

1 NATIONAL CAPITOL CONTRACTING

2 RPTS AVERETT

3 HJU193000

4 MARKUP OF H.R. 469; H.R. 2851

5 Wednesday, July 12, 2017

6 House of Representatives,

7 Committee on the Judiciary,

8 Washington, D.C.

9 The committee met, pursuant to call, at 10:56 a.m., in
10 Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte
11 [chairman of the committee] presiding.

12 Present: Representatives Goodlatte, Sensenbrenner,
13 Chabot, Issa, King, Franks, Gohmert, Jordan, Poe, Marino,
14 Gowdy, Labrador, Farenthold, Collins, DeSantis, Buck,
15 Ratcliffe, Gaetz, Johnson of Louisiana, Biggs, Rutherford,
16 Handel, Conyers, Nadler, Lofgren, Jackson Lee, Cohen,
17 Richmond, Jeffries, Cicilline, Swalwell, Raskin, Jayapal,
18 and Schneider.

19 Staff Present: Shelley Husband, Staff Director; Branden
20 Ritchie, Deputy Staff Director; Zach Somers, Parliamentarian

21 and General Counsel; Tony Angeli, Counsel, Subcommittee on
22 Crime, Terrorism, Homeland Security, and Investigations;
23 Daniel Flores, Chief Counsel, Subcommittee on Regulatory
24 Reform, Commercial and Antitrust Law; Alley Adcock, Clerk;
25 Joe Graupensperger, Minority Chief Counsel, Subcommittee on
26 Crime, Terrorism, Homeland Security, and Investigations;
27 Mauri Gray, Minority Counsel; Susan Jensen, Minority
28 Counsel; Slade Bond, Minority Counsel; Danielle Brown,
29 Minority Legislative Counsel and Parliamentarian; and Matt
30 Morgan, Minority Counsel.

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

34 Our first order of business is to ratify an updated
35 subcommittee roster. Every member should have a copy on his
36 or her desk. I ask unanimous consent that the committee
37 approve the appointments and assignments for our
38 subcommittees as shown on the roster.

39 And without objection, the roster is approved.

40 Pursuant to notice, I now call up H.R. 2851 for
41 purposes of markup, and move that the committee report the
42 bill favorably to the House. The clerk will report the
43 bill.

44 Ms. Adcock. H.R. 2851, to amend the Controlled
45 Substances Act to clarify how controlled substance analogues
46 are to be regulated and for other purposes.

47 [The bill follows:]

48 ***** INSERT 1 *****

49 Chairman Goodlatte. Without objection, the bill is
50 considered as read and open for amendment at any time. And
51 I will begin by recognizing myself for an opening statement.

52 According to the National Institute on Drug Abuse, a
53 component of the Department of Health and Human Services,
54 about 19,000 Americans died from drug overdoses in 2001.
55 That is approximately 52 a day. However, the frightening
56 reality is that figure skyrocketed to over 52,000 deaths in
57 2015, or about 144 people per day, and preliminary data
58 indicates at least 59,000 drug overdose deaths occurred in
59 2016. Put another way, that is a more than 13 percent
60 increase in overdose deaths in one year. Nearly 1/5 of the
61 deaths in 2015 resulted from an overdose of synthetic
62 opioids like fentanyl.

63 H.R. 2851 is designed to stop this trend. The
64 dangerous synthetic drugs that are the focus of this bill
65 have no legitimate industrial or medical use, and the
66 terrifying numbers I just mentioned show their abuse
67 constitutes an ongoing public health and safety epidemic in
68 the United States. Most of these synthetic substances
69 properly belong in schedule I with the most dangerous drugs.
70 However, the Controlled Substances Act was not designed to
71 tackle the flood of over 400 known synthetic analogues with
72 which we are presently confronted.

73 To make matters worse, there are thousands of

74 variations that criminals can make in their foreign
75 laboratories simply by altering a single molecule in the
76 substance. Over the past several years, members of Congress
77 and this committee have debated whether to wait roughly 3
78 years for the executive branch to control a substance or for
79 us to act and legislatively place a laundry list of
80 substances in schedule I. But either way, there are no good
81 options in current law for rapid action to protect the
82 American people.

83 However, what is certain is we can no longer afford to
84 wait 3 years for a substance to be controlled. Americans
85 are overdosing and dying in record numbers. Nor can we
86 depend on the legislative process to address this issue. As
87 with so many other things, the criminals are much more
88 nimble than law enforcement.

89 H.R. 2851, which is the subject of years of work, will
90 ensure that we are no longer limited by only two bad options
91 for combating dangerous synthetics. This legislation
92 provides a rigorous and timely process to get these drugs
93 out of the hands of criminals who exploit human misery for
94 profit and put them into the hands of qualified researchers.
95 This bill's bipartisan and bicameral approach is highlighted
96 in its reasonable and balanced methods towards stemming the
97 manufacture and importation of dangerous drugs, while
98 ensuring synthetic drugs can be researched by qualified

99 individuals and institutions.

100 Nearly all of the synthetic substances are made in
101 China and Mexico for distribution in the United States.
102 Even though most of these drugs have the properties of the
103 most potent drugs in schedules I and II, this bill sets the
104 equivalent of schedule III penalties for trafficking and
105 distribution. This means that these substances are
106 generally not subject to mandatory minimum sentences for
107 trafficking and distribution. The bill also does not
108 criminalize simple possession of the substances.

109 There must always be a multipronged approach to
110 combating drug abuse with enforcement, treatment, and
111 education being some of the key components. Last year,
112 Congress passed the Comprehensive Addiction and Recovery Act
113 on a nearly unanimous basis. Today, before this committee,
114 there is an opportunity to apply existing laws to a class of
115 drugs, which have evaded law enforcement and wreaked untold
116 havoc on our constituents due to the resourcefulness of
117 criminals who exploit a legal loophole, who manufacture,
118 import, and traffic these deadly drugs solely for profit to
119 prey upon human misery. This loophole must be closed.

120 Supporters of this legislation include the National
121 Fraternal Order of Police, the National District Attorneys
122 Association, the American College of Emergency Physicians,
123 and the National Kratom Coalition. Without objection,

124 letters of support from these organizations will be made a
125 part of the record.

126 [The information follows:]

127 ***** COMMITTEE INSERT *****

128 Chairman Goodlatte. I want to thank Mr. Katko and Ms.
129 Rice, both of New York, for their work on this bipartisan,
130 bicameral legislation, and I urge my colleagues to support
131 it. And it is now my pleasure to recognize the ranking
132 member of the Judiciary Committee, Mr. Conyers, for his
133 opening statement.

134 [The prepared statement of Chairman Goodlatte follows:]

135 ***** COMMITTEE INSERT *****

136 Mr. Conyers. Thank you, Chairman Goodlatte. Members
137 of the committee, this measure before us is intended to
138 address the problem of illicit use of analogue synthetic
139 drugs. This bill involves important issues concerning
140 public health and safety and also fairness in our criminal
141 justice system. I appreciate the desire of many to protect
142 our citizens from dangerous drugs, but this measure deserves
143 much more careful examination.

144 I recognize that analogues to some synthetic drugs are
145 dangerous and are harming our citizens, especially young
146 people. Some of these modified, manmade substances are even
147 more potent, more dangerous, and, oftentimes, more deadly
148 than the substances that they are designed to mimic.
149 However, in addressing the dangers these drugs pose, I
150 believe that Congress must be careful in advancing any
151 legislative response. Unfortunately, H.R. 2851, although I
152 am willing to concede is well intended, it is ultimately
153 unwise for several important reasons.

154 To begin with, this measure would give the Attorney
155 General almost unfettered authority over the regulation of
156 these substances. While much of the conversation
157 surrounding synthetic analogues focuses on the chemistry of
158 the substances, from the process of manufacturing them to
159 their effect on the human body, H.R. 2851 would eliminate
160 vital scientific and medical evaluations normally undertaken

161 by the Department of Health and Human Services and the Food
162 and Drug Administration and do away with binding
163 recommendations provided by the Department of Health and
164 Human Services in scheduling drugs.

165 There are already statutory mechanisms in place to
166 provide for the scheduling and regulation of new drugs that
167 may be dangerous if misused. Those mechanisms require an
168 appropriate degree of collaboration among the Justice
169 Department, the Department of Health and Human Services, and
170 the Food and Drug Administration in scheduling synthetic
171 analogues. This is because each of these agencies are
172 equally important to the scheduling process. And under this
173 bill, not only would the Attorney General hold the sole
174 authority to schedule these substances, but he or she would
175 also have the power to shape sentencing policy without the
176 input of the United States Sentencing Commission that is
177 currently studying the issue of synthetic drugs and
178 penalties.

179 We must be cautious in our response to synthetic drugs
180 and heed the lessons we learned from the fear-driven
181 legislation enacted in response to crack. For example, H.R.
182 2851 would establish lengthy and sometimes mandatory minimum
183 penalties for certain offenses involving these analogue
184 drugs. We all know some of the problems that we have
185 discovered dealing with mandatory minimums.

186 Now, while mandatory minimum sentences give the
187 appearance that we are taking strong action to address the
188 problem, they are patently unjust as a matter of sentencing
189 policy and are unnecessary to the imposition of appropriate
190 sentences. That is the job of the Judiciary Committee.
191 Indeed, extremely lengthy sentences are sometimes
192 appropriately imposed by judges. But overpenalization
193 through mandatory minimums is counterproductive and only
194 contributes to our crisis of overincarceration.

195 Also, this bill has the potential to chill medical
196 research into substances that may be beneficial or into
197 alternative treatments for drug addiction itself. We must
198 be careful not to harm innovation and exploration into the
199 development of new drugs that can actually help us.

200 And so in closing, I want to note that the committee
201 has received a letter from more than 65, repeat, 65 advocacy
202 organizations opposing this bill, including among them the
203 American Civil Liberties Union, the Leadership Conference on
204 Civil and Human Rights, and Families Against Mandatory
205 Minimums.

206 And furthermore, we just received a letter yesterday
207 from a number of conservative groups opposing the bill, as
208 well. The signatories included FreedomWorks, the American
209 Conservative Union Foundation, and the Taxpayers Protection
210 Alliance. Please, we must not ignore their concerns as we

211 consider approaching this issue through legislation. And so
212 it is regretfully that I must oppose this bill and ask my
213 colleagues from both sides of the aisle to examine it with
214 extreme care. I thank the chairman, and I yield back the
215 balance of my time.

216 [The prepared statement of Mr. Conyers follows:]

217 ***** COMMITTEE INSERT *****

218 Chairman Goodlatte. The chair thanks the gentleman and
219 now recognizes himself for purposes of offering an amendment
220 in the nature of a substitute.

221 Ms. Jackson Lee. Mr. Chairman? Mr. Chairman? I would
222 like to strike the last word.

223 Chairman Goodlatte. We will recognize you as the
224 ranking member of the subcommittee. The gentlewoman from
225 Texas is recognized for her opening statement.

226 Ms. Jackson Lee. I thank the gentleman very much. I
227 thank the chairman of the Subcommittee on Crime for his
228 thoughtfulness and congratulate him on his chairing the
229 committee and this session and acknowledge the very
230 thoughtful statement of my ranking member on the obvious and
231 conspicuous support and recognition of the dangers of
232 synthetic drugs and the death that is being created in our
233 districts and throughout the Nation.

234 And frankly, I have said in other places that it is our
235 task to ensure that we do things for the American people.
236 It is important to take note that, in the criminal justice
237 bill that we discussed in the last session, we included an
238 enhanced sentencing, not a mandatory minimum, for fentanyl.
239 We recognized this a long time ago.

240 But this bill creates a new schedule of the Controlled
241 Substance Act, schedule A, which will allow the Attorney
242 General to take new, unprecedented powers to add to this

243 schedule any drugs he perceives to have the same or similar
244 effect as opioids currently on schedule I; no scientific
245 basis, no Ph.D., just the Attorney General, who was, in
246 fact, all throughout the efforts that we engaged in to have
247 criminal justice reform was a major obstacle and continues
248 to be a major obstacle in any form of criminal justice
249 reform.

250 This bill also imposes harsh penalties for drugs placed
251 on schedule A, absent any verifiable scientific research, as
252 currently required by law. There lies the heavy hand of the
253 Attorney General. It is also the case that we all want to
254 protect our citizens, our streets, and our communities from
255 the harm caused by these drugs, but we are, again, putting
256 mass incarceration as our chief effort.

257 And we know that the hearing that we had, we heard from
258 the chief chemist of Pinellas County Forensic Laboratory.
259 We learned about the process of analyzing chemical
260 compounds. It is not an easy task. And so mandatory
261 sentences are absolutely at the heart of this bill, even
262 though it has represented that it is not. The scope of the
263 AG's authority is both broad and dangerously unchecked, and
264 it allows the Attorney General to put into motion his failed
265 war on drugs that so many have acknowledged simply does not
266 work.

