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4 MARKUP OF H.R. 2584, THE BUSINESS ACTIVITY TAX SIMPLIFICATION
5 ACT OF 2015;

6 H.R. 2315, THE MOBILE WORKFORCE STATE INCOME TAX
7 SIMPLIFICATION ACT OF 2015; AND

8 H.R. 1643, THE DIGITAL GOODS AND SERVICES TAX FAIRNESS ACT OF
9 2015

10 Wednesday, June 17, 2015

11 House of Representatives

12 Committee on the Judiciary

13 Washington, D.C.

14 The committee met, pursuant to call, at 10:19 a.m., in
15 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
16 [chairman of the committee] presiding.

17 Present: Representatives Goodlatte, Sensenbrenner,

18 Smith, Chabot, Issa, Forbes, King, Franks, Gohmert, Jordan,
19 Poe, Chaffetz, Marino, Gowdy, Labrador, Farenthold, Collins,
20 DeSantis, Walters, Buck, Ratcliffe, Trott, Bishop, Conyers,
21 Nadler, Lofgren, Cohen, Pierluisi, Chu, Deutch, Bass,
22 Richmond, DelBene, Jeffries, Cicilline, and Peters.

23 Staff Present: Shelley Husband, Majority Staff
24 Director; Branden Ritchie, Majority Deputy Staff
25 Director/Chief Counsel; Allison Halataei, Majority
26 Parliamentarian; Kelsey Williams, Majority Clerk; Dan Huff,
27 Majority Counsel; Perry Apfelbaum, Minority Staff Director;
28 and Norberto Salinas, Minority Counsel.

29

30 Chairman Goodlatte. Good morning. The Judiciary
31 Committee will come to order. And without objection, the
32 chair is authorized to declare a recess of the committee at
33 any time.

34 Pursuant to notice, I now call up H.R. 2315 for purposes
35 of markup and move that the committee report the bill
36 favorably to the House. The clerk will report the bill.

37 Ms. Williams. H.R. 2315, to limit the authority of
38 States to tax certain income of employees for employment
39 duties performed in other States.

40 Chairman Goodlatte. Without objection, the bill is
41 considered as read and open for amendment at any point.

42 [The bill follows:]

43

44 Chairman Goodlatte. And I will begin by recognizing
45 myself for an opening statement.

46 We consider now the Mobile Workforce Tax Simplification
47 Act. This bill provides a clear, uniform framework for when
48 States may tax nonresident employees who travel to the taxing
49 State to perform work. In particular, this bill prevents
50 States from imposing income tax compliance burdens on
51 nonresidents who work in a foreign State for fewer than 30
52 days in a year.

53 Forty-three States and the District of Columbia levy a
54 personal income tax on wages and partnership income. The
55 State tax laws that determine when a nonresident must pay a
56 foreign State's income tax and when employers must withhold
57 this tax are numerous and varied. Some States tax income
58 earned within their borders by nonresidents even if the
59 employee only works in the State for just 1 day.

60 These complicated rules impact everyone who travels for
61 work and many industries. As just one example, the
62 Subcommittee on Regulatory Reform, Commercial and Antitrust
63 Law heard testimony in 2015 that the patchwork of State laws
64 resulted in a manufacturing company issuing 50 W-2s to a
65 single employee for a single year.

66 The company executive also noted regarding the
67 compliance burden that, "Many of our affected employees make
68 less than \$50,000 per year and have limited resources to seek
69 professional advice."

70 States generally allow a credit for income taxes paid to
71 another State. However, it is not always dollar for dollar
72 when local taxes are factored in. Credits also do not
73 relieve workers of substantial paperwork burdens. Finally,
74 credits provide no relief to residents of the nine States
75 that do not impose income taxes.

76 There are substantial burdens on employers as well. The
77 subcommittee heard testimony in 2014 that businesses,
78 including small businesses and family businesses, that
79 operate interstate are subject to significant regulatory
80 burdens with regard to compliance with nonresident State
81 income tax withholding laws. These burdens distract from
82 productive activity and job creation.

83 Nevertheless, some object that the States will lose
84 revenue if the bill is enacted. They cite an estimate that
85 New York will lose between \$50 million and \$100 million, but
86 the bill does not significantly alter the overall amount of
87 income collected. The size of the pot remains the same.

88 Indeed, an analysis from Ernst & Young found that the
89 bill's revenue impact is minimal. It is merely the
90 apportionment that differs, which is appropriate in order to
91 reduce compliance burdens and retain sensible limits on State
92 regulatory authority over nonresidents.

93 Opponents also worry about fraud and gaming of the
94 system. But unlike in the general income tax context, there
95 is little motive for that here. The amount of money at
96 issue, taxes on less than 30 days' wages, is minimal.

97 Also, except in States -- in nine States, the employee
98 will have to pay the tax anyway to that employee's home
99 State. So the only savings would be from minor rate
100 differentials between the two jurisdictions.

101 The bill's bright-line 30-day threshold minimizes
102 compliance burdens on both workers and employers so they can
103 get back to being productive and creating jobs. I commend
104 the bill's lead sponsors, Representatives Bishop and Johnson,
105 and urge my colleagues to support this bipartisan effort.

106 At this time, it is my pleasure to recognize the ranking
107 member of the committee, the gentleman from Michigan, Mr.
108 Conyers, for his opening statement.

109 Mr. Conyers. Thank you, Chairman Goodlatte.

110 Members of the committee, H.R. 2315 helps to clarify
111 various recordkeeping and State income tax liability issues,
112 but nevertheless, the bill requires, in my view, further
113 revision before I can support it.

114 On the positive side, 2315 attempts to solve a
115 legitimate problem presented by employee tax liability and
116 employer withholding requirements. Many employers are
117 subject to burdensome tax compliance recordkeeping
118 requirements for their mobile workers. These workers, in
119 turn, are often subject to potentially conflicting and
120 thereby confusing multiple State income tax requirements.

121 Paperwork both must file -- must file -- can be
122 complicated and time-consuming, and the filings, especially
123 for sometimes miniscule amounts of income, can even become
124 burdensome to State revenue departments. But any legislative
125 response must be carefully balanced so that it doesn't harm
126 affected stakeholders.

127 Several years ago, our committee facilitated
128 collaborative meetings between the business community and the
129 States to address concerns that the States shared about
130 previous legislation intended to address these problems, and
131 as a result of these efforts, various recommendations were

132 made, some of which are reflected in H.R. 2315.

133 These changes include clarifying the definition of
134 certain terms and lowering the threshold for when an employer
135 must withhold income taxes from employees' checks.
136 Unfortunately, even with these changes, H.R. 2315, if
137 enacted, could still result in some States losing millions of
138 dollars in revenue.

139 Now according to our best estimates, New York could lose
140 upwards of \$100 million in revenue. Fortunately, this
141 legislation only needs some simple changes to eliminate these
142 negative impacts, and I am hoping that they may be
143 accomplished.

144 For example, the bill currently has a 30-day threshold
145 before an employee would be required to pay income taxes in a
146 State. A much lower threshold would be fairer to the States
147 and still provide certainty to employers and employees alike.
148 In addition, the bill's timekeeping requirements could be
149 tightened up to help prevent tax avoidance.

150 I appreciate the progress reflected in H.R. 2315 toward
151 resolving the problems presented by a mobile workforce. A
152 solution appears to be potentially close, and accordingly, I,
153 as always, look forward with a positive point of view toward

154 working with my colleagues and the various stakeholders to
155 finally achieve this goal.

156 Thank you, Mr. Chairman.

157 Chairman Goodlatte. Thank you, Mr. Conyers.

158 And I would now like to recognize the chief sponsor of
159 the bill, the gentleman from Michigan, Mr. Bishop, for his
160 opening statement.

161 Mr. Bishop. Thank you, Mr. Chairman.

162 As a business attorney and business owner for more than
163 20 years, I have seen firsthand the myriad of contrasting
164 income tax laws our traveling -- our mobile workforce faces.
165 These burdens are affecting small businesses and their
166 employees because they simply do not have the resources to
167 comply with more than 40 different State tax requirements.

168 Employees and employers should not be punished with
169 complex tax reporting standards simply because jobs in the
170 modern economy involve work in multiple States. Rather than
171 expanding their payrolls or reducing the price of consumer
172 goods, companies are spending their hard-earned resources on
173 complying with convoluted State income tax laws.

174 As the chairman just mentioned, during our subcommittee
175 hearing on the bill, there was a witness who provided an

176 example that his employer had to file 10,500 W-2s on behalf
177 of their numerous employees, primarily because they have
178 crossed State lines during the course of their business. He
179 went on to say that he had an extreme case where one worker
180 had to file 50 W-2s.

181 Imagine an individual making \$50,000 or less having to
182 file 10, 20, or even 50 W-2s. It is simply unacceptable to
183 place the burden on today's workforce, and it is simply
184 unacceptable to place that burden on an employee.

185 The Constitution grants Congress the authority to enact
186 laws to protect the free flow of commerce among the States.
187 That has to be very carefully balanced against the 10th
188 Amendment. I respect and understand the 10th Amendment, and
189 I will do whatever I can to defend the 10th Amendment. But
190 the problem created by this complex array of income tax laws
191 in this Nation deserves a serious overhaul, and this is an
192 attempt to do that.

193 The legislation that Ranking Member Johnson -- and I
194 want to thank him for his support -- and I introduced, the
195 Mobile Workforce State Income Tax Simplification Act of 2015,
196 is a carefully crafted measure that creates a simple and easy
197 to administer system for the imposition of numerous State

198 income tax laws.

199 By creating a uniform 30-day threshold to determine
200 nonresident income tax liability, this bill ensures employees
201 will have a clear understanding of when they are liable for
202 nonresident State income tax, and employers will be able to
203 accurately withhold these taxes. This will result in a
204 notable reduction in paperwork for all parties concerned and
205 a notable amount of reduction in resources.

206 Furthermore, great care was taken with this bill to
207 diminish the impact on State revenues. Again, as the chair
208 has mentioned, a study by Ernst & Young conducted on
209 substantially similar legislation found that H.R. 2315 would
210 actually raise tax revenue in some States while other States
211 would only see a very small reduction in revenues.

212 For the majority of States, however, the impact on
213 revenues would be less than 0.1 percent and in no State would
214 impact revenues more than 0.7 percent in total.

215 With so many burdensome regulations in today's tax code,
216 this bill is a common sense solution to reducing compliance
217 costs and confusing paperwork for mobile employees and their
218 employers. The Mobile Workforce State Income Tax
219 Simplification Act is a common sense, bipartisan, bicameral

220 measure. By reducing an obvious administrative burden and
221 simplifying an out-of-control tax code, small businesses will
222 be able to focus their resources on growing and saving, not
223 cutting back and spending.

224 I urge my colleagues to pass H.R. 2315, and with that, I
225 yield back, Mr. Chairman.

226 Chairman Goodlatte. Thank you, Mr. Bishop.

227 Mr. Nadler. Mr. Chairman?

228 Chairman Goodlatte. For what purpose does the gentleman
229 from New York seek recognition?

230 Mr. Nadler. Move to strike the last word.

231 Chairman Goodlatte. The gentleman is recognized.

232 And before I recognize him, let me take note that
233 Congressman Hank Johnson, who is the ranking member of the
234 Subcommittee on Regulatory Reform, Commercial and Antitrust
235 Law and who is the lead Democrat in cosponsoring this
236 legislation, is unable to be with us today.

237 And in deference to Mr. Johnson, I now recognize the
238 gentleman from New York, Mr. Nadler, for 5 minutes.

239 Mr. Nadler. Well, thank you.

240 I don't think you should recognize me in deference to
241 Mr. Johnson since I don't think I will be taking the same

242 view, although he is an estimable Member.

243 Mr. Chairman, you, as the chairman, and Mr. Bishop both
244 blithely referred to only minor revenue impacts, and while it
245 is true that this bill has only minor revenue impacts in most
246 States, in New York, it is over \$100 million, and that is a
247 lot of money.

248 Now there are a couple of easy ways to change the bill.
249 I will be suggesting two amendments. They were one
250 amendment. I just split them a few minutes ago. I will be
251 suggesting two amendments that without changing the bill that
252 much would eliminate to a large, but not total extent the
253 revenue hit on New York and perhaps in several other States.

254 Especially in an era when many people in this Congress,
255 many of them on the Republican side -- not all of them --
256 want the Federal Government to do less and the States to do
257 more, we should not cavalierly be reducing revenues to the
258 States.

259 Now, yes, the basic goal of the bill to simplify the tax
260 system and to simplify the burdens is a good bill. We can
261 meet -- it is a good idea, I should say, and a good purpose.
262 We can meet that without cavalierly having a major revenue
263 hit in one and possibly additional States by changing the

264 bill slightly in ways that I will be suggesting in amendments
265 in a few minutes.

266 But we should all understand a revenue hit to one State
267 that we know of over \$100 million is not a minor thing, and
268 it is not something that we should do without understanding
269 the implications and certainly not in the name of
270 simplification if we can avoid doing it. And we can easily
271 avoid doing it.

272 And if we were to make the changes, then bill would be
273 acceptable. If not, it is a major assault by the Congress of
274 the United States on one or more States, and we have no
275 business doing that.

276 I yield back.

277 Mr. Issa. Mr. Chairman?

278 Chairman Goodlatte. For what purpose does the gentleman
279 from California seek recognition?

280 Mr. Issa. I move to strike the last word.

281 Chairman Goodlatte. The gentleman is recognized for 5
282 minutes.

283 Mr. Issa. You know, in deference to the gentleman from
284 New York, California, too, would likely lose money. One of
285 the amazing things, though, is that the Nation, for all

286 practical purposes under this bill, loses no money, and there
287 are countless, countless millions of dollars saved in tax
288 filing by both the companies and the individuals.

289 Mr. Chairman, I not only will support this bill, but to
290 be candid, I would like to see this bill effectively take it
291 to 100 percent that a place of residency, if established
292 under current law, which is that you spend less than half of
293 your time in any other State, would be a perfectly legitimate
294 way to say that someone who has determined a place of
295 residence and then incidentally goes somewhere for commerce
296 does not become a resident of that State and should not be
297 covered by those taxes.

298 Our Founding Fathers understood that taxes on
299 consumption and the like would be paid based on consumption
300 and that these income taxes fly in the face of the free flow
301 of commerce. Nowhere in our anticipation as a country did
302 our Founding Fathers believe that there should be toll gates,
303 saying, "Oh, you are planning to come to work in our State.
304 Let us collect it at the border."

305 I might suggest that if California would like to make up
306 for their lost money, they should carefully audit people who
307 clearly claim to live in Nevada but, in fact, spend more than

308 half of their time in California. And certainly, New York
309 could earn more than \$100 million by finding people who have
310 chosen to vote both in Florida and New York, and claim
311 Florida for tax purposes, often finding no employer that
312 could verify that they are in New York with great frequency.

313 So I do believe that all the States do have places in
314 which they could make up for lost revenue in legitimate ways
315 by checking the true nexus, the true residence of their
316 constituents rather than looking for a penny here and a penny
317 there that, at the end of the day, for the most part is a
318 zero sum game to the States and very, very clearly a huge
319 accounting cost to both companies and individuals.

320 So I will be strongly supporting this common sense
321 legislation not because 30 days is a magic amount. The truth
322 is I would like to see it be based completely on the
323 residency of the individual.

324 But notwithstanding that, I will support this common
325 sense solution, and I yield back, Mr. Chairman.

326 Chairman Goodlatte. The chair thanks the gentleman.

327 Are there any amendments to H.R. 2315? For what purpose
328 does the gentleman from New York seek recognition?

329 Mr. Nadler. I have two amendments at the desk. Why

330 don't we take them up one at a time? I have Nadler 1.

331 Chairman Goodlatte. Nadler 1. The clerk will report

332 Nadler 1.

333 Ms. Williams. Amendment to H.R. 2315, offered by Mr.

334 Nadler of New York. Page 2, line 6, strike --

335 Chairman Goodlatte. Without objection, the gentleman's

336 amendment is considered as read.

337 [The amendment of Mr. Nadler follows:]

338

339 Chairman Goodlatte. And the gentleman is recognized for
340 5 minutes on his amendment.

341 Mr. Nadler. Mr. Chairman, my two amendments would make
342 two simple changes to the bill. This one would reduce the
343 30-day threshold for when States can tax a nonresident to 14
344 days.

345 Both amendments that I am offering was based on
346 suggestions from the Federation of Tax Administrators, or
347 FTA, the nonprofit organization representing the tax
348 administration agencies across the Nation.

349 Simplifying and harmonizing the rules on when States may
350 tax individuals who perform limited work in their States is a
351 worthy goal, and I support efforts by the States and the
352 Multistate Tax Commission to work out a solution. But this
353 bill would step in and preempt the ability of States to set
354 their own tax policy within their own borders. I find that
355 troubling on two levels.

