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MARKUP OF:

H.R. 1321, MICROBEAD-FREE WATERS ACT OF 2015

H.R. 2017, COMMON SENSE NUTRITION DISCLOSURE

ACT OF 2015, AS AMENDED BY THE SUBCOMMITTEE

ON HEALTH

H.R. 3014, MEDICAL CONTROLLED SUBSTANCES

TRANSPORTATION ACT

H.R. 3716, ENSURING TERMINATED PROVIDERS ARE

REMOVED FROM MEDICAID AND CHIP ACT, AS

AMENDED BY THE SUBCOMMITTEE ON HEALTH

H.R. 3821, MEDICAID DIRECTORY OF CAREGIVERS

ACT, AS AMENDED BY THE SUBCOMMITTEE ON

HEALTH

H.J. RES. 71, PROVIDING FOR CONGRESSIONAL

DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5,

UNITED STATES CODE, OF A RULE SUBMITTED BY

THE ENVIRONMENTAL PROTECTION AGENCY RELATING

TO "STANDARDS OF PERFORMANCE FOR GREENHOUSE

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GAS EMISSIONS FROM NEW, MODIFIED, AND

RECONSTRUCTED STATIONARY SOURCES: ELECTRIC

UTILITY GENERATING UNITS''

H.J. RES. 72, PROVIDING FOR CONGRESSIONAL

DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5,

UNITED STATES CODE, OF A RULE SUBMITTED BY

THE ENVIRONMENTAL PROTECTION AGENCY RELATING

TO "CARBON POLLUTION EMISSION GUIDELINES FOR

EXISTING STATIONARY SOURCES: ELECTRIC UTILITY

GENERATING UNITS''

S. 611, GRASSROOTS RURAL AND SMALL COMMUNITY

WATER SYSTEMS ASSISTANCE ACT

WEDNESDAY, NOVEMBER 18, 2015

House of Representatives,

Committee on Energy and Commerce,

Washington, D.C.

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

Present: Representatives Upton, Barton, Whitfield,

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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, Green, DeGette, Capps, Doyle, Schakowsky, Butterfield, Matsui, Castor, Sarbanes, McNerney, Welch, Lujan, Tonko, Yarmuth, Clarke, Loeb sack, Schrader, Kennedy, and Cardenas.

Staff present: Clay Alspach, Chief Counsel, Health; Gary Andres, Staff Director; Will Batson, Legislative Clerk, Energy and Power, and Environment and the Economy; Mike Bloomquist, Deputy Staff Director; Sean Bonyun, Communications Director; Rebecca Card, Assistant Press Secretary; Jerry Couri, Senior Environmental Policy Advisor; Andy Duberstein, Deputy Press Secretary; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Peter Kielty, Deputy General Counsel; Ben Lieberman, Counsel, Energy and Power; David McCarthy, Chief Counsel, Environment and the Economy; Carly McWilliams, Professional Staff Member, Health; Tim Pataki, Professional Staff Member; Graham Pittman, Legislative Clerk; Mark Ratner, Policy Advisor to the Chairman; Michelle Rosenberg, GAO Detailee, Health; Chris Santini, Policy Coordinator, Oversight and

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Investigations; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight and Investigations; Heidi Stirrup, Health Policy Coordinator; John Stone, Counsel, Health; Josh Trent, Professional Staff Member, Health; Dylan Vorbach, Legislative Clerk, Communications, Manufacturing, and Trade; Gregory Watson, Legislative Clerk, Communications and Technology; Jessica Wilkerson, Oversight Associate, Oversight and Investigations; Jen Berenholz, Chief Clerk; Christine Brennan, Press Secretary; Jeff Carroll, Staff Director; Elizabeth Ertel, Deputy Clerk; Jean Fruci, Energy and Environment Policy Advisor; Tiffany Guarascio, Deputy Staff Director and Chief Health Advisor; Caitlin Haberman, Professional Staff Member; Ashley Jones, Director of Communications, Member Services and Outreach; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; Josh Lewis, EPA Detailee; John Marshall, Policy Coordinator; Rachel Pryor, Health Policy Advisor; Alexander Ratner, Policy Analyst; Tim Robinson, Chief Counsel; Samantha Satchell, Policy Analyst; Matt Schumacher, Press Assistant; and Kimberlee Trzeciak, Health Policy Advisor.

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The Chairman. Good morning, everybody. The committee will come to order. And I will strike the last word just for a moment.

Those of you that know me know that I have a lot of loves in my life, my family, this committee, my colleagues, and this picture that Mr. Long took, Billy, it is with a number of my colleagues. I don't know if you can blow that up or not. But my Michigan Wolverines, Mr. Billy Long took this picture. I don't know. Can you blow that up?

Mr. Pallone. Which one is you?

The Chairman. Which one is me? Yes, right.

Mr. Long. You are on the left.

The Chairman. Yes. Yes. Yes. That is a Michigan Wolverine hat on that sage buffalo steer head. And those of you, again, that know me, know that I live for my Cubbies. That is my dad being honored as the veteran of the game in August, World War II vet, Battle of the Bulge. It is against the Giants. That is my daughter, you know, celebrating a good win.

And we had some trouble back in 1969. I don't know if you remember the damn Mets who had a 10-game lead. And so, as a consequence, I have got to wear a Mets hat. So Mr. Andres has got a Mets hat as well, so here it is. It is now

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passed onto my colleague so that I can bring my green Cubbie
hat on, too. It fits the room, right? Anyway, I now can
sleep at night now that I have paid off that bet. So--

Mr. Loeb sack. Will the chairman yield?

The Chairman. Be glad to yield. Who is asking for
time?

Mr. Loeb sack. Over here, the Iowa Hawkeye guy.

The Chairman. Yes, we are looking forward to that game.

Mr. Loeb sack. Well, I am sorry to tell you but it is
probably likely that Rudock, that Iowa defector, may not get
you to the championship game.

The Chairman. Yes. Yes.

Mr. Loeb sack. Thank you anyway. Thank you.

The Chairman. We are looking forward to that game.

Mr. Loeb sack. Good luck. Good luck. Thank you.

The Chairman. On the first Saturday in December,
Wolverines against Iowa.

Okay. At the conclusion of the opening statements
yesterday, the chair called up H.J. Res. 71, and the joint
resolution was open for amendment at any point.

[The Resolution H. J. RES. 71 follows:]

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The Chairman. Is there any discussion on the joint resolution? I don't think amendments are in order actually, right? They are not in order. So we have done the opening statements so the question now occurs on favorably reporting H.J. Res. 71 to the House, H.J. Res. 71 to the House.

Mr. Pallone. No, I have got something to say.

The Chairman. Oh, would you like to strike the last word?

Mr. Pallone. Yes.

The Chairman. Go ahead. The gentleman from New Jersey is recognized for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

I don't want to take up much time, but I did want to take a moment to reiterate that voting on this bill is a waste of time because it will never be enacted into law. We know this because the White House already released a statement of administration policy on the Senate companion resolution. S.J. Res. 23 would nullify carbon pollution standards for future power plants, and power plants undertaking significant modifications or reconstruction, thus slowing our country's transition to cleaner cutting-edge power generation technologies.

Most importantly, the resolution could enable continued

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build-out of outdated, high-polluting, and long-lived power generation infrastructure and impede efforts to reduce carbon pollution from new and modified power plants. When the need to act and to act quickly to mitigate climate change impacts on American communities has never been more clear.

And then of course I would also like to ask unanimous consent to enter into the record the statement of administration policy and just read the quote at the end that says "if the President were presented with S.J. Res. 23, he would veto the bill."

I yield back.

Ms. DeGette. Will the gentleman yield?

Mr. Pallone. I yield, sure.

Ms. DeGette. Thank you for yielding, Mr. Pallone.

I just want to state for the record that I oppose both of these approval resolutions not just because the White House has issued a veto threat but also I think that, despite all of the progress we have made in this committee on a variety of issues, we are still stuck in the past on the issue of climate change. And instead of acknowledging the threat of climate change and working together in a bipartisan way, we are wasting valuable time on measures that would block the significant progress that this administration has

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made to address the largest sources of carbon emissions that contribute to climate change.

Now, some of us were here when this committee considered and passed a cap-and-trade bill in the 111th Congress that then passed the House on a bipartisan basis. That bill, because it was developed exclusively to confront climate change, would have given the Federal Government more flexibility to design solutions to address carbon emissions that exist under current law today.

However, the EPA, using its clear authority decided by the Courts under the Clean Air Act, has done an admirable job designing a set of rules that allows States to work with stakeholders to come up with plans to limit carbon emissions in a way that works for each particular State, and moreover, gives those States plenty of time to do so.

I have been talking to people in my home State of Colorado about discussion that the Colorado Department of Public Health and Environment has started with the stakeholders to develop the plan. You know, the fact is the American public knows that climate change is real. The American public supports the Clean Power Plan. Business, State, and local governments are all planning around the threat of climate change, and they support the Clean Power

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Plan. And health groups and environmental advocates believe it will make a real difference. We shouldn't try to undermine this bill. We should be trying to augment this bill.

Now, we still need to do more to protect future generations from the worst effects of climate change. I hope we can come together and begin to develop solutions to address this threat. One of my colleagues on the other side of the aisle recently said in one of our hearings that, well, they now have realized that climate change exists but they don't really think that it is a big problem. Boy, if you guess wrong, you are really guessing wrong on that one.

And, you know, when I look at the ski areas in my State, which are already making plans for how they are going to deal with the rapidly shifting climate, I realize that it is not just a moral issue and an issue for our kids and all that. It is a business issue. Businesses are realizing this. States are realizing this. Everybody is realizing this except for the majority in the U.S. Congress.

And, you know, I am about the most bipartisan person on this committee, and so I don't understand why we can't just get together in a bipartisan way, and instead of just saying no, no, no, say yes, yes, yes. Let's figure out how to do

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this so that it succeeds and it helps business.