267 I would make the argument that we are supported in

268 this, not by all of our wonderful liberal friends or leaders
269 that understand that they are liberal, but they work for the
270 American people, the Leadership Conference on Civil and
271 Human Rights and the Judicial Conference, that argues
272 vigorously against this particular legislation, but we have
273 our friends from the FreedomWorks, American Conservative
274 Union, Generation Opportunity, Taxpayers Protection
275 Alliance, and they are shocked because they say, in recent
276 pasts, this committee seemed to be making progress toward an
277 improved Federal criminal justice system in our bipartisan
278 Sentencing Reform Act of 2015. Now, we seem to be
279 retrogressing and going into the past failed opportunities.
280 And so I find it very difficult to see this bill as a step
281 forward.

282 But let me also say that I have made a commitment to be
283 honest to myself and the American people, Mr. Chairman. And
284 frankly, I am baffled that we have yet to open an
285 investigation into the actions of the Trump administration
286 and to do our due diligence and oversight over the
287 Department of Justice, either through the firing of Director
288 Comey, but I was amazed to see the coolness and the anger
289 expressed by Mr. Trump, Jr. And let me say that all parents
290 defend their children, and I respect the President's defense
291 of his son.

292 But it is clear that the violation of a number of

293 ethical rules, the idea of soliciting information by a
294 foreign entity adverse to the United States' interests by
295 going to a meeting that you were solicited to come to get
296 bad information about Hillary Clinton, the fact that the
297 meeting occurred; leadership of that campaign was there, and
298 for those of us who have run our races, we know that it is
299 impossible for our campaign leadership to go to any meeting
300 and not come back and give us a summary of what occurred.

301 We are overdue for responding to the American people,
302 not as Republicans, not as Democrats, Mr. Chairman, but as
303 American leaders that owe a debt of responsibility to the
304 Constitution and to the laws of this land. I hope Mr. Ryan
305 will hear me loudly and clearly and release this committee
306 to open its investigation. And with that, Mr. Chairman, I
307 yield back. Thank you for your courtesy.

308 [The prepared statement of Ms. Jackson Lee follows:]

309 ***** COMMITTEE INSERT *****

310 Chairman Goodlatte. The time of the gentlewoman has
311 expired. I now recognize myself for purposes of offering an
312 amendment in the nature of a substitute, and the clerk will
313 report the amendment.

314 Ms. Adcock. Amendment in the nature of a substitute to
315 H.R. 2851, offered by Mr. Goodlatte. Strike all that
316 follows after the --

317 [The amendment of Chairman Goodlatte follows:]

318 ***** INSERT 2 *****

319 Chairman Goodlatte. Without objection, the amendment
320 is considered as read, and I will recognize myself to
321 explain the amendment.

322 Two weeks ago, the Crime Subcommittee held a
323 legislative hearing on H.R. 2851. At that hearing, I and my
324 colleagues listened closely to the testimony, particularly
325 the comments of the research community. Though I have been
326 and will continue to be committed to stemming the tide of
327 illegal drugs into this country, I have also consistently
328 supported strong and vigorous research into controlled
329 substances by qualified individuals and institutions. As a
330 result, this substitute amendment has rewritten and enhanced
331 the research exemptions in H.R. 2851 to allow competent,
332 qualified researchers timely access to schedule A substances
333 while preventing drug diversion.

334 This amendment will add a new subsection to the Federal
335 statute governing registration, provide an exemption for
336 researchers of schedule A substances. My amendment directs
337 the DEA to register researchers, whether individuals or
338 institutions, in a timely fashion. Significantly, if the
339 researcher already maintains a schedule I registration, the
340 amendment states that the applicant is qualified to conduct
341 research on schedule A substances and directs DEA to modify
342 the applicant's registration accordingly. In this way, the
343 amendment ensures that research into the substances that

344 will be placed on schedule A can continue with little to no
345 interruption or interference.

346 To ensure this is all done in a timely fashion, my
347 amendment requires the DEA to act upon an application for a
348 schedule A registration within 30 days of receiving the
349 application. In the 21st century, it is vital that
350 scientific research continue to serve humankind, to cure
351 diseases, promote scientific discovery, and otherwise
352 improve people's lives. This amendment serves that goal by
353 striking an appropriate balance between the need to combat
354 drug trafficking and the need to promote research, and I
355 urge my colleagues to support this substitute amendment.

356 Does the gentleman from Michigan wish to be heard on
357 the substitute?

358 Mr. Conyers. Not at this point.

359 Mr. Sensenbrenner. Mr. Chairman?

360 Mr. Conyers. May I just say, Chairman Goodlatte, that
361 this is an improvement. The problem, though, is that I
362 oppose the amendment on the basis of some of the concerns I
363 have raised, and you have moved a step, maybe several,
364 toward making it more accommodating to many of us. I hope
365 we can find a way to address the problem of analogue drugs
366 without adopting legislation that will, frankly, do more
367 harm than good. And I thank you for this opportunity.

368 Mr. Sensenbrenner. Mr. Chairman?

369 Chairman Goodlatte. I thank the gentleman.

370 For what purpose does the gentleman from Wisconsin seek
371 recognition?

372 Mr. Sensenbrenner. Mr. Chairman, I have an amendment
373 at the desk.

374 Chairman Goodlatte. The clerk will report the
375 amendment.

376 Ms. Adcock. Amendment to the amendment in the nature
377 of a substitute to H.R. 2851, offered by Mr. Sensenbrenner.

378 Page 6 --

379 [The amendment of Mr. Sensenbrenner follows:]

380 ***** INSERT 3 *****

381 Chairman Goodlatte. Without objection, the amendment
382 is considered as read, and the gentleman is recognized for 5
383 minutes on his amendment.

384 Mr. Sensenbrenner. Mr. Chairman, I think I have the
385 answer to most of the concerns that have been raised by the
386 gentleman from Michigan and the gentlewoman from Texas.

387 What this amendment does is, number one, get rid of the
388 mandatory minimum penalty. You know, I have served with
389 many of my colleagues on the Overcriminalization Task Force.
390 I agree with them that we have gone too far on
391 overcriminalization. And while I am not for a blanket
392 abolition of mandatory minimums, this is the type of
393 legislation that should not have a mandatory minimum
394 attached to it.

395 Secondly, what the amendment does is it gets Congress
396 in on the act, so that the Attorney General and the DOJ, you
397 know, do not have, you know, an exclusive authority over
398 scheduling or not scheduling of the new types of synthetic
399 drugs. And the first part of the amendment gives Congress a
400 180-day window in which to disapprove of the scheduling of a
401 new drug, as the Attorney General has asked for.

402 There has been some talk about whether we ought to have
403 affirmative approval or disapproval. I think the
404 disapproval method, which is somewhat similar to what we
405 already have in law on drugs and also on other things, is

406 probably the way to go as of now, and then we can debate
407 whether to have affirmative approval of rules, not just in
408 this area, but in everything else, at a later point of time.

409 So I think this amendment addresses the concerns that I
410 have heard from people on the other side of the aisle, and I
411 would urge support of the amendment. And if the amendment
412 is adopted, I think that most of the objections to this bill
413 would be eliminated. And I yield back.

414 Mr. Conyers. Mr. Chairman?

415 Chairman Goodlatte. The chair thanks the gentleman.

416 For what purpose does the gentleman from Michigan seek
417 recognition?

418 Mr. Conyers. Strike the requisite number of words.

419 Chairman Goodlatte. The gentleman is recognized for 5
420 minutes.

421 Mr. Conyers. I am in a curious position in that I do
422 not object to this amendment, which I believe makes one
423 important change, but also one that will not address other
424 serious concerns with the bill.

425 First, I welcome the portion of the amendment which
426 would remove the mandatory minimum sentences from the bill.
427 Judges are in the best position to impose sentences because
428 they are aware of all the relevant facts and circumstances
429 bearing on the culpability and appropriate sentences in each
430 case. Our task in this Committee on the Judiciary should be

431 to remove mandatory minimums from the code, not to impose
432 new ones or expand existing ones. Therefore, supporting
433 removing mandatory minimums from this bill, I think, is
434 extremely important. In this regard, I commend my colleague
435 from Wisconsin, Mr. Sensenbrenner, for his stand against
436 these mandatory minimums, and I look forward to making more
437 progress on this issue.

438 The other main provision of this amendment would
439 establish a mechanism for Congress to disapprove the
440 temporary addition of analogue drugs to the new schedule A
441 within 180 days of their proposed addition by the Attorney
442 General. I do not find this to be an adequate means of
443 addressing concerns about the fundamentally flawed mechanism
444 this bill would establish for adding new drugs on a
445 temporary or permanent basis to a schedule that subjects
446 individuals to criminal penalties.

447 The burden should be on the government to get it right
448 in the first place, employing a sound and thorough
449 processing, requiring deference to the scientific and
450 medical judgment of the Department of Human Services and the
451 Food and Drug Administration. I do not oppose adding this
452 mechanism for disapproval, but it does not address the
453 flawed process in the bill.

454 Although I will support the adoption of this amendment
455 because of the removal of the mandatory minimum sentences, I

456 must continue my opposition to the larger bill because of my
457 other concerns. I thank the chair, and I yield back the
458 balance of my time.

459 Ms. Jackson Lee. Mr. Chairman?

460 Chairman Goodlatte. For what purpose does the
461 gentlewoman from Texas seek recognition?

462 Ms. Jackson Lee. I rise to discuss the gentleman's
463 amendment and --

464 Chairman Goodlatte. Gentlewoman is recognized for 5
465 minutes.

466 Ms. Jackson Lee. -- strike the last word. I had had
467 discussions with Mr. Sensenbrenner's office and felt this
468 was a bipartisan amendment with my support, but I rise to
469 indicate, as has the ranking member, my appreciation for
470 this amendment and the elimination in the amendment of the
471 mandatory minimums.

472 As I indicated in my opening statement, the letters
473 from our friends on the conservative side of the aisle have
474 taken a negative look at this legislation, and I do not
475 think any of them could be called to be as representatives
476 of individuals who are not aware of the opioid epidemic.
477 Their letter says, "The United States opioid epidemic is
478 real and overdoses are increasing year after year." But
479 H.R. 2851 will do nothing to fix this. Harsh penalties do
480 not deter people with substance use disorders from using

481 drugs; people use drugs because they have a chemical
482 dependence and often feel they will not be caught.
483 Believing that harsh penalties will deter drug use
484 misunderstands addiction and it falls into the trap of
485 Attorney General Sessions, who wants to roll back all
486 recognized criminal justice reforms that have been proven to
487 work over the last decade.

488 And so, I want to thank the gentleman for his
489 amendment. I intend to vote for the amendment because I
490 believe that any acknowledgment of the unfairness and the
491 inappropriate use of mandatory minimums is worthy of
492 support.

493 I do think the resolution of disapproval, having been
494 in Congress -- certainly not the years that gentleman from
495 Wisconsin has been -- is a very difficult tool to use, but I
496 do appreciate the utilization of that tool to acknowledge
497 that Congress would have a roll, in its wisdom, hoping that
498 Congress believes that the reform of the criminal justice
499 system and the elimination of mandatory minimums is the
500 right approach. And the relying upon the Attorney General
501 with no scientific research experience except for the
502 allowing of the registered researchers to now participate in
503 schedule A -- that is going to be very difficult -- but I
504 join with my friends from the conservative community that
505 says that they believe that this legislation, "the

506 underlying legislation, is gross Federal overreach.
507 Congress are elected legislature charged with passing laws
508 and creating the Federal criminal code; to not devolve the
509 power to enact new criminal punishment to a Federal agency."
510 Now, this is not Sheila Jackson Lee and this is not our
511 wonderful advocates; it is the group that I just mentioned:
512 FreedomWorks, American Conservative Union Foundation,
513 Generation Opportunity, and Taxpayers Protection Alliance.

514 That is my main underlying assessment of where we are.
515 But the gentleman's amendment and the gentleman himself
516 should be commended because I think this is a recognition of
517 the testimony that we heard at the hearing, and it is also a
518 recognition that it is inappropriate to now trust the
519 Attorney General of the United States with the whimsical
520 decision and responsibilities of eenie, meenie, miney, mo,
521 putting these drugs in that category.

522 We want to save lives. Synthetic drugs are killing.
523 We have to get our hands around the users and the sellers,
524 and I believe we have the laws that can do so. If we focus
525 on the consumer market, addicted persons with treatment,
526 care, and intervention, and we shut this market, we can
527 begin to turn people's lives around and we can begin to do a
528 much better job, as we have tried to do with the opioid bill
529 that came out of this particular committee in the last
530 session of Congress, and then I hope that we will have the

531 opportunity to be able to work on together.

