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3 MARKUP OF H.R. 3, THE "NO TAXPAYER FUNDING FOR ABORTIONS
4 ACT"

5 Thursday, March 3, 2011

6 House of Representatives

7 Committee on the Judiciary

8 Washington, D.C.

9 The committee met, pursuant to call, at 10:03 a.m.,
10 in Room 2141, Rayburn Office Building, Hon. Lamar Smith
11 [chairman of the committee] presiding.

12 Present: Representatives Smith, Sensenbrenner,
13 Coble, Gallegly, Goodlatte, Lungren, Chabot, Issa, Pence,
14 Forbes, King, Franks, Gohmert, Jordan, Poe, Chaffetz, Reed,
15 Griffin, Marino, Gowdy, Ross, Adams, Quayle, Conyers,
16 Berman, Nadler, Scott, Watt, Lofgren, Jackson Lee, Waters,
17 Cohen, Johnson, Pierluisi, Quigley, Chu, Deutch, and
18 Wasserman Schultz.

19 Staff present: Sean McLaughlin, Chief of Staff;
20 Allison Halatei, Deputy Chief of Staff/Parliamentarian;
21 Sarah Kish, Clerk; Perry Apelbaum, Minority Staff Director.

1 Chairman Smith. [Presiding] The Judiciary Committee
2 will come to order.

3 Without objection the chair is authorized to declare
4 recesses at any point.

5 And the clerk will call the roll to establish a
6 quorum.

7 Ms. Kish. Mr. Smith?

8 Chairman Smith. Present.

9 Ms. Kish. Mr. Sensenbrenner?

10 Mr. Coble?

11 Mr. Gallegly?

12 Mr. Goodlatte?

13 Mr. Lungren?

14 Mr. Chabot?

15 Mr. Issa?

16 Mr. Pence?

17 Mr. Forbes?

18 Mr. Forbes. Here

19 Ms. Kish. Mr. King?

20 Mr. Franks?

21 Mr. Gohmert?

22 Mr. Jordan?

23 Mr. Poe?

24 Mr. Chaffetz?

25 Mr. Reed?

1 Mr. Griffin?
2 Mr. Marino?
3 Mr. Gowdy?
4 Mr. Gowdy. Here
5 Ms. Kish. Mr. Ross?
6 Ms. Adams?
7 Ms. Adams. Here.
8 Ms. Kish. Mr. Quayle?
9 Mr. Conyers?
10 Mr. Conyers. Present.
11 Ms. Kish. Mr. Berman?
12 Mr. Nadler?
13 Mr. Nadler. Here.
14 Ms. Kish. Mr. Scott?
15 Mr. Watt?
16 Ms. Lofgren?
17 Ms. Jackson Lee?
18 Ms. Waters?
19 Mr. Cohen?
20 Mr. Johnson?
21 Mr. Pierluisi?
22 Mr. Pierluisi. Present.
23 Ms. Kish. Mr. Quigley?
24 Ms. Chu?
25 Mr. Deutch?

1 Ms. Sanchez?

2 Ms. Wasserman Schultz?

3 Chairman Smith. Mr. Gallegly?

4 Mr. Gallegly. Present.

5 Chairman Smith. Mr. Coble?

6 Mr. Coble. Present.

7 Chairman Smith. Mr. Sensenbrenner?

8 Mr. Sensenbrenner. Here.

9 Chairman Smith. Are there other members who wish to
10 record their presence?

11 Ms. Kish. Mr. King?

12 Chairman Smith. Mr. Franks?

13 Mr. Franks. Here.

14 Chairman Smith. The Clerk will report.

15 Ms. Kish. Mr. Chairman, 14 members responded present.

16 Chairman Smith. A working quorum is present.

17 And pursuant to notice, I call up H.R. 3 for purposes
18 of markup. The clerk will report the bill.

19 Ms. Kish. "H.R. 3. To prohibit taxpayer funded
20 abortions and to provide for conscience protections, and
21 for other" --

22 Chairman Smith. Without objection, the bill will be
23 considered as read.

24 [The information follows:]

1 Chairman Smith. I am going to recognize myself for an
2 opening statement, and then recognize the ranking member
3 for his.

4 Mr. Nadler. Mr. Chairman, when is it appropriate to
5 reserve a point of order on the substitute?

6 Chairman Smith. We haven't offered the substitute
7 yet. It will be in just a minute when the gentleman from
8 Arizona does offer it.

9 Mr. Nadler. Very good. Thank you.

10 Chairman Smith. I will recognize myself for an
11 opening statement.

12 I understand that many members and the American people
13 have strong feelings about the subject of abortion. While
14 there are strong views on both sides of this issue, one
15 thing is clear, and that is that Federal funding of
16 abortion will lead to more abortions.

17 Just a few years after the Supreme Court handed down
18 Roe v. Wade, Federal dollars were financing an estimated
19 300,000 abortions each year. In response, Representative
20 Henry Hyde introduced the Hyde Amendment to end the Federal
21 funding of abortion, and the success of that law over the
22 years is undeniable. In 2009, there were only 220
23 Government-financed abortions. And the Congressional
24 Budget Office has estimated that the Federal Government
25 would pay for as many as 675,000 extra abortions each year

1 without the Hyde Amendment and other provisions in the law
2 that prevent Federal funding of abortion.

3 The American people don't want federally funded
4 abortions. The 2010 Zogby poll found that 77 percent of
5 Americans said that Federal funds should never pay for
6 abortion or should pay only to save the life of the mother.
7 This is the policy of the Hyde Amendment which H.R. 3 would
8 enact into law.

9 H.R. 3 does not ban abortion. It also does not
10 restrict abortions or abortion coverage in health care
11 plans as long as those abortions or plans use only private
12 or State funds.

13 Now is the time for Congress to pass one piece of
14 legislation that prohibits the Federal funding of abortions
15 and prohibits the use of fiscal policy to encourage or
16 subsidize abortions.

17 The No Taxpayer Funding for Abortion Act will
18 establish a Government-wide prohibition on abortion funding
19 by making permanent the various policies Congress has
20 implemented on a case-by-case basis, including the Hyde
21 Amendment which prohibits funding for elective abortion
22 coverage through any program funded through the annual
23 Labor, Health and Human Services Appropriations Act, the
24 Helms Amendment which prohibits funding for abortion as a
25 method of family planning overseas, the Chris Smith

1 Amendment which prohibits funding for elective abortion
2 coverage for Federal employees, and the Dornan Amendment
3 which prohibits use of congressionally appropriated funds
4 for abortion in the District of Columbia.

5 H.R. 3 codifies the Hyde-Weldon Conscience Clause that
6 is part of the Hyde Amendment. That conscience clause
7 ensures that recipients of Federal funding do not
8 discriminate against health care providers, including
9 doctors, nurses, and hospitals, when the providers do not
10 provide, pay for, or provide coverage of abortions.

11 H.R. 3 is also necessary to fill a void left by the
12 recent health care law. Absolutely nothing in that law
13 prevents the Federal funding of abortions under the
14 programs it creates.

15 In a last-minute effort, the President said he would
16 sign an executive order that claimed to limit Federal
17 funding of abortions. That was offered instead of the
18 Stupak Amendment.

19 But an executive order cannot trump the text of
20 legislation enacted by Congress. As the Congressional
21 Research Service has made clear, executive orders cannot
22 override statutory provisions. In fact, the executive
23 order President Obama signed contained the same boilerplate
24 language contained in all executive orders, which makes it
25 clear that executive orders cannot do anything contrary to

1 the language of the statutory text. Further, even if the
2 executive order had any effect, it could be rescinded at
3 any time at the President's discretion.

4 In a recent interview with the Chicago Tribune
5 Editorial Board, former White House Chief of Staff Rahm
6 Emanuel emphasized that the executive order signed by
7 President Obama does not carry the force of law, and for
8 that reason was approved by former House Speaker Nancy
9 Pelosi and others who oppose a ban on taxpayer funding of
10 abortions. The Stupak Amendment would have prohibited the
11 Federal funding of abortions under the new health care law,
12 but Mr. Emanuel said, quote, I came up with an idea for an
13 executive order to allow the Stupak Amendment not to exist
14 in law. End quote. So Congress must pass H.R. 3 to put
15 into law a ban on the Federal funding of abortions.

16 I will now recognize the ranking member, the gentleman
17 from Michigan, Mr. Conyers, for his opening statement.

18 Mr. Conyers. Thank you, Chairman Smith.

19 We are really moving along at a nice, rapid pace in
20 the 112th Congress. We have passed H.R. 1 in which we
21 slashed the budget. We have passed H.R. 2 in which we
22 repealed the health care bill. And with perhaps increasing
23 speed, we are now up to H.R. 3. This is the third month of
24 the 112th session. This bill is entitled "No Taxpayer
25 Funding for Abortion Act."

1 Now, any student of government knows by now that since
2 1977, the Hyde Amendment has been in effect, no Federal
3 funds for abortion. And so today, just to make sure that
4 is clearly understood, we will now pass another law
5 repeating the Hyde Amendment.

6 What this suggests to a number of observers is that
7 this new majority in the Congress appears to have mounted
8 an aggressive assault on women's health and
9 constitutionally protected rights. In the budget
10 resolution that I referenced, which was passed at 4:40 a.m.
11 in the morning of February 19th, there was included a
12 measure that would defund more than 60 percent of Planned
13 Parenthood service providers. And this was done because
14 Planned Parenthood affords women the opportunity to make
15 the deeply personal and constitutionally protected
16 decisions about pregnancy. Federal dollars never funded
17 lawful abortion services provided by Planned Parenthood,
18 but instead allow the organization to provide critical
19 health care, including birth control, PAP smears, screening
20 for breast and cervical cancer and diabetes.

21 But in their eagerness to put Planned Parenthood out
22 of business, my conservative colleagues showed no concern,
23 from my point of view, for the millions of women who may
24 not receive lifesaving care or the birth control that might
25 have prevented an unintended pregnancy. Instead, they

1 displayed a similar disregard for women and their children
2 when they voted to slash funding for prenatal and
3 children's health care and also to cut nutritional programs
4 that have reduced this country's appalling infant mortality
5 rate. And so this morning, we consider yet another weapon
6 being used by some Members in Congress in their alarming
7 war on women.

8 Of course, H.R. 3 is misleadingly named. It has
9 little to do with Federal funding of abortions. As we all
10 know, since 1977 it is already against the law. No Federal
11 funds can be used. But what this bill seeks to do is to
12 expand restrictions in current law and to impose an
13 unprecedented penalty by the use of the tax code on
14 privately funded health care choices made by women and
15 their families -- their money. And its goal is to make
16 abortion and coverage for abortion services completely
17 unavailable whether it is Federal money or a citizen's
18 money.

19 And so as initially introduced, this proposal would
20 have narrowed the already inadequate exceptions for rape
21 and incest by also redefining rape by inventing this new
22 category, "forcible rape and incest," only when the victim
23 is a minor. And so according to some of our witnesses even
24 here today, this forcible rape limitation was intended to
25 prevent the opening of a very broad loophole for federally

1 funded abortions for any teenagers. We will hear that in
2 the testimony today. What a remarkable admission.

3 Haven't we spent years looking into the sexual
4 exploitation of minors, the abuse of young women through
5 date rape drugs and alcohol and other means?

6 So while I am heartened that my colleagues now appear
7 prepared to respond to the understandable fury at their
8 efforts to narrow protections for survivors of rape and
9 incest, their decision to target young women in the first
10 place, and the fact that they had to be forced into
11 removing these draconian restrictions reveal to me a
12 shocking disregard for the most vulnerable among us.

13 The bill also discriminates between those who have
14 rights of conscience. And if I may be permitted to finish
15 my statement, Mr. Chairman. Although it protects those who
16 refuse to provide abortion services, the bill fails to
17 protect those who do provide services.

18 And so I am happy to submit the rest of my statement,
19 and I thank the chairman for allowing me additional time.

20 [The statement follows:]

1 Chairman Smith. Thank you, Mr. Conyers. Appreciate
2 your statement.

3 The gentleman from Arizona, Mr. Franks, is recognized
4 as the chairman of the Constitutional Law Subcommittee.

5 Mr. Franks. Well, thank you, Mr. Chairman.

6 Mr. Chairman, this long-awaited bill presents a just
7 and widely supported common sense approach to what really
8 should not be such a difficult question. This bill does
9 not impact abortion law. It does protect American
10 taxpayers and health care workers from being coerced by the
11 Government to finance or to perform abortions.

12 Specifically, it will place into Federal statute the
13 multiple life-affirming riders or amendments to annual
14 appropriations bills in Congress. The bill creates a
15 generally applicable restriction of abortion funding
16 throughout the Federal Code to ensure that Americans are
17 not forced to pay with their tax dollars for the killing of
18 innocent unborn children.

19 Mr. Chairman, many Americans are familiar with some of
20 the landmark policies that will be made permanent through
21 this bill: the Hyde Amendment, which prohibits the funding
22 for elective abortions through the Health and Human
23 Services Appropriation Act, save in cases of rape, incest,
24 or circumstances endangering the life of the mother; the
25 Helms Amendment, which prohibits funding for abortion as a

1 method of family planning overseas; the Smith Amendment for
2 the Federal employees health benefits plan, which prohibits
3 funding for elective abortion coverage for Federal
4 employees; the Dornan Amendment, which prohibits use of
5 congressionally appropriated funds for abortion in
6 Washington, D.C. And finally, this bill would codify other
7 policies such as the restrictions on elective abortion
8 through the Peace Corps or in Federal prisons.

9 Both the funding policies and the conscience
10 protections of this bill have been Federal law for decades,
11 and most Members of this House have consistently supported
12 appropriations measures with these protections in place.

13 Mr. Chairman, it is said that a government is what it
14 spends. This legislation is really about whether the role
15 of America's Government is to continue to fund a practice
16 that takes the lives of over 1 million little Americans
17 every year despite the fact that the overwhelming majority
18 of Americans, even some of those who consider themselves
19 pro choice, strongly object to their taxpayer dollars
20 paying for abortion.

21 A January 2010 Quinnipiac University poll showed that
22 67 percent of respondents oppose Federal funding of
23 abortion.

24 A November 2009 Washington Post poll showed 61 percent
25 of respondents oppose Government subsidies for health

1 insurance that includes abortion.

2 A September 2009 International Communications Research
3 poll showed that 67 percent of respondents opposed the
4 measure that would, quote, require people to pay for
5 abortion coverage with their Federal taxes. Close quote.

6 Mr. Chairman and members, this bill will also codify
7 conscience protections to prevent health care workers from
8 being coerced into performing abortions. Notably, there
9 are an estimated 1,600 physician members of the American
10 Association of Pro Life Ob-Gyns, in addition to the
11 thousands of other health care workers who rely on these
12 conscience rights. Without such protection, many of these
13 health care professionals would exit the field at a time
14 when many areas throughout the country are already
15 underserved, particularly in the area of obstetrics.

16 Mr. Chairman, I believe the intensity of this debate
17 or just surrounding this issue in general has something to
18 do with our collective conscience. Perhaps it is because
19 ultrasound technology is beginning to demonstrate to all
20 reasonable minds the humanity of the innocent victims of
21 abortion and the inhumanity of what is being done to them.

22 We are beginning to realize that somehow as Americans
23 we are bigger than abortion on demand, that 52 million dead
24 children is enough. We are beginning to ask the real
25 question: does abortion take the life of a child? If it

1 doesn't, then Mr. Chairman, I submit that this is all a
2 non-issue. But if it does, then those of us sitting here
3 in the chambers of freedom live in the midst of the
4 greatest human genocide in the history of humanity.

5 Mr. Chairman, Thomas Jefferson said that the care of
6 human life and its happiness and not its destruction is the
7 chief and only object of good government. And I would
8 submit that using taxpayer dollars to fund the killing of
9 innocent unborn children does not liberate their mothers.
10 It is not why those lying out under the white stones in
11 Arlington National Cemetery died and it is not good
12 government.

13 In a landmark speech long ago, Abraham Lincoln called
14 upon posterity -- that is us, Mr. Chairman -- to remember
15 America's Founding Fathers and, quote, their enlightened
16 belief that nothing stamped with the divine image and
17 likeness was sent into the world to be trodden on and
18 degraded and uprooted by its fellows. Unquote. He
19 reminded us, those he called "posterity," that when in the
20 distant future some man or some faction or some interest
21 should set up the doctrine that some were not entitled to
22 life, liberty, and the pursuit of happiness that, quote,
23 their posterity -- that is us, Mr. Chairman -- might look
24 up again -- might look up again -- to the Declaration of
25 Independence and take courage to renew the battle which

1 their fathers began.

2 Mr. Chairman, I hope we can find that courage today,
3 and I yield back.

4 Chairman Smith. Thank you, Mr. Franks.

5 The gentleman from New York, Mr. Nadler, the ranking
6 member of the Constitution Subcommittee, is recognized for
7 his opening statement.

8 Mr. Nadler. Thank you, Mr. Chairman.

9 Today we consider legislation concerning what may be
10 the most difficult and divisive issue we will have the
11 opportunity to consider.

12 A woman's right to make her own decisions about her
13 own body, whether to become pregnant, whether to continue
14 her pregnancy, or whether to terminate it has long been a
15 right protected by the Constitution. Whether or not you
16 think that is a good idea or a fair reading of the
17 Constitution, it remains the law of the land.

18 Recently a spokesman for Speaker Boehner said while
19 Americans want Washington to focus on creating jobs and
20 cutting spending, the President will have to explain why he
21 thinks now is the appropriate time to stir up a
22 controversial issue that sharply divides the Nation.
23 Perhaps my Republican friends can explain this one on this
24 bill.

25 Congress has, for more than 3 decades, used economic

1 coercion to try to prevent women from exercising that
2 constitutionally protected choice by prohibiting use of
3 Federal funds for abortions, the only legal health care
4 procedure subject to such a ban. Until now, that coercion
5 was directed against the poor and against women dependent
6 on the Government for health care. Now with this bill,
7 middle class families and businesses who pay for their own
8 health care are being targeted. All the rhetoric about
9 public funding is a smoke screen. The real purpose and
10 effect of the bill is to make it virtually impossible to
11 buy private health care insurance that covers abortions
12 with private money, to drive those policies out of the
13 private market.

14 Before we begin, I just want to express my fervent
15 hope that anyone who fought to preserve huge tax cuts for
16 the wealthiest 2 percent of the Nation and then works to
17 cut funding for hungry children, for prenatal care, for
18 home energy assistance for the poor, and for other programs
19 that go straight to helping the most vulnerable in society
20 will at least have the good taste to spare us any lectures
21 about the importance of preserving innocent life or caring
22 about children. It is not true, as this pattern of
23 advocacy suggests, that life begins at conception and ends
24 at birth.

25 The No Taxpayer Funding for Abortion Act is really

1 misnamed because it goes well beyond the limits of taxpayer
2 funding and places Government in the middle of private
3 choices by families and businesses about how they wish to
4 spend their own health care dollars. This legislation
5 represents an entirely new front in the war on women and
6 their families.

7 After 2 years of hearing my Republican colleagues
8 complain that Government should not meddle in the private
9 insurance market or in private health care choices, I was
10 stunned to see legislation so obviously designed to do just
11 that. It seems that many Republicans believe in freedom,
12 provided no one uses that freedom in a way that Republicans
13 find objectionable. It is a strange understanding of
14 freedom.

15 Even more stunning, this bill contains huge tax
16 increases on families, businesses, and self-employed if
17 they spend their own money -- let me repeat that -- their
18 own money on abortion coverage or services. The power to
19 tax is the power to destroy, and here the taxing power is
20 being used to destroy the right of every American to make
21 private health care decisions free from Government
22 interference.

23 I am equally surprised to find out that my Republican
24 colleagues think that a tax exemption or credit is a form
25 of Government funding. What happened to all the rhetoric

1 about it being our money? Or does that only apply in
2 certain circumstances? Will we now have to judge every tax
3 exemption or credit as a form of Government funding for the
4 recipient? I am sure there will be many businesses,
5 charities, and religious denominations that will be alarmed
6 to find this out. If a tax exemption, deduction, or credit
7 is Government funding, if tax advantage private spending is
8 Government funding, the entire premise of this bill, then
9 your tax deductible, charitable contribution to your
10 church, synagogue, or other religious institution is also
11 Government funding, Government funding prohibited by the
12 Establishment Clause of the First Amendment.

13 The logic is inexorable. Either tax exemptions or the
14 deductions or credits for private spending are Government
15 funding or they are not. If they are, the premise of this
16 bill, then tax deductible private contributions to
17 religious institutions are Government funding prohibited by
18 the Constitution. If they are not, this bill makes no
19 sense. You can't have it both ways.

20 There is also a provision in this bill that wouldn't
21 allow any health care provider institution to provide an
22 abortion to a woman whose life is in imminent peril. They
23 could let that woman die right there in the emergency room
24 and the Government would be powerless to do anything about
25 it. In fact, if the Government insisted that the hospital

1 not let the woman die, section 311 of the bill would allow
2 the hospital to sue the Government, and in the case of a
3 State or locality, strip that community of all Federal
4 funding until the jurisdiction relented. This is the new
5 definition of pro life.

6 So, Mr. Chairman, let us start off on the right foot.
7 The No Taxpayer Funding of Abortion Act is not really about
8 taxpayer funding. It is about Government interfering with
9 private health care decisions paid for with private funds.
10 It is not about protecting the innocent. It is about
11 creating appalling, even life-threatening situations for
12 women. It is a tax increase of historic proportions.

13 Finally, if passed, it would eliminate the private
14 market for abortion coverage. It would make it virtually
15 impossible to get private insurance that covers abortion,
16 and that is the real purpose of the bill.

17 The sponsor of this legislation, the gentleman from
18 New Jersey, has been very clear about his purpose. When he
19 introduced this bill, he cited a study by the Gutmacher
20 Institute that showed a decline in the rate of abortions of
21 approximately 20 percent when funding is cut off. What
22 that proves is that economic coercion works. The sponsor
23 has made crystal clear that the unashamed purpose of this
24 bill is to use economic coercion to prevent women and
25 families from exercising their constitutional right.

1 This bill takes that to a whole new level by going
2 after the private insurance and health care markets. It is
3 an unprecedented attack on women, families, and their
4 rights under the Constitution. Let us not pretend this is
5 about Government funding.

6 I yield back the balance of my time.

7 Chairman Smith. Thank you, Mr. Nadler.

8 I will recognize the gentleman from Arizona, Mr.
9 Franks, to offer a manager's amendment.

10 Mr. Franks. Well, thank you, Mr. Chairman.

11 I would like to offer this amendment in the nature of
12 a substitute to H.R. 3.

13 Chairman Smith. The clerk will report the amendment,
14 and a point of order has been reserved by the gentleman
15 from New York, Mr. Nadler.

16 Ms. Kish. "Amendment in the Nature of a Substitute to
17 H.R. 3, offered by Mr. Franks of Arizona.

18 "Strike all after the enacting clause and insert the
19 following:"

20 Chairman Smith. Without objection, the amendment will
21 be considered as read, and I ask unanimous consent that the
22 amendment in the nature of a substitute be considered as
23 original text for the purpose of amendment.

24 [The amendment follows:]

1 Chairman Smith. And the gentleman is recognized in
2 support of his amendment.

3 Mr. Franks. Well, thank you, Mr. Chairman.

4 Mr. Chairman, this amendment in the nature of a
5 substitute clarifies the original bill, addressing
6 ambiguities and concerns that members brought to light in
7 the hearing we held in the Subcommittee on the Constitution
8 on February 8, 2011.

9 First, section 309 will modify the original language
10 to revert to the language of the Hyde Amendment, clarifying
11 that Federal funding for abortion will be permitted under
12 the bill only in cases of rape, incest, or in circumstances
13 where a continued pregnancy would endanger the life of the
14 mother. Contrary to some earlier discussions in the press,
15 the sponsoring parties have all agreed that this bill will
16 not be a departure from the decades of existing policy
17 implemented through the Hyde Amendment. And to be clear,
18 this bill does not impact rape or incest laws that are on
19 the books now.

20 Next, section 303 of the manager's amendment strikes
21 the reference to, quote, health benefits plans that include
22 coverage for abortion.

23 And the bill's section on tax deductions. Under the
24 Democrats health care law, should it withstand judicial
25 scrutiny, it will be much more difficult for Americans to

1 determine whether their health plan would be tax deductible
2 under this bill, given that those services covered under a
3 given plan may not be clear at the time of purchase or it
4 could be subject to change over time.

5 Next, the language in section 308 clarifies that
6 nothing in this legislation will permit insurance companies
7 to refuse to pay for the treatment of any infection,
8 injury, disease, or disorder that has been caused or
9 exacerbated by the performance of an abortion. We should
10 note that the Hyde Amendment and other Federal laws
11 regarding abortion funding have never prevented funding for
12 complications from an abortion under Medicaid, and the
13 State Medicaid manual, which is the official guidance
14 provided to States by HHS, addresses this point explicitly.
15 Chapter 4 states the that Federal financial reimbursement
16 is available for the cost of certain specific services
17 associated with abortion, including, quote, charges for all
18 services, tests, and procedures performed post abortion.
19 Close quote. The performance of abortions are clearly
20 separate from the treatment of injuries resulting from the
21 performance of an abortion, and this section makes that
22 distinction absolutely clear.

23 The purpose of this change is to ensure that women do
24 not go untreated when abortion-related complications, such
25 as where the abortion is botched or the uterus is

1 perforated or an abortion is followed by a stroke or shock
2 or infection or hemorrhage or any number of other
3 complications. Post-abortive women often receive little or
4 no follow-up care from their abortionists, and it often
5 falls to emergency room physicians to deal with the often
6 tragic results. This rule applies without regard to
7 whether funding for the precedent abortion would be
8 permissible under section 309 of this act. That is
9 regardless of whether the pregnancy resulted from rape,
10 incest, or regardless of whether the pregnancy endangered
11 the life of the mother at the time of the abortion. Also,
12 the provision operates without regard for whether the
13 abortion was lawfully performed under State or Federal law.
14 The goal of this section is very simple. It is to put
15 post-abortive women's health first.

16 Finally, the amendment strikes the definition of
17 health care benefits coverage in section 312 of H.R. 3.
18 Rather than specifically enumerate the types of health care
19 plans that could be impacted by the legislation, the bill
20 leaves the types of plans unspecified to allow the
21 necessary flexibility to accommodate health care plans that
22 may evolve in the future.

23 Mr. Chairman, I believe this amendment makes numerous
24 improvements to H.R. 3, and I would encourage my colleagues
25 to support the amendment. And thank you.

1 Chairman Smith. Thank you, Mr. Franks.

2 Does the gentleman from New York insist on his point
3 of order?

4 Mr. Nadler. Mr. Chairman, I do not believe it will be
5 necessary for me --

6 Chairman Smith. And if so, he is recognized.

7 Mr. Nadler. Thank you.

8 I do not believe that it will be necessary for me to
9 insist on my point of order, but I did want to clarify how
10 the chair intends to rule on a particular question.

11 The amendment in the nature of a substitute amends
12 section 303 of the bill, among others. It amends section
13 303 of the bill dealing with taxation. As the chairman is
14 aware, members of the minority have also filed amendments
15 dealing with this section, with section 303. While it is
16 timely, I did want to seek clarification from the chair on
17 this question. Are the amendments to section 303, such as
18 the substitute before us, and amendments filed prior to
19 this markup in order during this markup?

