do have a civil liberties violation, which there  
368 are plenty of protections and Mr. Walden was absolutely correct  
369 on that if somebody abuses it, but it is nice to have a clear record  
370 as opposed to merely an oral statement.

371 So I am opposed to the amendment, but I do hope that we will  
372 continue to work to see if maybe we can figure out a way to have  
373 that written statement portion provided in our final bill, and  
374 I yield back.

375 The Chairman. The gentleman yields back. Further members  
376 wishing to speak on the amendment? Seeing none, the vote occurs  
377 on the amendment offered by the gentleman from New Jersey.

378 All those in favor will say aye.

379 Those opposed say no.

380 In the opinion of the chair, the noes have it. The noes have  
381 it, the amendment is not agreed to.

382 Are there further amendments to the bill? Seeing none, the  
383 question now occurs on favorably reporting H.R. 4889, as amended,  
384 to the House.

385 All those in favor shall signify by saying aye.

386 Those opposed say no.

387 The ayes appear to have it. The ayes have it, and the bill  
388 is favorably reported.

389 The chair will now call up H.R. 4167, and ask the clerk to  
390 report.

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391 [The Bill H.R. 4167 follows:]

392

393 \*\*\*\*\*INSERT 5\*\*\*\*\*

394           The Clerk. H.R. 4167, to amend the Communications Act of  
395 1934 to require multi-line telephone systems to have a default  
396 configuration that permits users to directly initiate a call to  
397 911 without dialing any additional digit, code, prefix, or  
398 post-fix, and for other purposes.

399           The Chairman. Without objection, the first reading of the  
400 bill is dispensed with. The bill will be open for amendment at  
401 any point. Are there any bipartisan amendments to the bill?

402           Mr. Walden. Yes, right?

403           The Chairman. Are there any amendments to the bill? The  
404 gentleman from Oregon is recognized to offer an amendment.

405           Mr. Walden. I do have a bipartisan amendment with Ms. Eshoo  
406 at the desk.

407           [The Amendment offered by Mr. Walden and Ms. Eshoo follows:]

408

409 \*\*\*\*\*INSERT 6\*\*\*\*\*

410           The Chairman. The clerk will report the title of the  
411 amendment.

412           The Clerk. Amendment to H.R. 4167 offered by Mr. Walden and  
413 Ms. Eshoo.

414           The Chairman. And without objection, the amendment, the  
415 bill is considered as read, and the gentleman from Oregon is  
416 recognized with the gentlelady from California, each for 5  
417 minutes, in support of the amendment.

418           Mr. Walden. I thank the gentleman, and I thank my colleague  
419 from California, Ms. Eshoo, who has been terrific to work with  
420 on this amendment and on other issues. I appreciate that.

421           I think this bill really comes about from a very, very tragic  
422 situation where we were shocked to hear in the testimony about  
423 a young girl who was in a hotel room with her parents and her  
424 estranged, well, her father who was estranged from the wife ended  
425 up stabbing and murdering the mother. She dialed 911  
426 repeatedly to try and get help, and tragically it didn't work  
427 because you have to dial 9 before 911 in some locations including  
428 the hotel where they were. Her mother died, she witnessed it,  
429 and her father told us in the testimony that how hard it was to  
430 have her sit on his lap, I believe at the police station, where  
431 she said, Papa, I tried.

432           See, most of us teach our kids to dial 911, not 9-911 or some  
433 other prefix. And out of this terrible tragedy comes this  
434 legislation because it turns out in most systems that we are

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affecting here today it is a simple reprogramming that is all you have to do and then 9 works, 911.

And so, Mr. Chairman, this legislation is important. Many states have adopted it. This gives us a national standard. And again, I thank my colleague from California for her help on this, and I would be happy to yield time to her if she would like to do it that way, or I will encourage my colleagues to support the bipartisan amendment and yield back.

So Ms. Eshoo, may I yield you time on this?

Ms. Eshoo. I thank you for yielding time to me, Mr. Chairman. I am pleased to be a co-sponsor of this amendment. It clarifies the bill and it also covers installers and operators of multi-line telephone systems in addition to manufacturers. These are good changes, and I know that most of the members probably don't know what we are talking about. I think that it improves the bill and I am pleased that the changes are really going to further the goal of enabling direct-dial dialing to 911 on these systems. I hope everyone understands that these multi-line telephone systems are exactly what we have on our desks in our offices, so that is why it is so important. It really covers a very large space in what we are talking about.

And I appreciate the bipartisan way the majority has worked with me and my staff to make sure these changes were made, and so I think between Mr. Walden and myself we all urge you to support this, and I thank the gentleman for yielding.

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460 Mr. Walden. I thank the gentlelady, and Mr. Chairman, I  
461 yield back the balance of my time and encourage my colleagues to  
462 support the bipartisan amendment.

463 The Chairman. The gentleman yields back. Other members  
464 wishing to speak on the amendment?

465 Ms. Eshoo. I haveB-

466 The Chairman. Did you wantB-

467 Ms. Eshoo. I have an amendmentB-

468 [The Amendment offered by Ms. Eshoo follows:]

469

470 \*\*\*\*\*INSERT 7\*\*\*\*\*

471 The Chairman. Oh, wait, we have got to dispense with --  
472 Ms. Eshoo. -- in the second degree.

473 The Chairman. -- yes. Oh, an amendment to the amendment?

474 Ms. Eshoo. Yes.

475 The Chairman. The gentlelady has an amendment to the  
476 amendment, so the clerk will report the title of the amendment.

477 The Clerk. Amendment to the amendment offered by Ms. Eshoo.

478 The Chairman. And without objection, the amendment to the  
479 amendment is considered as read and the staff will distribute the  
480 amendment to the amendment, and the gentlelady is recognized for  
481 5 minutes.

482 Ms. Eshoo. Thank you, Mr. Chairman. This amendment is  
483 really a very simple one, and I think a very important one. It  
484 requires the FCC to commence a proceeding on location accuracy  
485 for multi-line telephone systems within 180 days of the bill's  
486 enactment.

487 As the co-chair of the NextGen 9-1-1 Caucus, I think we need  
488 to take advantage of this opportunity to make location accuracy  
489 a standard feature in all multi-line telephone systems. When  
490 someone dials 911, first responders need to know where the  
491 individual is calling from. They need to do that by directly  
492 dialing 911, and we are curing any prefix to that, but especially  
493 if the caller is in a large building and is unable to communicate  
494 to the dispatcher exactly where they are or they simply don't know  
495 exactly where they are calling from.

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496 In an emergency we all know that seconds matter, minutes  
497 matter, and if first responders have to spend time searching  
498 buildings or going door-to-door that really can make a difference  
499 between life or death. And that has happened in our country.  
500 This isn't something that is made up. It is an issue that the  
501 FCC has been studying since 1994. That is 22 years.

502 So I think it is about time that we do something very positive  
503 about this and not keep on kicking the can down the road. I know  
504 that colleagues on both sides of the aisle care about this.  
505 Unfortunately we couldn't come, I thought we were going to come  
506 to an agreement, Mr. Shimkus and myself, but I don't think that  
507 the notice of inquiry moves the ball forward. In fact, it is Pete  
508 and Repeat, and that view is shared by the FCC and, very  
509 importantly, the public safety community.

510 In 2012, Congress directed the FCC to issue a public notice  
511 seeking comment on the feasibility of multi-line telephone  
512 systems to provide the precise location of a 911 caller. It was  
513 included in Section 6504(b) of the Middle Class Tax Relief and  
514 Job Creation Act of 2012, and it was modeled on legislation that  
515 I introduced with Mr. Shimkus known as the Next Generation 911  
516 Advancement Act of 2012.

517 So I also would like Mr. Chairman for unanimous consent that  
518 the FCC's 2012 public notice on location accuracy be placed into  
519 the record, and I think by doing so we will refresh the record  
520 on an FCC docket that is decades old.

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521 So IB-

522 The Chairman. Without objection.

523 [The information follows:]

524

525 \*\*\*\*\*COMMITTEE INSERT 8\*\*\*\*\*

Ms. Eshoo. Thank you, Mr. Chairman. As I said earlier, the amendment is a simple one and it says nothing about what the proceeding that the FCC should look at and what the FCC would require. In fact, if the FCC chooses to first conduct an NOI before proposing rules it could do so under my amendment. And I think that is where we have at least some common ground, Mr. Shimkus and I.

So obviously I don't think the status quo is defensible here. I think over 2 decades of kicking this issue around that we should take action. I want to remind my colleagues that the National Emergency Number Association called NENA, many of you have been to their receptions, recently proposed model legislation for Congress to enact to ensure that all multi-line telephone systems can provide a caller's location in the event of an emergency. And this legislation was proposed during NENA's 9-1-1 Goes to Washington fly-in in February of this year.

So I urge my colleagues to support this amendment which will bring us one step closer to finishing the work that began 22 years ago. I believe that it has the potential to save lives and protect the public, which is one of the basic responsibilities that we have.

Let's see, I have 24, 23 seconds, if anyone would like me to yield to them, otherwise I will yield back.

The Chairman. The gentlelady yields back. The chair recognizes Mr. Shimkus.

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551 Mr. Shimkus. Thank you, Mr. Chairman. Obviously there is  
552 no one that I work closer with, probably, on this full committee  
553 than with Congressman Eshoo, and so I don't question her  
554 commitment to the 911 cause or the policy itself. You know, this  
555 whole story and this law that is being proposed, the bill being  
556 proposed hopefully will be signed into law was, you know, brought  
557 to us by of all people, Louie Gohmert, who, you know, this happened  
558 in his district and to a constituent.

559 So the point being this, we know as Chairman Walden said that  
560 doing the 9-11 is a simple programming change. We don't know  
561 if identification location in multi-line systems is as simple.  
562 And there is some of us who are skeptical of the, I know it is  
563 hard to believe, skeptical on the FCC in proposed rulemaking. And  
564 so we don't have as great a confidence in the FCC as some folks  
565 on the other side too. So in our attempt to try to find middle  
566 ground it is let's do the inquiry, let's do the investigation,  
567 let's see what is needed. It could be very, very simple.  
568 Unfortunately that was rejected, and we are at the point now that  
569 I will ask my colleagues to vote against my colleague's amendment  
570 so that we can move this bill forward to the House floor and get  
571 it to the President's desk. And with that, Mr. Chairman, I yield  
572 back my time.

573 Ms. Eshoo. Will the gentleman yield?

574 Mr. Shimkus. I would be happy to yield.

575 Ms. Eshoo. Well, I thank the gentleman. I would only pose

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one question here, because I don't think anyone here disputes that location accuracy and location technology is an essential part of public safety with first responders. How are we going to get there if we only instruct the FCC to do an NOI? They already did. And so it is kind of like Pete and Repeat, and I say this very sincerely. I mean, what are the steps that you envision in order to get there?

Mr. Shimkus. Well, again, if you -- reclaiming my time. The NOI was conducted years ago. A lot has changed in the communication world since then, and I guess you have to have an appreciation that many of us are skeptical on the FCC and proposed rulemaking,, and we are concerned about what burden might be placed onto the smaller systems that have multi-line line systems but are small businesses not knowing if it is an easy technological fix or a more challenging one that is costly, and that is why our response was to do an inquiry to find out those facts.

Ms. Eshoo. Will the gentleman yield?

Mr. Shimkus. That was rejected. So we are not prepared, I think, you know, I haven't whipped my colleagues, but I don't think we are prepared to accept a possible additional burden.

You know, what we did in the 9-1-1 Caucus was a great compromise trying to make sure that all the stakeholders, not just public safety but the telecommunications companies, the cell companies, in essence the hard line companies that they were all working together. And that finely tuned balance helped us to move

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601 great public policy forward.

602 This was not worked originally in that mode. The original  
603 amendment was brought forward, you know, by yourself, and we  
604 countered with, and the inquiry in hoping that would at least keep  
605 us united. That did not happen, and so we are where we are. We  
606 will cast our votes and we will move forward.

607 Ms. Eshoo. Would you yield?

608 Mr. Shimkus. I would be happy to yield.

609 Ms. Eshoo. Nothing in my amendment opposes the FCC doing  
610 exactly what you would like them to do, but it stops there. It  
611 stops there. And once that notice of information and inquiry is  
612 updated, we need in our country to proceed with and do the due  
613 diligence. This committee can't do it. We are not technologists  
614 here, we are not engineers. Maybe there are some, but it is not  
615 up to us to do it. That the FCC can do the work that you know  
616 is necessary to get to location, you know, location accuracy in  
617 a standard feature for multi-line telephone systems.

618 But I appreciate you yielding to me, Mr. Chairman, and my  
619 amendment is a step into the future to get there. The gentleman's  
620 from Illinois is to just do the NOI. I agree we need to do that  
621 but I think that we need to take the next step as well, so I  
622 appreciate it. Thank you.

623 The Chairman. The gentleman's time is expired. Other  
624 members wishing to speak on the amendment? The gentleman from  
625 Oregon.

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626 Mr. Walden. Thank you, Mr. Chairman, just briefly. We all  
627 want to step forward on this issue. It is a question of do you  
628 step into something or do you step forward? We think an NOI makes  
629 the most sense, to gather information so at least you know what  
630 questions to ask. And the FCC, and this is a pretty activist FCC,  
631 can on its own order move forward on an NPRM, notice of proposed  
632 rulemaking. There is nothing that we are doing here precludes  
633 that.

634 It is just if we are going to go down a path, we think  
635 gathering the information first, allowing the public to have a  
636 say and weigh-in will enlighten the FCC. And so that is why,  
637 unfortunately, we are at this juncture where we are going to have  
638 to oppose my friend's amendment, secondary amendment, because it  
639 doesn't make sense to do the NOI and not go directly to an NPRM.  
640 We couldn't reach agreement on that point which brings us to this  
641 impasse.

642 But a lot has happened in 4 years with technology. This is  
643 such an evolutionary time in which we live when it comes to  
644 innovation and new technology. For the life of me, I don't  
645 understand why we wouldn't start by having the FCC gather  
646 information from the world's smartest people and then they can  
647 go forward with an NPRM. Skipping that step, I think, doesn't  
648 lead to the best policy outcome. With that I urge my colleagues  
649 to join in opposing the secondary amendment and I yield back the  
650 balance of my time.

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651 Ms. Eshoo. Will the gentleman yield?