532 So I thank the gentleman from Wisconsin for his
533 amendment, and I look forward to supporting his amendment.
534 I yield back.

535 Chairman Goodlatte. Question occurs on the amendment
536 offered by the gentleman from Wisconsin.

537 For what purpose does the gentleman from Tennessee seek
538 recognition?

539 Mr. Cohen. Strike the last word.

540 Chairman Goodlatte. The gentleman is recognized for 5
541 minutes.

542 Mr. Cohen. Thank you, Mr. Chairman. I understand the
543 difficulty of synthetic drugs and changing one molecule, and
544 making it difficult. And that is a problem we need to deal
545 with, and this might be the best way to deal with it. But
546 you have to consider what you are dealing with. We are
547 dealing with an Attorney General who has said that good
548 people do not use marijuana. I do not know what he means by
549 "good people," but I know that over 60 percent of people
550 polled think that marijuana should be legalized. That does
551 not necessarily mean they smoke marijuana, but they think it
552 should be legalized.

553 There are a lot of people who have smoked marijuana and
554 admitted they smoked marijuana, or been arrested for smoking
555 marijuana, who are good people. In fact, polls that I have

556 seen say that it is mostly Trump voters who favor legalizing
557 marijuana because they use it and because they think it is a
558 wrongful government deprivation of liberty of individuals
559 doing a drug that they choose to do and that they should
560 have that right.

561 Attorney General Sessions seems to be caught in the
562 1930s, in the Harry Anslinger mode, thinking that marijuana
563 is a gateway drug and evil, and that people who smoke
564 marijuana are not good people and should be arrested. If we
565 are talking about rescheduling, Mr. Chairman -- I see I do
566 not have the chairman's ear and that is okay; I understand
567 that because I do not think I would have had his mind
568 either. The fact is, what we should be doing is
569 rescheduling marijuana. To have marijuana schedule I, with
570 heroin and ecstasy -- ecstasy, Mr. Chairman -- and acid is
571 ludicrous. It is ludicrous.

572 And so, Mr. Chairman -- we are not getting the ear or
573 the brain -- this is a wonderful approach on synthetic
574 drugs, but you are missing the issue. The issue the
575 American people want to see us address is the insane policy
576 of schedule I being the schedule for marijuana. And we have
577 got like 28 or 29 States that have legalized it for medical
578 use and the District of Columbia, and I think it is five
579 states and D.C. where it is legal for quote unquote
580 "recreational." Now, I do not know what recreational -- it

581 may be even eight States that have legalized it for
582 recreational. All 50 States have recreational alcohol, but
583 only eight have recreational marijuana.

584 We should find a way, through this bill, to say that
585 marijuana should not be schedule I because we need not only
586 freedom and liberty and sanity, but we need research. And
587 so it is great to let people, Mr. Chairman, to have the
588 opportunity to research synthetic drugs, but what they need
589 to be researching is marijuana, to see if those 28 or 29
590 States that let people use it for --

591 Chairman Goodlatte. Would the gentleman yield?

592 Mr. Cohen. Yes, sir.

593 Chairman Goodlatte. I would be happy to work with the
594 gentleman on such a law, but it is not a part of this bill
595 because marijuana is not synthetic, but --

596 Mr. Cohen. No, it is not synthetic, indeed. But this
597 does give the Attorney General powers, and in bringing such
598 a bill to give the Attorney General powers of rescheduling -
599 -

600 Chairman Goodlatte. But you were talking about
601 changing the law to make it easier to do research on
602 cannabis --

603 Mr. Cohen. Yes.

604 Chairman Goodlatte. -- to find therapeutic benefits
605 from the chemicals contained in it, and I am interested in

606 working with the gentleman to accomplish that goal.

607 Mr. Cohen. Thank you, sir. That is good news and I
608 appreciate it. And I look forward to working with you on
609 it. But I reiterate again, polls show it is Trump voters
610 who are most encouraged and wanting to change this law, and
611 I look forward to making those Trump voters happy and safe
612 in their homes and in their choice of recreational products.

613 Ms. Jackson Lee. Would the gentleman yield?

614 Mr. Cohen. I yield.

615 Ms. Jackson Lee. I blame my able staff, but it has
616 been brought to my attention that the individual that we
617 want to give all this power, General Sessions, is on record
618 as saying that he thought the KKK was okay until he heard
619 that they smoke marijuana. So that is certainly extreme,
620 and I would hope that we would consider what impact that
621 this bill is going to have on innocent persons who are just
622 trying to get well again. I yield back.

623 Mr. Cohen. Thank you. Well at least that is something
624 else that marijuana has done good, is convince General
625 Sessions that the KKK was bad.

626 Chairman Goodlatte. A question occurs on the amendment
627 offered by the gentleman from Wisconsin.

628 All those in favor respond by saying aye.

629 Those opposed?

630 The ayes have it and the amendment is agreed to.

631 Are there further amendments to the amendment in the
632 nature of a substitute?

633 Mr. Gaetz. Mr. Chairman?

634 Chairman Goodlatte. For what purpose does the
635 gentleman from Florida seek recognition?

636 Mr. Gaetz. I have an amendment at the desk.

637 Chairman Goodlatte. The clerk will report the
638 amendment.

639 Ms. Adcock. Amendment to the amendment in the nature
640 of a substitute to H.R. 2851 offered by Mr. Gaetz of
641 Florida, Page 8, Line 15 --

642 [The amendment of Mr. Gaetz follows:]

643 ***** COMMITTEE INSERT *****

644 Chairman Goodlatte. Without objection, the amendment
645 is considered as read, and the gentleman is recognized for 5
646 minutes on his amendment.

647 Mr. Gaetz. Thank you, Mr. Chairman. And I would like
648 to begin by associating myself with the comments of the
649 gentleman from Tennessee, and to also confess that I am one
650 of the Trump voters who believes that it is absolutely
651 insane that marijuana is a schedule I drug, that we are not
652 unlocking cures and the potential to improve people's
653 quality of life, and it seems ludicrous to me that any
654 notion of conservative limited government would put the
655 Federal Government between someone who is ailing, in pain,
656 and something that could potentially help them. And so I
657 appreciate the gentleman's comments.

658 There was a young girl I met in 2013 in my district.
659 Her name is RayAnn. She was having dozens of seizures every
660 week, and she had learned that, in Colorado, there were
661 children with refractory epilepsy who were seeing
662 therapeutic benefit as the consequence of non-euphoric,
663 medical cannabis use. And so she came to me as her State
664 representative and as chairman of the Criminal Justice
665 Committee in the Florida House of Representatives, and their
666 family lobbied me to try to bring some commonsense solutions
667 that could save this girl's live. I am very proud that I
668 was able to sponsor and pass legislation that made non-

669 euphoric medical cannabis available to constituents like
670 RayAnn.

671 Unfortunately, when I went to the University of Florida
672 to see if they would do research on medical cannabis, would
673 they accept grants from the State of Florida to learn what
674 therapeutic options might be available? The University of
675 Florida said to me that they could not do so; they could not
676 do research, that it would impair potentially over \$100
677 million in Federal grants as a consequence of an idiotic
678 Federal law that reinforces dogmas that suggest that there
679 can be no medical value to cannabis.

680 And so, Mr. Chairman, in this legislation, there, in
681 fact, is a provision that indicates who we will not
682 prosecute. It is on page 8. It begins at line 12 and goes
683 to line 15. And so, while we are in the business in this
684 legislation of saying who we do not want to throw in jail, I
685 thought it would only seem reasonable to say that we would
686 not throw people in jail for researching any substance which
687 at least half of the States in the United States of America
688 have legalized for medical use.

689 Now, I cannot imagine any adult, much less any elected
690 member of Congress, believing that it is a good idea that
691 people are medically using something in 25 States that we,
692 the Federal Government, will not allow research for, or we
693 make the process for research so cumbersome that it is

694 functionally impossible. And so I am fulfilling my
695 commitment to a little girl that was having dozens of
696 seizures a day, to a girl who could barely talk, but who is
697 now on a softball team; who thought that life might end
698 during her teen years, and now fills her home with laughter
699 and hugs. I am fulfilling my commitment to her to fight for
700 research and to fight to unlock cures and potential.

701 This should not be a partisan issue. Republicans and
702 Democrats should be willing to come together, despite
703 disagreements on our overall positions on cannabis and at
704 least have the maturity to be able to stand up and say,
705 "Let's have the brightest people in this great country,
706 let's have the most skilled professors, the most innovative
707 researchers, the most forward-looking companies at least
708 have the opportunity to see what potential is available."

709 Across the world today, there is research being done on
710 medical cannabis. But unfortunately, due to the arcane and,
711 I would suggest, indefensible laws that we maintain in the
712 Federal Government, that research is occurring in the U.K.,
713 in Israel, in Germany, all over the world, but not here. We
714 should be ashamed of that.

715 But I am so grateful. I will conclude with my sense of
716 hope that our wonderful judiciary chairman has indicated to
717 the gentleman from Tennessee that he, too, would like to see
718 us make progress on this issue. He, too, cannot defend this

719 concept that we do not want to research something that
720 people are legally using under State law in half the States
721 in the country. And so I am grateful for the chairman's
722 leadership on the issue. I look forward to working with
723 him, and I yield to the gentleman from Tennessee.

724 Mr. Cohen. Thank you very much. First of all, I wish
725 I would have worn my hat today because I would take it off
726 to you. It is refreshing and commendable to hear the
727 chairman and you speak about the opportunities we have for
728 research on marijuana and helping people through life. We
729 are only here for a short period of time, and if there is
730 something out there that can help people get through
731 illness, through discomfort, through life, that helps them,
732 we should help that process along and not incarcerate, and
733 not deter.

734 Let me tell you a little story. I have had, on several
735 occasions, I have had people come up to me, Republicans, and
736 they say, "You know something? I do not agree with a lot of
737 what you do." This is when I was a State Senator and a
738 Congressman; "But I always vote for you because of your
739 position on puppies and kittens and marijuana." That wins.
740 Thank you, and I yield back the balance of my time.

741 Chairman Goodlatte. Without objection, the gentleman
742 is recognized for an additional 30 seconds, if he would
743 yield to me.

744 The same commitment that I made to the gentleman from
745 Tennessee, I certainly would make to the gentleman from
746 Florida. And if he would withdraw the amendment, I would be
747 happy to work with him on the issue of research into
748 therapeutic benefits from the cannabis plant.

749 Mr. Gaetz. I thank the chairman. I share the
750 gentleman from Tennessee's support for puppies and kittens,
751 and I withdraw my amendment at this time.

752 Chairman Goodlatte. The chair thanks the gentleman.
753 Are there further amendments to H.R. 2851?

754 Ms. Jackson Lee. Yes.

755 Chairman Goodlatte. For what purpose does the
756 gentlewoman from Texas seek recognition?

757 Ms. Jackson Lee. I have an amendment at the desk.

758 Chairman Goodlatte. The clerk will report the
759 amendment.

760 Ms. Adcock. Amendment to the amendment in the nature
761 of a substitute to H.R. 2851, offered by Ms. Jackson Lee.
762 Add at the end of the bill the following --

763 [The amendment of Ms. Jackson Lee follows:]

764 ***** COMMITTEE INSERT *****

765 Chairman Goodlatte. Without objection, the amendment
766 is considered as read, and the gentlewoman is recognized for
767 5 minutes on her amendment.

768 Ms. Jackson Lee. I thank the chairman. This amendment
769 wants to ensure that we have the information, as
770 legislators, to understand the impact of the fiscal note on
771 this bill, asking that the Comptroller General of the United
772 States complete a study and submit a report to the Senate
773 and House Judiciary Committees to deal with the annual
774 amount expended by Federal agencies in carrying out these
775 amendments; the costs associated with the arrest, trial,
776 convictions, imprisonment, or imposition of other sanctions
777 in accordance with the amendments; and the impact, including
778 the fiscal impact, of the amendments on existing
779 correctional facilities and the likelihood that those
780 amendments will create a need for additional capacity.

781 I do not think I need to further explain the infusion
782 of newly-declared criminals that will come about through
783 this legislation. Again, we have indicated that we have no
784 quarrel with the massive impact of opioids, and we want to
785 see them extinguished, stopped, and we want to see lives
786 saved. But we recognize that this bill will have an
787 alarming impact as mandatory sentences, including mandatory
788 minimum terms of supervised release, will take up valuable
789 taxpayer dollars, create an injustice in sentencing, and

790 undermine guideline sentencing.

791 The aspect of the inclusion of supervising an offender
792 that comes about through this legislation is extremely
793 important, and conservative groups agree that taxpayers will
794 be forced to pay an increased amount for a population of
795 these individuals. We have eliminated mandatory minimums,
796 but we have not eliminated the fact that they may go to
797 jail. And so I would hope that we would join in wanting to
798 get the fiscal note, and I ask my colleagues to support the
799 Jackson Lee amendment.