20 Chairman Smith. I believe that they are in order.

21 Mr. Nadler. Very well. I thank the chairman. I
22 withdraw my reservation.

23 Chairman Smith. Thank you, Mr. Nadler.

24 Mr. Scott. Mr. Chairman?

25 Chairman Smith. The gentleman from Virginia, Mr.

1 Scott, is recognized.

2 Mr. Scott. Could the gentleman from Arizona respond
3 to a question please?

4 Chairman Smith. We will be getting into amendments
5 momentarily, but does the gentleman have a --

6 Mr. Scott. What is the motion before us?

7 Chairman Smith. Right now we have dispensed with the
8 point of order. We are going to amendments.

9 Ms. Wasserman Schultz. Mr. Chairman?

10 Chairman Smith. The gentlewoman from Florida, Ms.
11 Wasserman Schultz?

12 Ms. Wasserman Schultz. At the appropriate time, I
13 would like to move to strike the last word on the
14 substitute.

15 Chairman Smith. This would be an appropriate time.

16 Let me see if the gentleman from Virginia wants to
17 speak on the substitute as well.

18 Mr. Scott. Thank you. I will defer.

19 Chairman Smith. Okay.

20 The gentlewoman from Florida is recognized.

21 Ms. Wasserman Schultz. Thank you very much, Mr.
22 Chairman.

23 I would like to ask the gentleman from Arizona to
24 yield to a series of questions.

25 The original bill essentially was a violent act

1 against women, an assault on women, and included items like
2 prohibiting a woman from getting Federal funding to
3 terminate a pregnancy unless she was forcibly raped. What
4 do you, in your opinion, think the substitute amendment
5 does not include that the previous bill did? Would it
6 include something like statutory rape as an exception?

7 Chairman Smith. Would the gentlewoman from Florida
8 yield for a minute?

9 Ms. Wasserman Schultz. I would be happy to.

10 Chairman Smith. The subject of your questions are
11 also the subject of a number of amendments that we expect.
12 Are you asking these questions in lieu of offering
13 amendments, or do you still expect to offer amendments on
14 these subjects?

15 Ms. Wasserman Schultz. No. I would expect to offer
16 the amendments that I have submitted.

17 Chairman Smith. Okay. Would you want to wait until
18 the amendments are offered to get into a discussion on that
19 subject?

20 Ms. Wasserman Schultz. Whatever the chairman's
21 preference is.

22 Chairman Smith. If that is all right with you, I
23 would prefer to have those discussions during the time when
24 the amendment is offered.

25 Ms. Wasserman Schultz. Sure, no problem. Thank you.

1 Chairman Smith. Thank you.

2 The gentleman from New York.

3 Mr. Nadler. Thank you. I would move to strike the
4 last word.

5 Chairman Smith. The gentleman is recognized for 5
6 minutes.

7 Mr. Nadler. Thank you.

8 I also have a couple of questions of Chairman Franks.
9 The manager's amendment offered by Chairman Franks makes a
10 number of changes to the bill as introduced. I would like
11 to ask him a couple of questions for some clarification
12 before we proceed, which may determine whether some
13 amendments are offered or not.

14 Chairman Smith. Okay.

15 Mr. Nadler. Mr. Franks, the substitute amends section
16 303(2) of the bill to remove the portion of the penalty
17 that applied to private funds spent to purchase insurance
18 that covers abortion. What is your understanding as to how
19 the amended section 303 would now apply to insurance
20 purchased by an individual using her own money?

21 Mr. Franks. Mr. Nadler, as far as insurance purchased
22 by an individual with their own money, if there is no
23 Federal nexus or no subsidy, I don't think that there is
24 any impact of H.R. 3 on that practice.

25 Mr. Nadler. Thank you.

1 And if the individual purchased private insurance with
2 her own money on the exchange to be set up by the State, so
3 the Federal Government under the health care bill, would
4 your answer be the same?

5 Mr. Franks. Well, I think that is part of the reason
6 for the amendment, Mr. Nadler, because section 303 of the
7 manager's amendment strikes all reference to the health
8 care benefits that include coverage for abortion. One of
9 the reasons for that is under the Democrat health care
10 bill, if it survives the courts, it will be difficult to
11 determine whether their plan would be tax deductible under
12 this bill.

13 I have to say to you, in all due respect, some of the
14 tax credit -- they are called "tax credits" in the Democrat
15 health care bill, but they look about as much like a tax
16 credit as the Space Station does a turnip. I mean, they
17 are completely unrelated. They have more of a subsidy that
18 is not related to the tax code as it were. So
19 consequently, we just thought we had to change it to make
20 it clear because it could change over time.

21 Mr. Nadler. Make it clear which way?

22 Mr. Franks. We had to take that out of the --

23 Mr. Nadler. So reclaiming my time, I must say I have
24 always thought the Space Station does look like a turnip.

25 [Laughter.]

1 Mr. Nadler. So let me ask the question directly again
2 because I didn't understand your answer.

3 If a woman -- if someone purchased a health insurance
4 plan with their own money from a private insurance company
5 on the exchange, this would apply or this would not apply?

6 Mr. Franks. Under the manager's amendment, that issue
7 in the original H.R. 3 would be extracted by the --

8 Mr. Nadler. So it would not apply.

9 Mr. Franks. It is a credit. And again, that is why I
10 mentioned the tax credit. It is a strange hybrid in the
11 Democrat health care bill. And so it depends on --

12 Mr. Nadler. Reclaiming my time, I don't know what
13 credit you are referring to.

14 In the health care bill, there are some credits.
15 Forget the credits for the moment.

16 Mr. Franks. Those are the critical issue.

17 Mr. Nadler. On the health care bill, we establish
18 either the States of the Federal Government, if the State
19 doesn't do it, an exchange. The exchange is a place where,
20 subject to regulation, private insurance companies offer
21 private policies. People go and buy insurance from a
22 private company on the exchange. If they are of
23 sufficiently low income, there is a tax credit. If they
24 are not, there is no tax credit.

25 Assuming no tax credit, they are just buying this on

1 the exchange, the exchange being set up and regulated by
2 either the State or the Federal Government, but they are
3 buying the insurance with their own money from a private
4 company, would this apply or not?

5 Mr. Franks. If I understand your question, if there
6 were no tax credit involved or no Federal contribution,
7 either through again this distorted hybrid tax credit
8 scheme under the Democrat health bill, if that was not
9 involved and there were no direct subsidy, then I think the
10 answer to your question would be, no, it would not affect
11 it.

12 Mr. Nadler. So, in effect, you are saying, if I
13 understand you, if certain conditions are met, it would not
14 be covered, but that the legislation -- the law, that is,
15 since we passed it -- is so distorted and confusing that
16 you really don't know at this point?

17 Mr. Franks. No. What I am saying is that under the
18 Democrat health care bill, there are tax credits. They
19 call them tax credits, but what they do -- and I do not
20 want to belabor this point, but what they do is they give
21 money directly from the Treasury to some health care
22 insurance company on the basis of what the patient does.
23 And it is not based on any activity of the health care
24 insurance company. It is a subsidy. It is not really a
25 tax credit. And that could be applied under this bill.

1 Mr. Nadler. Well, let me just ask one further
2 question to clarify because I think I am beginning to
3 understand the gentleman now.

4 If the only activity of the government, Federal
5 Government or State government, in the given situation is
6 that they have set up the exchange, that the administrative
7 costs of the exchange are being borne by either the State
8 or the Federal Government, and that an individual goes to
9 this exchange and, getting no tax credit, buys an insurance
10 policy from some private company but does so on an exchange
11 that is maintained by the government, does this affect
12 that?

13 Mr. Franks. Well, once again, it depends on whether
14 there is any Federal nexus of financing and whether the
15 plan offers abortion or it does not. If it does not offer
16 abortion, of course, it is unaffected. If it does, if
17 there is any Federal nexus, whether it is this tax credit
18 again that makes the furniture float in the room --

19 Mr. Nadler. I thank the gentleman and I remain almost
20 as confused as I was before.

21 Mr. Franks. That is thanks to the tax credit scheme.

22 Chairman Smith. I know there are several amendments,
23 and the gentleman from Michigan will be recognized to offer
24 the first amendment.

25 Mr. Conyers. Mr. Chairman, I have an amendment at the

1 desk and ask that it be reported.

2 Chairman Smith. The clerk will report the amendment.

3 Ms. Kish. "Amendment in the Nature of a Substitute to
4 H.R. 3, offered by Mr. Conyers of Michigan.

5 "Page 5, line 21, strike 'including' and insert
6 'excluding.'

7 "Page 6, strike lines 3 through 4."

8 [The information follows:]

1 Chairman Smith. The gentleman is recognized in
2 support of his amendment.

3 Mr. Conyers. Thank you, Chairman Smith.

4 I begin the discussion of the amendment to ensure
5 equal treatment for the citizens of the District of
6 Columbia. And I preface my remarks by regretting again
7 that the Representative for the District, Eleanor Holmes
8 Norton, was not permitted to testify during the hearings on
9 this bill. And so I offer this amendment.

10 Given the unique impact the bill has on the District
11 of Columbia, I offer this amendment that would ensure that
12 like citizens in the country, the citizens of the District
13 would be able to use their own money, not Federal funds,
14 but money from the District's own general revenue fund that
15 comes from District residents. In other words, there
16 apparently is a misunderstanding that all money that comes
17 from the District of Columbia, the entity, is all Federal
18 money. Well, it isn't. And that is what this amendment
19 hopes to clear up.

20 Why? Because the District residents contribute lots
21 of money on their own to the coffers of the D.C.
22 Government. How? Through the sales tax, through property
23 taxes, through income taxes, and from a range of user fees,
24 for example, the fee to register one's car in the District.
25 Those are not Federal funds coming from the U.S.

1 Government. And so unless this distinction is made, we are
2 going way overboard and I think, in effect, literally
3 punishing members of the District of Columbia for living
4 here.

5 And so I hope this offers some clarification, maybe
6 even -- dare I hope -- that the amendment will be accepted,
7 and that we can move on to other parts of the bill.

8 I yield back the balance of my time.

9 Chairman Smith. Thank you, Mr. Conyers.

10 I am going to recognize myself in opposition to the
11 amendment, though.

12 This amendment would allow Federal funds to be used to
13 pay for abortions in the District of Columbia. The purpose
14 of the bill is to prohibit Federal funds from being used to
15 pay for abortions anywhere. We should not create a special
16 exception allowing the District of Columbia to spend
17 Federal funds on abortion, and so we need to defeat this
18 amendment.

19 According to a recent report in the Washington Post,
20 the District of Columbia Government has started to pay for
21 abortion on demand. We know that the money the District's
22 Government uses to pay for these abortions was appropriated
23 by the Federal Government. The bill would stop these
24 federally funded abortions, and the amendment would let
25 them continue. And that is why I am in opposition to the

1 amendment.

2 Mr. Conyers. Would the chair yield to me?

3 Chairman Smith. I will be happy to yield to the
4 ranking member.

5 Mr. Conyers. I just wanted to make sure that you
6 heard this part of my comment, that there are monies that
7 come into the treasury of the District of Columbia that are
8 not Federal monies. When a person pays for user fees or
9 sales tax, that is not Federal money. That is citizens'
10 money. Does the chair understand that the distinction I am
11 laboring to make in this, that that money that is used by
12 the District of Columbia is not Federal money? It is money
13 that they have collected through other means, sir.

14 And thank you for yielding.

15 Chairman Smith. I will recognize myself to respond
16 very briefly.

17 Under the Constitution, I think all money spent by the
18 District of Columbia is deemed to be Federal funds directly
19 or indirectly.

20 Also, you have the situation I believe that recently
21 D.C. voted to abandon the Hyde Amendment, therefore
22 allowing Federal funds to be used for abortions. So that
23 is why I do think we need to resist the amendment.

24 Are there other members who wish to be recognized on
25 the amendment?

1 [No response.]

2 Chairman Smith. If not, we will vote on the
3 amendment. All in favor, say aye.

4 [A chorus of ayes.]

5 Chairman Smith. Opposed, say nay.

6 [A chorus of nays.]

7 Chairman Smith. The nays appear to have it and the
8 amendment is not agreed to.

9 Mr. Conyers. Can we have a record vote, sir?

10 Chairman Smith. A recorded roll call vote has been
11 requested, and the clerk will call the roll.

12 Ms. Kish. Mr. Smith?

13 Chairman Smith. No.

14 Ms. Kish. Mr. Smith votes no.

15 Mr. Sensenbrenner?

16 Mr. Sensenbrenner. No.

17 Ms. Kish. Mr. Sensenbrenner votes no.

18 Mr. Coble?

19 [No response.]

20 Ms. Kish. Mr. Gallegly?

21 Mr. Gallegly. No.

22 Ms. Kish. Mr. Gallegly votes no.

23 Mr. Goodlatte?

24 Mr. Goodlatte. No.

25 Ms. Kish. Mr. Goodlatte votes no.

1 Mr. Lungren?
2 [No response.]
3 Ms. Kish. Mr. Chabot?
4 [No response.]
5 Ms. Kish. Mr. Issa?
6 [No response.]
7 Ms. Kish. Mr. Pence?
8 [No response.]
9 Ms. Kish. Mr. Forbes?
10 [No response.]
11 Ms. Kish. Mr. King?
12 Mr. King. No.
13 Ms. Kish. Mr. King votes no.
14 Mr. Franks?
15 Mr. Franks. No.
16 Ms. Kish. Mr. Franks votes no.
17 Mr. Gohmert?
18 Mr. Gohmert. No.
19 Ms. Kish. Mr. Gohmert votes no.
20 Mr. Jordan?
21 Mr. Jordan. No.
22 Ms. Kish. Mr. Jordan votes no.
23 Mr. Poe?
24 Mr. Poe. No.
25 Ms. Kish. Mr. Poe votes no.

1 Mr. Chaffetz?
2 Mr. Chaffetz. No.
3 Ms. Kish. Mr. Chaffetz votes no.
4 Mr. Reed?
5 Mr. Reed. No.
6 Ms. Kish. Mr. Reed votes no.
7 Mr. Griffin?
8 Ms. Kish. Mr. Griffin votes no.
9 Mr. Marino?
10 Mr. Marino. No.
11 Ms. Kish. Mr. Marino votes no.
12 Mr. Gowdy?
13 Mr. Gowdy. No.
14 Ms. Kish. Mr. Gowdy votes no.
15 Mr. Ross?
16 Mr. Ross. No.
17 Ms. Kish. Mr. Ross votes no.
18 Ms. Adams?
19 Ms. Adams. No.
20 Ms. Kish. Ms. Adams votes no.
21 Mr. Quayle?
22 Mr. Quayle. No.
23 Ms. Kish. Mr. Quayle votes no.
24 Mr. Conyers?
25 Mr. Conyers. Aye.

1 Ms. Kish. Mr. Conyers votes aye.
2 Mr. Berman?
3 Mr. Berman. Aye.
4 Ms. Kish. Mr. Berman votes aye.
5 Mr. Nadler?
6 Mr. Nadler. Aye.
7 Ms. Kish. Mr. Nadler votes aye.
8 Mr. Scott?
9 Mr. Scott. Aye.
10 Ms. Kish. Mr. Scott votes aye.
11 Mr. Watt?
12 [No response.]
13 Ms. Kish. Ms. Lofgren?
14 [No response.]
15 Ms. Kish. Ms. Jackson Lee?
16 Ms. Jackson Lee. Aye.
17 Ms. Kish. Ms. Jackson Lee votes aye.
18 Ms. Waters?
19 [No response.]
20 Ms. Kish. Mr. Cohen?
21 Mr. Cohen. Aye.
22 Ms. Kish. Mr. Cohen votes aye.
23 Mr. Johnson?
24 Mr. Johnson. Aye.
25 Ms. Kish. Mr. Johnson votes aye.

1 Mr. Pierluisi?

2 Mr. Pierluisi. Aye.

3 Ms. Kish. Mr. Pierluisi votes aye.

4 Mr. Quigley?

5 Mr. Quigley. Aye.

6 Ms. Kish. Mr. Quigley votes aye.

7 Ms. Chu?

8 Ms. Chu. Aye.

9 Ms. Kish. Ms. Chu votes aye.

10 Mr. Deutch?

11 Mr. Deutch. Aye.

12 Ms. Kish. Mr. Deutch votes aye.

13 Ms. Sanchez?

14 [No response.]

15 Ms. Kish. Ms. Wasserman Schultz?

16 Ms. Wasserman Schultz. Aye.

17 Chairman Smith. Are there other members who wish to

18 vote? The gentleman from North Carolina, Mr. Coble?

19 Mr. Coble. No.

20 Ms. Kish. Mr. Coble votes no.

21 Chairman Smith. The gentlewoman from California, Ms.

22 Lofgren?

23 Ms. Lofgren. Aye.

24 Ms. Kish. Ms. Lofgren votes aye.

25 Chairman Smith. Are there any other members who wish

1 to vote?

2 [No response.]

3 Chairman Smith. If not, the clerk will report.

4 Ms. Kish. Mr. Chairman, 13 members vote aye; 18
5 members voted nay.

6 Chairman Smith. The majority of the members having
7 voted against the amendment, the amendment is not agreed
8 to.

9 Are there other members who wish to be recognized to
10 offer an amendment?

11 I am afraid the vote has been closed on this
12 particular amendment.

13 The gentleman from New York has an amendment?

14 Mr. Nadler. Yes, Mr. Chairman.

15 Chairman Smith. The gentleman from Virginia is
16 recognized.

17 Mr. Scott. Mr. Chairman, I move to strike the last
18 word.

19 Chairman Smith. The gentleman is recognized for 5
20 minutes.

21 Mr. Scott. And I would like to ask the gentleman from
22 Arizona two questions.

23 One, on page 2, line 17 where it says "no credit shall
24 be allowed under the internal revenue laws," during the
25 hearing we discussed this and I think it is clear that that

1 means if the policy has abortion coverage, it can't get
2 credits under the health care bill.

3 My question is whether or not the term "no credit"
4 would deny a deduction for a policy under the normal
5 Internal Revenue Code's deductions, whether you would lose
6 the entire deduction, whether you would lose the deduction
7 attributable to the abortion coverage, or whether you would
8 get the full medical deduction, or whether or not this
9 would affect it at all.

10 Mr. Franks. As I understand, Mr. Scott, only the part
11 has to -- there have been rulings by the IRS that if you
12 had an abortion, that in some cases, you could deduct that.
13 That would go away. But only the part of an insurance bill
14 that paid for abortion would be nondeductible.

15 Mr. Scott. So the term "no credit shall be allowed
16 under the internal revenue laws" for a health benefits plan
17 that includes abortion coverage, would not deny you the
18 normal medical deduction for the rest of the policy. Is
19 that my understanding?

20 Mr. Franks. Mr. Scott, I am trying to understand
21 specifically your question.

22 Mr. Scott. If you are an employee of a corporation
23 and have insurance coverage and that policy includes
24 abortion coverage, one, can the employer deduct it as an
25 ordinary and necessary business expense, the whole policy?

1 And can the employee receive that benefit and exclude it
2 from his taxes?

3 Mr. Franks. I believe the answer to that question is
4 yes.

5 Mr. Scott. So there would be no change in present
6 law.

7 Mr. Franks. There would be no change in present law,
8 if I understand your question properly.

9 Mr. Scott. My second question is I think in your
10 opening remarks, you referenced section 312 which is in the
11 original bill. I don't see it in your substitute. Can you
12 explain what the language in section 312 in the original
13 bill -- what happens to it?

14 Mr. Franks. In section 312, we struck the definition
15 of "health care benefits coverage" entirely. Rather than
16 to specifically enumerate the type of health care plans
17 that could be impacted by the legislation, the bill would
18 leave those unspecified to allow the necessary flexibility
19 to accommodate health care plans that may evolve over time.
20 We don't know what is going to happen over time.

21 Mr. Scott. Thank you.

22 Chairman Smith. Does the gentleman yield back his
23 time?

24 Mr. Scott. I yield back. I am sorry.

25 Ms. Wasserman Schultz. Mr. Chairman?

1 Chairman Smith. The gentlewoman from Florida, Ms.
2 Wasserman Schultz, is recognized.

3 Ms. Wasserman Schultz. Are we on an amendment?

4 Chairman Smith. We are not.

5 Ms. Wasserman Schultz. They are not. Okay.

6 Well, I have a question related to the question that
7 the gentleman from Virginia just asked.

8 Chairman Smith. Okay. The gentlewoman is recognized.

9 Ms. Wasserman Schultz. Thank you.

10 Mr. Franks, going back to section 303, subsection 1,
11 your answer to Mr. Scott's question was, yes, that your
12 amendment only applies to the amount of the abortion
13 itself, the cost of the abortion itself, and that the tax
14 benefits still apply to the rest of the policy. Is that
15 what you are saying, that a business could still deduct the
16 entire rest of the policy, just not the portion related to
17 abortion?

18 Mr. Franks. Let me try to restate it. If it is an
19 abortion you are paying for, you can't deduct that. You
20 can't get a tax credit for that.

21 Ms. Wasserman Schultz. Okay.

22 Mr. Franks. If it is an insurance plan that covers
23 abortion, you can deduct it, but if it is an insurance plan
24 that is -- you can't get a tax credit for an insurance plan
25 that covers abortion.

1 Ms. Wasserman Schultz. Okay, because that is
2 different than what you just told the gentleman from
3 Virginia. So I am trying to make sure that --

4 Mr. Franks. I thought the gentleman from Virginia was
5 asking whether an employee -- or I am sorry -- an employer
6 could deduct the cost of a health care insurance plan that
7 paid for abortion. And this bill doesn't change that. So
8 the answer would be yes. That was my understanding.

9 Mr. Scott. Will the gentlelady yield?

10 Ms. Wasserman Schultz. Yes, I would be happy to
11 yield.

12 Mr. Scott. There are two different cases. One is the
13 credit you get under the exchange to help you buy
14 insurance.

15 Ms. Wasserman Schultz. Right.

16 Mr. Scott. The other is the normal deductibility.

17 Mr. Franks. Correct.

18 Mr. Scott. And what I have heard is the normal
19 deductibility is not affected. However, the credit knocks
20 out -- you get no credit for any coverage --

21 Mr. Franks. That is correct.

22 Ms. Wasserman Schultz. So to specifically get
23 clarification, there are small businesses that get a tax
24 credit under the Affordable Care Act right now, and if that
25 insurance plan that they provide for their employees right

1 now under the Affordable Care Act covers abortion, then
2 they would lose that tax credit, if this bill became law,
3 and future small businesses who provided health insurance
4 under the Affordable Care Act to their employees and
5 applied for a tax credit would not be able to get that tax
6 credit if their policy covered abortion.

7 Mr. Franks. That is actually why I went to so much
8 trouble to try to define this thing they are calling a tax
9 credit. This is really a subsidy, very different from the
10 traditional tax credit.

11 Ms. Wasserman Schultz. No. It is not called a
12 subsidy in the law.

13 Mr. Franks. I understand, but you know what?

14 Ms. Wasserman Schultz. You can call it whatever you
15 want, but in the law it is called a "tax credit."

16 Mr. Franks. You know, there is an old Iroquois quote
17 that says the secret to the universe is in the true naming
18 of things. And the tax credit we are talking about
19 specifically --

20 Ms. Wasserman Schultz. Reclaiming my time, Mr.
21 Chairman.

22 Mr. Franks, this is completely different and brand new
23 policy that has absolutely not been part of Hyde before and
24 has never before been law. We have never treated tax
25 breaks that people get, which is their money, as

1 Republicans are so wont to claim, as Federal assistance
2 previously, and under H.R. 3, you will now treat a tax
3 break, which is essentially taxes that we are not requiring
4 a small business to pay as a result of providing health
5 insurance to their employees -- if they provide that health
6 insurance and it includes abortion, you are denying them
7 that tax break. That is new law, new language, never
8 before been in Hyde.

9 Mr. Franks. What is new is the definition of tax
10 credit under the health care bill. That is what is so new.
11 That is the only thing that we are really affecting here.
12 The traditional tax credits would not be affected at all.
13 Neither would the deduction.

14 Ms. Wasserman Schultz. Reclaiming my time, this is no
15 different a tax credit than any other tax credit in Federal
16 law. This is someone who is not required to pay taxes that
17 they would have otherwise been required to pay. And you
18 are now saying they have to pay it if their policy covers
19 abortions. That is not part of Hyde.

20 Mr. Franks. I am saying that the tax credit that is
21 called a tax credit under the health care bill is not
22 against taxes owed. It is a refundable, transferable thing
23 based on something someone else did. There has never been
24 a definition of tax --

25 Ms. Wasserman Schultz. Reclaiming my time, Mr.

1 Chairman.

2 You can call this whatever you want. A tax increase
3 is a tax increase is a tax increase, and that is exactly
4 what you are doing. It is brand new law. It is not just
5 codifying Hyde. And this is not only an assault on women,
6 but it is a massive tax increase on small businesses.

7 I yield back.

8 Chairman Smith. Thank you.

9 Are there any other amendments? The gentleman from
10 New York, Mr. Nadler is recognized.

11 Mr. Nadler. Thank you, Mr. Chairman. I have an
12 amendment at the desk, number 001.

13 Chairman Smith. And the clerk will report the
14 amendment.

15 Ms. Kish. "Amendment to the Amendment in the Nature
16 of a Substitute to H.R. 3, offered by Mr. Nadler of New
17 York.

18 "In the matter proposed to be inserted by section 2,
19 strike section 303 relating to prohibition on tax benefits
20 relating to abortion and redesignate preceding sections and
21 all cross references accordingly."

22 [The information follows:]

1 Chairman Smith. The gentleman from New York is
2 recognized in support of his amendment.

3 Mr. Nadler. Thank you.

4 This amendment would strike section 303 of the bill
5 which would impose an unprecedented penalty on the use of
6 private money to make personal and constitutionally
7 protected health care choices. This amendment is not about
8 Federal money. This is about the Federal Government
9 punishing you if you happen to make a health care choice
10 paid for with your own money that some of our Republican
11 colleagues do not like.

12 Section 303 is a tax increase. It will increase taxes
13 for anyone who uses private money to pay for an abortion
14 and, in many instances, for the health insurance coverage
15 that would include abortion coverage. Coming from a party
16 that generally opposes government interference with private
17 choices, this is stunning. It appears that Government
18 interference in private choices made with private funds is
19 perfectly fine so long as it furthers their own agenda.

20 The notion that a tax credit deduction somehow
21 converts money that is in your pocket into Federal funds is
22 ridiculous. It is at odds with our longstanding treatment
23 of donations to religious organizations showing just how
24 specious the claim is when applied here. As my Republican
25 friends are fond of saying, it is your money, not the

1 Government's.

2 My colleagues insist that this bill merely codifies
3 existing law and is needed to ensure that no Federal funds
4 are spent for abortion. But section 303 is not a mere
5 codification of existing law. It is completely new. This
6 provision would penalize the use of private funds and
7 impose a tax increase on anyone who used their own money
8 for abortion or abortion coverage. The American people
9 should not be fooled into thinking that this is what
10 happens now.

11 Section 303 is not needed to prevent spending Federal
12 funds on abortion. Current law already prevents that. And
13 the funds reached in section 303 are not Federal funds.
14 And as the discussion of this committee in the last 20
15 minutes has shown, the sponsors cannot even tell us what
16 this section covers and what this section does not cover.

17 My Republican colleagues have never before taken the
18 radical position that a tax credit, deduction, or exemption
19 somehow converts to money that the Government has, through
20 that tax treatment, decided not to collect from your pocket
21 into Federal dollars. The notion that money in your pocket
22 is magically converted into Federal funds is ridiculous.
23 That position is at odds with Congress' and the courts'
24 longstanding treatment of donations to religious
25 organizations, showing how specious the claim is when

1 applied here.