652 Mr. Walden. Sure.

653 Ms. Eshoo. Thank you. I am not opposed to what you want  
654 to do. It is included in my amendment, the NOI, that the FCC do  
655 the NOI. But in this case, the opposite of what you are worried  
656 about relative to the FCC being an activist agency, they have done  
657 the opposite here. They have kicked this ball down the road for  
658 22 years.

659 And that is why I think Congress should instruct them to not  
660 only do the NOI, but once they gather that information, this is  
661 where we agree. Do the NOI, see what that produces. It is fresh.  
662 The record will be refreshed, what technologies are out there,  
663 how to do it, and then to take steps according to what they have  
664 gathered in the NOI to make headway on location technology. That  
665 is what the amendment is. So I appreciate the gentleman stating  
666 what he said.

667 Mr. Walden. In reclaiming my time, because actually your  
668 amendment says they can commence a proceeding. It doesn't  
669 require NOI. And what we are suggesting because of that vagueness  
670 the FCC could skip the NOI and just go right to an NPRM. So your  
671 amendment --

672 Ms. Eshoo. Will you yield for just --

673 Mr. Walden. Sure.

674 Ms. Eshoo. -- ten seconds?

675 Mr. Walden. Of course.

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676 Ms. Eshoo. No, I would want the FCC to move because they  
677 haven't moved.

678 Mr. Walden. Right.

679 Ms. Eshoo. Your prospects that they --

680 Mr. Walden. But you -- reclaiming my time, you can't have  
681 it both ways. You want them to move. My sense is you want them  
682 to go right to an NPRM, correct?

683 Ms. Eshoo. No. They can do the NOI. I am for that. There  
684 is nothing in my amendment that precludes that. But I also want  
685 them, once they have done the NOI per your description that they  
686 then move past where they have been stuck for 22 years. They  
687 haven't done what they should do, and that is -- I think there  
688 is a hole in our public safety system because we haven't addressed  
689 this.

690 Mr. Walden. And reclaiming my time, I don't think we have  
691 disagreement on the latter part. I think this is something we  
692 can find common ground on perhaps in a separate bill and would  
693 be happy to continue this discussion there and not hold up this  
694 one. And so if the gentlelady wants to withdraw her secondary  
695 amendment that might make for best.

696 Ms. Eshoo. I will withdraw the amendment if we come up with  
697 or you are committed to working on location technologyB

698 Mr. Walden. In a separate bill.

699 Ms. Eshoo. -- and get the FCC going on this.

700 Mr. Walden. Yes. I think we could find common ground on

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701 that issue.

702 Ms. Eshoo. Well, I will --

703 Mr. Walden. In a separate, not attached to this  
704 necessarily.

705 Ms. Eshoo. I understand.

706 Mr. Walden. Okay, yes.

707 Ms. Eshoo. All right. I will withdraw on that solid  
708 commitment. Thank you, Mr. Chairman.

709 The Chairman. The gentlelady withdraws her amendment. Are  
710 there other members wishing to speak on the amendment offered by  
711 the gentleman from Oregon? Seeing none, the vote occurs on the  
712 amendment offered by the gentleman from Oregon.

713 All those in favor -- and Eshoo, California. It is a  
714 bipartisan amendment.

715 All those in favor of the amendment will say aye.

716 Those opposed say no.

717 In the opinion of the chair the ayes have it.

718 Are there further amendments to the bill? Seeing none, the  
719 question now occurs in favorably reporting H.R. 4167, as amended,  
720 to the House.

721 All those in favor shall signify by saying aye.

722 All those opposed say no.

723 The ayes appear to have it. The ayes have it, and the bill  
724 is favorably reported.

725 The chair now calls up 4111 and asks the clerk to report.

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726 [The Bill H.R. 4111 follows:]

727

728 \*\*\*\*\*INSERT 9\*\*\*\*\*

729           The Clerk.   H.R. 4111, to include skilled nursing facilities  
730 as a type of health care provider under Section 254(h) of the  
731 Communications Act of 1934.

732           The Chairman.   And without objection, the first reading of  
733 the bill is dispensed with.   The bill will be open for amendment  
734 at any point.   Are there any bipartisan amendments to the bill?  
735 The chair will recognize the gentleman from New Jersey, Mr. Lance,  
736 has an amendment at the desk?

737           Mr. Lance.   Yes, Mr. Chairman.   There is a technical  
738 amendment, bipartisan in nature, related to the effective date.

739           [The Amendment offered by Mr. Lance and Mr. Loeb sack  
740 follows:]

741

742           \*\*\*\*\*INSERT 10\*\*\*\*\*

743           The Chairman. The clerk will report the title of the  
744 amendment.

745           The Clerk. Amendment to H.R. 4111, offered by Mr. Lance and  
746 Mr. Loeb sack.

747           The Chairman. And the amendment will be considered as read.  
748 The staff will distribute the amendment, and the gentleman from  
749 New Jersey is recognized for 5 minutes in support of his amendment.

750           Mr. Lance. Thank you, Mr. Chairman. This bill relates to  
751 expanding the statutory definition of health care provider under  
752 Section 254 of the act to include skilled nursing facilities. As  
753 a result, such facilities will be eligible support under the  
754 program. It is clear beyond dispute that skilled nurses provide  
755 the same post-acute services that are traditionally provided at  
756 hospitals.

757           This will be extremely beneficial to rural America, and of  
758 course it is the charge of this committee to improve the health  
759 of the entire American nation including rural America. And I am  
760 very grateful to Congressman Loeb sack and Congressman Cramer for  
761 their hard work in this area, and I certainly would yield time  
762 to Congressman Loeb sack.

763           Mr. Loeb sack. Thank you, Mr. Lance. I really appreciated  
764 the opportunity to work with you on this and work with Mr. Cramer  
765 as well. I think you said it all. This is great for rural  
766 America. Obviously it is going to allow skilled nursing  
767 facilities to be eligible for Universal Service funding through

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768 the Rural Health Care Program. And the amendment is a technical  
769 fix, I support that as well and I would be happy to yield back.  
770 Thank you, Mr. Lance.

771 Mr. Lance. Thank you, and I certainly yield to my colleague  
772 Congressman Cramer.

773 Mr. Cramer. Thank you, Representative Lance and  
774 Representative Loeb sack for including me and for your good work  
775 on it as well. I think it would be hard to overstate the  
776 importance of the ability for rural health care facilities,  
777 especially skilled nursing facilities, to have access to this  
778 type, these funds to create this type of opportunity. The  
779 opportunity that technology provides to provide greater access  
780 to patients in rural America especially at skilled nursing  
781 facilities adds to quality of life, it actually scores favorably,  
782 it actually can prevent greater health care problems which of  
783 course even saves more money, and it is just a pleasure to be part  
784 of something that is this positive, and appreciate my colleagues'  
785 work on it.

786 Mr. Lance. Thank you, Congressman. And Mr. Chairman, I  
787 yield back the balance of my time.

788 The Chairman. The gentleman yields back the balance of his  
789 time. Other members wishing to speak on the amendment? Seeing  
790 none, the vote occurs on the amendment offered by the gentlemen  
791 from New Jersey and Iowa.

792 Those in favor will say aye.

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793           Those opposed say no.

794           In the opinion of the chair, the ayes have it. The amendment  
795 is agreed to. Are there further amendments to the bill? Seeing  
796 none, the question now occurs on favorably reporting H.R. 4111,  
797 as amended, to the House.

798           All those in favor shall signify by saying aye.

799           Those opposed say no.

800           The ayes appear to have it. The ayes have it, and the bill  
801 is favorably reported.

802           The chair will now call up H.R. 4190, and ask the clerk to  
803 report.

804           [The Bill H.R. 4190 follows:]

805

806           \*\*\*\*\*INSERT 11\*\*\*\*\*

807           The Clerk. H.R. 4190, to promote innovation, investment,  
808 and economic growth by accelerating spectrum efficiency through  
809 a challenge prize competition.

810           The Chairman. Without objection, the first reading of the  
811 bill is dispensed with. The bill will be opened up for amendment  
812 at any point. Are there any bipartisan amendments to the bill?  
813 Are there any amendments to the bill?

814           Seeing none, the vote occursB

815           Ms. Matsui. Mr. Chairman.

816           The Chairman. Oh, I am sorry.

817           Ms. Matsui. May I strike the last word to speak on the bill?

818           The Chairman. The gentlelady is recognized for 5 minutes  
819 and strikes the lastB

820           Ms. Matsui. Thank you. I am pleased that this committee  
821 is considering my legislation today, H.R. 4190, the Spectrum  
822 Challenge Prize Act. Spectrum is invisible infrastructure that  
823 supports our wireless economy, but unlike bridges or railroads  
824 we can't go out and build more spectrum. As more and more products  
825 and services use wireless connectivity, the efficient use of  
826 spectrum will be critical to our continued global leadership in  
827 the technology sector. That is why I worked with my colleague,  
828 Representative Guthrie, on legislation that encourages the  
829 efficient management of spectrum by the federal government.  
830 Improving the ways in which we manage spectrum at the federal level  
831 is important, but that progress must be paired with greater

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832 technological efficiencies.

833           My Spectrum Challenge Prize legislation which I introduced  
834 with Senator Tom Udall would encourage wireless innovation by  
835 creating a federal spectrum challenge prize. The challenge prize  
836 competition would help incentivize innovators and entrepreneurs  
837 to develop technologies that eclipse the current state of art and  
838 promote the efficient use of spectrum.

839           Challenge prizes have a long track record of spurring  
840 innovation, including designing a glove used by astronauts flying  
841 a lunar lander, and driver-less car technology. The Spectrum  
842 Challenge Prize Act creates a new opportunity for the federal  
843 government and the private sector to work collaboratively in its  
844 pursuit of a spectrum efficiency breakthrough which is ultimately  
845 a victory for American consumers. Because spectrum is a finite  
846 resource, the growth of our wireless economy will require  
847 efficiency at every level and I urge my colleagues to support H.R.  
848 4190, the Spectrum Challenge Prize Act. Thank you, and I yield  
849 back.

850           Mr. Walden. Would the gentlelady yield?

851           Ms. Matsui. I certainly do yield.

852           Mr. Walden. I thank the gentlelady. And I just want to say  
853 we really appreciate your leadership on this and other  
854 communications issues, and I commend you for the great work that  
855 you and Congressman Guthrie have done as part of our Spectrum  
856 Working Group. This is an innovative approach to addressing the

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857 problem of how we deal with increasing demand for spectrum. It  
858 is good to work with you. I encourage my colleagues to support  
859 H.R. 4190.

860 Ms. Matsui. Thank you very much, and I yield back.

861 The Chairman. The gentlelady yields back. Other members  
862 wishing to speak on the bill or offer an amendment?

863 Seeing none, the question now occurs on favorably reporting H.R.  
864 4190 to the House.

865 All those in favor shall signify by saying aye.

866 Those opposed say no.

867 In the opinion of the chair, the ayes have it. The ayes have  
868 it, and the bill is favorably reported.

869 The chair now calls up H.R. 3998, and asks the clerk to  
870 report.

871 [The Bill H.R. 3998 follows:]

872

873 \*\*\*\*\*INSERT 12\*\*\*\*\*

874           The Clerk. H.R. 3998, to direct the Federal Communications  
875 Commission to commence proceedings related to the resiliency of  
876 critical telecommunication networks during times of emergency and  
877 for other purposes.

878           The Chairman. And without objection, the first reading of  
879 the bill is dispensed with. The bill will be open for amendment  
880 at any point. Are there any bipartisan amendments to the bill?  
881 Are there any amendments to the bill? The chair would recognize  
882 the gentleman from New Jersey who has an amendment, Mr. Pallone  
883 who has an amendment at the desk.

884           [The Amendment offered by Mr. Pallone follows:]

885

886           \*\*\*\*\*INSERT 13\*\*\*\*\*

887 The Chairman. The clerk will report the title of the  
888 amendment.

889 The Clerk. Amendment to H.R. 3998 offered by Mr. Pallone.

890 The Chairman. And without objection, the reading is  
891 dispensed with. The staff will distribute the amendment, and the  
892 gentleman is recognized for 5 minutes.

893 Mr. Pallone. Thank you, Mr. Chairman. Superstorm Sandy  
894 had a devastating impact on my district back in New Jersey and  
895 throughout the New York-New Jersey-Connecticut area. And in  
896 response to it I introduced the SANDy Act, or Securing Access to  
897 Networks in Disasters Act, to address the lessons we learned in  
898 the aftermath of that terrible storm. The legislation  
899 incorporated feedback that I heard from local officials and  
900 industry leaders at a forum on Sandy where we took a critical look  
901 at the lessons learned and the progress made with public safety  
902 telecommunications since the hurricane. At the same time, I was  
903 working with FCC Chairman Wheeler and the wireless industry to  
904 make sure we are better prepared, and now I want to say that we  
905 reached an agreement to ensure that consumers have greater access  
906 to communications the next time disaster strikes.

907 Yesterday, with CTIA, we announced the Wireless Network  
908 Resiliency Framework under which the largest wireless providers  
909 will voluntarily comply with the wireless provisions set forth  
910 in the SANDy Act. And the framework makes sure that if one network  
911 goes down its customers can access another network that is still

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912 operational, and everyone should be able to call for help as long  
913 as any signal is available.

914 The agreement also takes action on other issues raised by  
915 the SANDy Act such as making sure public safety officials and  
916 wireless personnel know how to reach other at a moment's notice  
917 during an emergency, and this agreement will save lives during  
918 major emergencies in the future. And I want to thank the wireless  
919 carriers and the FCC for working with me to craft this  
920 comprehensive agreement.

921 In light of that agreement, I am offering an amendment today  
922 in the bill that will remove the wireless provisions from the SANDy  
923 Act, and since this framework is voluntary I look forward to  
924 continuous updates from the industry on the progress they are  
925 making to meet everything included in this agreement.

926 Again, this agreement is a major step but more needs to be  
927 done, and we have to learn all the lessons from disasters like  
928 Sandy. For instance, in New Jersey, broadcasters and cable  
929 providers saved thousands of lives even before the storm hit.  
930 They provided the critical information that let people know how  
931 to get out of harm's way, and public safety officials have told  
932 me that without this information the death toll would have been  
933 much, much worse.

934 But to keep this information flowing when the power goes out,  
935 the networks need backup generators and those generators need  
936 fuel. Unfortunately, broadcasters, cable operators and

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937 telecommunication providers have struggled in emergencies to find  
938 this fuel, and oftentimes when they finally find it they are sent  
939 to the back of the line. Worse, once they get the fuel they need  
940 it can be confiscated in favor of other services considered more  
941 essential under the law.