800 Chairman Goodlatte. Would the gentlewoman yield?

801 Ms. Jackson Lee. I would be happy to yield to the
802 gentleman.

803 Chairman Goodlatte. I am going to respond favorably to
804 your request and support the Jackson Lee amendment, and I
805 urge my colleagues to do the same. I think it is a good
806 amendment.

807 Ms. Jackson Lee. I thank the gentleman. And with
808 that, I happily yield back, and I thank the chair and the
809 ranking member. Thank you.

810 Chairman Goodlatte. The question occurs on the
811 amendment offered.

812 For what purpose does the gentleman from Michigan seek
813 recognition?

814 Mr. Conyers. Only to support the Jackson Lee amendment

815 as you have.

816 Chairman Goodlatte. The chair thanks the gentleman.

817 The question is on the amendment offered by the

818 gentlewoman from Texas.

819 All those in favor, respond by saying aye.

820 Those opposed, no.

821 The ayes have it, and the amendment is agreed to.

822 Are there further amendments to H.R. 2851?

823 For what purpose does the gentlewoman from California

824 seek recognition?

825 Ms. Lofgren. I have an amendment at the desk.

826 Chairman Goodlatte. The clerk will report the

827 amendment. We do not have that amendment.

828 Ms. Lofgren. Why not?

829 Chairman Goodlatte. That I cannot answer.

830 Ms. Lofgren. I think Ms. Jayapal has an amendment, Mr.

831 Cicilline. Oh, here are the copies now.

832 Chairman Goodlatte. Here it comes. The clerk will

833 report the amendment.

834 Ms. Adcock. Amendment to the amendment in the nature

835 of a substitute to H.R. 2851, offered by Ms. Lofgren of

836 California.

837 [The amendment of Ms. Lofgren follows:]

838 ***** COMMITTEE INSERT *****

839 Mr. Sensenbrenner. Mr. Chairman?

840 Chairman Goodlatte. For what purpose does the
841 gentleman from Wisconsin seek recognition?

842 Mr. Sensenbrenner. Mr. Chairman, I reserve a point of
843 order.

844 Chairman Goodlatte. Point of order is reserved.
845 Without objection, the amendment is considered as read, and
846 the gentlewoman is recognized for 5 minutes on her
847 amendment.

848 Ms. Lofgren. Thank you, Mr. Chairman. This amendment
849 would direct the Attorney General to remove marijuana from
850 schedule I of the Controlled Substances Act. The current
851 schedule I classification of marijuana puts it, as has been
852 previously discussed, with heroin, ecstasy, LSD, peyote,
853 Quaaludes, as a drug with no currently-accepted medical use
854 and a high potential for abuse. Now, as has been discussed
855 earlier, and there are different ways to remedy this, the
856 classification of marijuana in schedule I does limit the
857 access of researchers to the substance, so that its medical
858 application can be studied.

859 We do know, and our colleague from the other side of
860 the aisle has mentioned, the utility of non-psychoactive
861 marijuana for certain children who are suffering from
862 epileptic seizures. We have anecdotal advice, and I
863 remember very well, personally, someone I knew, who has now

864 passed away, who was suffering from cancer, who, before the
865 voters of California legalized marijuana, would have to go
866 down and buy marijuana from kids on the street, so that he
867 could actually eat and, again, keep food down while he was
868 undergoing treatment for his cancer. There may be more
869 potential medical applications, but we are not going to find
870 them.

871 I would note, also, that voters in the State of
872 California made a decision. First, they voted to approve
873 the use of marijuana for medicinal purposes, and then just
874 this last year, they voted to decriminalize marijuana. I
875 think the idea that citizens of California who are complying
876 with the State law would nevertheless be subject to Federal
877 prosecution is very troubling.

878 The fact that this is on schedule I creates other
879 problems. Right now, you have a legal marijuana business in
880 California, but it all has to be done in cash because there
881 is no access to the banking system because of the schedule I
882 designation. And so you have the potential for corruption,
883 because of all the cash. You have got a potential theft
884 problem because of all the cash. And certainly, the State
885 of California wants to tax this business, and since it has
886 to be an all-cash business, that becomes more problematic.

887 So I offer this amendment in the hopes that it would
888 solve a whole set of problems: the research problem, the

889 problem of States, like my own, where voters have chosen to
890 legalize use of this substance, the crime problem created by
891 lack of access to the banking system. And I think that this
892 is the least we should do, Mr. Chairman, in terms of
893 respecting the voters of the State of California.

894 Mr. Gaetz. Would the gentlelady yield?

895 Ms. Lofgren. I would be happy to yield.

896 Mr. Gaetz. I thank the gentlelady for yielding. I
897 would point out that I have sponsored H.R. 2020, which does
898 precisely what this amendment does, and I would invite the
899 gentlelady to join me and help us with that bipartisan
900 legislation.

901 Ms. Lofgren. I will take a look at that bill. I was
902 not aware of that and perhaps will get your support on this
903 amendment.

904 Mr. Gaetz. I yield you back. I yield back.

905 Ms. Lofgren. And I yield back, Mr. Chairman.

906 Chairman Goodlatte. Does the gentleman from Wisconsin
907 insist upon his point of order?

908 Mr. Sensenbrenner. I do.

909 Chairman Goodlatte. The gentleman is recognized.

910 Mr. Sensenbrenner. Mr. Chairman, I make a point of
911 order that the amendment is not germane. It deals with
912 another subject. The underlying bill deals with schedule A.
913 This talks about schedule I. It creates a new schedule. I

914 regret that a bill relating to synthetic drugs, the debate
915 has degenerated into a talk about marijuana. We should be
916 talking about marijuana separately and not getting the
917 marijuana debate into dealing with these very strong and
918 powerful synthetic drugs like fentanyl, and more of them are
919 on the way. So I would urge the chairman to sustain my
920 point of order because it is not germane.

921 Chairman Goodlatte. Does the gentlewoman offering the
922 amendment wish to be heard on the point of order?

923 Ms. Lofgren. Mr. Chairman, I suspect that your ruling
924 is going to be along the lines outlined by our friend, Mr.
925 Sensenbrenner. I thought this was germane because it dealt
926 with the general subject. But if, as a technical matter, it
927 is not, I certainly would accept that ruling. My friend
928 from Tennessee may have an additional point on the
929 germaneness issue.

930 Mr. Cohen. Well, my only question is what Mr.
931 Sensenbrenner said, which I agree with, that we are dealing
932 with potent and strong and dangerous drugs, but are not
933 scheduled in the same category as marijuana. They are
934 scheduled as less powerful and less serious, and that shows
935 the inconsistency and the anachronistic of this particular
936 section of the code. This is an anachronistic place.

937 Marijuana never should have been there --

938 Chairman Goodlatte. The gentleman needs to restrict

939 his comments to the issue of germaneness.

940 Mr. Cohen. I yield back.

941 Ms. Lofgren. Reclaiming my time, we are dealing with
942 the same section of the code that this would amend.

943 Chairman Goodlatte. The chair is prepared to rule on
944 the point of order. In the opinion of the chair, the
945 amendment is not germane. Are there any other amendments?

946 If not, the question is on the amendment in the nature
947 of a substitute.

948 All those in favor, respond by saying aye.

949 Those opposed, no.

950 In the opinion of the chair, the ayes have it, and the
951 amendment in the nature of a substitute is adopted.

952 Chairman Goodlatte. A reporting quorum being present,
953 the question occurs on H.R. 2851 as amended.

954 All those in favor, respond by saying aye.

955 Those opposed, no.

956 In the opinion of the chair, the ayes have it, and the
957 bill, as amended, is ordered reported favorably to the
958 House.

959 Mr. Cicilline. Mr. Chairman, I am sorry. We did not
960 realize you were already doing a vote. I have an amendment,
961 as does Ms. Jayapal.

962 Chairman Goodlatte. I think we have already adopted a
963 substitute. I do not think they can be offered.

964 Members will have 2 days to submit views.

965 Without objection, the bill will be reported as a
966 single amendment in the nature of a substitute --

967 Ms. Jackson Lee. Mr. Chairman, may I have a
968 parliamentary inquiry?

969 Chairman Goodlatte. The gentlewoman will state her
970 parliamentary inquiry.

971 Ms. Jackson Lee. Mr. Chairman, as chairman of the full
972 committee, do you have the opportunity to waive the present
973 status of having cast and carried a vote to allow two
974 amendments in?

975 Chairman Goodlatte. I am sorry?

976 Ms. Jackson Lee. The substitute amendments have been
977 submitted.

978 Chairman Goodlatte. The substitute has been adopted,
979 and I did call for further amendments. I did not hear from
980 either of the --

981 Ms. Jackson Lee. And so the only question I have is,
982 do you have the opportunity to waive that particular
983 procedure?

984 Chairman Goodlatte. I do not have the opportunity to
985 waive, but I will be happy to confer with both the gentleman
986 from Rhode Island and the gentlewoman from Washington as to
987 the nature of their amendments, and if we can, some way,
988 incorporate them moving forward, we will be happy to

989 consider that. But the substitute has been ordered.

990 In fact, the bill has now been passed, and members will
991 have 2 days to submit views. The time for the recorded vote
992 has passed as well. Without objection, the bill will be
993 reported as a single amendment in the nature of a
994 substitute, incorporating all adopted amendments. Staff is
995 authorized to make technical and conforming changes.

996 And I will be happy to meet with the gentleman from
997 Rhode Island and the gentlewoman from Washington and
998 consider what their concerns were, but we did call for
999 additional amendments, and they did not respond at that
1000 point.

1001 Pursuant to notice, I now call up H.R. 469 for purposes
1002 of markup and move that the committee report the bill
1003 favorably to the House. The clerk will report the bill.

1004 Ms. Adcock. H.R. 469, to impose certain limitations on
1005 consent decrees and settlement agreements by agencies that
1006 require the agencies to take regulatory action in accordance
1007 with the terms thereof and for other purposes.

1008 [The bill follows:]

1009 ***** INSERT 4 *****

1010 Chairman Goodlatte. Without objection, the bill is
1011 considered as read and open for amendment at any time. I
1012 will begin by recognizing myself for an opening statement.

1013 The untimely drag of new regulations, too often issued
1014 without sufficient consideration of their costs, benefits,
1015 and impacts on jobs, held back economic recovery throughout
1016 the Obama years. Although the Trump administration is
1017 delivering regulatory relief, without the help of statutory
1018 reform, relief may only be temporary, not permanent. The
1019 Sunshine for Regulatory Decrees and Settlements Act of 2017
1020 is an important part of this needed statutory reform.

1021 Far too often, costly new regulations are issued
1022 directly under the authority of consent decrees and
1023 settlement agreements that force Federal agencies to issue
1024 new rules. These decrees and settlements typically stem
1025 from deals between regulatory agencies and pro-regulatory
1026 plaintiffs. Those to be regulated, our Nation's job
1027 creators, frequently do not know about these deals until the
1028 plaintiffs' complaints and the proposed decrees or
1029 settlements are filed in court. By then, it is too late.

1030 Regulated businesses, State regulators, and other
1031 interested entities are unlikely to be able to intervene in
1032 the litigation. The court can approve the deals before
1033 regulated parties even have an opportunity to determine
1034 whether new regulatory costs will be imposed on them.

1035 The Obama administration entered into a high number of
1036 consent decrees and settlement agreements like this.
1037 Prominent examples include decrees and agreements that
1038 require the Environmental Protection Agency to issue Clean
1039 Air Act maximum achievable control technology standards and
1040 Chesapeake Bay TMDLs that triggered billions of dollars in
1041 costs.

1042 The Sunshine for Regulatory Consent Decrees and
1043 Settlements Act of 2017 puts an end to the abuse of this
1044 practice. It assures that those to be regulated have a fair
1045 opportunity to participate in the resolution of litigation
1046 that affects them. It ensures that courts have all the
1047 information they need before they approve proposed decrees
1048 and settlements, and it provides needed transparency on the
1049 ways agencies conduct their business.

1050 At the same time, the bill also respects the basic
1051 rights of plaintiffs and defendants to manage litigation
1052 between them. As a result, this legislation offers an
1053 effective and balanced remedy. This bill is a timely
1054 solution to a real and important problem. I thank
1055 Representative Collins for his reintroduction and continued
1056 championship of this legislation. I urge my colleagues to
1057 support the bill and yield back the balance of my time.

1058 [The prepared statement of Chairman Goodlatte follows:]

1059

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

1060 Mr. Conyers. Mr. Chairman?

1061 Chairman Goodlatte. The gentleman from Michigan is
1062 recognized.

1063 Mr. Conyers. Mr. Chairman, I rise with some
1064 reservations about H.R. 469 because, after looking it over,
1065 I have come to the simple conclusion that its purpose is to
1066 discourage the use of settlement agreements and consent
1067 decrees. Its simple goal is to discourage the use of
1068 settlement agreements and consent decrees.