I thank the gentleman for yielding and yield back.

Mr. Pallone. Unless anyone else wants my time, I yield back.

The Chairman. The gentleman yields back. The chair would recognize the gentleman from Kentucky, Mr. Whitfield.

Mr. Whitfield. Mr. Chairman, thank you very much. I am excited that we have the opportunity to bring up these two joint resolutions today, 71 and 72 under the Congressional Review Act, which simply is a mechanism for Congress to disapprove actions of the executive branch if it is perceived that the executive branch has gone too far. And if there was ever an example of them going too far, it appears to be in this new rule, what I refer to as the new rule, and then the rule on existing plants.

I might say that when EPA testified about these rules, both of them, they placed great emphasis on the fact that they were working with the States. They were giving States maximum flexibility. And yet 27 States have now filed suit with a multitude of other entities to stop the existing plant regulation. And 23 States have filed suits with a plethora of other entities to stop the new plant rule.

So it is quite clear that the States believe that the

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President has far exceeded his legal authority, and that is what we believe. Larry Tribe, who taught the President constitutional law at Harvard, sat down there at that table and told us that he viewed these rules as basically "tearing up the Constitution."

And I might also add that EPA had to change 30 years of legal interpretation their existing rule so that they could regulate under Section 111(d).

So this is an opportunity for Congress--with all respect to my friend from Colorado, who I have a great admiration for, enjoyed working with her on Diabetes Caucus and others--this is not just about the majority in the Congress.

You have got all these States filing lawsuits, you have got these private entities filing lawsuits, you have legal scholars saying that it is really questionable, and I might add that last night the U.S. Senate voted to approve both of these resolutions.

So maybe the President will veto it, but the American people are upset about this because of the unprecedented action being taken. And it is an opportunity for us to simply express the concerns that we have. We all are concerned about climate change, but there are different priorities placed on it. As we have said before, some of us

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think and many developing countries think that they are more concerned about electricity, about clean water, access to health care, a job. So that is all we are saying.

I have a great deal of respect and admiration for everyone on the other side, but I think Congress has the responsibility to raise issues when they think that the President and the administration is exceeding their legal authority, and that is the only thing that this resolution--and I would like to yield to the gentleman from Illinois.

Mr. Shimkus. I want to thank my colleague.

And I think part of this debate is does the EPA have the legal authority? We believe the rule goes far beyond the statutory authority of the agency under Section 111(b) of the Clean Air Act, and that is why 23 States have engaged in litigation on this rule, and as my colleague said, a lot of private sector industries.

Also, the assumption is that the EPA asserts that carbon capture and sequestration, which I know a lot about because we were supposed to have the first pilot plant. Then we were supposed to have the second pilot plant. They assume that it has been adequately demonstrated in their rule, carbon capture sequestration. And it has not. The plant in

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Mississippi is billions of dollars over cost. So their assumptions are flaws, their legal use of the Clean Air Act is flawed, and that is why we should support both these amendments.

And I yield back to my colleague from Kentucky.

Mr. Whitfield. And I yield back as well.

The Chairman. The gentleman yields back.

The chair would recognize the gentlelady from California, Ms. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman. First of all, thank you for calling the markup today.

It is stunning to me how the Congress can be so far behind and on the wrong side of history. The entire world is poised, trying to meet the challenge of what the change of climate has and continues to do around the world. This isn't just a debate about who said, what said, who came in and testified. This is setting up a wall so that progress cannot be made. This is a public health issue. This is about the future versus the past. And I would really welcome the words of Mr. Whitfield when he just said we are all concerned about climate change. We are all concerned about climate change.

Now, in these two resolutions, they would nullify carbon pollution standards for future power plants and power plants

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undertaking significant modifications or reconstruction. For the life of me I can't figure out why we would not want to make these changes. Now, maybe someone else should have proposed these things because if the President has a plan, then there is an automatic reaction that it is horrible because the President is associated with it. But you know what? I mean rise above all of that.

We are talking about our collective future. It is not just Republicans' children and Democrats' children. It is the entirety of our country and the world. And by taking these up and probably passing them, we are associating ourselves with the past.

Now, the lobbies against this are amongst the oldest lobbies in our country. It is gas, it is oil, it is all the old guys that have been around Congress for well over 100 years. I understand that. But I haven't heard one constituent of mine--and I wouldn't be elected without independents and Republicans in my district. I am the very first Democrat in the history of our country to represent my congressional district. They all ask what we are going to do to address what contributes to what is destroying the climate and where we live collectively.

So this is much larger than he said/she said. It really

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is. And so I think that these two proposals to nullify a Clean Power Plan are not only misguided. I think that they stand as one bookend that represents the past and nothing about our collective future, the protection of our people, the recognition of science, not political science but science. So I think that this is really a rather sad moment at our committee. I understand the lineup, but I think that we really--you know, it would really be wonderful if Members didn't talk when someone has the floor. I think it is disrespectful. I yield back.

The Chairman. The gentlelady yields back.

The chair would recognize the gentleman from Indiana, Dr. Bucshon.

Mr. Bucshon. Thank you, Mr. Chairman. And I will be brief.

From a State that depends on coal for 80 to 85 percent of our electrical power, I want to speak on behalf of these resolutions, both 71 and 72, and I want to remind everybody, remind the American people that--and I am paraphrasing; this is not my opinion.

The head of the EPA, Ms. McCarthy, has said that the Clean Power Plan rule will have no substantial effect on the global temperature. That is not my opinion. That is not a

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political opinion. That is the opinion of the EPA. And the opinion of the EPA also says that this is about American leadership. What this is is about tying the American people's hands behind our back. It is about jobs. It is about low-cost energy. And the people that I represent want us to block these rules.

And the reason is--again, I am one that agrees that the temperature of the Earth is changing. It is always changing.

With that said, if you are going to put in a rule that is going to tie the American people's hands behind their back and cost us jobs, cost us low-cost energy when the rest of the world is building coal-fired power plants that meet the best technology available today, and carbon capture and sequestration is not a technology that is financially or, honestly, technologically viable to comply. It is just foolish for Americans--to tie our hands behind our back. And so I support both these resolutions.

And with that, I yield back.

The Chairman. The gentlelady from Illinois, Ms. Schakowsky.

Ms. Schakowsky. Thank you, Mr. Chairman. I move to strike the last word.

As I mentioned yesterday in my opening statement, this

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resolution of disapproval takes us in the wrong direction in addressing the critical challenge of climate change. The facts and figures are astounding, and the scientific consensus is overwhelming. Scientists are now as confident that climate change is real and caused by human activity as they are that smoking cigarettes causes cancer.

The Clean Power Plan is a welcome structured approach to a problem that is becoming more challenging every single day.

It will establish the first-ever restrictions on emissions from power plants, which are responsible for almost 1/3 of the U.S. carbon emissions. Those reductions will prevent 2,700 to 6,600 premature deaths and 140,000 to 150,000 asthma attacks will be prevented every year.

The plan provides flexibility to States working to comply with its requirements, and it ensures that energy bills will go down. Each American family is predicted will save about \$85 a year in 2030. So what is not to like?

The public and leading organizations around the country representing public health, environment, and consumer interests support the Clean Power Plan. An organization I am familiar with, the National People's Action, one of our country's best grassroots advocacy organizations is hand-delivering 20,000 signatures to the EPA urging strong

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State implementation.

And look, as I have often reminded my colleagues, our statements made here today are part of the historical record.

Do you really want your children and grandchildren to have to explain to their children and grandchildren why you were a part of the problem rather than a part of the solution? We are in fact lucky to have an opportunity in this committee to shape environmental policies that will leave future generations better off. We owe it to our constituents and to our country and to our planet to take advantage of that opportunity. But if my colleagues will not get on board with commonsense solutions like the Clean Power Plan, I urge you simply then to get out of the way so the rest of us can do our jobs.

And I yield back.

The Chairman. The gentlelady yields back.

The gentlelady from Florida is recognized.

Ms. Castor. Thank you, Mr. Chairman. And good morning, colleagues.

I would like to urge all of you to defeat these joint resolutions. The costs and impacts of the changing climate demand the attention of the United States Congress, and it demands bold action. And the Republican majority is doing

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the exact opposite here, ignoring the problem. And when you ignore the problem of climate change, what you are in fact doing is heaping huge costs on our neighbors back home and all across the country.

Let's go through some of those costs because oftentimes I hear from the other side, boy, this Clean Power Plan is a costly proposal. Well, let's talk about the costs of the changing climate that we have seen already. Extreme weather events are causing increases in property insurance, homeowners' insurance. Remember a year or two ago we had a big debate over the rising cost of flood insurance.

What we are seeing in Florida, and I know in some of your communities, our local governments are having to respond to address their infrastructure issues at home, stormwater fees, property taxes having to go into resiliency plans. In my State and many other coastal States we have to re-nourish the beaches over time. We are going to have to do more of that, more cost.

The United States Congress has been called upon in past years to address these extreme weather events through emergency aid. That used to be very bipartisan but now it is more difficult. Look at the debate we had during Super Storm Sandy. Many Members say, no, we are not going to pay for

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those costs anymore, those emergency costs. Wildfires, droughts, what we are going to have to do in water conservation, these are the costs that are going to escalate unless the Congress takes bold action. We are going to see greater cost in health, the environment, and economy.

Now, fortunately, this Clean Power Plan is very flexible on States. States can come up with their own creative solutions. It is not one-size-fits-all. And in fact, I am very grateful that the administration has been the world leader. People around the globe rely on America for leadership, and we are providing that leadership here. We are providing that leadership, providing the flexibility to States because what we are hearing is these pollution limits are readily achievable.

