

1 NEAL R. GROSS & CO., INC.

2 RPTS MILLER

3 HIF056000

4

5

6 MARKUP OF:

7 H.R. 4596, SMALL BUSINESS BROADBAND

8 DEPLOYMENT ACT;

9 H.R. 4583, TO PROMOTE A 21ST CENTURY ENERGY

10 AND MANUFACTURING WORKFORCE;

11 H.R. 1268, ENERGY EFFICIENT GOVERNMENT

12 TECHNOLOGY ACT;

13 H.R. 2984, FAIR RATES ACT;

14 H.R. 3021, AIR SURVEY ACT OF 2015;

15 H.R. 3797, SATISFYING ENERGY NEEDS AND

16 SAVING THE ENVIRONMENT (SENSE) ACT;

17 H.R. 4238, A BILL TO AMEND THE DEPARTMENT OF

18 ENERGY ORGANIZATION ACT AND THE LOCAL PUBLIC

19 WORKS CAPITAL DEVELOPMENT AND INVESTMENT ACT

20 OF 1976 TO MODERNIZE TERMS RELATING TO

21 MINORITIES;

22 H.R. 4427, A BILL TO AMEND SECTION 203 OF

23 THE FEDERAL POWER ACT;

24 H.R. 4444, EPS IMPROVEMENT ACT;

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

25 H.R. 4557, BLOCKING REGULATORY INTERFERENCE
26 FROM CLOSING KILNS (BRICK) ACT;
27 H.R. 2080, A BILL TO EXTEND THE DEADLINE FOR
28 COMMENCEMENT OF CONSTRUCTION OF A
29 HYDROELECTRIC PROJECT INVOLVING
30 CLARK CANYON DAM;
31 H.R. 2081, A BILL TO EXTEND THE DEADLINE FOR
32 COMMENCEMENT OF CONSTRUCTION OF A
33 HYDROELECTRIC PROJECT INVOLVING
34 THE GIBSON DAM;
35 H.R. 3447, A BILL TO EXTEND THE DEADLINE FOR
36 COMMENCEMENT OF CONSTRUCTION OF A
37 HYDROELECTRIC PROJECT INVOLVING
38 THE W. KERR SCOTT DAM;
39 H.R. 4411, A BILL TO EXTEND THE DEADLINE FOR
40 COMMENCEMENT OF CONSTRUCTION OF A
41 HYDROELECTRIC PROJECT INVOLVING
42 THE GATHRIGHT DAM;
43 H.R. 4416, A BILL TO EXTEND THE DEADLINE FOR
44 COMMENCEMENT OF CONSTRUCTION OF A
45 HYDROELECTRIC PROJECT INVOLVING
46 THE JENNINGS RANDOLPH DAM;
47 H.R. 4412, A BILL TO EXTEND THE DEADLINE FOR
48 COMMENCEMENT OF CONSTRUCTION OF A

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

HYDROELECTRIC PROJECT INVOLVING
THE FLANNAGAN DAM; AND,
H.R. 4434, A BILL TO EXTEND THE DEADLINE FOR
COMMENCEMENT OF CONSTRUCTION OF A
HYDROELECTRIC PROJECT INVOLVING
THE CANNONSVILLE DAM
THURSDAY, FEBRUARY 25, 2016
House of Representatives
Committee on Energy and Commerce
Washington, D.C.

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

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

Cardenas.

Staff present: Gary Andres, Staff Director; Will Batson, Legislative Clerk, Energy and Power and Environment and the Economy; Ray Baum, Senior Policy Advisor for Communications and Technology; Mike Bloomquist, Deputy Staff Director; Leighton Brown, Deputy Press Secretary; Allison Busbee, Policy Coordinator, Energy and Power; Rebecca Card, Assistant Press Secretary; Karen Christian, General Counsel; Patrick Currier, Senior Counsel, Energy and Power; Andy Duberstein, Press Secretary; Gene Fullano, Detailee, Telecom; Kelsey Guyselman, Counsel, Telecom; Tom Hassenboehler, Chief Counsel, Energy and Power; A.T. Johnston, Senior Policy Advisor; Peter Kielty, Deputy General Counsel; Grace Koh, Counsel, Telecom; Ben Lieberman, Counsel, Energy and Power; David McCarthy, Chief Counsel, Environment and the Economy; Brandon Mooney, Professional Staff Member, Energy and Power; Mary Neumayr, Senior Energy Counsel; Tim Pataki, Professional Staff Member; Graham Pittman, Legislative Clerk; Annelise Rickert, Legislative Associate; Chris Santini, Policy Coordinator, Oversight and Investigations; Chris Sarley, Policy Coordinator, Environment and the Economy; Charlotte Savercool, Professional Staff, Communications and Technology; Dan Schneider, Press Secretary; Dylan Vorbach, Legislative Clerk, Commerce, Manufacturing and Trade; Gregory

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

97 Watson, Legislative Clerk, Communications and Technology; Jen
98 Berenholz, Minority Chief Clerk; Christine Brennan, Minority
99 Press Secretary; Jeff Carroll, Minority Staff Director; Elizabeth
100 Ertel, Minority Deputy Clerk; Jean Fruci, Minority Energy and
101 Environment Policy Advisor; Caitlin Haberman, Minority
102 Professional Staff Member; Rick Kessler, Minority Senior Advisor
103 and Staff Director, Energy and Environment; Jerry Leverich,
104 Minority Counsel; Josh Lewis, Minority EPA Detailee; Lori
105 Maarbjerger, Minority FCC Detailee; John Marshall, Minority Policy
106 Coordinator; Alexander Ratner, Minority Policy Analyst; Tim
107 Robinson, Minority Chief Counsel; Ryan Skukowski, Minority Policy
108 Analyst; Andrew Souvall, Minority Director of Communications,
109 Outreach and Member Services; and Tuley Wright, Minority Energy
110 and Environment Policy Advisor.

111 The Chairman. Committee will come to order.

112 At the conclusion of opening statements yesterday the chair
113 called up H.R. 4596 and the bill was opened for amendment at any
114 point.

115 [The Bill H.R. 4596 follows:]

116

117 *****INSERT 1*****

118 The Chairman. The chair would recognize Mr. Walden for the
119 purpose of offering an amendment.

120 Mr. Walden. I thank the chairman, and we have a bipartisan
121 amendment to offer to H.R. 4596 and I would ask the clerk to call
122 up the amendment.

123 The Clerk. Amendment to H.R. 4596 offered by Mr. Walden.
124 Page 2, after line 11 insert the following.

125 [The amendment of Mr. Walden follows:]

126

127 *****INSERT 2*****

128 The Chairman. The staff will distribute the amendment and
129 considered as read and the gentleman from Oregon is recognized
130 for five minutes in support of his amendment.

131 Mr. Walden. I thank the chairman.

132 Over the past two months, our Subcommittee on
133 Telecommunications has worked to craft a bill that would achieve
134 two goals that are central to this full committee's mission --
135 relieving regulatory burdens for small businesses and protecting
136 consumers.

137 So the Small Business Broadband Deployment Act would extend
138 the Federal Communications Commission's existing exemption for
139 small businesses from the enhanced transparency reporting
140 requirements to the 2015 open Internet order as well as increase
141 the threshold for defining what a small business is.

142 At our January legislative hearing on this subject, we heard
143 from a small Internet service provider who shared the dilemma that
144 many small ISPs face in these circumstances.

145 Should they put up new equipment or should they hire a lawyer
146 to help with compliance? Should they improve service for
147 customers or should they devote their financial resources to
148 sifting through regulatory language and drafting extensive
149 reports on packet loss?

150 Our discussion draft would seek to alleviate the unnecessary
151 burden associated with these requirements. The ISPs are still

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

subject -- they are still subject to the 2010 transparency rules and customers are still provided with all the information about their service they have come to expect.

By extending the existing exemption, however, we're giving certainty to small businesses seeking to make budgetary and operational decisions in a long-term fashion.

We have also increased the threshold for the definition of small business, bringing it closer in line with some of the commission's previous definitions that were blessed by the Small Business Administration.

I especially want to thank Congressman Loeb sack and his staff as well as the minority committee staff for their work on this bill and especially on this amendment.

These negotiations have produced what I think is a strong bill that helps protect these vital small providers who serve constituents like those in my district in eastern Oregon or in Mr. Loeb sack's district in Iowa who might otherwise not have the robust Internet service that small ISPs provide.

And so, Mr. Chairman, I think the amendment we have before us today reached the compromise we always hoped to reach.

It would sunset this provision after five years and requires the FCC after six months to submit a report to our committee and other relevant committees regarding the exemption, whether it should be made permanent and whether our definition of small

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

176 business makes sense.

177 And, further, we said that not more than -- this would apply
178 to ISPs that have 250,000 subscribers. That seemed to be a better
179 number than the 100,000 the FCC picked. And so I was glad we were
180 able to reach a conclusion in a fair and balanced way on this bill.

181 I thank Mr. Loeb sack especially for his work on this and I
182 would yield what time I have remaining to the gentleman from Iowa
183 if he'd like to comment on that.

184 Mr. Loeb sack. Thank you, Mr. Walden, and thank you for
185 working on this. I want to thank you and your staff and
186 subcommittee ranking member, Ms. Eshoo, and her staff for working
187 so well with me and my staff.

188 The staff really did a lot of work on this, as is always the
189 case. It's a common sense agreement and I think this is a
190 tremendous example of how we can work across the aisle, which is
191 what, I think, folks in our districts really want us to do to make
192 sure that we can get things done and do something that makes sense
193 for our constituents and I do thank you.

194 As I said when I offered my amendment in subcommittee, my
195 goal throughout this process has been to strike a careful balance
196 between the important consumer protections in the FCC's
197 transparency rule and the cost for smaller Internet service
198 providers and I think what we have achieved with this amendment
199 is in fact that goal.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

For me, the legislation is really about rural broadband development. I've often mentioned that I have well over a hundred separate Internet service providers in Iowa and this amendment will allow those providers, along with small providers throughout the country, to focus their limited resources on deploying more broadband, which rural America desperately needs, and offering new and improved services while giving them the time they need to comply with the FCC's additional requirements.

Again, Mr. Chairman, I appreciate all of your great support on this and the ranking member as well, and I'm really happy that we did come to this agreement today and hopefully everyone's going to vote for this, and thank you and I yield back. Thank you.

Mr. Walden. And with that, Mr. Chairman, I ask our members to support the amendment and I yield back the balance of my time.

The Chairman. Chairman yields back.

Other members -- and the chair will recognize the gentlelady from California, Ms. Eshoo, for five minutes.

Ms. Eshoo. Thank you, Mr. Chairman.

I move to strike the last word. I'm very pleased that the -- that we've reached a compromise on H.R. 4596. I think all the good reasons have been stated by both Chairman Walden and Representative Loeb sack.

We did an informal survey -- this is for members that aren't part of this subcommittee, and I think you'd find it interesting

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

224 -- an informal survey of associations representing small
225 broadband providers.