1069 This bill, by delaying regulatory protections,
1070 jeopardizes public health and safety. This explains why the
1071 administration issued a veto threat against a very similar
1072 version included in legislation considered in the last
1073 Congress. It also explains why a broad consortium of more
1074 than 150 organizations strenuously oppose this bill. These
1075 organizations include the National Resources Defense
1076 Council, the American Civil Liberties Union, the NAACP, the
1077 Sierra Club, and Earthjustice. More than 150 organizations
1078 strenuously oppose this bill.

1079 Simply put, this bill could be used to prevent
1080 critical, lifesaving, Federal regulatory actions from being
1081 implemented. The bill gives opponents of regulation
1082 multiple opportunities to stifle agency regulatory actions
1083 by allowing essentially any third party who is affected by
1084 such actions to intervene, subject to rebuttal, participate

1085 in settlement negotiations, and submit comments of a public
1086 nature about a proposed consent decree or settlement
1087 agreement that agencies would then be required to respond
1088 to.

1089 Now, in the case of consent decrees concerning a
1090 rulemaking, an agency would be forced to go through two
1091 public comment periods: one consent decree and one for rule
1092 making, the results from the consent decree doubling the
1093 agency's effort. Take, for example, a consent decree
1094 resolving a dispute under the Clean Air Act. The bill would
1095 allow any private party, whose rights are affected by such a
1096 decree, a right to intervene, which could conceivably
1097 include anyone who breathes air. Like nearly all of the
1098 antiregulatory bills we have considered to date over the
1099 last three Congresses, H.R. 469 piles on unnecessary
1100 procedural requirements for agencies and courts.

1101 Another concern is that the bill threatens to undermine
1102 a critical tool that Americans use to guarantee their
1103 congressionally-mandated protections, including civil rights
1104 laws. By reducing costly and time-consuming litigation,
1105 consent decrees and settlement agreements benefit both
1106 plaintiffs and defendants. They ensure that the Federal
1107 protections are enforced, while giving State and local
1108 governments flexibility as to how to meet their Federal
1109 obligations.

1110 Consent decrees, in particular, have been instrumental
1111 enforcing various civil rights laws in a wide variety of
1112 cases, ranging from those involving voting rights, to reform
1113 of mental health institutions, to law enforcement
1114 misconduct. Indeed, they are at the heart of civil rights
1115 enforcement.

1116 Because of H.R. 469's chilling effect on the use of
1117 consent decrees and settlement agreements civil rights
1118 enforcement would be seriously undermined. Given this
1119 concern, I hope to offer an amendment addressing at least
1120 one shortcoming of the bill. And finally, 469 will
1121 inevitably generate more litigation that will result in
1122 millions of dollars of additional transactional costs, all
1123 of which will be borne, of course, as usual, by the
1124 taxpayer.

1125 For example, the nonpartisan Congressional Budget
1126 Office, in its analysis of the bill's predecessor from the
1127 last Congress, concluded the measure would impose millions
1128 of dollars in additional costs, most of which would be
1129 incurred because litigation involving consent decrees and
1130 settlement agreements would probably take longer under the
1131 bill, and agencies would face additional administrative
1132 requirements. So, for these reasons, and more, I urge the
1133 judiciary committee to accordingly oppose H.R. 469. I thank
1134 the chairman and yield back any time remaining.

1135 [The prepared statement prepared of Mr. Conyers

1136 follows:]

1137 ***** COMMITTEE INSERT *****

1138 Chairman Goodlatte. Thank you, Mr. Conyers. It is now
1139 my pleasure to recognize the sponsor of the bill, the
1140 gentleman from Georgia, Mr. Collins, for his opening
1141 statement.

1142 Mr. Collins. Thank you, Mr. Chairman. Thanks for
1143 yielding, and I appreciate you holding this markup today.

1144 I have introduced the Sunshine for Regulatory Decrees
1145 and Settlement Act because, too often, we have seen pro-
1146 regulatory plaintiffs sue sympathetic agencies to enact
1147 regulations in the dark, absent public input, in order to
1148 subvert participation by effected parties, minimize public
1149 participation, and bind agency discretion. This is not new.
1150 We have passed this in the preceding congresses, and it is
1151 still the same issues that we are dealing with.

1152 In short, sue and settle agreements use litigation to
1153 bind agencies to regulations without the participation and
1154 vision in the APA. I am encouraged by the Trump
1155 administration's progress to restore the policies set out in
1156 the original MECE memo, and I am excited to work with them
1157 on this legislation so that we can permanently put an end to
1158 sue and settle agreements as they currently are being used.

1159 We need to ensure that special interests are never
1160 again able to use consent decrees to exclude public from
1161 meaningful participation in the regulatory process. That is
1162 because these settlements have tangible effects. They

1163 affect industries, jobs, and families across the country,
1164 from Northeast Georgia to the Pacific Ocean. The
1165 hardworking men and women in Georgia and across the country
1166 are trying to make an honest living, and I have a problem
1167 with special interests threatening that livelihood.

1168 The potential for abuse and lack of transparency in the
1169 system is why I believe so strongly that there is a need for
1170 this legislation. My bill will restore transparency and
1171 increase public participation and input. H.R. 469 addresses
1172 weaknesses in the current system while preserving, notice
1173 this, Mr. Chairman, preserving consent decrees as an
1174 important mechanism for settling legal disputes. This does
1175 not end consent decrees. The ability for citizens to hold
1176 government accountable is an important part of
1177 administrative law, but it must be properly carried out and
1178 appropriately carried out with transparency and full public
1179 participation.

1180 This legislation restores the balance and intent of the
1181 APA and ensures that those who wish to subvert the
1182 rulemaking requirements in current law are unable to do so.
1183 This is simply good government legislation that restores the
1184 ability of the American people, not the special interests,
1185 to weigh in on the rules that affect the livelihoods and
1186 businesses.

1187 And Mr. Chairman, before I yield back, it has been

1188 noted that there are many organizations who are opposed to
1189 this bill. It would be also proper to note that the
1190 organizations who are opposed to this bill are also the ones
1191 who seek to have the least transparency in this process
1192 because they have benefited over time from a lack of
1193 transparency in this process. So, it is not surprising that
1194 many of these would actually be opposed to that. And with
1195 that, Mr. Chairman, I appreciate the time, and I yield back.

1196 [The prepared statement of Mr. Collins follows:]

1197 ***** COMMITTEE INSERT *****

1198 Chairman Goodlatte. The chair thanks the gentleman.
1199 The chair understands the gentleman from Rhode Island, Mr.
1200 Cicilline, who is the ranking member on the subcommittee,
1201 wishes to be recognized, and I am happy to do so. If the
1202 gentleman would yield to me, though, briefly, I will make
1203 sure you have your full time.

1204 Mr. Cicilline. Of course.

1205 Chairman Goodlatte. I thank the gentleman for
1206 yielding. I want to say to the gentleman from Maryland, Mr.
1207 Raskin, that I have come to learn that you also had an
1208 amendment you wish to offer. And I know, from earlier
1209 discussions and from discussions going on, that there is at
1210 least one amendment on our side of the aisle. So, the offer
1211 that I have extended to the gentleman from Rhode Island and
1212 the gentlewoman from Washington I also extend to the
1213 gentleman from Maryland and to the gentleman from Idaho. We
1214 will continue to work with you. I cannot guarantee your
1215 amendment can be incorporated. But if it, or a modification
1216 thereof, can be, we will work with you to try to accommodate
1217 your interests in that.

1218 Now, I thank the gentleman from Rhode Island for
1219 yielding to me.

1220 Mr. Cicilline. Thank you, Mr. Chairman. H.R. 469, the
1221 Sunshine for Regulations and Regulatory Decrees and
1222 Settlements Act of 2017 is an unwarranted and costly measure

1223 that will undermine Congress' constitutional powers. When
1224 passing laws, Congress routinely establishes mandatory
1225 deadlines for agency action. These statutory deadlines
1226 serve several purposes. They establish Congress' priorities
1227 for agency action, attempt to reduce undue delay in
1228 agencies' compliance with the law, and communicate the
1229 importance of a legal requirement to the public.

1230 But because agency resources are limited, there is
1231 widespread noncompliance with statutory deadlines, as the
1232 Administrative Conference of the United States has long
1233 observed. Accordingly, a plaintiff withstanding may file a
1234 lawsuit to determine a schedule for an agency to complete an
1235 action required by Congress, often referred to as a deadline
1236 suit. As the nonpartisan Government Accountability Office
1237 reported earlier this year, most deadline suits are resolved
1238 through negotiated settlement agreement because, in the
1239 majority of them, it is undisputed that a statutory deadline
1240 was missed, and there was no legal defense to the lawsuit.

1241 But proponents of H.R. 469 assert that these
1242 settlements, "undercut applicable administrative law," and,
1243 "short-circuit review of new regulations." This premise is
1244 based on a report by the Chamber of Commerce: the so-called
1245 sue and settle process is increasingly being used as a
1246 technique to shape agencies' regulatory agendas. This
1247 concern, however, is unsupported by any independent evidence

1248 and has been debunked by the Government Accountability
1249 Office.

1250 In two reports on deadline lawsuits, the GAO has found
1251 that, "The settlement agreements did not affect the
1252 substantive basis or procedural rulemaking requirements," of
1253 the agencies it studied. In its December 2014 report on
1254 deadline lawsuits involving the Environmental Protection
1255 Agency, the GAO determined that none of the settlements of
1256 deadline suits finalized under the Obama administration,
1257 "Included turns that finalized the substantive outcome of a
1258 rule."

1259 The GAO underscored this point in the title of its
1260 report, "Impact of Deadline Suits on EPA's Rulemaking is
1261 Limited." In its February 2017 report on deadline lawsuits
1262 involving the Endangered Species Act, the GAO found that
1263 the, "Settlement agreements did not affect the substantive
1264 basis or procedural rulemaking requirements the agencies
1265 were to follow in completing the actions, such as providing
1266 opportunities for public notice and comment on proposed
1267 listing rules."

1268 Leading experts have also debunked the Chamber's sue
1269 and settle narrative. John Cruden, a senior career official
1270 with the Justice Department for more than two decades during
1271 two Republican and two Democratic administrations, testified
1272 in a substantially identical bill that he was, "Not aware of

1273 any instance of a settlement that could remotely be
1274 described as collusive, but that the Justice Department
1275 vigorously represented the Federal agency, defending the
1276 agency's legal position, and obtaining in any settlement the
1277 best possible terms that were consistent with the
1278 controlling law."

1279 Other administrative law experts, such as Robert
1280 Weissman, the President of Public Citizen, have similarly
1281 testified that sue and settle allegations are patently
1282 false. This bill is also unnecessary because current law
1283 and agency practice already restrict the use of settlement
1284 policy to shape regulatory priorities. During its
1285 exhaustive review of deadline litigation, the GAO found that
1286 the Justice Department is guided by the MECE memo of 1986
1287 when litigating deadline suits.

1288 This policy, as the GAO noted earlier this year, limits
1289 the settlement of a deadline suit to, "Only include a
1290 commitment to perform a mandatory action by an agreed-upon
1291 schedule, and would not otherwise predetermine or prescribe
1292 a specific substantive outcome for the actions to be
1293 completed by the agencies."

1294 The MECE memo was codified in 1991 in the Code of
1295 Federal Regulations and applies to settlement policy today.
1296 The MECE policy primarily restricts agencies from using
1297 settlement policy to contravene the law or congressional

1298 intent. As the majority noted in its report on a
1299 substantially identical version of this bill considered last
1300 Congress, this policy is grounded in separation of powers
1301 concerns.

1302 There is no evidence that agencies do not follow this
1303 policy, and the majority's witnesses at prior hearings on
1304 this proposal have been unable to provide examples of
1305 settlements that violate the MECE policy.

1306 Finally, H.R. 469 is wasteful and undermines Congress'
1307 Article I powers. Congress, not agencies, establish
1308 regulatory priorities through statutes. Agencies do not
1309 have discretion to pick and choose regulatory priorities
1310 where Congress has expressly instructed that certain actions
1311 be undertaken by a specific date. By imposing a series of
1312 onerous procedures that will constrain the use of
1313 settlements to resolve a Federal agency's noncompliance with
1314 the law, H.R. 469 erodes the constitutional function of the
1315 legislative branch.

1316 The bill is also costly. The Congressional Budget
1317 Office has previously noted that this measure will greatly
1318 lengthen the settlement process, cost millions of dollars,
1319 and strain the Treasury's judgment fund, and lead to an
1320 increase in the amount of reimbursable attorney's fees. In
1321 closing, I strongly oppose this measure for all of those
1322 reasons, and yield back the balance of my time.