2 The Supreme Court made this clear more than 30 years
3 in *Walls v. Tax Commission of the City of New York* in 1970.
4 I quote: The grant of a tax exemption is not sponsorship
5 since the Government does not transfer part of its revenues
6 to churches, but simply abstains from demanding that the
7 church support the state. No one has ever suggested a tax
8 exemption has converted libraries, art galleries, or
9 hospitals into arms of the state or put employees on the
10 public payroll. There is no genuine nexus between tax
11 exemption and the establishment of religion. Closed quote.

12 If tax exemptions are now Federal money, because you
13 are saying that a tax exemption is a Federal funding which
14 we must stop, then extending them to religious
15 contributions constitutes direct Federal aid to religious
16 institutions like churches, synagogues, and mosques and
17 would violate the Establishment Clause of the Constitution.
18 I don't think anyone wants to argue that.

19 Section 303 is not about Federal funds. It is not
20 about codifying existing law. It is about converting
21 private funds through tax exemptions into public funds,
22 which is against everything we normally hear from the other
23 side of the aisle -- and from our side, for that matter --
24 and it should be struck entirely from this bill, and that
25 is what this amendment would do.

1 I yield back.

2 Chairman Smith. Thank you, Mr. Nadler.

3 The gentleman from Arizona, Mr. Franks, is recognized.

4 Mr. Franks. Well, Mr. Chairman, ironically I agree
5 with the gentleman on one point, and that is that money in
6 one's pocket, before they fill out their tax return, is not
7 public money.

8 The bottom line here is we are talking about
9 Government incentives for abortion in our tax policy, and
10 yes, that is a viable thing that we are trying to affect as
11 Government incentives here. And the tax code is a
12 mechanism sometimes that Government incents or disincent.
13 And we make charitable deductions. We make charitable tax
14 credits. I have a cases before the United States Supreme
15 Court on this issue on a bill I wrote many years ago.

16 So I won't try to split the atom here with you. What
17 I am saying to you is that H.R. 3 only removes Government
18 funding for abortion coverage and tax incentives for
19 abortion. People can get insurance with abortion coverage
20 under the bill, just not as a matter of Federal policy. To
21 suggest that we should write or rewrite our tax code in
22 order to favor abortion or to incent abortion I think is a
23 valid discussion, and I would just suggest to you that we
24 don't have to do that.

25 So let me just go ahead and say it should be obvious

1 that the bill allows individuals to purchase health care
2 coverage with abortion or separate abortion supplemental
3 insurance with their own funds in section 305. It also
4 explicitly allows insurance providers to offer coverage
5 with abortion in section 306. But it only removes
6 Government funding for abortion coverage and tax incentives
7 for abortion. People can get insurance with abortion
8 coverage under the bill, just not as a matter of Federal
9 policy.

10 Chairman Smith. Does the gentleman yield back?

11 Mr. Franks. I would yield back.

12 Chairman Smith. Thank you, Mr. Franks.

13 Are there other members who wish to be heard? The
14 gentleman from Virginia, Mr. Scott.

15 Mr. Scott.

16 Mr. Scott. I move to strike the last word on the --

17 Chairman Smith. The gentleman is recognized for 5
18 minutes.

19 Mr. Scott. Mr. Chairman, I support the amendment. It
20 would eliminate a lot of the confusion that we have just
21 discussed, and I would yield the balance of the time to the
22 gentleman from New York.

23 Mr. Nadler. Thank you. I won't use much of the
24 balance of the time. I will be very brief, except to say
25 that Mr. Franks lays it on the line. He calls the tax

1 breaks tax incentives, and he says we shouldn't do that.
2 Well, all tax breaks are incentives in one sense. When you
3 are permitted to deduct on your personal income taxes the
4 contribution to the church, you could call that an
5 incentive. We don't. We have said that that is not
6 Government money. It is not Government funding of
7 religion. If it were, it would be unconstitutional.

8 And the Hyde Amendment and current Federal law does
9 not consider here or anyplace else a tax exemption as
10 Federal funding.

11 So, yes, that might be a discussion worth having, but
12 the gentleman concedes that it is new, that it is novel,
13 that for the first time we are extending a prohibition on
14 Federal funding to tax exemptions, which we have always
15 considered and still consider in all other contexts private
16 decisions. I submit it is wrong to do that, but it is
17 clearly way radical and way beyond what the current law is.

18 I yield back.

19 Mr. Franks. Would the gentleman yield briefly? The
20 bill doesn't affect tax exemptions at all.

21 Mr. Nadler. I yield back to the gentleman from
22 Virginia.

23 Mr. Scott. I will yield.

24 Chairman Smith. The gentleman from Virginia has the
25 time, and the gentleman yields to the gentleman from

1 Arizona, Mr. Franks.

2 Mr. Franks. The term "tax exemption is not affected
3 and is not addressed in the bill. Tax deduction, tax
4 credits are.

5 But I would just suggest in response to Mr. Nadler's
6 comment that, yes, we have collectively come to the
7 conclusion as Americans that if you are giving a
8 contribution to something that helps poor people have food
9 on the streets or people give money to their churches, we
10 thought that that was probably a good thing to encourage.
11 But killing children is something where there is not that
12 kind of consensus on. So that is the difference.

13 Mr. Scott. Reclaiming my time.

14 Mr. Chairman, one of the problems that we have is the
15 term on line 17. It says "no credit." The term "credit"
16 is not defined. The gentleman from Arizona has described
17 the credit as the credit received under the health care
18 bill but "credit," if it is used as a technical term as a
19 tax credit, as opposed to the word "deduction" that is on
20 line 23, just offers -- insofar as it is not defined, we
21 don't know what it means. And that is why the amendment is
22 a good amendment.

23 Chairman Smith. Would the gentleman from Virginia
24 yield to the gentlewoman from Texas, Ms. Jackson Lee?

25 Mr. Scott. I yield.

1 Ms. Jackson Lee. I thank the gentleman.

2 First of all, I really take umbrage and offense for
3 any suggestion that anyone who opposes this legislation
4 wants to kill children. I have just left my district where
5 seven babies were under the care of a caretaker, day care
6 center, and in a fire four babies burned up. The entire
7 community is mourning for the loss of those children.

8 We are, I would imagine and do not want to be
9 presumptuous enough to speak for my colleagues, not pro
10 abortion but pro choice. And my fear of this legislation
11 overall -- and I support the amendment -- is that for those
12 who are against big government, this seems to be the
13 biggest form of big government that could actually cause a
14 loss of life. This is so burdensome that it seems unlikely
15 that any insurers would want to have anything to do with
16 the coverage of abortions which may be dictated by the
17 necessities of health and life of the mother or by a
18 physician. And therefore, I am taken aback.

19 And I agree with Mr. Franks. We have a philosophical
20 disagreement and he has a right to his private beliefs. I
21 respect him for it. I have a right to my private beliefs,
22 as do other Americans. And how this new Congress can come
23 in on the wave of downsizing Government and we now want to
24 reach into the very private parts and private decisions of
25 Americans, those who I am sure want to have and grow

1 families and others who have other circumstances that would
2 argue vigorously against this untimely legislation, one
3 that would intrude into the personal and private rights.

4 I support Mr. Nadler's amendment, and I am aghast that
5 anyone that would want to suggest that anyone wants to kill
6 children. I do not.

7 I yield back.

8 Chairman Smith. The gentleman from Virginia yields
9 back his time.

10 The question is on the amendment.

11 Mr. Chabot. Mr. Chairman?

12 Chairman Smith. Who seeks to be recognized?

13 Mr. Chabot. Here, Mr. Chairman.

14 Chairman Smith. The gentleman from Ohio, Mr. Chabot.

15 Mr. Chabot. Thank you. I will be very brief, Mr.
16 Chairman. I move to strike the last word.

17 I appreciate the gentlelady from Texas' statement, her
18 point of view, but I would just like to make one
19 clarification. That is when we talk about killing
20 children. Those of us that are pro life believe that these
21 blastocysts or zygotes or fetuses that the other side
22 refers to occasionally are children. They are unborn
23 children. They are in an earlier stage than a child that
24 has actually been born and that you can see and hold and
25 feed and sing to and all that kind of stuff. But these

1 unborn children have the right to life just like those.
2 And whereas the terminology a lot of times gets thrown back
3 and forth, we believe it is killing children when one has
4 an abortion.

5 Ms. Jackson Lee. Would my good friend yield?

6 Mr. Chabot. I will in just a second.

7 Ms. Jackson Lee. And it is just a second.

8 Let me just say that I respect your beliefs and I
9 would hope that you would characterize and respect --
10 characterize our beliefs as we see it and respect our
11 beliefs and also respect the constitutional right to
12 privacy.

13 I yield back.

14 Mr. Chabot. Well, reclaiming my time.

15 And again, oftentimes we get in these heated debates
16 and there is probably not an issue that people feel more
17 strongly about than the pro life issue or the pro choice
18 issue, depending on the terminology. But we really do
19 believe that these are unborn children, and they have a
20 right to be protected just as you and I do and just as our
21 own children who have been born do. And so it can get
22 fairly emotional on both sides. But I just wanted to make
23 that clarification that we believe this is human life,
24 which we have a responsibility to protect.

25 Ms. Lofgren. Would the gentleman yield?

1 Mr. Chabot. Yes, I would be happy to yield.

2 Ms. Lofgren. I thank the gentleman for yielding.

3 You know, this is an issue that divides Americans, and
4 I understand that you have a personal opinion which you are
5 entitled to. You don't believe in abortion. Fine. Don't
6 get one. But the U.S. Supreme Court has found that women
7 have a right to this procedure in certain circumstances.
8 And I don't think you have a right to impose your personal
9 view overruling the Supreme Court and the Constitution to
10 oppress the women of this country.

11 Mr. Chabot. Reclaiming my time.

12 We believe that we have a responsibility to protect
13 unborn life, as well as life that has had the opportunity
14 to be born.

15 And I yield back the balance of my time.

16 Chairman Smith. Thank you, Mr. Chabot.

17 The question is on the amendment. All in favor say
18 aye.

19 [A chorus of ayes.]

20 Chairman Smith. All opposed, nay.

21 [A chorus of nays.]

22 Chairman Smith. The nays have it. The amendment is
23 not agreed to.

24 A roll call has been requested. The clerk will call
25 the roll.

1 Ms. Kish. Mr. Smith?
2 Chairman Smith. No.
3 Ms. Kish. Mr. Smith votes no.
4 Mr. Sensenbrenner?
5 [No response.]
6 Ms. Kish. Mr. Coble?
7 [No response.]
8 Ms. Kish. Mr. Gallegly?
9 Mr. Gallegly. No.
10 Ms. Kish. Mr. Gallegly votes no.
11 Mr. Goodlatte?
12 Mr. Goodlatte. No.
13 Ms. Kish. Mr. Goodlatte votes no.
14 Mr. Lungren?
15 [No response.]
16 Ms. Kish. Mr. Chabot?
17 Mr. Chabot. No.
18 Ms. Kish. Mr. Chabot votes no.
19 Mr. Issa?
20 [No response.]
21 Ms. Kish. Mr. Pence?
22 Mr. Pence. No.
23 Ms. Kish. Mr. Pence votes no.
24 Mr. Forbes?
25 [No response.]

1 Ms. Kish. Mr. King?
2 Mr. King. No.
3 Ms. Kish. Mr. King votes no.
4 Mr. Franks?
5 Mr. Franks. No.
6 Ms. Kish. Mr. Franks votes no.
7 Mr. Gohmert?
8 Mr. Gohmert. No.
9 Ms. Kish. Mr. Gohmert votes no.
10 Mr. Jordan?
11 Mr. Jordan. No.
12 Ms. Kish. Mr. Jordan votes no.
13 Mr. Poe?
14 Mr. Poe. No.
15 Ms. Kish. Mr. Poe votes no.
16 Mr. Chaffetz?
17 Mr. Chaffetz. No.
18 Ms. Kish. Mr. Chaffetz votes no.
19 Mr. Reed?
20 Mr. Reed. No.
21 Ms. Kish. Mr. Reed votes no.
22 Mr. Griffin?
23 [No response.]
24 Ms. Kish. Mr. Marino?
25 Mr. Marino. No.

1 Ms. Kish. Mr. Marino votes no.
2 Mr. Gowdy?
3 Mr. Gowdy. No.
4 Ms. Kish. Mr. Gowdy votes no.
5 Mr. Ross?
6 Mr. Ross. No.
7 Ms. Kish. Mr. Ross votes no.
8 Ms. Adams?
9 Ms. Adams. No.
10 Ms. Kish. Ms. Adams votes no.
11 Mr. Quayle?
12 [No response.]
13 Ms. Kish. Mr. Conyers?
14 Mr. Conyers. Aye.
15 Ms. Kish. Mr. Conyers votes aye.
16 Mr. Berman?
17 Mr. Berman. Aye.
18 Ms. Kish. Mr. Berman votes aye.
19 Mr. Nadler?
20 Mr. Nadler. Aye.
21 Ms. Kish. Mr. Nadler votes aye.
22 Mr. Scott?
23 Mr. Scott. Aye.
24 Ms. Kish. Mr. Scott votes aye.
25 Mr. Watt?

1 [No response.]
2 Ms. Kish. Ms. Lofgren?
3 Ms. Lofgren. Aye.
4 Ms. Kish. Ms. Lofgren votes aye.
5 Ms. Jackson Lee?
6 Ms. Jackson Lee. Aye.
7 Ms. Kish. Ms. Jackson Lee votes aye.
8 Ms. Waters?
9 Ms. Waters. Aye.
10 Ms. Kish. Ms. Waters votes aye.
11 Mr. Cohen?
12 Mr. Cohen. Aye.
13 Ms. Kish. Mr. Cohen votes aye.
14 Mr. Johnson?
15 Mr. Johnson. Aye.
16 Ms. Kish. Mr. Johnson votes aye.
17 Mr. Pierluisi?
18 Mr. Pierluisi. No.
19 Ms. Kish. Mr. Pierluisi votes no.
20 Mr. Quigley?
21 Mr. Quigley. Aye.
22 Ms. Kish. Mr. Quigley votes aye.
23 Ms. Chu?
24 Ms. Chu. Aye.
25 Ms. Kish. Ms. Chu votes aye.

1 Mr. Deutch?

2 Mr. Deutch. Aye.

3 Ms. Kish. Mr. Deutch votes aye.

4 Ms. Sanchez?

5 [No response.]

6 Ms. Kish. Ms. Wasserman Schultz?

7 Ms. Wasserman Schultz. Aye.

8 Ms. Kish. Ms. Wasserman Schultz votes aye.

9 Chairman Smith. Are there other members who wish to
10 be recorded? The gentleman from Wisconsin, Mr.
11 Sensenbrenner?

12 Mr. Sensenbrenner. No.

13 Ms. Kish. Mr. Sensenbrenner votes no.

14 Chairman Smith. The gentleman from North Carolina,
15 Mr. Coble?

16 Mr. Coble. No.

17 Ms. Kish. Mr. Coble votes no.

18 Chairman Smith. The gentleman from North Carolina,
19 Mr. Watt?

20 Mr. Watt. Aye.

21 Ms. Kish. Mr. Watt votes aye.

22 Chairman Smith. The clerk will report.

23 Ms. Kish. Mr. Griffin?

24 Mr. Griffin. No.

25 Ms. Kish. Mr. Griffin votes no.

1 Mr. Chairman, 14 members voted aye; 20 members voted
2 nay.

3 Chairman Smith. The majority having voted against the
4 amendment, the amendment is not agreed to.

5 The gentlewoman from Texas, Ms. Jackson Lee, is
6 recognized to offer an amendment.

7 Ms. Jackson Lee. I thank the chairman very much. I
8 have amendments 7 and 8 that I will take en bloc please.

9 Chairman Smith. Okay, without objection. And the
10 clerk will report.

11 Ms. Kish. "Amendment to the Amendment in the Nature
12 of a Substitute to H.R. 3, offered by Ms. Jackson Lee of
13 Texas. Page 8, line 8, strike the close quotation mark and
14 the period which follows.

15 "Page 8, after line 8, insert the following:

16 "Section 312. Assuring fundamental rights

17 "This chapter shall not take effect unless the
18 Attorney General certifies to Congress that this chapter
19 will not violate a constitutionally guaranteed right."

20 [The amendment follows:]

21

1 Ms. Jackson Lee. Number 8?

2 Ms. Kish. "Amendment to the Amendment in the Nature
3 of a Substitute" --

4 Ms. Jackson Lee. I ask unanimous consent it be
5 considered as read.

6 Chairman Smith. Without objection, the amendment is
7 considered as read.

8 [The information follows:]

1 Chairman Smith. And the gentlewoman is recognized in
2 support of her two amendments.

3 Ms. Jackson Lee. I thank the gentleman. I thank Mr.
4 Nadler and Mr. Conyers for their indulgence.

5 Members, it is a well told story and well battled
6 issue of privacy under the Constitution. In fact, I
7 believe our Founding Fathers were wise to recognize the
8 value of the Bill of Rights, coming from an oppressive
9 system to move to a country where the rights of Americans
10 were preeminent.

11 And so this is a simple amendment that restates the
12 constitutional thrust that our new colleagues have
13 suggested, that every initiative, every legislative
14 initiative be framed in the constitutional rights. The
15 Ninth Amendment is clear. The Supreme Court is clear. And
16 this particularly indicates that this bill must be
17 subjected to the muster and review of the Constitution.
18 The Ninth Amendment has assured us that we have fundamental
19 rights.

20 Certainly it is the intent of the sponsor of this bill
21 not just to impose any burden or even an undue burden but
22 to impose an insurmountable burden on a woman's fundamental
23 right to make decisions about her private body and private
24 choices. They undoubtedly hope that they have achieved
25 their goal with this bill which includes an unprecedented

1 penalty on a woman's use of her own money to cover abortion
2 services and to refuse to give her a Government cover, if
3 you will, Government benefit which, in essence, undermines
4 her right to privacy.

5 Each of us takes a solemn oath to support and defend
6 the Constitution against all enemies, foreign and domestic.
7 This particular legislation does not.

8 My second amendment refers to a provision in the bill
9 which clearly says that if you have any disease, you can
10 secure a right to an abortion if you die -- if it is death
11 that will wind up happening to you. My amendment simply
12 says and crafts and frames the health of a woman, the
13 health of an individual and to suggest to them that if the
14 health issue is devastating, that they can, in fact, secure
15 relief through their medical choices and their physician,
16 such as Tamara who was diagnosed with cervical cancer when
17 she found out from her doctor that she was also pregnant.
18 Tamara had to make a decision on this issue, and she knew
19 that she could not risk leaving her three sons alone
20 without their mother but was unable to afford the costs of
21 the procedure. These are the issues that we find over and
22 over again, women battling a severe blood disorder, women
23 who are in severe mental states, schizophrenia. All of
24 these individuals where a medical doctor would suggest that
25 there was severe difficulty in going forward. They would

1 not die but they would be in a very severe health status.

2 This amendment covers that provision.

3 And I would ask my colleagues to recognize with all
4 due respect our individual beliefs, that the one thing that
5 we all agree with is the constitutional privileges that are
6 guaranteed by the Constitution and the Bill of Rights, from
7 the First Amendment and freedom of access and speech to the
8 issues of preventing us from being subjected to
9 unreasonable search and seizure, from the rights of due
10 process, and certainly from the Ninth Amendment, remember
11 approved by the States and both bodies of this Congress.
12 Amendments to the Bill of Rights and the Constitution had
13 that kind of authority. And that means that these
14 individuals have the right to be able to be secure in the
15 medical choices they are making.

16 I ask my colleagues to support both amendments 7 and
17 8.

18 Chairman Smith. Thank you, Ms. Jackson Lee.

19 The gentleman from Arizona, Mr. Franks, is recognized
20 in opposition.

21 Mr. Franks. Well, thank you, Mr. Chairman.

22 Mr. Chairman, this amendment should be defeated
23 because it really gives Attorney General Eric Holder carte
24 blanche to define the Constitution however he wants in
25 order to gut the bill.

1 This bill is constitutional beyond question. I would
2 just say two things.

3 First, the gentlelady seems to equate this bill with a
4 right or non-right to abortion rather than the real issue
5 here which is whether the Government funds or incentivizes
6 it. And there is a clear distinction.

7 Now, Mr. Chairman, when we talk about the
8 Constitution, the Constitution's basic premise is that no
9 person shall be deprived of life, liberty, or property
10 without due process of law. There is nothing more
11 foundational and fundamental about our Constitution than
12 that.

13 And once in a while the Supreme Court gets it wrong.
14 The Supreme Court said in 1856 or 1857 in the Dred Scott
15 decision that the slave was not a person. Now, history has
16 repudiated that pretty effectively. There is even consensus
17 in this committee on that question now.

18 The high tribunal in Germany said the Jew was not a
19 person, and we have repudiated that as a fundamental
20 mistake.

21 And I would submit that someday we will do the same
22 thing here with the unborn child because more and more we
23 are all beginning to realize that there really is another
24 person involved in this discussion.

25 And I hope that we can, for the moment, try not to mix

1 the two questions here, which is Government incentive and
2 funding as opposed to the whole constitutional question of
3 abortion itself.

4 As far as the second amendment or the part that has
5 been added to it, the health exception, beyond the life
6 exceptions and the rape/incest exceptions in the bill,
7 would really allow the bill to be gutted by those who
8 oppose it. The Hyde Amendment does not contain a broader
9 exception for health, and there is no reason to add one
10 here. Such language has never been part of the Hyde
11 Amendment or any parallel provision for Federal employees
12 or military hospitals.

13 And I can go on, Mr. Chairman, if I need to, but I
14 would just suggest to you that this adds additional health
15 exceptions that would gut the bill, and they have never
16 been a part of Federal Code and Hyde Amendment before, and
17 this is the wrong time to add it.

18 Chairman Smith. Thank you, Mr. Franks.

19 Are there any others who wish to be heard? The
20 gentleman from New York, Mr. Nadler?

21 Mr. Nadler. Mr. Chairman, I move to strike the last
22 word.

23 Chairman Smith. The gentleman is recognized for 5
24 minutes.

25 Mr. Nadler. Thank you, Mr. Chairman.

1 First, I would just like to, I believe, correct the
2 gentleman. The health exception was in the Hyde Amendment
3 for many years and it has certainly been in Federal law in
4 different places for many years.

5 Now, Mr. Chairman, there has been a great deal of
6 discussion about whether there needs to be protection for
7 women whose lives or health are endangered and require an
8 abortion. Whenever Congress decides to play doctor, it is
9 always bad medicine for women. We should leave these
10 questions to women and their health care providers. That
11 is where life and death medical decisions assessing a
12 woman's actual medical condition and determining the proper
13 course of treatment belong, not in a debate in a
14 congressional committee.

15 I ask unanimous consent to place into the record a
16 letter from Dr. Cassing Hammond, Associate Professor of
17 Obstetrics and Gynecology at Northwestern Feinberg School
18 of Medicine, in which Dr. Hammond explains how a number of
19 health conditions would necessitate an abortion before a
20 health risk becomes a risk to life. Perhaps it would be
21 helpful if our colleagues listened to the medical
22 professionals and at the very least allowed for the
23 flexibility necessary to protect women's lives.

24 Chairman Smith. Without objection.

25 Mr. Nadler. I asked unanimous consent.

- 1 Chairman Smith. Yes, without objection.
- 2 [The information follows:]

1 Mr. Nadler. Thank you. I yield back.

2 Chairman Smith. The gentleman yields back.

3 Are there any other members who wish to be heard? If
4 not --

5 Ms. Lofgren. Mr. Chairman?

6 Chairman Smith. The gentlewoman from California, Ms.
7 Lofgren?

8 Ms. Lofgren. I would just like to say the idea that
9 the men here on this committee have the right to tell women
10 across the country and their husbands that the mom and the
11 family has to die is just stunning to me. It is just a
12 stunning amount of arrogance. It is incomprehensible.

13 I know that Ms. Jackson Lee wanted to comment. I
14 would yield briefly to her.

15 Ms. Jackson Lee. Let me thank the gentlelady from
16 California. She captured certainly the overall thrust of
17 amendment 7.

18 And I wanted to just reinforce that point about these
19 personal decisions that must take a great deal of prayer
20 and consultation, as Mr. Nadler indicated, with a medical
21 professional.

22 Tamara, whose name I offer to you who had devastating
23 cervical cancer, was well aware of the potential of dying
24 and leaving three sons. Obviously, she loved her children.
25 She had children. And we are now stomping on her

1 fundamental rights of privacy, a decision that needs to be
2 made by her person of faith, her physician, her family, and
3 therefore nullifying the Ninth Amendment.

4 And I am glad Mr. Nadler indicated that the Hyde
5 Amendment did have a respect of the health question, as has
6 other legislation that has been affirmed by the Supreme
7 Court. But then this whole idea of surgically removing the
8 fundamental right of the Ninth Amendment, of suggesting
9 that we will now statutorily just eliminate the
10 Constitution baffles me.

11 I have already respected the gentleman's right to his
12 position and some aspects of what he has written. We are
13 just simply trying to say don't quash the Constitution in
14 the midst of your desire to put forward your personal
15 beliefs, of which, as I indicated, you are a Member of
16 Congress and we have the right to do so, but not to
17 trounce, stomp, eliminate the rights of millions of
18 Americans, mothers, fathers, doctors, faith leaders who
19 recognize this is as a devastating decision that has to be
20 made.

21 I ask my colleagues to support both amendments 7 and
22 8.

23 I yield back.

24 Chairman Smith. The gentlewoman from California
25 yields back her time.

1 Mr. King. Mr. Chairman?

2 Chairman Smith. And the gentleman from Iowa, Mr.
3 King, is recognized.

4 Mr. King. Thank you, Mr. Chairman. I move to strike
5 the last word on the amendment.

6 I read amendment number 7, the gentlelady from Texas'
7 amendment, and I just read it into the record for clarity.
8 "This chapter shall not take effect unless the Attorney
9 General certifies to Congress that this chapter will not
10 violate a constitutionally guaranteed right."

11 Boy, that causes me to take a deep breath before I
12 begin to address it, Mr. Chairman, because I happen to
13 recall some of the decisions that have been made by this
14 Attorney General. Attorney General Holder, sitting down
15 here at this table not that many months ago, when I asked
16 him the question point for me in S.B. 1070, Arizona's
17 immigration law, point for me where you believe it violates
18 the Constitution, point for me where you believe it expands
19 the Federal immigration statute, he could do none of those
20 things. He could make no basis for suing Arizona on
21 constitutional principles, but he conceded that the
22 President had ordered him to sue Arizona. And a few
23 moments later, he conceded to Judge Ted Poe that he had not
24 read the bill.

25 You know, now we have an Attorney General who has

1 decided that he is not going to defend the Defense of
2 Marriage Act. The Defense of Marriage Act is a tried and
3 true principle here. It is in Federal statute. It is
4 solid law. It is well established. And he has given an
5 oath to uphold the Constitution of the United States and to
6 faithfully execute those laws as part of his oath and part
7 of the President's.

8 And now it is appalling to me to think that the
9 gentlelady from Texas would want to bring an amendment to
10 grant the authority to now wave a section of a statute,
11 upon his judgment, as to whether it is in compliance with
12 the Constitution. I think that's a great big stretch under
13 these circumstances and I'd love to ask these questions of
14 the Attorney General some time before this committee, as
15 soon as possible.