226 And they suggested that an exemption of the FCC's enhanced
227 transparency rules for companies with 250,000 or fewer
228 subscribers would adequately address the vast majority of their
229 membership.

230 So this has been realigned from the original proposals and
231 I think that it makes sense. This is, obviously, a bipartisan
232 amendment and it reflects this data by protecting the nation's
233 smallest ISPs.

234 But it also continues to ensure that the majority of
235 consumers receive the full set of benefits promised by the
236 enhanced transparency rules including clear disclosure of
237 promotional rates, fees, surcharges and data caps.

238 And this is very important to preserve these benefits for
239 consumers. They are battles that were waged and heavily sought.

240 So I think by -- additionally, by including the five-year
241 sunset the amendment gives the FCC further time to study whether
242 or not the exemption should be made permanent and how a small ISP
243 should be defined.

244 So I think that, very importantly, the broadband providers
245 of all sizes will continue to be responsible for following the
246 FCC's bright line, and it is a bright line, against blocking,
247 throttling and paid prioritization as well as the transparency

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

248 rules that were adopted in 2010.

249 So for these reasons, I support the amendment. I thank
250 Chairman Walden and Congressman Loeb sack for the work that they
251 did and to not only my staff but certainly the committee staff
252 on both sides of the aisle.

253 And with that, I yield back.

254 The Chairman. Gentle lady yields back. Other members
255 wishing to speak on the amendment?

256 Seeing none, the chair will call the question on the
257 amendment offered by the gentleman from Oregon -- bipartisan
258 amendment.

259 All those in favor will say aye.

260 (Vote was taken)

261 Those opposed say nay. In the opinion of the chair, the ayes
262 have it. The ayes have it. Amendment is agreed to. Are there
263 further amendments to the bill?

264 Seeing none, the vote occurs on H.R. 4596 as amended. All
265 those in favor will say aye.

266 (Vote was taken)

267 Those opposed say no. In the opinion of the chair, the ayes
268 have it. The bill is agreed to.

269 Chair would now call up H.R. 4583 and ask the clerk to report.

270 The Clerk. H.R. 4583, to promote a 21st Century Energy and
271 Manufacturing Workforce.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

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

275 [The Bill H.R. 4583 follows:]

276

277 *****INSERT 3*****

278 The Chairman. Are there any bipartisan amendments to the
279 bill? Are there amendments to the bill? Chair -- the question
280 now occurs on favorably reporting. The chair would recognize the
281 gentleman from Illinois to sponsor the bill.

282 Mr. Rush. Mr. Chairman, I move to strike the last word.

283 The Chairman. The chair recognizes you.

284 Mr. Rush. Mr. Chairman, I want to commend you and Chairman
285 Whitfield, Ranking Member Pallone and the committee staff for
286 working with my office to include the 21st Century Workforce
287 legislation within the package of bills that we will be marking
288 up here today.

289 You stated, Mr. Chairman, that workforce development must
290 be an essential component of any comprehensive energy policy.

291 So I look forward to working with you to ensure that even
292 as we move out of the committee process the 21st Century Workforce
293 bill is part of any discussion moving forward regarding the
294 nation's energy policy.

295 Mr. Chairman, I must also publicly acknowledge the
296 leadership role of my colleague, Mr. Hudson of North Carolina,
297 and his staff for their help in bringing us together on this
298 important piece of legislation that's before the committee
299 together -- today, rather.

300 The good-faith talks between my office, the majority and the
301 committee staff -- and minority and committee staff and Mr.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

Hudson's office have resulted in a bipartisan jobs bill that will go a long way in helping our nation's economy to get back on track by providing working opportunities for everyone.

And why is this 21st Century Workforce bill so necessary? Mr. Chairman, just last week my office had yet another meeting, this time with an energy company out of the great state of North Carolina, with representatives who informed us right now today as we speak that they have over a thousand job openings that they cannot fill because they cannot find qualified skilled workers.

In fact, Mr. Chairman, my office has been holding many of these types of meetings over the past four years with a variety of different energy and manufacturing industries who are facing this very same problem.

At a time when African-American and Latino unemployment rates are still too high, when too many female heads of households cannot find adequate employment to take care of their families, when veterans who are returning home from defending their country still cannot find work, it is a travesty that eager employers cannot find the trained workers that they need even at this very precise moment.

Mr. Chairman, this common sense jobs bill will help us to match up the trained skilled qualified candidates with the good paying jobs and careers that would help lift up their community, strengthen the energy industry and bolster the entire American

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

326 economy as a whole.

327 So again, Mr. Chairman, I want to thank you. I want to thank
328 Chairman Whitfield, Ranking Member Pallone, Mr. Hudson and all
329 my colleagues who helped get us to this point this morning with
330 this focus not only on the underserved communities such as
331 minorities and women and veterans but also displaced and
332 unemployed, rather, coal miners and other out of state energy
333 workers.

334 I can assure you, Mr. Chairman, that when this legislation
335 passes through the committee and ultimately becomes law, it will
336 go a long way in helping not only communities that look like the
337 one I represent on the south side of Chicago but help every
338 community in every district throughout this nation.

339 Mr. Chairman, I want to thank you and I yield back the balance
340 of my time.

341 The Chairman. Chair recognizes the gentleman from
342 Maryland, Mr. Sarbanes.

343 Mr. Sarbanes. I move to strike the last word, Mr. Chairman.

344 I just want to -- I just want to congratulate Representative
345 Rush for his efforts on this bill and our colleagues on the other
346 side of the aisle for their support of it.

347 I'm very excited. Just recently, Mr. Rush was able to
348 participate in a meeting in Baltimore involving the Department
349 of Energy and the city of Baltimore and a number of partners to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

350 explore the opportunity for low-income solar installation and
351 training in Baltimore.

352 This would accelerate home weatherization, the deployment
353 of solar panels and energy with a focus on low-income housing in
354 the city of Baltimore to reduce the utility costs of people living
355 in Baltimore and at the same time it's an opportunity to train
356 unemployed or underemployed community members to become part of
357 the energy industry workforce. It's a win-win situation.

358 It's going to mean a great deal to the city of Baltimore.
359 It's bringing in some of the premier workforce training nonprofit
360 organizations in the city, teaming them up with the expertise that
361 the Department of Energy can provide and other partners as well.

362 And it's exactly the kind of project that I think this bill
363 that we are hopefully about to approve here today would help to
364 support across the country.

365 So I applaud you for these efforts. We look forward to the
366 opportunity that this will present for cities like Baltimore all
367 across the country, and I yield.

368 The Chairman. Gentleman yields back.

369 Other members wishing to speak? Seeing none, the vote
370 occurs on H.R. 4583. All those in favor will say aye.

371 (Vote was taken)

372 Those opposed say no. Opinion of the chair the ayes have
373 it. The bill is agreed to.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

374 The chair will now call up H.R. 1268 and ask the clerk to
375 report.

376 The Clerk. H.R. 1268, to amend the Energy Independence and
377 Security Act of 2007 to promote energy efficiency via information
378 and competing technologies and for other purposes.

379 [The Bill H.R. 1268 follows:]

380

381 *****INSERT 4*****

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

385 The chair will recognize Ms. Eshoo for offering the
386 amendment.

387 Ms. Eshoo. Thank you, Mr. Chairman.

388 I do have an amendment, yes.

389 The Chairman. Clerk will report the title of the amendment.

390 The Clerk. Amendment to H.R. 1268 offered by Ms. Eshoo of
391 California.

392 The Chairman. And the staff will distribute the amendment.
393 It will be considered as read and the gentlelady will be recognized
394 for five minutes in support of her amendment.

395 [The amendment of Mr. Eshoo follows:]

396

397 *****INSERT 5*****

398 Ms. Eshoo. Thank you, Mr. Chairman, for holding this
399 markup.

400 It's always good to come into the room to write a bill and
401 know that we're going to pass it out of the full committee and
402 today, it includes H.R. 1268. It's the Energy Efficient
403 Government Technology Act that's on the committee's docket.

404 This is a bipartisan amendment that's being offered with my
405 legislative partner, Congressman Kinzinger. It makes minor
406 technical and conforming changes to H.R. 1268 to ensure that the
407 version the committee approves today is identical to the language
408 that -- it's hard for me to concentrate with the side conversation
409 right next to me.

410 The -- it makes minor technical and conforming changes to
411 H.R. 1268 to ensure that the version the committee approves today
412 is identical to the language that already passed the House in this
413 Congress as part of H.R. 8.

414 The act will make the federal government's IT and data
415 centers more energy efficient by requiring federal agencies to,
416 number one, utilize the best technologies and energy management
417 strategies, formulate specific goals and periodically evaluate
418 their energy efficiency, and three, make data center energy usage
419 statistics public in a way that empowers further innovation.

420 This is a, I think, a powerful statistic. Data centers are
421 the backbone of the 21st century economy but they could be highly

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

422 inefficient.

423 The Department of Energy estimates that implementation of
424 best practices alone could reduce the government's data center
425 energy bill by 20 to 40 percent.

426 So I think that this is something that's going to move us
427 ahead. Again, this is a technical change and once again I want
428 to thank Chairman Upton, our ranking member of the full committee,
429 Mr. Pallone, and Mr. Kinzinger, who's been a partner in this and
430 urge everyone to support it.

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

432 The Chairman. Gentlelady yields back.

433 I would just reiterate that the chair does support her
434 amendment. I think it's a good amendment, good improvement,
435 bipartisan addition to the bill and I would support the amendment.
436 Are there other members wishing to speak on the amendment?

437 Seeing none, the vote will occur on the amendment offered
438 by the gentlelady from California. All those in favor will say
439 aye.

440 (Vote was taken)

441 Those opposed say no. Opinion of the chair the ayes have
442 it. Amendment is agreed to. Are there other amendments to the
443 bill?

444 Seeing none, the vote occurs on H.R. 1268 as amended. All
445 those in favor will say aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

446 (Vote was taken)

447 Those opposed say no. In the opinion of the chair the ayes
448 have it and the bill as amended is agreed to.

449 The chair will now call up H.R. 2984, Fair Rates Act. The
450 clerk will report the title of the bill.

451 The Clerk. H.R. 2984, to amend the Federal Power Act to
452 provide that any inaction by the Federal Energy Regulatory
453 Commission that allows a rate change to go into effect shall be
454 treated as an order by the commission for purposes of rehearing
455 and court review.

456 [The Bill H.R. 2984 follows:]

457

458 *****INSERT 6*****

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

462 Are there any bipartisan amendments to the bill -- the
463 amendments to the bill? Seeing none, the vote will occur on H.R.
464 2984.

465 All those in favor will say aye.

466 (Vote was taken)

467 Those opposed say no. Opinion of the chair the ayes have
468 it. The bill is passed.

469 Chair would now call up H.R. 3797 and ask the clerk to report.

470 The Clerk. H.R. 3797, to establish the basis by which the
471 administrator of the Environmental Protection Agency shall issue,
472 implement and enforce certain emission limitations and
473 allocations for existing electric utility steam-generating units
474 that convert coal refuse into energy.