942 But fuel is not the only issue. In the chaos that follows  
943 a major disaster just getting access to secure areas can be trying.  
944 During Sandy, communication providers were turned away at bridges  
945 because once again they were not considered essential, and these  
946 are the providers that make sure we can call 911 or can contact  
947 loved ones. It took days to get some networks back online simply  
948 because we could not get the right people to the right places.

949 So my bill attempts to fix these problems and more. It would  
950 recognize the lifesaving role played by wireline and mobile  
951 telephones, internet, radio and television broadcasting and cable  
952 and satellite services, by adding them to the list of essential  
953 service providers. Having these networks operational can mean  
954 the difference between life and death during an event like  
955 Superstorm Sandy.

956 So I want to thank Chairman Upton and Chairman Walden for  
957 considering this bill, and I would like to also thank them both  
958 for their input on the amendment I am offering. This amendment  
959 would refocus the SANDy Act on the critical work that still remains  
960 to be done, and I urge my colleagues to support the amendment.

961 Mr. Walden. Would the gentleman yield?

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962 Mr. Pallone. Yes, sure.

963 Mr. Walden. I would just like to commend the gentleman for  
964 his work on this very important legislation. And, you know, it  
965 is so important to make sure that our communications companies  
966 can actually enter into a disaster area to restore service.  
967 Heretofore, the underlying statute simply said if you are a  
968 telephone company you can. Well, we have changed a lot since  
969 then.

970 And so this is good legislation, good work of the committee,  
971 and I commend the gentleman and appreciate his leadership on this  
972 and encourage my colleagues to support H.R. 3998 and the amendment  
973 to it.

974 Mr. Pallone. Well, thank you. I appreciate your support,  
975 Congressman. I yield back the remainder of my time.

976 The Chairman. The gentleman yields back. Other members  
977 wishing to speak on the amendment offered by the gentleman from  
978 New Jersey? Seeing none, the vote occurs on that amendment.

979 Those in favor will say aye.

980 Those opposed say no.

981 In the opinion of the chair, the ayes have it and the  
982 amendment is agreed to.

983 Are there further amendments to the bill? Seeing none, the  
984 vote occurs on favorably reporting H.R. 3998, as amended, to the  
985 House.

986 All those in favor shall signify by saying aye.

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987           Those opposed say no.

988           The ayes appear to have it. The ayes have it, and the bill  
989 is favorably reported.

990           The chair now will call up H.R. 2031, and ask the clerk to  
991 report.

992           [The Bill H.R. 2031 follows:]

993

994           \*\*\*\*\*INSERT 14\*\*\*\*\*

995           The Clerk. H.R. 2031, to amend the Communications Act of  
996 1934 to provide for enhanced penalties for the transmission of  
997 misleading or inaccurate caller identification information with  
998 the intent to trigger a response by law enforcement agencies.

999           The Chairman. Without objection, the first reading of the  
1000 bill is dispensed with and the bill will be open for amendment  
1001 at any point. Are there any bipartisan amendments to the bill?

1002           Mr. Engel. Mr. Chairman.

1003           The Chairman. The gentleman from New York.

1004           Mr. Engel. Thank you. Thank you very much, Mr. Chairman.

1005 I have an amendment.

1006           [The Amendment offered by Mr. Engel follows:]

1007

1008 \*\*\*\*\*INSERT 15\*\*\*\*\*



1009 Mr. Engel. My amendment would make an important technical  
1010 adjustment to the Anti-Swatting Act. SwattersB

1011 The Chairman. Let me ask the clerk to report the title of  
1012 the amendment.

1013 Mr. Engel. Okay.

1014 The Clerk. Amendment to H.R. 2031 offered by Mr. Engel.

1015 The Chairman. And without objection, the amendment will be  
1016 considered as read and the gentleman from New York is recognized  
1017 for 5 minutes in support of his amendment.

1018 Mr. Engel. Thank you, Mr. Chairman. As I just mentioned,  
1019 this amendment, I believe, would make an important technical  
1020 adjustment to the Anti-Swatting Act. Swatters across the country  
1021 have reported different types of phony emergencies. These false  
1022 reports have prompted responses not just from police departments  
1023 but from fire, EMS, and rescue services as well. Swatting has  
1024 also impacted 911 public safety answering points which spend  
1025 valuable time and resources handling swatting calls and  
1026 dispatching a response. So my amendment would simply make clear  
1027 that falsifying your caller ID information to mislead any and all  
1028 of these entities, not solely police departments, is prohibited,  
1029 and that swatters must reimburse any and all of these entities  
1030 for their expenses in responding to a fraudulent call.

1031 So I thank you, Mr. Chairman, and I yield back.

1032 The Chairman. The gentleman yields back. Other members  
1033 wishing to speak? The gentleman from Oregon is recognized.

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1034 Mr. Walden. Thank you, Mr. Chairman. Again, another great  
1035 piece of legislation to address an emerging problem. I commend  
1036 my colleague from New York for his leadership on this. And this  
1037 is really important to our first responders and to people who are  
1038 in emergency situations whose service may actually be delayed  
1039 because the responder is out taking care of somebody that they  
1040 never should have gone to.

1041 So Mr. Engel, thank you, and I encourage my colleagues to  
1042 support the amendment and passage of the bill. It is Mr. Engel's  
1043 time. Mr. Engel, I believe Mr. Kinzinger wanted to make a  
1044 comment.

1045 Mr. Kinzinger. Will the gentleman yield his time?

1046 Mr. Engel. Yes, I certainly yield.

1047 Mr. Kinzinger. Well, I just want to commend you also on your  
1048 work on this. I mentioned in opening statements I am a victim  
1049 of swatting, actually, locally. And this is a few years ago, but  
1050 it tied up a lot of resources from our local officers and  
1051 responders. Somebody had basically called 911 and claimed that  
1052 they were being held hostage, and you would imagine the response  
1053 that comes from that. So it was not pleasant to get woken up at  
1054 2:30 in the morning with that and then it happened again a week  
1055 later. So it is a problem that is real and emerging, and I commend  
1056 the gentleman on his work -- with Shimkus.

1057 The Chairman. Okay, the gentleman yields back?

1058 Mr. Engel. I yield back.

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1059           The Chairman. And are there other members wishing to speak  
1060 on the amendment? Seeing none, the vote occurs on the amendment  
1061 offered by the gentleman from New York.

1062           All those in favor will say aye.

1063           Those opposed say no.

1064           In the opinion of the chair, the ayes have it. The ayes have  
1065 it and the amendment is agreed to.

1066           Are there further amendments to the bill? Seeing none, the  
1067 question now occurs in favorably reporting H.R. 2031, as amended,  
1068 to the House.

1069           All those in favor shall signify by saying aye.

1070           All those opposed say no.

1071           The ayes appear to have it. The ayes have it, and the bill  
1072 is favorably reported.

1073           The chair now will call up H.R. 2589, and ask the clerk to  
1074 report.

1075           [The Bill H.R. 2589 follows:]

1076

1077           \*\*\*\*\*INSERT 16\*\*\*\*\*

1078           The Clerk. H.R. 2589, to amend the Communications Act of  
1079 1934 to require the Federal Communications Commission to publish  
1080 on its internet website changes to the rules of the Commission  
1081 no later than 24 hours after adoption.

1082           The Chairman. And without objection, the first reading of  
1083 the bill is dispensed with. The bill is open for amendment at  
1084 any point. Are there any amendments to the bill? The chair will  
1085 recognize the gentlelady from North Carolina, Mrs. Ellmers, for  
1086 an amendment.

1087           Mrs. Ellmers. Mr. Chairman, I move to strike the last word  
1088 to speak in support of the bill.

1089           The Chairman. I am sorry. Strike the last word or offer  
1090 an amendment?

1091           Mrs. Ellmers. Strike the last word.

1092           The Chairman. The gentlelady is recognized for 5 minutes.

1093           Mrs. Ellmers. Thank you, Mr. Chairman. This bill, H.R.  
1094 2589, would require the FCC to publish any changes in their rules  
1095 on their website within 24 hours of adoption. My bill is a good  
1096 government bill that would require the FCC to ensure that the  
1097 public has timely access to the rules that will impact their  
1098 everyday lives.

1099           As most of us remember, our current President called his  
1100 administration, quote, the most transparent in history.  
1101 However, currently there are no rules surrounding the publication  
1102 of rules after adoption, and staff at the FCC are routinely granted

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1103 editorial privileges on the adopting order which may draw out the  
1104 process beyond what is reasonable.

1105 In our last hearing, the FCC Chairman Wheeler said that the  
1106 FCC has the ability to comply with this legislation. These things  
1107 considered, this bill represents a reasonable standard of  
1108 transparency that everyone can agree to. The American people  
1109 want an open and accountable government, and today we have an  
1110 opportunity to take another step forward.

1111 I thank the committee for moving this legislation forward,  
1112 and I look forward to seeing the final passage. I hope you can  
1113 join me in ensuring that the public enjoys the right to speedy  
1114 access to the FCC rules. I yield my time.

1115 The Chairman. The gentlelady yields back. Are there  
1116 further amendments to the bill? The chair would recognize the  
1117 gentleman from California, Mr. McNerney, who has an amendment at  
1118 the desk.

1119 [The Amendment offered by Mr. McNerney follows:]

1120

1121 \*\*\*\*\*INSERT 17\*\*\*\*\*

1122 Mr. McNerney. Mr. Chairman, I have an amendment at the desk.

1123 The Chairman. And the clerk will report the title.

1124 The Clerk. Amendment to H.R. 2589 offered by Mr. McNerney.

1125 The Chairman. And without objection, the amendment will be  
1126 considered as read. The staff will distribute the amendment, and  
1127 the gentleman is recognized for 5 minutes in support of his  
1128 amendment.

1129 Mr. McNerney. I thank the chairman. I want to commend my  
1130 colleague, Mrs. Ellmers, on her efforts to improve the  
1131 transparency. However, H.R. 2589 would have the effect of  
1132 omitting crucial, explanatory texts from rules published by the  
1133 FCC. Separating the rules from the explanatory text could cause  
1134 confusion and uncertainty about the meanings of the rules.  
1135 Furthermore, such a process is inconsistent with the  
1136 Administrative Procedure Act which requires any rule or changes  
1137 to be accompanied by explanatory text.

1138 Clearly, the proposed legislation needs to be modified.  
1139 Under my amendment, within 24 hours that the secretary of the  
1140 Commission receives dissenting statements from all the  
1141 commissioners wishing to make dissenting statements, the FCC  
1142 would have to post on its website, in its entirety, the rule and  
1143 the explanatory text. This would strike an appropriate balance  
1144 between the concerns raised by our colleague Mrs. Ellmers and the  
1145 need to provide assurance that the Commission's decisions will  
1146 be released as quickly as possible.

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1147 I understand it can be frustrating to wait for a final text  
1148 of decisions to be released, but it is appropriate to provide  
1149 commissioners with time to finalize written statements after a  
1150 vote. Nobody wants to write a statement in 2 minutes. You want  
1151 to have time to think about your decision, write it down in a  
1152 coherent way and submit it. So this basically gives the  
1153 commissioners time to write their dissenting votes and then within  
1154 24 hours that has to be published. I urge my colleagues to support  
1155 this amendment.

1156 Mr. Walden. Would the gentleman yield?

1157 Mr. McNerney. Yes.

1158 Mr. Walden. Mr. Chairman, I support Mr. McNerney's  
1159 amendment to Mrs. Ellmer's bill. I think they are both advances  
1160 in good public policy and more transparency in government which  
1161 the voters deserve and the taxpayers demand. And so I would  
1162 encourage my colleagues to support Mr. McNerney's amendment and  
1163 the underlying bill, and together we will make a small step forward  
1164 in improving the actions of the FCC and the transparency and  
1165 timeliness of its efforts. And with that I yield back to the  
1166 gentleman and commend him for his efforts.

1167 Mr. McNerney. Thank you, reclaiming my time.

1168 Mrs. Ellmers. Thank you, and yes, if the gentleman will  
1169 yield --

1170 Mr. McNerney. I will, sure.

1171 Mrs. Ellmers. -- from California. I thank you for this

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1172 amendment. I think this is a great way we can all work together  
1173 at a better policy and an open and transparent government. And  
1174 again, thank you for helping to make some of these things more  
1175 clarified, because we want the American people to understand the  
1176 situation and if this is going to help I am more than happy to  
1177 respond favorably.

1178 Mr. McNerney. Thank you. Reclaiming my time, I thank the  
1179 gentlewoman, and the gentleman from Oregon, and I urge my  
1180 colleagues to support this amendment. I yield back.

1181 The Chairman. The gentleman yields back. Other members  
1182 wishing to speak on the amendment? Seeing none, the vote occurs  
1183 on the amendment offered by the gentleman from California.

1184 All those in favor will say aye.

1185 Those opposed say no.

1186 In the opinion of the chair, the ayes have it. The ayes have  
1187 it, the amendment is agreed to.

1188 Are there further amendments to the bill? Seeing none, the  
1189 vote occurs on favorably reporting H.R. 2589, as amended, to the  
1190 House.

1191 All those in favor shall signify by saying aye.

1192 Those opposed say no.

1193 The ayes appear to have it. The ayes have it, and the bill  
1194 is favorably reported.

1195 The chair now calls up H.R. 2592 and asks the clerk to report.

1196 [The Bill H.R. 2592 follows:]

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1197

1198

\*\*\*\*\*INSERT 18\*\*\*\*\*

1199 The Clerk. H.R. 2592, to amend the Communications Act of  
1200 1934 to require the Federal Communications Commission to publish  
1201 on the website of the Commission documents to be voted on by the  
1202 Commission.

1203 The Chairman. Without objection, the first reading of the  
1204 bill is dispensed with. The bill will be open for amendment at  
1205 any point. Are there any bipartisan amendments to the bill? Are  
1206 there any amendments to the bill? Seeing none, the question now  
1207 occurs on -- oh, I am sorry. Yes, did you want to say? Strike  
1208 the last word? The gentlelady asks to strike the last word?