The other part of this is what we can do to spur innovation in the new clean energy economy through green building. Let's unleash America's ingenuity and innovation and tackle this problem together. This is America. We can tackle these challenges together, and I urge you to defeat the joint resolutions that really in the end simply ignore the impacts of the changing climate. We shouldn't do that in this country.

I yield back. I yield my time to Mr. McNerney.

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Mr. McNerney. I thank the gentlewoman from Florida.

I just want to say that last week I was on a CODEL to South America with the committee, and the folks in Brazil are committed to reducing greenhouse gases, and the reason they are in my opinion the--they didn't say this--is because the United States is now setting standards for reducing carbon emissions. Brazil is following suit. We know that India and China are also making commitments.

So one of the arguments we hear against this is that this plan will not reduce carbon emissions, but taken in a whole with other countries following suit, I think it is going to make a big impact. So I will urge my colleagues to oppose these joint resolutions, and I yield back.

The Chairman. Do you want to use the same time? You can.

Mr. Welch. Mr. Chairman, I oppose these resolutions. I embrace the comments of my colleagues, Ms. Schakowsky, Ms. Castor, and others. But I also think we are going to vote the way we are going to vote on this, and I think that those of us who believe that climate change is a clear and present danger and have confidence if we take on the challenge of addressing it that will actually increase the economy have to acknowledge that there is trouble in the coal fields.

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And it is good hardworking folks that I met when I went with David McKinley to a coalmine in his district, and the people I met there, these are hardworking Americans. We were at a UMW rally. There were like 1,200 people there, and the head of the union asked for everybody who in that room was a veteran to stand up. It must have been 60 percent of the room that stood up. And these folks have done everything right to keep the lights on in our country.

And whichever side of this whole debate you are on, those folks we cannot leave behind. And my hope is that after this resolution is voted on there is going to be some effort on this committee to take up legislation that Mr. McKinley has sponsored that would provide some economic relief to the coal fields.

We have got a responsibility to do that. The folks who went into those mines who go in every day did not cause climate change, and we have got to help them. And whatever side you are on, my view, we have got an obligation to help those folks because they have helped us for an awful long time.

I yield back.

The Chairman. Other Members wishing to speak? Seeing none, the question now occurs on favorably reporting H.J.

Res. 71 to the House.

All those in favor shall signify by saying aye.

All opposed, say no.

Roll call is requested. The clerk will call the roll.

The Clerk. Mr. Barton?

[No response.]

The Clerk. Mr. Whitfield?

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mr. Walden?

[No response.]

The Clerk. Mr. Murphy?

Mr. Murphy. Aye.

The Clerk. Mr. Murphy votes aye.

Mr. Burgess?

Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

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Mrs. Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Scalise?

[No response.]

The Clerk. Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mrs. McMorris Rodgers?

[No response.]

The Clerk. Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper votes aye.

Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance votes aye.

Mr. Guthrie?

[No response.]

The Clerk. Mr. Olson?

Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. McKinley?

Mr. McKinley. Aye.

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The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

[No response.]

The Clerk. Mr. Kinzinger?

Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger votes aye.

Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Bilirakis?

Mr. Bilirakis. Aye.

The Clerk. Mr. Bilirakis votes aye.

Mr. Johnson? Mr. Johnson?

Mr. Johnson. Oh, aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

Mrs. Ellmers?

Mrs. Ellmers. Aye.

The Clerk. Mrs. Ellmers votes aye.

Mr. Bucshon?

Mr. Bucshon. Aye.

The Clerk. Mr. Bucshon votes aye.

Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

Mrs. Brooks?

Mrs. Brooks. Aye.

The Clerk. Mrs. Brooks votes aye.

Mr. Mullin?

Mr. Mullin. Aye.

The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Mr. Collins?

Mr. Collins. Aye.

The Clerk. Mr. Collins votes aye.

Mr. Cramer?

Mr. Cramer. Aye.

The Clerk. Mr. Cramer votes aye.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Ms. Eshoo?

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Engel?

[No response.]

The Clerk. Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Butterfield?

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[No response.]

The Clerk. Ms. Matsui?

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Mr. Welch?

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Lujan?

Mr. Lujan. No.

The Clerk. Mr. Lujan votes no.

Mr. Tonko?

Mr. Tonko. No.

The Clerk. Mr. Tonko votes no.

Mr. Yarmuth?

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Mr. Yarmuth. No.

The Clerk. Mr. Yarmuth votes no.

Ms. Clarke?

Ms. Clarke. No.

The Clerk. Ms. Clarke votes no.

Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Schrader?

Mr. Schrader. No.

The Clerk. Mr. Schrader votes no.

Mr. Kennedy?

Mr. Kennedy. No.

The Clerk. Mr. Kennedy votes no.

Mr. Cardenas?

[No response.]

The Clerk. Chairman Upton?

The Chairman. Votes aye.

The Clerk. Chairman Upton votes aye.

The Chairman. Other Members wishing to vote? Mr.
Walden?

Mr. Walden. Votes aye.

The Clerk. Mr. Walden votes aye.

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The Chairman. Mr. Pompeo?

Mr. Pompeo. Aye.

The Clerk. Mr. Pompeo votes aye.

The Chairman. Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie votes aye.

The Chairman. Other Members wishing to cast a vote?

Seeing none, the clerk will report the tally.

The Clerk. Mr. Chairman, on that vote there were 28
ayes and 21 noes.

The Chairman. Twenty-eight ayes, 21 noes, the
resolution is favorably reported.

The clerk will now call up H.J. Res. 72 and ask the
clerk to report.

The Clerk. H.J. Res. 72, providing for congressional
disapproval under Chapter 8 of Title 5, United States Code,
of a rule submitted by the Environmental Protection Agency
relating to "Carbon Pollution Emission Guidelines for
Existing Stationary Sources: Electric Utility Generating
Units.@

[The Resolution H. J. RES. 72 follows:]

***** INSERT *****

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the speaker.

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The Chairman. And without objection, the first reading
of the joint resolution is dispensed with and the joint
resolution will be open for amendment at any point. So
ordered.

Is there any discussion on the joint resolution?

The gentleman from New Jersey is recognized for 5
minutes.

Mr. Pallone. Thank you, Mr. Chairman.

Again, I would reiterate on this resolution of
disapproval, again, it is a waste of time. The President has
indicated that he would veto it if it was presented as-is,
and I would like to ask unanimous consent to introduce the
statement of administration policy.

The Chairman. Without objection.

[The information follows:]

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

Mr. Pallone. Mr. Chairman, all of us want prosperity and security for America, but we have very different visions of how to get there. Democratic Members want to move forward. We want to build the clean energy future right here, right now in America.

We know that climate change is harming us today through droughts, fires, floods, storms, and we know that it will endanger our children's future if we don't act. Democrats recognize the threat, and because of the history of the Clean Air Act, we know we can tackle this challenge while growing jobs in the economy.

Republicans take a much different approach choosing to deny the facts about climate change to avoid any meaningful action. We cannot and should not assume that just saying no to acting on climate will cost nothing or make the problem go away. It is said that an ounce of prevention is worth a pound of cure, and that is especially true for the costs of a rapidly changing climate.

Today's markup and the overall just-say-no agenda fit in nicely with the Republicans' approach. These disapproval resolutions would block EPA's critical power plant rules and would effectively prevent coal-fired power plants from ever having to clean up their carbon pollution. And that is a

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recipe for climate disaster and an abandonment of the Clean Air Act principles we have had in this country for more than 40 years.

Weakening the Clean Air Act would just make the climate problem worse. The American people want Congress to come up with solutions, not deny real problems. So I hope my colleagues will join me in recognizing that climate change is real and urgent, and I hope you make it clear that no plan and no action isn't an option.

I would yield if any of my colleagues want the time. If not, I yield back, Mr. Chairman.

The Chairman. The gentleman yields back.

Are there other Members wishing to speak?

The gentlelady from California.

Mrs. Capps. Thank you, Mr. Chairman. I wish to strike the last word.

And I find it disappointing that this is the legislation we are focused on in this committee. In Congress, we are tasked with representing the best interests of our constituents and working toward a safer, more secure future for all Americans. And while we are tasked with protecting the future for our own nation, America is also expected to be a global leader. Unfortunately, this legislation fails on

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both accounts.

There is overwhelming consensus that climate change is one of the most critical issues today. Next month, global leaders are poised to come together to discuss a responsible way to mitigate the dangers of greenhouse gas generation in order to avoid the worst of the impacts that are predicted as a result of climate change. Countries big and small have joined together to say that we must create a future that does not rely on dirty nonrenewable fuels.

And while all of this is happening at the global level, we are spending our time focused on how to scuttle what represents a significant step forward for the United States to join the rest of the world. We are well beyond the point of feigning ignorance. At this point the attitude that we are projecting is one of willful disregard for global well-being and progress toward a cleaner, more sustainable future.

The Clean Power Plan will not solve all of the problems associated with greenhouse emissions. By no means is it a silver bullet for a greener, cleaner society. However, it is a positive step in the right direction, and it signifies that as a country we are serious about taking steps toward a brighter, healthier future. Not only can we expect the plan

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to reduce our reliance on greenhouse gas-emitting fossil fuels, but it will incentivize the development and application of cleaner renewable fuels. This in turn will promote energy security. At the same time, investing in energy efficiency will ensure that we are utilizing our energy as effectively as we can.

And to ensure that the Clean Power Plan can be implemented effectively and affordably, the plan is not rigid in its requirements or in how it is implemented. There is flexibility in how States achieve their targets and even allowances for States to work together if this is more efficient for them to do.

In the subcommittee hearing I reference the Pope's address to Congress. He cited our moral obligation to address climate change and enact policies to curb carbon emissions. Climate change is not just about weather. The wide-reaching effects of climate change will touch every aspect of our lives. Human health, food security, and water availability will all be affected by changing temperatures and climate patterns.