1323 Chairman Goodlatte. Are there any amendments to H.R.
1324 469? For what purpose does the gentlewoman from Michigan
1325 seek recognition?

1326 Mr. Conyers. Mr. Chairman, I have an amendment at the
1327 desk and ask that it be reported.

1328 Chairman Goodlatte. The clerk will report the
1329 amendment.

1330 Ms. Adcock. Amendment to H.R. 469, offered by Mr.
1331 Conyers. Page 3, line 10 --

1332 [The amendment of Mr. Conyers follows:]

1333 ***** COMMITTEE INSERT *****

1334 Chairman Goodlatte. Without objection, the amendment
1335 will be considered as read, and the gentleman is recognized
1336 for 5 minutes on his amendment.

1337 Mr. Conyers. Thank you, Mr. Chairman. My colleagues,
1338 my amendment would exempt from H.R. 469 consent decrees and
1339 settlement agreements that prevent or are intended to
1340 prevent discrimination based on race, religion, national
1341 origin, or any other protected category.

1342 Given the often systemic nature of discriminatory
1343 conduct, settlement agreements and consent decrees offer an
1344 invaluable means to provide for general relief for
1345 nonidentifiable victims and to prevent future discriminatory
1346 acts. In particular, settlement agreements have been
1347 instrumental in enforcing various civil rights statutes in a
1348 wide variety of cases, ranging from those involving voting
1349 rights, to reform of mental health institutions, to law
1350 enforcement misconduct, and others. Recent examples include
1351 the Justice Department's use of court-enforceable consent
1352 decrees adjusting unconstitutional police pattern or
1353 practice activities.

1354 In 2003, for instance, the city of Detroit entered into
1355 a consent decree with the Justice Department concerning the
1356 use of force and arrest practices by the city's police
1357 department. As a result of this decree, the police
1358 department implemented vastly improved practices that have

1359 substantially reduced the incidence of fatalities caused by
1360 law enforcement activities, a goal that the chairman and I
1361 very much endorse.

1362 As reported by the Department's Civil Rights Division
1363 earlier this year, these agreements emphasize institutional
1364 reforms such as improving systems for supervising officers,
1365 and holding them accountable for misconduct, and ensuring
1366 officers have the policy guidance, training, equipment, and
1367 other resources necessary for constitutional and effective
1368 policing.

1369 H.R. 469 would make the use of such remedies
1370 exceedingly difficult by subjecting them to numerous
1371 procedural and potentially meritless court challenges. I am
1372 particularly concerned the bill's broad and ill-defined
1373 requirements would effectively deter civil enforcement
1374 agencies from providing general relief in discrimination
1375 cases, discourage courts from enforcing these settlements,
1376 and invite costly and needless litigation concerning these
1377 provisions.

1378 Accordingly, my amendment would simply exclude from the
1379 burdensome requirements of the bill settlement agreements
1380 and consent decrees intended to remediate generalized harms
1381 in civil rights cases. I urge my colleagues to give careful
1382 consideration to this important amendment. I thank the
1383 chairman and yield back any time remaining.

1384 Chairman Goodlatte. For that purpose does the
1385 gentleman from Georgia seek recognition?

1386 Mr. Collins. Mr. Chairman, I oppose the amendment.

1387 Chairman Goodlatte. The gentleman is recognized for 5
1388 minutes.

1389 Mr. Collins. Thank you. Although I have, you know,
1390 great respect for the ranking member, I would have to oppose
1391 this amendment. This amendment seeks less transparency,
1392 public participation, judicial review for consent decrees
1393 and settlement agreements for regulations that allegedly
1394 will help protect civil rights.

1395 With all due respect, I believe that this has matters
1396 backwards. More transparency, public input, and judicial
1397 scrutiny will not only help produce regulations that better
1398 protected these rights, but it will also involve more
1399 participation by those that are being affected by this, from
1400 regulated entities, to State, local, tribal entities that
1401 may be affected for this legislation, but also may bar buy-
1402 in from these groups.

1403 So, with these things in mind, this will help
1404 regulation be better, more promptly implemented. And with
1405 that, I would encourage my colleagues to oppose the
1406 amendment. With that, I yield back.

1407 Mr. Cicilline. Mr. Chairman?

1408 Chairman Goodlatte. For what purpose does the

1409 gentleman from Rhode Island seek recognition?

1410 Mr. Cicilline. Seek time in supporting the amendment.

1411 Chairman Goodlatte. The gentleman is recognized for 5
1412 minutes.

1413 Mr. Cicilline. Thank you. Mr. Chairman, I rise in
1414 strong support of Mr. Conyers' amendment and thank him for
1415 introducing this amendment. As the members of this
1416 committee know, the civil rights laws reflect our deeply-
1417 held and important founding values of equality and that
1418 treatment under the law should be equal among all of our
1419 citizens, and in fact, the very well-established principle
1420 that no one should be treated adversely solely on account of
1421 their race, sex, religion, national origin, age, disability,
1422 or sexual orientation.

1423 And consent decrees, in particular, have been very
1424 important in enforcing various civil rights statutes in a
1425 wide variety of cases, ranging from those involving voting
1426 rights, to the reform of mental health institutions, to law
1427 enforcement misconduct, and the list goes on and on. Really
1428 and truly, civil rights enforcements are really at the heart
1429 of preserving the very important founding values of our
1430 country. And this legislation, without Mr. Conyers'
1431 amendment, would make it substantially more difficult for
1432 agencies to enter into consent decrees or settlement
1433 agreements regarding civil rights enforcement, and would

1434 effectively undermine Congress' statutory mandates to
1435 agencies concerning very important issues of civil rights.

1436 So, I rise in strong support of Mr. Conyers' amendment.
1437 I think this is an important area that should have
1438 particular consideration by the Judiciary Committee when one
1439 considers the very special role that civil rights laws have
1440 played in the development of our country. And so, I urge
1441 all of my colleagues to support the Conyers amendment, and I
1442 yield back.

1443 Chairman Goodlatte. The question occurs on the
1444 amendment offered by the gentleman from Michigan.

1445 All those in favor, respond by saying aye.

1446 Those opposed, no.

1447 In the opinion of the chair, the noes have it, and the
1448 amendment is not agreed to.

1449 Mr. Conyers. A record vote.

1450 Chairman Goodlatte. A recorded vote is requested, and
1451 the clerk will call the roll.

1452 Mr. Conyers. Thank you.

1453 Ms. Adcock. Mr. Goodlatte?

1454 Chairman Goodlatte. No.

1455 Ms. Adcock. Mr. Goodlatte votes no.

1456 Mr. Sensenbrenner?

1457 [No response.]

1458 Mr. Smith?

1459 [No response.]

1460 Mr. Chabot?

1461 Mr. Chabot. No.

1462 Ms. Adcock. Mr. Chabot votes no.

1463 Mr. Issa?

1464 [No response.]

1465 Mr. King?

1466 Mr. King. No.

1467 Ms. Adcock. Mr. King votes no.

1468 Mr. Franks?

1469 Mr. Franks. No.

1470 Ms. Adcock. Mr. Franks votes no.

1471 Mr. Gohmert?

1472 [No response.]

1473 Mr. Jordan?

1474 [No response.]

1475 Mr. Poe?

1476 [No response.]

1477 Mr. Marino?

1478 Mr. Marino. No.

1479 Ms. Adcock. Mr. Marino votes no.

1480 Mr. Gowdy?

1481 [No response.]

1482 Mr. Labrador?

1483 Mr. Labrador. No.

1484 Ms. Adcock. Mr. Labrador votes no.
1485 Mr. Farenthold?
1486 [No response.]
1487 Mr. Collins?
1488 Mr. Collins. No.
1489 Ms. Adcock. Mr. Collins votes no.
1490 Mr. DeSantis?
1491 [No response.]
1492 Mr. Buck?
1493 Mr. Buck. No.
1494 Ms. Adcock. Mr. Buck votes no.
1495 Mr. Ratcliffe?
1496 Mr. Ratcliffe. No.
1497 Ms. Adcock. Mr. Ratcliffe votes no.
1498 Mrs. Roby?
1499 [No response.]
1500 Mr. Gaetz?
1501 [No response.]
1502 Mr. Johnson of Louisiana?
1503 Mr. Johnson of Louisiana. No.
1504 Ms. Adcock. Mr. Johnson votes no.
1505 Mr. Biggs?
1506 [No response.]
1507 Mr. Rutherford?
1508 Mr. Rutherford. No.

1509 Ms. Adcock. Mr. Rutherford votes no.
1510 Ms. Handel?
1511 Ms. Handel. No.
1512 Ms. Adcock. Ms. Handel votes no.
1513 Mr. Conyers?
1514 Mr. Conyers. Aye.
1515 Ms. Adcock. Mr. Conyers votes aye.
1516 Mr. Nadler?
1517 [No response.]
1518 Ms. Lofgren?
1519 [No response.]
1520 Ms. Jackson Lee?
1521 Ms. Jackson Lee. Aye.
1522 Ms. Adcock. Ms. Jackson Lee votes aye.
1523 Mr. Cohen?
1524 [No response.]
1525 Mr. Johnson of Georgia?
1526 [No response.]
1527 Mr. Deutch?
1528 [No response.]
1529 Mr. Gutierrez?
1530 [No response.]
1531 Ms. Bass?
1532 [No response.]
1533 Mr. Richmond?

1534 [No response.]

1535 Mr. Jeffries?

1536 [No response.]

1537 Mr. Cicilline?

1538 Mr. Cicilline. Aye.

1539 Ms. Adcock. Mr. Cicilline votes aye.

1540 Mr. Swalwell?

1541 [No response.]

1542 Mr. Lieu?

1543 [No response.]

1544 Mr. Raskin?

1545 Mr. Raskin. Aye.

1546 Ms. Adcock. Mr. Raskin votes aye.

1547 Ms. Jayapal?

1548 Ms. Jayapal. Aye.

1549 Ms. Adcock. Ms. Jayapal votes aye.

1550 Mr. Schneider?

1551 Mr. Schneider. Aye.

1552 Ms. Adcock. Mr. Schneider votes aye.

1553 Chairman Goodlatte. The gentleman from Texas?

1554 Mr. Farenthold. No.

1555 Ms. Adcock. Mr. Farenthold votes no.

1556 Chairman Goodlatte. The gentleman from California?

1557 Mr. Issa. No.

1558 Ms. Adcock. Mr. Issa votes no.

1559 Chairman Goodlatte. Has every member who wishes to
1560 vote?

1561 The clerk will report.

1562 Ms. Adcock. Mr. Chairman, 6 members voted aye, 14
1563 members voted no.

1564 Chairman Goodlatte. And the amendment is not agreed
1565 to.

1566 Are there further amendments?

1567 Ms. Jackson Lee. Mr. Chairman?

1568 Chairman Goodlatte. For what purpose does the
1569 gentlewoman from Texas seek recognition?

1570 Ms. Jackson Lee. I have an amendment at the desk.

1571 Chairman Goodlatte. The clerk will report the
1572 amendment.

1573 Ms. Adcock. Amendment to H.R. 469, offered by Ms.
1574 Jackson Lee. Page 3, line 10 --

1575 [The amendment of Ms. Jackson Lee follows:]

1576 ***** COMMITTEE INSERT *****

1577 Chairman Goodlatte. Without objection, the amendment
1578 is considered as read, and the gentlewoman is recognized for
1579 5 minutes on her amendment.

1580 Ms. Jackson Lee. I thank the chairman very much, and
1581 the ranking member. And just a moment, Mr. Chairman, I
1582 appreciate the collegiate work of H.R. 2851, the Stop the
1583 Importation/Trafficking of Synthetic Analogues Act of 2017.
1584 Not knowing how the bill reached the floor, I want to be
1585 registered as a no vote on that bill, 2851, which was voice
1586 voted. I want to be registered as a no vote.

1587 Let me ask unanimous consent, Mr. Chairman.

1588 Chairman Goodlatte. For what purpose does the
1589 gentlewoman seek unanimous consent?

1590 Ms. Jackson Lee. To register --

1591 Chairman Goodlatte. It is not possible to do that at
1592 this time.

1593 Ms. Jackson Lee. But I will place it into the record.
1594 Thank you.

1595 Chairman Goodlatte. Your voice has been heard in the
1596 record.

1597 Ms. Jackson Lee. Thank you so very much, Mr. Chairman.

1598 Let me proceed with the amendment. The Jackson Lee
1599 amendment creates an exemption for consent decrees and
1600 settlement agreements addressing harm done to individuals
1601 who are exposed to toxic substances, hazardous waste, and

1602 other environmental injustices within the scope of Executive
1603 Order 12898, signed by President Clinton February 11th,
1604 1994.