1209 Ms. Eshoo. I do, Mr. Chairman.

1210 The Chairman. The gentlelady is recognized for 5 minutes.

1211 Ms. Eshoo. I have an amendment at the desk.

1212 The Chairman. I am sorry.

1213 Ms. Eshoo. I am sorry.

1214 The Chairman. The gentlelady from California has an  
1215 amendment at the desk?

1216 Ms. Eshoo. Not an amendment. Oh, I just want to strike the  
1217 last word.

1218 The Chairman. Strike the last word.

1219 Ms. Eshoo. I am sorry.

1220 The Chairman. The gentlelady is recognized for 5 minutes.

1221 Ms. Eshoo. I have amendment on my brain. Mr. Chairman, I  
1222 don't support this bill. And I think that it is a bill that in  
1223 fact is being spoken of and referred to as a bill for transparency,

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1224 which everybody loves transparency. We are all for transparency.  
1225 But when you peel back some of the language, what it does, in fact,  
1226 is to throw enormous sand in the gears so that the FCC will never  
1227 get anything done.

1228 And that is maybe the wish of some, but I think that we want  
1229 transparency to make an agency more effective, more trustworthy,  
1230 and all the things that come with transparency. Now what the  
1231 transparency is going to bring about is, the so-called  
1232 transparency, it is going to create an unending cycle of comments.  
1233 So the chairperson of the Commission has something that he or she  
1234 wants to advance that has to be posted before he or she meets with  
1235 commissioners, and then there is a comment period.

1236 So this is transparency for lobbyists act or a throw sand  
1237 in the gears act, this isn't anything that is going to make the  
1238 Commission work in a more meaningful way. I think it would result  
1239 in a less meaningful review of items by the four commissioners  
1240 of the Commission and the outcomes would just really produce a  
1241 mess, in plain English.

1242 Now we addressed this issue in the FCC Process Reform Act  
1243 from the last Congress. It included a provision that would  
1244 require the FCC to start a proceeding to determine whether to  
1245 release draft items before the Commission votes. That was a  
1246 compromise, and the House passed this bill. Now I don't know what  
1247 the reasoning is for this piece of legislation given what we did  
1248 in the last Congress. Maybe it is, I don't know, is it to punish

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1249 the FCC? I really don't know. I really don't know what the real  
1250 intent of this is.

1251 Mr. Walden. Would the gentlelady yield?

1252 Ms. Eshoo. And not an ad hominem attack on anyone, I am  
1253 talking strictly about because I respect --

1254 Mr. Walden. Would the gentlelady yield?

1255 Ms. Eshoo. Just a minute, I am not finished, and then I would  
1256 be happy to yield to my chairman. This is not good legislation.  
1257 I think what we did in the last Congress made sense, and what this  
1258 does again is there will be an unending cycle of comments. It  
1259 has to be posted and then there are comments. And then they try  
1260 to do something, it has to be posted, and there are comments.

1261 So that wheel will keep spinning, and if the ultimate goal  
1262 that the FCC never get anything done because you can't stand the  
1263 FCC, just think of when you want the FCC to do something. There  
1264 are members on both sides of the aisle that have directed the FCC  
1265 to do things -- keep offices open, do the auction, whatever. So  
1266 I think we have to think this thing through, and I don't think  
1267 that this advances anything that is positive. With that I will  
1268 yield to my chairman and my friend Mr. Walden.

1269 Mr. Walden. I thank the gentlelady for yielding, and I  
1270 couldn't disagree more, and there is precedent existing in the  
1271 federal government today that proves every point she made is a  
1272 parade of horrors that wouldn't happen.

1273 The Federal Energy Regulatory Commission operates with

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1274 almost an identical size, composition, budget, and statutory  
1275 basis as the Federal Communications Commission. FERC, the  
1276 Federal Energy Regulatory Commission, does really important work,  
1277 releases its orders on the day of the vote, the day of the vote.  
1278 There is not sand in their gears.

1279 Ms. Eshoo. Well, reclaiming my time --

1280 Mr. Walden. They do this. The Federal --

1281 Ms. Eshoo. Reclaiming my time. Why is it that what we did  
1282 in the last Congress doesn't address what is in this bill? We  
1283 included a provision that would require the FCC to start a  
1284 proceeding and determine whether to release draft items before  
1285 the Commission votes. Why is that not good enough? I mean, we  
1286 supported it. It was a compromise, but we got that done. Why  
1287 is that not good enough.

1288 Mr. Walden. Mr. Chairman, I seek --

1289 The Chairman. The gentlelady's time is expired. I would  
1290 yield to the gentleman from Oregon and ask for 5 minutes.

1291 Mr. Walden. Well, let me go on on my own time now. The  
1292 Federal Trade Commission releases the actual text of rules before  
1293 proceedings to a final decision pursuant to Federal Trade  
1294 Commission Act 15 U.S.C. Section 57 of (a) (b) (1) (A). So FERC,  
1295 Federal Energy Regulatory Commission, a similarly sized,  
1296 situated, and commission of similar importance, can release its  
1297 orders on the same day. They make it work.

1298 Federal Trade Commission does really critical work. They

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1299 are calling Mr. Whitfield right now. They release their text of  
1300 rules before proceeding to a final decision, so they are even a  
1301 little ahead. The release of the text of rules does not trigger  
1302 an additional comment cycle. We have checked with administrative  
1303 law experts. They believe that this bill would not trigger a new  
1304 comment cycle if the FCC is following current procedures.

1305 This is all -- the notion that somehow everything is going  
1306 to grind to a halt and this is an anti-FCC thing, it is neither  
1307 of those. It is a pro-open government thing. That is what we  
1308 are about here is to make sure that those who have an interest  
1309 of these issues better see what the Commission, Federal  
1310 Communications Commission, is up to, and we have patterned this  
1311 after what Federal Energy Regulatory Commission already does,  
1312 Federal Trade Commission already does. We have worked with  
1313 administrative law experts to make sure this is done correctly.  
1314 This does not impact the FCC's ability to deliberate. If anything  
1315 it just holds commissioners accountable for the changes that are  
1316 made to the document.

1317 Transparency and accountability to the public are a good  
1318 thing. We should all be for that, and for the life of me I can't  
1319 understand why --

1320 Mr. Pallone. Would the gentleman yield?

1321 Mr. Walden. I need to yield to my friend from Illinois, Mr.  
1322 Kinzinger, whose bill it is.

1323 Mr. Kinzinger. Well, I thank the gentleman. And I mean,

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1324 this is basic. We are not, you know, trying to slow down the FCC  
1325 or do anything like that. It is just saying, look, you know, right  
1326 now the chairman can see who he wants to release documents to and  
1327 what part he wants to release. That is within his realm to do  
1328 anyway. And so if you are against the release of these documents,  
1329 period, the other side actually should be putting forward a bill  
1330 to block the FCC from ever releasing anything instead of being  
1331 able to do it selectively.

1332 So I know, and do you mind if I ask the counsel just a very  
1333 brief question? For counsel, from your opinion would this bill,  
1334 as written, lead to an endless round of comments?

1335 The Counsel. No, I believe that the way that the bill is  
1336 written it would not lead to endless comments. The agency is only  
1337 required to consider public comment and respond within reason.  
1338 This would only be triggered if there are new or novel issues  
1339 raised in the draft or the decision released by the chairman, which  
1340 assuming proper APA procedure is followed that would not be the  
1341 case.

1342 Mr. Kinzinger. Thank you. And we want this to run smooth  
1343 and efficiently and transparently, and that is all we seek to do  
1344 here very simply. And I yield the gentleman back.

1345 Ms. Eshoo. Would the gentleman yield?

1346 Mr. Pallone. Would the gentleman -- oh.

1347 Ms. Eshoo. Would the gentleman yield?

1348 Mr. Walden. I would be happy to.

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1349 Ms. Eshoo. Thank you. Isn't this structured so that it is  
1350 3 weeks in advance? Somebody want to answer that?

1351 Mr. Kinzinger. Yes, it is within 24 hours of being  
1352 circulated, or 21 days before.

1353 Mr. Walden. It requires --

1354 Mr. Pallone. Would the gentleman yield?

1355 Mr. Walden. Reclaiming my time, it requires the FCC to  
1356 publish the text of the rules to be voted on, at the time of  
1357 circulation, to the commissioners or 21 days in advance of  
1358 adoption if not released at circulation. Once again this is about  
1359 transparency.

1360 Mr. Pallone. Would the gentleman yield?

1361 Mr. Walden. Sure.

1362 Mr. Pallone. I don't -- in my opinion, this is not the same  
1363 as what you have cited for these other agencies. You are talking  
1364 about draft orders decisions that are being circulated. That is  
1365 not the same as a final report or something that is going to be  
1366 voted on immediately. It is very different.

1367 And it seems to me, I mean what Ms. Eshoo was saying is pretty  
1368 basic, which is that, you know, if you are going to have --

1369 Mr. Walden. Reclaiming my time, would the gentleman then  
1370 support posting the rules 24 hours after they voted on it?

1371 Mr. Pallone. Look, my only point here is --

1372 Mr. Walden. Before they vote on it?

1373 Mr. Pallone. Well, my understanding is that we have

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1374 something similar to that that we have all supported. You see,  
1375 look --

1376 Mr. Walden. So --

1377 Mr. Pallone. Maybe I should take my own time.

1378 Mr. Walden. Yes, just reclaiming my time.

1379 Mr. Pallone. Yes, why don't you, and then I will take mine.

1380 Mr. Walden. Yes, that is fine, because if you want to do  
1381 it so that 24 hours before they vote it is kind of like our rules  
1382 here in the committee require. And so FTC actually releases the  
1383 text of the rules before proceeding to a final decision. It works  
1384 there. I mean, I think we can find common ground here, I would  
1385 hope. That is why I am so puzzled by the opposition.

1386 Now I know that under the current FCC, a lot of the decision  
1387 making they have to wait until the White House does a weekly radio  
1388 report or something in order to know how to proceed. But with  
1389 that my time is expired.

1390 The Chairman. The gentleman's time is expired. Other  
1391 members -- the chair would recognize the gentleman from New  
1392 Jersey.

1393 Mr. Pallone. I am not looking to, you know, talk about this  
1394 endlessly today, but I think the bottom line here is that, you  
1395 know, when is this timeline going to begin, okay. I think Ms.  
1396 Eshoo's point is that the way this Kinzinger bill is drafted, okay,  
1397 you are now talking, in my opinion, you don't have to agree, a  
1398 much earlier stage. You are talking about draft documents that

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1399 have to be reported not later than 24 hours after they have been  
1400 circulated.

1401 I mean, this is not, in my opinion, very precise language,  
1402 okay. And I think that what you are going to have is, okay, every  
1403 time somebody at the FCC wants to take some action or has any kind  
1404 of draft proposal, you know, in other words I am sitting here at  
1405 the FCC and I decide to take out a piece of paper and write this  
1406 out and this is now a draft, okay, that somehow that has to be  
1407 reported within 24 hours. That is not the same as what you have  
1408 to do with a final order or decision or a report that we are going  
1409 to have to vote on.

1410 And I think the point here is, you know, I am trying to be  
1411 nice, is that it gives an opportunity for everybody on K Street  
1412 to come in and say, oh, I don't like that draft and maybe we should  
1413 change it a little more here. And, you know, we can spend endless  
1414 days to the point where the FCC can't even operate effectively.

1415 Now maybe that is not your intention. I am not saying that  
1416 you are trying to thwart the FCC or kill them or anything like  
1417 that. Please don't misunderstand. But I think that we have got  
1418 to understand that there is a timeline here. This is a much  
1419 earlier stage with circulation of drafts than what you are talking  
1420 about with some of the other agencies where they have to provide  
1421 information for a final order. And if you want to sit down  
1422 with us and discuss it further that is fine, to make this more  
1423 precise in the vein that, you know, we want to have more

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1424 transparency. But this is much too early, too unclear, too  
1425 imprecise, and I think the only consequence of it would be that  
1426 they can't do anything, and every lobbyist is going to be talking  
1427 about it every time they circulate a draft.

1428 I mean, if I am sitting at the FCC and I write something by  
1429 hand on a piece of paper, doesn't that qualify as a draft order  
1430 that has -- and then I circulate it to my colleagues, doesn't that  
1431 qualify as a draft order or report that I have been circulating  
1432 under this bill? It seems to me it does. So, you know, that is  
1433 not what we should be doing. Now you may disagree, but that is  
1434 how I interpret it. That is how I read this language.

1435 Ms. Eshoo. Would the gentleman yield?

1436 Mr. Pallone. Yes.

1437 Ms. Eshoo. I think it is important to note to members that  
1438 when we took this issue up in the last Congress, we had a witness  
1439 that walked through exactly what would take place as a result of  
1440 this kind of language. So we were instructed in a very  
1441 professional way what the outcome was. Now if that is the outcome  
1442 that the majority wants as you said, then, you know, whatever we  
1443 say is not going to get us to first base. But this is not  
1444 thoughtful. It is not drawn well. You keep saying transparency.  
1445 Everybody is for transparency, but if it only has transparency  
1446 slapped at the top of it and it has language that brings about  
1447 something else at a very early stage -- even the general counsel  
1448 of the FCC, not the fact that probably a nail in our case that

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1449 the general counsel has said, this is what describes what the  
1450 outcome would be.

1451 So we are for transparency. I am not trying to throw sand  
1452 in the gears. I grew up with transparency. I have lived with  
1453 it. I have legislated it. I am for it. We are all for it. But  
1454 that is not what this language does. This thing is not ready for  
1455 prime time. And I think Mr. Pallone is absolutely right, K Street  
1456 will go crazy about this.

1457 Mr. Walden. Would the gentleman yield?

1458 Ms. Eshoo. It really will. The K Street will love it.

1459 Mr. Walden. Will the gentleman yield?

1460 Ms. Eshoo. Maybe it should be called the K Street bill,  
1461 because if they can just keep at same, then we are going to comment.  
1462 We are going to keep commenting, commenting, commenting, early,  
1463 early on. And so it will just throw them into chaos. They won't  
1464 be able to get anything done, and that is not good.

1465 Mr. Walden. Would the gentleman yield?

1466 Ms. Eshoo. It is not good for any of us, it is not good for  
1467 the country. And it is --

1468 Mr. Pallone. Yes, you can have the remainder of my time.

1469 Mr. Walden. Thank you. I was just going to point out we  
1470 have heard from a lot of people on this. We have done our  
1471 research. The GAO, Government Accountability Office,  
1472 recommended in a 2009 report that the FCC publish actual language  
1473 in the NPRM as a way to improve public participation and agency

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1474 process.