356 Beyond the policy questions embedded in this bill, there
357 is an important constitutional question that we must
358 consider. The power to tax is a key index of sovereignty.
359 Yet this legislation tells States they may not tax activity
360 within their own border, except as prescribed in the bill.

361 I think that is constitutionally dubious. My view of
362 the commerce clause is probably broader than that of many
363 members of this committee, but I do not think that it extends
364 to a State's ability to tax a person doing business within
365 its borders.

366 Setting aside that question, however, this bill would
367 negatively impact a number of States, most especially New
368 York. Under this legislation if you work in a State in which
369 you are not a resident for fewer than 30 days, your income
370 will not be subject to tax by that nonresident State. That
371 amounts to 6 weeks of 5-day work -- 5-day work weeks.

372 While a de minimis exception may make sense, I hardly
373 think that 6 weeks is de minimis. My amendment, therefore,
374 reduces this threshold to a far more reasonable 14 days,
375 which is still almost 3 weeks of work that someone may
376 perform without being subject to tax. If employers and
377 employees would be expected to monitor and track their time
378 over 30 days, it does not seem like a greater imposition to
379 do so for a somewhat shorter period like 14 days.

380 Meanwhile, the positive impact on States like New York
381 that would result from reducing this threshold would be
382 considerable. According to estimates from the State, New

383 York expects to lose between \$110 million and \$130 million,
384 between \$110 million and \$1300 million annually if this bill
385 were enacted. New York's unique location as the center of
386 commerce for the Nation means that many individuals go there
387 throughout the year for business purposes.

388 I would add that New York's location where the City of
389 New York, which is over half the State's population and the
390 center of commerce for the Nation, is within 12 miles -- is
391 across the river from one State and 12 miles from another
392 State. We have two States right immediately adjacent to New
393 York City. Makes this also a very vexing situation.

394 This includes highly paid executives and CEOs. By
395 exempting anyone who works in New York for fewer than 30
396 days, we would be would be unfairly costing the State a
397 significant amount of revenue. A 14-day limitation would
398 accomplish all the goals of the bill, but the expected impact
399 on New York would be reduced from more than \$100 million to
400 \$15 million to \$20 million a year.

401 While still significant, that would go a long way toward
402 mitigating the concerns that New York has expressed and
403 probably other States. It would make the bill fairer while
404 still achieving the bill's underlying goals.

405 This is a reasonable suggestion. I ask all Members to
406 support my amendment. I cannot -- it is hard to conceive of
407 the huge difference in principle or in tax administration
408 between 30 days and 14 days. But saying that someone who
409 works in a State for 3 weeks ought to pay taxes to that State
410 rather than 6 weeks is a very reasonable amendment, and I
411 urge its adoption.

412 Chairman Goodlatte. The chair recognizes himself in
413 opposition to the amendment.

414 It lowers the threshold from 30 days to 14 before a
415 State can tax the income of a nonresident temporarily working
416 in a foreign State. This reduction upsets a hard-won
417 compromise.

418 Prior versions of the bill proposed a 60-day threshold,
419 and we have just heard the gentleman from California, Mr.
420 Issa, say that he would prefer that it be whatever
421 constitutes a minority of the taxpayer's time. So it could
422 be up to 180 days, depending upon how many States that
423 taxpayer was required to do work in.

424 So as a product of negotiation with the States, that
425 trigger was reduced to 30 days, and other concessions were
426 made. The fact of the matter is that while this does benefit

427 New York, and many people are required to go to New York and
428 go to New York for the opportunity to conduct business, they
429 take revenue away from the other States that have businesses
430 that necessitate their going to New York to do business.

431 If it is just going to New York to do business for less
432 than 30 days, in my opinion, that is the right amount of
433 time. Lowering the threshold to 14 days would sweep in
434 millions of employees who would otherwise be protected and
435 require significant renegotiation of the entire bill.

436 Interestingly, in 2014, New York specifically rejected a
437 proposal to increase its threshold from 1 day to 14. This
438 only underscores the need for a uniform Federal solution, and
439 I urge my colleagues to oppose this amendment because it
440 would upset a fair negotiated compromise.

441 Mr. Conyers. Mr. Chairman?

442 Chairman Goodlatte. For what purpose does the gentleman
443 from Michigan seek?

444 Mr. Conyers. I rise in support of the Nadler amendment.

445 Chairman Goodlatte. The gentleman is recognized for 5
446 minutes.

447 Mr. Conyers. Thank you.

448 I think this is a common sense amendment proposed by the

449 gentleman from New York. Lowering the threshold to 14 days
450 will protect State income tax revenues especially for certain
451 States, and it will still provide the certainty that
452 supporters demand.

453 I think it is a win-win situation, and for those
454 reasons, I urge that the Nadler amendment be carefully
455 considered by every member of Judiciary.

456 I would yield to the gentleman from New York if he
457 chooses.

458 Mr. Nadler. I thank the gentleman for yielding. And I
459 thank him for his very cogent and reasonable remarks.

460 And the fact that -- I would simply say the fact that a
461 negotiation was held that resulted in 30 days, to impose this
462 on unwilling States like New York, is not an argument against
463 the reasonableness of the amendment. This amendment would
464 say that 3 weeks is sufficient nexus. It would save a State
465 like New York \$100 million.

466 We should not lightly impose a burden, especially when
467 the majority in this Congress is trying to transfer burdens
468 from the Federal Government to the State government. We
469 should not likely -- lightly, I should say, impose
470 restrictions on the States' ability to collect revenues from

471 people who do business within their own borders.

472 The entire reason for this bill is the burden of
473 multiple filings on individuals. Fine. But someone who goes
474 to a State for 3 weeks to do business, that is not too much
475 of a burden.

476 Three days, 4 days, occasionally, okay. But someone who
477 does business 3 weeks, that is an appreciable fraction of the
478 year, should pay taxes to that State. And we should not
479 lightly impose a limitation on the ability of States to
480 collect taxes within their own borders, not to mention the
481 constitutional question of doing so in the first place.

482 So I thank the gentleman from Michigan for supporting
483 the amendment. I hope everyone else does, and I yield back
484 to him.

485 Mr. Conyers. I thank you.

486 And I think 14 days will protect State income tax
487 revenues, especially for certain States. It is a win-win
488 situation, and I urge my colleagues on Judiciary to carefully
489 consider the logic and fairness of the Nadler amendment, and
490 I yield back the balance of my time.

491 Chairman Goodlatte. For what purpose does the gentleman
492 from Michigan, Mr. Bishop, seek recognition?

493 Mr. Bishop. I wish to speak in opposition to the
494 amendment.

495 Chairman Goodlatte. The gentleman is recognized for 5
496 minutes.

497 Mr. Bishop. Thank you, Mr. Chair.

498 And I want to thank the good gentleman from New York for
499 his amendment.

500 Just to reiterate, this issue has been around for
501 several years, in fact, going back to the 110th Congress.
502 And I would just, looking into the records, inform Members
503 that this started at 60 days when Ranking Member Johnson
504 originally went forward with this bill. So 60 days was the
505 threshold at the beginning. We were able to negotiate over
506 the years to 30 days.

507 I know there are many Members that agree with Mr. Issa
508 from California that we ought to have a zero threshold. But
509 this was a negotiated number. Reducing the number of days
510 threshold from 30 to 14 days would sweep in millions of
511 additional employees that would otherwise be protected under
512 the current definition and would require renegotiating other
513 agreed language changes, such as the definition of a day and
514 including weekends as eligible days to count.

515 I would like to ask, Mr. Chairman, for a unanimous
516 consent to submit an exhibit entitled, "The Mobile Workforce
517 State Income Tax Simplification Act Provisions Incorporated
518 into Current Legislation." The document purports to include
519 all of the negotiated items over the years.

520 And I would ask for unanimous consent to submit that
521 into the record.

522 Chairman Goodlatte. Without objection, it will be made
523 a part of the record.

524 [The information follows:]

525

526 Mr. Bishop. Thank you, Mr. Chair.

527 Also the gentleman from New York is aware that recently
528 passed comprehensive tax reform from New York was considered,
529 but they opted not to update their law to a 14-day liability
530 standard for both employees and employers. Current New York
531 nonresident personal income tax withholding law is a 1-day
532 liability for the employee, and 14 days before the employer
533 withholding is triggered.

534 The Mobile Workforce Coalition has undergone significant
535 negotiations in this, believes that New York has not acted
536 when it could to improve New York law and to address this
537 issue, and will not change to a more reasonable threshold
538 unless they are forced to do so by Congress. The fair, good
539 faith negotiated compromise is 30 days.

540 I would also ask to insert in the record, if I could,
541 Mr. Chairman, the names of the Mobile Workforce Coalition.
542 It is a list of 275 members, all supporting the bill.

543 Chairman Goodlatte. Without objection, it will be made
544 a part of the record.

545 [The information follows:]

546

547 Mr. Bishop. And Your Honor, again, I would like to
548 thank the good gentleman for his amendment and his
549 discussion. But in fairness, I would respectfully ask that
550 the committee reject the amendment.

551 Chairman Goodlatte. Would the gentleman yield?

552 Mr. Bishop. Certainly.

553 Chairman Goodlatte. I thank the gentleman for yielding.

554 Just for a point of clarification, the gentleman from
555 California, Mr. Issa, is not seeking a zero level for having
556 to file. He is saying that as long as you work a majority of
557 days in another State, which is your State of residence, you
558 should be able to work a minority of days of any amount,
559 including up to 180 days, up to close to half a year.

560 And of course, that is not what this bill does. This
561 bill sets a clear, bright-line test, much shorter than that
562 at 30 days, which as you noted and I noted, and I strongly
563 support, a fair compromise. That is what this constitutes.

564 I thank the gentleman.

565 Mr. Trott. Will the gentleman yield?

566 Mr. Bishop. I would yield.

567 Mr. Trott. I just want to thank you, thank the
568 gentleman from Michigan. I want to speak in favor of the

569 underlying bill and in opposition to the amendment.

570 Not too many Members of Congress have actually run
571 businesses, and I have done that. And I have had to hire
572 lawyers to figure out State laws. I have had to hire staff
573 to figure out how to fill out forms in various States. I
574 have had to hire accountants to comply with State taxation
575 laws. I have had to hire lawyers to fight with the IRS when
576 they get it wrong and State taxing authorities when they get
577 it wrong.

578 This bill will get rid of all that unnecessary busywork
579 that is largely de minimis in terms of our overall economy,
580 will make businesses more efficient. And when businesses
581 become more efficient, they hire people and create more jobs.

582 I yield back.

583 Mr. Bishop. Thank you. Yield back.

584 Chairman Goodlatte. For what purpose does the
585 gentlewoman from California seek recognition?

586 Ms. Lofgren. To strike the last word and to yield to my
587 colleague from New York.

588 Chairman Goodlatte. The gentlewoman is recognized for 5
589 minutes.

590 Mr. Nadler. Thank you. I thank the gentlelady for

591 yielding.

592 I would point out a couple of things. First of all, I
593 would ask unanimous request -- unanimous consent, rather. I
594 would ask unanimous consent to insert in the record this
595 letter in opposition to all three bills before us today from
596 looks like about 10 or 15 different labor unions.

597 Chairman Goodlatte. Without objection, it will be made
598 a part of the record.

599 [The information follows:]

600

601 Mr. Nadler. Thank you.

602 I point out a few things. The gentleman, Mr. Bishop
603 said that New York didn't act in good faith to change its
604 law. Well, I don't know very much about what went on in the
605 legislature, between the Governor and the legislature. I
606 wasn't privy to that.

607 But it is not a question of acting in good faith to
608 change the law. The State has the absolute right to tax
609 within its borders, and it is a little arrogant for Congress
610 to tell the State what to do within its borders. It is
611 constitutionally suspect, but it is also somewhat arrogant.

612 And I find it interesting that all three bills before us
613 today -- some worse than others, some a little better than
614 others -- but all three of them would reduce revenue to the
615 States at a time when we or many people in this Congress are
616 trying to reduce Federal revenues and Federal taxes and
617 transfer functions to the States.

618 And we should be very careful about trifling or with the
619 States' tax bases and ability to do what they want to do. If
620 you think -- if the electorate in a given State thinks the
621 State should do less, should reduce taxes, that is their
622 prerogative. If they think the State should do more, raise

623 taxes, that is also their prerogative.

624 Now there are obviously arguments on the State level
625 that if we raise taxes, businesses will move. We can't do
626 that. Those are State issues, and they should make -- if we
627 believe in States' rights, which I do to some extent, if we
628 believe in States being the laboratories of democracy, being
629 able to manage their own affairs, we should be very, very
630 leery about interfering.

631 Now, yes, in the interest of uniformity and because
632 people move back and forth, the basic idea behind this bill,
633 at least the first one, first bill makes sense. But we
634 shouldn't do it in a way that unless we can't help it that
635 does violence to the State tax revenues to the tune of \$100
636 million, \$130 million, as this one does to New York and, I
637 don't know, to other States.

638 Now if there is an easy way by lowering the threshold to
639 14 days in this case, that is not going to -- yes, it means
640 that some people will pay taxes to New York who otherwise
641 wouldn't, and they should. If you work 4 or 5 weeks in the
642 State and that State chooses to impose a tax, they should
643 have the ability to do it on that.

644 Now if we think that they should exempt people and they

645 choose not to, all right, we shouldn't punish them for not
646 doing that, but we should do only what has to be done to
647 relieve unfair burdens on interstate commerce. And
648 certainly, the difference between 30 and 60 days does not
649 make a major difference there, but it does make a major
650 difference on the imposition on the State's revenue source.

651 And therefore, we should adopt this amendment, and I
652 thank the gentlelady for yielding again.

653 Ms. Lofgren. I yield back.

654 Chairman Goodlatte. For what purpose does the gentleman
655 from New York seek recognition?

656 Mr. Jeffries. I move to strike the last word.

657 Chairman Goodlatte. The gentleman is recognized for 5
658 minutes.

659 Mr. Jeffries. Mr. Chairman, I just rise in support of
660 the amendment offered by my colleague from New York, to echo
661 what he just illustrated.

662 Of course, one, States have the absolute right to tax
663 activity that takes place within the four corners of its
664 geographic boundaries. And a State like New York, for
665 instance, there can be no dispute that individuals who are
666 conducting economic activity within New York, who are

667 benefiting from the infrastructure that is extensive, whether
668 that be transportation, fire, safety, courts, the regulatory
669 system, should have some obligation to contribute to that
670 infrastructure, which is allowing them to be prosperous
671 economically.

672 And quite frankly, it just shocks the conscience for
673 many of us within the State of New York and perhaps beyond
674 that this type of effort in the name of uniformity can be put
675 forth, notwithstanding the fact that many in the same
676 institution believe in States' rights, believe in the
677 principle of federalism and the ability of States, as Justice
678 Brandeis indicated, to function as laboratories of democracy
679 in the best interests of their own people.

680 And so, I will have more to say about this moving
681 forward, but I rise in strong support of my colleague's
682 amendment, and I yield back.

683 Chairman Goodlatte. The question occurs on the
684 amendment offered by the gentleman from New York.

685 All those in favor, respond by saying aye.

686 Those opposed, no.

687 In the opinion of the chair, the noes have it, and the
688 amendment is not agreed to.

689 Mr. Nadler. May I have a roll call vote?

690 Chairman Goodlatte. A recorded vote is requested, and

691 the clerk will call the roll.

692 Ms. Williams. Mr. Goodlatte?

693 Chairman Goodlatte. No.

694 Ms. Williams. Mr. Goodlatte votes no.

695 Mr. Sensenbrenner?

696 [No response.]

697 Ms. Williams. Mr. Smith?

698 [No response.]

699 Ms. Williams. Mr. Chabot?

700 Mr. Chabot. No.

701 Ms. Williams. Mr. Chabot votes no.

702 Mr. Issa?

703 Mr. Issa. No.

704 Ms. Williams. Mr. Issa votes no.

705 Mr. Forbes?

706 [No response.]

707 Ms. Williams. Mr. King?

708 Mr. King. No.

709 Ms. Williams. Mr. King votes no.

710 Mr. Franks?

711 [No response.]
712 Ms. Williams. Mr. Gohmert?
713 Mr. Gohmert. No.
714 Ms. Williams. Mr. Gohmert votes no.
715 Mr. Jordan?
716 Mr. Jordan. No.
717 Ms. Williams. Mr. Jordan votes no.
718 Mr. Poe?
719 [No response.]
720 Ms. Williams. Mr. Chaffetz?
721 Mr. Chaffetz. No.
722 Ms. Williams. Mr. Chaffetz votes no.
723 Mr. Marino?
724 Mr. Marino. No.
725 Ms. Williams. Mr. Marino votes no.
726 Mr. Gowdy?
727 Mr. Gowdy. No.
728 Ms. Williams. Mr. Gowdy votes no.
729 Mr. Labrador?
730 Mr. Labrador. No.
731 Ms. Williams. Mr. Labrador votes no.
732 Mr. Farenthold?