475 [The Bill H.R. 3797 follows:]

476

477 *****INSERT 7*****

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

481 Are there any bipartisan amendments to the bill? Are there
482 any amendments to the bill?

483 The chair would recognize the gentleman from New Jersey to
484 offer the amendment. Clerk will report the title of the
485 amendment.

486 The Clerk. It's the amendment one or two? One?

487 Mr. Pallone. Ol, I think.

488 The Clerk. Amendment to H.R. 3797 offered by Mr. Pallone
489 strikes sections 2(a)(6), 2(a)(8) and 2(b) and redesignate
490 accordingly.

491 [The amendment of Mr. Pallone follows:]

492

493 *****INSERT 8*****

494 The Chairman. And with that, the amendment will be
495 considered as read. The staff will distribute the amendment and
496 the gentleman from New Jersey is recognized for five minutes in
497 support of his amendment.

498 Mr. Pallone. Thank you, Mr. Chairman.

499 This is a targeted amendment that strikes section 2(b) from
500 the bill. Section 2(b) of the bill deals with EPA's cross-state
501 air pollution rule, also known as CSAPR, and this is one of the
502 most important Clean Air Act rules in recent years.

503 It protects the health of millions of Americans by requiring
504 upwind states in the eastern and central United States to reduce
505 power plant emissions that cause air quality problems in downwind
506 states.

507 An important feature of CSAPR is the trading program that
508 allows sources in each state to meet emission budgets in many
509 different ways including trading of emissions allowances.

510 This approach reduces the cost of compliance while ensuring
511 reductions in air pollution. As we heard at the legislative
512 hearing on this bill in written testimony provided by EPA and by
513 John Walke from the Natural Resources Defense Council, there are
514 a number of policy and technical issues with this section of the
515 bill and I just want to touch on a few of them.

516 First, by providing allocations to coal refuse units that
517 cannot be traded, the SENSE Act would remove economic incentives

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

518 to reduce emissions at coal refuse units.

519 By reallocating allowances from other sources within the
520 state to coal refuse units and then limiting the ability of these
521 coal refuse sources to transfer allocated allowances to other
522 facilities, the bill would choose winners -- that is, the coal
523 refuse units -- and losers -- that is, all other coal plants in
524 a given state.

525 By interfering with market conditions, compliance costs
526 would increase for facilities. The SENSE Act would also remove
527 states' rights when determining their method of compliance with
528 CSAPR.

529 As EPA notes in their testimony, the Clean Air Act gives
530 states the authority to replace interstate transport federal
531 implementation plans with approved state implementation plans.

532 Further, CSAPR provides states with opportunities to
533 reallocate allowances among their affected units. The SENSE Act
534 would deny states control over allocations of allowances by
535 rendering any submitted state plan with a different allocation
536 to these units unapprovable.

537 And why supporters of this bill would want to change its
538 successful EPA program to make it less flexible and more costly
539 is simply beyond me.

540 So I would urge my colleagues to join me in supporting this
541 amendment to strike the CSAPR portion of the SENSE Act and I yield

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

542 back, unless one of my colleagues would like to talk.

543 I guess -- okay. I yield back, Mr. Chairman.

544 The Chairman. Chairman yields back. Other members who
545 wish -- -- the chair would recognize the gentleman from Kentucky,
546 Mr. Whitfield.

547 Mr. Whitfield. Thank you, Mr. Chairman, and I respectfully
548 oppose Mr. Pallone's amendment.

549 We do have a difficult situation here. First of all, there
550 are only 19 of these coal refuse plants in the country and I guess
551 about 14 of them are in the state of Pennsylvania.

552 There's a lot of waste product out there from coal mining
553 operations and these coal refuse plants clean those -- that waste
554 up. So there's a significant environmental advantage in cleaning
555 them up.

556 Now, I would also mention on the SO2 -- sulfur dioxide --
557 this does not change the overall limits whatsoever. It simply
558 provides some additional allocations for these coal refuse
559 plants.

560 This amendment by Mr. Pallone would strike all of the
561 provisions in this legislation relating to the cross-state air
562 pollution rule and these plants, most -- the majority of them
563 simply cannot meet those rules.

564 And as I said, the 19 plants only provide 100 megawatts. And
565 so you have one big benefit of cleaning up these wastes versus

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

566 if we don't do something closing, basically, these plants down
567 and there are a lot of jobs with these plants as well.

568 So there's a significant benefit of keeping them operating,
569 and that's what the purpose of the bill is, to simply allow
570 continued operation which provides significant environmental
571 benefits by remediating the coal refuse problem.

572 The bill reallocates emission allowances under the
573 cross-state rule from other plants to coal refuse to energy
574 facilities in order to help their continued operation.

575 And so this is not a big issue per se when you're only talking
576 about 100 megawatts. But the environmental benefits and the job
577 benefits are very important.

578 So for that reason, I would respectfully oppose and if the
579 gentlemen -- I yield the balance of my time to the gentleman from
580 Illinois.

581 Mr. Shimkus. Thank you, Mr. Chairman.

582 I just want to weigh in and support with you against the
583 amendment for the stated reasons.

584 For my colleagues who don't serve on this subcommittee, a
585 picture is worth a thousand words, and if you could just picture
586 these coal refuse areas and the ability to reclaim a lot, to
587 generate electricity and then clean up this so it doesn't affect
588 the groundwater, it is a, as Chairman Whitfield said, is a -- there
589 are significant environmental benefits to this.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

590 And so with that I just want to, you know, be supportive of
591 the underlying bill and, of course, supportive of the chairman's
592 discussion in opposition to the amendment.

593 Mr. Whitfield. Will the gentleman yield back?

594 Mr. Shimkus. I will give back time to --

595 Mr. Whitfield. And I may say I know that this is of
596 significant concern and I know that Mr. Doyle has a real interest
597 in this area because his area of the country is really affected
598 by this as well.

599 And although we opposed or I, certainly, oppose this
600 particular amendment, I would welcome the opportunity to continue
601 working with the other side to see if there's some way before the
602 bill gets to the floor or amendment could be brought that would
603 recognize the needs on both sides.

604 And I yield back the balance of my time.

605 Mr. Pallone. Would the gentleman yield just for 30 seconds?

606 Mr. Whitfield. Yes. Yes.

607 Mr. Pallone. I mean, my basic problem is -- I guess I've
608 already said -- is that this SENSE Act picks winners and losers
609 and it tips the scales in favor of coal refuse plants at the expense
610 of all other plants within a state.

611 And that's my basic problem here and that's why I put forth
612 this amendment. Regardless of anything else, I just think that
613 this idea of picking winners and losers is just not the right way

614 to proceed.

615 But thank you for the time.

616 The Chairman. Gentleman yields back.

617 Other members wishing to speak? Gentleman from
618 Pennsylvania, Mr. Doyle.

619 Mr. Doyle. Thank you, Mr. Chairman.

620 I want to speak in support of Mr. Pallone's amendment. The
621 SENSE Act has a very important goal -- ensuring that coal refuse
622 facilities, many of which are located in my home state, can
623 continue to operate in the years to come.

624 These plants help process waste coal left from mining
625 operations that closed down decades ago, and left unmanaged these
626 waste coal fields can damage local water sources and habitats.

627 Coal refuse piles can also from time to time catch fire and
628 release harmful toxins at ground level, polluting forests,
629 neighborhoods and schoolyards.

630 Coal refuse plants unquestionably play an important role in
631 efforts to repair and improve the environment in my state of
632 Pennsylvania. A majority of these plants, as I've said, are in
633 our state and we are slowly working to remediate the extraordinary
634 amount of waste coal in our state.

635 Industry estimates that waste coal piles cover 170,000 acres
636 in the state of Pennsylvania, and because of their impact these
637 plants have enjoyed bipartisan support in Pennsylvania for many

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

638 years.

639 However, I have to oppose the SENSE Act as it's currently
640 written today. It's not our job here at Energy and Commerce to
641 pick winners and losers and this bill uses the cross-state air
642 pollution rule to help prop these plants up while hurting others.

643 That's right. This bill would actually make it more
644 difficult for other power plants including coal-fired power
645 plants to comply with these regulations.

646 The SENSE Act also infringes on states' ability to craft
647 their own implementation plan to comply with the cross-state air
648 pollution rule.

649 Now, it's unfortunate that my state hasn't yet submitted
650 their own plan like a plan that would help these coal refuse
651 plants. But we should continue to uphold their ability to do so.

652 We can't just come up with an alternative standard for
653 important rules and regulations that protect the air we breathe
654 and that's what the second part of this bill does. It sets a bad
655 precedent for future regulations as we try to protect our air and
656 stop global warming.

657 There are coal refuse plants in my home state that can and
658 will be able to operate under the cross-state air pollution rule
659 and the mercury air toxic standards -- the two regulations
660 addressed in the SENSE Act.

661 We need to make the processing of fossil fuels cleaner in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

662 this country, not carve out exceptions or exemptions for specific
663 plants that may find doing so difficult while hurting other plants
664 in the process.

665 So I want to continue to look for ways to help coal refuse
666 plants operate in the years to come because they're very important
667 to Pennsylvania.

668 But the SENSE Act isn't a good way to go about it as it's
669 currently written and for that reason I urge my colleagues to
670 support Mr. Pallone's amendment and oppose this bill, and I yield
671 back.