1475 So I think more publication, more transparency, more ability  
1476 for all the public, not just paid lobbyists but everybody to have  
1477 an idea is a good thing. Thank you.

1478 The Chairman. The gentleman's time is expired. Other  
1479 members wishing to speak on the amendment? The gentleman from  
1480 Illinois, Mr. Kinzinger.

1481 Mr. Kinzinger. Thank you, Mr. Chairman. I would move to  
1482 strike the last word. Let me just ask briefly, and unless  
1483 somebody wants it after me on our side I won't take all the time.  
1484 I want to ask lege counsel, there has been a lot of talk about  
1485 timeline ambiguity, and do you think there is any timeline  
1486 ambiguity in this?

1487 The Legislative Counsel. The text of the bill requires the  
1488 publication not later than 24 hours after the time the text is  
1489 placed on circulation or not later than 21 days before the date  
1490 on which the vote is to occur. And in terms of when the text is  
1491 placed on circulation that term would be construed in light of  
1492 how that is used under current Commission practices.

1493 Mr. Kinzinger. I mean, it doesn't sound ambiguous to me.  
1494 And, you know, again the other point I want to reiterate is  
1495 chairman of the FCC today can just say he wants to make things  
1496 available or not or who and what, and we just want to say we want  
1497 to make it fair and for everybody. You know, if you are going  
1498 to circulate these documents, we are not doing this for K Street

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1499 or endless rounds of comments, it is just we want some transparency  
1500 in this Commission.

1501 Sure, you know, someday, yes, this is going to be, you know,  
1502 God willing, a Commission where we have a majority of  
1503 commissioners on it, but I also want them to be transparent. I  
1504 want them to be able to circulate this kind of stuff and for people  
1505 to be able to see what the FCC is discussing.

1506 So, you know, a lot of times we like to make a lot of things,  
1507 I guess, controversial here. This is a pretty basic bill and  
1508 something I hope we, and think we should adopt. And I would think  
1509 the American people if they are paying attention to this issue  
1510 would want it as well. So --

1511 Mr. Pallone. Would the gentleman yield?

1512 Mr. Kinzinger. Sure.

1513 Mr. Pallone. I am just going to make an analogy, and I don't  
1514 want to -- this is it, I am done. But, you know --

1515 Mr. Kinzinger. Me too.

1516 Mr. Pallone. -- what about here today? Okay, we come in  
1517 here this morning, right, or yesterday, and we are negotiating  
1518 between Democrats and Republicans different language on these  
1519 bills, right. Some of it is handwritten, some of it is done, you  
1520 know, the night before or even this morning.

1521 So what does that mean if we had some kind of language like  
1522 this that applied to us? Every 10 minutes when I came up with  
1523 a different amendment or different proposal to Fred I would have

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1524 to, you know, release it to the public?

1525 Mr. Kinzinger. Well, I get your -- reclaiming my time and  
1526 I get the point. But let me just say that this bill that we are  
1527 voting on right now has been public for a long time. We put it  
1528 out thereB

1529 Mr. Pallone. I understand that, but the point isB

1530 Mr. Kinzinger. Reclaiming my time. You know, the  
1531 amendments we do, you know, they are out there on public, people  
1532 can see it. We try to be transparent. So with that, you know,  
1533 because going to endless I can either yield or yield the time back.

1534 Mr. Pallone. Yes, I am done.

1535 Mr. Cardenas. Would you yield?

1536 Mr. Kinzinger. I yield the time back.

1537 The Chairman. The gentleman yields back. The gentleman  
1538 from California.

1539 Mr. Cardenas. Strike the last word.

1540 The Chairman. Recognized for 5 minutes.

1541 Mr. Cardenas. Thank you. Just a question to the lege  
1542 counsel that is in front of us right now, what my colleague just  
1543 mentioned, Congressman Pallone, could this legislation actually  
1544 trigger, potentially, endless question and answer as was  
1545 described that maybe that could be the interpretation of what this  
1546 legislation would do?

1547 The Legislative Counsel. Sir, was that question for meB

1548 Mr. Cardenas. Lege counsel.

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1549 The Legislative Counsel. -- or for committee counsel?

1550 Mr. Cardenas. Oh, committee counsel, I am sorry.

1551 The Counsel. According to the case law, unless the item that  
1552 is released has new or novel issues in it, it would not require  
1553 the FCC to respond to comments and therefore would not trigger  
1554 additional rounds of comment. And assuming that the FCC has  
1555 followed the proper administrative procedure, the document that  
1556 is being released should not include new or novel information  
1557 requiring those comments.

1558 Mr. Cardenas. Okay, but once something is made public  
1559 doesn't anybody in the public space have the right to question  
1560 whether or not there is new or novel information, et cetera, and  
1561 therefore it would cause a quandry for the Commission in having  
1562 to determine whether or not that question was legitimate and then  
1563 they have to respond?

1564 The Counsel. Under the APA, the way that the item would be  
1565 considered it would be reflective of the prior document, the  
1566 notice of proposed rulemaking, et cetera, and should not include  
1567 that information. That is something that the courts are able to  
1568 decide ultimately, but the FCC's rules and the way that the APA  
1569 is structured it should not include that information.

1570 Mr. Cardenas. Okay, thank you. I yield back.

1571 The Chairman. The gentleman yields back. The gentleman  
1572 from New Mexico would like to strike the last word?

1573 Mr. Lujan. The last word, Mr. Chairman. I won't take up

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1574 all the time. Also a question for counsel, this legislation, is  
1575 this saying that these documentsB

1576 The Chairman. Is your mike on?

1577 Mr. Lujan. It is, Mr. Chairman, I am just not near one.  
1578 There we go. The legislation would make these documents, they  
1579 would turn them on to online public files, is that what this would  
1580 do?

1581 The Counsel. It would require that the Commission publish  
1582 on the internet website the text of such an order.

1583 Mr. Lujan. So does that -- tell me, counsel, does that mean  
1584 that they would be online public files? Is that fair?

1585 The Counsel. I don't believe so.

1586 Mr. Lujan. No?

1587 The Counsel. I don't believe that is --

1588 Mr. Lujan. No. I will just ask the other -- if we want to,  
1589 Josh wants to ask you -- or to the bill's sponsor. So are these,  
1590 if this goes on the website what does that mean? That -- does  
1591 it mean that they are an online public file? If it isB

1592 The Counsel. An online public --

1593 Mr. Lujan. -- on the website by the FCC, I asked the  
1594 question are these going to turn into online public files, your  
1595 response was no. So how is the public going to get access to them?

1596 The Counsel. I believe online public file, I am assuming  
1597 you are referring to the online public file used for broadcast  
1598 purposes?

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1599 Mr. Lujan. Anything.

1600 The Counsel. So online public file is a technical term in  
1601 that context, and so I mean, thisB

1602 Mr. Lujan. What is an online public file? I can get the  
1603 dictionary out again.

1604 The Counsel. I don't have the FCC's definition, but they  
1605 have specific requirements in their rules for an online public  
1606 file --

1607 Mr. Lujan. Well, the way that I, what an online public file  
1608 is to me is that it is a file that is online that is available  
1609 to the public. That seems like common sense.

1610 Mr. Walden. Would the gentleman yield?

1611 Mr. Lujan. Gladly.

1612 Mr. Walden. Yes, I am not an attorney, but I was a  
1613 broadcaster, and a public file is what broadcasters are required  
1614 by the FCC to keep. I think that is the confusion here. Unless  
1615 you are in this business as you have been, I mean, as a PUC  
1616 commissioner, that is a term of art, public file. I think that  
1617 is -- this information would be online and available to the public.

1618 Mr. Lujan. Oh, so it is not an online public file, but it  
1619 is a file available to the public that is online?

1620 Mr. Walden. That is exactly right.

1621 Mr. Lujan. Oh.

1622 Mr. Walden. Remember when we had this debate about is there  
1623 a court case regarding, you know.

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1624 Mr. Lujan. So again it is not an online public file, it is  
1625 a file available to the public online.

1626 Mr. Walden. Correct.

1627 Mr. Lujan. And that is different?

1628 Mr. Walden. Yes.

1629 Mr. Lujan. Would these documents be searchable by the  
1630 public?

1631 The Counsel. That is not required by this though.

1632 Mr. Lujan. So how would they find them?

1633 The Counsel. I think that --

1634 Mr. Walden. Will the gentleman yield?

1635 Mr. Lujan. Yes.

1636 Mr. Walden. Have you ever been on the FCC's website?

1637 Mr. Lujan. Yes.

1638 Mr. Walden. Right. So this would be available on the FCC's  
1639 website just like their other documents.

1640 Mr. Lujan. So when I go into the FCC's website I can put  
1641 in a few words into their search engine and that means that the  
1642 documents at the FCC site are searchable, correct?

1643 Mr. Walden. If the gentleman wants me to yield I would tell  
1644 you --

1645 Mr. Lujan. I would be happy to yield.

1646 Mr. Walden. First and foremost, the FCC's existing website  
1647 stinks.

1648 Mr. Lujan. Yes.

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1649 Mr. Walden. And as a broadcaster we could never find things  
1650 through it. It needs a lot of repair, but that doesn't have  
1651 anything to do with this. They could put it on the front page  
1652 of their website. They could make it a lot better.

1653 Mr. Lujan. So I am just trying to understand, if the website  
1654 stinks and this committee refuses to help the FCC with funding  
1655 to improve the website, we can't complain. It has happened. We  
1656 voted on this thing, everybody. We have some legislation, I can  
1657 pull that up with lege counsel as well.

1658 But with this legislation how is the public supposed to  
1659 search to find the documents? That is what I am trying to get  
1660 at here. Is it searchable? Can we find the documents? Mr.  
1661 Chairman, would the -- I mean, anybody?

1662 Mr. Kinzinger. Will the gentleman -- so you are saying we  
1663 should fix the website before we make things available online.

1664 Mr. Lujan. Oh, no, no, no. That is not the point I am  
1665 making.

1666 Mr. Kinzinger. I am having a hard time tracking.

1667 Mr. Lujan. Adam, it is very --

1668 Mr. Kinzinger. Fix the website. FCC, fix the website.

1669 Mr. Lujan. Yielding my time back. Adam, it is very simple,  
1670 Congressman Kinzinger. The idea here is that this legislation  
1671 would make more documents available to the public. I am trying  
1672 to figure out if they are going to be available to the public  
1673 online. I hear yes. So how will the people find these documents?

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1674 Mr. Kinzinger. If the gentleman will yield --

1675 Mr. Lujan. Yes.

1676 Mr. Kinzinger. -- maybe I suggest we pass this, get  
1677 everything in order, and then we really encourage through a sense  
1678 of Congress the FCC to fix their website so people can search  
1679 things.

1680 Mr. Walden. Will the gentleman yield?

1681 Mr. Lujan. Here is the point that I am trying to make. This  
1682 last week on the floor of the United States House of  
1683 Representatives, all of us as Members of Congress had an  
1684 opportunity to vote on a piece of legislation through an amendment  
1685 that would have made documents that the FCC already has that have  
1686 already been paid for fully searchable, fully identifiable, and  
1687 made available and machine readable, and all but a handful of our  
1688 colleagues voted no.

1689 So if we are truly going to try to make these documents  
1690 available to the public, then let's work together in every step  
1691 of the way on all those documents especially where those no votes  
1692 were cast on the online public files that are like the files that  
1693 are public that are online. That is all I am trying -- thank you,  
1694 sir.

1695 The Chairman. The gentleman's time is expired. I sense  
1696 that the members are ready to vote on the bill. A recorded vote  
1697 has been asked for. The question occurs on favorably reporting  
1698 H.R. 2592 to the House. Roll call has been requested.

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1699 All those in favor will vote aye, and those opposed will vote  
1700 no, and the clerk will call the roll.

1701 The Clerk. Mr. Barton.

1702 Mr. Barton. Aye.

1703 The Clerk. Mr. Barton votes aye.

1704 Mr. Whitfield.

1705 Mr. Whitfield. Aye.

1706 The Clerk. Mr. Whitfield votes aye.

1707 Mr. Shimkus.

1708 Mr. Shimkus. Aye.

1709 The Clerk. Mr. Shimkus votes aye.

1710 Mr. Pitts.

1711 Mr. Pitts. Aye.

1712 The Clerk. Mr. Pitts vote aye.

1713 Mr. Walden.

1714 Mr. Walden. Aye.

1715 The Clerk. Mr. Walden votes aye.

1716 Mr. Murphy.

1717 Mr. Murphy. Aye.

1718 The Clerk. Mr. Murphy votes aye.

1719 Mr. Burgess.

1720 Mr. Burgess. Aye.

1721 The Clerk. Mr. Burgess votes aye.

1722 Mrs. Blackburn.

1723 Mrs. Blackburn. Aye.

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1724 The Clerk. Mrs. Blackburn votes aye.  
1725 Mr. Scalise.  
1726 [No response.]  
1727 The Clerk. Mr. Latta.  
1728 Mr. Latta. Aye.  
1729 The Clerk. Mr. Latta votes aye.  
1730 Mrs. McMorris Rodgers.  
1731 [No response.]  
1732 The Clerk. Mr. Harper.  
1733 Mr. Harper. Aye.  
1734 The Clerk. Mr. Harper votes aye.  
1735 Mr. Lance.  
1736 Mr. Lance. Aye.  
1737 The Clerk. Mr. Lance votes aye.  
1738 Mr. Guthrie.  
1739 Mr. Guthrie. Aye.  
1740 The Clerk. Mr. Guthrie votes aye.  
1741 Mr. Olson.  
1742 Mr. Olson. Aye.  
1743 The Clerk. Mr. Olson votes aye.  
1744 Mr. McKinley.  
1745 Mr. McKinley. Aye.  
1746 The Clerk. Mr. McKinley votes aye.  
1747 Mr. Pompeo.  
1748 Mr. Pompeo. Aye.