733 [No response.]

734 Ms. Williams. Mr. Collins?

735 [No response.]

736 Ms. Williams. Mr. DeSantis?

737 Mr. DeSantis. No.

738 Ms. Williams. Mr. DeSantis votes no.

739 Ms. Walters?

740 Ms. Walters. No.

741 Ms. Williams. Ms. Walters votes no.

742 Mr. Buck?

743 Mr. Buck. No.

744 Ms. Williams. Mr. Buck votes no.

745 Mr. Ratcliffe?

746 Mr. Ratcliffe. No.

747 Ms. Williams. Mr. Ratcliffe votes no.

748 Mr. Trott?

749 Mr. Trott. No.

750 Ms. Williams. Mr. Trott votes no.

751 Mr. Bishop?

752 Mr. Bishop. No.

753 Ms. Williams. Mr. Bishop votes no.

754 Mr. Conyers?

755 Mr. Conyers. Aye.
756 Ms. Williams. Mr. Conyers votes aye.
757 Mr. Nadler?
758 Mr. Nadler. Aye.
759 Ms. Williams. Mr. Nadler votes aye.
760 Ms. Lofgren?
761 Ms. Lofgren. Aye.
762 Ms. Williams. Ms. Lofgren votes aye.
763 Ms. Jackson Lee?
764 [No response.]
765 Ms. Williams. Mr. Cohen?
766 Mr. Cohen. No.
767 Ms. Williams. Mr. Cohen votes no.
768 Mr. Johnson?
769 [No response.]
770 Ms. Williams. Mr. Pierluisi?
771 Mr. Pierluisi. No.
772 Ms. Williams. Mr. Pierluisi votes no.
773 Ms. Chu?
774 Ms. Chu. Aye.
775 Ms. Williams. Ms. Chu votes aye.
776 Mr. Deutch?

777 [No response.]

778 Ms. Williams. Mr. Gutierrez?

779 [No response.]

780 Ms. Williams. Ms. Bass?

781 [No response.]

782 Ms. Williams. Mr. Richmond?

783 [No response.]

784 Ms. Williams. Ms. DelBene?

785 Ms. DelBene. No.

786 Ms. Williams. Ms. DelBene votes no.

787 Mr. Jeffries?

788 Mr. Jeffries. Aye.

789 Ms. Williams. Mr. Jeffries votes aye.

790 Mr. Cicilline?

791 Mr. Cicilline. No.

792 Ms. Williams. Mr. Cicilline votes no.

793 Mr. Peters?

794 Mr. Peters. Aye.

795 Ms. Williams. Mr. Peters votes aye.

796 Chairman Goodlatte. The gentleman from Texas?

797 Mr. Poe. No.

798 Ms. Williams. Mr. Poe votes no.

799 Chairman Goodlatte. The gentlewoman from California?

800 Ms. Bass. Aye.

801 Ms. Williams. Ms. Bass votes aye.

802 Chairman Goodlatte. Has every Member voted who wishes
803 to vote?

804 [No response.]

805 Chairman Goodlatte. The clerk will report.

806 Ms. Williams. Mr. Chairman, 7 Members voted aye; 21
807 Members voted no.

808 Chairman Goodlatte. And the amendment is not agreed to.

809 For what purpose does the gentleman from New York seek
810 recognition?

811 Mr. Nadler. I have a second amendment at the desk.

812 Chairman Goodlatte. The clerk will report the
813 amendment.

814 Ms. Williams. Amendment to H.R. 2315, offered by Mr.
815 Nadler of New York. Page 4, line 19, insert --

816 Chairman Goodlatte. Without objection, the amendment is
817 considered as read.

818 [The amendment of Mr. Nadler follows:]

819

820 Chairman Goodlatte. And the gentleman is recognized for
821 5 minutes on his amendment.

822 Mr. Nadler. Thank you.

823 Mr. Chairman, my second amendment would exempt from the
824 bill individuals earning more than \$130,000. This amendment,
825 like the first, is based on a suggestion from the Federation
826 of Tax Administrators, a nonprofit organization representing
827 the tax administration agencies across the Nation.

828 H.R. 2315 already exempts professional athletes, certain
829 public figures, and professional entertainers. The rationale
830 behind these exemptions is that it is fairly easy to track
831 what these individuals made in each State, and they are often
832 very significant amounts.

833 My amendment would add to this list of exceptions high-
834 earning individuals who also ought to be expected to have the
835 ability to track where they perform their business. The
836 figure of \$130,000 that my amendment uses, which would be
837 indexed for inflation in the amendment, comes from the
838 definition the IRS uses to determine whether someone is a key
839 employee for certain purposes.

840 As currently drafted, this legislation would provide a
841 windfall to high-income people who often travel to other

842 States for work and who currently pay the nonresident rate,
843 according to State law. Imagine an executive who lives in a
844 low tax State but who travels for business several weeks a
845 year to a higher tax State. The home State may offer a
846 credit up to what they would pay in their home State, but
847 they are still responsible for paying the additional higher
848 rate in the nonresident State.

849 Under this bill, however, if they work fewer than 6
850 weeks in the higher tax State, those additional taxes would
851 all be wiped away. This could amount to tax avoidance of
852 millions of dollars, which is not the purpose of the bill, as
853 I understand it.

854 Putting a dollar limit so that people who make \$130,000
855 indexed to inflation, which would still be subject to
856 nonresident tax, would prevent abuse by upper-income people
857 who may try to find loopholes to avoid their tax obligations.

858 This is a reasonable suggestion. It would also reduce
859 the tax impact -- or the revenue impact, I should say, to a
860 number of States under this bill. It would not impose a
861 burden except on high-income individuals who are easily able
862 to meet that burden.

863 And I urge the adoption of the amendment.

864 Chairman Goodlatte. The chair recognizes himself in
865 opposition to the amendment. It creates an exemption for
866 highly paid individuals, defining those as those earning more
867 than \$130,000 annually indexed to inflation.

868 However, a dollar threshold was rejected early on as too
869 broad and complicated to achieve the bill's goal of easing
870 compliance burdens. Highly paid individuals are not the same
871 as the entertainers and athletes that the bill does exempt.
872 It is their appearance that earns the money. By contrast, a
873 high-income earner's temporary presence in a foreign State
874 for a meeting or conference is typically incidental to that
875 individual's job.

876 This amendment would upset a fair negotiated compromise,
877 and accordingly, I urge my colleagues to reject the
878 amendment.

879 Mr. Conyers. Mr. Chairman?

880 Chairman Goodlatte. For what purpose does the gentleman
881 from Michigan seek recognition?

882 Mr. Conyers. I rise to support the Nadler amendment.

883 Chairman Goodlatte. The gentleman is recognized for 5
884 minutes.

885 Mr. Conyers. Thank you very much.

886 It is to me critical that if we are to exclude from the
887 threshold athletes, entertainments, highly compensated public
888 speakers because they earn a high income, we should also
889 exclude other high-income earners such as CEOs and presidents
890 of companies. This amendment would promote fairness, as
891 opposed to singling out certain individuals.

892 Again, it would protect State income tax revenues, and
893 so its ban on taxing every occupation except the athletes and
894 entertainers is far too broad and should be narrowed so the
895 ban does not apply to other high-income work and occupations.

896 So I urge my colleagues to favorably consider this
897 amendment, and I yield back the balance of my time.

898 Thank you.

899 Chairman Goodlatte. Without objection -- oh, you have
900 completed your remarks? Did you want to put that in the
901 record?

902 Mr. Conyers. It is in already.

903 Chairman Goodlatte. Okay. Thank you very much.

904 The question occurs on the amendment offered by the --
905 oh, the gentleman from Michigan seeks recognition. Mr.
906 Bishop?

907 Mr. Bishop. Thank you, Mr. Chairman. Just to speak in

908 opposition to the amendment.

909 Chairman Goodlatte. The gentleman is recognized for 5
910 minutes.

911 Mr. Bishop. Mr. Chairman, I just wanted to reiterate
912 what you indicated earlier, and that is to say that this
913 issue has been negotiated over time. And as we saw with the
914 document that was submitted into the record, there have been
915 several negotiations, and this has been discussed in the past
916 in several Congresses prior to today.

917 I believe it is too broad and too complicated. It does
918 exactly what this bill sets out to do -- it defeats exactly
919 what this bill sets out to do, which is to set out a broad
920 line of distinction, and it also creates a carve-out, which
921 is exactly what this bill is designed not to do.

922 So I think in fairness to the bill, to ensure that it is
923 accomplishes the goal that we intend it to accomplish, that
924 we reject the amendment, that we create that broad line of
925 distinction.

926 By adding an income threshold, all compliance for both
927 taxpayers and tax revenue collectors becomes vulnerable to
928 mistakes, confusion. It becomes much more complex and
929 increasingly more costly both for the employee and the

930 employer.

931 I thank the good gentleman for his suggested revision.

932 However, I would respectfully request that Members reject

933 this amendment.

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

935 Chairman Goodlatte. The chair thanks the gentleman.

936 The question occurs on the amendment offered by the

937 gentleman from New York.

938 All those in favor, respond by saying aye.

939 Those opposed, no.

940 In the opinion of the chair, the noes have it. The

941 amendment is not agreed to.

942 Are there further amendments to H.R. 2315?

943 Mr. Jeffries. Mr. Chairman, I have an amendment at the

944 desk.

945 Chairman Goodlatte. For what purpose does the gentleman

946 from New York -- oh, the clerk will report the amendment.

947 Ms. Williams. Amendment to H.R. 2315, offered by Mr.

948 Jeffries of New York. Add at the end of the bill --

949 Chairman Goodlatte. Without objection, the amendment is

950 considered as read.

951 [The amendment of Mr. Jeffries follows:]

952

953 Chairman Goodlatte. And the gentleman is recognized for
954 5 minutes on his amendment.

955 Mr. Jeffries. Thank you, Mr. Chairman.

956 Mr. Chairman, this amendment would exempt States from
957 the Mobile Workforce Tax Simplification Act that would
958 otherwise lose \$25 million or more in revenue on an annual
959 basis if its provisions were enacted.

960 Today, we are considering legislation that is designed
961 to impose restrictions on what has always constitutionally
962 been within the purview of the States. The principle of
963 federalism provides States the opportunity to tax activity
964 that occurs within its jurisdiction.

965 This authority is extremely important, especially when
966 it concerns nonresident State income taxes. Different States
967 impact our national economy and Federal tax revenue in
968 different ways that should be carefully considered before we
969 act.

970 I represent the 8th Congressional District in New York.
971 Our State annually sends tens of billions of dollars to the
972 Federal Government. According to a prior Tax Foundation
973 special report, "Federal Tax Burdens and Spending by State,"
974 New York State sent \$23 billion more to the Federal

975 Government than it received in return in a recent year. This
976 tax revenue contributes to the entire Nation, including many
977 States that receive billions of dollars more from the Federal
978 Government than they send.

979 However, the Mobile Workforce Tax Simplification Act
980 does not take the large annual contribution New York makes to
981 the Federal Government into consideration. Under this
982 legislation, in fact, it is estimated that New York could
983 lose as much as \$110 million to \$130 million in revenue per
984 year, more, it appears, than all of the other States
985 combined.

986 Even if we take into consideration the more conservative
987 estimation offered by the Council of State Taxation in their
988 testimony before the Regulatory Subcommittee earlier this
989 month, New York would still stand to lose approximately \$45
990 million on an annual basis.

991 We must carefully think about how our legislative
992 measures I believe impact States like New York, where we know
993 individuals enter regularly and use our infrastructure --
994 police services, fire services, sanitation, court system, and
995 numerous other resources -- in order to earn a living.

996 We should then consider what the loss of such

997 substantial Federal contribution may ultimately mean for the
998 Nation as a whole. If we are going to institute a framework
999 for nonresident income taxes, it seems important to
1000 prioritize tax equity and fairness, which is a concept that
1001 many in this chamber seem to be otherwise supportive of.

1002 For these reasons, I urge my colleagues to adopt this
1003 amendment, which would exempt States that would suffer a
1004 significant loss from the enactment of this bill, and I yield
1005 back the balance of my time.

1006 Chairman Goodlatte. The chair thanks the gentleman.

1007 For what purpose does the gentleman from Michigan seek
1008 recognition?

1009 Mr. Bishop. Thank you, Mr. Chair. To speak in
1010 opposition.

1011 Chairman Goodlatte. The gentleman is recognized for 5
1012 minutes.

1013 Mr. Bishop. Thank you, Mr. Chair.

1014 I want to begin by thanking the good gentleman from New
1015 York for the suggestion. I oppose the amendment, and the
1016 reason I do is because this applies to, frankly, one State,
1017 and that is New York.

1018 This amendment exempts States that would lose \$25

1019 million or more annually in revenue if the bill takes effect.
1020 The outside analysis shows that only one State would be
1021 impacted, and that is New York. And I would like, that said,
1022 Mr. Chair, to ask for unanimous consent to submit a document
1023 for the record, entitled "Estimates of State-by-State Impacts
1024 of the Mobile Workforce State Income Tax Simplification Act."
1025 Chairman Goodlatte. Without objection, it will be made
1026 a part of the record.
1027 [The information follows:]
1028

1029 Mr. Bishop. This --

1030 Mr. Nadler. I am sorry. I thought you were finished.

1031 Chairman Goodlatte. The time belongs to the gentleman
1032 from Michigan.

1033 Mr. Bishop. Thank you.

1034 The document reflects the estimates of impact of this
1035 bill and the various States that will be impacted by the
1036 legislation. It is clear, based on the information provided,
1037 that New York is the only State that would be impacted by the
1038 threshold suggested. An exemption for New York would be
1039 ironic because really it is New York that is the culprit for
1040 this.

1041 And I would say also I would note that New Jersey is the
1042 source of at least half of the nonresident money that New
1043 York collects. Indeed, the committee is informed that New
1044 York's aggressive auditing of nonresident employees was a
1045 prime motivation for the Mobile Workforce Act.

1046 This all started about 9 years ago. The mobile
1047 workforce bill sets forth a fair, uniform rule in order to
1048 reduce compliance burdens and retain sensible limits on State
1049 regulatory authority over nonresidents. New York, in this
1050 case, should not be granted an exception at the expense of

1051 other States and other employees and other businesses.

1052 I urge my colleagues to oppose the amendment, and with
1053 that, I yield back.

1054 Chairman Goodlatte. For what purpose does the gentleman
1055 from Michigan seek recognition?

1056 Mr. Conyers. I will yield.

1057 Chairman Goodlatte. Okay. For what purpose does the
1058 gentleman from New York seek recognition?

1059 Mr. Nadler. Strike the last word.

1060 Chairman Goodlatte. The gentleman is recognized for 5
1061 minutes.

1062 Mr. Nadler. Mr. Chairman, I, of course, support the
1063 amendment, but I really want to comment on what Mr. Bishop
1064 said.

1065 First of all, it is outrageous to say New York is a
1066 culprit for making its own decisions about what its own tax
1067 law should be within its own borders. Anyone who believes in
1068 the 10th Amendment, anybody who believes in the principles of
1069 federalism should never utter such a statement, number one.

1070 Number two, to say that New York is the only
1071 beneficiary, it may well be, which means we are assaulting
1072 New York in this legislation. And I should emphasize what

1073 Mr. Jeffries said. New York has a \$23 billion balance of
1074 payments deficit with the Federal Government. That means
1075 that more taxes are collected in New York of \$23 billion than
1076 are spent by the Federal Government in New York.

1077 Now as a matter of principle, that is okay. We have a
1078 Federal Government, and if we have the ability to raise more
1079 money so we can help people in Texas or in Georgia or
1080 Tennessee or wherever, fine. That is the purpose of the
1081 Federal Government.

1082 But I see New York assaulted unfairly on a number of
1083 ranges. For example, every time we have a transportation
1084 bill, we say, hey, New York gets more transportation money,
1085 gets more highway fund money under the formulas than is
1086 collected in gasoline taxes in New York, and that is true.
1087 Why? Because New York has invested billions of dollars in
1088 mass transit infrastructure. Therefore, we are more energy
1089 efficient. We use fewer gallons of gasoline, and we must be
1090 punished.

1091 So every year, so every time there is a transportation
1092 bill, an amendment is passed that used to be sponsored by Mr.
1093 DeLay -- in more recent years by other people -- that says a
1094 higher percentage, it is currently 95 cents. Every State

1095 must get, regardless of need, regardless of the normal
1096 apportionment formulas, there is a special thing put in there
1097 that says no State can get less than 95 cents in spending in
1098 highways compared to how much is collected in gasoline taxes.

1099 Now that is one of the very few accounts where New York
1100 gets more money than is collected. If you applied that
1101 principle to other things, New York would pay \$23 billion
1102 less in Federal taxes, or we get \$23 billion more in Federal
1103 expenditures, but we are not asking that.