16 Ms. Jackson Lee. Would the gentleman yield?

17 Mr. King. I would yield.

18 Ms. Jackson Lee. Thank you so very much.

19 You notice in my amendment I did not call any name.
20 I did not specifically cite an Attorney General. This
21 would apply to former Attorney General Ashcroft, former
22 Attorney General Mukasey and any others that --

23 Mr. King. Reclaiming my time. I don't expect that
24 those --

25 Ms. Jackson Lee. Thank you to the gentleman. I

1 yield back.

2 Mr. King. Attorney Generals will be again appointed
3 as Attorney Generals to the United States, but I would
4 concede that it might apply to a subsequent Attorney
5 General. And if it is the gentlelady's faith that the next
6 one might have a better understanding of the Constitution,
7 that still doesn't give me faith, at this time. I urge
8 opposition to this amendment.

9 Chairman Smith. Would the gentleman from Iowa yield
10 to the gentleman from Virginia, Mr. Goodlatte?

11 Mr. King. I would yield.

12 Mr. Goodlatte. I think, and I just wanted to make
13 the point, in response to the gentlewoman from California,
14 this is not about depriving people the right to have an
15 abortion, it's about whether or not taxpayers are going to
16 pay for those abortions. And if some other entity or
17 organization or individual wants to help an individual get
18 an abortion, and there are well known organizations that do
19 just that, this doesn't stop them from doing that. So I
20 think it's a bold assertion to claim that women will die --

21 Mr. Nadler. Would the gentleman yield for a second?

22 Mr. King. Be happy to yield.

23 Mr. Goodlatte. Well, it's the gentleman from Iowa's
24 time.

25 Mr. King. I would yield.

1 Mr. Nadler. Thank you. I just wanted to say, if Mr.
2 Goodlatte's comment was very interesting that if some
3 private organization wants to fund an abortion for some --
4 for an individual that is -- in fact you said that is their
5 privilege, but of course we'll defund them in that case
6 because that seems to be the object of a different bill in
7 front of this Congress.

8 Mr. Goodlatte. Well of course we'll defund them from
9 receiving taxpayer dollars, that is the whole point of this
10 legislation. But if somebody wants to use private dollars
11 to pay for an abortion, I quite frankly am pro-life,
12 wouldn't support that, but that is --

13 Mr. Johnson. Would the gentleman --

14 Mr. Goodlatte. -- not the -- that is not the subject
15 of the debate here today.

16 Mr. Johnson. Would the gentleman yield? Would the
17 gentleman yield?

18 Mr. King. Reclaiming my time and with what little
19 time I have left --

20 Mr. Johnson. Would the gentleman yield?

21 Mr. King. -- I don't intend to yield. I am sorry
22 but, I'll just make this point that there is no
23 constitutional right inferred or implied on compelling
24 taxpayers to fund abortions in this country. And so I
25 don't think it's an issue and I think this is an

1 unnecessary amendment --

2 Mr. Johnson. Would the gentleman yield?

3 Mr. King. -- with unfortunate implications.

4 And I would yield back the balance of my time.

5 Chairman Smith. Okay. The gentleman yields back the
6 balance of his time. The gentleman from Georgia is
7 recognized.

8 Mr. Johnson. Thank you, Mr. Chairman. You know, we
9 talk about people with money who can purchase insurance or
10 people who have money who may finance an abortion
11 themselves, but what about all of the poor women who cannot
12 afford an abortion? Would this bill force them into the
13 back alleys? Back to the stone ages? What are we doing
14 here?

15 Mr. Franks. If the gentleman would yield, I would
16 try to answer the question. It is true that wealthy people
17 --

18 Mr. Johnson. We do care. And I yield to the
19 gentleman.

20 Mr. Franks. I'm sorry?

21 Mr. Johnson. I yield to the gentleman.

22 Mr. Franks. Okay. It is true that people with means
23 or money have always been able to afford to do certain
24 things that the people who are poor cannot. I mean --

25 Mr. Johnson. They wouldn't make them go to the back

1 alley, would they?

2 Mr. Franks. Rich people can buy drugs and hire, they
3 can do all kinds of terrible things.

4 Mr. Johnson. And they can hire a doctor --

5 Mr. Franks. There are better ways to help poor money
6 than paying to kill their children. There are better ways
7 to help poor women, that doesn't liberate them.

8 Mr. Johnson. Well now this comes down to this issue
9 of where does life begin, Mr. Franks. And life, I guess
10 you would argue, begins at conception. Is that your
11 argument?

12 Mr. Franks. That is 101 Biology, Mr. Johnson.

13 Mr. Johnson. Okay, well some might go a little
14 further than that and say that life begins at the potential
15 with just one sperm. Some may say that life begins just
16 with one egg. So if we decided that we are going to make
17 it illegal for a man to get a vasectomy, because we, as
18 men, think that life begins at that point, what is to stop
19 us from doing that? If we want to decide that women cannot
20 have their tubes tied, because there is a potential for
21 life there, where do we draw the line?

22 And the -- that question has been answered by our
23 U.S. Supreme Court. And I realize there are many who
24 disagree with the line that the U.S. Supreme Court drew
25 with respect to viability and a woman's right to decide

1 about her body, without interference from another man or
2 woman during that first trimester where the baby is deemed
3 to not be viable. And so you know, we can argue about
4 whether or not that is the right approach, or we can just
5 argue that okay, well we are going to make, arbitrarily, a
6 decision that life begins at the conception, which is the
7 sperm penetrating the egg. We can decide it like that, but
8 you are not respecting those who feel that the sperm or the
9 egg standing by itself represents the potential for life
10 and that potential should not be cut short.

11 So I think I have stretched it out a little bit more
12 than where we were originally headed, but I think I must
13 say that if you respect my feeling about it, then we could
14 go further and say that no man should have a vasectomy or
15 no woman should have her tubes tied. I am saying that, not
16 to say that I believe that or that is my philosophy, but it
17 could be someone else's, I would respect that too.

18 But somebody has to make the choice, and I think the
19 U.S. Supreme Court has made the choice. And ironically,
20 they cut that choice a little bit with an action back in
21 '92, I believe. Planned Parenthood was a party, and now
22 ironically we are trying to get at Planned Parenthood by
23 defunding it. It is just, you know, this is really
24 something. But basically a woman has the right to choose
25 and this is an attack on women.

1 And I will yield back.

2 Chairman Smith. The gentleman yields back his time.

3 The question is on the amendment. Those in favor, say aye.

4 [A chorus of ayes.]

5 Ms. Jackson Lee. Roll call.

6 Chairman Smith. Opposed?

7 Chairman Smith. Roll call has been requested. The

8 clerk will call the roll.

9 Ms. Kish. Mr. Smith?

10 Chairman Smith. No.

11 Ms. Kish. Mr. Smith votes no.

12 Mr. Sensenbrenner?

13 [No response.]

14 Ms. Kish. Mr. Coble?

15 [No response.]

16 Ms. Kish. Mr. Gallegly?

17 [No response.]

18 Ms. Kish. Mr. Goodlatte?

19 Mr. Goodlatte. No.

20 Ms. Kish. Mr. Goodlatte votes no.

21 Mr. Lungren?

22 [No response].

23 Ms. Kish. Mr. Chabot?

24 Mr. Chabot. No.

25 Ms. Kish. Mr. Chabot votes no.

1 Mr. Issa?
2 [No response.]
3 Ms. Kish. Mr. Pence?
4 Mr. Pence. No.
5 Ms. Kish. Mr. Pence votes no.
6 Mr. Forbes?
7 [No response.]
8 Ms. Kish. Mr. King?
9 Mr. King. No.
10 Ms. Kish. Mr. King votes no.
11 Mr. Franks?
12 Mr. Franks. No.
13 Ms. Kish. Mr. Franks votes no.
14 Mr. Gohmert? Mr. Gohmert?
15 Mr. Gohmert. No.
16 Ms. Kish. Mr. Gohmert votes no.
17 Mr. Jordan?
18 [No response.]
19 Ms. Kish. Mr. Poe?
20 [No response.]
21 Ms. Kish. Mr. Chaffetz?
22 Mr. Chaffetz. No.
23 Ms. Kish. Mr. Chaffetz votes no.
24 Mr. Reed?
25 Mr. Reed. No.

1 Ms. Kish. Mr. Reed votes no.
2 Mr. Griffin?
3 Mr. Griffin. No.
4 Ms. Kish. Mr. Griffin votes no.
5 Mr. Marino?
6 Mr. Marino. No.
7 Ms. Kish. Mr. Marino votes no.
8 Mr. Gowdy?
9 Mr. Gowdy. No.
10 Ms. Kish. Mr. Gowdy votes no.
11 Mr. Ross?
12 Mr. Ross. No.
13 Ms. Kish. Mr. Ross votes no.
14 Ms. Adams?
15 Ms. Adams. No.
16 Ms. Kish. Ms. Adams votes no.
17 Mr. Quayle?
18 Mr. Quayle. No.
19 Ms. Kish. Mr. Quayle votes no.
20 Mr. Conyers?
21 Mr. Conyers. Aye.
22 Ms. Kish. Mr. Conyers votes aye.
23 Mr. Berman?
24 Mr. Berman. Aye.
25 Ms. Kish. Mr. Berman votes aye.

1 Mr. Nadler?
2 Mr. Nadler. Aye.
3 Ms. Kish. Mr. Nadler votes aye.
4 Mr. Scott?
5 Mr. Scott. Aye.
6 Ms. Kish. Mr. Scott votes aye.
7 Mr. Watt?
8 Mr. Watt. Aye.
9 Ms. Kish. Mr. Watt votes aye.
10 Ms. Lofgren?
11 Ms. Lofgren. Aye.
12 Ms. Kish. Ms. Lofgren votes aye.
13 Ms. Jackson Lee?
14 Ms. Jackson Lee. In support of the Constitution, aye.
15 Ms. Kish. Ms. Jackson Lee votes aye.
16 Ms. Waters?
17 Ms. Waters. Aye.
18 Ms. Kish. Ms. Waters votes aye.
19 Mr. Cohen?
20 Mr. Cohen. Aye.
21 Ms. Kish. Mr. Cohen votes aye.
22 Mr. Johnson?
23 Mr. Johnson. Aye.
24 Ms. Kish. Mr. Johnson votes aye.
25 Mr. Pierluisi?

1 Mr. Pierluisi. Aye.
2 Ms. Kish. Mr. Pierluisi votes aye.
3 Mr. Quigley?
4 Mr. Quigley. Aye.
5 Ms. Kish. Mr. Quigley votes aye.
6 Ms. Chu?
7 Ms. Chu. Aye.
8 Ms. Kish. Ms. Chu votes aye.
9 Mr. Deutch?
10 Mr. Deutch. Aye.
11 Ms. Kish. Mr. Deutch votes aye.
12 Ms. Sanchez?
13 [No response.]
14 Ms. Kish. Ms. Wasserman Schultz?
15 Ms. Wasserman Schultz. Aye.
16 Ms. Kish. Ms. Wasserman Schultz votes aye.
17 Chairman Smith. Mr. Sensenbrenner?
18 Mr. Sensenbrenner. No.
19 Ms. Kish. Mr. Sensenbrenner votes no.
20 Chairman Smith. Mr. Gallegly?
21 Mr. Gallegly. No.
22 Ms. Kish. Mr. Gallegly votes no.
23 Chairman Smith. Mr. Coble?
24 Mr. Coble. No.
25 Ms. Kish. Mr. Coble votes no.

1 Chairman Smith. Mr. Poe?

2 Mr. Poe. No.

3 Ms. Kish. Mr. Poe votes no.

4 Chairman Smith. Are there other members who wish to
5 record their votes? If not, the clerk will report.

6 Ms. Kish. Mr. Chairman, 15 members voted aye; 19
7 members voted nay.

8 Chairman Smith. The majority having voted against the
9 amendment, the amendment is not agreed to.

10 The gentleman from New York, Mr. Nadler, is recognized
11 for the purpose of offering an amendment.

12 Mr. Nadler. Thank you. Mr. Chairman, I have an
13 amendment at the desk, Number 003.

14 Chairman Smith. The clerk will report the amendment.

15 Ms. Kish. "An Amendment to the Amendment in the
16 Nature of a Substitute to H.R. --"

17 Chairman Smith. Without objection the amendment is
18 considered as read.

19 [The information follows:]

1 Chairman Smith. The gentleman is recognized in
2 support of his amendment.

3 Mr. Nadler. Thank you, Mr. Speaker -- Mr. Chairman
4 rather.

5 This is a simple amendment. It is designed to
6 Americans and American businesses from the huge tax
7 increases that this bill will likely impose. It simply
8 states that the President or his designee must first
9 certify the text of 303, the section taking away tax
10 benefits from Americans who exercise their right to obtain
11 an abortion with their own money, will not result in a tax
12 increase. It is a small but important protection for
13 taxpayers around the country.

14 Unless it is the sponsor's intent to use tax
15 penalties to impose a massive tax increase on Americans who
16 choose to exercise their own private choices about their
17 own health care and health care coverage, using their own
18 money, every member should be able to support this
19 amendment.

20 And I must make a comment here. Mr. Franks, at an
21 earlier colloquy, which I didn't get -- I didn't reply to
22 then, said that tax policy is used as incentive and we
23 shouldn't use tax policy as an incentive to kill babies, as
24 he would put it, or to obtain an abortion, as I would put
25 it. Well, tax breaks are in fact, again, this comes to the

1 heart of the bill, I respect Mr. Franks' view, but what
2 he's really saying is we should impose a tax increase on
3 people who choose to use their own money to perform an
4 abortion, to the extent that this bill does that, to the
5 extent that this bill suddenly cause a tax break, a tax
6 exemption, tax credit, tax deduction Government funding.
7 We have never done that before and we shouldn't start doing
8 it now.

9 And for Government to start making value judgments,
10 this charitable contribution does a good thing, it gives
11 money to a church or a synagogue, so we won't -- so we will
12 allow it, but that charitable deduction, from the same tax
13 credit -- or rather that deduction for a different purpose
14 that we don't like, we will now call Federal funding. It's
15 fundamentally wrong, because either a taxpayer gets Federal
16 funding or it is not. If it is not, then the tax break
17 should be -- is there and shouldn't be interfered with. If
18 it is, then that is a different question, but then you get
19 into the question of we have never considered tax breaks to
20 be Federal funding and this bill would radically would
21 start doing that for the first time and we opposed it for
22 that reason. But certainly at least, let us pass this
23 amendment to clarify that we don't mean to impose a large
24 tax increase on people.

25 I yield back.

1 Chairman Smith. The gentleman yields back his time.

2 The gentleman from Arizona, Mr. Franks, is recognized
3 in opposition.

4 Mr. Franks. Well thank you, Mr. Chairman.

5 Well, first of all, Mr. Chairman, the gentleman
6 suggests that Government should make no value decisions
7 between religion and abortion. I mean if you carry that to
8 its extreme we might as well be, you know, subsidizing
9 terrorism if there are no value judgments that we should
10 make here. The fact is that we should make these kinds of
11 judgments for the sake of coming generations, for the sake
12 of this one.

13 Mr. Nadler's argument is premised on sort of a radical
14 view of the First Amendment's Establishment Clause, and
15 really a false equivalence between religion and abortion.
16 And I don't think most Americans are, really certainly very
17 many judges, would agree with the implication that the
18 deduction for religious contributions violates the
19 Establishment Clause. It is certainly not a mainstream
20 view.

21 Mr. Chairman, this amendment should be defeated, as it
22 allows the President to really to gut the bill. In fact
23 under this amendment the President could even gut the bill
24 by just taking no action at all or he could nullify section
25 303 by identifying one radically pro-abortion individual

1 who refuses the Democrats health care laws premium
2 assistance, because they want abortion coverage more than
3 they want the premium assistance. And this is the same
4 President who tried to, you know, to convince us that the
5 Government health care law didn't provide any funding for
6 abortion.

7 And I would just say it sort of astonishes me, Mr.
8 Chairman, that on the one hand I am hearing, on the other
9 side of this lectern, how Government should stay out of
10 these very, very personal decisions and shouldn't be
11 involved in these things, but on the next moment they say
12 that by God, Mr. Taxpayer, no matter what you think about
13 it, you are going to pay for it. And I think that we can
14 have the previous discussion at another time, but today we
15 are talking about Government trying to encourage or fund or
16 incentivize, in my judgment, the killing of little
17 children.

18 So with that, I yield back.

19 Chairman Smith. Okay. Gentleman yields back his
20 time.

21 Ms. Lofgren. Mr. Chairman?

22 Chairman Smith. Gentlewoman from California, Ms.
23 Lofgren is recognized.

24 Ms. Lofgren. Thank you, Mr. Chairman.

25 I think this is -- amendment is a sound one. I agree

1 -- I disagree with the entire bill, but clearly to ask for
2 an assessment of the tax imposition is a reasonable thing
3 to do, I mean especially for a party that says they are
4 opposed to tax increases. And to think that an official
5 would have free reign to say whatever he or she wanted is
6 incorrect. I mean, there is an accounting job to be done
7 here and I would assume that this is something that the
8 majority would want to do.

9 And I would yield further to Mr. Nadler, the maker of
10 the amendment.

11 Mr. Nadler. And thank you, Gentlelady, for yielding.

12 I would simply point out that whether some people like
13 it or not, the abortion -- the right to have an abortion,
14 to choose to have an abortion, is a fundamental
15 constitutional right in this country, it has been so
16 adjudged by the Supreme Court, people may not agree with
17 that or like it, but it is the fact. And what this bill
18 does, for the first time, is it starts making value
19 judgments, picking and choosing, among fundamental rights,
20 with your own money.

21 Now yes, Government has the right, obviously, to
22 choose to do incentives, to choose what to tax and so
23 forth, but once we have a general tax abatement, which we
24 do, all kinds of general tax abatements, to suddenly say
25 that that tax abatement is Federal money, that we are going

1 to stop Federal funding for an activity when what we really
2 mean is we are going to block any use of an exemption for
3 private expenditures, that is a radical change. And when
4 it is directed against the fundamental right, as
5 fundamental according to the Supreme Court as the right to
6 worship, these are rights guaranteed by the Bill of Rights,
7 then it is very wrong and we should not be imposing a tax
8 increase on someone's use of private funding, of private
9 funds, to exercise their constitutional right.

10 And the fact that you come along and say, this is not
11 private funds, it is public funding, if you say that then
12 what you are really saying, as I said before, is that tax
13 advantage private spending is public funding. And if you
14 say that, then that is radically different from the way we
15 have always viewed it. And then sure, in that case, a
16 contribution to a church insofar as it enjoys a charitable
17 -- a tax deduction, would also be public funding and would
18 be prohibited by the First Amendment. We don't say that
19 and we have never said that private funding is -- private
20 tax -- tax exemption or credit for private expenditure is
21 public funding, we shouldn't say it now. And this
22 amendment simply says that this would be a tax increase,
23 which is what it would be, and it shouldn't go into effect
24 as long as it would, in fact, increase taxes.

25 Chairman Smith. Would the gentlewoman from California

1 yield --

2 Mr. Nadler. I thank the gentlelady and I yield back.

3 Chairman Smith. -- to the gentleman from Iowa?

4 Ms. Lofgren. I would certainly yield to the gentleman
5 from Iowa.

6 Mr. King. I thank the gentlelady from California.

7 And I would just make this point that this amendment
8 imposes a judgment call on the President that he himself
9 has rejected. And I recall a discussion at the Saddleback
10 Church in August of 2008 when he was asked when his life
11 began and he said it is beyond my pay scale. So I would
12 suggest that this amendment is beyond the President's pay
13 scale and it should be defeated.

14 And I yield back.

15 Ms. Lofgren. Reclaiming my time. I would note that
16 this amendment has nothing whatsoever to do with the
17 President's comment made during the campaign, it has to do
18 with an accounting issue. And you add up the money and you
19 give a report. And certainly, as with all such amendments,
20 this would be delegated to a money person in the
21 administration. It is a preposterous thing to associate
22 this amendment with the President's statement during the
23 campaign.

24 And I would yield back to the Chairman.

25 Chairman Smith. The gentlewoman yields back her time.

1 The question is on the amendment. All in favor say
2 aye.

3 [A chorus of ayes.]

4 Chairman Smith. All those opposed say nay.

5 [A chorus of nays.]

6 Chairman Smith. In the opinion of the chair the nays
7 have it and the amendment is not agreed to.

8 Mr. Nadler. Mr. Chairman, I ask for a roll call vote.

9 Chairman Smith. Roll call vote has been requested.

10 The clerk will call the roll.

11 Ms. Kish. Mr. Smith?

12 Chairman Smith. No.

13 Ms. Kish. Mr. Smith votes no.

14 Mr. Sensenbrenner?

15 [No response.]

16 Ms. Kish. Mr. Coble?

17 [No response.]

18 Ms. Kish. Mr. Gallegly?

19 [No response.]

20 Ms. Kish. Mr. Goodlatte?

21 [No response.]

22 Ms. Kish. Mr. Lungren?

23 [No response].

24 Ms. Kish. Mr. Chabot?

25 Mr. Chabot. No.

1 Ms. Kish. Mr. Chabot votes no.
2 Mr. Issa?
3 [No response.]
4 Ms. Kish. Mr. Pence?
5 Mr. Pence. No.
6 Ms. Kish. Mr. Pence votes no.
7 Mr. Forbes?
8 [No response.]
9 Ms. Kish. Mr. King?
10 Mr. King. No.
11 Ms. Kish. Mr. King votes no.
12 Mr. Franks?
13 Mr. Franks. No.
14 Ms. Kish. Mr. Franks votes no.
15 Mr. Gohmert?
16 Mr. Gohmert. No.
17 Ms. Kish. Mr. Gohmert votes no.
18 Mr. Jordan?
19 [No response.]
20 Ms. Kish. Mr. Poe?
21 Mr. Poe. No.
22 Ms. Kish. Mr. Poe votes no.
23 Mr. Chaffetz?
24 Mr. Chaffetz. No.
25 Ms. Kish. Mr. Chaffetz votes no.

1 Mr. Reed?
2 Mr. Reed. No.
3 Ms. Kish. Mr. Reed votes no.
4 Mr. Griffin?
5 Mr. Griffin. No.
6 Ms. Kish. Mr. Griffin votes no.
7 Mr. Marino?
8 Mr. Marino. No.
9 Ms. Kish. Mr. Marino votes no.
10 Mr. Gowdy?
11 Mr. Gowdy. No.
12 Ms. Kish. Mr. Gowdy votes no.
13 Mr. Ross?
14 Mr. Ross. No.
15 Ms. Kish. Mr. Ross votes no.
16 Ms. Adams?
17 Ms. Adams. No.
18 Ms. Kish. Ms. Adams votes no.
19 Mr. Quayle?
20 Mr. Quayle. No.
21 Ms. Kish. Mr. Quayle votes no.
22 Mr. Conyers?
23 Mr. Conyers. Aye.
24 Ms. Kish. Mr. Conyers votes aye.
25 Mr. Berman?

1 Mr. Berman. Aye.
2 Ms. Kish. Mr. Berman votes aye.
3 Mr. Nadler?
4 Mr. Nadler. Aye.
5 Ms. Kish. Mr. Nadler votes aye.
6 Mr. Scott?
7 Mr. Scott. Aye.
8 Ms. Kish. Mr. Scott votes aye.
9 Mr. Watt?
10 Mr. Watt. Aye.
11 Ms. Kish. Mr. Watt votes aye.
12 Ms. Lofgren?
13 Ms. Lofgren. Aye.
14 Ms. Kish. Ms. Lofgren votes aye.
15 Ms. Jackson Lee?
16 Ms. Jackson Lee. Aye.
17 Ms. Kish. Ms. Jackson Lee votes aye.
18 Ms. Waters?
19 Ms. Waters. Aye.
20 Ms. Kish. Ms. Waters votes aye.
21 Mr. Cohen?
22 Mr. Cohen. Aye.
23 Ms. Kish. Mr. Cohen votes aye.
24 Mr. Johnson?
25 Mr. Johnson. Aye.

1 Ms. Kish. Mr. Johnson votes aye.
2 Mr. Pierluisi?
3 Mr. Pierluisi. No.
4 Ms. Kish. Mr. Pierluisi votes no.
5 Mr. Quigley?
6 Mr. Quigley. Aye.
7 Ms. Kish. Mr. Quigley votes aye.
8 Ms. Chu?
9 Ms. Chu. Aye.
10 Ms. Kish. Ms. Chu votes aye.
11 Mr. Deutch?
12 Mr. Deutch. Aye.
13 Ms. Kish. Mr. Deutch votes aye.
14 Ms. Sanchez?
15 [No response.]
16 Ms. Kish. Ms. Wasserman Schultz?
17 Ms. Wasserman Schultz. Aye.
18 Ms. Kish. Ms. Wasserman Schultz votes aye.
19 Chairman Smith. Mr. Sensenbrenner?
20 Mr. Sensenbrenner. No.
21 Ms. Kish. Mr. Sensenbrenner votes no.
22 Chairman Smith. Mr. Gallegly?
23 Mr. Gallegly. No.
24 Ms. Kish. Mr. Gallegly votes no.
25 Chairman Smith. Mr. Goodlatte?

1 Mr. Goodlatte. No.

2 Ms. Kish. Mr. Goodlatte votes no.

3 Chairman Smith. Any other members who wish to vote?
4 If not, the clerk will report.

5 Ms. Kish. Mr. Chairman, 14 members voted aye; 19
6 members voted nay.

7 Chairman Smith. Okay. The majority having voted
8 against the amendment, the amendment is not agreed to.

9 Does the gentleman from New York have another
10 amendment?

11 Mr. Nadler. Yes. Mr. Chairman, I'd like to take up
12 the next two amendments to consolidate debate, although I
13 may ask for separate vote.

14 Chairman Smith. Okay. Without objection, the clerk
15 --

16 Mr. Nadler. Amendments number 005 and 006.

17 Chairman Smith. Okay. The clerk will report the
18 amendment.

19 As I understand it, Mr. Nadler, we're going to call
20 one amendment but debate the next two. Is that correct?

21 Mr. Nadler. No. Call them both up and maybe we'll
22 have one vote, maybe we'll have two votes. Depending if
23 you accept it, frankly.

24 All right, so we'll call up -- it's fine, any way you
25 want.

1 Chairman Smith. Okay. May we consider the amendments
2 en bloc and that way we can debate both at the same time?

3 Mr. Nadler. Yeah.

4 Chairman Smith. Okay.

5 Mr. Nadler. Right, but reserve the right to have two
6 separate votes.

7 Chairman Smith. Okay. The clerk will report the
8 amendments.

9 Ms. Kish. "Amendment to the Amendment in the Nature
10 of a Substitute to H.R. 3," offered by Mr. Nadler. Page 2,
11 Line 15, insert "(a) IN GENERAL" before "For taxable."
12 Page 3, after --

13 Chairman Smith. Without objection, the amendments
14 will be considered as read.

15 [The information follows:]

1 Chairman Smith. The gentleman from New York is
2 recognized in support of his amendment.

3 Mr. Nadler. Yes. Mr. Speaker -- Mr. Chairman,
4 rather. I keep doing that. I am sorry Lamar.

5 Mr. Chairman, these two amendments, one simply says
6 that section 303, relabeled subsection A does not apply
7 with respect to any health benefit plan provided by or
8 through an employer. And the other amendment says does not
9 apply with respect to a taxpayer who is self-employed,
10 meaning an individual who is not covered under a health
11 benefit plan provided by or through an employer.

12 Now, when we were having our colloquy with Mr. Franks
13 before, I think, and as I said it was unclear, but I think
14 that the manager's amendment meant to do this. So this --
15 the first amendment protects employer provided health plans
16 paid for by employers and their employees. It does not
17 involve Government money. Again, the employers get a tax
18 deduction or a tax credit for having an employer provided
19 health plan, I believe, not a new one, it is not touched by
20 the new health care bill.