672 The Chairman. Gentleman yields back.

673 Other members wishing to speak on the amendment? Seeing
674 none, roll call is requested.

675 Clerk, call the roll.

676 The Clerk. Mr. Barton.

677 Mr. Barton. No.

678 The Clerk. Mr. Barton votes no.

679 Mr. Whitfield.

680 Mr. Whitfield. No.

681 The Clerk. Mr. Whitfield votes no.

682 Mr. Shimkus.

683 Mr. Shimkus. No.

684 The Clerk. Mr. Shimkus votes no.

685 Mr. Pitts.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

686 Mr. Pitts. No.

687 The Clerk. Mr. Pitts votes no.

688 Mr. Walden. Mr. Murphy.

689 Mr. Murphy. No.

690 The Clerk. Mr. Murphy votes no.

691 Mr. Burgess. Mrs. Blackburn.

692 Mrs. Blackburn. No.

693 The Clerk. Mrs. Blackburn votes no.

694 Mr. Scalise. Mr. Latta.

695 Mr. Latta. No.

696 The Clerk. Mr. Latta votes no.

697 Ms. McMorris Rodgers.

698 Ms. McMorris Rodgers. No.

699 The Clerk. Ms. McMorris Rodgers votes no.

700 Mr. Harper.

701 Mr. Harper. No.

702 The Clerk. Mr. Harper votes no.

703 Mr. Lance.

704 Mr. Lance. No.

705 The Clerk. Mr. Lance votes no.

706 Mr. Guthrie. Mr. Olson.

707 Mr. Olson. No.

708 The Clerk. Mr. Olson votes no.

709 Mr. McKinley.

710 Mr. McKinley. No.

711 The Clerk. Mr. McKinley votes no.

712 Mr. Pompeo.

713 Mr. Pompeo. No.

714 The Clerk. Mr. Pompeo votes no.

715 Mr. Kinzinger.

716 Mr. Kinzinger. No.

717 The Clerk. Mr. Kinzinger votes no.

718 Mr. Griffith.

719 Mr. Griffith. No.

720 The Clerk. Mr. Griffith votes no.

721 Mr. Bilirakis. Mr. Johnson.

722 Mr. Johnson. No.

723 The Clerk. Mr. Johnson votes no.

724 Mr. Long.

725 Mr. Long. No.

726 The Clerk. Mr. Long votes no.

727 Mrs. Ellmers.

728 Mrs. Ellmers. No.

729 The Clerk. Mrs. Ellmers votes no.

730 Mr. Bucshon.

731 Mr. Bucshon. No.

732 The Clerk. Mr. Bucshon votes no.

733 Mr. Flores. Ms. Brooks.

734 Ms. Brooks. No.

735 The Clerk. Ms. Brooks votes no.

736 Mr. Mullin.

737 Mr. Mullin. No.

738 The Clerk. Mr. Mullin votes no.

739 Mr. Hudson.

740 Mr. Hudson. No.

741 The Clerk. Mr. Hudson votes no.

742 Mr. Collins.

743 Mr. Collins. No.

744 The Clerk. Mr. Collins votes no.

745 Mr. Cramer.

746 Mr. Cramer. No.

747 The Clerk. Mr. Cramer votes no.

748 Mr. Pallone.

749 Mr. Pallone. Aye.

750 The Clerk. Mr. Pallone votes aye.

751 Mr. Rush.

752 Mr. Rush. Aye.

753 The Clerk. Mr. Rush votes aye.

754 Ms. Eshoo.

755 Ms. Eshoo. Aye.

756 The Clerk. Ms. Eshoo votes aye.

757 Mr. Engel.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

758 Mr. Engel. Aye.

759 The Clerk. Mr. Engel votes aye.

760 Mr. Green. Ms. DeGette.

761 Ms. DeGette. Aye.

762 The Clerk. Ms. DeGette votes aye.

763 Ms. Capps.

764 Mrs. Capps. Aye.

765 The Clerk. Mrs. Capps votes aye.

766 Mr. Doyle.

767 Mr. Doyle. Aye.

768 The Clerk. Mr. Doyle votes aye.

769 Ms. Schakowsky.

770 Ms. Schakowsky. Aye.

771 The Clerk. Ms. Schakowsky votes aye.

772 Mr. Butterfield.

773 Mr. Butterfield. Aye.

774 The Clerk. Mr. Butterfield votes aye.

775 Ms. Matsui.

776 Ms. Matsui. Aye.

777 The Clerk. Ms. Matsui votes aye.

778 Ms. Castor.

779 Ms. Castor. Aye.

780 The Clerk. Ms. Castor votes aye.

781 Mr. Sarbanes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

782 Mr. Sarbanes. Aye.

783 The Clerk. Mr. Sarbanes votes aye.

784 Mr. McNerney.

785 Mr. McNerney. Aye.

786 The Clerk. Mr. McNerney votes aye.

787 Mr. Welch.

788 Mr. Welch. Aye.

789 The Clerk. Mr. Welch votes aye.

790 Mr. Lujan.

791 Mr. Lujan. Aye.

792 The Clerk. Mr. Lujan votes aye.

793 Mr. Tonko.

794 Mr. Tonko. Aye.

795 The Clerk. Mr. Tonko votes aye.

796 Mr. Yarmuth.

797 Mr. Yarmuth. Aye.

798 The Clerk. Mr. Yarmuth votes aye.

799 Ms. Clarke.

800 Ms. Clarke. Aye.

801 The Clerk. Ms. Clarke votes aye.

802 Mr. Loeb sack.

803 Mr. Loeb sack. Aye.

804 The Clerk. Mr. Loeb sack votes aye.

805 Mr. Schrader.

806 Mr. Schrader. Aye.

807 The Clerk. Mr. Schrader votes aye.

808 Mr. Kennedy.

809 Mr. Kennedy. Aye.

810 The Clerk. Mr. Kennedy votes aye.

811 Mr. Cardenas.

812 Mr. Cardenas. Aye.

813 The Clerk. Mr. Cardenas votes aye.

814 Chairman Upton.

815 The Chairman. Votes no. How does Mr. Burgess -- Dr.

816 Burgess?

817 The Clerk. Burgess votes no.

818 The Chairman. The other members -- Mr. Guthrie?

819 Mr. Guthrie. No.

820 The Clerk. Mr. Guthrie votes no.

821 The Chairman. Mr. Walden.

822 Mr. Walden. No.

823 The Clerk. Mr. Walden votes no.

824 The Chairman. Mr. Flores.

825 Mr. Flores. No.

826 The Clerk. Mr. Flores votes no.

827 The Chairman. Other members wishing to change their vote
828 or cast a vote?

829 Seeing none, the clerk will report the tally.

830 The Clerk. Mr. Chairman, on that vote there were 22 ayes
831 and 29 nays.

832 The Chairman. Twenty-two ayes, 29 nays. The amendment is
833 not agreed to.

834 Are there further amendments to the bill?

835 Mr. Engel. Mr. Chairman?

836 The Chairman. Chair will recognize the gentleman from New
837 York.

838 Mr. Engel. Thank you, Mr. Chairman.

839 I have an amendment at the desk, Amendment D(2).

840 The Clerk. Amendment to H.R. 3797 offered by Mr. Engel, Page
841 7 after line 14 insert the following new paragraph.

842 [The amendment of Mr. Engel follows:]

843

844 *****INSERT 9*****

845 The Chairman. The amendment will be considered as read.
846 The staff will distribute the amendment and the gentleman from
847 New York is recognized for five minutes in support of his
848 amendment.

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

850 I appreciate it. Earlier this month, the Energy and Power
851 Subcommittee held a hearing where we identified numerous flaws
852 in the SENSE Act. Those flaws still exist and my amendment would
853 correct two of them.

854 In a written statement submitted for our hearing, Janet
855 McCabe, the acting assistant administrator for the Office of Air
856 and Radiation at EPA, argued that the SENSE Act would remove the
857 economic incentives to reduce emissions at waste coal plants
858 because emissions allocations for those plants could not be traded
859 under the cross-state air pollution rule.

860 I questioned the witness about her assertion and I received
861 confirmation that the bill would likely result in less efficient
862 and more costly compliance with CSAPR.

863 Moreover, the SENSE Act would interfere with a state's right
864 to determine how to best comply with CSAPR by favoring waste
865 coal-burning plants over other in-state power plants.

866 So this bill would take longstanding state authority,
867 transfer it to the federal government and then use that authority
868 to pick winners and losers.

869 My amendment would allow the state to remove applicability
870 of section 2(b), application of CSAPR to certain coal refuse
871 electric utility steam-generating units if the state determines
872 that implementation of the subsection would increase the state's
873 overall compliance costs.

874 My amendment addresses the issue of more costly compliance
875 with CSAPR and returns the power to the states, something that
876 we hear from both sides of the aisle that the states should retain
877 the power.

878 So I urge a yes vote, and I yield back.

879 The Chairman. Gentleman yields back.

880 Other members wishing to speak? The chair would recognize
881 the gentleman from Illinois, Mr. Shimkus.

882 Mr. Shimkus. Thank you, Mr. Chairman.

883 I rise to speak against the amendment just to make a couple
884 points. The newest coal-fired power plant in my congressional
885 district is 1,600 megawatts.

886 So the other thing that people need to understand these are
887 very small -- these are 100 megawatts. They're small. They're
888 really designed to create some energy but also really to clean
889 up these sites, as people have talked about. And so that's why
890 we continue to be supportive of the underlying bill.

891 The other thing I'd like to put forward is that when you
892 address costs what are going to be the costs of the closure of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

893 these small generating facilities?

894 You'll lose -- in Illinois it would be to lose the property
895 tax base, you'll lose the jobs, you'll lose the income, you'll
896 lose the money that goes to the local school districts or the local
897 county.

898 In my area a loss of even a plant that's this small would
899 be devastating to a rural community that I would have. So I have
900 a problem with the cost benefit analysis debate of this amendment
901 and I would ask my colleagues to vote against it, and I would yield
902 to Chairman Whitfield.

903 Mr. Whitfield. Thank you very much.

904 I just want to make one comment about this picking winners
905 and losers. The SENSE Act has been said that it's picking winners
906 and losers here.

907 Let me just say that EPA really is the one that picked the
908 winners and losers. In the cross-state air pollution rule, the
909 bituminous coal-fired refuse plants EPA picked them to be the
910 losers and they also picked the bituminous coal-fired refuse
911 plants to be the losers in MATS as well.

912 These anthracite refuse plants can meet the alternative O2
913 standard. So those plants that can meet these standards are using
914 anthracite and that's because the sulfur content of the coal
915 refuse in the anthracite region is lower.

916 So all we're doing here in the SENSE Act is giving the

917 opportunity to those plants that can't quite meet that standard
918 to give them a little help in meeting the standard without raising
919 the overall SO2 caps so that they can keep cleaning this up, keep
920 these jobs.

921 And, certainly, this is not going to go on forever because
922 eventually it will be cleaned up. And I just wanted to point that
923 out and with that I would yield back the balance of Mr. Shimkus'
924 time.

925 Mr. Shimkus. And I yield back the time.

926 The Chairman. Gentleman yields back.

927 Other members? The gentleman from New York, Mr. Tonko.

928 Mr. Tonko. Thank you, Mr. Chair.

929 I speak in support of the Engel amendment. I agree with what
930 my colleague expressed -- my colleague from New York expressed
931 his concerns that are real about there being a number of policy
932 and technical issues with the CSAPR provisions in the SENSE Act.

933 One that I want to reiterate and certainly expand upon is
934 regarding states' rights. The SENSE Act would block a state from
935 determining their best compliance pathway as it applies to CSAPR.

936 And let me say that another way. If this bill were to become
937 law it would actually take power away from the states and give
938 it to the EPA.

939 And as John Walke from the Natural Resource Defense Council
940 pointed out in his written testimony for the recent legislative

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

hearing on this bill, the SENSE Act would wrest control away from states to make these basic decisions for the first time in the 39-year history of the Clean Air Act's interstate air pollution program.

So in dealing with this issue, the Engel amendment would allow states to opt out of the CSAPR provisions from the SENSE Act, thereby avoiding the states rights issue, which is tremendously important.

And all of the other technical and policy issues that have been raised regarding the portion of the bill would also be addressed by the amendment.

So therefore I urge my colleagues to join me in support of the Engel amendment, and with that I yield back.

The Chairman. Gentleman yields back.

Other members wishing to speak on the amendment?

Seeing none, a vote occurs and the amendment offered by the gentleman from New York. A recorded vote has been requested. The clerk will call the roll.

The Clerk. Mr. Barton.

Mr. Barton. No.

The Clerk. Mr. Barton votes no.

Mr. Whitfield.

Mr. Whitfield. No.