1104 But we are asking that because we believe that the
1105 Federal Government is one government and that these
1106 apportionment formulas may be right or wrong, but they are
1107 enacted for reasons by Congress, and they should be
1108 respected, but when the normal apportionment formulas end up
1109 saying that there is an occasional account where New York
1110 doesn't get the short end of the stick, that should not have
1111 a special exemption to it, as written into the highway bills.

1112 And when New York chooses to tax people who work in New
1113 York for more than 3 weeks, we should not say they cannot do
1114 that. Three weeks is as reasonable, I should say, as 6
1115 weeks. More reasonable. Six weeks a larger percentage of
1116 the year.

1117 Now we are told that this was a product of negotiation,
1118 and therefore, this committee can't change it? I thought we
1119 are supposed to make decisions like that, not some committee.
1120 I don't know who negotiated it.

1121 But the 3 weeks is reasonable. Saying that this thing,
1122 this provision in the interest of uniformity should not cost
1123 any State more than \$25 million is eminently reasonable. We
1124 ought to let the States have the ability to collect taxes
1125 from people who do business within their borders, with
1126 minimal interference.

1127 I could support this bill if it didn't really hit New
1128 York or other States, for that matter. If Pennsylvania were
1129 the chief victim, I would say the same things. But the fact
1130 is we ought to have reasonable accommodation so States can do
1131 what they see fit. That is what democracy is all about at
1132 the local and State level, and someone who works 3 weeks in a
1133 State, someone who makes more than \$130,000, those are more
1134 reasonable limitations than contained in the bill.

1135 And certainly saying that no State shall have to
1136 sacrifice more than \$25 million in tax receipts is a
1137 reasonable accommodation to what is otherwise an unfettered
1138 principle of uniformity that is being made to take precedence

1139 over States' decision-making, State democracy, the 10th
1140 Amendment, States' rights, and the ability of States to
1141 decide on their own what their tax burden should be.

1142 So I support the gentleman's amendment, and I yield
1143 back.

1144 Chairman Goodlatte. The question occurs on the
1145 amendment offered by the gentleman from New York, Mr.
1146 Jeffries.

1147 Ms. DelBene. Mr. Chair?

1148 Chairman Goodlatte. For what purpose does the
1149 gentlewoman from Washington seek recognition?

1150 Ms. DelBene. Move to strike the last word.

1151 Chairman Goodlatte. The gentlewoman is recognized for 5
1152 minutes.

1153 Ms. DelBene. I am going to yield to my colleague from
1154 New York.

1155 Mr. Jeffries. I thank the distinguished gentlelady for
1156 yielding.

1157 I just also wanted to respond to the comment that New
1158 York is the culprit. I certainly support or believe in the
1159 sincerity of the gentleman from Michigan in terms of offering
1160 this legislation, but the notion that a statement would be

1161 made that New York is the culprit suggests to me that this
1162 entire bill is designed to target one State.

1163 Now do we believe in the concept of federalism? Do we
1164 believe in the 10th Amendment? Do we believe in States
1165 rights, with the exception of New York?

1166 What makes the whole thing even more outrageous, as both
1167 Congressman Nadler and myself have pointed out, New York
1168 regularly sends tens of billions of dollars more to the
1169 Federal Government than we get back in return. We are
1170 subsidizing the quality of life of dozens of States
1171 throughout this country, and we don't have any problem doing
1172 it.

1173 But to come here and to put forth a bill to target one
1174 State, notwithstanding our annual generosity to the great
1175 United States of America and many States in the deep South
1176 and others, to me, it really just belies reason.

1177 Now New York City, financial capital of the world,
1178 booming technology and innovation economy, tremendous center
1179 for media and entertainment, the opportunity to work within
1180 the four corners of New York City, New York State, even for a
1181 few weeks is a privilege. It is not a right.

1182 And New York State, given its infrastructure investment,

1183 given its security apparatus, given its regulatory system,
1184 given its fire services, given its sanitation services,
1185 should have the opportunity in the context of the 10th
1186 Amendment and federalism and States rights to tax economic
1187 activity within its four corners.

1188 I thought that was a principle that we all supported.
1189 But instead, we are here because New York is the culprit. I
1190 just think that is an unfortunate way to proceed in a public
1191 policy context.

1192 Again, I support the amendment. I oppose the underlying
1193 bill, and I yield back.

1194 Chairman Goodlatte. For what purpose does the gentleman
1195 from Texas, Mr. Ratcliffe, seek recognition?

1196 Mr. Ratcliffe. I would like to yield to my colleague,
1197 the gentleman from Michigan.

1198 Chairman Goodlatte. The gentleman from Texas is
1199 recognized for 5 minutes.

1200 Mr. Ratcliffe. I would like to yield to the gentleman
1201 from Michigan.

1202 Mr. Bishop. Okay, thank you, Mr. Chair.

1203 Thank you to the good gentleman from Texas for yielding.

1204 I want to respectfully respond to the statements made in

1205 support of this amendment. When we mention that New York is
1206 the culprit, we do that because the evidence shows that the
1207 amendment impacts New York and New York alone. Other States
1208 do not fit within this exemption and, therefore, would not be
1209 benefitted by it. This addresses New York and New York
1210 alone.

1211 And when we do discuss legislation, I for one believe
1212 strongly in the 10th Amendment. I will defend it. Coming
1213 from State government myself, I can tell you that it was a
1214 primary concern in my State and from my citizens. But at
1215 some point in time Congress has got to take control over the
1216 idea of interstate commerce and the role that we play in
1217 interstate commerce.

1218 And we also have to understand that our economy, our
1219 workforce is increasingly more global, that we have a mobile
1220 -- we are mobile in every way, shape, or form in the 21st
1221 century. Our laws have got to keep up to date.

1222 We cannot have a patchwork of laws across this country
1223 where certain States represent a burden to taxpayers and job
1224 providers, and we have to address it so that we bring
1225 uniformity to the process, that we break down the cost to
1226 both the employer and to the employer. It has gone through

1227 the roof.

1228 My colleague from Michigan Mr. Trott gave a good example
1229 of the fact that he himself is an employer. He was able to
1230 attest to the fact that the cost associated with trying to
1231 comply with all these State laws.

1232 New York is the culprit when it comes to that particular
1233 amendment. I am not suggesting that the law or the bill was
1234 inspired to address just New York. This is a nationwide
1235 issue. We have over 275 members of the coalition that
1236 support this bill.

1237 This is not about New York. It is about employers. It
1238 is about employees. And it is about creating an economy that
1239 does not overburden so that we encourage growth, that we find
1240 a way to create an environment where businesses can grow and
1241 prosper, and employees can travel and do what they need to,
1242 to comply with their job requirements without the burden of
1243 having to comply in every State and with every State tax
1244 code, to have to face a tax auditor from every State and go
1245 through that process every day.

1246 Imagine being a \$50,000 employee and having to comply
1247 with all these State laws and these State tax codes. It is
1248 unfair. It is burdensome.

1249 The law, the proposal sets forth a clear, bright-line
1250 30-day threshold. I think that is fair under the
1251 circumstances, and I would ask that Members reject this
1252 amendment.

1253 Mr. Ratcliffe. Thank you, Mr. Chair, and I yield back.

1254 Mr. Conyers. Mr. Chairman?

1255 Chairman Goodlatte. For what purpose does the gentleman
1256 from Michigan seek recognition?

1257 Mr. Conyers. I rise in support of this amendment.

1258 Chairman Goodlatte. The gentleman is recognized for 5
1259 minutes.

1260 Mr. Conyers. Thank you.

1261 Members of the committee, this amendment exempts States
1262 that would lose \$25 million or more in revenue on an annual
1263 basis if the provisions of the bill would otherwise take
1264 effect. It would protect much-needed State revenues and not
1265 disturb any State budgetary plans.

1266 The measure negatively impacts many States, but New York
1267 receives the brunt of the revenue losses because many
1268 individuals from other States travel to New York City for
1269 work. This amendment would protect New York from major lost
1270 revenues if this bill were to become enacted without any

1271 changes.

1272 And so, I urge support of the amendment and remind my
1273 colleagues that there are two Senators, Schumer and
1274 Gillibrand, on the other side of the Capitol that could be
1275 more helpful to us getting this through if this amendment
1276 were supported.

1277 And I yield back.

1278 Chairman Goodlatte. For what purpose does the gentleman
1279 from Texas, Mr. Gohmert, seek recognition?

1280 Mr. Gohmert. I rise in opposition to the amendment.

1281 Chairman Goodlatte. The gentleman is recognized for 5
1282 minutes.

1283 Mr. Gohmert. Thank you, Mr. Chairman.

1284 And I want to follow up on my friend from Michigan's
1285 comments because he is right. He used the word "patchwork,"
1286 and that is exactly what happened, especially between the
1287 years of 1783 and 1787 when we were under the Articles of
1288 Confederation with the 13 States, and that is what brought
1289 about a need for the Constitutional Convention in 1787.

1290 And it was just a patchwork. There was no authority of
1291 the Federal Government to avoid overly vexatious restraints
1292 on trade or commerce between the States, and so that was one

1293 of the things that helped push the Constitution.

1294 And for heaven's sake, if every State did as New York is
1295 doing and some poor employee is having -- is sent to
1296 different States, even 50 States, and every State has an
1297 income tax and comes after each employee, I mean, it is such
1298 an unreasonable and unfair restraint on commerce.

1299 And I appreciate what my friend from New York was saying
1300 about the gasoline tax dollars to New York. But when we are
1301 pouring in so much Federal money into New York airports and
1302 the New York transportation as we are, it seems a little bit
1303 unfair to say, but if you dare to take advantage of the
1304 Federal dollars --

1305 Mr. Nadler. Would the gentleman yield?

1306 Mr. Gohmert. Let me finish. I haven't interrupted you.

1307 If you dared to take advantage of the Federal dollars
1308 that have been invested in New York transportation, then we
1309 are going to pop you a good one. We are going to come, get
1310 some of your income, even though you have paid tax on all of
1311 your income in the State in which you are employed.

1312 That would seem to be an unreasonable or unfair
1313 restraint on commerce between the States.

1314 So I understand and I applaud anyone who is defensive

1315 for their State, but this seems like it helps avoid the same
1316 type problem arising as began arising and was bringing down
1317 the Nation between 1783 and 1787. So I have great respect
1318 for the gentleman's intellect and for his efforts, but I will
1319 oppose the amendment.

1320 Mr. Nadler. Would the gentleman yield?

1321 Mr. Gohmert. I will yield to the gentleman.

1322 Mr. Nadler. Thank you.

1323 I just want to point out two things. Number one,
1324 despite all the money that pours into New York's airports, et
1325 cetera, et cetera, the State of New York sends \$23 billion
1326 more a year to the Federal Government than comes back to New
1327 York in all forms, \$23 billion a year more.

1328 Most States get more from the Federal Government than
1329 they send. Some States don't. New York is one of the
1330 largest, maybe the largest contributor of a net balance to
1331 the Federal Government, despite however much the Federal
1332 Government spend on New York on airports, et cetera.

1333 Second, this bill has a good purpose, and I do not
1334 dispute the purpose. But we could solve the problem if we
1335 made some more reasonable demarcations, such as 14 days for
1336 the 30 days that I suggested or the gentleman's amendment.

1337 And finally, I would also point out that the Articles of
1338 Confederation continued in effect until the Constitution was
1339 adopted in 1789 --

1340 Mr. Gohmert. That is correct.

1341 Mr. Nadler. - not 1787. So I don't want anybody to
1342 think we had a hiatus for 2 years.

1343 I yield back.

1344 Mr. Gohmert. Well, yes, and I appreciate the
1345 gentleman's point. But if you look at the net effect that
1346 the gentleman from New York's amendment would have, what it
1347 would say is, okay, if you are going to tax, you really
1348 better jump up your taxes because you have got to get above
1349 the \$25 million threshold so you can be exempt. It
1350 encourages States to be even more vexatious and in restraint
1351 of commerce.

1352 So I appreciate the gentleman's point. I would like to
1353 see the basis for the \$23 billion imbalance of money to the
1354 Federal Government from New York to see what it includes, all
1355 the taxes, all the different kinds of money that flow back
1356 and forth, and then I would be better able to comment.

1357 But, yes, but if the gentleman will recall, I said that
1358 led to the 1787 Constitutional Convention. But of course, it

1359 was not ratified. We didn't begin the Government under that
1360 Constitution until 1789, and I appreciate the gentleman's
1361 expounding on that.

1362 With that, I yield back.

1363 Chairman Goodlatte. For what purpose does the gentleman
1364 from Tennessee seek recognition?

1365 Mr. Cohen. Thank you, Mr. Chair. I would like to ask
1366 the sponsor of the amendment a question.

1367 Chairman Goodlatte. The gentleman is recognized for 5
1368 minutes.

1369 Mr. Cohen. Thank you.

1370 This amendment talks about the act will not apply with
1371 respect to a State that would lose \$25 million or more in
1372 revenue if it were not in effect for such calendar year.
1373 Does that mean it will not apply to that State at all, or the
1374 first \$25 million in loss would apply, or only above the \$25
1375 million would be affected?

1376 Mr. Jeffries. It wouldn't be applicable at all.

1377 Mr. Cohen. It wouldn't be applicable at all. So if you
1378 had a State that you would lose \$20 million, it would be
1379 applicable. But if you got to \$25 million plus, it wouldn't
1380 be applicable.

1381 Isn't there something -- aren't we missing -- there is a
1382 gap there that is like the missing link or something?

1383 Mr. Jeffries. Well, you know, to the extent that there
1384 is a number that needed to be set, there had to be a
1385 determination as what will be a reasonable number.

1386 You have got to understand that the economic activity is
1387 taking place that is yielding the impact on the tax revenue,
1388 and so we are focusing right now on the tax consequences, but
1389 it is the underlying economic activity, the attractiveness of
1390 that State, for whatever the reason -- financial services,
1391 technology and innovation, media and entertainment, whatever
1392 the case may be -- that is yielding the large number.

1393 It is not because New York State has gone out
1394 vexatiously and indicated we just want to randomly tax the
1395 residents of other States. It is a financial capital of the
1396 world. There is a whole host of other economic activity that
1397 people are benefitting from when they come into the City of
1398 New York or the State of New York. That is yielding the
1399 number. We thought that \$25 million made sense as a
1400 threshold.

1401 Mr. Cohen. But what I don't get is that the \$25 million
1402 or more, then it doesn't apply at all. But under \$25 million

1403 it would still apply. That doesn't -- to me, it just seems
1404 like maybe there should be some type of other way to maybe
1405 have a limit that you still lose and you can apportion it
1406 somehow.

1407 I am just curious. In New York, is --

1408 Mr. Jeffries. I would be open to a phased-in approach
1409 if you think that would be more reasonable.

1410 Mr. Cohen. Well, I think it would be. But I think is
1411 New York's main problem with Jersey and Connecticut, folks
1412 from there coming in?

1413 Mr. Jeffries. Well, I think there is a significant
1414 amount of commuter activity taking place from New Jersey.

1415 Mr. Cohen. Why don't you all just close the bridge? Do
1416 what Christie did and close it, not let them come over?

1417 Mr. Jeffries. I will take that suggestion under
1418 advisement and communicate it to the Governor.

1419 Chairman Goodlatte. Does the gentleman yield back?

1420 Mr. Cohen. Yes.

1421 Chairman Goodlatte. The chair thanks the gentleman.

1422 The question occurs on the amendment offered by the
1423 gentleman from New York.

1424 All those in favor, respond by saying aye.

1425 Those opposed, no.

1426 In the opinion of the chair, the noes have it. The
1427 amendment is not agreed to.

1428 Are there further amendments to H.R. 2315?

1429 [No response.]

1430 Chairman Goodlatte. A reporting quorum being present,
1431 the question is on the motion to report the bill, H.R. 2315,
1432 favorably to the House.

1433 Those in favor will say aye.

1434 Those opposed, no.

1435 The ayes have it, and the bill is ordered reported
1436 favorably.

1437 Mr. Nadler. Mr. Chairman?

1438 Chairman Goodlatte. For what purpose does the gentleman
1439 from New York seek recognition?

1440 Mr. Nadler. I request a recorded vote.

1441 Chairman Goodlatte. A recorded vote is requested, and
1442 the clerk will call the roll.

1443 Ms. Williams. Mr. Goodlatte?

1444 Chairman Goodlatte. Aye.

1445 Ms. Williams. Mr. Goodlatte votes aye.

1446 Mr. Sensenbrenner?

1447 Mr. Sensenbrenner. Aye.

1448 Ms. Williams. Mr. Sensenbrenner votes aye.

1449 Mr. Smith?

1450 Mr. Smith. Aye.

1451 Ms. Williams. Mr. Smith votes aye.

1452 Mr. Chabot?

1453 [No response.]