And we are also hearing from the private sector on the imperative to take action. Businesses understand that the economic consequences of inaction are severe, that we need to

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prepare for climate change. So we must address these concerns. There was a time in the past when we did not understand the impacts of our actions on society and the environment. However, when it comes to climate change, we know the consequences of our actions. As such, we have an obligation and urgency to change our actions in a way that will reduce the negative and long-lasting impacts of our activities. And we can do so in a way that will benefit all Americans and will help reestablish our country as a global leader.

The Clean Power Plan is a direct response to this obligation, so we should embrace this plan as the start of a conversation on how to move forward to ensure that we can all live in harmony with our environment and leave the planet healthier for our children than the one we inherited from our parents. This resolution is not just bad policy, but it also does nothing to help us move forward on the path to achieving this goal.

I strongly oppose this resolution. I urge my colleagues to join me in voting no.

And I yield to my colleague, Mr. Sarbanes.

Mr. Sarbanes. I thank the gentlewoman for yielding.

I just wanted to emphasize one point. Obviously, most

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of our concern today about putting restraints on the EPA's moving forward with this rule is focused on the issue of climate change, recognizing that this is a severe challenge that we face not just in our country but that the world faces in wanting to take constructive, meaningful steps to address climate change.

But Representative Capps also alluded to just the basic health issue here. Restraining the Environmental Protection Agency with respect to this particular rule is really limiting the Agency's ability to protect our health. The Clean Air Act, the Clean Water Act, all of these major pieces of legislation that have become law originated in concerns about human health, about the health of the American people, about the health of our children.

So this isn't just about climate change, which of course has an impact on health in many, many ways, but it goes to the original mission and charter of these agencies that are there to protect human health. And so if you put limits on EPA's ability to move forward with this rule, you are working against protecting the health of the American people. And for that reason I urge that we oppose this joint resolution.

I yield back.

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The Chairman. The gentleman's time is expired.

Other Members wishing to speak?

Seeing none, the question now occurs on favorably
reporting H.J. Res. 72 to the House.

Roll call vote is requested, so all those in favor will
respond aye, and those opposed say no. Clerk will call the
roll.

The Clerk. Mr. Barton?

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Whitfield?

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mr. Walden?

[No response.]

The Clerk. Mr. Murphy?

Mr. Murphy. Aye.

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The Clerk. Mr. Murphy votes aye.

Mr. Burgess?

[No response.]

The Clerk. Mrs. Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Scalise?

[No response.]

The Clerk. Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. Aye.

The Clerk. Mrs. McMorris Rodgers votes aye.

Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper votes aye.

Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance votes aye.

Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie votes aye.

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Mr. Olson?

[No response.]

The Clerk. Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

Mr. Pompeo. Aye.

The Clerk. Mr. Pompeo votes aye.

Mr. Kinzinger?

Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger votes aye.

Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Bilirakis?

Mr. Bilirakis. Aye.

The Clerk. Mr. Bilirakis votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

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Mrs. Ellmers?

Mrs. Ellmers. Aye.

The Clerk. Mrs. Ellmers votes aye.

Mr. Bucshon?

Mr. Bucshon. Aye.

The Clerk. Mr. Bucshon votes aye.

Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

Mrs. Brooks?

Mrs. Brooks. Aye.

The Clerk. Mrs. Brooks votes aye.

Mr. Mullin?

Mr. Mullin. Aye.

The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Mr. Collins?

Mr. Collins. Aye.

The Clerk. Mr. Collins votes aye.

Mr. Cramer?

Mr. Cramer. Aye.

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The Clerk. Mr. Cramer votes aye.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Ms. Eshoo?

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Engel?

[No response.]

The Clerk. Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. No.

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The Clerk. Mr. Doyle votes no.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Butterfield?

[No response.]

The Clerk. Ms. Matsui?

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Mr. Welch?

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Lujan?

Mr. Lujan. No.

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The Clerk. Mr. Lujan votes no.

Mr. Tonko?

Mr. Tonko. No.

The Clerk. Mr. Tonko votes no.

Mr. Yarmuth?

Mr. Yarmuth. No.

The Clerk. Mr. Yarmuth votes no.

Ms. Clarke?

Ms. Clarke. No.

The Clerk. Ms. Clarke votes no.

Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Schrader?

Mr. Schrader. No.

The Clerk. Mr. Schrader votes no.

Mr. Kennedy?

Mr. Kennedy. No.

The Clerk. Mr. Kennedy votes no.

Mr. Cardenas?

Mr. Cardenas. No.

The Clerk. Mr. Cardenas votes no.

Chairman Upton?

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The Chairman. Votes aye.

The Clerk. Chairman Upton votes aye.

The Chairman. Other Members wishing to cast a vote?

Mr. Walden?

Mr. Walden. Walden votes aye.

The Clerk. Mr. Walden votes aye.

The Chairman. Other Members?

Seeing none, the clerk will report the tally.

The Clerk. Mr. Chairman, on that vote there were 28
ayes and 21 noes.

The Chairman. Twenty-eight ayes, 21 noes, the
resolution is favorably reported.

At this time the chair would call up H.R. 1321, as
forwarded by the Subcommittee on Health, May 14, 2015, ask
the clerk to report.

The Clerk. H.R. 1321, to prohibit the sale or
distribution of cosmetics containing synthetic plastic
microbeads.

[The Bill H. R. 1321 follows:]

***** INSERT *****

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The Chairman. And without objection, the first reading of the bill is dispensed with, and the bill will be open for an amendment at any point.

The chair recognizes himself for the purpose of offering an amendment in the nature of a substitute. And the clerk will report the amendment.

The Clerk. Amendment in the nature of a substitute to H.R. 1321.

[The Amendment of Chairman Upton follows:]

***** INSERT *****

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The Chairman. And without objection, the reading of the amendment is dispensed with. And the chair recognizes himself for 5 minutes in support of the amendment.

Mr. Pallone and I are sponsoring this amendment in the nature of a substitute. The amendment establishes a clear timeline for prohibiting the manufacturing and sale of microbeads while providing an additional period of time for over-the-counter products so the companies will have enough time to complete the necessary testing process required by the FDA.

Additionally, it clearly identifies the rinse-off cosmetic products that are pushing microbeads through our water systems. I want to thank you, particularly the ranking member Mr. Pallone, and his good staff and his personal office and committee staff for their hard work on the issue.

It is important to both of our home States and water tributaries and the Great Lakes across the country.

And I also want unanimous consent to put in two letters. One is from the American Chemistry Council in strong support of the legislation, as well as the Consumer Healthcare Products Association, as well as the Alliance for the Great Lakes. I would ask unanimous consent that those be put into the record.

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[The information follows:]

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

The Chairman. And ask if there are other bipartisan amendments to the amendment itself or whether Members want to speak?

I recognize the gentleman from New Jersey, Mr. Pallone.

Mr. Pallone. Thank you, Mr. Chairman. I just want to thank you for moving this legislation, which you and I have worked together on over the course of the year.

Since this bill was marked up in the Health Subcommittee, the chairman and I have been working to address a number of issues and make some improvements. This amendment in the nature of a substitute sets up a strong Federal policy banning plastic microbeads in personal care products. The amendment sets up an aggressive timeline for the phase-out of these products beginning in 2017, which is earlier than any of the currently enacted State laws. It explicitly bans the use of a degradable plastic as an alternative ingredient, a loophole that has been discovered in a number of existing State laws.

The amendment also includes preemption of State laws regulating plastic microbeads in cosmetics. While I am typically not a supporter of preempting State law, the strong Federal standard we have developed here is more protective and on a faster time on than any State law in place, and I

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urge my colleagues to support this amendment and the
underlying bill.

I want to particularly thank a member of my personal
staff, Mr. Tuley Wright, for all his work on this legislation
as well.

Thank you, Mr. Chairman. I yield back.

The Chairman. Other Members wishing to speak or offer
an amendment?

Mr. Pallone. I do have an amendment, Mr. Chairman,
technical amendment.

The Chairman. The clerk will report the title of the
technical amendment.

The Clerk. Amendment to the amendment in the nature of
a substitute to H.R. 1321.

[The Amendment of Mr. Pallone follows:]

***** INSERT *****

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The Chairman. Without objection, the text of the amendment is considered as read. Staff will distribute the amendment. Is there discussion on the amendment?

Mr. Pallone. Mr. Chairman?

The Chairman. The gentleman from New Jersey.

Mr. Pallone. I just want to say this is a technical amendment to clarify the scope of products that we are intending to cover, and I asked my colleagues to vote yes.

I yield back.

The Chairman. The gentleman yields back. I support the amendment.

Are there further Members wishing to speak?

Seeing none, the vote will occur on the amendment to the amendment in the nature of a substitute.

Those in favor of the technical amendment will say aye.

Those opposed, say no.

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

The question now occurs on the amendment in the nature of a substitute offered by Mr. Upton and Pallone.

Those members will say aye that support it--will say aye.

Those opposed, say no.

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The amendment in the nature of a substitute is approved.

The question now occurs on favorably reporting H.R.
1321, as amended to the House.

All those in favor will signify by saying aye.

Those opposed, say no.

The ayes have it and the bill is favorably reported.

The chair now calls up H.R. 3014 as forwarded by the
Subcommittee on Health on November 4, 2015, and ask the clerk
to report the title.

The Clerk. H.R. 3014, to amend the Controlled
Substances Act to authorize physicians pursuant to an
agreement with the attorney general to transport controlled
substances from a practice setting to another practice
setting or to a disaster area.

[The Bill H. R. 3014 follows:]

***** INSERT *****

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

Are there any bipartisan amendments to the bill?

Seeing none, are there any amendments to the bill?

Seeing none, the question now occurs on favorably reporting H.R. 3014 to the House.

All those in favor, so signify by saying aye.

Those opposed, say no.