The Clerk. Mr. Whitfield votes no.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

965 Mr. Shimkus.

966 Mr. Shimkus. No.

967 The Clerk. Mr. Shimkus votes no.

968 Mr. Pitts.

969 Mr. Pitts. No.

970 The Clerk. Mr. Pitts votes no.

971 Mr. Walden. Mr. Murphy.

972 Mr. Murphy. No.

973 The Clerk. Mr. Murphy votes no.

974 Mr. Burgess.

975 Mr. Burgess. No.

976 The Clerk. Mr. Burgess votes no.

977 Mrs. Blackburn.

978 Mrs. Blackburn. No.

979 The Clerk. Mrs. Blackburn votes no.

980 Mr. Scalise. Mr. Latta.

981 Mr. Latta. No.

982 The Clerk. Mr. Latta votes no.

983 Ms. McMorris Rodgers.

984 Ms. McMorris Rodgers. No.

985 The Clerk. Ms. McMorris Rodgers votes no.

986 Mr. Harper.

987 Mr. Harper. No.

988 The Clerk. Mr. Harper votes no.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

989 Mr. Lance.

990 Mr. Lance. No.

991 The Clerk. Mr. Lance votes no.

992 Mr. Guthrie.

993 Mr. Guthrie. No.

994 The Clerk. Mr. Guthrie votes no.

995 Mr. Olson.

996 Mr. Olson. No.

997 The Clerk. Mr. Olson votes no.

998 Mr. McKinley.

999 Mr. McKinley. No.

1000 The Clerk. Mr. McKinley votes no.

1001 Mr. Pompeo.

1002 Mr. Pompeo. No.

1003 The Clerk. Mr. Pompeo votes no.

1004 Mr. Kinzinger.

1005 Mr. Kinzinger. No.

1006 The Clerk. Mr. Kinzinger votes no.

1007 Mr. Griffith.

1008 Mr. Griffith. No.

1009 The Clerk. Mr. Griffith votes no.

1010 Mr. Bilirakis.

1011 Mr. Bilirakis. No.

1012 The Clerk. Mr. Bilirakis votes no.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1013 Mr. Johnson.

1014 Mr. Johnson. No.

1015 The Clerk. Mr. Johnson votes no.

1016 Mr. Bilirakis is not recorded.

1017 Mr. Long.

1018 Mr. Long. No.

1019 The Clerk. Mr. Long votes no.

1020 Mrs. Ellmers.

1021 Mrs. Ellmers. No.

1022 The Clerk. Mrs. Ellmers votes no.

1023 Mr. Bucshon.

1024 Mr. Bucshon. No.

1025 The Clerk. Mr. Bucshon votes no.

1026 Mr. Flores.

1027 Mr. Flores. No.

1028 The Clerk. Mr. Flores votes no.

1029 Ms. Brooks.

1030 Ms. Brooks. No.

1031 The Clerk. Ms. Brooks votes no.

1032 Mr. Mullin.

1033 Mr. Mullin. No.

1034 The Clerk. Mr. Mullin votes no.

1035 Mr. Hudson.

1036 Mr. Hudson. No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1037 The Clerk. Mr. Hudson votes no.
1038 Mr. Collins.
1039 Mr. Collins. No.
1040 The Clerk. Mr. Collins votes no.
1041 Mr. Cramer.
1042 Mr. Cramer. No.
1043 The Clerk. Mr. Cramer votes no.
1044 Mr. Pallone.
1045 Mr. Pallone. Aye.
1046 The Clerk. Mr. Pallone votes aye.
1047 Mr. Rush.
1048 Mr. Rush. Aye.
1049 The Clerk. Mr. Rush votes aye.
1050 Ms. Eshoo.
1051 Ms. Eshoo. Aye.
1052 The Clerk. Ms. Eshoo votes aye.
1053 Mr. Engel.
1054 Mr. Engel. Aye.
1055 The Clerk. Mr. Engel votes aye.
1056 Mr. Green. Ms. DeGette.
1057 Ms. DeGette. Aye.
1058 The Clerk. Ms. DeGette votes aye.
1059 Mrs. Capps.
1060 Mrs. Capps. Aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1061 The Clerk. Mrs. Capps votes aye.
1062 Mr. Doyle.
1063 Mr. Doyle. Aye.
1064 The Clerk. Mr. Doyle votes aye.
1065 Ms. Schakowksy.
1066 Ms. Schakowsky. Aye.
1067 The Clerk. Ms. Schakowsky votes aye.
1068 Mr. Butterfield.
1069 Mr. Butterfield. Aye.
1070 The Clerk. Mr. Butterfield votes aye.
1071 Ms. Matsui.
1072 Ms. Matsui. Aye.
1073 The Clerk. Ms. Matsui votes aye.
1074 Ms. Castor.
1075 Mr. Castor. Aye.
1076 The Clerk. Ms. Castor votes aye.
1077 Mr. Sarbanes.
1078 Mr. Sarbanes. Aye.
1079 The Clerk. Mr. Sarbanes votes aye.
1080 Mr. McNerney.
1081 Mr. McNerney. Aye.
1082 The Clerk. Mr. McNerney votes aye.
1083 Mr. Welch.
1084 Mr. Welch. Aye.

1085 The Clerk. Mr. Welch votes aye.
1086 Mr. Lujan.
1087 Mr. Lujan. Aye.
1088 The Clerk. Mr. Lujan votes aye.
1089 Mr. Tonko.
1090 Mr. Tonko. Aye.
1091 The Clerk. Mr. Tonko votes aye.
1092 Mr. Yarmuth.
1093 Mr. Yarmuth. Aye.
1094 The Clerk. Mr. Yarmuth votes aye.
1095 Ms. Clarke.
1096 Ms. Clarke. Aye.
1097 The Clerk. Ms. Clarke votes aye.
1098 Mr. Loeb sack.
1099 Mr. Loeb sack. Aye.
1100 The Clerk. Mr. Loeb sack votes aye.
1101 Mr. Schrader.
1102 Mr. Schrader. Aye.
1103 The Clerk. Mr. Schrader votes aye.
1104 Mr. Kennedy.
1105 Mr. Kennedy. Aye.
1106 The Clerk. Mr. Kennedy votes aye.
1107 Mr. Cardenas.
1108 Mr. Cardenas. Aye.

1109 The Clerk. Mr. Cardenas votes aye.

1110 Chairman Upton.

1111 The Chairman. Votes no. Other members wishing to cast a
1112 vote? Mr. Walden?

1113 Mr. Walden. No.

1114 The Clerk. Mr. Walden votes nay.

1115 The Chairman. Other members wishing to vote or change their
1116 vote?

1117 Seeing none, the clerk will report the tally.

1118 The Clerk. Mr. Chairman, on that vote there were 22 ayes
1119 and 29 nays.

1120 The Chairman. Twenty-two ayes, 29 nays. The amendment is
1121 not agreed to.

1122 Are there further amendments to the bill?

1123 Seeing none, the vote occurs on the bill itself, H.R. 3797.

1124 A recorded vote has been asked for. The clerk will call the roll.

1125 The Clerk. Mr. Barton.

1126 Mr. Barton. Aye.

1127 The Clerk. Mr. Barton votes aye.

1128 Mr. Whitfield.

1129 Mr. Whitfield. Aye.

1130 The Clerk. Mr. Whitfield votes aye.

1131 Mr. Shimkus.

1132 Mr. Shimkus. Aye.

1133 The Clerk. Mr. Shimkus votes aye.
1134 Mr. Pitts.
1135 Mr. Pitts. Aye.
1136 The Clerk. Mr. Pitts votes aye.
1137 Mr. Walden.
1138 Mr. Walden. Aye.
1139 The Clerk. Mr. Walden votes aye.
1140 Mr. Murphy.
1141 Mr. Murphy. Aye.
1142 The Clerk. Mr. Murphy votes aye.
1143 Mr. Burgess.
1144 Mr. Burgess. Aye.
1145 The Clerk. Mr. Burgess votes aye.
1146 Mrs. Blackburn.
1147 Mrs. Blackburn. Aye.
1148 The Clerk. Mrs. Blackburn votes aye.
1149 Mr. Scalise. Mr. Latta.
1150 Mr. Latta. Aye.
1151 The Clerk. Mr. Latta votes aye.
1152 Ms. McMorris Rodgers.
1153 Ms. McMorris Rodgers. Aye.
1154 The Clerk. Ms. McMorris Rodgers votes aye.
1155 Mr. Harper.
1156 Mr. Harper. Aye.

1157 The Clerk. Mr. Harper votes aye.
1158 Mr. Lance.
1159 Mr. Lance. Aye.
1160 The Clerk. Mr. Lance votes aye.
1161 Mr. Guthrie.
1162 Mr. Guthrie. Aye.
1163 The Clerk. Mr. Guthrie votes aye.
1164 Mr. Olson.
1165 Mr. Olson. Aye.
1166 The Clerk. Mr. Olson votes aye.
1167 Mr. McKinley.
1168 Mr. McKinley. Aye.
1169 The Clerk. Mr. McKinley votes aye.
1170 Mr. Pompeo.
1171 Mr. Pompeo. Aye.
1172 The Clerk. Mr. Pompeo votes aye.
1173 Mr. Kinzinger.
1174 Mr. Kinzinger. Aye.
1175 The Clerk. Mr. Kinzinger votes aye.
1176 Mr. Griffith.
1177 Mr. Griffith. Aye.
1178 The Clerk. Mr. Griffith votes aye.
1179 Mr. Bilirakis. Mr. Johnson.
1180 Mr. Johnson. Aye.

1181 The Clerk. Mr. Johnson votes aye.
1182 Mr. Long.
1183 Mr. Long. Aye.
1184 The Clerk. Mr. Long votes aye.
1185 Mrs. Ellmers.
1186 Mrs. Ellmers. Aye.
1187 The Clerk. Mrs. Ellmers votes aye.
1188 Mr. Bucshon.
1189 Mr. Bucshon. Aye.
1190 The Clerk. Mr. Bucshon votes aye.
1191 Mr. Flores.
1192 Mr. Flores. Aye.
1193 The Clerk. Mr. Flores votes aye.
1194 Ms. Brooks.
1195 Ms. Brooks. Aye.
1196 The Clerk. Ms. Brooks votes aye.
1197 Mr. Mullin.
1198 Mr. Mullin. Aye.
1199 The Clerk. Mr. Mullin votes aye.
1200 Mr. Hudson.
1201 Mr. Hudson. Aye.
1202 The Clerk. Mr. Hudson votes aye.
1203 Mr. Collins.
1204 Mr. Collins. Aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1205 The Clerk. Mr. Collins votes aye.
1206 Mr. Cramer.
1207 Mr. Cramer. Aye.
1208 The Clerk. Mr. Cramer votes aye.
1209 Mr. Pallone.
1210 Mr. Pallone. No.
1211 The Clerk. Mr. Pallone votes no.
1212 Mr. Rush.
1213 Mr. Rush. No.
1214 The Clerk. Mr. Rush votes no.
1215 Ms. Eshoo.
1216 Ms. Eshoo. No.
1217 The Clerk. Ms. Eshoo votes no.
1218 Mr. Engel.
1219 Mr. Engel. No.
1220 The Clerk. Mr. Engel votes no.
1221 Mr. Green. Ms. DeGette.
1222 Ms. DeGette. No.
1223 The Clerk. Ms. DeGette votes no.
1224 Mrs. Capps.
1225 Mrs. Capps. No.
1226 The Clerk. Mrs. Capps votes no.
1227 Mr. Doyle.
1228 Mr. Doyle. No.