1454 Ms. Williams. Mr. Issa?

1455 Mr. Issa. Aye.

1456 Ms. Williams. Mr. Issa votes aye.

1457 Mr. Forbes?

1458 [No response.]

1459 Ms. Williams. Mr. King?

1460 Mr. King. Aye.

1461 Ms. Williams. Mr. King votes aye.

1462 Mr. Franks?

1463 [No response.]

1464 Ms. Williams. Mr. Gohmert?

1465 Mr. Gohmert. Aye.

1466 Ms. Williams. Mr. Gohmert votes aye.

1467 Mr. Jordan?

1468 Mr. Jordan. Yes.

1469 Ms. Williams. Mr. Jordan votes yes.
1470 Mr. Poe?
1471 Mr. Poe. Yes.
1472 Ms. Williams. Mr. Poe votes yes.
1473 Mr. Chaffetz?
1474 [No response.]
1475 Ms. Williams. Mr. Marino?
1476 Mr. Marino. Yes.
1477 Ms. Williams. Mr. Marino votes yes.
1478 Mr. Gowdy?
1479 [No response.]
1480 Ms. Williams. Mr. Labrador?
1481 Mr. Labrador. Yes.
1482 Ms. Williams. Mr. Labrador votes yes.
1483 Mr. Farenthold?
1484 [No response.]
1485 Ms. Williams. Mr. Collins?
1486 Mr. Collins. Yes.
1487 Ms. Williams. Mr. Collins votes yes.
1488 Mr. DeSantis?
1489 Mr. DeSantis. Yes.
1490 Ms. Williams. Mr. DeSantis votes yes.

1491 Ms. Walters?

1492 Ms. Walters. Aye.

1493 Ms. Williams. Ms. Walters votes aye.

1494 Mr. Buck?

1495 [No response.]

1496 Ms. Williams. Mr. Ratcliffe?

1497 Mr. Ratcliffe. Yes.

1498 Ms. Williams. Mr. Ratcliffe votes yes.

1499 Mr. Trott?

1500 Mr. Trott. Yes.

1501 Ms. Williams. Mr. Trott votes yes.

1502 Mr. Bishop?

1503 Mr. Bishop. Aye.

1504 Ms. Williams. Mr. Bishop votes aye.

1505 Mr. Conyers?

1506 Mr. Conyers. No.

1507 Ms. Williams. Mr. Conyers votes no.

1508 Mr. Nadler?

1509 Mr. Nadler. No.

1510 Ms. Williams. Mr. Nadler votes no.

1511 Ms. Lofgren?

1512 [No response.]

1513 Ms. Williams. Ms. Jackson Lee?
1514 [No response.]
1515 Ms. Williams. Mr. Cohen?
1516 Mr. Cohen. Aye.
1517 Ms. Williams. Mr. Cohen votes aye.
1518 Mr. Johnson?
1519 [No response.]
1520 Ms. Williams. Mr. Pierluisi?
1521 Mr. Pierluisi. Yes.
1522 Ms. Williams. Mr. Pierluisi votes yes.
1523 Ms. Chu?
1524 Ms. Chu. No.
1525 Ms. Williams. Ms. Chu votes no.
1526 Mr. Deutch?
1527 [No response.]
1528 Ms. Williams. Mr. Gutierrez?
1529 [No response.]
1530 Ms. Williams. Ms. Bass?
1531 [No response.]
1532 Ms. Williams. Mr. Richmond?
1533 [No response.]
1534 Ms. Williams. Ms. DelBene?

1535 Ms. DelBene. Aye.

1536 Ms. Williams. Ms. DelBene votes aye.

1537 Mr. Jeffries?

1538 Mr. Jeffries. No.

1539 Ms. Williams. Mr. Jeffries votes no.

1540 Mr. Cicilline?

1541 Mr. Cicilline. Aye.

1542 Ms. Williams. Mr. Cicilline votes aye.

1543 Mr. Peters?

1544 Mr. Peters. Aye.

1545 Ms. Williams. Mr. Peters votes aye.

1546 Chairman Goodlatte. The gentleman from Virginia, Mr.

1547 Forbes?

1548 Mr. Forbes. Yes.

1549 Ms. Williams. Mr. Forbes votes yes.

1550 Chairman Goodlatte. The gentleman from Florida, Mr.

1551 Deutch?

1552 Mr. Deutch. Yes.

1553 Ms. Williams. Mr. Deutch votes yes.

1554 Chairman Goodlatte. Has every Member voted who wishes

1555 to vote?

1556 [No response.]

1557 Chairman Goodlatte. The clerk will report.

1558 Ms. Williams. Mr. Chairman, 23 Members voted aye; 4

1559 Members voted no.

1560 Chairman Goodlatte. The ayes have it, and the bill is
1561 ordered reported favorably to the House. Members will have 2
1562 days to submit views.

1563 Pursuant to notice, I now call up H.R. 1643 for purposes
1564 of markup and move that the committee report the bill
1565 favorably to the House. The clerk will report the bill.

1566 Ms. Williams. H.R. 1643, to promote neutrality,
1567 simplicity, and fairness in the taxation of digital goods and
1568 digital services.

1569 Chairman Goodlatte. Without objection, the bill is
1570 considered as read and open for amendment at any point.

1571 [The bill follows:]

1572

1573 Chairman Goodlatte. I will begin by recognizing myself
1574 for an opening statement.

1575 We consider now the Digital Goods and Services Tax
1576 Fairness Act of 2015. This bill establishes sourcing rules
1577 for the sales of digital goods to prevent multiple taxation.

1578 Unlike a physical purchase from a brick-and-mortar
1579 store, digital goods transactions can involve multiple
1580 jurisdictions simultaneously. Consider a Virginia resident
1581 downloading a movie from a Washington-based Amazon while
1582 waiting at the Chicago O'Hare airport in Illinois. Three
1583 States could potentially lay claim to that transaction,
1584 creating a real risk of multiple taxation for the consumer.

1585 The digital goods legislation provides a consistent,
1586 uniform sourcing framework to address this problem. The bill
1587 also prohibits discriminatory taxation of digital goods.
1588 This addresses reports that some States and localities have
1589 actually imposed targeted, discriminatory taxes only on
1590 digital goods and services while not taxing their physical
1591 analogs.

1592 For example, Montana asserted the right to tax popular
1593 music ringtones under its telecommunications excise tax, even
1594 though it does not impose a generally applicable sales tax on

1595 the purchase of CDs.

1596 The rules of the road embodied in this bill are critical
1597 because sales of digital goods continue to increase. In
1598 January 2015 alone, digital book sales topped \$100 million.
1599 Estimates say that the mobile app economy will top \$77
1600 billion by 2017.

1601 Accordingly, I commend the lead sponsors, Chairman Smith
1602 and Subcommittee Ranking Member Cohen, for all of their work
1603 on this timely bill. They have put tremendous time into
1604 working through the technical details with parties having
1605 varied interests from industry groups to State governments.

1606 Through their efforts, the National Governors
1607 Association has lifted objections it had to a prior version
1608 of the bill. The remaining opposition to this bill argues
1609 that since it typically sources digital sales to the
1610 destination State, remote sales will escape taxation.

1611 However, the destination State to which the sale is
1612 sourced remains free to enforce its use tax. In addition,
1613 there is a good case that the origin State could not tax
1614 digital goods either, even if the sale were sourced there.

1615 Under *Goldberg v. Sweet*, the commerce clause requires
1616 that the origin State have at least two of the following

1617 factors in order to tax an interstate call over a
1618 telecommunications network. One, place of origin. Two,
1619 place of termination. Or three, location of the service
1620 address.

1621 Typically speaking, for a mobile download, the origin
1622 State will have only the first factor and so will not have
1623 the authority to tax the digital sale. Accordingly, I urge
1624 my colleagues to join me in supporting this bipartisan bill
1625 that prevents double taxation on consumers purchasing digital
1626 goods.

1627 It is now my pleasure to recognize the ranking member of
1628 the committee, the gentleman from Michigan, Mr. Conyers, for
1629 his opening statement.

1630 Mr. Conyers. Thank you, Mr. Chairman.

1631 My fellow colleagues, H.R. 1643 reflects some good
1632 intentions. For example, it intends to prohibit
1633 discriminatory taxes on digital goods and digital services
1634 and to prevent multiple taxation, which are all goals that I
1635 support.

1636 Nevertheless, H.R. 1643 deservedly has a broad range of
1637 opponents, including the National League of Cities, the U.S.
1638 Conference of Mayors, the International Union of Police

1639 Associations, and the National Education Association, among
1640 many others.

1641 To begin with, 1643 would reduce future State and local
1642 government revenues. This is because the bill would preempt
1643 the local taxation of digital goods, such as downloaded music
1644 and movies, as well as other online services, according to
1645 local government groups.

1646 As a result, local governments would be deprived of
1647 millions of dollars in revenues and thereby -- and undermine
1648 their efforts to provide critical services to their citizens,
1649 such as police and fire protection, public education,
1650 sanitation, and road maintenance.

1651 Rather than expending time on bills that are detrimental
1652 to the State and local government, our committee should focus
1653 on legislation that would actually help State and local
1654 governments. For example, we should take up H.R. 2775, the
1655 Remote Transactions Parity Act, which I joined our colleague
1656 Mr. Chaffetz in introducing this week.

1657 H.R. 2775 would support our States by authorizing them
1658 to collect much-needed sales taxes that they have been unable
1659 to collect from remote sellers. And H.R. 2775 would level
1660 the playing field for retailers by requiring remote sellers

1661 to collect the same sales tax that local retailers have to
1662 collect. We should first resolve the remote sales tax issue
1663 before we move H.R. 1643 or any other State tax bill.

1664 Finally, H.R. 1643 appears to ignore current law
1665 prohibiting discriminatory taxes. The Internet Tax Freedom
1666 Act already prohibits discriminatory and multiple taxation of
1667 electronic commerce. A bill to permanently extend the act
1668 passed the House just last week, and constitutional case law
1669 already requires States to offer a credit for taxes paid in
1670 another State.

1671 So there is really no need for Congress to consider more
1672 legislation to address the perceived threat of discriminatory
1673 and multiple taxation. But this bill goes much further and
1674 in the process picks winners and losers based merely on
1675 whether or not the good or service is digital.

1676 As Alabama Commissioner of Revenue Julie Magee stated at
1677 a hearing on this bill, H.R. 1643, "will no doubt engender
1678 substantial and ongoing controversy and legislation" because
1679 it favors intangible goods and services over tangible goods
1680 and services.

1681 Clearly, this bill must be revised to correct this
1682 imbalance. Doing so will ensure that this legislation does

1683 not harm State and local taxing authority while also not
1684 creating new ambiguities in State tax law. So accordingly, I
1685 urge my colleagues to follow my lead in opposing H.R. 1643.

1686 Thank you, Mr. Chairman.

1687 Chairman Goodlatte. Thank you, Mr. Conyers.

1688 And I would now like to recognize the former chairman of
1689 the House Judiciary Committee and the chief sponsor of this
1690 bill, the gentleman from Texas, Mr. Smith, for his opening
1691 statement.

1692 Mr. Smith. Thank you, Mr. Chairman.

1693 I appreciate being recognized. And let me reassure the
1694 gentleman from Michigan, the ranking member, that there is
1695 nothing in any shape, form, or manner in this bill that
1696 changes any State law.

1697 Mr. Chairman, today we live in a digital world, and
1698 consumers increasingly prefer to consume goods and services
1699 in digital rather than in tangible form. This trend should
1700 not be viewed as an incentive to alter the taxation of
1701 digital goods. Consumers should not have to face higher
1702 sales taxes on a downloaded good than on its tangible
1703 counterpart, and they should not face taxes from multiple
1704 jurisdictions on the same digital transaction.

1705 The Digital Goods and Services Tax Fairness Act, which I
1706 introduced with Congressman Cohen from Tennessee, prevents
1707 such multiple and discriminatory taxes on digital goods and
1708 services. The bill provides a uniform framework to determine
1709 in which jurisdiction a transaction for a digital good or
1710 service is subject to taxation.

1711 The digital goods legislation is consistent with the
1712 Internet Tax Freedom Act, which prohibits multiple or
1713 discriminatory taxes on e-commerce. It provides a way to
1714 ensure consistency for consumers and State taxing
1715 authorities.

1716 Without such legislation, a single digital download
1717 could be subject to as many as three different taxing
1718 jurisdictions -- the State in which the consumer resides, the
1719 location where the transaction took place, and where the
1720 server is located from which the digital good was downloaded.

1721 The Digital Goods and Services Tax Fairness Act does not
1722 prevent States -- let me repeat that, does not prevent
1723 States from implementing sales taxes on digital goods.
1724 Rather, it provides the States and consumers with guidelines
1725 to identify the proper jurisdiction that has the right to tax
1726 such digital transaction if they so choose.

1727 Innovation and customer choice should not be stifled by
1728 unfair taxes. H.R. 1643 brings much-needed clarity and
1729 fairness to ensure that Americans continue to use the digital
1730 economy.

1731 I want to thank the chairman of the committee for taking
1732 action on this legislation, and I urge my colleagues to
1733 support this bill and yield back.

1734 Chairman Goodlatte. The chair thanks the gentleman.

1735 The chair would now like to recognize the gentleman from
1736 Tennessee, Mr. Cohen, the chief Democratic cosponsor of the
1737 legislation, for his opening statement.

1738 Mr. Cohen. Thank you, Mr. Chair.

1739 I want to thank the chairman for holding the markup
1740 today and allowing the committee to consider the Digital
1741 Goods and Services Tax Fairness Act of 2015, and I thank the
1742 chairman, former chairman, Congressman Smith, my friend, for
1743 his partnership and leadership on this important bill.

1744 The digital economy is huge. Last year, \$164 billion
1745 streamed -- 164 billion people streamed songs on the
1746 Internet. This year, in just the month of January, digital
1747 book sales exceeded \$100 million. Looking ahead, it has been
1748 estimated the mobile app economy will exceed \$77 billion by

1749 2017, and looking ahead, I might even join that group of
1750 people.

1751 States, understandably, want to make sure they receive
1752 their fair share of sales tax revenue. However, we need to
1753 ensure that State taxes are fair and nondiscriminatory. That
1754 is where the Digital Goods and Services Tax Fairness Act
1755 comes in.

1756 If enacted, it would establish a national framework,
1757 which is important. It would establish sourcing rules for
1758 the sales tax of digital goods to prevent multiple taxation.
1759 Not that you couldn't tax the digital goods, but it would
1760 show who would tax them and where and prevent multiple
1761 taxations on these items.

1762 We have done -- tried to do similar things on rental car
1763 taxes and folks coming in. "Don't tax me, don't tax thee,
1764 tax that guy behind that tree." This is kind of a similar
1765 thing to protect digital, the future from greedy local
1766 governments, needy and greedy, trying to put taxes on --
1767 double taxes on particular forms of commerce.

1768 This legislation is about fairness, and I hope my
1769 colleagues will support it, and I yield back my time.

1770 Chairman Goodlatte. Are there any amendments to H.R.

1771 1643? For what purpose does the gentleman from Texas seek
1772 recognition?

1773 Mr. Smith. Mr. Chairman, I have an amendment at the
1774 desk.

1775 Chairman Goodlatte. The clerk will report the
1776 amendment.

1777 Ms. Williams. Amendment to H.R. 1643, offered by Mr.
1778 Smith of Texas. Page 5, line 8, by striking 7(2)(B) and
1779 inserting 7(2)(A)(ii).

1780 Chairman Goodlatte. Without objection, the amendment
1781 will be considered as read.

1782 [The amendment of Mr. Smith follows:]

1783

1784 Chairman Goodlatte. And the gentleman is recognized for
1785 5 minutes on his amendment.

1786 Mr. Smith. Thank you, Mr. Chairman.

1787 This amendment makes three technical and, I hope,
1788 noncontroversial changes to the bill.

1789 First, the amendment fixes a typo from a prior version
1790 of the bill in regard to a cross-reference to the definition
1791 of "customer tax address."

1792 Second, the amendment makes a technical correction to
1793 the definition of "delivered or transferred electronically,
1794 provided electronically" to apply to digital goods and
1795 digital services, respectively. This change ensures that
1796 these terms conform precisely to the definitions of digital
1797 good and digital service in the bill.

1798 Third, the amendment clarifies that "digital good"
1799 includes software throughout the definition. As originally
1800 drafted, the term "digital good" included software or other
1801 good in its description of items transferred or transferred
1802 electronically. However, the remainder of the term failed to
1803 incorporate software and its explanation of what constitutes
1804 a digital good. This amendment resolves that issue.

1805 It also clarifies that a downloaded copy is a digital

1806 good and not a digital service, providing more certainty for
1807 consumers, businesses, and taxing jurisdictions.