1605 Let me say that Houston has not been a stranger to
1606 superfund sites. We had 11 as of 2007. We still have two
1607 remaining. One is a 21-acre site, located in an industrial,
1608 commercial, and residential section of Houston. The first
1609 site is a former wood-treating plant that contaminated soil
1610 and groundwater with volatile organic compounds, PAH and
1611 metal salts, such as arsenic, chromium, copper, lead, and
1612 zinc.

1613 I walked among a superfund site and looked at the
1614 backyards of our neighbors in the 18th Congressional
1615 District. And so, I realized the importance of recognizing
1616 the impact of not being regulated or not being protected by
1617 the EPA. The EPA is working to ensure the safety of those
1618 close to the superfund sites. We, as legislators, must
1619 assure that these communities remain safe and are not
1620 disproportionately affected because of the color of their
1621 skin or the money in their wallets.

1622 So, the Jackson Lee amendment is a healthy exemption to
1623 this particular legislation. And it responds to what is
1624 perceived as favoring industry interests at taxpayer expense
1625 and promotes regulatory uncertainty.

1626 The Jackson Lee amendment will protect people, such as

1627 Teresa De Anda. Her family and her neighbors, all who were
1628 victims of a large-scale pesticide drift in her hometown of
1629 Earlimart, California. While she was running errands, a
1630 toxic pesticide drifted into town from the agricultural
1631 fields about a quarter of a mile from her home. She came
1632 home to find the sheriff standing at the front gate and her
1633 husband telling her they needed to leave the area. They
1634 bundled up in the car and left town. Meanwhile, neighbors
1635 and other people from the hometown were undergoing a botched
1636 decontamination process organized by the government.

1637 The sickest people, who were vomiting, experiencing
1638 other acute symptoms of pesticide poisoning, were taken to
1639 local schools, made to take off their clothes with little
1640 privacy, and sprayed down with fire hoses in the cold night.
1641 The Jackson Lee amendment would not only protect people like
1642 Teresa and her community, but also protect low-income groups
1643 who are disproportionately, as I said, impacted by these
1644 harmful substances.

1645 By the way, the superfund that I walked through, or the
1646 contamination, was, in fact, in a low-income, senior
1647 citizen-populated neighborhood. High-profile cases, such as
1648 the Flint water crisis, highlight the importance of race and
1649 socioeconomic plays in environmental justice. Tens of
1650 thousands of people were drinking water exposed to toxic
1651 levels of lead. And we know the story of Flint, and we know

1652 the devastation on people who were of many backgrounds, not
1653 only African Americans, but white individuals, residents of
1654 Flint were involved. But they were not rich. And so, this
1655 is the importance of this amendment.

1656 It is a simple, straightforward provision that we are
1657 creating an exception for these consent decrees and
1658 settlement agreements in environmental justice cases that
1659 often disproportionately harm the marginalized. I ask my
1660 colleagues to support the Jackson Lee amendment. I yield
1661 back.

1662 Ms. Jayapal. Mr. Chairman?

1663 Chairman Goodlatte. For what purpose does the
1664 gentleman from Georgia seek recognition?

1665 Mr. Collins. I oppose the amendment, Mr. Chairman.

1666 Chairman Goodlatte. The gentleman is recognized for 5
1667 minutes.

1668 Mr. Collins. Thank you, Mr. Chairman, and I appreciate
1669 the gentlelady from Texas. She and I have worked on, you
1670 know, many things together from criminal justice. I know her
1671 outlook and perspective for protecting those in need has
1672 never been questioned. And I do not question it here. But
1673 I do believe that this amendment is basically a back door
1674 that would continue to hide these consent decrees and
1675 settlement agreements about toxic substances and hazardous
1676 waste regulations from the bill's protection. And that is

1677 just something I could not support.

1678 I understand that my colleague seeks to protect the
1679 individuals in poor, minority communities that may benefit
1680 from new rules, but who can say that the back-room deals
1681 negotiated by special interest groups, often from outside
1682 the communities, will be the ones that work in those
1683 communities' best interests? The Regulatory Reform
1684 Subcommittee has received, multiple times, testimony that
1685 new environmental regulations can impose regressive,
1686 negative cost impacts on poor and vulnerable populations.
1687 That can happen, notwithstanding the best intentions of an
1688 outside group.

1689 These deals advance only one special interest groups
1690 views, threatening all Americans who are concerned about
1691 toxic substances, hazardous waste. This bill actually,
1692 again, I would repeat it again, does not do away with
1693 consent decrees. It just simply opens up transparency to
1694 scrutiny to assure public interest is best protected in all
1695 these areas.

1696 With that, Mr. Chairman, I would encourage all my
1697 colleagues to oppose this amendment.

1698 Mr. Conyers. Mr. Chairman?

1699 Mr. Collins. I yield back.

1700 Chairman Goodlatte. For what purpose does the
1701 gentleman from Michigan seek recognition?

1702 Mr. Conyers. I rise in strong support of the Jackson
1703 Lee amendment.

1704 Chairman Goodlatte. The gentleman is recognized for 5
1705 minutes.

1706 Mr. Conyers. Thank you. Members of the committee,
1707 this amendment would exempt from the bill any consent decree
1708 or settlement agreement regarding environmental justice in
1709 low-income or minority communities, as defined by Executive
1710 Order 12898.

1711 Based on the legislative history of this bill, it is
1712 clear that its main target is simply getting the
1713 Environmental Protection Agency, EPA, and environmental
1714 groups. As I have often repeated, many of those who attack
1715 regulations forget that the reason that they can take for
1716 granted clean air or drinkable water and nontoxic soil is
1717 because of strong environmental regulation.

1718 The gentlelady from Texas mentioned Flint, Michigan.
1719 And believe me, having been there at least three or maybe
1720 four times, I can tell you this amendment would be very,
1721 very helpful in this part of Michigan. These environmental
1722 hazards are particularly acute in low-income and minority
1723 communities. I do not think that is by accident.

1724 President Clinton recognized the particularly high risk
1725 of environmental hazards in low-income and minority
1726 communities when he issued Executive Order 12898 back in

1727 1994, which directed Federal agencies to take certain steps
1728 to address environmental justice concern.

1729 The United States Commission on Civil Rights' 2002
1730 study and report on the implementation of Executive Order
1731 12898 found that four Federal agencies, including EPA, have
1732 failed to incorporate environmental justice into their core
1733 concerns and have not established accountability and
1734 performance outcomes for programs and activities and lack a
1735 commitment to environmental justice issues from agency
1736 leadership.

1737 Yet, when Federal agencies acknowledge, through a
1738 consent decree or settlement, that they have unlawfully
1739 denied or unreasonably delayed regulations needed to prevent
1740 sickness and death caused by discriminatory treatment, this
1741 bill would make that agency jump through more legal hoops
1742 before it can finally do its job.

1743 The bill requires already negotiated settlements to go
1744 to mediation if a third party, like a company that is
1745 causing pollution, intervenes. And for those reasons, I
1746 support the amendment and urge my colleagues to do the same.
1747 Thank you.

1748 Ms. Jayapal. Mr. Chairman?

1749 Chairman Goodlatte. For what purpose does the
1750 gentlewoman from Washington seek recognition?

1751 Ms. Jayapal. Move to strike the last word.

1752 Chairman Goodlatte. The gentlewoman is recognized for
1753 5 minutes.

1754 Ms. Jayapal. Thank you, Mr. Chairman. I rise today in
1755 strong support of Ms. Jackson Lee's amendment, which would
1756 ensure that consent decrees or settlements may continue in
1757 cases related to reducing illness or death from exposure to
1758 toxic substances. And we have heard from several of my
1759 colleagues how those situations particularly,
1760 disproportionately, affect low-income communities and
1761 communities of color.

1762 Certainly, in Washington State, my home State and my
1763 home district, we have a deep understanding that our
1764 livelihoods depend on preserving our environment and
1765 preventing the spread of toxic substances and those
1766 substances and processes that actually damage our human
1767 health. This amendment simply ensures that when the
1768 government misses deadlines to enforce congressional Federal
1769 agency actions around environmental law, people may continue
1770 to sue to enforce these deadlines, and that is critical
1771 because there are no legal defenses for missing statutory
1772 deadlines.

1773 Mr. Chairman, I would like to ask for unanimous consent
1774 to introduce into the record a letter from 29 organizations,
1775 including a number of environmental justice organizations.

1776 Chairman Goodlatte. Without objection, they will be

1777 made a part of the record.

1778 [The information follows:]

1779 ***** COMMITTEE INSERT *****

1780 Ms. Jayapal. Thank you, Mr. Chairman. The letter
1781 states that, and this is a quote, "The consent decrees and
1782 settlement amendments at issue do not determine the
1783 substance of agency rules. Rather, such agreements simply
1784 seek to enforce mandatory statutory and procedural duties
1785 such as deadlines enacted by Congress." And so, with all
1786 due respect to my colleague from Georgia, Mr. Collins, his
1787 statement that this is somehow a back door to extending
1788 things that are not appropriate, that is simply not true;
1789 and this is supported by two GAO reports, which I would also
1790 like to ask for unanimous consent to introduce into the
1791 record.

1792 Chairman Goodlatte. Without objection, they will be
1793 made a part of the record.

1794 [The information follows:]

1795 ***** COMMITTEE INSERT *****

1796 Ms. Jayapal. Thank you. The 2014 GAO report entitled
1797 Environmental Litigation: Impact of Deadline Suits on EPA's
1798 Rule-making is Limited -- that is the title of the report --
1799 states, and this is a quote, "The effects of settlements in
1800 deadline suits on EPA's rule-making priorities is limited."

1801 Separately, in the February 2017 GAO report entitled
1802 Environmental Litigation Information on Endangered Species
1803 Act Deadline Suits, the GAO found, and this is again a
1804 quote, "The majority of deadline suits filed during fiscal
1805 years 2005 through 2015 were resolved through negotiate
1806 settlement agreements that established schedules for the
1807 agencies to complete the actions involved in the suits.
1808 Agency officials said that most deadline suits are resolved
1809 through settlement because it is undisputed that a statutory
1810 deadline was missed. Other than setting schedules for
1811 completing section 4 actions, the settlement agreements did
1812 not affect the substantive basis or procedural rulemaking
1813 requirements that the agencies were to follow in completing
1814 these actions, such as providing opportunities for public
1815 notice and comment on proposing listing rules."

1816 Mr. Chairman, it is clear that this is just another
1817 bill that is based on false sue-and-settle myth, and I
1818 really hope that my colleagues on both sides will vote this
1819 commonsense amendment that makes this bill just a bit
1820 better, and I thank my colleague from Texas for introducing

1821 this important amendment. I yield back.

1822 Chairman Goodlatte. The question occurs on --

1823 Mr. King. Mr. Chairman --

1824 Chairman Goodlatte. Who seeks recognition? The
1825 gentleman from Iowa is recognized.

1826 Mr. King. I just want to make a quick statement here
1827 that I support this legislation. I think it is practical
1828 and is brought forward with real-life experience by the
1829 gentleman from Georgia. I would be happy to yield to the
1830 gentleman from Georgia.

1831 Mr. Collins. I thank you for yielding. And just a
1832 very quick point: I think one of the issues that the GAO
1833 report actually was pointing out is the problem with the
1834 suit and the consent decree being filed on the same day, and
1835 I think these are the issues, that we are adjusting
1836 priorities. And I am not going to say that there may not be
1837 a desire or a want-to from the agency. I think what we are
1838 filing out here is just a transparency issue, where those
1839 who are involved are not being able to be a part. It does
1840 not do away with consent decrees. It does not, which has
1841 been talked about before. It simply adds transparency. And
1842 I appreciate the gentleman yielding; I yield back.

1843 Mr. King. I reclaim my time and I return my time to
1844 the chairman and urge the adoption of this legislation.

1845 Chairman Goodlatte. For what purpose does the

1846 gentleman from Maryland seek recognition?

1847 Mr. Raskin. I move to strike the last word, Mr.

1848 Chairman.

1849 Chairman Goodlatte. The gentleman is recognized for 5
1850 minutes.

1851 Mr. Raskin. Thank you very much. First, I want to
1852 start by thanking the chairman very much for his kindness
1853 and flexibility in talking to us about amendments that got
1854 lost at the last moment in the parliamentary confusion of
1855 H.R. 2851. I do have an amendment which I consider very
1856 important as the representative from NIH, having spoken to a
1857 number of researchers who are in schedule II, and there are
1858 5,000 of those who feel that their ability to pursue both
1859 treatment and research into the nature of addiction in the
1860 opioid crisis will be affected negatively by this
1861 legislation unless we have this amendment. So, I really
1862 thank you very much for your willingness to hear about this
1863 and I look forward --

1864 Chairman Goodlatte. Would the gentleman yield?

1865 Mr. Raskin. Yes, by all means.

1866 Chairman Goodlatte. I would be interested in hearing
1867 more about that, so we will be happy to consider that and
1868 will have discussions moving forward.