1229 The Clerk. Mr. Doyle votes no.
1230 Ms. Schakowsky.
1231 Ms. Schakowsky. No.
1232 The Clerk. Ms. Schakowsky votes no.
1233 Mr. Butterfield.
1234 Mr. Butterfield. No.
1235 The Clerk. Mr. Butterfield votes no.
1236 Ms. Matsui.
1237 Ms. Matsui. No.
1238 The Clerk. Ms. Matsui votes no.
1239 Ms. Castor.
1240 Ms. Castor. No.
1241 The Clerk. Ms. Castor votes no.
1242 Mr. Sarbanes.
1243 Mr. Sarbanes. No.
1244 The Clerk. Mr. Sarbanes votes no.
1245 Mr. McNerney.
1246 Mr. McNerney. No.
1247 The Clerk. Mr. McNerney votes no.
1248 Mr. Welch.
1249 Mr. Welch. No.
1250 The Clerk. Mr. Welch votes no.
1251 Mr. Lujan.
1252 Mr. Lujan. No.

1253 The Clerk. Mr. Lujan votes no.

1254 Mr. Tonko.

1255 Mr. Tonko. No.

1256 The Clerk. Mr. Tonko votes no.

1257 Mr. Yarmuth.

1258 Mr. Yarmuth. No.

1259 The Clerk. Mr. Yarmuth votes no.

1260 Ms. Clarke.

1261 Ms. Clarke. No.

1262 The Clerk. Ms. Clarke votes no.

1263 Mr. Loeb sack.

1264 Mr. Loeb sack. No.

1265 The Clerk. Mr. Loeb sack votes no.

1266 Mr. Schrader.

1267 Mr. Schrader. No.

1268 The Clerk. Mr. Schrader votes no.

1269 Mr. Kennedy.

1270 Mr. Kennedy. No.

1271 The Clerk. Mr. Kennedy votes no.

1272 Mr. Cardenas.

1273 Mr. Cardenas. No.

1274 The Clerk. Mr. Cardenas votes no.

1275 Chairman Upton.

1276 The Chairman. Votes aye. Other members wishing to cast a

1277 vote, change their vote?

1278 Seeing none, the clerk will report the tally.

1279 The Clerk. Mr. Chairman, on that vote there were 29 ayes
1280 and 22 nays.

1281 The Chairman. Twenty-nine ayes, 22 nays. The vote is
1282 favorably reported from the committee.

1283 The chair will now call up H.R. 4557 and ask the clerk to
1284 report.

1285 The Clerk. H.R. 4557, to allow for judicial review of any
1286 final rule addressing national emissions standards for hazardous
1287 air pollutants for brick and structural clay products or for clay
1288 ceramic manufacturing before requiring compliance with such rule.

1289 The Chairman. Without objection, the first reading of the
1290 bill is dispensed with. The bill will be open for amendment at
1291 any point.

1292 [The Bill H.R. 4557 follows:]

1293

1294 *****INSERT 10*****

1295 The Chairman. Are there any bipartisan amendments to the
1296 bill?

1297 Are there any amendments to the bill? Seeing none, the vote
1298 will occur. Oh, I'm sorry.

1299 Mr. Rush. Mr. Chairman.

1300 The Chairman. The chair will recognize the gentleman from
1301 Illinois for five minutes to strike the last word.

1302 Mr. Rush. Thank you, Mr. Chairman.

1303 Mr. Chairman, my colleagues on the other side of the aisle,
1304 in describing the need for this bill stated it is necessary in
1305 order to delay the Environmental Protection Agency's BRICK MACT
1306 rule until all judicial review has been completed.

1307 However, that's completely false. The courts already have
1308 the ability to issue a statement of any compliance dates in a final
1309 rule as necessary to protect the public interest. That is their
1310 job and we should let them do it.

1311 We all know that there have already been charges filed
1312 regarding this final rule. It will be up to the D.C. Circuit when
1313 they review these challenges to decide whether to stay in the rule.
1314 Well established legal factions exist for granting a stay.

1315 These factions take into account whether there's a
1316 likelihood of success on the merits, this prospect of irreparable
1317 harm to the moving parties and other parties and, most
1318 importantly, Mr. Chairman, whether granting a stay is in the

1319 public interest.

1320 The courts have used these factors time and time again to
1321 determine whether to stay or to issue a grant to stay or for how
1322 long. There's no reason for Congress to override this process.

1323 There's no reason for Congress to question the judgment of
1324 the court. I think that before we rashly conclude on behalf of
1325 the D.C. Circuit that the compliance deadlines for the BRICK MACT
1326 final rule should be extended, we should let them take a final
1327 look at this final rule.

1328 And ultimately, Mr. Chairman, if a stay is necessary the
1329 court can grant the stay and not the Congress, and I urge my
1330 colleagues to vote against this bill.

1331 The Chairman. Gentleman yields back.

1332 The chair recognizes the gentleman from Ohio, Mr. Johnson.

1333 Mr. Johnson. Thank you, Mr. Chairman. I appreciate the
1334 recognition and I certainly understand our colleague from
1335 Illinois and his comments.

1336 But it basically boils down to this. When is enough enough?
1337 Certainly, the brick industry could file lawsuits and pump
1338 millions of dollars into court cases to have something remedied
1339 that actually should not need a remedy in the first place.

1340 Brick companies have already been through this already. If
1341 you recall, the EPA finalized similar standards in 2003. The brick
1342 industry spent hundreds of millions of dollars to comply and put

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1343 control technology in place only to have a federal court set aside
1344 that 2003 rule and then when the EPA came back with this latest
1345 round they started with a baseline of the set aside rule rather
1346 than giving the brick industry credit for the emission reductions
1347 that they had achieved.

1348 It's troubling to think that we could be repeating this same
1349 thing. Many of these brick companies are small businesses
1350 throughout America. Some 7,000 people are employed in the brick
1351 industry and, you know, we talk about the need to fix America's
1352 infrastructure.

1353 What are we going to do when our brick manufacturers can no
1354 longer produce brick because they're run out of business by the
1355 EPA? And we don't import brick here in America.

1356 We're going to be ceding the high ground and we're going to
1357 once again give our competitors overseas the opportunity to
1358 compete on an unlevel playing field with America's companies.

1359 So I urge my colleagues to support this legislation, Mr.
1360 Chairman, and I yield back.

1361 The Chairman. Chairman yields back.

1362 The chair would recognize the gentleman from New Jersey, Mr.
1363 Pallone, to strike the last word.

1364 Mr. Pallone. Thank you, Mr. Chairman.

1365 The BRICK Act extends compliance deadlines for EPA's brick
1366 and clay rules until all legal challenges are resolved by the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1367 courts.

1368 But delaying the rule should not be taken lightly and the
1369 blanket extension in the BRICK Act would only serve to incentivize
1370 frivolous litigation in an effort to stall and avoid compliance
1371 with EPA's rules.

1372 Now, I appreciate that there are special circumstances
1373 related to this particular rule. I know there's a long history
1374 regarding this rule that dates back to a final rule in 2003 that
1375 was later vacated by the courts.

1376 And I also know that the majority of these plants are small
1377 businesses and these plants often employ large numbers of workers
1378 from the surrounding communities.

1379 So I'm sensitive to the impact a rule like this can have on
1380 plants and jobs. What I've gathered from the recent legislative
1381 hearing on this bill and from the subcommittee markup is that it's
1382 too early to know what the compliance picture looks like for the
1383 BRICK MACT rule.

1384 In fact, this rule just became effective in late December
1385 of 2015 so we're about two months into a three-year compliance
1386 period and there's an option for a fourth year if necessary to
1387 finish installation of controls.

1388 Rather than rushing to approve a bill to indefinitely delay
1389 a Clean Air Act rule, something that I do not take lightly, I would
1390 suggest we encourage the brick industry to continue investigating

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1391 its options for complying.

1392 I've heard industry estimates that this rule will cost about
1393 \$100 million per year to comply with. But I've also heard that
1394 individual plants are still investigating their options for how
1395 to comply.

1396 EPA noted in their written testimony for the recent
1397 legislative hearing on the bill that in the final BRICK rule they
1398 developed flexible compliance options and also made distinctions
1399 between requirements for small and large kilns in order to reduce
1400 the impacts of the rule on small businesses.

1401 I'm hopeful that the industry will look at these
1402 flexibilities and figure out ways to comply that are less costly
1403 than their initial estimates.

1404 And I understand the industry recently met with the EPA to
1405 discuss the rule and compliance with it. I encourage these talks
1406 to continue.

1407 If the industry determines they need additional help, then
1408 under existing law they have the right to seek a stay through the
1409 courts.

1410 But I continue to think that this combination, that is, the
1411 industry working with the EPA using existing authority to seek
1412 a stay if absolutely necessary, is a better path than pursuing
1413 a legislative fix.

1414 As with the case when we considered a similar provision for

1415 power plants in the Ratepayer Protection Act, the litigation delay
1416 in the BRICK Act creates a very bad precedent and therefore I
1417 oppose this bill and I urge my colleagues to do the same.

1418 I yield back, Mr. Chairman.

1419 The Chairman. Gentleman yields back.

1420 Other members wishing to speak on the bill or offer
1421 amendments?

1422 Seeing none, the question now occurs in favorably reporting
1423 H.R. 4557 to the House. A roll call has been requested. The
1424 clerk will call the roll.

1425 The Clerk. Mr. Barton.

1426 Mr. Barton. Aye.

1427 The Clerk. Mr. Barton votes aye.

1428 Mr. Whitfield.

1429 Mr. Whitfield. Aye.

1430 The Clerk. Mr. Whitfield votes aye.

1431 Mr. Shimkus.

1432 Mr. Shimkus. Aye.

1433 The Clerk. Mr. Shimkus votes aye.

1434 Mr. Pitts. Mr. Walden.

1435 Mr. Walden. Aye.

1436 The Clerk. Mr. Walden votes aye.

1437 Mr. Murphy.

1438 Mr. Murphy. Aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1439 The Clerk. Mr. Murphy votes aye.
1440 Mr. Burgess. Mrs. Blackburn.
1441 Mrs. Blackburn. Aye.
1442 The Clerk. Mrs. Blackburn votes aye.
1443 Mr. Scalise. Mr. Latta.
1444 Mr. Latta. Aye.
1445 The Clerk. Mr. Latta votes aye.
1446 Ms. McMorris Rodgers.
1447 Ms. McMorris Rodgers. Aye.
1448 The Clerk. Ms. McMorris Rodgers votes aye.
1449 Mr. Harper.
1450 Mr. Harper. Aye.
1451 The Clerk. Mr. Harper votes aye.
1452 Mr. Lance.
1453 Mr. Lance. Aye.
1454 The Clerk. Mr. Lance votes aye.
1455 Mr. Guthrie.
1456 Mr. Guthrie. Aye.
1457 The Clerk. Mr. Guthrie votes aye.
1458 Mr. Olson.
1459 Mr. Olson. Aye.
1460 The Clerk. Mr. Olson votes aye.
1461 Mr. McKinley.
1462 Mr. McKinley. Aye.