1808 So I urge my colleagues to support the amendment and
1809 yield back.

1810 Chairman Goodlatte. For what purpose does the gentleman
1811 from Michigan seek recognition?

1812 Mr. Conyers. To strike the requisite number of words.

1813 Chairman Goodlatte. The gentleman is recognized for 5
1814 minutes.

1815 Mr. Conyers. Thank you, Chairman Goodlatte.

1816 Ladies and gentlemen of the committee, this amendment
1817 makes changes to definitions of "digital good" and "delivered
1818 or transferred electronically." The amendment reminds me
1819 that the bill limits States' collections of sales taxes.

1820 In this bill, a seller is only obligated to remit sales
1821 taxes if the State has the authority to require such
1822 collection and remittance by the seller. Essentially then,
1823 we continue to consider bills which rely to some extent on
1824 enacting legislation granting States the authority to enforce
1825 the collection and remittance of remote sales tax. Yet this
1826 committee fails to move on legislation which grants that
1827 authority.

1828 I request once more that this committee soon hold a full
1829 committee hearing on the Remote Transactions Parity Act,
1830 provide Members an opportunity to amend, if it need be, and
1831 report it to the floor for consideration by the entire House.
1832 Ladies and gentlemen, it only makes sense to consider that
1833 legislation first.

1834 I yield back, Mr. Chairman.

1835 Chairman Goodlatte. The chair thanks the gentleman.

1836 For what purpose does the gentlewoman from Washington
1837 seek recognition?

1838 Ms. DelBene. Move to strike the last word.

1839 Chairman Goodlatte. The gentlewoman is recognized for 5
1840 minutes.

1841 Ms. DelBene. Thank you, Mr. Chair.

1842 The Digital Goods and Services Tax Fairness Act is an
1843 important piece of legislation, and it definitely addresses a
1844 genuine issue and does a good job of ensuring that consumers'
1845 transactions are treated fairly and not subject to
1846 duplicative taxes.

1847 But what seems out of place is that we are considering a
1848 bill without a complementary piece of legislation, the Remote
1849 Transactions Parity Act, formerly known as the Marketplace

1850 Fairness Act. These bills are both about, as their name
1851 suggests, bringing fairness to the world of online and
1852 digital commerce.

1853 The current patchwork of State laws is cumbersome,
1854 nearly impossible to administer, and leaves our small
1855 businesses, consumers, and State and local governments worse
1856 off. It is critical to note that in neither case are we
1857 talking about imposing any new taxes. The issue is who gets
1858 the authority to tax.

1859 And this is why I and many stakeholders in this debate
1860 would like to see the Remote Transactions Parity Act and the
1861 digital goods legislation move together. They both use a
1862 destination sourcing model to answer the question of who gets
1863 to tax, and it would be logical for this Congress to move the
1864 bills together so we can give businesses certainty in this
1865 space.

1866 In fact, these issues have been discussed over many
1867 years together with input from State and local interests, as
1868 well as industry, to make tax administration consistent, but
1869 not overly preemptive. It simply makes sense for these bills
1870 to move together.

1871 Right now, there is no doubt that people across the

1872 country sitting in an airport downloading a few songs on
1873 iTunes and then moments later ordering a few paperback books
1874 on Amazon. But it seems illogical that we want to give the
1875 States a different national framework for taxing the iTunes
1876 song, which is digital, versus those paperback books, not
1877 digital, versus perhaps an eBook that is digital that someone
1878 else is buying in the seat next to them.

1879 I commend my colleagues, Mr. Cohen and Mr. Smith, for
1880 introducing this important legislation, but I urge my
1881 colleagues to also consider the Remote Transactions Parity
1882 Act that my friend from Utah, Mr. Chaffetz, introduced this
1883 week, of which I am an original cosponsor.

1884 These are real issues affecting small and large
1885 businesses alike, and we would be wise to address them
1886 together in a comprehensive manner.

1887 And I yield back.

1888 Chairman Goodlatte. The question occurs on the
1889 amendment offered by the gentleman from Texas, Mr. Smith.

1890 All those in favor, respond by saying aye.

1891 Those opposed, no.

1892 The amendment is agreed to.

1893 Are there further amendments to H.R. 1643?

1894 [No response.]

1895 Chairman Goodlatte. A reporting quorum being present,
1896 the question is on the motion to report the bill, H.R. 1643,
1897 as amended, favorably to the House.

1898 Those in favor will say aye.

1899 Those opposed, no.

1900 The ayes have it, and the bill, as amended, is ordered
1901 reported favorably. Members will have 2 days to submit
1902 views.

1903 Without objection, the bill will be reported as a single
1904 amendment in the nature of a substitute, incorporating all
1905 adopted amendments. And staff is authorized to make
1906 technical and conforming changes.

1907 The chair would advise the Members that we have one more
1908 bill to consider. It has two amendments, and I imagine --
1909 and I have committed to the Members that we would not be in
1910 session between noon and 1:00 p.m. So I will proceed with my
1911 opening statement, get that done, perhaps the ranking member,
1912 and then we will stand in recess until 1:00 p.m.

1913 Pursuant to notice, I now call up H.R. 2584 for purposes
1914 of markup and move that the committee report the bill
1915 favorably to the House. The clerk will report the bill.

1916 Ms. Williams. H.R. 2584, to regulate certain State
1917 taxation of interstate commerce, and for other purposes.

1918 Chairman Goodlatte. Without objection, the bill is
1919 considered as read and open for amendment at any point.

1920 [The bill follows:]

1921

1922 Chairman Goodlatte. And I will begin by recognizing
1923 myself for an opening statement.

1924 We now consider the Business Activity Tax Simplification
1925 Act of 2015. This bill restores physical presence, defined
1926 as presence for more than 14 days, as a prerequisite to a
1927 State imposing business activity taxes.

1928 For much of American history, States' cross-border reach
1929 was strictly limited. Until around 1950, States could not
1930 tax interstate commerce at all. Courts then began to relax
1931 the rules.

1932 In 1977, the Supreme Court held that States may tax
1933 interstate commerce if there is a substantial nexus to the
1934 taxing State. In the context of sales taxes, substantial
1935 nexus means a seller is physically present in the
1936 jurisdiction.

1937 The court, however, has never clarified whether the
1938 physical presence rule applies to certain other imposition,
1939 such as business activity taxes. Accordingly, States are
1940 increasingly extending their reach into the gray area.
1941 Instead of the objective physical presence standard, half the
1942 States favor an amorphous economic nexus standard under which
1943 a company owes taxes wherever it has sales or other economic

1944 activity.

1945 The Subcommittee on Regulatory Reform, Commercial and
1946 Antitrust Law heard testimony in 2014 that if Congress lets
1947 economic presence rather -- excuse me, rather than physical
1948 presence be the standard, States will mostly exempt resident
1949 companies from tax obligations while imposing them on out-of-
1950 State companies. This is precisely the sort of problem the
1951 commerce clause is intended to prevent. It is already
1952 happening.

1953 For example, New Jersey has impounded trucks delivering
1954 boats to New Jersey customers, demanding that the out-of-
1955 State seller agree to pay income tax to New Jersey.
1956 Similarly, Massachusetts demands income tax from businesses
1957 if their delivery trucks merely travel through the State on
1958 their way to somewhere else.

1959 Critics raise concerns about State sovereignty and
1960 revenue loss to the States. Both of these arguments spring
1961 from the same misperception. They assume as a baseline that
1962 economic nexus is the proper standard.

1963 On the contrary, until as late the 1950s, States could
1964 not tax interstate commerce at all. Their subsequent efforts
1965 were met with immediate resistance from Congress in the form

1966 of Public Law 86-272. Thus, the economic presence standard
1967 and the revenue it brings are more properly viewed as overly
1968 aggressive assertions of State authority that BATSA is
1969 curing, not well-settled authority that BATSA is diminishing.

1970 Opponents also argue that BATSA would increase
1971 opportunities for tax planning, leading to more nowhere
1972 income. However, many States have throwback or throw-out
1973 statutes designed to prevent nowhere income. But all but a
1974 few States also have combined reporting and unitary
1975 apportionment laws, which disregard income effects from the
1976 intercompany transactions that form the heart of common tax
1977 planning strategies.

1978 Accordingly, the gaming concerns cited by critics are
1979 overstated. The greater danger is from State overreach of
1980 the type described above. States should be sovereign within
1981 their borders, not beyond. Permitting them to impose income
1982 tax obligations on nonresidents burdens interstate commerce
1983 and permits State officials to avoid accountability by
1984 shifting the tax burden to those who cannot hold them
1985 accountable at the ballot box.

1986 Accordingly, I commend Mr. Chabot and Mr. Scott for
1987 introducing this bill and urge my colleagues to support this

1988 important bipartisan legislation.

1989 I now recognize our ranking member, the gentleman from
1990 Michigan, Mr. Conyers, for his opening statement.

1991 Mr. Conyers. Thank you, Mr. Chairman.

1992 Members of the committee, I must rise to say that H.R.
1993 2584 is perhaps flawed legislation. To begin with, this
1994 legislation upends long-settled State tax practices by
1995 implementing a standard ostensibly based on physical presence
1996 and by including loopholes that makes the standard
1997 meaningless.

1998 Most States apply an economic presence standard whereby
1999 a company is taxed based on whether it conducts sufficient
2000 business within the State. Yet the business community urges
2001 the implementation of a physical presence standard.

2002 Although proponents of H.R. 2584 argue that this
2003 legislation responds to these concerns, the bill's so-called
2004 physical presence standard in reality will create more
2005 ambiguities because of its new exceptions and de minimis
2006 standard. As a result, States will be prevented from
2007 imposing business activity taxes on businesses that have less
2008 than 15 days of physical presence within the State.

2009 In turn, this will shift the State corporate income tax

2010 burden onto local small businesses, manufacturers, and
2011 service providers. It is particularly noteworthy that this
2012 unworkable standard favors big business because it encourages
2013 tax evasion by creating opportunities for nationwide
2014 businesses to structure corporate affiliates and transactions
2015 to avoid paying their fair share of taxes.

2016 Secondly, this legislation will eviscerate State
2017 revenues. The Congressional Budget Office estimates that
2018 nearly identical legislation considered in the 112th Congress
2019 would reduce State revenues by about \$2 billion in the first
2020 full year following enactment and at least that amount in
2021 subsequent years.

2022 The CBO also concluded that this legislation would
2023 generate even greater future State revenue losses as
2024 corporations avail themselves of the bill's virtually
2025 unenforceable standard and vast loopholes. The impact of
2026 this loss would force State governments to make draconian
2027 cuts to valuable Government programs and services, as well as
2028 furlough dedicated Government workers. We should not impose
2029 a \$2 billion decrease in State revenues.

2030 Finally, this committee should focus on establishing a
2031 national framework that will empower the States to enforce

2032 collection by remote sellers. The Supreme Court recognized
2033 in Quill v. North Dakota that Congress is best suited to
2034 determine whether a remote seller must collect sales taxes,
2035 but more than 20 years after the Quill decision, we have not
2036 yet dealt with this important issue.

2037 One solution would be H.R. 2775, the Remote Transactions
2038 Parity Act, which would establish the critical national
2039 framework to enforce the collection of State taxes by remote
2040 sellers. I am a proud cosponsor of that bill, which was
2041 introduced on Monday.

2042 The Senate overwhelmingly passed similar legislation
2043 during the last Congress. However, no bill has had any
2044 meaningful action in the House other than being subject of
2045 general hearings.

2046 We owe it to our local communities, our local retailers,
2047 and State and local governments to act this Congress.
2048 Otherwise, our local retailers will continue to be at a
2049 competitive disadvantage, and our State and local governments
2050 will continue to lose critical tax revenues.

2051 Accordingly, I urge my colleagues on this committee to
2052 oppose H.R. 2584, and I plead with the chair to consider soon
2053 H.R. 2775, the Remote Transactions Parity Act.

2054 I thank the chairman and yield back.

2055 Chairman Goodlatte. The chair thanks the gentleman.

2056 Mr. Conyers. Oh, wait a minute. I would also like to
2057 enter into the record a letter from the Government Finance
2058 Officers Association, the National Association of Communities
2059 -- of Counties, excuse me. The National League of Cities,
2060 the U.S. Conference of Mayors, and the National Association
2061 of Telecommunications Officers, as well as a report by the
2062 Center on Budget and Policy Priorities, which both raised
2063 concerns with this bill.

2064 I thank the chairman very much.

2065 Chairman Goodlatte. Without objection, those letters
2066 will be made a part of the record.

2067 [The information follows:]

2068

2069 Chairman Goodlatte. And the committee will stand in
2070 recess until 1:00 p.m.

2071 [Whereupon, at 12:02 p.m. the committee recessed, to
2072 reconvene at 1:18 p.m., the same day.]

2073 Chairman Goodlatte. The committee will reconvene. When
2074 the committee recessed, we were considering H.R. 2584, the
2075 Business Activity Tax Simplification Act of 2015, and I and
2076 the ranking member had given our opening statements. The
2077 chair now recognizes the gentleman from Ohio, Mr. Chabot, for
2078 his opening statement.

2079 Mr. Chabot. Thank you, Mr. Chairman. As we know, the
2080 Constitution prohibits a State from imposing any tax on a
2081 taxpayer that lacks a substantial nexus with a State. What
2082 constitutes a substantial nexus with respect to a State's
2083 ability to impose net income or other business activity
2084 taxes, collectively known as BATs, upon a business, however,
2085 is unclear. States lack a uniform definition for substantial
2086 nexus for BATs.

2087 The patchwork of tests to determine whether a business
2088 has an economic presence in a State leads to considerable
2089 uncertainty for businesses attempting to estimate and reserve
2090 capital for their punitive tax liability. This is especially

2091 troubling for small businesses as they often do not have
2092 legal experts or accountants on staff to ensure that they are
2093 in compliance with tax laws of States that may be hundreds or
2094 thousands of miles away from their office.

2095 In today's electronic commercial world, maintaining the
2096 physical presence standard is more important than ever. This
2097 bipartisan bill, H.R. 2584, which is up now, the Business
2098 Activity Tax Simplification Act of 2015, creates a simple,
2099 bright-line physical standard test that prevents States from
2100 reaching across their borders to force out of state
2101 businesses or individuals to comply with their tax codes.

2102 As chairman of the Committee on Small Business, the most
2103 common complaint I hear from small businesses is the level of
2104 uncertainty coming out of Washington. This common sense
2105 legislation is a step forward. It protects our Nation's
2106 economic engine, small businesses. It does so by ensuring
2107 fairness, minimizing litigation, and creating the kind of
2108 legal certainty and stable business climate that encourages
2109 businesses to make investments, expand commerce, grow the
2110 economy, and, most importantly, create new jobs.

2111 I would urge my colleagues to support H.R. 2584, the
2112 bipartisan Business Activity Tax Simplification Act of 2015.

2113 I want to thank you, and I yield back.

2114 Chairman Goodlatte. Are there any amendments to H.R.

2115 2584? For what purpose does the gentleman from New York seek
2116 recognition?

2117 Mr. Nadler. Mr. Chairman, I have an amendment at the
2118 desk.

2119 Chairman Goodlatte. The clerk will report the
2120 amendment.

2121 Ms. Williams. Amendment to H.R. 2584, offered by Mr.
2122 Nadler of New York, strike Section 3 and make such --

2123 Chairman Goodlatte. Without objection, the amendment
2124 will be considered as read.

2125 [The amendment of Mr. Nadler follows:]

2126

2127 Chairman Goodlatte. And the gentleman is recognized for
2128 5 minutes on his amendment.

2129 Mr. Nadler. Thank you. Mr. Chairman, my amendment
2130 would strike Section 3 of the bill which imposes a new
2131 physical presence requirement for States who tax out of State
2132 business entities. That provision is unnecessary and so
2133 riddled with loopholes that it amounts to imposing huge State
2134 corporate tax cuts in many States.

2135 The underlying bill lays out a general rule that to be
2136 taxed in a State, an entity must have a physical presence
2137 there. This bill then creates exceptions to this
2138 requirement. For example, if a company has someone working
2139 for it in a State, the business would only be considered to
2140 have a physical presence if that person is an agent, and only
2141 if that agent works for that company alone. In addition, a
2142 company is not considered to have a physical presence in a
2143 State if its presence is for less than 15 days, or if it
2144 engages in conduct that amounts to "limited or transient
2145 business activity," whatever that means.

2146 Under the Supreme Court's ruling in *Complete Auto*
2147 *Transit v. Brady*, a State must have a substantial nexus with
2148 the entity it seeks to tax. It is important to note that a

2149 substantial nexus does not equate to a physical presence, but
2150 rather to an economic nexus. The Court's decision in *Quill*
2151 v. *North Dakota*, which required a physical presence to impose
2152 taxes, applied only to sales taxes, not to business activity
2153 taxes like business licenses, franchises, gross receipts,
2154 income, and profits contemplated under this bill. Thus, H.R.
2155 2584 would impose an entirely new physical presence standard
2156 on States that seek to impose taxes on out of state entities.