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

The chair now calls up H.R. 2017, as forwarded by the Subcommittee on Health on November 4. I asked the clerk to report.

The Clerk. H.R. 2017, to amend the Federal Food, Drug, and Cosmetic Act to improve and clarify certain disclosure requirements for restaurants and similar retail food establishments, and to amend the authority to bring proceedings under section 403(a).

[The Bill H. R. 2017 follows:]

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

Are there any bipartisan amendments to the bill? Are there any--

Mr. Pallone. I move to strike the last word.

The Chairman. The gentleman asks to strike the last word. The gentleman from New Jersey is recognized for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

I wish to speak in opposition to the bill. Obesity rates in America--this is the Nutrition Disclosure Act, correct? Isn't this the Common Sense Nutrition Disclosure Act?

The Chairman. Yes. You are correct.

Mr. Pallone. Okay. I wish to speak in opposition to the bill. Obesity rates in America have reached epidemic proportions and require a comprehensive solution. The Federal menu labeling requirements included in the Affordable Care Act offers a crucial tool to Americans seeking to choose healthier options. Recent studies have shown that access to nutrition information in restaurants can help individuals make informed and lower-calorie choices. Limiting access to

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nutrition information that could help individuals make healthier choices is not only shortsighted, but it is costly for the health of our nation. Over 20 percent of health care costs are now related to obesity, a number that is projected to rise to an additional \$66 billion a year by 2030.

The FDA has worked attentively to address the concerns raised by stakeholders, first, by providing food establishments with an additional year to comply; and second, by releasing draft guidance in September. Forcing statutory changes will interfere with implementation of the Federal menu regulations by limiting transparency around calorie labeling before it has even begun.

Over 75 national stakeholder groups have expressed deep concern over this legislation, including groups as diverse as the American Heart Association, The National Restaurant Association, the American Association for Justice, and the Center for Science and the Public Interest. And I believe, Mr. Chairman, that any further concerns would be better addressed with FDA as they work to finalize the guidance rather than through legislation that will undermine the public health goal of providing clear, consistent calorie information to consumers. I have no reason to believe that the agency will not continue to work with stakeholders as

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they have done since Federal menu labeling requirements were signed into law to address their concerns.

So, Mr. Chairman, I just want to say I have a number of concerns with the legislative proposal. First, the legislation would allow restaurants and retail food establishments to decide serving sizes, which could create inconsistencies between establishments and cause confusion for calorie-counting consumers. H.R. 2017 would also allow retail food establishments that receive the majority of their orders online to provide only such information remotely, denying consumers who walk into purchase an item access to calorie information. And access to calorie information should not depend on where a consumer purchases food. It should be available at all points of purchase.

Finally, H.R. 2017 would shield covered establishments for many civil lawsuits for not complying with the menu labeling requirements, denying individual citizens legal recourse.

Mr. Chairman, I believe that consumers have the right to transparency regarding the nutrition information about the food that they are purchasing, and this legislation denies them this information. I urge my colleagues to vote against the legislation.

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Let me just say finally, I really believe that the FDA is doing their best and has been working with us to address some of the concerns that this bill is designed to address. And I have no reason to believe that they won't continue to do that. So I just think that the legislation is simply not necessary at this time and does harm to the cause of what we are trying to do here with the Affordable Care Act, the menu labeling.

I yield back, and I yield to the gentlewoman from California, Mrs. Capps.

Mrs. Capps. Thank you. I just want to echo what our ranking member has said.

You know, today, more than 1/3 of U.S. adults are obese, and approximately 17 percent of children, adolescents also fit this category. The cost of this is estimated to be \$150 billion.

While many factors contribute to the obesity epidemic, we have often heard calls in this committee for people to take personal responsibility for their health. And that is exactly what the menu labeling provisions in the ACA are all about.

I recognize there are issues to work out operationally to ensure that menu labeling works for businesses, but

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getting the provisions by allowing for arbitrary serving size listings of only having some menus labeled while others are not, this is a disservice to the American consumer that can have real consequences for their personal health and our nation's health care spending as a whole.

The Common Sense Nutrition Disclosure Act swings the pendulum much too far. It creates loopholes and inconsistencies, and it blinds the consumer from the important decision-making tools. We need to give consumers the tools they need to make the best choices for them. This bill would take away one of these basics tools, so I urge a no vote on this bill.

And I yield back to Mr. Pallone.

Mr. Pallone. And I yield back, Mr. Chairman.

Mrs. McMorris Rodgers. Mr. Chairman?

The Chairman. The gentleman yields back.

At this time the chair would recognize the gentlelady from Washington State, Mrs. McMorris Rodgers.

Mrs. McMorris Rodgers. Thank you, Mr. Chairman. Move to strike the last word.

Thank you, Mr. Chairman, for including this legislation, the Common Sense Nutrition Disclosure Act, in today's markup.

I also want to thank Representative Loretta Sanchez for

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co-leading this legislation. Our joint efforts to clarify these regulations and represent the needs of America's small business owners are critical.

Today's discussion is not about the merits of displaying calorie information. It is about how we can improve existing regulations to benefit people. H.R. 2017 is one of those improvements. It clarifies the intent of and simplifies nearly 400 pages of regulations so food establishments can more easily comply and provide consumers reliable access to calorie information.

In their current form, menu labeling regulations are fundamentally impractical and unnecessarily expensive. They use a cookie-cutter approach in labeling an industry that is anything but uniform. It treats the grocers, convenience stores, pizzerias all with endless combination possibilities the same way as restaurants with constant, simpler menu items.

I spent this past week back home in eastern Washington and had the opportunity to visit a local pizzeria that is affected by menu labeling mandates. Requiring pizza franchisees in Spokane Valley to post in their stores every potential topping combination, more than 34 million possible outcomes, when more than 90 percent of their orders take

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place online or over the phone just doesn't make sense.

Compliance with this regulation is estimated to cost businesses more than \$1 billion, 500,000 hours in paperwork.

For a typical grocery store, the regulations will impact approximately 100 to 250 items per store, many of them fresh produce or from the bakery, dairy, or seafood departments.

As for pizzerias like the one I visited, it amounts to thousands per store per year. This is time, energy, and financial resources that should be spent on creating jobs and building up the economy, not on paperwork.

And that is why, with the input of stakeholders and my colleagues, we have introduced H.R. 2017. Specifically, it requires restaurants that rely on remote ordering to label the menu that their customers use the most and provide access to nutrition information. It also protects small business owners from frivolous lawsuits over honest, inadvertent errors.

This legislation is common sense and it provides access to calorie information in a practical, flexible, and simpler manner by clarifying, not significantly altering, complicated regulations.

I thank the chair and I yield back.

The Chairman. The gentlelady yields back.

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Other Members wishing to speak on the amendment?

The gentlelady from Illinois is recognized.

Ms. Schakowsky. Thank you, Mr. Chairman.

I speak in opposition to the Common Sense Nutrition Disclosure Act. As someone who has worked on food labeling for a very long time, actually working with a consumer group in 1970 that succeeded in getting expiration dates on food in the supermarket for the very first time and across the country.

So you have heard at a time when 78 million adult Americans are obese, we shouldn't be undermining efforts to educate. That is what we are doing here, educating consumers, not forcing them, educating them about nutritional value, including calorie information of the foods they eat. Moreover, the estimated annual cost of obesity in the United States is about \$150 billion, and we ought to be embracing efforts to reduce this enormous cost to our health care system.

Much of the concerns surrounding this bill is related to how to display nutritional information for pizza. So I took the liberty of creating a template. We have heard about the millions, tens of millions of possible combinations, so this mockup, which only took a few minutes to put together, is

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available free of charge. Any pizza establishment that would like to use it could easily copy it, especially to the American pizza community because this bill only refers to franchises that have 20 or more stores.

And so here it is. It shows how easy it is to display the caloric information in a standardized way using a slice of pizza as the serving size. I challenge anyone who has had less than one slice of pizza. So that would be the standard size, one slice of cheese pizza. It may be different in different places. And then you just add--and I think I have been pretty modest in the calories. I just made up the calories. Okay. And then you add on what sausage would be, what mushrooms would be, what onions would be, and one could easily calculate and maybe make reasonable choices about what you want on top of your one slice of pizza.

But the legislation that we have says nothing is required in the establishment. Nothing is required on the carryout menu. There is only one place that this calorie information is required in the legislation that we are considering right now.

Again, I want to emphasize that those of you--I like to call them mostly guys--who don't care about how many calories are in your pizza, feel free. But for women and others who

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are concerned about their calorie count, this would be very helpful and ought to be available.

Pizza is undeniably one of the most common menu items in America. I love it myself. On any given day, one out of eight Americans eat pizza. And CNN Money reported that Millennials spend more money on pizza than any other single item of any sort. Chicago is well-known for its pizza, but whether or not it is superior to New York pizza is a debate for another day. And given the popularity of this food item, I think it is critical that we provide consumers with the accompanying nutritional, including caloric, information.

I support the FDA guidelines and agree with our ranking member that we can work together on those to find the most appropriate and useful caloric and nutritional information and provide the sufficient time to comply.

So I offer this as a better solution and urge my colleagues to vote no. Thank you. I yield back.

Mr. Pallone. Mr. Chairman?

The Chairman. The gentleman from New Jersey.

Mr. Pallone. Can I ask in unanimous consent that the gentlewoman's chart be entered into the record?

The Chairman. Without objection, yes.

[The information follows:]

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Mr. Shimkus. Is that a one slice or two chart? Is that one slice or two?

The Chairman. With extra cheese.

The chair would recognize the gentleman from Ohio, Mr. Latta, to strike the last word.

Mr. Latta. Well, thank you, Mr. Chairman. Move to strike the last word. And I yield to the gentlelady from Washington State.

Mrs. McMorris Rodgers. Thank you very much.