1463 The Clerk. Mr. McKinley votes aye.
1464 Mr. Pompeo.
1465 Mr. Pompeo. Aye.
1466 The Clerk. Mr. Pompeo votes aye.
1467 Mr. Kinzinger.
1468 Mr. Kinzinger. Aye.
1469 The Clerk. Mr. Kinzinger votes aye.
1470 Mr. Griffith.
1471 Mr. Griffith. Aye.
1472 The Clerk. Mr. Griffith votes aye.
1473 Mr. Bilirakis. Mr. Johnson.
1474 Mr. Johnson. Aye.
1475 The Clerk. Mr. Johnson votes aye.
1476 Mr. Long.
1477 Mr. Long. Aye.
1478 The Clerk. Mr. Long votes aye.
1479 Mrs. Ellmers.
1480 Mrs. Ellmers. Aye.
1481 The Clerk. Mrs. Ellmers votes aye.
1482 Mr. Bucshon.
1483 Mr. Bucshon. Aye.
1484 The Clerk. Mr. Bucshon votes aye.
1485 Mr. Flores.
1486 Mr. Flores. Aye.

1487 The Clerk. Mr. Flores votes aye.
1488 Ms. Brooks.
1489 Ms. Brooks. Aye.
1490 The Clerk. Ms. Brooks votes aye.
1491 Mr. Mullin.
1492 Mr. Mullin. Aye.
1493 The Clerk. Mr. Mullin votes aye.
1494 Mr. Hudson.
1495 Mr. Hudson. Aye.
1496 The Clerk. Mr. Hudson votes aye.
1497 Mr. Collins.
1498 Mr. Collins. Aye.
1499 The Clerk. Mr. Collins votes aye.
1500 Mr. Cramer.
1501 Mr. Cramer. Aye.
1502 The Clerk. Mr. Cramer votes aye.
1503 Mr. Pallone.
1504 Mr. Pallone. No.
1505 The Clerk. Mr. Pallone votes no.
1506 Mr. Rush.
1507 Mr. Rush. No.
1508 The Clerk. Mr. Rush votes no.
1509 Ms. Eshoo.
1510 Ms. Eshoo. No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1511 The Clerk. Ms. Eshoo votes no.
1512 Mr. Engel.
1513 Mr. Engel. No.
1514 The Clerk. Mr. Engel votes no.
1515 Mr. Green. Ms. DeGette.
1516 Ms. DeGette. No.
1517 The Clerk. Ms. DeGette votes no.
1518 Mrs. Capps.
1519 Mrs. Capps. No.
1520 The Clerk. Mrs. Capps votes no.
1521 Mr. Doyle.
1522 Mr. Doyle. No.
1523 The Clerk. Mr. Doyle votes no.
1524 Ms. Schakowsky.
1525 Ms. Schakowsky. No.
1526 The Clerk. Ms. Schakowsky votes no.
1527 Mr. Butterfield.
1528 Mr. Butterfield. No.
1529 The Clerk. Mr. Butterfield votes no.
1530 Ms. Matsui.
1531 Ms. Matsui. No.
1532 The Clerk. Ms. Matsui votes no.
1533 Ms. Castor.
1534 Ms. Castor. No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1535 The Clerk. Ms. Castor votes no.
1536 Mr. Sarbanes.
1537 Mr. Sarbanes. No.
1538 The Clerk. Mr. Sarbanes votes no.
1539 Mr. McNerney.
1540 Mr. McNerney. No.
1541 The Clerk. Mr. McNerney votes no.
1542 Mr. Welch.
1543 Mr. Welch. No.
1544 The Clerk. Mr. Welch votes no.
1545 Mr. Lujan.
1546 Mr. Lujan. No.
1547 The Clerk. Mr. Lujan votes no.
1548 Mr. Tonko.
1549 Mr. Tonko. No.
1550 The Clerk. Mr. Tonko votes no.
1551 Mr. Yarmuth.
1552 Mr. Yarmuth. No.
1553 The Clerk. Mr. Yarmuth votes no.
1554 Ms. Clarke.
1555 Ms. Clarke. No.
1556 The Clerk. Ms. Clarke votes no.
1557 Mr. Loeb sack.
1558 Mr. Loeb sack. No.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1559 The Clerk. Mr. Loeb sack votes no.

1560 Mr. Schrader.

1561 Mr. Schrader. No.

1562 The Clerk. Mr. Schrader votes no.

1563 Mr. Kennedy.

1564 Mr. Kennedy. No.

1565 The Clerk. Mr. Kennedy votes no.

1566 Mr. Cardenas.

1567 Mr. Cardenas. No.

1568 The Clerk. Mr. Cardenas votes no.

1569 Chairman Upton.

1570 The Chairman. Votes aye.

1571 The Clerk. Chairman Upton votes aye.

1572 The Chairman. Other members -- Dr. Burgess, how does Dr.

1573 Burgess record?

1574 The Clerk. Burgess votes aye.

1575 The Chairman. Are there other members wishing to cast a vote

1576 or change a vote?

1577 Seeing none, the clerk will report the tally.

1578 The Clerk. Mr. Chairman, on that vote there were 28 ayes

1579 and 22 nays.

1580 The Chairman. Twenty-eight ayes, 22 nays. The bill H.R.

1581 4557 is favorably reported.

1582 Chair would now call up H.R. 4238 and ask the clerk to report.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1583 The Clerk. H.R. 4238, to amend the Department of Energy
1584 Organization Act and the Local Public Works Capital Development
1585 and Investment Act of 1976 to modernize terms related to
1586 minorities.

1587 The Chairman. Without objection, the first reading of the
1588 bill is dispensed with. The bill will be open for amendment at
1589 any point.

1590 [The Bill H.R. 4238 follows:]

1591

1592 *****INSERT 11*****

1593 The Chairman. Are there any bipartisan amendments to the
1594 bill? Are there any amendments to the bill?

1595 Seeing none, the question now occurs of favorably reporting
1596 H.R. 4238 to the House. All those in favor will say aye.

1597 (Vote was taken)

1598 Those opposed, say no. Opinion of the chair the ayes have
1599 it. The bill is favorably reported.

1600 The chair will now call up H.R. 4427 and ask the clerk to
1601 report.

1602 The Clerk. H.R. 4427, to amend section 203 of the Federal
1603 Power Act.

1604 [The Bill H.R. 4427 follows:]

1605

1606 *****INSERT 12*****

1607 The Chairman. Without objection, the first reading of the
1608 bill is dispensed with. The bill will be open for amendment at
1609 any point.

1610 Are there any bipartisan amendments to the bill? Are there
1611 any amendments to the bill?

1612 Chair would recognize the gentleman from Illinois to offer
1613 an amendment. The clerk will report the title of the amendment.

1614 The Clerk. Amendment to H.R. 4427 offered by Mr. Rush. At
1615 the end of the bill add the following new sections.

1616 [The amendment of Mr. Rush follows:]

1617

1618 *****INSERT 13*****

1619 The Chairman. And the -- without objection, the amendment
1620 will -- the reading will be dispensed with. The staff will
1621 distribute the amendment and the gentleman from Illinois is
1622 recognized for five minutes.

1623 Mr. Rush. Thank you, Mr. Chairman.

1624 Mr. Chairman, during the subcommittee hearing we heard
1625 testimony from Mr. Minzer, who is the general counsel for FERC,
1626 regarding the serial emergence as a possible concern.

1627 Mr. Minzer stated that the commission would no longer have
1628 the authority to review and approve mergers valued at less than
1629 \$10 million even in situations where the merger took place as one
1630 of a series of transactions.

1631 The Chairman. Would the gentleman yield?

1632 Mr. Rush. Yes, Mr. Chairman.

1633 The Chairman. We're prepared to accept the amendment. I
1634 think we'd still like to work on it between now and then but we're
1635 prepared to accept the amendment if the gentleman will accept it.

1636 Mr. Rush. I certainly will accept that, Mr. Chairman. I
1637 yield back.

1638 The Chairman. Gentleman yields back and a vote will occur
1639 on the amendment. Those in favor will say aye.

1640 (Vote was taken)

1641 Those opposed say no. Opinion of the chair the ayes have
1642 it.

1643 Further amendments to the bill? Seeing none, the vote
1644 occurs on the bill H.R. 4427 as amended.

1645 Those in favor will say aye.

1646 (Vote was taken)

1647 Those opposed say no. Opinion of the chair, the ayes have
1648 it. The amendment -- the bill is favorably reported.

1649 The chair now calls up H.R. 4444 and asks the clerk to report.

1650 The Clerk. H.R. 4444, to amend the Energy Policy and
1651 Conservation Act to exclude power supply circuits, drivers and
1652 devices designed to be connected to and power light-emitting
1653 diodes or organic light-emitting diodes providing illumination
1654 from energy conservation standards for external power supplies
1655 and for other purposes.

1656 [The Bill H.R. 4444 follows:]

1657

1658 *****INSERT 14*****

1659 The Chairman. That is about the longest title I've ever
1660 heard. But without objection, the first reading of the bill is
1661 dispensed with and the bill will be open for amendment.

1662 The chair will recognize the gentlelady from Tennessee for
1663 a colloquy.

1664 Mrs. Blackburn. Thank you, Mr. Chairman.

1665 I want to thank everybody for their hard work in drafting
1666 H.R. 4444 and I know it will alleviate some of the regulatory
1667 burden on entrepreneurs, and we all want to encourage energy
1668 efficiency and this bill will allow that to happen by giving the
1669 LED lighting industry and direct current ceiling fans greater
1670 flexibility with the external power supply efficiency level six.

1671 Universal Lighting is headquartered in Nashville. They
1672 employ about 100 Tennesseans and this is important to them and,
1673 of course, our ceiling fan manufacturers are important to them.

1674 There are other niche industries that will be adversely
1675 affected by EPS regulation. One of those is the music performance
1676 industry.

1677 Music recording and performance is made possible because of
1678 external power supplies and they are only effective as long as
1679 they do not interfere with musical instruments and audio devices.

1680 It is impossible for external power supplies to meet
1681 efficiency level six without generating more electromagnetic
1682 interference and adding noise to audio circuits.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1683 I wish we could work this out before this bill goes to the
1684 floor. It is important to the performance industry, to the
1685 concert industry, to the recording industry to get this right,
1686 and knowing that they're going to be facing additional regulation
1687 to make certain that there is a way to waiver them out of that.