2157 When this bill was first introduced in 2011, the
2158 Congressional Budget Office estimated that it would lead to
2159 losses by the States of "about \$2 billion in the first full
2160 year after enactment and at least that amount in subsequent
2161 years." As States continue to struggle with budgets that are
2162 stretched ever thinner, we should not further limit their
2163 taxing authority and deprive them of yet more revenue. Vital
2164 services like education, law enforcement, and healthcare
2165 would all be slashed if the States suffer such a loss in
2166 needed funding. If they wish to slash their services, let
2167 them, but let them then slash their taxes. That is their
2168 privilege. We should not do it for them.

2169 It makes no sense to deprive States of this revenue in
2170 order to provide tax cuts for big multistate corporations

2171 that would benefit from this bill. Furthermore, these large
2172 businesses would be able to manipulate how they locate their
2173 physical presence and could engage in significant tax
2174 avoidance strategies. With more and more work able to be
2175 conducted over the internet, this bill would encourage
2176 companies to locate all of their physical operations in the
2177 lowest tax State possible or even overseas, and minimize
2178 their tax burden regardless of where their income is actually
2179 derived and where their economic activity is actually
2180 located.

2181 Of course, many smaller companies and brick and mortar
2182 businesses would be unable to take advantage of such
2183 strategies leading to an uneven playing field. Even as this
2184 bill is intended to increase uniformity, it will, in fact,
2185 tilt the playing field against brick and mortar businesses,
2186 against small businesses, and in favor of large businesses
2187 which can afford to manipulate their physical presences.

2188 And let us also just think of the following. Take a
2189 State like New York. All you have to do is have your
2190 physical plant in northern New Jersey across the river,
2191 across the border from New York, do all your business in New
2192 York, and you would not pay taxes there, or the other way

2193 around. You could have your plant in Binghamton, do all your
2194 business in Pennsylvania, and you would not pay Pennsylvania
2195 any taxes.

2196 The existing economic nexus looks at physical location
2197 as one index, where your employees are, where your sales are,
2198 and nothing is sacrosanct about that. Maybe we should more
2199 weigh sales or more weigh location of employees or whatever.
2200 But that gives a better picture of where you are doing
2201 business and where you should be taxed. Physical location is
2202 too easily manipulatable, and you could easily have your
2203 physical location in one place and do most of your business
2204 in another place.

2205 I appreciate the goal of this legislation and the need
2206 for businesses to have clear rules under which to operate,
2207 but the physical presence requirement under this bill, which
2208 essentially would become the only requirement, regardless of
2209 where your employees are located when they do their jobs.
2210 You can send your sales force roaming through New York or
2211 Pennsylvania, and as long as they have physical presence and
2212 they come back, you know, to wherever, it does not matter.

2213 The physical presence requirement alone under this bill
2214 would cost States desperately needed revenue and create a

2215 roadmap for corporate tax avoidance. We should work to
2216 address any problems with the current system within the
2217 substantial nexus framework that the courts have set forth
2218 and that the States depend upon today. And we certainly
2219 should not do anything that will reduce State tax revenues by
2220 over \$2 billion a year.

2221 You know, the majority especially talks about unfunded
2222 mandates. This is an unfunded mandate of better than \$2
2223 billion a year. We are saying we are going to impose a cost
2224 on you, namely the loss of revenue, of better than \$2 billion
2225 whether you like it or not. That is a huge unfunded mandate.
2226 We are not funding it. And if we want to appropriate \$2
2227 billion to replace the revenues of a State, that would be a
2228 different question, but no one wants to do that.

2229 So I urge support for my amendment, which would, in
2230 effect, restore some version of a more broad nexus, an
2231 economic nexus: where is your physical location, where are
2232 your employees located, where do they work, where are your
2233 sales. That gives you a truer picture of where your business
2234 is and does not cheat the States of over \$2 billion in
2235 revenue.

2236 I urge support for my amendment, and I yield back.

2237 Chairman Goodlatte. For what purpose does the gentleman
2238 from Ohio seek recognition?

2239 Mr. Chabot. Mr. Chairman, I seek recognition to speak
2240 in opposition to the amendment.

2241 Chairman Goodlatte. The gentleman is recognized for 5
2242 minutes.

2243 Mr. Chabot. Thank you. I will be brief. First of all,
2244 I would like to thank my colleague, our colleague, Bobby
2245 Scott, a long-term member of this committee. He is the
2246 principle Democratic co-sponsor of this, I think, important
2247 piece of legislation. And, Mr. Chairman, I oppose this
2248 amendment as it removes one, if not the most important, piece
2249 of this bill.

2250 Section 3 of H.R. 2584 is the bright-line physical
2251 presence requirement that clarifies the rules for businesses
2252 engaged in interstate commerce. Section 3 simply affirms
2253 that States cannot impose a net income tax or other business
2254 activity tax on an individual who does not have a physical
2255 presence in the State. This is the essence of the bill, and
2256 especially important for small businesses that engage in
2257 interstate commerce. They need that certainty to grow and
2258 create jobs.

2259 Section 3 of this common sense and bipartisan bill
2260 establishes that certainty, and I would urge my colleagues to
2261 vote no on this amendment. And I yield back.

2262 Chairman Goodlatte. For what purpose does the gentleman
2263 from Michigan seek recognition?

2264 Mr. Conyers. To support the Nadler amendment.

2265 Chairman Goodlatte. The gentleman is recognized for 5
2266 minutes.

2267 Mr. Conyers. Thank you, Mr. Chairman. This amendment
2268 strikes Section 3, which imposes upon States a physical
2269 presence standard before States can collect business activity
2270 taxes from businesses. The majority of States impose a
2271 different standard. Now, according to the Congressional
2272 Budget Office, identical legislation would cost State
2273 governments at least \$2 billion annually due to lost tax
2274 revenues.

2275 The bill's physical presence standard would lead to
2276 "nowhere income;" that is, which is corporate income, not
2277 taxable by any State. And that is not fair to the small
2278 businesses which must pay their fair share of income taxes.
2279 The bill does not establish a true bright-line physical
2280 presence standard. Instead, physical presence is established

2281 not from day one, but from day 15. So it is absurd for an
2282 employee to be working in a State for three work weeks that
2283 does not have to create a physical presence in that State.

2284 So for those reasons I join the gentleman from New York
2285 in support of his amendment, and I yield back any time
2286 remaining.

2287 Chairman Goodlatte. The chair thanks the gentleman.

2288 The question occurs on the amendment offered by the
2289 gentleman from New York.

2290 All those in favor, respond by saying aye.

2291 Those opposed, no.

2292 In the opinion of the chair, the noes have it.

2293 Mr. Nadler. Roll call vote.

2294 Chairman Goodlatte. A roll call vote is requested, and
2295 the clerk will call the roll.

2296 Ms. Williams. Mr. Goodlatte?

2297 Chairman Goodlatte. No.

2298 Ms. Williams. Mr. Goodlatte votes no.

2299 Mr. Sensenbrenner?

2300 [No response.]

2301 Ms. Williams. Mr. Smith?

2302 Mr. Smith. No.

2303 Ms. Williams. Mr. Smith votes no.
2304 Mr. Chabot?
2305 Mr. Chabot. No.
2306 Ms. Williams. Mr. Chabot votes no.
2307 Mr. Issa?
2308 Mr. Issa. No.
2309 Ms. Williams. Mr. Issa votes no.
2310 Mr. Forbes?
2311 [No response.]
2312 Ms. Williams. Mr. King?
2313 Mr. King. No.
2314 Mr. Williams. Mr. King votes no.
2315 Mr. Franks?
2316 Mr. Franks. No.
2317 Ms. Williams. Mr. Franks votes no.
2318 Mr. Gohmert?
2319 [No response.]
2320 Ms. Williams. Mr. Jordan?
2321 [No response.]
2322 Ms. Williams. Mr. Poe?
2323 [No response.]
2324 Ms. Williams. Mr. Chaffetz?

2325 [No response.]

2326 Ms. Williams. Mr. Marino?

2327 Mr. Marino. No.

2328 Ms. Williams. Mr. Marino votes no.

2329 Mr. Gowdy?

2330 [No response.]

2331 Ms. Williams. Mr. Labrador?

2332 [No response.]

2333 Ms. Williams. Mr. Farenthold?

2334 [No response.]

2335 Ms. Williams. Mr. Collins?

2336 Mr. Collins. No.

2337 Ms. Williams. Mr. Collins votes no.

2338 Mr. DeSantis?

2339 [No response.]

2340 Ms. Williams. Ms. Walters?

2341 Ms. Walters. No.

2342 Ms. Williams. Ms. Walters votes no.

2343 Mr. Buck?

2344 Mr. Buck. No.

2345 Ms. Williams. Mr. Buck votes no.

2346 Mr. Ratcliffe?

2347 Mr. Ratcliffe. No.

2348 Ms. Williams. Mr. Ratcliffe votes no.

2349 Mr. Trott?

2350 Mr. Trott. No.

2351 Ms. Williams. Mr. Trott votes no.

2352 Mr. Bishop?

2353 Mr. Bishop. No.

2354 Ms. Williams. Mr. Bishop votes no.

2355 Mr. Conyers?

2356 Mr. Conyers. Aye.

2357 Ms. Williams. Mr. Conyers votes aye.

2358 Mr. Nadler?

2359 Mr. Nadler. Aye.

2360 Ms. Williams. Mr. Nadler votes aye.

2361 Ms. Lofgren?

2362 [No response.]

2363 Ms. Williams. Ms. Jackson Lee?

2364 [No response.]

2365 Ms. Williams. Mr. Cohen?

2366 Mr. Cohen. Aye.

2367 Ms. Williams. Mr. Cohen votes aye.

2368 Mr. Johnson?

2369 [No response.]

2370 Ms. Williams. Mr. Pierluisi?

2371 Mr. Pierluisi. Aye.

2372 Ms. Williams. Mr. Pierluisi votes aye.

2373 Ms. Chu?

2374 Ms. Chu. Aye.

2375 Ms. Williams. Ms. Chu votes aye.

2376 Mr. Deutch?

2377 [No response.]

2378 Ms. Williams. Mr. Gutierrez?

2379 [No response.]

2380 Ms. Williams. Ms. Bass?

2381 [No response.]

2382 Ms. Williams. Mr. Richmond?

2383 [No response.]

2384 Ms. Williams. Ms. DelBene?

2385 Ms. DelBene. Aye.

2386 Ms. Williams. Ms. DelBene votes aye.

2387 Mr. Jeffries?

2388 [No response.]

2389 Ms. Williams. Mr. Cicilline?

2390 Mr. Cicilline. Aye.

2391 Ms. Williams. Mr. Cicilline votes aye.
2392 Mr. Peters?
2393 [No response.]
2394 Chairman Goodlatte. Has every Member voted who wishes
2395 to vote?
2396 [No response.]
2397 Chairman Goodlatte. The clerk will report.
2398 Ms. Williams. Mr. Chairman, 7 Members voted aye; 13
2399 Members voted no.
2400 Chairman Goodlatte. And the amendment is not agreed to.
2401 Are there further amendments to H.R. 2584?
2402 Ms. Chu. Mr. Chair, I have an amendment at the desk.
2403 Chairman Goodlatte. The clerk will report the amendment
2404 offered by the gentlewoman from California, Ms. Chu.
2405 Ms. Williams. Amendment to H.R. 2584, offered by Ms.
2406 Chu of California, page 10, line 20 --
2407 Chairman Goodlatte. Without objection, the amendment is
2408 considered as read.
2409 [The amendment of Ms. Chu follows:]
2410

2411 Chairman Goodlatte. And the gentlewoman is recognized
2412 for 5 minutes on her amendment.

2413 Ms. Chu. Mr. Chair, I strongly oppose this legislation.
2414 Before coming to Congress, I served on the California Board
2415 of Equalization, the State's elected tax board, and I know
2416 firsthand just how devastating this legislation could be on
2417 State budget and the State's ability to provide essential
2418 services like those related to public health, safety, and
2419 transportation. In fact, as a member of the Board of
2420 Equalization, I used to travel to Washington to urge Members
2421 of Congress to oppose legislation like the Business Activity
2422 Tax Simplification Act.

2423 According to the Congressional Budget Office, this bill
2424 would result in the loss of \$2 billion to States in the first
2425 full year of enactment. This is not surprising because if
2426 enacted, this bill would allow giant multistate and
2427 multinational corporations to evade paying taxes. For
2428 example, a large franchiser in the restaurant industry may
2429 not be taxable in certain States even if it has several
2430 franchisees and corporate employees coming in to conduct
2431 business. Some of our Nation's largest corporations would be
2432 tax exempt while leaving the small Main Street businesses to

2433 compete on an uneven playing field.

2434 At a time when States are still struggling to balance
2435 their budget and are recovering from the economic crisis,
2436 Congress should not be taking away their right to tax
2437 corporate entities that are operating within their State. In
2438 fact, we should be considering legislation like the
2439 Marketplace Fairness Act to help our States collect taxes
2440 from remote sales. But the bill we consider today would do
2441 more harm than good.

2442 My amendment would delay enactment of H.R. 2584 for 10
2443 years. Should the bill go into effect, my amendment will
2444 give States additional time to plan for the lost revenue.
2445 They need this time to determine how many employees need to
2446 be let go, how much to cut in healthcare, education, and
2447 public safety spending. They also need this time to
2448 determine how they can recoup the lost funds, like by raising
2449 property and sales taxes that would directly affect
2450 individual residents and families.

2451 This bill is essentially an unfunded mandate and would
2452 cause almost every State to lose revenue. So I urge support
2453 of my amendment which would delay implementation of this
2454 drastic legislation for another decade, protecting State

2455 revenues during the recovery. And I yield back.

2456 Mr. Chabot. Mr. Chairman?

2457 Chairman Goodlatte. For what purpose does the gentleman
2458 from Ohio seek recognition?

2459 Mr. Chabot. Mr. Chairman, I seek time in opposition to
2460 the amendment.

2461 Chairman Goodlatte. The gentleman is recognized for 5
2462 minutes.

2463 Mr. Chabot. Thank you, Mr. Chairman. Once again, I
2464 will be brief. I oppose this amendment as it is not
2465 necessary and delays implementation of this legislation for
2466 10 years until 2026. Small companies engaging in interstate
2467 commerce need relief and certainty now, not in 10 years.
2468 This bill is designed to provide clarity for businesses
2469 engaged in interstate commerce, making it easier for them to
2470 create jobs and grow the economy. Further delaying
2471 implementation of this common sense bipartisan legislation by
2472 10 years will only continue the uncertainty coming out of
2473 Washington.

2474 I would urge my colleagues to vote no on this amendment,
2475 and I yield back the balance of my time.

2476 Chairman Goodlatte. For what purpose does the gentleman

2477 from Michigan seek recognition?

2478 Mr. Conyers. In support of the Chu amendment, Mr.

2479 Chairman.

2480 Chairman Goodlatte. The gentleman is recognized for 5

2481 minutes.

2482 Mr. Conyers. Thank you. I will merely point out that

2483 this amendment would give States additional time to plan for

2484 the lost revenue due to H.R. 2584. States would be able to

2485 plan their future budgets based on the expected loss in

2486 revenue, and determine how many employees to let go, how much

2487 to cut education spending, which police and firefighters

2488 might be furloughed, and how much income, property, and sales

2489 taxes would have to be raised.

2490 And so, I think is a common sense amendment, and I urge

2491 its support. Thank you.

2492 Mr. Issa. Go ahead and take Mr. Nadler first.

2493 Chairman Goodlatte. Okay. For what purpose does the

2494 gentleman from New York seek recognition?

2495 Mr. Nadler. I will reserve. Before we go back and

2496 forth, I just want to speak first.

2497 Chairman Goodlatte. For what purpose does the gentleman

2498 seek recognition?

2499 Mr. Issa. Strike the last word.

2500 Chairman Goodlatte. The gentleman is recognized for 5
2501 minutes.

2502 Mr. Issa. Thank you, Mr. Chairman. As a fellow
2503 Californian and often a co-sponsor of legislation with Ms.
2504 Chu, I respectfully disagree on her assumption of
2505 catastrophic loss. As a small businessman in California,
2506 paying all of my taxes in California, calling back as a
2507 Subchapter S so that all revenue, including foreign revenue,
2508 was paid in California, I often found States around the
2509 country, including States that are thought of as no tax or
2510 low tax States, like Texas, wanting to find any incidental
2511 presence as an excuse to send their board of equalization
2512 equivalent into my offices, sit in cubicles even when we were
2513 only a few dozen employees, and see if they could not find a
2514 way to claw a little revenue into their State.

2515 This zero sum game, in fact, is exactly what this bill
2516 attempts to prevent. The fact is that California, yes, has
2517 people coming in and doing business activity, but California
2518 also has a huge base of people, like my former company, that
2519 travel everywhere else. This was also true on an earlier
2520 legislation. When I think about all the accounting firms and

2521 banks that send people from New York around the country who
2522 do not, as a matter of course, file 50 tax returns, but
2523 theoretically should.