21 We received some different views from witnesses about
22 the impact of this section. I know that the sponsor may
23 convince this legislation would not reach employer provided
24 plans, and I believe that was part of the intent of the
25 manager's amendment, but the language of the bill and the

1 manager's amendment are vague. The manager's amendment
2 speaks of a credit allowed under the Internal Revenue laws
3 with respect to amounts paid or incurred for a health
4 benefits plan that includes coverage of abortion, but this
5 language will apply to Internal Revenue laws for all time
6 and will apply to any changes you make in the future.

7 It does not clearly say that it would not apply to an
8 employer provided health benefit plan and we should clarify
9 that. Employers need certainty in the tax laws, they
10 cannot make decisions about paying benefits packages with
11 this kind of uncertainty. They will not be able to rely on
12 some assurances in a markup, that they will be held
13 harmless. We need to provide that clear assurance.

14 So again, the first amendment simply says that an
15 employer provided health plan is not affected by this. The
16 second amendment says that if someone who buys his own
17 health insurance, who himself -- because he's self-
18 employed, that this doesn't apply to him.

19 And so I think that what we heard before was that it
20 was the intent of the sponsors that this should not apply
21 to either of those, so I hope that you can accept these
22 clarifying amendments.

23 Chairman Smith. And the gentleman yields back the
24 balance of his time. Thank you, Mr. Nadler.

25 The gentleman from Arizona, Mr. Franks, is recognized.

1 Mr. Franks. Well, thank you again, Mr. Chairman.

2 Mr. Chairman, I would once again urge defeat of this
3 amendment. And let me just try to get back to some basic
4 building blocks here. As should be obvious, this bill
5 actually does not prevent individuals from purchasing
6 health care coverage with abortion, or does it separate
7 abortion supplemental insurance, with their own funds, per
8 section 305, as long as it is their own funds.

9 It also explicitly does not prevent insurance
10 providers from offering coverage of abortion. That is in
11 section 306. H.R. 3 only removes Government funding for
12 abortion coverage tax incentives for abortion coverage.
13 People can get insurance with abortion coverage under the
14 bill just not as a matter of Federal policy.

15 And let me break here. Mr. Chairman, there is a lot
16 of discussion about the Supreme Court's ruling on the
17 constitutionality. Keep in mind there are two large bodies
18 of ruling by the Supreme Court, one is on abortion itself
19 and one is on funding. If the minority would at least
20 stipulate that the Supreme Court, when it comes to funding,
21 has cited, every time, that there is no requirement on the
22 part of Government or no prohibition that Government cannot
23 fund -- that doesn't have to fund abortion.

24 H.R. 3 does not affect the tax treatment of employer
25 sponsored health and insurance coverage, as is permitted

1 through the general employer deduction and the employer
2 exclusion. I know those employer deduction, employer
3 exclusion are important terms there. But this amendment,
4 Mr. Nadler's amendment would allow small business credit to
5 pay for plans that include abortion coverage. It would
6 also allow abortion to be deducted as a medical expense in
7 HSA's, FSA's and MSA's, if those were part of a plan that
8 is offered by the employer. This amendment before us then
9 guarantees that abortion will be considered as a tax
10 preferred service.

11 And accepting this amendment will also create a
12 negative implication that will encourage courts to read the
13 base text of this section to actually have an affect on
14 employer sponsored health insurance coverage, because
15 accepting this amendment would imply that section 303 does
16 something it does not do.

17 H.R. 3 already does not affect the tax treatment of
18 employer sponsored health insurance coverage, as is
19 permitted through the general employer deduction and the
20 employer exclusion, because employee contributions to their
21 plans are taken out of their paycheck as a pretax
22 exclusion, called the "employer exclusion." Exclusions are
23 not addressed in H.R. 3.

24 I'm going to stop there, Mr. Chairman, unless there
25 are additional questions. And I just hope that we defeat

1 the amendment.

2 Chairman Smith. The gentleman yields back the balance
3 of his time. Thank you, Mr. Franks.

4 Are there any other members who wish to be recognized?

5 Gentleman from Georgia, Mr. Johnson.

6 Mr. Johnson. Thank you, Mr. Chairman.

7 And I will yield some time to my colleague from New
8 York, Mr. Nadler.

9 Mr. Nadler. Thank you. I'll be very brief.

10 I appreciate what the gentleman just said about
11 sections 305 and 306, preserving the right, in theory, to
12 purchase coverage, but these sections do not involve tax
13 treatment. My amendment merely says -- merely seeks to
14 assure that no new adverse tax treatment -- as a result of
15 this there's no new adverse tax treatment. And I think, at
16 least what the first amendment does it simply effectuates
17 what the -- what seems to be the intent, although it is not
18 clear, of the manager's amendment.

19 But since the majority is not accepting either of
20 these amendments, apparently, I'm going to ask for a
21 division of the question and separate voting.

22 Chairman Smith. The gentleman has requested a
23 division and that means we will vote on each amendment.
24 And the question is on the first amendment. Those in
25 favor, say aye.

1 [A chorus of ayes.]

2 Chairman Smith. Those opposed, no.

3 [A chorus of nays.]

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

6 We will now go to the second amendment. All those in
7 favor, say aye.

8 Did you want a -- okay. Gentleman has requested a
9 roll call vote on the first amendment and the clerk will
10 call the role.

11 Ms. Kish. Mr. Smith?

12 Chairman Smith. No.

13 Ms. Kish. Mr. Smith votes no.

14 Mr. Sensenbrenner?

15 [No response.]

16 Ms. Kish. Mr. Coble?

17 Mr. Coble. No.

18 Ms. Kish. Mr. Coble votes no.

19 Mr. Gallegly?

20 [No response.]

21 Ms. Kish. Mr. Goodlatte?

22 Mr. Goodlatte. No.

23 Ms. Kish. Mr. Goodlatte votes no.

24 Mr. Lungren?

25 Mr. Lungren. No.

1 Ms. Kish. Mr. Lungren votes no.
2 Mr. Chabot?
3 [No response.]
4 Ms. Kish. Mr. Issa?
5 [No response.]
6 Ms. Kish. Mr. Pence?
7 Mr. Pence. No.
8 Ms. Kish. Mr. Pence votes no.
9 Mr. Forbes?
10 [No response.]
11 Ms. Kish. Mr. King?
12 Mr. King. No.
13 Ms. Kish. Mr. King votes no.
14 Mr. Franks?
15 Mr. Franks. No.
16 Ms. Kish. Mr. Franks votes no.
17 Mr. Gohmert?
18 Mr. Gohmert. No.
19 Ms. Kish. Mr. Gohmert votes no.
20 Mr. Jordan?
21 [No response.]
22 Ms. Kish. Mr. Poe?
23 Mr. Poe. No.
24 Ms. Kish. Mr. Poe votes no.
25 Mr. Chaffetz?

1 Mr. Chaffetz. No.
2 Ms. Kish. Mr. Chaffetz votes no.
3 Mr. Reed?
4 Mr. Reed. No.
5 Ms. Kish. Mr. Reed votes no.
6 Mr. Griffin?
7 Mr. Griffin. No.
8 Ms. Kish. Mr. Griffin votes no.
9 Mr. Marino?
10 Mr. Marino. No.
11 Ms. Kish. Mr. Marino votes no.
12 Mr. Gowdy?
13 Mr. Gowdy. No.
14 Ms. Kish. Mr. Gowdy votes no.
15 Mr. Ross?
16 Mr. Ross. No.
17 Ms. Kish. Mr. Ross votes no.
18 Ms. Adams?
19 Ms. Adams. No.
20 Ms. Kish. Ms. Adams votes no.
21 Mr. Quayle?
22 Mr. Quayle. No.
23 Ms. Kish. Mr. Quayle votes no.
24 Mr. Conyers?
25 Mr. Conyers. Aye.

1 Ms. Kish. Mr. Conyers votes aye.
2 Mr. Berman?
3 [No response.]
4 Ms. Kish. Mr. Nadler?
5 Mr. Nadler. Aye.
6 Ms. Kish. Mr. Nadler votes aye.
7 Mr. Scott?
8 Mr. Scott. Aye.
9 Ms. Kish. Mr. Scott votes aye.
10 Mr. Watt?
11 Mr. Watt. Aye.
12 Ms. Kish. Mr. Watt votes aye.
13 Ms. Lofgren?
14 Ms. Lofgren. Aye.
15 Ms. Kish. Ms. Lofgren votes aye.
16 Ms. Jackson Lee?
17 [No response.]
18 Ms. Kish. Ms. Waters?
19 Ms. Waters. Aye.
20 Ms. Kish. Ms. Waters votes aye.
21 Mr. Cohen?
22 Mr. Cohen. Aye.
23 Ms. Kish. Mr. Cohen votes aye.
24 Mr. Johnson?
25 Mr. Johnson. Aye.

1 Ms. Kish. Mr. Johnson votes aye.
2 Mr. Pierluisi?
3 Mr. Pierluisi. No.
4 Ms. Kish. Mr. Pierluisi votes no.
5 Mr. Quigley?
6 Mr. Quigley. Aye.
7 Ms. Kish. Mr. Quigley votes aye.
8 Ms. Chu?
9 Ms. Chu. Aye.
10 Ms. Kish. Ms. Chu votes aye.
11 Mr. Deutch?
12 Mr. Deutch. Aye.
13 Ms. Kish. Mr. Deutch votes aye.
14 Ms. Sanchez?
15 [No response.]
16 Ms. Kish. Ms. Wasserman Schultz?
17 Ms. Wasserman Schultz. Aye.
18 Ms. Kish. Ms. Wasserman Schultz votes aye.
19 Chairman Smith. And are there other members who were
20 not recorded?
21 Gentleman from Wisconsin, Mr. Sensenbrenner?
22 Mr. Sensenbrenner. No.
23 Ms. Kish. Mr. Sensenbrenner votes no.
24 Chairman Smith. Mr. Issa?
25 Mr. Issa. No.

1 Ms. Kish. Mr. Issa votes no.
2 Chairman Smith. Mr. Gallegly?
3 Mr. Gallegly. No.
4 Ms. Kish. Mr. Gallegly votes no.
5 Chairman Smith. Ms. Jackson Lee?
6 Ms. Jackson Lee. Aye.
7 Ms. Kish. Ms. Jackson Lee votes aye.
8 Chairman Smith. Mr. Forbes?
9 Mr. Forbes. No.
10 Ms. Kish. Mr. Forbes votes no.
11 Chairman Smith. The clerk will report.
12 Ms. Kish. Mr. Chairman, 13 members voted aye; 22
13 members voted nay.
14 Chairman Smith. The majority having voted against the
15 amendment, the amendment is not agreed to.
16 We will now vote on the second amendment and the en
17 bloc amendment offered by the gentleman from New York, Mr.
18 Nadler.
19 And the clerk will call the roll.
20 Ms. Kish. Mr. Smith?
21 Chairman Smith. No.
22 Ms. Kish. Mr. Smith votes no.
23 Mr. Sensenbrenner?
24 Mr. Sensenbrenner. No.
25 Ms. Kish. Mr. Sensenbrenner votes no.

1 Mr. Coble?
2 [No response.]
3 Ms. Kish. Mr. Gallegly?
4 Mr. Gallegly. No.
5 Ms. Kish. Mr. Gallegly votes no.
6 Mr. Goodlatte?
7 Mr. Goodlatte. No.
8 Ms. Kish. Mr. Goodlatte votes no.
9 Mr. Lungren?
10 Mr. Lungren. No.
11 Ms. Kish. Mr. Lungren votes no.
12 Mr. Chabot?
13 [No response.]
14 Ms. Kish. Mr. Issa?
15 Mr. Issa. No.
16 Ms. Kish. Mr. Issa votes no.
17 Mr. Pence?
18 Mr. Pence. No.
19 Ms. Kish. Mr. Pence votes no.
20 Mr. Forbes?
21 Mr. Forbes. No.
22 Ms. Kish. Mr. Forbes votes no.
23 Mr. King?
24 Mr. King. No.
25 Ms. Kish. Mr. King votes no.

1 Mr. Franks?
2 Mr. Franks. No.
3 Ms. Kish. Mr. Franks votes no.
4 Mr. Gohmert?
5 Mr. Gohmert. No.
6 Ms. Kish. Mr. Gohmert votes no.
7 Mr. Jordan?
8 [No response.]
9 Ms. Kish. Mr. Poe?
10 [No response.]
11 Ms. Kish. Mr. Chaffetz?
12 Mr. Chaffetz. No.
13 Ms. Kish. Mr. Chaffetz votes no.
14 Mr. Reed?
15 Mr. Reed. No.
16 Ms. Kish. Mr. Reed votes no.
17 Mr. Griffin?
18 [No response.]
19 Ms. Kish. Mr. Marino?
20 Mr. Marino. No.
21 Ms. Kish. Mr. Marino votes no.
22 Mr. Gowdy?
23 Mr. Gowdy. No.
24 Ms. Kish. Mr. Gowdy votes no.
25 Mr. Ross?

1 Mr. Ross. No.
2 Ms. Kish. Mr. Ross votes no.
3 Ms. Adams?
4 Ms. Adams. No.
5 Ms. Kish. Ms. Adams votes no.
6 Mr. Quayle?
7 [No response.]
8 Ms. Kish. Mr. Conyers?
9 Mr. Conyers. Aye.
10 Ms. Kish. Mr. Conyers votes aye.
11 Mr. Berman?
12 [No response.]
13 Ms. Kish. Mr. Nadler?
14 Mr. Nadler. Aye.
15 Ms. Kish. Mr. Nadler votes aye.
16 Mr. Scott?
17 Mr. Scott. Aye.
18 Ms. Kish. Mr. Scott votes aye.
19 Mr. Watt?
20 Mr. Watt. Aye.
21 Ms. Kish. Mr. Watt votes aye.
22 Ms. Lofgren?
23 Ms. Lofgren. Aye.
24 Ms. Kish. Ms. Lofgren votes aye.
25 Ms. Jackson Lee?

1 Ms. Jackson Lee. Aye.
2 Ms. Kish. Ms. Jackson Lee votes aye.
3 Ms. Waters?
4 Ms. Waters. Aye.
5 Ms. Kish. Ms. Waters votes aye.
6 Mr. Cohen?
7 Mr. Cohen. Aye.
8 Ms. Kish. Mr. Cohen votes aye.
9 Mr. Johnson?
10 Mr. Johnson. Aye.
11 Ms. Kish. Mr. Johnson votes aye.
12 Mr. Pierluisi?
13 Mr. Pierluisi. No.
14 Ms. Kish. Mr. Pierluisi votes no.
15 Mr. Quigley?
16 Mr. Quigley. Aye.
17 Ms. Kish. Mr. Quigley votes aye.
18 Ms. Chu?
19 Ms. Chu. Aye.
20 Ms. Kish. Ms. Chu votes aye.
21 Mr. Deutch?
22 Mr. Deutch. Aye.
23 Ms. Kish. Mr. Deutch votes aye.
24 Ms. Sanchez?
25 [No response.]

1 Ms. Kish. Ms. Wasserman Schultz?

2 Ms. Wasserman Schultz. Aye.

3 Ms. Kish. Ms. Wasserman Schultz votes aye.

4 Chairman Smith. Are there other members who wish to
5 record their votes?

6 The gentleman from Arizona, Mr. Quayle?

7 Mr. Quayle. No.

8 Ms. Kish. Mr. Quayle votes no.

9 Chairman Smith. The gentleman from Arkansas, Mr.
10 Griffin?

11 Mr. Griffin. No.

12 Ms. Kish. Mr. Griffin votes no.

13 Chairman Smith. The gentleman from North Carolina,
14 Mr. Coble?

15 Mr. Coble. No.

16 Ms. Kish. Mr. Coble votes no.

17 Chairman Smith. Other members?

18 The gentleman from Texas, Mr. Poe?

19 Mr. Poe. No.

20 Ms. Kish. Mr. Poe votes no.

21 Chairman Smith. The clerk will report.

22 Ms. Kish. Mr. Chairman, 13 members voted aye; 22
23 members voted nay.

24 Chairman Smith. Majority of members having voted
25 against the amendment, the amendment is not agreed to.

1 Okay, gentleman from New York, Mr. Nadler is
2 recognized for the purpose of offering another amendment.

3 Mr. Nadler. Thank you.

4 This will be my last amendment today.

5 Chairman Smith. I'm relieved.

6 Mr. Nadler. Amendment number 015.

7 Chairman Smith. Clerk will report the amendment.

8 Ms. Kish. "Amendment to the Amendment in the Nature
9 of a Substitute to H.R. 3" offered by Mr. Nadler. Page 6,
10 Line 12, insert, "or does" before "not."

11 [The information follows:]

1 Chairman Smith. The gentleman from New York is
2 recognized in support of his amendment.

3 Mr. Nadler. Thank you.

4 Mr. Chairman, section 311 of the bill would provide
5 protection against Government discrimination for any health
6 care entity that refuses to provide abortion services, any
7 clinic, any hospital, so forth. Section 11, however, is a
8 one way street. While recognizing the right to refuse
9 care, it fails to respect an equally compelling right to
10 provide care free from discrimination.

11 Contrary to the claims of the bill's supporters, this
12 provision does not embody longstanding and well accepted
13 conscience rights provisions. While recent appropriations
14 bills have included this over-broad language, other laws,
15 including the Church Amendment, which has been in place
16 since 1973, protect only providers who have sincere
17 religious or moral beliefs that required them either to
18 provide or to refuse treatment. Unlike the Church
19 Amendment, in effect since 1973, section 311 of the bill
20 does not represent an evenhanded effort to accommodate true
21 rights of conscience.

22 H.R. 3 seeks to make this over-broad right a permanent
23 trump card for all U.S. and State laws. It is a drastic
24 step that should be rejected. Section 311 would provide a
25 one-sided trump card that allows virtually anyone to avoid

1 enforcement of Federal and State laws seeking to protect a
2 woman's health and her constitutionally protected right to
3 make a deeply personal decision about pregnancy.

4 Under section 311, for example, a state that requires
5 an insurance company to provide coverage for an abortion,
6 made necessary because a woman needs to start immediate
7 cancer treatment, could not be enforced against any
8 insurance company that chose not to provide that coverage,
9 regardless of the reason for doing so. So we are not
10 talking, necessarily, about a right of conscience. If the
11 insurance company came out and said, we don't want to obey
12 the State law that requires us to pay for an abortion made
13 necessary by a woman's cancer, because we don't want to
14 spend the money, we have no ethical or moral or conscience
15 objection, we just don't want to spend the money, section
16 311 would trump the State law that was enacted to protect
17 the woman's health in that case.

18 Do we care so little about women's health that this is
19 what we are willing to support? If we are going to protect
20 the right of refusal, we should protect the right of
21 providing services too. I would go further and say, if
22 we're going to protect the right of refusal, it should be
23 only for, as the Church Amendment says, for religious or
24 moral beliefs, not to save money or other reasons. But
25 this amendment doesn't go that far, this amendment simply

1 makes it a two way street by saying that if we are going to
2 protect the right of refusal, we should also protect the
3 right of provision without discrimination.

4 So I urge adoption of the amendment and I yield back.

5 Mr. Sensenbrenner. [Presiding] For what purpose does
6 the gentleman from Arizona, seek recognition?

7 Mr. Franks. I'd like to speak on the amendment, Mr.
8 Chairman.

9 Mr. Sensenbrenner. Gentleman is recognized for five
10 minutes.

11 Mr. Franks. Mr. Chairman, first of all, to suggest
12 that there are no protections for abortion providers would
13 be to suggest that Rove v. Wade itself doesn't exist. I
14 mean that is one of the big problems that we have here is
15 that people in this country are now have the protected
16 right, according to the Supreme Court, to be in the
17 business of killing children for profit. And it is just
18 astonishing to me that we think that those -- some of those
19 so-called rights aren't already essentially addressed by
20 Rowe v. Wade. The section that this amendment would amend
21 is designed to help level the playing field for how to
22 whose conscience do not support abortion. This amendment
23 would undermine that. This amendment would transform the
24 Hyde Weldon Conscience provision by equally protecting
25 abortion providers from being, quote, discriminated

1 against, unquote, by any Federal agency or any State or
2 local government receiving Federal funds.

3 The implication of this change are enormous. Many
4 State and Federal policies would be nullified by this
5 change. For example, since 1970 the Title 10 Family
6 Planning Act has forbidden use of its funds for any program
7 where abortion is a method of family planning. This would
8 be negated by the Federal Government would have to treat
9 grantees that provide abortions as being equally eligible
10 with programs that do not. Numerous State laws and
11 regulations to protect women from abuse by abortion clinics
12 would be invalid unless they equally regulate health
13 facilities that deliver children alive. The essence -- in
14 essence this is the long discredited Freedom of Choice Act
15 that even President Obama has now abandoned,

16 Mr. Chairman, the double-edged conscience provision
17 like this was part of the health care form legislation in
18 2009 and it was rejected by the House as part of the
19 Stupack Amendment and was rejected by the Senate as part of
20 Harry Reid's manager's amendment.

21 Rowe v. Wade and other abortion cases provide more
22 than ample protection for those that are in the abortion
23 business. Many of us would say far too much protection
24 against Government interference with abortionists. Even
25 the Supreme Court that gave us Rowe v. Wade, has said that

1 Congress has every right to use its funding power to show
2 respect for unborn life and to encourage childbirth over
3 abortion. And that is what the Hyde Amendment and current
4 Federal conscience laws do.

5 To force Government to treat abortion and childbirth
6 equally would be a reversal of 38 years of precedents. It
7 would be suggesting that it is an equal job of Government
8 to pay for the killing of a child as opposed to welcoming
9 that child into life and that is a disgrace that beggars my
10 vocabulary.

11 And with that I'll yield back.

12 Mr. Sensenbrenner. The question is on agreeing to the
13 amendment offered by the gentleman from New York, Mr.

14 Nadler. Those in favor will say aye.

15 [A chorus of ayes.]

16 Mr. Sensenbrenner. Opposed, no.

17 [A chorus of nays.]

18 Mr. Sensenbrenner. The nos appear to have it.

19 Roll call is ordered. Those in favor of the Nadler
20 amendment, will, as your names are called, vote aye. Those
21 opposed, no. And the clerk will call the role.

22 Ms. Kish. Mr. Smith?

23 [No response.]

24 Ms. Kish. Mr. Sensenbrenner?

25 Mr. Sensenbrenner. No.

1 Ms. Kish. Mr. Sensenbrenner votes no.
2 Mr. Coble?
3 [No response.]
4 Ms. Kish. Mr. Gallegly?
5 Mr. Gallegly. No.
6 Ms. Kish. Mr. Gallegly votes no.
7 Mr. Goodlatte?
8 Mr. Goodlatte. No.
9 Ms. Kish. Mr. Goodlatte votes no.
10 Mr. Lungren?
11 Mr. Lungren. No.
12 Ms. Kish. Mr. Lungren votes no.
13 Mr. Chabot?
14 [No response.]
15 Ms. Kish. Mr. Issa?
16 [No response.]
17 Ms. Kish. Mr. Pence?
18 Mr. Pence. No.
19 Ms. Kish. Mr. Pence votes no.
20 Mr. Forbes?
21 Mr. Forbes. No.
22 Ms. Kish. Mr. Forbes votes no.
23 Mr. King?
24 Mr. King. No.
25 Ms. Kish. Mr. King votes no.

1 Mr. Franks?
2 Mr. Franks. No.
3 Ms. Kish. Mr. Franks votes no.
4 Mr. Gohmert?
5 [No response.]
6 Ms. Kish. Mr. Jordan?
7 [No response.]
8 Ms. Kish. Mr. Poe?
9 Mr. Poe. No.
10 Ms. Kish. Mr. Poe votes no.
11 Mr. Chaffetz?
12 Mr. Chaffetz. No.
13 Ms. Kish. Mr. Chaffetz votes no.
14 Mr. Reed?
15 Mr. Reed. No.
16 Ms. Kish. Mr. Reed votes no.
17 Mr. Griffin?
18 Mr. Griffin. No.
19 Ms. Kish. Mr. Griffin votes no.
20 Mr. Marino?
21 Mr. Marino. No.
22 Ms. Kish. Mr. Marino votes no.
23 Mr. Gowdy?
24 [No response.]
25 Ms. Kish. Mr. Ross?

1 Mr. Ross. No.

2 Ms. Kish. Mr. Ross votes no.

3 Ms. Adams?

4 Ms. Adams. No.

5 Ms. Kish. Ms. Adams votes no.

6 Mr. Quayle?

7 [No response.]

8 Ms. Kish. Mr. Conyers?

9 Mr. Conyers. Aye.

10 Ms. Kish. Mr. Conyers votes aye.

11 Mr. Berman?

12 [No response.]

13 Ms. Kish. Mr. Nadler?

14 Mr. Nadler. Aye.

15 Ms. Kish. Mr. Nadler votes aye.

16 Mr. Scott?

17 Mr. Scott. Aye.

18 Ms. Kish. Mr. Scott votes aye.

19 Mr. Watt?

20 Mr. Watt. Aye.

21 Ms. Kish. Mr. Watt votes aye.

22 Ms. Lofgren?

23 Ms. Lofgren. Aye.

24 Ms. Kish. Ms. Lofgren votes aye.

25 Ms. Jackson Lee?

1 [No response.]
2 Ms. Kish. Ms. Waters?
3 Ms. Waters. Aye.
4 Ms. Kish. Ms. Waters votes aye.
5 Mr. Cohen?
6 Mr. Cohen. Aye.
7 Ms. Kish. Mr. Cohen votes aye.
8 Mr. Johnson?
9 Mr. Johnson. Aye.
10 Ms. Kish. Mr. Johnson votes aye.
11 Mr. Pierluisi?
12 Mr. Pierluisi. No.
13 Ms. Kish. Mr. Pierluisi votes no.
14 Mr. Quigley?
15 Mr. Quigley. Aye.
16 Ms. Kish. Mr. Quigley votes aye.
17 Ms. Chu?
18 Ms. Chu. Aye.
19 Ms. Kish. Ms. Chu votes aye.
20 Mr. Deutch?
21 Mr. Deutch. Aye.
22 Ms. Kish. Mr. Deutch votes aye.
23 Ms. Sanchez?
24 [No response.]
25 Ms. Kish. Ms. Wasserman Schultz?

1 Ms. Wasserman Schultz. Aye.

2 Ms. Kish. Ms. Wasserman Schultz votes aye.

3 Mr. Sensenbrenner. Are there members in the chamber
4 who wish to vote or change their vote?

5 Gentleman from North Carolina, Mr. Coble?

6 Mr. Coble. No.

7 Ms. Kish. Mr. Coble votes no.

8 Mr. Sensenbrenner. Gentleman from Arizona, Mr.
9 Quayle?

10 Mr. Quayle. No.

11 Ms. Kish. Mr. Quayle votes no.

12 Mr. Sensenbrenner. Gentleman from California, Mr.
13 Issa?

14 Mr. Issa. Despite my position, no.

15 Ms. Kish. Mr. Issa votes no.

16 Mr. Sensenbrenner. Other gentleman from California,
17 Mr. Berman?

18 Mr. Berman. Aye.

19 Ms. Kish. Mr. Berman votes aye.

20 Mr. Sensenbrenner. Any other members who wish to cast
21 or change their votes? If not, the clerk will report.

22 Ms. Kish. Mr. Chairman, 13 members voted aye; 19
23 members voted nay.

24 Mr. Sensenbrenner. The amendment is not agreed to.

25 The next two amendments on the roster, by the

1 gentleman from Georgia, Mr. Johnson. For what purpose does
2 the gentleman from Georgia seek recognition?