And as a woman and someone who does appreciate knowing calorie counts, I would encourage you to support legislation that is going to actually provide accurate information.

The lady from Illinois just shared this poster board, and she is suggesting how easy it is to comply and why this legislation is unnecessary. Unfortunately, the mockup does not come close to complying with FDA's final rule. For example, it fails to specify that the calories listed for each topping are the calories as added to a single slice. Under FDA's regulations and guidance, the menu must specify that the mushroom, sausage, pepperoni, and onion calories are the calories "as added@ to the basic preparation of a slice of pizza with the word "add@ or "added@ spelled out.

Two, it improperly uses the plus symbol. FDA has

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specifically said that is not permitted.

Three, it fails to declare calories per slice and per topping for each size of pizza. FDA regulations require that the calories be declared for each size of pizza slice and for each topping as applied to each size. Thus, calories for sausage, for example, must be declared for sausage as added to a small slice, a large slice, or any other slice offered for sale or as a range from the smallest to the largest using a hyphen.

Moreover, if a range is used, the menu must include text specifying that the hyphen represents the smallest and largest calorie amounts for that topping.

Four, it misses the statement "2,000 calories a day is used for general nutrition advice but calorie needs vary." FDA regulations require this statement to appear on menus and menu boards.

Five, it is missing the statement "additional nutrition information available upon request." FDA regulations require this statement also appear on menus and menu boards.

In addition to not meeting compliance standards, this mockup does not accurately portrayed menus at any pizza restaurant. At the Domino's alone there are five styles of crust, six different cheeses, five sauces, four sizes, and 20

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different toppings. Of course, this amount of variability, more than 34 million combinations, would not fit easily into the Representative's mockup. Deviations from these standards could lead to fines and potential criminal penalties.

As you can see, FDA's final rules are incredibly complex, burdensome, and inflexible. Twenty-seventeen does not create exemptions, nor does it diminish the amount of information that must be provided by restaurants and retailers. All it does is allow for some flexibility and clarity so that this unworkable and overly complex regulation would not proceed as finalized in November.

Mr. Griffith. Mr. Chairman, would the gentlelady yield, or would the gentleman who yielded to the gentlelady--

The Chairman. The gentlelady has the time. Yes.

Mrs. McMorris Rodgers. Yes. Yes, sure.

Mr. Griffith. I would ask the gentlelady, so where on the poster under the FDA rules is it supposed to be for my son, who is allergic to pizza--I noticed in the mockup it started with a slice of cheese pizza, but when we order pizza, we have to order a pizza for him with no cheese. Where does that show up on the poster?

Mrs. McMorris Rodgers. I didn't see it on the poster. What I would do is point the gentleman to one of the

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solutions being offered right now, and that is an option recognizing that 90 percent of pizza is ordered online, that the consumer could go to an online spot, put the pizza together, and know exactly how many calories they are offering as they put their combination together. And I think it is a much more accurate and friendly way to meet the requirements.

Mr. Griffith. And if the gentlelady would yield again, I would say that that makes a lot of sense. So both my son and I have food allergies, and so when we go to get pizza, we order three pizzas, one for the normal folks, and then one for my son and one for me. It seems a whole lot easier to do that online that it would be to make the restaurant post that or to have somebody aware of exactly what changes with every little shift that we have to make. Thank you so much for this reasonable proposal.

Mrs. McMorris Rodgers. I thank the gentleman.

The Chairman. The gentlelady yields back.

Other Members wishing to speak on the bill?

The gentleman, Mr. Schrader, recognized for 5 minutes.

Mr. Schrader. Thank you, Mr. Chairman. I appreciate it.

And I sure appreciate the work the gentlelady from

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Washington has done on this bill. That clarification is much needed. We have had a lot of testimony from a lot of the people who would be affected, and in order to effectively indicate what the consumer needs to know, this bill goes a long way towards that.

Unfortunately, as I pointed out in the hearing we had the other day I still have concerns about some of the inequities in the bill that remain regarding the restaurant industry and its application, and very particularly have concern about this units designation. I think it is extremely confusing to the consumer. Matter of fact, I don't think the consumer will have any idea what that means and it is not helpful in hopefully explaining to people what the actual caloric intake is. The slice, the whole unit I get, the whole standard, I get that, but this units designation I think is a fatal flaw so I will be voting against it. Thank you.

The Chairman. Other Members wishing to--gentlelady from New York.

Ms. Clarke. Thank you very much, Mr. Chairman. I would like to move to strike the last word. And I would like to yield to the gentlelady from Illinois, Ms. Schakowsky.

Ms. Schakowsky. Thank you.

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So since the pizza sellers have to put the information somewhere, are we talking then about somewhere there will be tens of millions of combinations? Clearly, they are going to have to figure out how to convey that information in a simple way.

To the gentleman whose son has cheese allergies, we could make--the sign clearly could be adapted to plain meaning nothing, I guess, on it, and that could certainly be an option in presenting it. So it is not really all that complicated.

But the point is that somewhere this information is going to have to appear, and I can't imagine that it is going to be like volumes of tens of millions of combinations. All I am suggesting really with this is that it be reduced to a simple way that people can immediately add up how many calories there are and in an accessible way and not perhaps hidden away on a website that you have to, you know, find on the retailers' display.

So I just think that this is not as hard as it is being made out to be to make sure that we convey that information.

Restaurants who need to do this are opposed to this legislation and I would say that we work together with the FDA guidance as a model and go from there.

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I yield back.

Mrs. McMorris Rodgers. Would the lady be willing to yield?

You know, it strikes me that, you know, we should be welcoming the use of technology and recognizing that that is a way that people get a lot of information. And absolutely, this information has to be made available. One of the requests in this legislation is that, for example, what is made available on the web--and I tend to think that this is going to be the future, that when we go into any restaurant in the future we will be ordering probably on an iPad or some kind of a device, and it will be even easier to comply with meeting this regulation.

Ms. Schakowsky. Okay. We--

Mrs. McMorris Rodgers. So why don't we embrace--

Ms. Schakowsky. I do--

Mrs. McMorris Rodgers. --the world in which we live and allow for those kind of options to be standard?

Ms. Schakowsky. Okay. Reclaiming my time. I absolutely think that having it online and available electronically, but I have to tell you, when I go to Starbucks and I often order a breakfast there--they have hot breakfast now--they have those calories there, and that is

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very helpful right there at the counter for me to make a decision about what I am going to eat.

So I am saying that at the point of sale many people are making those decisions right at the moment, and having that information handy I think is good. If I want to go home and study, then I can, before I put in the phone call. But it would also be helpful if the brochure for that restaurant when it came have that information, and then the next time I could make other decisions. I am not excluding any venue for that information, but I do think that having it at point of sale is very useful.

Mrs. McMorris Rodgers. Yes. Would the lady yield again?

Ms. Schakowsky. And I yield back.

Mrs. McMorris Rodgers. Yes, and I--okay.

The Chairman. Are there further amendments to the bill?

The gentleman from North Carolina.

Mr. Butterfield. Thank you, Mr. Chairman. I have an amendment at the desk. I think it is labeled FCAMD-1.

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

The Clerk. Amendment committee print of H.R. 2017 offered by Mr. Butterfield of North Carolina.

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

Mr. Butterfield. Thank you. Thank you very much, Mr. Chairman.

Mr. Chairman, let me just began by saying that I am in vast support of the bill that has been offered by the gentlelady, but I just have an amendment that I want us to have a little debate on. And it concerns section 3 of the bill.

Many of my colleagues are supportive of this bill on both sides of the aisle. This bill certainly has benefits for small business and can even improve clarity for businesses and consumers alike. But as one who has love for the law and respect for our judicial system, since I served 30 years in a courtroom, I have concerns with section 3.

Section 3 eliminates all private causes of action against businesses who violate labeling provisions on both the Federal and State laws. And so the right to sue is being eliminated from this bill, and I don't like it. A consumer who has experienced harm because a business is not following the law deserves the opportunity to seek relief in a court of law. That right is a foundation of our justice system. You

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may say that they are frivolous lawsuits that are found every day in courtrooms across the country, and that is overrated.

And because there are rules in the judicial system, rules of civil procedure that forbid frivolous lawsuits.

So my amendment simply strikes section 3 of the bill, leaving the rest of the bill unchanged. Section 3 is problematic because it blocks the ability of consumers to seek relief from those who do not abide by the law. I have concerns with section 3 because I believe the legislation will preempt civil litigation for violations of this Federal law, as well as any State laws that may exist.

I have historically supported Federal preemption when it is appropriate, meaning that the Federal preemption replaces weak or inconsistent State laws and regulations. However, this is not the case here, as the bill, as it is currently drafted, eliminates all remedies for a consumer who has been harmed. I am concerned that section 3 can be seen as weakening consumer protections under the law.

I believe there are significant improvements that can be made with regard to menu labeling requirements. For that reason, I am interested in this legislation, and I will vote for it but believe we must reserve the right of individuals to seek relief against businesses that violate the law. For

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that reason, I urge my colleagues to support my amendment.

I yield back.

The Chairman. The gentleman yields back. I will strike
the last word.

I might just say to the gentleman, we have had a pretty
good practice the last year-and-a-half of sharing amendments
on both sides within a 2-hour notice so that both sides know
what is coming and can be prepared for it. I know it is a
rather short amendment, one line, but it was only presented
to the desk 10 or 15 minutes ago versus--

Mr. Butterfield. Will the gentleman yield?

The Chairman. I will be glad to yield.

Mr. Butterfield. Yes.

The Chairman. Let me just finish and I will be glad to
yield.

Mr. Butterfield. Sure.