2524 The fact is that what we are doing here today, as a
2525 small businessman, as somebody who really appreciates it,
2526 and, by the way, the company got to be a little bigger, the
2527 burden got to be bigger. It never got easy, and at several
2528 hundred million dollars, from zero to \$700 million, all I saw
2529 was more people wanting to sit in cubicles and figure out how
2530 to get money into their State.

2531 California does this very well. So do many other
2532 States. I strongly urge not delaying this sensible
2533 legislation that can, in fact, create a reduction in the kind
2534 of attempts by each State to take from another State,
2535 ultimately leading to no additional revenue, but a huge
2536 burden on small companies. And I want to thank my colleague
2537 from Ohio for recognizing this. Perhaps as the chairman of
2538 the Small Business Committee, he is acutely aware of the
2539 impact of this.

2540 And I thank the chairman --

2541 Chairman Goodlatte. Would the gentleman yield?

2542 Mr. Issa. And I yield to the chairman.

2543 Chairman Goodlatte. I thank the gentleman for yielding.
2544 The gentleman mentioned the unnecessary and, in many
2545 instances, substantial burden on small businesses. Is it not
2546 true that it is also a self-imposed substantial burden on the
2547 States making those small businesses dance on the head of a
2548 pin and jump through hoops that generate not very much
2549 revenue relative to the amount of effort they put into that?
2550 And having a bright-line test would allow those businesses in
2551 their State to go out and bring in more revenue to their
2552 State, and conversely other States can do the same, and grow
2553 the entire economy and create jobs for everyone.

2554 Mr. Issa. Mr. Chairman, you are exactly right. You hit
2555 the nail on the head. And although it was a slightly
2556 different event, I can remember some 25 years ago, a Board of
2557 Equalization inspector coming in in California, and sitting
2558 in a cubicle for more than week going through all of the
2559 company's purchases and transfers until he found five IBM PCs
2560 that had been used for a short time in our Cleveland
2561 operation that was then transferred to California.

2562 And he went, aha, we are entitled to the sales tax
2563 because they were used less than a year in Ohio. Of course,
2564 you can ask Ohio for 8 percent back because you did not use

2565 it there. Needless to say, California collected those few
2566 dollars for his week's work, which added up to far more than
2567 they collected. And, yes, Ohio was unwilling to give back
2568 the sales tax, so I had the benefit of paying twice.

2569 And it is that kind of human resource that usually
2570 barely breaks even on their true cost that, in fact, grows
2571 the deficits and the costs to States like my own, California.
2572 So, Chairman, you made exactly the right point. Yield back.

2573 Chairman Goodlatte. The chair thanks the gentleman for
2574 that practical illustration. For what purpose does the
2575 gentleman from New York --

2576 Mr. Nadler. Mr. Chairman, I move to strike the last
2577 word in support of the amendment.

2578 Chairman Goodlatte. The gentleman is recognized for 5
2579 minutes.

2580 Mr. Nadler. I rise in support of the amendment from the
2581 gentlelady from California, Ms. Chu, to delay the enforcement
2582 of this provision by 10 years. We have been debating all day
2583 smaller impacts, and on the previous bill we talked about how
2584 this would cost New York \$100 to \$130 million. And other
2585 people said, well, maybe New York should not be getting that.
2586 It is a zero sum game. New Jersey should be getting it. It

2587 is in the wrong State.

2588 Here the CBO estimates that this will cost the States
2589 collectively over \$2 billion a year. That means \$25 to \$30
2590 billion of income will not be taxed. It will evade taxation
2591 assuming a tax rate of 7, 8 percent on average. So this bill
2592 would enable \$25 to \$30 billion more or less, according to
2593 CBO, to evade any State's taxation. And the States would
2594 lose over \$2 billion in revenue, not that New York would
2595 collect it, not New Jersey or California, not Nevada, but
2596 nobody would collect it. So that is point one.

2597 And point two is, this does not help the small
2598 businessman. This helps the large businessman because it is
2599 easier for the large business guy to manipulate where his
2600 physical presence is and have a competitive advantage over
2601 the small businessman who cannot move his physical location
2602 from one State to another so easily. This establishes a more
2603 tilted playing field for online businesses against brick and
2604 mortar businesses, and for big guys against little guys
2605 because the little guy is sitting in New York or sitting in
2606 California and doing business, and cannot move his physical
2607 presence to someplace else.

2608 Not to mention the fact, as I mentioned before, you can

2609 do business in three or four States. You can have a location
2610 in northern New Jersey, do business, send your sales force
2611 roaming through New Jersey, Pennsylvania, New York,
2612 Connecticut, and have a physical presence in only one State,
2613 and the other three States cannot collect the tax.

2614 So, again, we are doing a tremendous hit to the tax base
2615 of the States. This is an unfunded mandate. I think the
2616 legislation that we have says you cannot do an unfunded
2617 mandate above \$77 million. I think that is the threshold.
2618 We are doing over \$2 billion, and we are saying let the
2619 States eat it.

2620 Now, Ms. Chu's amendment at least ameliorates it by
2621 giving the States some time to adjust to it. You have 10
2622 years to figure out how you are going to make up your half a
2623 billion dollars or whatever of lost revenue. Are you going
2624 to increase some other tax? Are you going to eliminate your
2625 handicap school provisions? Whatever it may be. None of
2626 them are pretty as most States do only pretty essential
2627 things, but at least give the States some time to adjust to a
2628 major hit in the revenues.

2629 We should not be doing major hits in revenues especially
2630 at a time when the majority party in both houses of Congress

2631 is saying States should do more, or at least the Federal
2632 government should do less and transfer more to the States.
2633 So this bill is a very bad bill because it is an unfunded
2634 imposition on the States. There is no real necessity for it
2635 because the traditional means of economic nexus of partially
2636 looking at physical location, partially looking at where your
2637 employees are located and are doing business, partially
2638 looking at where your sales are, you can manipulate the
2639 proportions to be more or less fair, whatever.

2640 That is a lot more accurate than just physical presence,
2641 but is also an imposition on the States. And we should not
2642 pass the bill, but if we are going to pass the bill, at least
2643 adopt this amendment to give the States some time to adjust
2644 it.

2645 I commend Ms. Chu for offering this ameliorative
2646 amendment to this terrible bill, and I urge its adoption. I
2647 yield back.

2648 Chairman Goodlatte. The question occurs on the
2649 amendment offered by the gentlewoman from California, Ms.
2650 Chu.

2651 All those in favor, respond by saying aye.

2652 Those opposed, no.

2653 In the opinion of the chair, the noes have it, and the
2654 amendment is not agreed to.

2655 Ms. Chu. Mr. Chair, I ask a recorded vote.

2656 Chairman Goodlatte. A recorded vote is requested, and
2657 the clerk will call the roll.

2658 Ms. Williams. Mr. Goodlatte?

2659 Chairman Goodlatte. No.

2660 Ms. Williams. Mr. Goodlatte votes no.

2661 Mr. Sensenbrenner?

2662 [No response.]

2663 Ms. Williams. Mr. Smith?

2664 Mr. Smith. No.

2665 Ms. Williams. Mr. Smith votes no.

2666 Mr. Chabot?

2667 Mr. Chabot. No.

2668 Ms. Williams. Mr. Chabot votes no.

2669 Mr. Issa?

2670 Mr. Issa. No.

2671 Ms. Williams. Mr. Issa votes no.

2672 Mr. Forbes?

2673 [No response.]

2674 Ms. Williams. Mr. King?

2675 Mr. King. No.

2676 Mr. Williams. Mr. King votes no.

2677 Mr. Franks?

2678 Mr. Franks. No.

2679 Ms. Williams. Mr. Franks votes no.

2680 Mr. Gohmert?

2681 Mr. Gohmert. No.

2682 Ms. Williams. Mr. Gohmert votes no.

2683 Mr. Jordan?

2684 [No response.]

2685 Ms. Williams. Mr. Poe?

2686 [No response.]

2687 Ms. Williams. Mr. Chaffetz?

2688 [No response.]

2689 Ms. Williams. Mr. Marino?

2690 Mr. Marino. No.

2691 Ms. Williams. Mr. Marino votes no.

2692 Mr. Gowdy?

2693 [No response.]

2694 Ms. Williams. Mr. Labrador?

2695 Mr. Labrador. No.

2696 Ms. Williams. Mr. Labrador votes no.

2697 Mr. Farenthold?
2698 Mr. Farenthold. No.
2699 Ms. Williams. Mr. Farenthold votes no.
2700 Mr. Collins?
2701 Mr. Collins. No.
2702 Ms. Williams. Mr. Collins votes no.
2703 Mr. DeSantis?
2704 [No response.]
2705 Ms. Williams. Ms. Walters?
2706 Ms. Walters. No.
2707 Ms. Williams. Ms. Walters votes no.
2708 Mr. Buck?
2709 Mr. Buck. No.
2710 Ms. Williams. Mr. Buck votes no.
2711 Mr. Ratcliffe?
2712 Mr. Ratcliffe. No.
2713 Ms. Williams. Mr. Ratcliffe votes no.
2714 Mr. Trott?
2715 Mr. Trott. No.
2716 Ms. Williams. Mr. Trott votes no.
2717 Mr. Bishop?
2718 Mr. Bishop. No.

2719 Ms. Williams. Mr. Bishop votes no.
2720 Mr. Conyers?
2721 Mr. Conyers. Aye.
2722 Ms. Williams. Mr. Conyers votes aye.
2723 Mr. Nadler?
2724 Mr. Nadler. Aye.
2725 Ms. Williams. Mr. Nadler votes aye.
2726 Ms. Lofgren?
2727 [No response.]
2728 Ms. Williams. Ms. Jackson Lee?
2729 [No response.]
2730 Ms. Williams. Mr. Cohen?
2731 Mr. Cohen. Aye.
2732 Ms. Williams. Mr. Cohen votes aye.
2733 Mr. Johnson?
2734 [No response.]
2735 Ms. Williams. Mr. Pierluisi?
2736 Mr. Pierluisi. Aye.
2737 Ms. Williams. Mr. Pierluisi votes aye.
2738 Ms. Chu?
2739 Ms. Chu. Aye.
2740 Ms. Williams. Ms. Chu votes aye.

2741 Mr. Deutch?

2742 [No response.]

2743 Ms. Williams. Mr. Gutierrez?

2744 [No response.]

2745 Ms. Williams. Ms. Bass?

2746 [No response.]

2747 Ms. Williams. Mr. Richmond?

2748 [No response.]

2749 Ms. Williams. Ms. DelBene?

2750 Ms. DelBene. Aye.

2751 Ms. Williams. Ms. DelBene votes aye.

2752 Mr. Jeffries?

2753 [No response.]

2754 Ms. Williams. Mr. Cicilline?

2755 [No response.]

2756 Ms. Williams. Mr. Peters?

2757 Mr. Peters. Aye.

2758 Ms. Williams. Mr. Peters votes aye.

2759 Chairman Goodlatte. Has every Member voted who wishes

2760 to vote?

2761 [No response.]

2762 Chairman Goodlatte. The clerk will report.

2763 Ms. Williams. Mr. Chairman, 7 Members voted aye; 16
2764 Members voted no.
2765 Chairman Goodlatte. And the amendment is not agreed to.
2766 Are there further amendments to H.R. 2584?
2767 [No response.]
2768 Chairman Goodlatte. A reporting quorum being present,
2769 the question is on the motion to report the bill, H.R. 2584,
2770 favorably to the House.
2771 Those in favor, say aye.
2772 Those opposed, no.
2773 In the opinion of the chair, the ayes have it, and the
2774 bill is ordered reported favorably.
2775 Mr. Nadler. Mr. Chairman, roll call vote, please.
2776 Chairman Goodlatte. A roll call vote is requested, and
2777 the clerk will call the roll.
2778 Ms. Williams. Mr. Goodlatte?
2779 Chairman Goodlatte. Aye.
2780 Ms. Williams. Mr. Goodlatte votes aye.
2781 Mr. Sensenbrenner?
2782 [No response.]
2783 Ms. Williams. Mr. Smith?
2784 Mr. Smith. Aye.

2785 Ms. Williams. Mr. Smith votes aye.
2786 Mr. Chabot?
2787 Mr. Chabot. Aye.
2788 Ms. Williams. Mr. Chabot votes aye.
2789 Mr. Issa?
2790 Mr. Issa. Aye.
2791 Ms. Williams. Mr. Issa votes aye.
2792 Mr. Forbes?
2793 [No response.]
2794 Ms. Williams. Mr. King?
2795 Mr. King. Aye.
2796 Ms. Williams. Mr. King votes aye.
2797 Mr. Franks?
2798 Mr. Franks. Aye.
2799 Ms. Williams. Mr. Franks votes aye.
2800 Mr. Gohmert?
2801 Mr. Gohmert. Aye.
2802 Ms. Williams. Mr. Gohmert votes aye.
2803 Mr. Jordan?
2804 [No response.]
2805 Ms. Williams. Mr. Poe?
2806 Mr. Poe. Yes.

2807 Ms. Williams. Mr. Poe votes yes.
2808 Mr. Chaffetz?
2809 [No response.]
2810 Ms. Williams. Mr. Marino?
2811 Mr. Marino. Yes.
2812 Ms. Williams. Mr. Marino votes yes.
2813 Mr. Gowdy?
2814 Mr. Gowdy. Yes.
2815 Ms. Williams. Mr. Gowdy votes yes.
2816 Mr. Labrador?
2817 Mr. Labrador. Yes.
2818 Ms. Williams. Mr. Labrador votes yes.
2819 Mr. Farenthold?
2820 Mr. Farenthold. Yes.
2821 Ms. Williams. Mr. Farenthold votes yes.
2822 Mr. Collins?
2823 Mr. Collins. Aye.
2824 Ms. Williams. Mr. Collins votes aye.
2825 Mr. DeSantis?
2826 [No response.]
2827 Ms. Williams. Ms. Walters?
2828 Ms. Walters. Aye.

2829 Ms. Williams. Ms. Walters votes aye.
2830 Mr. Buck?
2831 Mr. Buck. Yes.
2832 Ms. Williams. Mr. Buck votes yes.
2833 Mr. Ratcliffe?
2834 Mr. Ratcliffe. Yes.
2835 Ms. Williams. Mr. Ratcliffe votes yes.
2836 Mr. Trott?
2837 Mr. Trott. Yes.
2838 Ms. Williams. Mr. Trott votes yes.
2839 Mr. Bishop?
2840 Mr. Bishop. Yes.
2841 Ms. Williams. Mr. Bishop votes yes.
2842 Mr. Conyers?
2843 Mr. Conyers. No.
2844 Ms. Williams. Mr. Conyers votes no.
2845 Mr. Nadler?
2846 Mr. Nadler. No.
2847 Ms. Williams. Mr. Nadler votes no.
2848 Ms. Lofgren?
2849 [No response.]
2850 Ms. Williams. Ms. Jackson Lee?

2851 [No response.]

2852 Ms. Williams. Mr. Cohen?

2853 Mr. Cohen. No.

2854 Ms. Williams. Mr. Cohen votes no.

2855 Mr. Johnson?

2856 [No response.]

2857 Ms. Williams. Mr. Pierluisi?

2858 Mr. Pierluisi. No.

2859 Ms. Williams. Mr. Pierluisi votes no.

2860 Ms. Chu?

2861 Ms. Chu. No.

2862 Ms. Williams. Ms. Chu votes no.

2863 Mr. Deutch?

2864 [No response.]

2865 Ms. Williams. Mr. Gutierrez?

2866 [No response.]

2867 Ms. Williams. Ms. Bass?

2868 [No response.]

2869 Ms. Williams. Mr. Richmond?

2870 [No response.]

2871 Ms. Williams. Ms. DelBene?

2872 Ms. DelBene. No.

2873 Ms. Williams. Ms. DelBene votes no.
2874 Mr. Jeffries?
2875 [No response.]
2876 Ms. Williams. Mr. Cicilline?
2877 [No response.]
2878 Ms. Williams. Mr. Peters?
2879 Mr. Peters. No.
2880 Ms. Williams. Mr. Peters votes no.
2881 Chairman Goodlatte. Has every Member voted who wishes
2882 to vote?
2883 [No response.]
2884 Chairman Goodlatte. The clerk will report.
2885 Ms. Williams. Mr. Chairman, 18 Members voted aye; 7
2886 Members voted no.
2887 Chairman Goodlatte. The ayes have it, and the bill is
2888 reported favorably to the House. Members will have 2 days to
2889 submit views.
2890 [The information follows:]
2891

2892 Chairman Goodlatte. I want to thank all the Members for
2893 their participation today. This concludes our business, and
2894 we thank all of you for attending. The markup is adjourned.

2895 Mr. Conyers. Thank you.

2896 [Whereupon, at 2:00 p.m., the committee was adjourned.]