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1749 The Clerk. Mr. Pompeo votes aye.  
1750 Mr. Kinzinger.  
1751 Mr. Kinzinger. Aye.  
1752 The Clerk. Mr. Kinzinger votes aye.  
1753 Mr. --  
1754 Mr. Griffith. Aye.  
1755 The Clerk. Mr. Griffith votes aye.  
1756 Mr. Bilirakis.  
1757 Mr. Bilirakis. Aye.  
1758 The Clerk. Mr. Bilirakis votes aye.  
1759 Mr. Johnson.  
1760 Mr. Johnson. Aye.  
1761 The Clerk. Mr. Johnson votes aye.  
1762 Mr. Long.  
1763 Mr. Long. Aye.  
1764 The Clerk. Mr. Long votes aye.  
1765 Mrs. Ellmers.  
1766 Mrs. Ellmers. Aye.  
1767 The Clerk. Mrs. Ellmers votes aye.  
1768 Mr. Bucshon.  
1769 Mr. Bucshon. Aye.  
1770 The Clerk. Mr. Bucshon votes aye.  
1771 Mr. Flores.  
1772 Mr. Flores. Aye.  
1773 The Clerk. Mr. Flores votes aye.

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1774 Mrs. Brooks.

1775 Mrs. Brooks. Aye.

1776 The Clerk. Mrs. Brooks votes aye.

1777 Mr. Mullin.

1778 Mr. Mullin. Aye.

1779 The Clerk. Mr. Mullin votes aye.

1780 Mr. Hudson.

1781 Mr. Hudson. Aye.

1782 The Clerk. Mr. Hudson votes aye.

1783 Mr. Collins.

1784 Mr. Collins. Aye.

1785 The Clerk. Mr. Collins votes aye.

1786 Mr. Cramer.

1787 Mr. Cramer. Aye.

1788 The Clerk. Mr. Cramer votes aye.

1789 Mr. Pallone.

1790 Mr. Pallone. No.

1791 The Clerk. Mr. Pallone votes no.

1792 Mr. Rush.

1793 [No response.]

1794 The Clerk. Ms. Eshoo.

1795 Ms. Eshoo. No.

1796 The Clerk. Ms. Eshoo votes no.

1797 Mr. Engel.

1798 Mr. Engel. No.

1799 The Clerk. Mr. Engel votes no.  
1800 Mr. Green.  
1801 Mr. Green. No.  
1802 The Clerk. Mr. Green votes no.  
1803 Ms. DeGette.  
1804 Ms. DeGette. No.  
1805 The Clerk. Ms. DeGette votes no.  
1806 Mrs. Capps.  
1807 Mrs. Capps. No.  
1808 The Clerk. Mrs. Capps votes no.  
1809 Mr. Doyle.  
1810 Mr. Doyle. No.  
1811 The Clerk. Mr. Doyle votes no.  
1812 Ms. Schakowsky.  
1813 Ms. Schakowsky. No.  
1814 The Clerk. Ms. Schakowsky votes no.  
1815 Mr. Butterfield.  
1816 Mr. Butterfield. No.  
1817 The Clerk. Mr. Butterfield votes no.  
1818 Ms. Matsui.  
1819 Ms. Matsui. No.  
1820 The Clerk. Ms. Matsui votes no.  
1821 Ms. Castor.  
1822 Ms. Castor. No.  
1823 The Clerk. Ms. Castor votes no.

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1824 Mr. Sarbanes.

1825 Mr. Sarbanes. No.

1826 The Clerk. Mr. Sarbanes votes no.

1827 Mr. McNerney.

1828 Mr. McNerney. No.

1829 The Clerk. Mr. McNerney votes no.

1830 Mr. Welch.

1831 Mr. Welch. No.

1832 The Clerk. Mr. Welch votes no.

1833 Mr. Lujan.

1834 [No response.]

1835 The Clerk. Mr. Tonko.

1836 Mr. Tonko. No.

1837 The Clerk. Mr. Tonko votes no.

1838 Mr. Yarmuth.

1839 Mr. Yarmuth. No.

1840 The Clerk. Mr. Yarmuth votes no.

1841 Ms. Clarke.

1842 [No response.]

1843 The Clerk. Mr. Loeb sack.

1844 Mr. Loeb sack. No.

1845 The Clerk. Mr. Loeb sack votes no.

1846 Mr. Schrader.

1847 Mr. Schrader. No.

1848 The Clerk. Mr. Schrader votes no.

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1849 Mr. Kennedy.

1850 Mr. Kennedy. No.

1851 The Clerk. Mr. Kennedy votes no.

1852 Mr. Cardenas.

1853 Mr. Cardenas. No.

1854 The Clerk. Mr. Cardenas votes no.

1855 Chairman Upton.

1856 The Chairman. Votes aye.

1857 Other members wishing to vote, Mrs. Cathy McMorris Rodgers?

1858 Mrs. McMorris Rodgers. Aye.

1859 The Clerk. Mrs. McMorris Rodgers votes aye.

1860 The Chairman. Others -- is Mr. Rush recorded?

1861 The Clerk. He is not recorded.

1862 Mr. Rush. Rush votes no.

1863 The Clerk. Mr. Rush votes no.

1864 The Chairman. Gentleman from --

1865 The Clerk. Mr. Lujan.

1866 Mr. Lujan. No.

1867 The Clerk. Mr. Lujan votes no.

1868 The Chairman. Other members wishing to cast a vote?

1869 Mr. Butterfield were you recorded? He was recorded, right?

1870 The clerk will report the tally.

1871 The Clerk. Mr. Chairman, on that vote there were 30 ayes

1872 and 22 noes.

1873 The Chairman. 30 ayes, 22 noes. The question on H.R. 2592

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1874 favorably reported and the bill is adopted, and the bill is  
1875 favorably reported.

1876 The chair now calls up H.R. 2593, and asks the clerk to  
1877 report.

1878 [The Bill H.R. 2593 follows:]

1879

1880 \*\*\*\*\*INSERT 19\*\*\*\*\*

1881           The Clerk. H.R. 2593, to amend the Communications Act of  
1882 1934.

1883           The Chairman. Without objection, the first reading of the  
1884 bill is dispensed with. The bill will be open for amendment at  
1885 any point. Are there any bipartisan amendments to the bill? Are  
1886 there any amendments to the bill? Seeing Mr. Cardenas, do you  
1887 have an amendment to the bill?

1888           Mr. Cardenas. Yes, thank you, Mr. Chairman.

1889           [The Amendment offered by Mr. Cardenas follows:]

1890

1891 \*\*\*\*\*INSERT 20\*\*\*\*\*

1892           The Chairman. The clerk will report the title of the  
1893 amendment.

1894           The Clerk. Amendment to H.R. 2593 offered by Mr. Cardenas.

1895           The Chairman. And without objection, the amendment is  
1896 considered as read. The staff will distribute the amendment, and  
1897 the gentleman from California is recognized for 5 minutes in  
1898 support of his amendment.

1899           Mr. Cardenas. Thank you very much, Mr. Chairman. I have  
1900 an amendment here, and Mr. Latta's bill would require that the  
1901 FCC publish information on its horrible website 48 hours before  
1902 making a decision on delegated authority. Delegated  
1903 authority allows FCC bureaus and offices to make decisions so long  
1904 as they aren't deciding novel legal issues. As a practical  
1905 matter, delegated authority is used to conduct the routine  
1906 business of the agency such as processing applications and issuing  
1907 public notices. Thousands of these actions occur every year.  
1908 These actions are not final until they are released by the FCC,  
1909 and the FCC can decide not to take an action at any time before  
1910 it releases the item. Adding a new notice requirement could have  
1911 the perverse effect of slowing down the work of the FCC.

1912           As written, the bill could also create confusion and may  
1913 cause unwarranted administrative burdens on the FCC when the  
1914 agency is doing its routine work. Stakeholders could face  
1915 uncertainty and longer wait times for previous routine decisions.

1916           That being said, transparency is an important goal of all

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of us and one that we all support. That is why I have offered my amendment to ensure there is more formalized transparency process when it comes to the Commission's use of delegated authority while ensuring what we don't unnecessarily slow down the everyday work of the FCC. My amendment would give the FCC 270 days to complete a proceeding to create formal rules that will notify the public and other commissioners before an action is taken on delegated authority.

I think this is a balanced approach to ensure that there is a formal process that will be more transparent but doesn't add an additional layer of bureaucracy that will slow down the FCC's work. I yield back.

The Chairman. The gentleman yields back. The gentleman from Ohio, Mr. Latta, is recognized for 5 minutes.

Mr. Latta. Chairman, strike the last word. Thank you.

Mr. Chairman, I introduced H.R. 2593 to increase transparency and accountability at the FCC. The legislation required the FCC to list and describe all items to be adopted on delegated authority 48 hours prior to action being taken if those items are given a delegated authority identification number. This will ensure that the Commission is appropriately delegating items and not passing decision making to others. In case those items pose new and novel questions of policy, those items should be considered and voted on by all the commissioners. Additionally, the bill would remove suspicions of any misuse of

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delegated authority. It is also important to note that this requirement would not burden the Commission. The agency already produces this information after items are adopted, therefore the bill would merely shift timing and not increase workload. The intent of the legislation is to ensure transparency not create burdens. Furthermore, the agency would not be required to publish items that receive a delegated authority identification number which only account for a small number of items. For example, in 2014, 1,845 items out of 950,000 received an identification number. It is my understanding that the numbers are given to items by the FCC bureau chiefs to consider whether the decision will have precedential value in the future and whether the item is an issue of broad public attention. I believe these items are the type of items that would be likely to receive a 48-hour notice.

Lastly, I would also like to offer a statement of support for H.R. 2593 from Commissioner O'Rielly. I quote, "Given my outspoken involvement in FCC process related issues, I want to commend Congressman Latta's effort to bring the public into the loop on FCC decisions to pushed to the staff level. Notifying the American people of imminent staff decisions should be a basic priority. And with a Commission intent on avoiding accountability by delegating more and more important decisions to staff, from last year's wireless competition report to key policies on the incentive auction, Lifeline and E-Rate, it is more

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1967 important than ever to shed more additional light on this process.

1968 "Compared to the circulation time of items at the Commission  
1969 level, during which the public has notice of the items as well  
1970 as other descriptive materials, 48 hours is a very short time  
1971 period, though the decisions can be just as consequential. The  
1972 Commission is able to bypass quite a bit of public input through  
1973 the abuse of delegated authority -- it should not be permitted  
1974 to bypass public notice as well. To be clear, nothing in the Latta  
1975 bill will undermine the functionality of the Commission or the  
1976 deliberative process, in fact it will enhance its efforts and  
1977 should be a welcomed reform."

1978 And Mr. Chairman, if I could, I would like to ask unanimous  
1979 consent to submit for the record Commissioner O'Rielly's  
1980 statement, and I yield back.

1981 [The information follows:]

1982

1983 \*\*\*\*\*COMMITTEE INSERT 21\*\*\*\*\*

1984           The Chairman. The gentleman yields back. The chair  
1985 recognizes the gentleman from New Jersey for 5 minutes.

1986           Mr. Pallone. Thank you, Mr. Chairman. I would urge  
1987 opposition to the bill offered by Mr. Latta. Delegated authority  
1988 is overwhelmingly used to conduct routine business or routine  
1989 agency business like application processing and issuing public  
1990 notices. Last year there were over 950,000 actions taken on  
1991 delegated authority and these actions are not final until they  
1992 are released by the FCC, and the FCC can decide not to take an  
1993 action at any time before it releases the item.

1994           And this bill would artificially delay thousands of routine  
1995 and non-controversial items that the FCC processes annually.  
1996 Requiring the FCC to post a description of all potential actions  
1997 before they are finalized could create confusion by generating  
1998 public lists of actions the agency may not actually take. And  
1999 the bill would dramatically reduce productivity at the agency and  
2000 would create uncertainty and longer wait times for applicants and  
2001 license for what previously had been routine decisions.

2002           And I just think telling the FCC to wait 48 extra hours to  
2003 release decisions that already have been made would do nothing  
2004 to enhance transparency. I favor the substitute approach taken  
2005 by Mr. Cardenas' amendment which I think would correct the  
2006 problems that we have with this bill, so I would urge my colleagues  
2007 to vote for the Cardenas amendment, and if it doesn't pass to vote  
2008 against the bill. I yield back.

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2009 The Chairman. The gentleman yields back. Other members  
2010 wishing to speak on the amendment? Seeing none, the vote occurs  
2011 on the amendment offered by Mr. Cardenas from California. Those  
2012 in favor will -- a roll call vote is requested. The clerk will  
2013 call the roll.

2014 The Clerk. Mr. Barton.

2015 Mr. Barton. No.

2016 The Clerk. Mr. Barton votes no.

2017 Mr. Whitfield.

2018 [No response.]

2019 The Clerk. Mr. Shimkus.

2020 The Chairman. Shimkus. Shimkus.

2021 The Clerk. Mr. Shimkus.

2022 Mr. Shimkus. No.

2023 The Clerk. Mr. Shimkus votes no.

2024 Mr. Pitts.

2025 [No response.]

2026 The Clerk. Mr. Walden.

2027 Mr. Walden. No.

2028 The Clerk. Mr. Walden votes no.

2029 Mr. Murphy.

2030 Mr. Murphy. No.

2031 The Clerk. Mr. Murphy votes no.

2032 Mr. Burgess.

2033 Mr. Burgess. No.

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2034 The Clerk. Mr. Burgess votes no.  
2035 Mrs. Blackburn.  
2036 [No response.]  
2037 The Clerk. Mr. Scalise.  
2038 [No response.]  
2039 The Clerk. Mr. Latta.  
2040 Mr. Latta. No.  
2041 The Clerk. Mr. Latta votes no.  
2042 Mrs. McMorris Rodgers.  
2043 Mrs. McMorris Rodgers. No.  
2044 The Clerk. Mrs. McMorris Rodgers votes no.  
2045 Mr. Harper.  
2046 Mr. Harper. No.  
2047 The Clerk. Mr. Harper votes no.  
2048 Mr. Lance.  
2049 Mr. Lance. No.  
2050 The Clerk. Mr. Lance votes no.  
2051 Mr. Guthrie.  
2052 Mr. Guthrie. No.  
2053 The Clerk. Mr. Guthrie votes no.  
2054 Mr. Olson.  
2055 Mr. Olson. No.  
2056 The Clerk. Mr. Olson votes no.  
2057 Mr. McKinley.  
2058 Mr. McKinley. No.