The Chairman. So I just don't remember a time when an
amendment hasn't had the full 2 hours for either side to vet,
and I would ask, you know, that this bill when it gets to the
Floor is not likely to be under suspension. I expect it to
be under regular order going to the Rules Committee. Speaker
Ryan has made it pretty clear based on the highway bill that
even if the bill passes 51 to nothing in a committee, it is

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going to be open for germane amendments, of which this would be. And I would just ask the gentleman, knowing that it didn't comply with the normal 2 hours, that he might consider withdrawing the amendment.

Mr. Butterfield. I thank you, Mr. Chairman, for that. And certainly, I understand the 2-hour requirement, but the last 10 days have been sort of unusual. We were out all last week and kind of out of place doing our Veterans Day work, and getting back in town this week, it has been a little difficult to get it correctly done. I apologize for that. But I will withdraw the amendment and offer it on the House Floor.

The Chairman. Okay.

Mr. Butterfield. Yes.

The Chairman. Thank you.

Mr. Butterfield. Thank you.

The Chairman. So does the gentleman ask unanimous consent to withdraw the amendment?

Mr. Butterfield. Yes, I ask unanimous consent to withdraw the amendment.

The Chairman. Without objection, the amendment is withdrawn.

Are there further amendments to the bill? And I thank

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the gentleman.

Are there further amendments to the bill?

Seeing none--

Mr. Lujan. Mr. Chairman?

The Chairman. Yes. The gentleman--

Mr. Lujan. Mr. Chairman, I don't have an amendment,
just a couple questions if I may.

The Chairman. Do you want to strike the last word?

Mr. Lujan. Mr. Chairman--

The Chairman. The gentleman is recognized.

Mr. Lujan. --move to strike the last word.

To the bill author, if you wouldn't mind maybe giving me
some guidance or the staff, if a restaurant has a slate of
ingredients that they are putting into their dish, more
pizzeria, whatever it may be, and they order some food from
their food supplier and the food supplier runs out of one of
the ingredients, so the restaurant or the entrepreneur or the
owner would substitute an ingredient in and that would come
into the mix and the calorie counts are different or things
change dramatically, would that prompt everything to be
changed? And I would yield to the--

Mrs. McMorris Rodgers. Thank you. And I appreciate the
gentleman asking that question. I think that goes to one of

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the big concerns with the regulations as they are currently written. As you think about a deli, for example, in a grocery store, it is common that they may not have the same items every day prepared the same way. And to think about having to change your menu every time, it gets to be pretty complicated and excessive. And so I think there needs to be some reasonableness put into how this is implemented.

Mr. Lujan. And so I guess, Mr. Chairman, the other question that I have, oh, gee, it is escaping me now as I was getting from Mrs.--

Mr. Welch. The FDA--

Mr. Lujan. Oh, the FDA database, thank you, Mr. Welch. Peter, he reminds me.

So is there an FDA database or a database that all restaurants or all food makers would use to go to one place for that if you are using a cup of flour in your recipe or five ounces of chicken in your recipe, that you go to one place to get the calorie counts that then would move back, or is everyone to find out whatever calorie counts are different?

So if I use MyFitnessPal on my phone, depending on who has prefilled the database that I am pulling from, I can put three ounces of chicken, white breast meat, and I can get

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different calorie counts that vary coming from different places, including some from USDA. So is there one place that restaurants can go or these pizza makers can go that they can ask for that? And I will yield to the--

Mrs. McMorris Rodgers. Thank you. I thank the gentleman for asking the question. I am not aware of any database that the FDA maintains that would provide that kind of consistency.

Mr. Lujan. So I appreciate that from the author of the legislation.

Mr. Chairman, I just ask those questions. I am truly trying to figure out where I am on this. But working with different folks and whether it was job opportunities or different responsibilities that we had when you are young or putting things together, you know how that changes. But not to have one place for everyone to go would also not lead to good data with whatever requirements we have, depending on how this legislation goes. And I think that maybe something that we should try to work on in addition to the underlying legislation. But I appreciate the author of the legislation answering those questions for me. Thank you.

The Chairman. The gentleman yields back. Other Members wishing to speak?

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Seeing none, the question now occurs on favorably
reporting H.R. 2017 to the House.

All those in favor shall signify by saying aye.

All those opposed, say no.

The ayes appear to have it. The ayes have it.

Roll call is requested. The clerk will call the roll.

The Clerk. Mr. Barton?

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Whitfield?

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mr. Walden?

[No response.]

The Clerk. Mr. Murphy?

[No response.]

The Clerk. Mr. Burgess?

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Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Scalise?

[No response.]

The Clerk. Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mrs. McMorris Rodgers?

Mrs. McMorris Rodgers. Aye.

The Clerk. Mrs. McMorris Rodgers votes aye.

Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper votes aye.

Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance votes aye.

Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie votes aye.

Mr. Olson?

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Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

[No response.]

The Clerk. Mr. Kinzinger?

Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger votes aye.

Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Bilirakis?

Mr. Bilirakis. Aye.

The Clerk. Mr. Bilirakis votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

Mrs. Ellmers?

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Mrs. Ellmers. Aye.

The Clerk. Mrs. Ellmers votes aye.

Mr. Bucshon?

Mr. Bucshon. Aye.

The Clerk. Mr. Bucshon votes aye.

Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

Mrs. Brooks?

Mrs. Brooks. Aye.

The Clerk. Mrs. Brooks votes aye.

Mr. Mullin?

Mr. Mullin. Aye.

The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Mr. Collins?

Mr. Collins. Aye.

The Clerk. Mr. Collins votes aye.

Mr. Cramer?

[No response.]

The Clerk. Mr. Pallone?

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Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Rush?

[No response.]

The Clerk. Ms. Eshoo?

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Engel?

[No response.]

The Clerk. Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. Aye.

The Clerk. Mr. Doyle votes aye.

Ms. Schakowsky?

Ms. Schakowsky. No.

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The Clerk. Ms. Schakowsky votes no.

Mr. Butterfield?

Mr. Butterfield. Yes.

The Clerk. Mr. Butterfield votes aye.

Ms. Matsui?

Ms. Matsui. Aye.

The Clerk. Ms. Matsui votes aye.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Mr. Welch?

Mr. Welch. Aye.

The Clerk. Mr. Welch votes aye.

Mr. Lujan?

Mr. Lujan. Aye.

The Clerk. Mr. Lujan votes aye.

Mr. Tonko?

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Mr. Tonko. Aye.

The Clerk. Mr. Tonko votes aye.

Mr. Yarmuth?

[No response.]

The Clerk. Ms. Clarke?

Ms. Clarke. No.

The Clerk. Ms. Clarke votes no.

Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Schrader?

Mr. Schrader. No.

The Clerk. Mr. Schrader votes no.

Mr. Kennedy?

Mr. Kennedy. Aye.

The Clerk. Mr. Kennedy votes aye.

Mr. Cardenas?

Mr. Cardenas. Aye.

The Clerk. Mr. Cardenas votes aye.

Chairman Upton?

The Chairman. Votes aye.

The Clerk. Chairman Upton votes aye.

The Chairman. Other Members wishing to vote? Mr.

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Pompeo?

Mr. Pompeo. Aye.

The Clerk. Mr. Pompeo votes aye.

The Chairman. Mr. Rush?

Mr. Rush. Rush votes aye.

The Clerk. Mr. Rush votes aye.

The Chairman. Mr. Yarmuth?

Mr. Yarmuth. Present.

The Clerk. Mr. Yarmuth is present.

The Chairman. Other Members wishing to cast a vote?

Seeing none, the clerk will report the tally.

The Clerk. Mr. Chairman, on that vote there were 36
ayes, 12 nays, and 1 present.

The Chairman. Thirty-six ayes, 12 nays, and 1 present.

The bill is approved and favorably reported.

The chair now calls up H.R. 3716, as forwarded by the
Subcommittee on Health November 4. I ask the clerk to
report.

The Clerk. H.R. 3716, to amend Title XIX of the Social
Security Act to require States to provide to the Secretary of
Health and Human Services certain information with respect to
provider terminations and for other purposes.

[The Bill H. R. 3716 follows:]

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The Chairman. Without objection, the first reading of
the bill is dispensed with.

Mr. Bucshon. Mr. Chairman?

The Chairman. Just wait one second. And the bill will
be open for amendment at any point.

And the chair would now recognize Dr. Bucshon for the
purpose of offering an amendment in the nature of a
substitute. And the clerk will report the amendment.

The Clerk. Amendment in the nature of a substitute to
the committee print of H.R. 3716 offered by Mr. Bucshon of
Indiana.

[The Amendment of Mr. Bucshon follows:]

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The Chairman. And without objection, the reading of the amendment is dispensed with, and the chair recognizes Mr. Bucshon for 5 minutes in support of his amendment.

Mr. Bucshon. Thank you, Mr. Chairman.

This amendment in the nature of a substitute makes technical changes in line with recommendations from CMS.

The Ensuring Terminated Providers are Removed from the Medicaid and CHIP Act is a straightforward--

The Chairman. Go ahead.

Mr. Bucshon. --is a straightforward and commonsense piece of legislation. It addresses issues raised in a recent report from the Health and Human Services Office of the Inspector General that found health care providers terminated from Medicaid in one State were still participating in Medicaid and CHIP programs in other States. Fixing this problem is important to protect millions of vulnerable patients who rely on the Medicaid program.

Initial estimates indicate H.R. 3716 will save taxpayers tens of millions of dollars over 10 years. It seeks to hold accountable bad actors in the Medicaid and CHIP programs and safeguard taxpayers from unnecessary exposure. Among its provisions, the bill requires CMS to include State-reported provider terminations in Medicare--provider terminations in

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its termination notification database or equivalent system within 21 business days and requires CMS to develop a uniform terminology for classifying the reasons for provider terminations. These provisions streamline communication between agencies at the State and Federal level aligned for a more efficient and cost-effective government.