3 Mr. Johnson. I have an amendment at the desk.

4 Mr. Sensenbrenner. Which one is that, 21 or 19?

5 Mr. Johnson. It is number 9.

6 Mr. Sensenbrenner. Oh, it's number 9 or 21 in the
7 drafting.

8 Clerk will report the amendment.

9 Ms. Kish. "Amendment to the Amendment in the Nature
10 of a Substitute to H.R. 3," offered by Mr. Johnson of
11 Georgia. Page --

12 [The information follows:]

1 Mr. Sensenbrenner. Without objection the amendment is
2 considered as read the gentleman from Georgia is recognized
3 for five minutes.

4 Mr. Johnson. Thank you, Mr. Chairman.

5 My amendment would delay implementation of the bill
6 until the Attorney General submits a report to Congress
7 setting forth the affect of the bill on women's access to
8 abortion and health benefits coverage that includes
9 coverage of abortion.

10 Despite the manager's amendment, this bill is still
11 dangerous as it restricts health care for women. The
12 sponsors of this bill have been perfectly clear about their
13 goal. They want to create so many barriers and obstacles
14 that abortion becomes unavailable. The decision about
15 whether or not to have an abortion is a difficult one for
16 women. This is not a choice that is made lightly, this is
17 a decision that women should have the right to make without
18 male or female Government intrusion.

19 I find it ironic that the majority would interfere in
20 such a private matter. My colleagues on the other side of
21 the aisle have always prided themselves on the ideology
22 that the Government should not interfere in the personal
23 lives of Americans. They believe that Government should
24 stay out of your wallet and out of your private -- out of
25 the private contours of your home and bedroom. Yet, the

1 majority is pushing a bill that would directly interfere
2 with a woman's private choice of whether or not to have an
3 abortion as guaranteed by the Ninth Amendment and made
4 applicable to the States under the Fourteen Amendment, Due
5 Process Clause.

6 I am especially concerned about how this bill will
7 affect the most vulnerable women in our society.
8 Restricting public funding for abortion will especially
9 hurt low income women. Low income women may have to
10 sacrifice basic needs, such as paying for groceries and
11 rent, to save money for an abortion.

12 The majority has already pushed through a continuing
13 resolution that will harm all women whether they are poor
14 or middle class. The majority has already slashed funding
15 for Title 10, which provided crucial family planning
16 services. The majority has already eliminated Federal
17 funding for Planned Parenthood. Now the majority wants to
18 push through a bill that would put another road block in
19 front of women when seeking health care coverage. All of
20 this amounts to nothing more than a full fledged attack on
21 women and their access to the health care system.

22 I read a story about a 26 year old graduate student
23 from Maryland, her name was Alicia. She had been through a
24 lot in her short life. Her mother had been murdered and
25 after that she felt like her life had shattered into

1 pieces. She was having trouble working, keeping up with
2 school and supporting her one year old child. She also
3 feared eviction because she was behind on the rent. And
4 she had no idea she was pregnant until she went out to her
5 school clinic to obtain birth control and took a pregnancy
6 test. At that point she had to sell possessions, forgo
7 paying bills and risk eviction to pay for an abortion.

8 To place more road blocks in front of a woman in
9 Alicia's situation is simply mean-spirited. This bill goes
10 too far by including an unprecedented penalty on a woman's
11 use of her own money to cover abortion services.

12 Judging by the number of this bill, it is the third
13 highest priority of the majority. The first H.R. 1 was an
14 anti-jobs bill, cutting the Federal budget. H.R. 2 repeal
15 of health care. H.R. 3, which is what we are dealing with
16 here, the so-called no fund -- "No Tax Funding for Abortion
17 Act," cynically named. H.R. 5 or H.R. 4 through 9 are not
18 -- they are reserved to the Speaker and they have not been
19 designated yet.

20 But I think that these first bills, H.R.s 1 through 10
21 show exactly where the majority, the Republican majority,
22 is coming from. I'm sure that H.R. 4, 5, 6 or 7 or 8 or 9
23 will have to do with more limitations on the right of a
24 woman for an abortion. It will be union busting. I have
25 had a dream and I can imagine that --

1 Mr. Sensenbrenner. Well the gentleman's time has
2 expired. So while he collects his dream, for what purpose
3 does the gentleman from Arizona, Mr. Franks, seek
4 recognition?

5 Mr. Franks. Mr. Chairman, I'd like to strike the last
6 word.

7 Mr. Sensenbrenner. The gentleman is recognized for
8 five minutes.

9 Mr. Franks. Mr. Chairman, I guess first I would want
10 to address the gentleman's comments about how this bill
11 affects the most vulnerable women in our society. I would
12 suggest that the most vulnerable women in our society are
13 those that are aborted, you know. It's been said that half
14 of all women who go into -- that are patients that go into
15 an abortion clinic never come out alive because we forget
16 that the unborn women are just little tiny women and it's
17 always astonishing to me that those who support abortion on
18 demand suggest that we're making this procedure different
19 than all others, that we're suggesting that this is not
20 like -- you know, this is the only surgery that we're
21 concerned about, that we don't want to fund this surgery as
22 opposed to all others, and I would suggest that they are
23 right, Mr. Chairman.

24 This is a different procedure because no matter what
25 else that we would suggest, every time an abortion takes

1 place, three things are true. Number 1. A nameless little
2 baby dies a very tragic and very lonely death. Number 2.
3 The mother is never the same, no matter what we might say.
4 Number 3. All the gifts that that child might have brought
5 to humanity are lost to us forever.

6 Mr. Johnson. Would the gentleman yield?

7 Mr. Franks. I will in a moment. Mr. Chairman, I
8 think this amendment would essentially be the same as the
9 Jackson Lee amendment. It gives Attorney General Eric
10 Holder carte blanche to define the Constitution and the
11 Supreme Court has held that the "right to an abortion"
12 implies no limitation on the authority of a state to make a
13 value judgment favoring childbirth over abortion and to
14 implement that judgment by the allocation of public funds
15 and I keep coming back to this situation and answering the
16 question.

17 I don't know how this bill will affect those most
18 vulnerable women in our society. It may not protect any of
19 them but at least it will say to taxpayers that they don't
20 have to pay for their debt and with that, I would yield to
21 the gentleman.

22 Mr. Johnson. I would ask my friend from Arizona do
23 you support laws that would ban a woman from having her
24 tubes tied?

25 Mr. Franks. If the gentleman's asking me a question,

1 I don't support laws banning tubal ligation.

2 Mr. Johnson. So you would draw the line at the
3 protection of the unborn to conception?

4 Mr. Franks. Mr. Chairman, I would just suggest that
5 any person in law school or medical school, any person that
6 really looks at the biological reality, there's no -- the
7 debate about when life begins is over. We know that life
8 begins -- a human being, a separate human being begins at
9 conception. That's just a scientific fact.

10 Mr. Johnson. I mean, scientific, philosophical,
11 religious, don't those things come into play, also?

12 Mr. Franks. They have many times and usually result
13 in great tragedies.

14 Mr. Johnson. Someone may decide that life is eternal
15 from the infinite past and is manifested in the potential
16 of one single sperm.

17 Mr. Franks. The gentleman's argument overwhelms me
18 here.

19 Mr. Johnson. Well, I know that it may but there are
20 limits that have to be drawn. That's the point that I want
21 to make and so where do you draw that limit. It's a
22 personal choice as opposed to --

23 Mr. Franks. Mr. Chairman? Mr. Chairman, --

24 Chairman Smith. The time belongs to the gentleman
25 from Arizona.

1 Mr. Franks. Mr. Chairman, I yield back.

2 Mr. Nadler. Mr. Chairman?

3 Chairman Smith. For what purpose does the gentleman
4 from New York seek recognition?

5 Mr. Nadler. Last word.

6 Chairman Smith. The gentleman is recognized for five
7 minutes.

8 Mr. Nadler. Thank you. Mr. Chairman, I just want to
9 clarify with the gentleman from Arizona. I thought I heard
10 him say, I could be wrong, I thought I heard him say that
11 50 percent of women who have abortions die. I hope I
12 didn't hear you say that. I'll yield to you for
13 clarification.

14 Mr. Franks. Mr. Chairman, I was using analogies
15 here, that 50 percent of women who go into abortion
16 clinics. I was including the unborn women that have
17 abortions --

18 Mr. Nadler. Okay.

19 Mr. Franks. -- never come out alive. In other
20 words, when we're talking about vulnerable, we don't leave
21 out the unborn women.

22 Mr. Nadler. Okay. I just want to clarify that, in
23 other words, you're saying that 50 percent of the fetuses
24 who are aborted are female fetuses presumably?

25 Mr. Franks. You know, it's always been --

1 Mr. Nadler. Is that what you're saying?

2 Mr. Franks. -- throughout history that people use
3 different terms. I mean, terms like --

4 Mr. Nadler. Reclaiming my time. I think it's clear
5 that that's what the gentleman meant. I just want to
6 clarify, without getting into a debate because that's the
7 fundamental debate on abortion, whether a fetus is a person
8 and so forth, but I just want to clarify that abortion is a
9 very safe surgical procedure.

10 Mr. Franks. Not if you're a fetus.

11 Mr. Nadler. Abortion is a very safe surgical
12 procedure. Most women, the risk of abortion complications
13 is minimal. Early medical abortion, using medications to
14 end the pregnancy, has a very safe safety profile.

15 The debate over whether a fetus is a person or not is
16 an essential debate. Obviously some people over there
17 think a fetus is a person. People over here think a fetus
18 isn't a person from the moment of conception. That's an
19 essential debate I'm not going to get into. I just want to
20 clarify that from the point of view of the patient or the
21 woman, abortion is a very safe medical procedure.

22 Mr. Sensenbrenner. The gentleman has yielded back
23 his time. For what purpose does the gentleman from
24 California seek recognition?

25 Mr. Lungren. Strike directly the number of words for

1 the first time today.

2 Mr. Sensenbrenner. Well, the gentleman is recognized
3 for five long minutes.

4 Mr. Lungren. I thank you very much because I was
5 listening intently to the gentleman from Georgia and I
6 thought after listening to him that somehow this bill is a
7 bill to reverse Roe v. Wade but then I looked at the bill
8 and the bill has to do with funding of abortion, funding of
9 abortion, federal taxpayer dollars being used for.

10 Mr. Johnson. Would the gentleman yield?

11 Chairman Smith. The time belongs to the gentleman
12 from California.

13 Mr. Berman. There is an involuntary requirement of
14 people in the United States to unattend -- republicans
15 majority, we can expect H.R. 4 or H.R. 9 to deal with this
16 issue - I was unaware of the H.R. 4, has to do with undoing
17 --

18 Mr. Lungren. Section 9006 of the Healthcare -- the
19 so-called Healthcare Reform Bill, which imposes an
20 unbelievably pernicious obligation on businesses around the
21 country for reporting of 1099s that will cost jobs. So if
22 the gentleman would pay attention to what the schedule is
23 that we're going to vote on this afternoon, he would
24 realize it's a jobs bill that we have on the Floor. It has
25 nothing to do with the subject before us and I'm afraid the

1 gentleman --

2 Mr. Johnson. Would the gentleman yield?

3 Mr. Lungren. -- conflated the issues that we're
4 going to deal with on the Floor as he has the issue of Roe
5 v. Wade versus whether those who in good conscience believe
6 that this is the killing of a human being ought to be
7 obligated to have their funds involuntarily taken from them
8 and -- I'll be happy to yield to the gentleman from
9 Georgia.

10 Mr. Johnson. Thank you. My friend from California,
11 you are right about H.R. 4. It has nothing to do with job
12 creation and --

13 Mr. Lungren. No, no. Excuse me. I'll take my time
14 back. The gentleman just said that he agrees with me that
15 it has nothing to do with job creation. It has everything
16 to do with job creation. It undoes the job-killing
17 provision of the Healthcare Bill that I identified in --
18 let's see -- a year ago and was told by Democratic Majority
19 at that time it was essential to the Healthcare Bill, even
20 though it has nothing to do with healthcare and has
21 everything to do with --

22 Mr. Sensenbrenner. Does the gentleman yield back the
23 balance of his time?

24 Mr. Lungren. I'll only take this one time to speak
25 and I would be happy to yield back the balance of my time.

1 Mr. Sensenbrenner. The question is on the adoption
2 of the Johnson Amendment Number 9 in the Roster. Those in
3 favor will say aye.

4 [A chorus of ayes.]

5 Mr. Sensenbrenner. Opposed, no.

6 [A chorus of nays.]

7 Mr. Sensenbrenner. Nos appear to have it. Nos have
8 it. The amendment --

9 Mr. Johnson. Ask for the recorded vote.

10 Mr. Sensenbrenner. Recorded vote is requested.
11 Those in favor of the Johnson Amendment Number 9 will, as
12 your names are called, answer aye, those appeared no, and
13 the Clerk will call the Roll.

14 Ms. Kish. Mr. Smith?

15 [No response.]

16 Ms. Kish. Mr. Sensenbrenner?

17 Mr. Sensenbrenner. No.

18 Ms. Kish. Mr. Sensenbrenner votes no.

19 Mr. Coble?

20 Mr. Coble. No.

21 Ms. Kish. Mr. Coble votes no.

22 Mr. Gallegly?

23 Mr. Gallegly. No.

24 Ms. Kish. Mr. Gallegly votes no.

25 Mr. Goodlatte.

1 [No response.]
2 Ms. Kish. Mr. Lungren?
3 Mr. Lungren. No.
4 Ms. Kish. Mr. Lungren votes no.
5 Mr. Chabot?
6 [No response.]
7 Ms. Kish. Mr. Issa.
8 [No response.]
9 Ms. Kish. Mr. Pence.
10 [No response.]
11 Ms. Kish. Mr. Pence?
12 [No response.]
13 Ms. Kish. Mr. Forbes?
14 Mr. Forbes. No.
15 Ms. Kish. Mr. Forbes votes no.
16 Mr. King?
17 [No response.]
18 Ms. Kish. Mr. Franks?
19 Mr. Franks. No.
20 Ms. Kish. Mr. Franks votes no.
21 Mr. Gohmert?
22 [No response.]
23 Ms. Kish. Mr. Jordan?
24 [No response.]
25 Ms. Kish. Mr. Poe?

1 Mr. Poe. No.
2 Ms. Kish. Mr. Poe votes no.
3 Mr. Chaffetz?
4 Mr. Chaffetz. No.
5 Ms. Kish. Mr. Chaffetz votes no.
6 Mr. Reed?
7 Mr. Reed. No.
8 Ms. Kish. Mr. Reed votes no.
9 Mr. Griffin?
10 Mr. Griffin. No.
11 Ms. Kish. Mr. Griffin votes no.
12 Mr. Marino?
13 Mr. Marino. No.
14 Ms. Kish. Mr. Marino votes no.
15 Mr. Gowdy?
16 Mr. Gowdy. No.
17 Ms. Kish. Mr. Gowdy votes no.
18 Mr. Ross?
19 Mr. Ross. No.
20 Ms. Kish. Mr. Ross votes no.
21 Ms. Adams?
22 Ms. Adams. No.
23 Ms. Kish. Ms. Adams votes no.
24 Mr. Quayle?
25 Mr. Quayle. No.

1 Ms. Kish. Mr. Quayle votes no.
2 Mr. Conyers?
3 Mr. Conyers. Aye.
4 Ms. Kish. Mr. Conyers votes aye.
5 Mr. Berman?
6 Mr. Berman. Aye.
7 Ms. Kish. Mr. Berman votes aye.
8 Mr. Nadler?
9 Mr. Nadler. Aye.
10 Ms. Kish. Mr. Nadler votes aye.
11 Mr. Scott?
12 Mr. Scott. Aye.
13 Ms. Kish. Mr. Scott votes aye.
14 Mr. Watt?
15 [No response.]
16 Ms. Kish. Ms. Lofgren?
17 Ms. Lofgren. Aye.
18 Ms. Kish. Ms. Lofgren votes aye.
19 Ms. Jackson Lee?
20 [No response.]
21 Ms. Kish. Ms. Waters?
22 [No response.]
23 Ms. Kish. Mr. Cohen?
24 Mr. Cohen. Aye.
25 Ms. Kish. Mr. Cohen votes aye.

1 Mr. Johnson?

2 Mr. Johnson. Aye.

3 Ms. Kish. Mr. Johnson votes aye.

4 Mr. Pierluisi?

5 Mr. Pierluisi. No.

6 Ms. Kish. Mr. Pierluisi votes no.

7 Mr. Quigley?

8 Mr. Quigley. Aye.

9 Ms. Kish. Mr. Quigley votes aye.

10 Ms. Chu?

11 Ms. Chu.

12 Ms. Kish. Ms. Chu votes aye.

13 Mr. Deutch.

14 [No response.]

15 Ms. Kish. Ms. Sanchez?

16 [No response.]

17 Ms. Kish. Ms. Wasserman Schultz?

18 Ms. Wasserman Schultz. Aye.

19 Ms. Kish. Ms. Wasserman Schultz votes aye.

20 Mr. Sensenbrenner. Are there members in the Chamber

21 who wish to cast or change their vote? Gentlewoman of

22 California, Ms. Waters?

23 Ms. Waters. Aye.

24 Ms. Kish. Ms. Waters votes aye.

25 Mr. Sensenbrenner. The gentleman from Virginia, Mr.

1 Goodlatte?

2 Mr. Goodlatte. No.

3 Ms. Kish. Mr. Goodlatte votes no.

4 Mr. Sensenbrenner. The gentleman from Indiana, Mr.

5 Pence?

6 Mr. Pence. No.

7 Ms. Kish. Mr. Pence votes no.

8 Mr. Sensenbrenner. Are there further members in the

9 Chamber who wish to cast or change their vote?

10 [No response.]

11 Mr. Sensenbrenner. If not, the Clerk will report.

12 Ms. Kish. Mr. Chairman, 11 members voted aye, 18

13 members voted aye.

14 Mr. Sensenbrenner. The amendment is not agreed to.

15 Does the gentleman from Georgia, Mr. Johnson, have another

16 amendment?

17 Mr. Johnson. Yes, I do.

18 Mr. Sensenbrenner. The Clerk will report the

19 amendment.

20 Ms. Kish. Amendment to the amendment in the nature

21 of a substitute to H.R. 3, offered by Mr. Johnson, Page 2,

22 Line 15, insert --

23 Mr. Sensenbrenner. Without objection, the amendment

24 is considered as read and the gentleman from Georgia is

25 recognized for five minutes.

1 Mr. Johnson. Thank you for the recognition, Mr.
2 Chairman. Before I was so rudely interrupted, but I will
3 say that my amendment would prevent tax increases for
4 individuals who would be subject to such increases pursuant
5 to Section 303, Subsection 1 of the bill, and the dream I
6 had had to do with H.R. 5 through 9, not 4. 4 is actually
7 an attack on the working poor people of this country. 5,
8 6, 7, 8, and 9 I predict will be attacks on the
9 homosexuals, gay marriage. It'll be union-busting and
10 it'll be immigration and perhaps even something else on the
11 topic of abortion.

12 Wage issues is basically what these are, but insofar
13 as this amendment, the title of this bill is misleading.
14 This is not about funding abortions. We already have the
15 Hyde Amendment which prohibits federal funding of
16 abortions. This is about taking away a woman's right to
17 choose.

18 This bill is a tool that the Majority is using to
19 push the abortion debate into the Tax Code. Simply put,
20 H.R. 3 would punish a woman with a tax increase if she
21 should decide to obtain abortion care while women would be
22 disproportionately harmed under the bill because they are
23 the most likely to spend funds on abortion procedures. Men
24 would be affected, as well. Many men purchase insurance
25 policies that cover their family, spouse, and dependents

1 and may use funds to cover abortion care for them.

2 This bill would impose tax increases on individuals
3 who have health insurance that covers abortion. Currently,
4 most insurance plans cover abortion. Again, this is
5 baffling to me. The same lawmakers who campaigned on
6 growing our economy and cutting taxes are now trying to
7 impose new tax penalties on individuals who happen to
8 choose a procedure that they do not agree with.

9 This bill would make any insurance plan that includes
10 coverage of abortion ineligible for premium assistance,
11 thereby raising taxes on potentially millions of otherwise
12 eligible families. This bill is cruel as it would raise
13 taxes on some workers who lose their jobs as a result of
14 outsourcing.

15 Under current law, certain workers who lose their
16 jobs as a result of outsourcing to foreign countries may be
17 eligible for a health coverage tax credit. The health
18 coverage tax credit pays 80 percent of the cost of a
19 qualified health plan premium for eligible workers.

20 H.R. 3 makes any insurance plan that includes
21 coverage of abortion ineligible for the health coverage tax
22 credit, thereby raising taxes on potentially thousands of
23 displaced workers. H.R. 3 would also impose tax increases
24 on women who use their tax-preferred savings accounts, such
25 as flexible spending or health savings account, their own

1 money, to pay for abortion care. Currently, individuals
2 and employers can contribute wages to these accounts and
3 they would be exempt from taxation.

4 Under H.R. 3, these funds would no longer be exempt
5 and she would have to pay income tax on any funds needed to
6 cover an abortion procedure. Further, this bill would
7 penalize low- and middle-income people. The Affordable
8 Care Act created a refundable tax credit for individuals
9 who purchase health insurance through an exchange.

10 This bill -- under this bill the individuals who
11 purchase insurance on the exchange would lose the tax
12 credit and practically be precluded from obtaining
13 insurance with coverage for abortion care. In every bill
14 -- in every way this bill tells the American taxpayer if
15 you buy legal constitutionally-protected medical services
16 that some members, mostly males, of Congress don't like,
17 then we're going to raise your taxes. That's wrong. We
18 have absolutely no business doing that.

19 This is an attack on the fundamental right to an
20 abortion. You can do it by a thousand cuts or a thousand
21 slices of molded bread or you can do it in one whack and
22 you haven't been able to do it in one whack, so therefore
23 you're taking the 100 cuts approach.

24 Now while we -- why would we want to hurt women, low-
25 and middle-income individuals, and displaced workers?

1 That's what this bill is going to do. I urge members of
2 the committee to vote this amendment out favorably.

3 Thank you, Mr. Chairman, and I yield back the balance
4 of my time.

5 Chairman Smith. Thank you, Mr. Johnson. The
6 gentleman from Arizona, Mr. Franks, is recognized in
7 opposition.

8 Mr. Franks. Well, thank you, Mr. Chairman. Mr.
9 Chairman, I'm having a little difficulty seeing this as a
10 tax increase bill and if the intent with this amendment is
11 to make some analogy to the individual mandate in the
12 Democrat healthcare law, I think it fails.

13 The individual mandate in the healthcare law for the
14 first time in history forced individuals on pain of penalty
15 to purchase a product, namely health insurance, and to
16 quote it, it says, "An applicable individual shall for each
17 month, beginning after 2013, ensure that the individual and
18 any dependent of the individual who is an applicable
19 individual is covered under a minimal insurance essential
20 coverage for such month."

21 If a taxpayer, and I'm trying to make the connection
22 here, if I can, if a taxpayer who is an applicable
23 individual fails to meet the requirements of Subsection A
24 for one or more months, then there is imposed on the
25 taxpayer a penalty with respect to such failures, and I'm

1 not sure where the gentleman is finding the equivalent
2 language in H.R. 3.

3 I mean, nothing in H.R. 3 forces anyone to buy
4 anything on pain of penalty. It just removes various
5 perverse policies that incentivize abortions but it
6 contains no mandates or monetary penalties for failure to
7 purchase something and so I guess I'm just having a hard
8 time seeing how this is going to be a tax increase to
9 individuals because somehow it doesn't pay for their
10 abortion and I'm going to yield back, Mr. Chairman, and
11 hope that the amendment is --

12 Chairman Smith. The gentleman yields back his time.
13 Are there other members who wish to be heard?

14 [No response.]

15 Chairman Smith. If not, the vote is on the
16 amendment. All in favor, say aye.

17 [A chorus of ayes.]

18 Chairman Smith. Opposed, say nay.

19 [A chorus of nays.]

20 Chairman Smith. Opinion of the Chair, the nos have
21 it and the amendment is not --

22 Mr. Johnson. Move for a recorded vote.

23 Chairman Smith. A Roll Call vote has been requested
24 and the Clerk will call the Roll.

25 Ms. Kish. Mr. Smith?

1 Chairman Smith. No.
2 Ms. Kish. Mr. Smith votes no.
3 Mr. Sensenbrenner?
4 [No response.]
5 Ms. Kish. Mr. Coble?
6 [No response.]
7 Ms. Kish. Mr. Gallegly?
8 Mr. Gallegly. No.
9 Ms. Kish. Mr. Gallegly votes no.
10 Mr. Goodlatte?
11 [No response.]
12 Ms. Kish. Mr. Lungren?
13 Mr. Lungren. No.
14 Ms. Kish. Mr. Lungren votes no.
15 Mr. Chabot?
16 [No response.]
17 Ms. Kish. Mr. Issa?
18 [No response.]
19 Ms. Kish. Mr. Pence?
20 [No response.]
21 Ms. Kish. Mr. Forbes?
22 Mr. Forbes. No.
23 Ms. Kish. Mr. Forbes votes no.
24 Mr. King?
25 [No response.]

1 Ms. Kish. Mr. Franks?
2 Mr. Franks. No.
3 Ms. Kish. Mr. Franks votes no.
4 Mr. Gohmert?
5 [No response.]
6 Ms. Kish. Mr. Jordan?
7 [No response.]
8 Ms. Kish. Mr. Poe?
9 [No response.]
10 Ms. Kish. Mr. Chaffetz?
11 [No response.]
12 Ms. Kish. Mr. Reed?
13 Mr. Reed. No.
14 Ms. Kish. Mr. Reed votes no.
15 Mr. Griffin?
16 Mr. Griffin. No.
17 Ms. Kish. Mr. Griffin votes no.
18 Mr. Marino?
19 Mr. Marino. No.
20 Ms. Kish. Mr. Marino votes no.
21 Mr. Gowdy?
22 Mr. Gowdy. No.
23 Ms. Kish. Mr. Gowdy votes no.
24 Mr. Ross?
25 Mr. Ross. No.

1 Ms. Kish. Mr. Ross votes no.
2 Ms. Adams?
3 Ms. Adams. No.
4 Ms. Kish. Ms. Adams votes no.
5 Mr. Quayle?
6 Mr. Quayle. No.
7 Ms. Kish. Mr. Quayle votes no.
8 Mr. Conyers?
9 Mr. Conyers. Aye.
10 Ms. Kish. Mr. Conyers votes aye.
11 Mr. Berman?
12 Mr. Berman. Aye.
13 Ms. Kish. Mr. Berman votes aye.
14 Mr. Nadler?
15 Mr. Nadler. Aye.
16 Ms. Kish. Mr. Nadler votes aye.
17 Mr. Scott?
18 Mr. Scott. Aye.
19 Ms. Kish. Mr. Scott votes aye.
20 Mr. Watt?
21 Mr. Watt. Aye.
22 Ms. Kish. Mr. Watt votes aye.
23 Ms. Lofgren?
24 Ms. Lofgren. Aye.
25 Ms. Kish. Ms. Lofgren votes aye.