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2059 The Clerk. Mr. McKinley votes no.  
2060 Mr. Pompeo.  
2061 Mr. Pompeo. No.  
2062 The Clerk. Mr. Pompeo votes no.  
2063 Mr. Kinzinger.  
2064 Mr. Kinzinger. No.  
2065 The Clerk. Mr. Kinzinger votes no.  
2066 Mr. Griffith.  
2067 Mr. Griffith. No.  
2068 The Clerk. Mr. Griffith votes no.  
2069 Mr. Bilirakis.  
2070 Mr. Bilirakis. No..  
2071 The Clerk. Mr. Bilirakis votes no.  
2072 Mr. Johnson.  
2073 Mr. Johnson. No.  
2074 The Clerk. Mr. Johnson votes no.  
2075 Mr. Long.  
2076 Mr. Long. No.  
2077 The Clerk. Mr. Long votes no.  
2078 Mrs. Ellmers.  
2079 Mrs. Ellmers. No.  
2080 The Clerk. Mrs. Ellmers votes no.  
2081 Mr. Bucshon.  
2082 Mr. Bucshon. No.  
2083 The Clerk. Mr. Bucshon votes no.

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2084 Mr. Flores.

2085 Mr. Flores. No.

2086 The Clerk. Mr. Flores votes no.

2087 Mrs. Brooks.

2088 Mrs. Brooks. No.

2089 The Clerk. Mrs. Brooks votes no.

2090 Mr. Mullin.

2091 Mr. Mullin. No.

2092 The Clerk. Mr. Mullin votes no.

2093 Mr. Hudson.

2094 Mr. Hudson. No.

2095 The Clerk. Mr. Hudson votes no.

2096 Mr. Collins.

2097 Mr. Collins. No.

2098 The Clerk. Mr. Collins votes no.

2099 Mr. Cramer.

2100 Mr. Cramer. No.

2101 The Clerk. Mr. Cramer votes no.

2102 Mr. Pallone.

2103 Mr. Pallone. Aye.

2104 The Clerk. Mr. Pallone votes aye.

2105 Mr. Rush.

2106 Mr. Rush. Aye.

2107 The Clerk. Mr. Rush votes aye.

2108 Ms. Eshoo.

2109           Ms. Eshoo.   Aye.  
2110           The Clerk.   Ms. Eshoo votes aye.  
2111           Mr. Engel.  
2112           Mr. Engel.   Aye.  
2113           The Clerk.   Mr. Engel votes aye.  
2114           Mr. Green.  
2115           Mr. Green.   Aye.  
2116           The Clerk.   Mr. Green votes aye.  
2117           Ms. DeGette.  
2118           Ms. DeGette.   Aye.  
2119           The Clerk.   Ms. DeGette votes aye.  
2120           Mrs. Capps.  
2121           Mrs. Capps.   Aye.  
2122           The Clerk.   Mrs. Capps votes aye.  
2123           Mr. Doyle.  
2124           Mr. Doyle.   Aye.  
2125           The Clerk.   Mr. Doyle votes aye.  
2126           Ms. Schakowsky.  
2127           [No response.]  
2128           The Clerk.   Mr. Butterfield.  
2129           [No response.]  
2130           The Clerk.   Ms. Matsui.  
2131           Ms. Matsui.   Aye.  
2132           The Clerk.   Ms. Matsui votes aye.  
2133           Ms. Castor.



2134           Ms. Castor.   Aye.

2135           The Clerk.   Ms. Castor votes aye.

2136           Mr. Sarbanes.

2137           Mr. Sarbanes.   Aye.

2138           The Clerk.   Mr. Sarbanes votes aye.

2139           Mr. McNerney.

2140           Mr. McNerney.   Aye.

2141           The Clerk.   Mr. McNerney votes aye.

2142           Mr. Welch.

2143           Mr. Welch.   Aye.

2144           The Clerk.   Mr. Welch votes aye.

2145           Mr. Lujan.

2146           Mr. Lujan.   Aye.

2147           The Clerk.   Mr. Lujan votes aye.

2148           Mr. Tonko.

2149           Mr. Tonko.   Aye.

2150           The Clerk.   Mr. Tonko votes aye.

2151           Mr. Yarmuth.

2152           Mr. Yarmuth.   Aye.

2153           The Clerk.   Mr. Yarmuth votes aye.

2154           Ms. Clarke.

2155           [No response.]

2156           The Clerk.   Mr. Loeb sack.

2157           Mr. Loeb sack.   Aye.

2158           The Clerk.   Mr. Loeb sack votes aye.

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2159 Mr. Schrader.

2160 Mr. Schrader. Aye.

2161 The Clerk. Mr. Schrader votes aye.

2162 Mr. Kennedy.

2163 Mr. Kennedy. Aye.

2164 The Clerk. Mr. Kennedy votes aye.

2165 Mr. Cardenas.

2166 Mr. Cardenas. Aye.

2167 The Clerk. Mr. Cardenas votes aye.

2168 Chairman Upton.

2169 The Chairman. Votes no.

2170 The Clerk. Chairman Upton --

2171 The Chairman. Other members wishing to cast a vote, Mr.

2172 Pitts.

2173 Mr. Pitts. No.

2174 The Clerk. Mr. Pitts votes no.

2175 The Chairman. Mr. Butterfield.

2176 Mr. Butterfield. Aye.

2177 The Clerk. Mr. Butterfield votes aye.

2178 The Chairman. Other members, Ms. Schakowsky.

2179 Ms. Schakowsky. Aye.

2180 The Clerk. Ms. Schakowsky votes aye.

2181 The Chairman. Mrs. Blackburn.

2182 Mrs. Blackburn. No.

2183 The Clerk. Mrs. Blackburn votes no.

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2184           The Chairman.   Other members wishing to cast a vote?   Seeing  
2185 none, the clerk will report the tally.

2186           The Clerk.   Mr. Chairman, on that vote there were 22 ayes  
2187 and 29 noes.

2188           The Chairman.   22 ayes, 29 noes.   The amendment is not  
2189 agreed to.   Are there further amendments to the bill?   Seeing  
2190 none, the vote occurs on favorably reporting H.R. 2593 to the  
2191 House.

2192           All those in favor shall signify by saying aye.

2193           Those opposed say no.

2194           In the opinion of the chair, the ayes have it.   The ayes have  
2195 it, and the bill is favorably reported.

2196           The chair now calls up H.R. 4586 as amended by the  
2197 Subcommittee on Health, and asks the clerk to report.

2198           [The Bill H.R. 4586 follows:]

2199

2200           \*\*\*\*\*INSERT 22\*\*\*\*\*

2201           The Clerk. H.R. 4586, to amend the Public Health Service  
2202 Act.

2203           The Chairman. Without objection, the first reading of the  
2204 bill is dispensed with. The bill will be open for amendment at  
2205 any point. Are there any amendments to the bill? The chair will  
2206 recognize the gentleman from Illinois, Mr. Shimkus, to offer an  
2207 amendment.

2208           The Chairman. Or is it Mr. Pitts? I am sorry, Mr. Pitts.

2209           Mr. Pitts. Thank you, Mr. Chairman. I have an amendment  
2210 at the desk.

2211           [The Amendment offered by Mr. Pitts follows:]

2212

2213 \*\*\*\*\*COMMITTEE INSERT 23\*\*\*\*\*

2214 The Chairman. The clerk will report the title.

2215 The Clerk. Amendment to H.R. 4586 offered by Mr. Pitts.

2216 The Chairman. Without objection, the amendment will be  
2217 considered as read and the staff will distribute the amendment,  
2218 and the gentleman from Pennsylvania is recognized for 5 minutes  
2219 in support of his amendment.

2220 Mr. Pitts. Thank you, Mr. Chairman. This is an amendment  
2221 that I think we can label as a bipartisan amendment, I will let  
2222 Mr. Green speak to that. The bill makes a technical correction  
2223 to the placement of the grant program within the Public Health  
2224 Service Act. It also changes the authorization of the program,  
2225 brings the legislation into compliance with CUTGO, and with this  
2226 amendment we are repurposing authorizations to help fight the  
2227 opioid epidemic.

2228 So I urge my colleagues to support this amendment so that  
2229 we could report this bill to the floor while being fiscally  
2230 responsible. And does the gentleman, Mr. Green, seek  
2231 recognition?

2232 The Chairman. Mr. Green.

2233 Mr. Pitts. I yield back.

2234 The Chairman. The gentleman yields back. Other members  
2235 wishing to speak on the amendment? Seeing none, the vote occurs  
2236 on the amendment offered by Mr. Pitts.

2237 Those in favor will say aye.

2238 Those opposed say no.

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2239 In the opinion of the chair, the ayes have it and the  
2240 amendment is agreed to. Are there further amendments to the bill?  
2241 Seeing none, the question now occurs on favorably reporting H.R.  
2242 4586, as amended, to the House.

2243 All those in favor shall signify by saying aye.

2244 Those opposed say no.

2245 The ayes appear to have it. The ayes have it and the bill  
2246 is favorably reported.

2247 The chair now calls up H.R. 3680 as amended by the  
2248 Subcommittee on Health and asks the clerk to report.

2249 [The Bill H.R. 3680 follows:]

2250

2251 \*\*\*\*\*INSERT 24\*\*\*\*\*

2252 The Clerk. H.R. 3680.

2253 The Chairman. Without objection, the first reading of the  
2254 bill is dispensed with. The bill will be open for amendment at  
2255 any point. Is there any bipartisan amendments to the bill? The  
2256 gentleman from Pennsylvania is recognized, has an amendment at  
2257 the desk?

2258 Mr. Pitts. Mr. Chairman, I have an amendment at the desk.

2259 [The Amendment offered by Mr. Pitts follows:]

2260

2261 \*\*\*\*\*INSERT 25\*\*\*\*\*

2262           The Chairman. The clerk will report the title of the  
2263 amendment.

2264           The Clerk. Amendment to H.R. 3680 offered by Mr. Pitts.

2265           The Chairman. And the amendment will be considered as read.  
2266 The staff will distribute the amendment, and the gentleman is  
2267 recognized for 5 minutes in support of the amendment.

2268           Mr. Pitts. Thank you, Mr. Chairman. This amendment does  
2269 three important things. First, it corrects some important  
2270 terminology in the bill; secondly, it sets the authorization level  
2271 to \$5 million total for the period of fiscal years 2017 through  
2272 2021; thirdly, the amendment makes the legislation CUTGO  
2273 compliant by reducing authorizations in the 319D of the Public  
2274 Health Service Act.

2275           The amendment essentially repurposes funding so we can  
2276 prioritize resources to fight the opioid epidemic. And with this  
2277 amendment we will be able to move the bill in a fiscally  
2278 responsible way that is in line with the rules of the House.  
2279 And I urge my colleagues to support the amendment, and I yield  
2280 back.

2281           The Chairman. The gentleman yields back. The gentleman  
2282 from Maryland, Mr. Sarbanes, recognized for 5 minutes.

2283           Mr. Sarbanes. Thank you, Mr. Chairman. I thank the  
2284 gentleman. I think he has presented the technical corrections  
2285 that are being presented to the bill which is a bipartisan bill,  
2286 presented those accurately. We had a good discussion of this in

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2287 the markup at the subcommittee level. It will be very effective,  
2288 I think, in addressing the opioid crisis that we are facing in  
2289 our country, and I urge support of the amendment and I yield back.

2290 The Chairman. The gentleman yields back. Other members  
2291 wishing to speak on the amendment? Seeing none, the vote occurs  
2292 on the amendment offered by Mr. Pitts.

2293 All those in favor will say aye.

2294 Those opposed say no.

2295 In the opinion of the chair, the ayes have it. The amendment  
2296 is agreed to.

2297 Are there further amendments to the bill? Seeing none, the  
2298 vote occurs on favorably reported H.R. 3680, as amended, to the  
2299 House.

2300 All those in favor shall signify by saying aye.

2301 Those opposed say no.

2302 The ayes appear to have it, and the bill is favorably  
2303 reported.

2304 The last bill of the markup, the chair now calls up H.R. 3691,  
2305 and asks the clerk to report.

2306 [The Bill H.R. 3691 follows:]

2307

2308 \*\*\*\*\*INSERT 26\*\*\*\*\*

2309 The Clerk. H.R. 3691.

2310 The Chairman. Without objection, the first reading of the  
2311 bill is dispensed with. The bill will be open for amendment at  
2312 any point. Are there any bipartisan amendments? The gentleman  
2313 from Pennsylvania is recognized, has an amendment at the desk?

2314 Mr. Pitts. Yes.

2315 [The Amendment offered by Mr. Pitts follows:]

2316

2317 \*\*\*\*\*INSERT 27\*\*\*\*\*

2318 The Chairman. Report the title of the amendment.

2319 The Clerk. Amendment to H.R. 3691 offered by Mr. Pitts.

2320 The Chairman. And without objection, the amendment is  
2321 considered as read. The staff will distribute the amendment, and  
2322 the gentleman is recognized for 5 minutes in support of his  
2323 amendment.

2324 Mr. Pitts. Thank you again, Mr. Chairman. This amendment  
2325 makes one technical correction of the bill and makes the  
2326 legislation CUTGO compliant. This program currently receives  
2327 \$15.9 million. This amendment would bring the authorization in  
2328 the bill closer in line with this level to help ensure CUTGO  
2329 compliance.

2330 We have also increased the authorization to put more  
2331 resources in the program and included offsets from Section 319D  
2332 of the Public Health Service Act. The amendment essentially  
2333 repurposes an authorization to help fight the opioid epidemic,  
2334 and we are reauthorizing this important program in a way that is  
2335 fiscally compliant.

2336 So I urge my colleagues to support this amendment, and yield  
2337 back my time.

2338 The Chairman. The gentleman yields back. The chair would  
2339 recognize Mr. Green from Texas to speak on the amendment.

2340 Mr. Green. Thank you, Mr. Chairman. I would like to strike  
2341 the last word. I support the amendment to expand the  
2342 authorization of this important grant program. The pregnant and

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2343 postpartum women's grant program is an example of a program that  
2344 is working but should be expanded to better meet the needs of  
2345 pregnant and postpartum women.

2346 But I have to be honest. As the authorizing committee with  
2347 jurisdiction over most of our nation's public health and health  
2348 care system, CUTGO has proven time and again to hamper our ability  
2349 to respond to public health challenges. Today we are here to  
2350 address one of the great challenges facing our community,  
2351 neighbors and our children, the heroin and opioid epidemic.

2352 And we all agree on the urgency of this epidemic. We sat  
2353 in this room together yesterday, with broad bipartisan support  
2354 we passed eight bills in the fight against heroin and opioid abuse,  
2355 and today we passed three more important bills. No one in this  
2356 room believes that this issue isn't a problem. We all agree that  
2357 it is an issue of top priority for our committee.