I am proud to sponsor this bipartisan legislation with my colleagues Mr. Butterfield and Mr. Welch, and I look forward to its swift passage. Moving forward, I look forward to continuing to work with CMS and States as we prepare this bill not only for the Floor but then the Senate, and after that, the President's desk.

Lastly, I want to thank the committee staff and my staff for their hard work on this bill. Thank you, Mr. Chairman, for holding this markup, and I yield back.

The Chairman. The gentleman yields back. Other Members wishing to speak on the amendment in the nature of a substitute?

The chair would recognize the gentleman from North Carolina, Mr. Butterfield.

Mr. Butterfield. Mr. Chairman, I move to strike the last word.

The Chairman. Without objection.

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Mr. Butterfield. Thank you.

Mr. Chairman, as Mr. Bucshon said a moment ago, I introduced, along with Mr. Bucshon and Mr. Welch, H.R. 3716, the Ensuring Terminated Providers are Removed from Medicaid and CHIP Act. My legislation, Mr. Chairman, importantly ensures that Medicaid providers terminated for cause in one State are unable to move to another State and continue their operations. My bill is based on recommendations from two HHS and CMS Office of Inspector General reports.

The benefits of Medicaid cannot be overstated. We have had that debate many times. More than 72 million Americans rely on this program. Seventy-five percent of children who live in poverty in this country depend on Medicaid. I represent one of the poorest districts in the country. More than one out of every four people in my district in North Carolina lives in poverty, and Medicaid is absolutely critical to my constituents.

My bipartisan legislation, our bipartisan legislation is important in guaranteeing we are making the best use of Medicaid funds, and I urge my colleagues to support it. Thank you for the time. I yield back.

The Chairman. The gentleman yields back.

Other Members wishing to speak on the amendment in the

nature of a substitute?

The gentleman from Vermont.

Mr. Welch. Just very briefly. I want to thank Dr. Bucshon. He has got real-world experience in the program. He and Mr. Butterfield understand the importance of the Medicaid program, and they also understand the importance of doing everything that we possibly can to avoid taxpayers getting ripped off and then giving health care a bad name. This legislation is practical and it increases the responsibility of States to address this and CMS to address it. It is going to save money and I think enhance the credibility of the Medicaid program. So, Dr. Bucshon and Mr. Butterfield, thank you very much for bringing this legislation forward.

The Chairman. The gentleman yields back.

Are there any bipartisan amendments to the amendment?

Seeing none, are there any amendments to the amendment?

Seeing none, if there is no further discussion, the vote occurs on the amendment in the nature of a substitute.

All those in favor will say aye.

All those opposed, say no.

In the opinion of the chair, the ayes have it. The amendment in the nature is agreed to.

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The question now occurs on favorably reporting H.R. 3716
as amended to the House.

All those in favor will signify by saying aye.

All those opposed, say no.

In the opinion of the chair, the ayes have it. And the
bill is favorably reported.

The chair now calls up H.R. 3821, as forwarded by the
Subcommittee on Health on November 4, and ask the clerk to
report.

The Clerk. H.R. 3821, to amend Title XIX of the Social
Security Act to require the publication of a provider
directory in the case of States providing for medical
assistance on a fee-for-service basis or through a primary
care case management system, and for other purposes.

[The Bill H. R. 3821 follows:]

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The Chairman. Without objection, the first reading of the bill is dispensed with. The bill will be open for an amendment at any point.

The chair now recognizes Mr. Collins for the purpose of offering an amendment in the nature of a substitute. And the clerk will report that amendment.

The Clerk. Amendment in the nature of a substitute to the committee print of H.R. 3821 offered by Mr. Collins of New York.

[The Amendment of Mr. Collins follows:]

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The Chairman. And without objection, the reading of the amendment is dispensed with. The chair recognizes Mr. Collins for 5 minutes in support of his amendment.

Mr. Collins. Thank you, Mr. Chairman.

This amendment is in the nature of a substitute incorporating technical changes from CMS, as well as the Office of Legislative Counsel. The underlying bill H.R. 3821, the Medicaid Directory of Caregivers, or Medicaid DOC Act, is the bipartisan product of government accountability studies, committee hearings, and discussions with constituents, State Medicaid directors, and CMS.

The bill requires States that operate a fee-for-service or primary care case management program for Medicaid to publish an electronic listing of physicians who have billed Medicaid in the previous year. The purpose of the bill is to provide beneficiaries with an easily accessible online directory so they can find a doctor who will treat them.

I would like to thank my friend Mr. Tonko for making this a bipartisan initiative and for all his input throughout the committee process.

I would also like to thank Chairman Upton, Ranking Member Pallone, Chairman Pitts, and Ranking Member Green for their support of this initiative, as well as the committee

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staff who worked to get this legislation to where it is today.

I urge my colleagues to support this commonsense beneficiary-friendly bill. And I yield back.

The Chairman. The gentleman yields back. Other Members wishing to speak?

The chair would recognize the gentleman from New York, Mr. Tonko.

Mr. Tonko. Thank you, Mr. Chair. I move to strike the last word.

The Chairman. You are recognized.

Mr. Tonko. Thank you, Mr. Chair.

I rise in support of the amendment in the nature of a substitute. This amendment simply incorporates additional technical assistance provided by CMS that will ensure that States are able to operationalize these new requirements. I thank Mr. Collins, Representative Collins, for all the work that he has done on this measure. I appreciate his efforts to work in a bipartisan fashion, and I appreciate my friend's efforts. I encourage all of my colleagues to support this straightforward amendment.

And I yield back the balance of my time, Mr. Chair.

The Chairman. The gentleman yields back. Other Members

wishing to speak?

Seeing none, are there any bipartisan amendments to the amendment?

Seeing none, are there any amendments to the amendment?

Seeing none, the votes then occurs on the amendment in the nature of a substitute.

All those in favor will say aye.

Those opposed, say no.

The ayes have it. The amendment in the nature of a substitute is agreed to.

The question now occurs on favorably reporting H.R. 3821, as amended, to the House.

All those in favor will signify by saying aye.

All those opposed, say no.

The ayes have it and the bill is favorably reported.

The chair now calls up our last bill of the morning, S. 611, and ask the clerk to report.

The Clerk. S. 611, an act to amend the Safe Drinking Water Act to reauthorize technical assistance to small public water systems and for other purposes.

[The Bill S. 611 follows:]

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The Chairman. And without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any point.

Mr. Pallone. Mr. Chairman, I wanted to move to strike the last word.

The Chairman. The chair would recognize the gentleman from New Jersey.

Mr. Pallone. Thank you.

As I mentioned in my opening statement, S. 611 is a first step towards addressing the serious issues facing our public water systems. It is important that small public water systems have access to technical assistance to help them tackle some of the unique challenges they face. However, I would remind the committee that small systems serve only 8 percent of the population. We should absolutely do what is necessary to ensure they have safe water, but we should also protect the other 92 percent.

Our water utilities' infrastructure is between 75 and 110 years old. In many cases, our existing infrastructure is at or beyond the limits of its useful life. Every time EPA has assessed our drinking water infrastructure needs, it has gone up significantly, and that is because our infrastructure is failing faster than it is being replaced.

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Congress, Mr. Chairman, has underfunded critical infrastructure improvements, which are undermining our efforts to deliver safe, clean drinking water at home and at businesses. Ironically, this underinvestment is costing us more money as public water systems are forced to respond to emergency situations when water mains fail. And rather than receiving rates for delivering treated water, utilities are spending money on treatment, only to have treated water leaking from their systems.

In addition, public water systems must address changes to water quality and quantity to the pollution problems with source waters, increased competition for water supplies, and climate change. Delaying action due to funding shortfalls will not make these problems go away. We are just delaying the inevitable and allowing this issue to become more overwhelming, and the costs and risks to public health will only increase.

I think it is imperative that this committee take on the important task of reauthorizing the Drinking Water State Revolving Fund, or SRF, which will help protect public health, create jobs, and boost the economy, things I believe we can all agree are vital. The technical assistance piece in today's bill, while important, accounts for less than 2

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percent of the SRF.

We should not lose sight of the bigger picture here. If we really want to ensure that public water systems, including small and rural systems, are providing safe and affordable water, we should reauthorize the whole SRF, not just the technical assistance piece.

I plan to vote for S. 611. I expect a favorable vote today and probably on the House Floor, and it will likely be signed by the President. That is a good step, and I welcome it. And I congratulate Mr. Tonko and Mr. Harper for their continued hard work on this issue. However, I hope we can work in a bipartisan manner on the SRF reauthorization and other drinking water-related legislation in the near future.

It is a priority for me, and I assure you, it is a priority for the American public.

I yield back the balance of my time.

The Chairman. The gentleman yields back his time.

Are there any bipartisan amendments to the bill?

Mr. Tonko. Mr. Chair?

The Chairman. The chair would recognize the gentleman from New York.

Mr. Tonko. Yes, Mr. Chair. I move to strike the last word.

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The Chairman. Strike the last word.

Mr. Tonko. Thank you, Mr. Chair.

I simply want to associate myself with the ranking member's remarks. I also hope that, with the passage of S. 611, we will move on to address the other pressing issues facing our public water systems. I thank you, Mr. Chair, and Chair Shimkus and Representative Harper, for your hard work on this legislation. And I urge Members to support this bill with the hopes of getting even greater work done.

With that, I yield back.

The Chairman. The gentleman yields back.

So are there any bipartisan amendments to the bill?

Any amendments to the bill?

Seeing none, the question now occurs on favorably reporting S. 611 to the House.

All those in favor shall signify by saying aye.

All those opposed, say no.

The ayes appear to have it. The ayes have it. The bill is favorably reported.

And without objection, staff is authorized to make technical and conforming changes to the legislation approved by the committee today. So ordered.

And without objection, the committee stands adjourned.

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Thank you.

[Whereupon, at 11:47 a.m., the committee was adjourned.]