1 Ms. Jackson Lee?
2 Ms. Jackson Lee. Aye.
3 Ms. Kish. Ms. Jackson Lee votes aye.
4 Ms. Waters?
5 Ms. Waters. Aye.
6 Ms. Kish. Ms. Waters votes aye.
7 Mr. Cohen?
8 Mr. Cohen. Aye.
9 Ms. Kish. Mr. Cohen votes aye.
10 Mr. Johnson?
11 Mr. Johnson. Aye.
12 Ms. Kish. Mr. Johnson votes aye.
13 Mr. Pierluisi?
14 Mr. Pierluisi. No.
15 Ms. Kish. Mr. Pierluisi votes no.
16 Mr. Quigley?
17 Mr. Quigley. Aye.
18 Ms. Kish. Mr. Quigley votes aye.
19 Ms. Chu?
20 Ms. Chu. Aye.
21 Ms. Kish. Ms. Chu votes aye.
22 Mr. Deutch?
23 Mr. Deutch. Aye.
24 Ms. Kish. Mr. Deutch votes aye.
25 Ms. Sanchez?

1 [No response.]

2 Ms. Kish. Ms. Wasserman Schultz?

3 Ms. Wasserman Schultz. Aye.

4 Ms. Kish. Ms. Wasserman Schultz votes aye.

5 Chairman Smith. Mr. Sensenbrenner?

6 Mr. Sensenbrenner. No.

7 Ms. Kish. Mr. Sensenbrenner votes no.

8 Chairman Smith. Mr. Pence?

9 Mr. Pence. No.

10 Ms. Kish. Mr. Pence votes no.

11 Chairman Smith. Mr. Chaffetz?

12 Mr. Chaffetz. No.

13 Ms. Kish. Mr. Chaffetz votes no.

14 Chairman Smith. Mr. Coble?

15 Mr. Coble. No.

16 Ms. Kish. Mr. Coble votes no.

17 Chairman Smith. Mr. Poe?

18 Mr. Poe. No.

19 Ms. Kish. Mr. Poe votes no.

20 Chairman Smith. Any other members wish to be

21 recorded?

22 [No response.]

23 Chairman Smith. If not, the Clerk will report. Mr.

24 Goodlatte? Excuse me.

25 Mr. Goodlatte. No.

1 Ms. Kish. Mr. Goodlatte votes no.

2 Chairman Smith. The Clerk will report.

3 Ms. Kish. Mr. Chairman, 14 members voted aye, 19
4 members voted nay.

5 Chairman Smith. The majority having voted against
6 the amendment, the amendment is not agreed to.

7 The gentleman from Arkansas, Mr. Griffin, is
8 recognized.

9 Mr. Griffin. Mr. Chairman, I just wanted to clarify
10 something from the other day.

11 At the end of the markup hearing on H.R. 5, the
12 Health Efficient, Accessible, Low-Cost, Timely Healthcare
13 Bill, on February 16th, 2011, votes on the House Floor were
14 called. At that point, several Judiciary Committee
15 members, including myself, we left the Committee Hearing
16 Room for the Floor. After the votes were called, several
17 Judiciary Committee members had left the Committee Room and
18 we missed final passage of H.R. 5 here in committee.

19 I just want to confirm that had I been present for
20 the vote on final passage, I would have voted in favor of
21 H.R. 5.

22 Thank you, Mr. Chairman.

23 Chairman Smith. Thank you, Mr. Griffin. The
24 gentleman from New York is recognized.

25 Mr. Reed. Thank you, Mr. Chairman. I would ask

1 unanimous consent also to have the record reflect that if I
2 had been present, we had been unexpectedly taken away from
3 the Hearing Room for H.R. 5, I would have voted for and in
4 favor of H.R. 5.

5 Chairman Smith. Thank you, Mr. Reed. Appreciate
6 that. Are there any other amendments?

7 Mr. Quigley. Mr. Chairman?

8 Chairman Smith. The gentleman from Illinois, Mr.
9 Quigley, is recognized.

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

12 Chairman Smith. The Clerk will report the amendment.

13 Ms. Kish. Amendment to the amendment in the nature
14 of a substitute to H.R. 3, offered by Mr. Quigley of
15 Illinois, Page 2, Line 15, insert A, In general, before.

16 Chairman Smith. Without objection, the amendment
17 will be considered as read, and the gentleman is recognized
18 to explain his amendment.

19 Mr. Quigley. Thank you, Mr. Chairman. My amendment
20 is very straightforward. It simply requires certification
21 by the President or his designee that this bill will not
22 affect the availability of insurance which includes
23 abortion coverage in the private insurance market. Until
24 the certification is made, the bill will not go into
25 effect.

1 Why is this amendment necessary? Because despite its
2 name, this bill does more than ban federal funding for
3 abortions. H.R. 3 overreaches into the private sector. It
4 would prevent women from using their own private money from
5 purchasing private insurance that includes abortion care.
6 This is a huge departure from the status quo. For 87
7 percent of private employer-sponsored plans currently cover
8 abortion services. Beyond this unprecedented intervention
9 in the private insurance market, the true aim of this bill
10 is to completely eliminate private insurance coverage of
11 abortion.

12 The bill would do this by creating a strong
13 disincentive for employers and individuals to select plans
14 that cover such services. As a result, many insurers would
15 likely stop offering abortion services in order to avoid
16 losing customers.

17 H.R. 3 seeks to eliminate the comprehensive coverage
18 most women enjoy in two ways. First, the bill eliminates
19 tax deductions and credits for insurance plans that include
20 abortion. So if you're a self-employed person who can now
21 deduct the cost of your insurance from your taxes, H.R. 3
22 would take that deduction away if your plan includes
23 abortion. We are talking about private plans paid for with
24 private dollars here.

25 Additionally, if you're a small business owner who

1 needs new tax credits included healthcare reform to help
2 you provide insurance to your employees, H.R. 3 would
3 revoke those tax credits if you offer a comprehensive plan
4 that includes abortion care, and I can't say this strongly
5 enough. Eighty-seven percent of employer-provided plans
6 currently cover abortion.

7 By creating onerous new penalties on all plans that
8 include abortions, the authors of this bill are attempting
9 to discourage both individuals from choosing and insurance
10 companies from offering plans with abortion coverage.

11 The second way this bill aims to take away the
12 coverage that Americans currently have is by reinserting
13 the sales Tupac language from last year's healthcare
14 debate. This language prevents any insurance plan that
15 includes abortion from accepting even one customer who
16 receives a federal subsidy.

17 The unintended consequence or what appears to be the
18 intended outcome would be to ban abortion coverage in the
19 new health insurance exchanges because insurance companies
20 will likely drop abortion coverage to enroll those
21 receiving subsidies, but this is not simply about banning
22 abortion coverage in the insurance exchanges.

23 In reality, this is an attempt to ban abortion
24 coverage across the board in the private market. According
25 to a research study at the George Washington University

1 Medical Center, this provision could have an "industry-wide
2 effect," eventually causing the elimination of coverage of
3 abortion for all women, not just those who obtain coverage
4 through the exchanges. This is a chilling thought for the
5 155 million women in this country.

6 I want to be clear on this point because despite what
7 the authors of this bill argue, the Health Reform law
8 ensures no federal money goes to plans that include
9 abortion. The law requires individuals to make separate
10 payment for the abortion coverage which requires insurers
11 to keep the private and federal funds separate.

12 I also want to be clear on what this attempt to
13 eliminate insurance coverage of abortion would actually
14 mean for millions of families across the country. No one
15 plans for an unplanned pregnancy, but if the intent of this
16 bill succeeds, women who never thought they would need an
17 abortion will be endangered when they are without coverage
18 for an abortion and even when an abortion is necessary to
19 preserve a woman's health.

20 H.R. 3 is a Trojan horse for anti-choice advocates.
21 They claim its intentions are straightforward. They simply
22 want to prevent federal funds from paying for abortions.
23 But the true ramifications of this bill will likely
24 eliminate private insurance coverage of abortions,
25 stripping away the comprehensive coverage that millions of

1 women currently have, need, and deserve.

2 My amendment simply seeks to ensure that my
3 constituents and millions of other constituents across the
4 country are able to keep the comprehensive coverage they
5 currently have.

6 Thank you, and I yield back.

7 Chairman Smith. Thank you, Mr. Quigley. The
8 gentleman from Arizona is recognized.

9 Mr. Franks. Thank you, Mr. Chairman. Mr. Chairman,
10 I would oppose this amendment, as well, not simply because
11 it makes a lot of the same points that have been made
12 earlier but it is ultimately a poison field that will let
13 the most radically pro-abortion president in the history of
14 the country have an easily-available mechanism to block the
15 implementation of this legislation by identifying just one
16 radically pro-abortion entity that will refuse a tax
17 incentive or a tax subsidy on the basis of the law.

18 In so doing, the amendment would gut the bill. The
19 bill is clear that nothing in the Act stops insurance
20 companies from providing health insurance coverage that
21 includes abortion. The bill simply ensures that taxpayers
22 are not used to buy plans that cover abortion and that such
23 plans are not eligible for premium assistance under the
24 Democrats' healthcare law and other tax credits and I'm
25 going to stop there, Mr. Chairman.

1 Chairman Smith. Will the gentleman yield?

2 Mr. Franks. Yes, Mr. Chairman, I yield briefly.

3 Chairman Smith. The gentlewoman from Texas.

4 Ms. Jackson Lee. Mr. Chairman, thank you for your
5 kindness and in the midst of debate, we all have a tendency
6 for colorfully debating. I would just suggest to you,
7 without doing a chronological analysis of presidents,
8 starting with George Washington, I would appreciate if we
9 could restrain our comments on whether or not the present
10 president is the most abortion-supporting and again I'd
11 like to think that you are pro-life and I'm pro-choice. I
12 can't speak for the President but I would imagine that's
13 what he would be.

14 Just a final comment. When we were debating the
15 Affordable Care Act or some amendments that some individual
16 had on the Floor and offered to say that that was the worst
17 law in the history of the United States, I just think we
18 should be restrained. I don't believe it is an accurate
19 assessment of Mr. Obama. I've not heard him characterize
20 himself in that manner. I've only heard him characterize
21 himself in the manner protecting the rights of women.

22 So I would yield back to the gentleman and just ask
23 that we all try to be as careful as possibly can be. I
24 yield back, and I support the amendment.

25 Mr. Franks. Mr. Chairman, I guess I would take the

1 gentle lady's point. But let me just suggest that, so the
2 record is clear, that Mr. Obama certainly is on the record
3 as the most pro-abortion president in the history of the
4 nation and that's a significantly-important point, given
5 the fact that this amendment would put it in his hand to
6 vitiate the entire law, and I wish it weren't true, gentle
7 lady. I really do.

8 And with that, I yield back.

9 Chairman Smith. The gentleman yields back. The
10 gentlewoman from California, Ms. Lofgren, is recognized.

11 Mr. Lofgren. Mr. Chairman, I would just like to
12 strike the last word and make this comment.

13 For a group that says that they want to respect the
14 rights of individuals to make their own minds up and live
15 their own lives, this has been a stunning morning, wanting
16 the Congress to get in and decide these things for families
17 when the Supreme Court has said the Constitution allows
18 that choice to be made by individuals, by their families.

19 I would say this, that I've never met anybody who's
20 pro-abortion, not in my whole life. I've met people who
21 have had the necessity to have an abortion, but I don't --
22 I think it's just a great disservice to women and shows a
23 real lack of understanding and ignorance to describe
24 somebody as pro-abortion when in fact they want individuals
25 to make up their own minds, not the Government, and I yield

1 back.

2 Chairman Smith. The gentlewoman yields back the
3 balance of her time.

4 The question is on the amendment. All in favor, say
5 aye.

6 [A chorus of ayes.]

7 Chairman Smith. All opposed, say nay.

8 [A chorus of nays.]

9 Chairman Smith. The nos clearly have it, in the
10 opinion of the Chair.

11 Mr. Quigley. Mr. Chairman, may I ask for a recorded
12 vote?

13 Chairman Smith. Recorded vote has been requested,
14 and the Clerk will call the Roll.

15 Ms. Kish. Mr. Smith?

16 Chairman Smith. No.

17 Ms. Kish. Mr. Smith votes no.

18 Mr. Sensenbrenner?

19 [No response.]

20 Ms. Kish. Mr. Coble?

21 Mr. Coble. No.

22 Ms. Kish. Mr. Coble votes no.

23 Mr. Gallegly?

24 Mr. Gallegly. No.

25 Ms. Kish. Mr. Gallegly votes no.

1 Mr. Goodlatte.
2 Mr. Goodlatte. No.
3 Ms. Kish. Mr. Goodlatte votes no.
4 Mr. Lungren?
5 Mr. Lungren. No.
6 Ms. Kish. Mr. Lungren votes no.
7 Mr. Chabot?
8 Mr. Chabot. No.
9 Ms. Kish. Mr. Chabot votes no.
10 Mr. Issa?
11 [No response.]
12 Ms. Kish. Mr. Pence?
13 Mr. Pence. No.
14 Ms. Kish. Mr. Pence votes no.
15 Mr. Forbes?
16 Mr. Forbes. No.
17 Ms. Kish. Mr. Forbes votes no.
18 Mr. King?
19 [No response.]
20 Ms. Kish. Mr. Franks?
21 Mr. Franks. No.
22 Ms. Kish. Mr. Franks votes no.
23 Mr. Gohmert?
24 [No response.]
25 Ms. Kish. Mr. Jordan?

1 [No response.]
2 Ms. Kish. Mr. Poe?
3 Mr. Poe. No.
4 Ms. Kish. Mr. Poe votes no.
5 Mr. Chaffetz?
6 Mr. Chaffetz. No.
7 Ms. Kish. Mr. Chaffetz votes no.
8 Mr. Reed?
9 Mr. Reed. No.
10 Ms. Kish. Mr. Reed votes no.
11 Mr. Griffin?
12 Mr. Griffin. No.
13 Ms. Kish. Mr. Griffin votes no.
14 Mr. Marino?
15 Mr. Marino. No.
16 Ms. Kish. Mr. Marino votes no.
17 Mr. Gowdy?
18 Mr. Gowdy. No.
19 Ms. Kish. Mr. Gowdy votes no.
20 Mr. Ross?
21 Mr. Ross. No.
22 Ms. Kish. Mr. Ross votes no.
23 Ms. Adams?
24 Ms. Adams. No.
25 Ms. Kish. Ms. Adams votes no.

1 Mr. Quayle?
2 Mr. Quayle. No.
3 Ms. Kish. Mr. Quayle votes no.
4 Mr. Conyers?
5 Mr. Conyers. Aye.
6 Ms. Kish. Mr. Conyers votes aye.
7 Mr. Berman?
8 [No response.]
9 Ms. Kish. Mr. Nadler?
10 Mr. Nadler. Aye.
11 Ms. Kish. Mr. Nadler votes aye.
12 Mr. Scott?
13 Mr. Scott. Aye.
14 Ms. Kish. Mr. Scott votes aye.
15 Mr. Watt?
16 [No response.]
17 Ms. Kish. Ms. Lofgren?
18 Ms. Lofgren. Aye.
19 Ms. Kish. Ms. Lofgren votes aye.
20 Ms. Jackson Lee?
21 Ms. Jackson Lee. Aye.
22 Ms. Kish. Ms. Jackson Lee votes aye.
23 Ms. Waters?
24 [No response.]
25 Ms. Kish. Mr. Cohen?

1 Mr. Cohen. Aye.

2 Ms. Kish. Mr. Cohen votes aye.

3 Mr. Johnson?

4 Mr. Johnson. Aye.

5 Ms. Kish. Mr. Johnson votes aye.

6 Mr. Pierluisi?

7 Mr. Pierluisi. No.

8 Ms. Kish. Mr. Pierluisi votes no.

9 Mr. Quigley?

10 Mr. Quigley. Aye.

11 Ms. Kish. Mr. Quigley votes aye.

12 Ms. Chu?

13 Ms. Chu. Aye.

14 Ms. Kish. Ms. Chu votes aye.

15 Mr. Deutch.

16 [No response.]

17 Ms. Kish. Ms. Sanchez?

18 [No response.]

19 Ms. Kish. Ms. Wasserman Schultz?

20 Ms. Wasserman Schultz. Aye.

21 Ms. Kish. Ms. Wasserman Schultz votes aye.

22 Chairman Smith. Mr. Sensenbrenner?

23 Mr. Sensenbrenner. No.

24 Ms. Kish. Mr. Sensenbrenner votes no.

25 Chairman Smith. Mr. Issa?

1 Mr. Issa. No.

2 Ms. Kish. Mr. Issa votes no.

3 Chairman Smith. Mr. Watt?

4 Mr. Watt. Aye.

5 Ms. Kish. Mr. Watt votes aye.

6 Ms. Waters. Aye.

7 Ms. Kish. Ms. Waters votes aye.

8 Mr. Chairman, 12 members voted aye, 21 members voted
9 nay.

10 Chairman Smith. I'm not sure -- oh, there it is. We
11 got a quick fix.

12 Let me say to the members of the committee that votes
13 are imminent but votes are earlier than expected. There
14 are only two votes and if we do not finish by the time the
15 votes are called, we'll need to return to finish up the
16 bill today.

17 Let me now ask the gentlewoman from California, Ms.
18 Chu. Ms. Chu, you had two amendments. Would you consider
19 offering them en bloc? We can debate both and if you want
20 votes on each amendment, we can do that, but would you
21 consider offering them en bloc?

22 Ms. Chu. Yes, that's fine.

23 Chairman Smith. The gentlewoman is recognized.

24 Ms. Chu. Mr. Chair, I have Amendment Number 12.

25 Chairman Smith. The Clerk will report both

1 amendments.

2 Ms. Chu. Thank you, Mr. Chair. Let me start out by
3 saying that my amendment should be completely non-
4 controversial and it's merely a clarifying amendment. It
5 makes clear that nothing in this bill relieves doctors and
6 hospitals of their moral and legal obligation under current
7 law to provide emergency healthcare services. EMTALA is
8 the Emergency Medical Transfer and Labor --

9 Chairman Smith. Without objection, the amendments
10 will be considered as read, and the gentlewoman will
11 continue to explain her amendment.

12 Ms. Chu. All right. EMTALA is the Emergency Medical
13 Transfer and Active Labor Act. It's been in existence for
14 25 years, was passed in 1986, and prohibits hospitals from
15 dumping a patient who is medically unstable and needs
16 emergency care. If a patient arrives in a life-threatening
17 situation, a hospital must treat her until her life is no
18 longer in danger.

19 While I believe that EMTALA supersedes current
20 refusal provisions and would do so again should the
21 legislation become law, we can't afford any
22 misunderstandings on the ground by providers, by doctors,
23 when women's lives are at stake.

24 I hope that no one here would suggest that this bill
25 allows women coming into a hospital for life or death care

1 would be provided with anything less than the best and
2 fullest care. In fact, I fully expect my colleagues on the
3 other side to tell me that this amendment isn't needed
4 because the bill doesn't affect EMTALA provisions, but I am
5 very, very concerned that the language in the Manager's
6 Amendment regarding refusal is broad enough and vague
7 enough that some providers may not understand that what we
8 here in this room all agree, which is that EMTALA
9 supersedes refusal provisions.

10 I'm sure that we all believe that women who are
11 pregnant should be treated exactly the same as any other
12 patient, doctors should do everything they can to save
13 their lives. In fact, they have a moral obligation to do
14 so. But there are well-documented cases that show that
15 when doctors don't act, tragedy strikes. Take the case of
16 Susan, a pregnant woman who walked into the hospital with a
17 severe organ infection known as sepsis. This disease is
18 often fatal and threatened the lives of both the mother and
19 the fetus, but the hospital refused to treat her despite
20 the fact that she was hemorrhaging. Since they couldn't
21 transfer her to another hospital because she was unstable,
22 doctors instead proposed giving her a transfusion and just
23 waiting until the fetus died before helping the woman.

24 Or take Stephanie who was pregnant at 19 weeks. She
25 came in with a 106 degree fever and the whites of her eyes

1 were filled with blood. Doctors on the scene thought she
2 was dying before their eyes, but the hospital continued to
3 refuse treatment until the fetus finally died. They
4 quickly moved her to the ICU but she was so sick she stayed
5 there for 10 days and very nearly died.

6 But these are just a few stories. There are
7 undoubtedly many more that never make it to the halls of
8 Congress or the ears of advocates and that's why we need
9 this amendment because we cannot allow anyone to
10 misunderstand the law when women's lives are at stake. We
11 cannot be silent about a woman's right to life and we must
12 make sure that with something of such significance that it
13 is crystal clear that every woman receives the best and
14 fullest care.

15 I also would like to address Amendment Number 13.
16 This is my amendment which says that the Healthcare Reform
17 bill or the Affordable Healthcare Act requires that the
18 Federal Government help protect access to appropriate
19 medical care and do nothing to restrict doctors' ability to
20 fully disclose treatment options and other health
21 information to patients. It also requires that Government
22 do nothing to violate ethical standards of healthcare
23 professionals or informed consent between doctor and
24 patient.

25 These were good provisions and very important

1 provisions and just like my last amendment, I want this
2 committee to make abundantly clear that those same
3 provisions apply to H.R. 3 because pregnant women, even at
4 a hospital that may not agree with abortion, should
5 understand all options that are available to them for their
6 health and the health of their baby.

7 This bill should not give providers a pass from
8 telling women what their choices are, no matter their
9 personal beliefs. That's not right. It's not ethical. So
10 my amendment would reiterate this legal right to protect
11 women and their health.

12 Chairman Smith. Would the gentlewoman yield back the
13 balance of her time? The gentleman from Arizona, Mr.
14 Franks, is recognized.

15 Mr. Franks. Thank you, Mr. Chairman. Mr. Chairman,
16 the ACLU has been urging the Administration, this
17 Administration to interpret EMTALA to require abortions in
18 various cases and this amendment would gut the conscience
19 provision by potentially allowing that and I would oppose
20 the first amendment on that basis.

21 The second amendment, I think should also be defeated
22 because it allows hospitals or healthcare professionals to
23 decide on their own not to follow the conscience
24 protections in the bill by claiming that so doing would
25 somehow restrict the full disclosure as they see fit and I

1 just think that both of them, maybe well meaning, are
2 amendments that we should not adopt.

3 Chairman Smith. Thank you.

4 Ms. Chu. If the gentleman would yield?

5 Chairman Smith. Would the gentleman yield to the
6 gentlewoman from California, Ms. Chu?

7 Mr. Franks. Yes.

8 Chairman Smith. Okay.

9 Ms. Chu. This amendment does not gut the conscience
10 clause and in fact there is the current conscience clause,
11 the Weldon amendment. If implemented properly, it works
12 well with EMTALA. In fact, it has done so for years and in
13 fact I have a letter from the Catholic Health Association
14 of the United States right here that clearly states, and I
15 quote, "CHA member hospitals have been providing
16 compassionate quality care under both EMTALA and the Weldon
17 amendment without conflicts since the enactment of these
18 provisions."

19 With EMTALA, in emergency situations, the life of a
20 woman must be preserved and stabilized. That's the bottom
21 line. The question is whether all healthcare providers do
22 understand this and that's what my amendment addresses.

23 Mr. Franks. Mr. Chairman, I would just, on that
24 basis, yield back.

25 Chairman Smith. Thank you. The question is on the

1 amendment.

2 Ms. Chu. I ask for a recorded vote on both
3 amendments. Separate votes on each amendment, yes.

4 Chairman Smith. The gentlewoman from California has
5 requested a vote on each amendment. We will vote on the
6 first amendment in the en bloc amendment, and the Clerk
7 will call the Roll.

8 Ms. Kish. Mr. Smith?

9 Chairman Smith. No.

10 Ms. Kish. Mr. Smith votes no.

11 Mr. Sensenbrenner?

12 [No response.]

13 Ms. Kish. Mr. Coble?

14 [No response.]

15 Ms. Kish. Mr. Gallegly?

16 Mr. Gallegly. No.

17 Ms. Kish. Mr. Gallegly votes no.

18 Mr. Goodlatte?

19 Mr. Goodlatte. No.

20 Ms. Kish. Mr. Goodlatte votes no.

21 Mr. Lungren?

22 Mr. Lungren. No.

23 Ms. Kish. Mr. Lungren votes no.

24 Mr. Chabot?

25 Mr. Chabot. No.

1 Ms. Kish. Mr. Chabot votes no.
2 Mr. Issa?
3 Mr. Issa. No.
4 Ms. Kish. Mr. Issa votes no.
5 Mr. Pence?
6 Mr. Pence. No.
7 Ms. Kish. Mr. Pence votes no.
8 Mr. Forbes?
9 Mr. Forbes. No.
10 Ms. Kish. Mr. Forbes votes no.
11 Mr. King?
12 Mr. Franks?
13 Mr. Franks. No.
14 Ms. Kish. Mr. Franks votes no.
15 Mr. Gohmert?
16 [No response.]
17 Ms. Kish. Mr. Jordan?
18 [No response.]
19 Ms. Kish. Mr. Poe?
20 Mr. Poe. No.
21 Ms. Kish. Mr. Poe votes no.
22 Mr. Chaffetz?
23 Mr. Chaffetz. No.
24 Ms. Kish. Mr. Chaffetz votes no.
25 Mr. Reed?

1 Mr. Reed. No.
2 Ms. Kish. Mr. Reed votes no.
3 Mr. Griffin?
4 Mr. Griffin. No.
5 Ms. Kish. Mr. Griffin votes no.
6 Mr. Marino?
7 Mr. Marino. No.
8 Ms. Kish. Mr. Marino votes no.
9 Mr. Gowdy?
10 Mr. Gowdy. No.
11 Ms. Kish. Mr. Gowdy votes no.
12 Mr. Ross?
13 Mr. Ross. No.
14 Ms. Kish. Mr. Ross votes no.
15 Ms. Adams?
16 Ms. Adams. No.
17 Ms. Kish. Ms. Adams votes no.
18 Mr. Quayle?
19 Mr. Quayle. No.
20 Ms. Kish. Mr. Quayle votes no.
21 Mr. Conyers?
22 Mr. Conyers. Aye.
23 Ms. Kish. Mr. Conyers votes aye.
24 Mr. Berman?
25 [No response.]

1 Ms. Kish. Mr. Nadler?
2 Mr. Nadler. Aye.
3 Ms. Kish. Mr. Nadler votes aye.
4 Mr. Scott?
5 Mr. Scott. Aye.
6 Ms. Kish. Mr. Scott votes aye.
7 Mr. Watt?
8 Mr. Watt. Aye.
9 Ms. Kish. Mr. Watt votes aye.
10 Ms. Lofgren?
11 Ms. Lofgren. Aye.
12 Ms. Kish. Ms. Lofgren votes aye.
13 Ms. Jackson Lee?
14 [No response.]
15 Ms. Kish. Ms. Waters?
16 Chairman Smith. Ms. Waters?
17 Ms. Waters. Aye.
18 Ms. Kish. Ms. Waters votes aye.
19 Mr. Cohen?
20 Mr. Cohen. Aye.
21 Ms. Kish. Mr. Cohen votes aye.
22 Mr. Johnson?
23 Mr. Johnson. Aye.
24 Ms. Kish. Mr. Johnson votes aye.
25 Mr. Pierluisi?