2358 But the reality is even finding a few million dollars in  
2359 funding authorizations to support these bipartisan efforts was  
2360 a huge challenge due to the constraints of CUTGO. This is because  
2361 CUTGO has created an impossible system where you now have to choose  
2362 between critically important and competing priorities.

2363 We all sit today as members of the United States House of  
2364 Representatives Energy and Commerce Committee. We are charged  
2365 with authorizing discretionary programs that can be considered  
2366 for funding during the annual appropriations process. Every one  
2367 of our constituents demand that we respond to public health

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2368 challenges as they arise. Why should we continue to handicap our  
2369 ability to respond to public health crises because of rigid,  
2370 inflexible CUTGO rule? Let's not forget, CUTGO isn't a law.  
2371 It is a bureaucratic rule created by our House Republican  
2372 colleagues. The American people don't want us to choose one  
2373 disease over another. They want us to provide the necessary  
2374 investments to respond to current public health challenges,  
2375 ensure that we stop epidemics in their tracks, and prevent disease  
2376 outbreaks from emerging again. We will be lying to ourselves and  
2377 our constituents if we act as though we can address the opioid  
2378 epidemic without significant new resources.

2379 That is why my colleague, Mr. Lujan, offered an amendment  
2380 yesterday at the markup to provide \$1 billion in mandatory new  
2381 funding to address the opioid epidemic. That is also why we  
2382 support authorizing the two new grant programs and expanding  
2383 authorization of the existing grant today. CUTGO ties our  
2384 hands and makes it very difficult for us to robustly support such  
2385 important programs. It is clear that CUTGO rules are harmful to  
2386 us fulfilling our role as an authorizing committee, and it is time  
2387 to eliminate those CUTGO rules. And I will yield back my time  
2388 unless somebody else wants it.

2389 Mr. Pallone. I will just follow up on it. Look, I think  
2390 that this is a very important issue that Mr. Green is raising,  
2391 and I am not sure I understand all of the ramifications of this  
2392 Republican CUTGO rule. It is in the Republican Conference, it

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2393 is not in the Senate rules so they obviously don't go by it, and  
2394 it is not in the House rules. But I mean, it is ridiculous,  
2395 because essentially what is happening is we have in this case an  
2396 opioid/heroin crisis and it is clear that this is something that,  
2397 you know, maybe it is not completely unforeseen, but the epidemic  
2398 proportion of it was certainly not foreseen a few years ago, and  
2399 when we have to address it, we shouldn't have to cut other  
2400 worthwhile programs to do it.

2401 You know, we have had discussions about programs for women  
2402 and children, you know, Ryan White. I mean, these are all things  
2403 that are either similar epidemics or similar problems that need  
2404 to be addressed and we shouldn't be forced to cut one versus the  
2405 other. The other thing I don't quite understand either is why  
2406 this even is done in committee, because even if I decided I wanted  
2407 to do a CUTGO, I might want to cut defense, or cut, you know,  
2408 something that is not within the jurisdiction of the committee.  
2409 And we seem to be forced, again I don't know the details of this  
2410 Republican Conference rule, but we seem to be forced to even deal  
2411 with other health programs as opposed to say energy programs or  
2412 telecommunications programs.

2413 Again, I don't know the specifics of the rule because this  
2414 isn't our rule, but I think this effort to say that every time  
2415 we want to do something to address a major crisis like opioids  
2416 we have to cut another health program for kids or another program  
2417 for AIDS or, you know, even limit it to this committee or even

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2418 to the House as a whole. I mean, it just makes no sense.

2419 And I would urge my colleagues, and I am sure, I am not  
2420 expecting anybody to listen to me, but I would urge my colleagues  
2421 to take another look at this Republican Conference rule because  
2422 it is going to make it impossible for us to deal with a lot of  
2423 these public health crises, in my opinion. We need a lot more  
2424 funding for this opioid crisis and we are not really doing much  
2425 at all here today in terms of the funding. I thank the  
2426 gentleman.

2427 The Chairman. The gentleman's time is expired. The  
2428 gentlelady from California, Mrs. Capps.

2429 Mrs. Capps. Thank you, Mr. Chairman. I move to strike the  
2430 last word. Our nation's opioid crisis has brought to the  
2431 forefront the importance of investing meaningfully in public  
2432 health and prevention, but it has also highlighted the artificial  
2433 barriers that the House majority has imposed that make it almost  
2434 impossible to address a crisis when it occurs or prevent one in  
2435 the first place. And I am speaking as well specifically about  
2436 the so-called CUTGO rules. These rules are unsustainable at  
2437 best, and while they cause great partisan arguments here in our  
2438 committee, the real impact is felt in communities across the  
2439 country who at this moment need assistance that never comes.

2440 By reducing authorizations from one program to authorize  
2441 another we are not saving the government any money, but what we  
2442 are doing is hampering our ability to respond to a public health

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2443 crisis. Each of our communities across this country is affected  
2444 by the opioid epidemic. However, just because the opioid crisis  
2445 is wreaking havoc doesn't mean that our efforts to address other  
2446 critical issues like combating infant mortality, supporting  
2447 children with health care needs that these are no longer  
2448 necessary.

2449 Similarly, just because the Zika virus is posing a real  
2450 threat to the well being of families across the southern portions  
2451 of our country doesn't mean that the threat of other infectious  
2452 diseases like Ebola don't need to be addressed. Swapping the  
2453 funds of one program to support another is not an approach for  
2454 success.

2455 But the rules we are dealing with in this case aren't about  
2456 hard dollars and actual funding. They are about the ability to  
2457 fund in the future. And this is really absurd. I think we need  
2458 to stop pretending that it is possible or good policy to make this  
2459 false choice between addressing one issue or another. When we  
2460 do that we don't do either well.

2461 I urge our colleagues to reconsider this arbitrary policy,  
2462 abandon the CUTGO sound bite, and recommit to doing all we can  
2463 to help our communities who are in crisis. And I can yield the  
2464 balance of my time.

2465 Yes, I yield to Mr. Welch.

2466 Mr. Welch. Thank you. One of the frustrations I have about  
2467 this situation is that there is a lot of objectives that we share.

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2468 We want to do something about opioids. We have had a lot of common  
2469 ground on energy efficiency, we have wanted to provide some relief  
2470 to displaced coal country workers, just to name a couple. And  
2471 we have got a committee that I think has bipartisan leadership.  
2472 Our chairman has really made an effort to do things.

2473 But we don't have a way of addressing the legitimate concern  
2474 about getting our fiscal house in order with attending to very  
2475 immediate and real challenges that we face in all of our districts.  
2476 I mean, this opioid crisis is a really good example. This is just  
2477 the tragedy that is happening across the country and it has nothing  
2478 to do with whether you are in a Republican or Democratic district.  
2479 It is a legitimate concern.

2480 We had PAYGO when the Democrats were the majority. We had  
2481 to pay for whatever it is we were proposing either by an offsetting  
2482 cut or new revenue. You have got CUTGO. But what we don't have  
2483 is any way where this committee that has a common objective like  
2484 opioid, addressing the opioid crisis to actually wrestle with the  
2485 tough challenges of how are we going to pay for it? There is a  
2486 lot of areas where we probably could come up with some money for  
2487 an offset. I mean, look at all the money that we are getting  
2488 ripped off with prescription drug pricing. It just has run amuck.  
2489 That is a favorite of mine, you may have some favorites of yours.

2490 But Mr. Chairman, if we don't have any way as a committee  
2491 where we can address this fiscal issue to meet an objective that  
2492 is broadly shared in this committee to address the opioid

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2493 epidemic, then we are failing to do our jobs. And it is on all  
2494 of us, it really is.

2495 So it is not as though there is a huge debate about whether  
2496 we have got to try to bring our fiscal house in order. I mean,  
2497 there is a huge debate about how to do it, but these arbitrary  
2498 rules that give us an excuse so that we don't have to act and  
2499 actually wade into the tough challenges is interfering with us  
2500 being able to meet the concerns of the people that we are here  
2501 to represent. I yield back.

2502 The Chairman. Well, it was the gentlelady's time from  
2503 California. Did she yield back or do you -- are there other  
2504 members wishing to speak? The gentleman from Maryland.

2505 Mr. Sarbanes. I move to strike the last word, Mr. Chairman.  
2506 Just briefly, I want to echo the comments of the main. I think  
2507 they are being presented in a real bipartisan spirit, in other  
2508 words that this committee's ability to function effectively in  
2509 responding to these crises that we have been talking about,  
2510 particularly today the discussion of the opioid crisis across the  
2511 country, is certainly hamstrung by the current rule that is being  
2512 described.

2513 And to put it in terms I think all of us can appreciate, I  
2514 recently participated in a roundtable with about 50 professionals  
2515 in my district. These were representatives of local and state  
2516 government, substance abuse, treatment, providers, law  
2517 enforcement, hospital personnel and other health care

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2518 professionals, all working diligently to try to respond in a  
2519 coordinated way to the crisis, each of them digging deep to try  
2520 to bring resources to the solution.

2521 And I just imagine members of this committee, both  
2522 Republicans and Democrats, and Members of Congress generally,  
2523 sitting in these forums which are going to be happening in every  
2524 community across the country, and feeling that we are not able  
2525 to maybe bring the same level of commitment in terms of resources  
2526 that all the other partners around that table are trying to do.  
2527 And that will be a very tough position, I think, to be in.

2528 So I think it is certainly worth the discussion that we are  
2529 having today about stepping back and looking at this particular  
2530 constraint that has been placed on us by the rules of the House  
2531 and this committee and so forth. And with that I yield back.

2532 The Chairman. Did the gentleman yield back? I am sorry.  
2533 The gentleman yields back. Other members wishing to speak on the  
2534 amendment? Seeing none, the vote occurs on the amendment offered  
2535 by the gentleman from Pennsylvania.

2536 Those in favor will say aye.

2537 Those opposed say no.

2538 In the opinion of the chair, the ayes have it. The amendment  
2539 is agreed to. Are there further amendments to the bill? The  
2540 gentleman from New Mexico has an amendment at the desk.

2541 [The Amendment offered by Mr. Lujan follows:]

2542

\*\*\*\*\*COMMITTEE INSERT 28\*\*\*\*\*

2544 The Chairman. The clerk will report the title of the  
2545 amendment.

2546 The Clerk. Amendment to H.R. 3691 offered by Mr. Lujan.

2547 The Chairman. And the amendment will be considered as read.  
2548 The staff will distribute the amendment, and the gentleman is  
2549 recognized for 5 minutes in support of his amendment.

2550 Mr. Lujan. Chairman Upton and Ranking Member Pallone, let  
2551 me start by thanking you both for your efforts to address the  
2552 nation's drug crisis and for advancing my legislation, the  
2553 Improving Treatment for Pregnant and Postpartum Women's Act.

2554 Our nation continues to face a substance abuse crisis that  
2555 is tearing apart communities and families. Unfortunately too  
2556 often there are too few resources and avenues for help. Certainly  
2557 this is true in New Mexico which is among the states most impacted  
2558 by the epidemic plaguing our country. Too many people are  
2559 suffering and too many people are being shut out from access to  
2560 help. We must do more including making the necessary investments  
2561 to get people the care we need.

2562 But beyond the lack of necessary funding some of our efforts  
2563 are just outdated or need to be looked at and improved upon, and  
2564 that is what my bill does. It updates existing law by creating  
2565 a demonstration project in the existing pregnant and postpartum  
2566 grant program to allow grants to be used for nonresidential care.  
2567 While residential care might be the right fit for some patients,  
2568 it isn't necessarily the right fit for every patient. In my home

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2569 state of New Mexico there are far too few residential programs  
2570 to serve the needs of my constituents. In addition, many of the  
2571 existing facilities have wait lists, and with New Mexico's  
2572 vastness residential facilities are out of reach for too many.

2573 Today I am offering the technical amendment that is meant  
2574 to ensure that the important pilot program in my bill does not  
2575 harm existing residential treatment programs. It does this by  
2576 limiting the demonstration project from kicking in unless we  
2577 increase funding for this program above 2016 levels.

2578 Now to be honest, I believe that the amendment shouldn't be  
2579 necessary. As originally written, my bill contained an  
2580 authorization of \$40 million, significantly above the current  
2581 level to avoid any cuts to existing residential programs. Again,  
2582 I agree that we do not want to do anything that would harm existing  
2583 residential programs, but flat funding for this program is deeply  
2584 troubling. Supporting residential facilities is critical, but  
2585 so to is supporting innovation to make treatment available in  
2586 nonresidential settings, and both will require significant  
2587 investments. I ask for support for this amendment, and ask my  
2588 colleagues if they will join me in ensuring that we robustly fund  
2589 the program.

2590 Thank you, Mr. Chairman, and I yield back.

2591 The Chairman. The gentleman yields back. Other members  
2592 wishing to speak on the amendment? Seeing none, the vote occurs  
2593 on the amendment offered by the gentleman from New Mexico.

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2594 All those in favor will say aye.

2595 Those opposed say no.

2596 In the opinion of the chair, the ayes have it. The amendment  
2597 is agreed to.

2598 Further amendments to the bill? Seeing none, the question  
2599 now occurs on favorably reporting H.R. 3691, as amended, to the  
2600 House.

2601 All those in favor shall signify by saying aye.

2602 Those opposed say no.

2603 The ayes appear to have it. The ayes have it, and the bill  
2604 is favorably reported.

2605 Two additional things. Without objection, staff is  
2606 authorized to make technical and conforming changes to the  
2607 legislation approved by the committee today, so ordered.

2608 I also want to tell our assistant clerk, Elizabeth --  
2609 Elizabeth, when we have votes on the floor you find me and you  
2610 get an ice cream cone coming from the cloakroom, okay?

2611 Yes, I would also just note that the amendment offered by  
2612 Mr. Lujan is noted as FCDAMD-01XML, and the chair will recognize  
2613 the gentleman from New Jersey.

2614 Mr. Pallone. Thank you, Mr. Chairman. Pursuant to House  
2615 Rule 11 clause 2(1), I am giving notice of our intention to file  
2616 minority views for inclusion in any legislative reports that this  
2617 committee forwards to the House on those measures we have  
2618 considered. Under that rule, the minority is accorded up to 2

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2619 additional calendar days to file its views with the committee  
2620 clerk. Again, thank you, and I yield back.

2621 The Chairman. Without objection, so ordered. And without  
2622 objection, the committee stands adjourned. Thank you.

2623 [Whereupon, at 12:09 p.m, the committee was adjourned.]