1688 I look forward to working with my colleagues. I feel like
1689 we have to find a solution to this issue in order to enable those
1690 that are in the performance concert and music recording industry
1691 to be able to continue without that kind of electromagnetic
1692 interference in their daily work, and I yield back to the chairman.

1693 The Chairman. The gentlelady yields back.

1694 The chair recognizes --

1695 Mrs. Ellmers. Mr. Chairman, could I move to strike the last
1696 word?

1697 The Chairman. Is that -- yes. The chair recognizes the
1698 gentlelady from North Carolina.

1699 Mrs. Ellmers. Thank you. Thank you, Mr. Chairman.

1700 I appreciate so much the committee working with us on this
1701 issue. I do look forward to it moving swiftly to the floor because
1702 of the time constraints that are approaching.

1703 But I would like to work with the gentlelady from Tennessee
1704 on this if there's a way that we can, you know, move swiftly on
1705 helping that situation.

1706 I certainly understand this situation and as complicated as

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1707 this has been for me to understand it's certainly -- I truly
1708 understand the dilemma that you are facing with this as well.

1709 Ms. DeGette. Would the gentlelady yield?

1710 Mrs. Ellmers. Yes, I'll yield to the gentlelady.

1711 Ms. DeGette. Thanks. I just want to thank Congresswoman
1712 Ellmers for working on this bill with me and also Ms. Matsui and
1713 Mr. Pompeo for helping us with it.

1714 I want to address Congresswoman Blackburn's issues because
1715 they are very real issues and something that we're trying to work
1716 with her on.

1717 I want to echo what Congresswoman Ellmers is saying, which
1718 is that already this rule has taken effect and it's started to
1719 affect the LED lighting manufacturers.

1720 That's why we -- and we've had to write a letter asking them
1721 to forbear on enforcement until we get this done. So that's why
1722 we have to move it along.

1723 But we really do want to work on these issues as it moves
1724 to the floor and we want to -- certainly, we don't want the music
1725 industry to be affected in any way and so we need to work on it.

1726 But this is an important change that's going to really help
1727 these innovations that move forward and so it needs to happen.

1728 Mrs. Blackburn. If the gentlelady will yield.

1729 Mrs. Ellmers. It's Mrs. Ellmers' time.

1730 Mrs. Blackburn. Yes, it is important and lighting is

1731 important to your concert and performances into the LED
1732 innovation.

1733 But what we have to realize is the electromagnetic fields
1734 and the static that that calls -- sometimes you call it white space
1735 and the feedback that you get in that is vitally important that
1736 we address this because there are already rule makings in place
1737 and we have to ask for the forbearance or amend it onto the bill
1738 or quickly separately legislatively address this.

1739 I yield back to Mrs. Ellmers.

1740 Mrs. Ellmers. Both of my colleagues and for the other
1741 members on committee that have worked on this, and I really would
1742 like to say that if there's a way that we can move swiftly I truly
1743 want to remedy this problem.

1744 And what I can say is if we can't find that sweet spot where
1745 we can amend what we have or bring it to the floor in such a manner
1746 that I will be with you on this issue as well, keeping in mind
1747 again that there are time constraints in, you know, all the
1748 different industries.

1749 The Chairman. Yield back?

1750 Mrs. Ellmers. I yield back unless someone else --

1751 The Chairman. The chair would recognize the gentlelady from
1752 California, Mrs. Capps.

1753 Mrs. Capps. Thank you, Mr. Chairman, and I move to strike
1754 the last word just simply to underscore the importance of and the

1755 fact that this legislation is very overdue and I appreciate that
1756 we're having this markup today.

1757 I've spoken multiple times regarding the importance of LED
1758 research and innovation for both improving efficiency options for
1759 the lighting sector and advancing our knowledge of this critical
1760 technology.

1761 And H.R. 4444 is essential to ensuring that we are providing
1762 a regulatory framework that recognizes the importance of LEDs in
1763 meeting our energy efficiency needs for lighting while at the same
1764 time allowing the industry to continue striving to improve upon
1765 this technology.

1766 It's making leaps and bounds. The bill will ensure that
1767 companies like Cree Lighting in my district will continue working
1768 to innovate and implement this revolutionary technology. So I
1769 urge our colleagues all to vote yes on this bill. I hope we can
1770 work to bring this legislation to the floor as quickly as possible.

1771 And I can yield to anyone else or yield back.

1772 I yield back.

1773 The Chairman. Gentlelady yields back.

1774 Other members wishing to speak on the bill? The chair would
1775 recognize the gentleman from New Jersey, Mr. Pallone.

1776 Mr. Pallone. Thank you.

1777 In support of the bill, I just want to say that LEDs get swept
1778 up in the energy conservation standards for external power

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1779 supplies because they are powered by solid state lighting drivers
1780 that bear superficial similarities to the kind of chargers that
1781 Congress directed DOE to set standards for.

1782 However, LED drivers aren't designed to operate when
1783 disconnected from LEDs and so they can't be tested in the same
1784 way as other external power supplies.

1785 This means that even though they are very energy efficient,
1786 they can't comply with the standards and the same is true of the
1787 new generation of energy efficient ceiling fans.

1788 So this legislation still holds these devices accountable
1789 to energy conservation standards and it makes DOE's authority to
1790 prescribe separate energy conservation standards for LED drivers
1791 explicit.

1792 And ceiling fans with direct current motors would still be
1793 required to meet DOE's energy conservation standards for ceiling
1794 fans. I just wanted to point out I know we've had some discussion
1795 that during the last couple of weeks we've been made aware by
1796 Representative Blackburn that a small specialty business in her
1797 district might be irreparably harmed by the new EPS standards.

1798 Both the Democratic and Republican committee staff have been
1799 working with her office, her constituents, Department of Energy
1800 and stakeholders to try to address this situation and I think we
1801 all agree that Representative Blackburn's constituent has a
1802 legitimate problem and we all want to help.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1803 As we all tried in good faith to draft a potential legislative
1804 solution, it became abundantly clear that this situation could
1805 more quickly and efficiently be remedied through an
1806 administrative route rather than a legislative one.

1807 It also became clear that we could not readily put together
1808 a legislative fix without running the risk of offending the
1809 careful balance struck in the bill and derailing the fast track
1810 to enactment that we all hope this bill is on.

1811 So I just wanted to thank Representative Blackburn for
1812 recognizing this and agreeing to forego amending the bill. I want
1813 to make clear to her that I will work with her, her constituent,
1814 our colleagues and DOE to ensure that her constituent gets the
1815 administrative waiver we all believe the company deserves.

1816 In fact, I believe that ACEEE, the lead organization for the
1817 efficiency community in this bill, is willing to help your
1818 constituent navigate the waiver process if you so desire.

1819 We'll also work to ensure that no enforcement action is taken
1820 against your constituent as the company pursues this
1821 administrative remedy, and although we think this effort to obtain
1822 administrative relief will succeed, we could, of course, work with
1823 you on a legislative fix on the chance that this effort somehow
1824 falls short.

1825 So with that, Mr. Chairman, I just wanted to conclude by
1826 commending Representatives Blackburn and DeGette along with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1827 Representative Yarmuth who played a large role in adding the fan
1828 language to the bill and I urge my colleagues to vote yes on the
1829 bill so that consumers and businesses can continue to take full
1830 advantage of these energy efficient products that will save power
1831 and money.

1832 And I yield back.

1833 The Chairman. Gentleman yields back.

1834 Other members wishing to speak? Seeing none, the question
1835 now occurs in favorably reporting H.R. 4444 to the House. All
1836 those in favor will say aye.

1837 (Vote was taken)

1838 Those opposed say no. In the opinion of the chair the ayes
1839 have it. The bill is reported.

1840 Now, it's my understanding that the remaining bills are all
1841 noncontroversial but important and the powers will not let me put
1842 them as one en bloc. But we have a pretty good way to do it here.

1843 So the chair will ask unanimous consent that the committee
1844 adopt and favorably report to the House of Representatives H.R.
1845 2080, a bill to extend the deadline for commencement of
1846 construction of a hydroelectric project involving Clark Canyon
1847 Dam.

1848 Without objection, so ordered.

1849 [The Bill H.R. 2080 follows:]

1850

1851

*****INSERT 15*****

1852 The Chairman. Chair asks unanimous consent that the
1853 committee adopt and favorably report to the House H.R. 2081, a
1854 bill to extend the deadline for commencement of construction of
1855 a hydroelectric project involving the Gibson Dam.

1856 Without objection, so ordered.

1857 [The Bill H.R. 2081 follows:]

1858

1859 *****INSERT 16*****

1860 The Chairman. Chair would ask unanimous consent that the
1861 committee adopt and favorably report to the House H.R. 3447, a
1862 bill to extend the deadline for commencement of construction of
1863 a hydroelectric project involving the W. Kerr Scott Dam.

1864 Without objection, so ordered.

1865 [The Bill H.R. 3447 follows:]

1866

1867 *****INSERT 17*****

1868 The Chairman. Chair asks unanimous consent that the
1869 committee adopt and favorably report to the House H.R. 4411, a
1870 bill to extend the deadline for commencement of construction of
1871 a hydroelectric project involving the Gathright Dam.

1872 Without objection, so ordered.

1873 [The Bill H.R. 4411 follows:]

1874

1875 *****INSERT 18*****

1876 The Chairman. Chair asks unanimous consent that the
1877 committee adopt and favorably report to the House H.R. 4416, a
1878 bill to extend the deadline for commencement of a construction
1879 of a hydroelectric project involving the Jennings Randolph Dam.

1880 Without objection, so ordered.

1881 [The Bill H.R. 4416 follows:]

1882

1883 *****INSERT 19*****

1884 The Chairman. Chair would ask unanimous consent that the
1885 committee adopt and favorably report to the House H.R. 4412, a
1886 bill to extend the deadline for a commencement construction of
1887 a hydroelectric project involving the Flannagan Dam.

1888 Without objection, so ordered.

1889 [The Bill H.R. 4412 follows:]

1890

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

1892 The Chairman. Chair would ask unanimous consent that the
1893 committee adopt and favorably report to the House H.R. 4434, a
1894 bill to extend the deadline for commencement of a construction
1895 of a hydroelectric project involving the Cannonsville Dam.

1896 Without objection, so ordered.

1897 [The Bill H.R. 4434 follows:]

1898

1899 *****INSERT 21*****

1900 The Chairman. That now concludes the legislative activity
1901 of the committee for the morning. I would like to insert for the
1902 record under unanimous consent a letter from FERC, a letter
1903 written to myself and Mr. Pallone regarding views on 4411 and 4412
1904 and also a letter from the National Rural Electric Cooperative
1905 Association to myself and Mr. Pallone regarding H.R. 2984, the
1906 Fair Ratepayer Accountability Transparent Act.

1907 Without objection, the letters will be included as part of
1908 the record, and without objection, the staff is authorized to make
1909 technical and conforming changes to the legislation approved by
1910 the committee today. So ordered.

1911 And without objection, the committee stands adjourned.
1912 Thank you.

1913 [Whereupon, at 11:30 a.m., the committee was adjourned.]