1 Mr. Pierluisi. Aye.
2 Ms. Kish. Mr. Pierluisi votes aye.
3 Mr. Quigley?
4 Mr. Quigley. Aye.
5 Ms. Kish. Mr. Quigley votes aye.
6 Ms. Chu.
7 Ms. Chu. Aye.
8 Ms. Kish. Ms. Chu votes aye.
9 Mr. Deutch?
10 Mr. Deutch. Aye.
11 Ms. Kish. Mr. Deutch votes aye.
12 Ms. Sanchez?
13 [No response.]
14 Chairman Smith. Ms. Wasserman Schultz?
15 Ms. Wasserman Schultz. Aye.
16 Ms. Kish. Ms. Wasserman Schultz votes aye.
17 Chairman Smith. Mr. King?
18 Mr. King. No.
19 Ms. Kish. Mr. King votes no.
20 Chairman Smith. Mr. Coble?
21 Mr. Coble. No.
22 Ms. Kish. Mr. Coble votes no.
23 Chairman Smith. Mr. Gallegly?
24 Mr. Gallegly. Am I recorded?
25 Ms. Kish. No.

1 Mr. Gallegly. No.

2 Ms. Kish. Mr. Gallegly votes no.

3 Chairman Smith. Mr. Sensenbrenner?

4 Mr. Sensenbrenner. No.

5 Ms. Kish. Mr. Sensenbrenner votes no.

6 Chairman Smith. Are there any members who wish to be
7 recorded?

8 [No response.]

9 Chairman Smith. If not, --

10 Ms. Kish. Not recorded, no.

11 Chairman Smith. Ms. Jackson Lee?

12 Ms. Jackson Lee. Aye.

13 Ms. Kish. Ms. Jackson Lee votes aye.

14 Chairman Smith. The Clerk will report.

15 Ms. Kish. Mr. Chairman, 14 members voted aye, 21
16 members voted no.

17 Chairman Smith. Majority voted against the
18 amendment. The amendment is not agreed to.

19 Ms. Chu, would you consider a voice vote on your
20 second amendment?

21 Ms. Chu. Okay.

22 Chairman Smith. We thank the gentlewoman from
23 California. We will have a voice vote on the second
24 amendment.

25 All in favor, say aye.

1 [A chorus of ayes.]

2 Chairman Smith. All opposed, nay.

3 [A chorus of nays.]

4 Chairman Smith. In the opinion of the Chair, the
5 nays have it and the amendment is not agreed to.

6 Ms. Wasserman Schultz, you know what I'm going to
7 say, right?

8 Ms. Wasserman Schultz. Yes, and, affectionately, I
9 am not going to be able to do that because I have two
10 separate and distinct amendments on separate issues.

11 Chairman Smith. Okay. The gentlewoman is recognized
12 to offer the first of two amendments.

13 Ms. Wasserman Schultz. Thank you. Thank you, Mr.
14 Chairman, and I have an amendment at the desk. It's
15 Amendment Number 14.

16 Chairman Smith. The Clerk will report the amendment.

17 Ms. Wasserman Schultz. I would ask unanimous consent
18 to have the amendment considered as read.

19 Chairman Smith. Without objection, the amendment is
20 considered as read, and the gentlewoman is recognized in
21 support of her amendment.

22 Ms. Wasserman Schultz. Thank you, Mr. Chairman. Mr.
23 Chairman, my amendment amends the substitute to prevent tax
24 increases on small businesses.

25 Over the last few months, our friends on the other

1 side of the aisle have talked incessantly about the need to
2 lower taxes on small businesses in order to spur innovation
3 and job creation in this country, and I agree that it is
4 not -- that it's important not to overburden small
5 businesses with unnecessary taxes. That's why I'm offering
6 this amendment.

7 This bill already doesn't address job creation. We
8 must not hamper future job growth in small businesses by
9 raising their taxes as this bill clearly currently seeks to
10 do. For example, right now an air conditioning
11 manufacturer with 12 employees, each earning \$35,000 per
12 year, with healthcare costs totaling \$90,000, is eligible
13 for the small business health tax credit created by the
14 Affordable Care Act.

15 If the manufacturer's health insurance plan includes
16 coverage of abortion, as it currently stands, H.R. 3 would
17 raise that business's taxes by \$14,700, just that one
18 business. That \$15,000 could help that business purchase
19 new computers or help pay someone's salary.

20 Now it's no secret that the Republicans did not
21 openly run on an anti-woman agenda this fall, even though
22 that's what we're getting instead. We were told that a
23 Republican-led House would be focused on strengthening our
24 economy and creating jobs in our economy and for the party
25 that ran on lower taxes, this is a stark departure from

1 that stance.

2 Eighty-seven percent of private insurance plans
3 include comprehensive reproductive healthcare which
4 includes abortion services. Private citizens and employers
5 who use their own private dollars have nothing at all to do
6 with taxpayer funding for abortion. H.R. 3 goes much
7 further than current law that already prohibits federal
8 funding of abortion.

9 For the first time, H.R. 3 would define federal
10 funding to include tax credits, taxes that would not be
11 owed as federal funds. This is not a simple codification
12 of current law. It goes much further than current law and
13 it increases taxes on small businesses who are currently
14 receiving the tax credits and who wish to provide
15 healthcare to their employees in the future and receive the
16 tax credits under the Affordable Care Act.

17 It is flat out wrong to penalize private citizens and
18 private dollars for providing insurance that includes
19 coverage of a completely legal medical procedure for the
20 four million small businesses currently eligible for tax
21 credits under the Affordable Care Act who wonder why they
22 may face tax increases for the sake of a misguided dogmatic
23 bill.

24 I urge my colleagues to support this amendment.

25 Chairman Smith. The gentleman from Arizona is

1 recognized to briefly oppose.

2 Mr. Franks. Mr. Chairman, these, in my judgment, are
3 the same flawed arguments made earlier and so I
4 consequently offer the same brilliant rebuttal that I made
5 earlier and yield back.

6 Chairman Smith. The gentleman yields back. The
7 question is on the amendment.

8 Those in favor, say aye.

9 [A chorus of ayes.]

10 Chairman Smith. Those opposed, no.

11 [A chorus of nays.]

12 Chairman Smith. In the opinion of the Chair, the nos
13 have it, and the amendment --

14 Ms. Wasserman Schultz. Mr. Chairman, I ask for a
15 recorded vote.

16 Chairman Smith. -- is not agreed to. A recorded
17 vote has been requested. The Clerk will call the Roll.
18 Call the Roll very quickly, please.

19 Ms. Kish. Mr. Smith?

20 Chairman Smith. No.

21 Ms. Kish. Mr. Smith votes no.

22 Mr. Sensenbrenner?

23 Mr. Sensenbrenner. No.

24 Ms. Kish. Mr. Sensenbrenner votes no.

25 Mr. Coble?

1 Mr. Coble No.
2 Ms. Kish. Mr. Coble votes no.
3 Mr. Gallegly?
4 Mr. Gallegly. No.
5 Ms. Kish. Mr. Gallegly votes no.
6 Mr. Goodlatte?
7 [No response.]
8 Ms. Kish. Mr. Lungren?
9 Mr. Lungren. No.
10 Ms. Kish. Mr. Lungren votes no.
11 Mr. Chabot?
12 Mr. Chabot. No.
13 Ms. Kish. Mr. Chabot votes no.
14 Mr. Issa?
15 Mr. Issa. No.
16 Ms. Kish. Mr. Issa votes no.
17 Mr. Pence?
18 [No response.]
19 Ms. Kish. Mr. Forbes?
20 Mr. Forbes. No.
21 Ms. Kish. Mr. Forbes votes no.
22 Mr. King?
23 Mr. King. No.
24 Ms. Kish. Mr. King votes no.
25 Mr. Franks?

1 Mr. Franks. No.

2 Ms. Kish. Mr. Franks votes no.

3 Mr. Gohmert?

4 [No response.]

5 Ms. Kish. Mr. Jordan?

6 [No response.]

7 Ms. Kish. Mr. Poe?

8 Mr. Poe. No.

9 Ms. Kish. Mr. Poe votes no.

10 Mr. Chaffetz?

11 Mr. Chaffetz. No.

12 Ms. Kish. Mr. Chaffetz votes no.

13 Mr. Reed?

14 Mr. Reed. No.

15 Ms. Kish. Mr. Reed votes no.

16 Mr. Griffin?

17 Mr. Griffin. No.

18 Ms. Kish. Mr. Griffin votes no.

19 Mr. Marino?

20 Mr. Marino. No.

21 Ms. Kish. Mr. Marino votes no.

22 Mr. Gowdy?

23 Mr. Gowdy. No.

24 Ms. Kish. Mr. Gowdy votes no.

25 Mr. Ross?

1 Mr. Ross. No.

2 Ms. Kish. Mr. Ross votes no.

3 Ms. Adams?

4 Ms. Adams. No.

5 Ms. Kish. Ms. Adams votes no.

6 Mr. Quayle?

7 Mr. Quayle. No.

8 Ms. Kish. Mr. Quayle votes no.

9 Mr. Conyers?

10 Mr. Conyers. Aye.

11 Ms. Kish. Mr. Conyers votes aye.

12 Mr. Berman?

13 [No response.]

14 Ms. Kish. Mr. Nadler?

15 Mr. Nadler. Aye.

16 Ms. Kish. Mr. Nadler votes aye.

17 Mr. Scott?

18 Mr. Scott. Aye.

19 Ms. Kish. Mr. Scott votes aye.

20 Mr. Watt?

21 Mr. Watt. Aye.

22 Ms. Kish. Mr. Watt votes aye.

23 Ms. Lofgren?

24 Ms. Lofgren. Aye.

25 Ms. Kish. Ms. Lofgren votes aye.

1 Ms. Jackson Lee?
2 [No response.]
3 Ms. Kish. Ms. Waters?
4 Ms. Waters. Aye.
5 Ms. Kish. Ms. Waters votes aye.
6 Mr. Cohen?
7 Mr. Cohen. Aye.
8 Ms. Kish. Mr. Cohen votes aye.
9 Mr. Johnson?
10 Mr. Johnson. Aye.
11 Ms. Kish. Mr. Johnson votes aye.
12 Mr. Pierluisi?
13 Mr. Pierluisi. No.
14 Ms. Kish. Mr. Pierluisi votes no.
15 Mr. Quigley?
16 Mr. Quigley. Aye.
17 Ms. Kish. Mr. Quigley votes aye.
18 Ms. Chu?
19 Ms. Chu. Aye.
20 Ms. Kish. Ms. Chu votes aye.
21 Mr. Deutch?
22 Mr. Deutch. Aye.
23 Ms. Kish. Mr. Deutch votes aye.
24 Ms. Sanchez?
25 [No response.]

1 Ms. Kish. Ms. Wasserman Schultz?

2 Ms. Wasserman Schultz. Aye.

3 Ms. Kish. Ms. Wasserman Schultz votes aye.

4 Chairman Smith. Are there other members who wish to
5 record their votes? Ms. Jackson Lee?

6 Ms. Jackson Lee. Aye.

7 Ms. Kish. Ms. Jackson Lee votes aye.

8 Chairman Smith. Mr. Pence?

9 Mr. Pence. No.

10 Ms. Kish. Mr. Pence votes no.

11 Chairman Smith. Mr. Gallegly?

12 Mr. Gallegly. No.

13 Ms. Kish. Mr. Gallegly votes no.

14 Chairman Smith. Mr. Goodlatte?

15 Mr. Goodlatte. No.

16 Ms. Kish. Mr. Goodlatte votes no.

17 Chairman Smith. The Clerk will report. While the
18 Clerk is reporting, let me say to members we believe that
19 the votes will be held open long enough for us to finish
20 this bill. So if members can stay here for a couple more
21 minutes, we expect to finish.

22 The Clerk will report. The Clerk will suspend.

23 The gentleman from California, Mr. Berman, votes aye.

24 Ms. Kish. Mr. Chairman, 14 members voted aye, 22

25 members voted nay.

1 Chairman Smith. The majority having voted against
2 the amendment, the amendment is not agreed to.

3 The gentlewoman from Florida is recognized for her
4 amendment.

5 Ms. Wasserman Schultz. Thank you, Mr. Chairman. I
6 have an amendment at the desk, Amendment Number 15.

7 Chairman Smith. The Clerk will report the amendment.

8 Ms. Wasserman Schultz. I ask unanimous consent to
9 waive the report.

10 Chairman Smith. Without objection, the amendment is
11 considered as read, and the gentlewoman is recognized to
12 explain her amendment.

13 Ms. Wasserman Schultz. Thank you, Mr. Chairman. Mr.
14 Chairman, my amendment would insert an exception that
15 ensures that a pregnant woman diagnosed with cancer who
16 needs life-saving treatment for cancer incompatible with
17 continuing the pregnancy would be able to receive abortion
18 care under federal program.

19 As a breast cancer survivor, I want to make sure that
20 all women have access to comprehensive cancer care as soon
21 after detection as possible. There should be no exception
22 to that.

23 There are very aggressive forms of cancer that
24 require immediate chemotherapy and radiation that are
25 incompatible with pregnancy. A woman should not be forced

1 to choose between her own life and her unborn child and
2 this bill makes her do that.

3 Whether they are federal employees on Medicare or
4 women who purchase insurance plans from state health care
5 exchanges, all women should have the option to pursue life-
6 saving treatment before carrying a pregnancy to term. It
7 is unconscionable and morally irresponsible to demand that
8 women forego treatments for cancer that could save their
9 lives.

10 My Republican colleagues invoke the sanctity of life
11 with vigor, except as it might relate and apply to protect
12 a pregnant woman. Cancer and abortion have something in
13 common. They are both heartbreaking, physically and
14 mentally exhausting, and situations that no woman wants to
15 find herself in. An abortion is a medical decision that
16 should be made between a woman, her family, and her doctor.

17 There seems to be a consensus on the other side of
18 the aisle that women seek abortions carelessly, that there
19 is no excruciating thought process that goes into making
20 the decision to end a pregnancy, but for a woman who
21 discovers that she is pregnant and did not want or plan to
22 be, I would imagine there is little else she could think
23 about after seeing a positive pregnancy test and making a
24 decision to terminate or continue the pregnancy.

25 Now imagine that that woman has to make the decision

1 with the added weight of a new deadly cancer diagnosis. A
2 pregnant woman should not be forced to choose between
3 saving her own life and continuing her pregnancy. She
4 should not be forced to continue the pregnancy all the
5 while facing the grim reality that the delay in treatment
6 may mean that her child might not have a mom around for too
7 long after its birth.

8 It is not too often in this job that we are faced
9 with what is a literally life and death decision, life and
10 death situation, but this is one of them.

11 For the millions of women across the country who have
12 cancer and for the hundreds of thousands who will receive
13 diagnoses this year, it is imperative that we enable them
14 to receive the best treatment available to them as soon as
15 possible. No woman should be asked to sacrifice her own
16 life for an unplanned pregnancy.

17 I urge the members of the committee to support this
18 amendment and I yield back the balance of my time.

19 Chairman Smith. Thank you, Ms. Wasserman Schultz.
20 The gentleman from Arizona, Mr. Franks.

21 Mr. Franks. Mr. Chairman, I would just submit that
22 there is a specific phrase in this bill that says that
23 there's an exception for anything that endangers the life
24 of the mother. That's been said before and so I would just
25 remind the members that this is about real babies and this

1 is about funding and 4,000 more will die today and we
2 should reject this amendment and we should get on with
3 voting for the bill.

4 Chairman Smith. Thank you, Mr. Franks. The question
5 is on the amendment.

6 All in favor, say aye.

7 [A chorus of ayes.]

8 Chairman Smith. Opposed, nay.

9 [A chorus of nays.]

10 Chairman Smith. In the opinion of the Chair, the
11 nays have it, and the amendment is not agreed to.

12 Now the question is on the Manager's Amendment.

13 Those in favor, say aye.

14 [A chorus of ayes.]

15 Chairman Smith. Opposed, no.

16 Ms. Wasserman Schultz. Mr. Chairman, --

17 Chairman Smith. In the opinion, --

18 Ms. Wasserman Schultz. -- ask for a recorded vote on
19 that amendment, please.

20 Chairman Smith. In the opinion --

21 Ms. Wasserman Schultz. No, no. Mr. Chairman, I ask
22 for a recorded vote on that amendment, please.

23 Mr. Franks. Point of order, Mr. Chairman.

24 Ms. Wasserman Schultz. Every single amendment today,
25 Mr. Chairman, has had --

1 Chairman Smith. It's at the discretion of the Chair
2 and the Chair will ask for a recorded vote and the Clerk
3 will call the Roll.

4 Ms. Kish. Mr. Smith?

5 Chairman Smith. No.

6 Ms. Kish. Mr. Smith votes no.

7 Mr. Sensenbrenner?

8 Mr. Sensenbrenner. Aye.

9 Ms. Kish. Mr. Sensenbrenner votes aye.

10 Mr. Coble?

11 Mr. Coble. No.

12 Ms. Kish. Mr. Coble votes no.

13 Mr. Gallegly?

14 [No response.]

15 Ms. Kish. Mr. Goodlatte?

16 [No response.]

17 Ms. Kish. Mr. Lungren?

18 Mr. Lungren. No.

19 Ms. Kish. Mr. Lungren votes no.

20 Chairman Smith. Would the Clerk suspend? This vote
21 is on the Wasserman Schultz amendment. Okay. Please
22 proceed.

23 Mr. Chabot. No.

24 Ms. Kish. Mr. Chabot votes no.

25 Mr. Issa?

1 Mr. Issa. No.

2 Ms. Kish. Mr. Issa votes no.

3 Mr. Pence?

4 Mr. Pence. No.

5 Ms. Kish. Mr. Pence votes no.

6 Mr. Forbes?

7 Mr. Forbes. No.

8 Ms. Kish. Mr. Forbes votes no.

9 Mr. King?

10 Mr. King. No.

11 Ms. Kish. Mr. King votes no.

12 Mr. Franks?

13 Mr. Franks. No.

14 Ms. Kish. Mr. Franks votes no.

15 Mr. Gohmert?

16 [No response.]

17 Ms. Kish. Mr. Jordan?

18 [No response.]

19 Ms. Kish. Mr. Poe?

20 Mr. Poe. No.

21 Ms. Kish. Mr. Poe votes no.

22 Mr. Chaffetz?

23 Mr. Chaffetz. No.

24 Ms. Kish. Mr. Chaffetz votes no.

25 Mr. Reed?

1 Mr. Reed. No.
2 Ms. Kish. Mr. Reed votes no.
3 Mr. Griffin?
4 Mr. Griffin. No.
5 Ms. Kish. Mr. Griffin votes no.
6 Mr. Marino?
7 Mr. Marino. No.
8 Ms. Kish. Mr. Marino votes no.
9 Mr. Gowdy?
10 Mr. Gowdy. No.
11 Ms. Kish. Mr. Gowdy votes no.
12 Mr. Ross?
13 Mr. Ross. No.
14 Ms. Kish. Mr. Ross votes no.
15 Ms. Adams?
16 Ms. Adams. No.
17 Ms. Kish. Ms. Adams votes no.
18 Mr. Quayle?
19 Mr. Quayle. No.
20 Ms. Kish. Mr. Quayle votes no.
21 Mr. Conyers?
22 Mr. Conyers. Aye.
23 Ms. Kish. Mr. Conyers votes aye.
24 Mr. Berman?
25 Mr. Berman. Aye.

1 Ms. Kish. Mr. Berman votes aye.
2 Mr. Nadler?
3 Mr. Nadler. Aye.
4 Ms. Kish. Mr. Nadler votes aye.
5 Mr. Scott?
6 Mr. Scott. Aye.
7 Ms. Kish. Mr. Scott votes aye.
8 Mr. Watt?
9 Mr. Watt. Aye.
10 Ms. Kish. Mr. Watt votes aye.
11 Ms. Lofgren?
12 Ms. Lofgren. Aye.
13 Ms. Kish. Ms. Lofgren votes aye.
14 Ms. Jackson Lee?
15 Ms. Jackson Lee. Aye.
16 Ms. Kish. Ms. Jackson Lee votes aye.
17 Ms. Waters?
18 Ms. Waters. Aye.
19 Ms. Kish. Ms. Waters votes aye.
20 Mr. Cohen?
21 Mr. Cohen. Aye.
22 Ms. Kish. Mr. Cohen votes aye.
23 Mr. Johnson?
24 Mr. Johnson. Aye.
25 Ms. Kish. Mr. Johnson votes aye.

1 Mr. Pierluisi?

2 Mr. Pierluisi. Aye.

3 Ms. Kish. Mr. Pierluisi votes aye.

4 Mr. Quigley?

5 Mr. Quigley. Aye.

6 Ms. Kish. Mr. Quigley votes aye.

7 Ms. Chu?

8 Ms. Chu. Aye.

9 Ms. Kish. Ms. Chu votes aye.

10 Mr. Deutch?

11 Mr. Deutch. Aye.

12 Ms. Kish. Mr. Deutch votes aye.

13 Ms. Sanchez?

14 [No response.]

15 Ms. Kish. Ms. Wasserman Schultz?

16 Ms. Wasserman Schultz. Aye.

17 Ms. Kish. Ms. Wasserman Schultz --

18 Chairman Smith. Are there other members who wish to

19 record their votes?

20 Mr. Sensenbrenner. Mr. Chairman?

21 Chairman Smith. Mr. Sensenbrenner?

22 Mr. Sensenbrenner. No.

23 Ms. Kish. Mr. Sensenbrenner votes no.

24 Chairman Smith. Mr. Goodlatte?

25 Mr. Goodlatte. No.

1 Ms. Kish. Mr. Goodlatte votes no.

2 Chairman Smith. Mr. Gohmert?

3 Mr. Gohmert. No.

4 Ms. Kish. Mr. Gohmert votes no.

5 Chairman Smith. The Clerk will report.

6 Ms. Kish. Mr. Chairman, 15 members voted aye, 21
7 members voted nay.

8 Chairman Smith. The majority having voted against
9 the amendment, the amendment is not agreed to.

10 Now the question is on the Manager's Amendment.

11 Those in favor, say aye.

12 [A chorus of ayes.]

13 Chairman Smith. Opposed, no.

14 [A chorus of nays.]

15 Chairman Smith. In the opinion of the Chair, the
16 ayes have it and the amendment is agreed to.

17 The final reporting quorum being present, the
18 question is on reporting the bill to the House.

19 Those in favor, say aye.

20 [A chorus of ayes.]

21 Chairman Smith. Opposed, no.

22 [A chorus of nays.]

23 Chairman Smith. The ayes have it and the bill is
24 ordered reported as favorably. Without objection, the bill
25 will be reported as a single amendment in the nature of a

1 substitute and the staff is authorized to make technical
2 and conforming changes and the Clerk will call the Roll.

3 Ms. Kish. Mr. Smith?

4 Chairman Smith. Aye.

5 Ms. Kish. Mr. Smith votes aye.

6 Mr. Sensenbrenner?

7 Mr. Sensenbrenner. Aye.

8 Ms. Kish. Mr. Sensenbrenner votes aye.

9 Mr. Coble?

10 Mr. Coble. Aye.

11 Ms. Kish. Mr. Coble votes aye.

12 Mr. Gallegly?

13 Mr. Gallegly. Aye.

14 Ms. Kish. Mr. Gallegly votes aye.

15 Mr. Goodlatte?

16 Mr. Goodlatte. Aye.

17 Ms. Kish. Mr. Goodlatte votes aye.

18 Mr. Lungren?

19 Mr. Lungren. Aye.

20 Ms. Kish. Mr. Lungren votes aye.

21 Mr. Chabot?

22 Mr. Chabot. Aye.

23 Ms. Kish. Mr. Chabot votes aye.

24 Mr. Issa?

25 Mr. Issa. Aye.

1 Ms. Kish. Mr. Issa votes aye.
2 Mr. Pence?
3 Mr. Pence. Aye.
4 Ms. Kish. Mr. Pence votes aye.
5 Mr. Forbes?
6 Mr. Forbes. Aye.
7 Ms. Kish. Mr. Forbes votes aye.
8 Mr. King?
9 Mr. King. Aye.
10 Ms. Kish. Mr. King votes aye.
11 Mr. Franks?
12 Mr. Franks. Aye.
13 Ms. Kish. Mr. Franks votes aye.
14 Mr. Gohmert?
15 [No response.]
16 Ms. Kish. Mr. Jordan?
17 [No response.]
18 Mr. Gohmert. Aye.
19 Ms. Kish. Mr. Gohmert votes aye.
20 Mr. Jordan?
21 [No response.]
22 Ms. Kish. Mr. Poe?
23 Mr. Poe. Aye.
24 Ms. Kish. Mr. Poe votes aye.
25 Mr. Chaffetz?

1 Mr. Chaffetz. Aye.
2 Ms. Kish. Mr. Chaffetz votes aye.
3 Mr. Reed?
4 Mr. Reed. Aye.
5 Ms. Kish. Mr. Reed votes aye.
6 Mr. Griffin?
7 Mr. Griffin. Aye.
8 Ms. Kish. Mr. Griffin votes aye.
9 Mr. Marino?
10 Mr. Marino. Aye.
11 Ms. Kish. Mr. Marino votes aye.
12 Mr. Gowdy?
13 Mr. Gowdy. Aye.
14 Ms. Kish. Mr. Gowdy votes aye.
15 Mr. Ross?
16 Mr. Ross. Aye.
17 Ms. Kish. Mr. Ross votes aye.
18 Ms. Adams?
19 Ms. Adams. Aye.
20 Ms. Kish. Ms. Adams votes aye.
21 Mr. Quayle?
22 Mr. Quayle. Aye.
23 Ms. Kish. Mr. Quayle votes aye.
24 Mr. Conyers?
25 Mr. Conyers. No.

1 Ms. Kish. Mr. Conyers votes no.
2 Mr. Berman?
3 Mr. Berman. No.
4 Ms. Kish. Mr. Berman votes no.
5 Mr. Nadler?
6 Mr. Nadler. No.
7 Ms. Kish. Mr. Nadler votes no.
8 Mr. Scott?
9 Mr. Scott. No.
10 Ms. Kish. Mr. Scott votes no.
11 Mr. Watt?
12 Mr. Watt. No.
13 Ms. Kish. Mr. Watt votes no.
14 Ms. Lofgren?
15 Ms. Lofgren. No.
16 Ms. Kish. Ms. Lofgren votes no.
17 Ms. Jackson Lee?
18 Ms. Jackson lee. No.
19 Ms. Kish. Ms. Jackson Lee votes no.
20 Ms. Waters?
21 Ms. Waters. No.
22 Ms. Kish. Ms. Waters votes no.
23 Mr. Cohen?
24 Mr. Cohen. No.
25 Ms. Kish. Mr. Cohen votes no.

1 Ms. Kish. Mr. Johnson?
2 Mr. Johnson. No.
3 Ms. Kish. Mr. Johnson votes no.
4 Mr. Pierluisi?
5 Mr. Pierluisi. Aye.
6 Ms. Kish. Mr. Pierluisi votes aye.
7 Mr. Quigley?
8 Mr. Quigley. No.
9 Ms. Kish. Mr. Quigley votes no.
10 Ms. Kish. Ms. Chu?
11 Ms. Chu. No.
12 Ms. Kish. Ms. Chu votes no.
13 Mr. Deutch?
14 Mr. Deutch. No.
15 Ms. Kish. Mr. Deutch votes no.
16 Ms. Sanchez?
17 [No response.]
18 Ms. Kish. Ms. Wasserman Schultz?
19 Ms. Wasserman Schultz. No.
20 Ms. Kish. Ms. Wasserman Schultz --
21 Chairman Smith. Are there other members who wish to
22 record their votes?
23 [No response.]
24 Chairman Smith. If not, the Clerk will report.
25 Ms. Kish. Mr. Chairman, 23 members voted aye, 14

1 members voted nay.

2 Chairman Smith. The majority having voted in favor
3 of the bill, the bill is approved and there being no
4 further business, we stand adjourned.

5 [Whereupon, at 1:33 p.m., the committee was
6 adjourned.]