1869 Mr. Raskin. Thank you so much, Mr. Chairman. I look
1870 forward to it.

1871 And then I just wanted to say a word on behalf of Ms.
1872 Jackson Lee's amendment to 469. The problem of toxic
1873 contamination in our communities is a severe one all over
1874 the country and we know that too often environmental
1875 pollution and contamination have followed lines of race and
1876 class, and we simply want to make sure that this
1877 legislation, if it passes -- H.R. 469 -- does not undermine
1878 efforts that are already underway to deal with the problem
1879 of environmental racism and toxic contamination of the most
1880 vulnerable and exploited communities in the country. So, I
1881 will be supporting Ms. Jackson Lee's amendment. And with
1882 that, I yield back, Mr. Chairman.

1883 Chairman Goodlatte. The question occurs on the
1884 amendment offered by the gentlewoman from Texas.

1885 All those in favor, respond by saying aye.

1886 Those opposed, no.

1887 In the opinion of the chair, the noes have it.

1888 Ms. Jackson Lee. Roll call, Mr. Chairman.

1889 Chairman Goodlatte. A recorded vote is requested and
1890 the clerk will call the roll.

1891 Ms. Adcock. Mr. Goodlatte?

1892 Chairman Goodlatte. No.

1893 Ms. Adcock. Mr. Goodlatte votes no.

1894 Mr. Sensenbrenner?

1895 [No response.]

1896 Mr. Smith?
1897 [No response.]
1898 Mr. Chabot?
1899 Mr. Chabot. No.
1900 Ms. Adcock. Mr. Chabot votes no.
1901 Mr. Issa?
1902 Mr. Issa. No.
1903 Ms. Adcock. Mr. Issa votes no.
1904 Mr. King?
1905 Mr. King. No.
1906 Ms. Adcock. Mr. King votes no.
1907 Mr. Franks?
1908 Mr. Franks. No.
1909 Ms. Adcock. Mr. Franks votes no.
1910 Mr. Gohmert?
1911 [No response.]
1912 Mr. Jordan?
1913 [No response.]
1914 Mr. Poe?
1915 [No response.]
1916 Mr. Marino?
1917 [No response.]
1918 Mr. Gowdy?
1919 [No response.]
1920 Mr. Labrador?

1921 Mr. Labrador. No.

1922 Ms. Adcock. Mr. Labrador votes no.

1923 Mr. Farenthold?

1924 [No response.]

1925 Mr. Collins?

1926 Mr. Collins. No.

1927 Ms. Adcock. Mr. Collins votes no.

1928 Mr. DeSantis?

1929 [No response.]

1930 Mr. Buck?

1931 Mr. Buck. No.

1932 Ms. Adcock. Mr. Buck votes no.

1933 Mr. Ratcliffe?

1934 Mr. Ratcliffe. No.

1935 Ms. Adcock. Mr. Ratcliffe votes no.

1936 Mrs. Roby?

1937 [No response.]

1938 Mr. Gaetz?

1939 [No response.]

1940 Mr. Johnson of Louisiana?

1941 Mr. Johnson of Louisiana. No.

1942 Ms. Adcock. Mr. Johnson votes no.

1943 Mr. Biggs?

1944 [No response.]

1945 Mr. Rutherford?

1946 Mr. Rutherford. No.

1947 Ms. Adcock. Mr. Rutherford votes no.

1948 Mrs. Handel?

1949 Mrs. Handel. No.

1950 Ms. Adcock. Mrs. Handel votes no.

1951 Mr. Conyers?

1952 Mr. Conyers. Aye.

1953 Ms. Adcock. Mr. Conyers votes aye.

1954 Mr. Nadler?

1955 [No response.]

1956 Ms. Lofgren?

1957 [No response]

1958 Ms. Jackson Lee?

1959 Ms. Jackson Lee. Aye.

1960 Ms. Adcock. Ms. Jackson Lee votes aye.

1961 Mr. Cohen?

1962 [No response.]

1963 Mr. Johnson of Georgia?

1964 [No response.]

1965 Mr. Deutch?

1966 [No response.]

1967 Mr. Gutierrez?

1968 [No response.]

1969 Ms. Bass?

1970 [No response.]

1971 Mr. Richmond?

1972 [No response.]

1973 Mr. Jeffries?

1974 [No response.]

1975 Mr. Cicilline?

1976 Mr. Cicilline. Aye.

1977 Ms. Adcock. Mr. Cicilline votes aye.

1978 Mr. Swalwell?

1979 [No response.]

1980 Mr. Lieu?

1981 [No response.]

1982 Mr. Raskin?

1983 Mr. Raskin. Aye.

1984 Ms. Adcock. Mr. Raskin votes aye.

1985 Ms. Jayapal?

1986 Ms. Jayapal. Aye.

1987 Ms. Adcock. Ms. Jayapal votes aye.

1988 Mr. Schneider?

1989 Mr. Schneider. Aye.

1990 Ms. Adcock. Mr. Schneider votes aye.

1991 Chairman Goodlatte. The gentleman from Texas, Mr.

1992 Farenthold?

1993 Mr. Farenthold. No.

1994 Ms. Adcock. Mr. Farenthold votes no.

1995 Chairman Goodlatte. The gentleman from Florida, Mr.

1996 Gaetz?

1997 Mr. Gaetz. No.

1998 Ms. Adcock. Mr. Gaetz votes no.

1999 Chairman Goodlatte. The gentleman from Pennsylvania?

2000 Mr. Marino. No.

2001 Ms. Adcock. Mr. Marino votes no.

2002 Chairman Goodlatte. The gentleman from New York?

2003 Mr. Nadler. Aye.

2004 Ms. Adcock. Mr. Nadler vote aye.

2005 Chairman Goodlatte. Has every member voted who wishes

2006 to vote? The clerk will report.

2007 Ms. Adcock. Mr. Chairman, 7 members voted aye, 15

2008 members voted no.

2009 Chairman Goodlatte. And the amendment is not agreed

2010 to. Are there further amendments to H.R. 469? For what

2011 purpose does the gentleman from Rhode Island seek

2012 recognition?

2013 Mr. Cicilline. Mr. Chairman, I have an amendment at

2014 the desk.

2015 Chairman Goodlatte. The clerk will report the

2016 amendment.

2017 Ms. Adcock. Amendment to H.R. 469, offered by Mr.

2018 Cicilline. Page 3, line 10, strike "and" and insert "other

2019 than accepted consent decree or settlement agreement." Page

2020 3, line 2, strike the period and insert "and." Page 3,

2021 insert after line 21 the following.

2022 [The amendment of Mr. Cicilline follows:]

2023 ***** COMMITTEE INSERT *****

2024 Chairman Goodlatte. Without objection, the amendment
2025 is considered as read and the gentleman is recognized on his
2026 amendment.

2027 Mr. Cicilline. Thank you, Mr. Chairman. My amendment
2028 would exempt from H.R. 469 any settlement or consent decree
2029 that relate to a deadline established by Congress to address
2030 the misuse of prescription painkillers established by
2031 statutes, such as under the Comprehensive Addiction and
2032 Recovery Act of 2016.

2033 Opioid addiction is a public health crisis that is
2034 devastating our local communities. Rhode Island, my home
2035 State, has one of the Nation's highest rates of death due to
2036 drug use, addiction, and overdose related to opiates. But
2037 Rhode Island is not alone in the fight to save lives through
2038 policy designed to ensure the treatment and prevention of
2039 opioid abuse. Nationwide, the Centers for Disease Control
2040 reports that opioids contributed to the death of 28,647
2041 Americans in 2014, while new research demonstrates that the
2042 amount of opioids prescribed remains approximately three
2043 times as high as in 1999.

2044 In response to this concern, Congress enacted the
2045 Comprehensive Addiction and Recovery Act of 2016, the first
2046 major Federal law enacted to address the opioid epidemic,
2047 that was passed with overwhelming bipartisan support.

2048 Among its requirement to improve the treatment and

2049 recovery of opioid addiction, this law requires that the
2050 Department of Health and Human Services implement
2051 regulations within 18 months of the bill's enactment to
2052 provide for best practices for the treatment of opioid-
2053 dependent patients based on consultation with experts in
2054 opioid use disorder research and treatment. But should the
2055 agency miss this deadline, any citizen with standing could
2056 file a deadline lawsuit to ensure that the agency implements
2057 its requirement on an agreed-upon schedule.

2058 This is only one example of a statutory deadline
2059 established by Congress to ensure swift and effective agency
2060 action to respond to a public health crisis. H.R. 469,
2061 however, would paralyze this process by requiring notice and
2062 comment prior to the settlement of deadline suits and
2063 allowing practically unlimited intervention in these cases.

2064 Mr. Chairman, we all agree that the Federal government
2065 must do more to combat opioid addiction and assist medical
2066 providers in providing the best treatment and recovery
2067 options for patients. I urge my colleagues to support my
2068 amendment to ensure that H.R. 469 does not impede this
2069 important goal.

2070 And I would ask unanimous consent, Mr. Chairman, to
2071 insert in the record a letter from the Coalition for
2072 Sensible Safeguards in opposition to the bill, which says,
2073 in part, "The Sunshine for Regulatory Decrees and

2074 Settlements Act is an assault on the public protections and
2075 safeguards required by the laws Congress passed to protect
2076 the health, safety, and welfare of all Americans. H.R.469
2077 would waste the limited time and resources of agencies,
2078 courts, and the American public," and they express their
2079 strong opposition. And with that, Mr. Chairman, I yield
2080 back the balance of my time.

2081 Chairman Goodlatte. Was the gentleman asking unanimous
2082 consent that that letter be made a part of the record?

2083 Mr. Cicilline. Yes.

2084 Chairman Goodlatte. Without objection, it will be made
2085 a part of the record.

2086 [The information follows:]

2087 ***** COMMITTEE INSERT *****

2088 Chairman Goodlatte. For what purpose does the
2089 gentleman from Georgia seek recognition?

2090 Mr. Collins. Mr. Chairman, I oppose the amendment.

2091 Chairman Goodlatte. The gentleman is recognized for 5
2092 minutes.

2093 Mr. Collins. Thank you, Mr. Chairman. Look, I agree
2094 with my friend from Rhode Island. The opioid crisis is
2095 devastating. It is severe in his State as much as it is in
2096 my part of the world as well, and we have already
2097 appropriated funds to address this.

2098 He made a great deal to mention about the Comprehensive
2099 Addiction and Recovery Act of 2016, and I think one of the
2100 interesting things that was pointed out there was the simple
2101 fact that it required the Department to actually have
2102 consultation and find best practices. It actually opened up
2103 the process. I think this is exactly what we are trying to
2104 do here, is have a process that works; again, not getting
2105 rid of consent decrees, removing that part of the judicial
2106 review, but also having the fact that what we are trying to
2107 do is not seek to have less transparency but more, not less
2108 public participation but more. And I think this is just
2109 another issue that would be best addressed as it is
2110 currently.

2111 Locals know best how to address this issue. This
2112 amendment, frankly, would exempt that and reduce the input

2113 accordingly. I would urge my colleagues to oppose this
2114 amendment. I appreciate the gentleman bringing -- this is a
2115 big issue that we are continuing to address in Congress. I
2116 just do not believe it is right here and would oppose the
2117 amendment and yield back.

2118 Mr. Conyers. Mr. Chairman?

2119 Mr. Chabot. [Presiding.] The gentleman yields back and
2120 the ranking member is recognized.

2121 Mr. Conyers. I support this amendment and ask
2122 unanimous consent to proceed for the regular amount of time.

2123 Mr. Chabot. The gentleman is recognized for 5 minutes.

2124 Mr. Conyers. Thank you. Members, exception for
2125 consent decrees or settlement agreements relating to
2126 statutory deadlines to address the misuse of prescription
2127 painkillers is exceedingly important. I support the
2128 gentleman from Rhode Island's amendment, which is designed
2129 to ensure that H.R. 469 does not prevent the enforcement of
2130 a statutory deadline established by Congress to address the
2131 opioid epidemic crisis. These issues must be separated.

2132 We are in the midst of a major public health crisis
2133 caused by prescription opioid abuse. Drug overdoses are now
2134 the leading cause of death in our Nation. This crisis
2135 affects Americans of all ages, races, income levels, in our
2136 cities, suburbs, and rural areas across America. In 2016,
2137 last year, Congress enacted the Comprehensive Addiction and

2138 Recovery Act, the first comprehensive effort to address this
2139 crisis. Among its requirements, this law establishes
2140 statutory deadlines for the Department of Health and Human
2141 Services regarding best practices for the treatment of
2142 opioid abuse. But as President Obama noted when signing
2143 this bill, the Addiction and Recovery Act, into law, he said
2144 that it only includes modest steps to address the opioid
2145 epidemic, and he was right.

2146 Congress, we in Judiciary, can and should do more to
2147 support our local communities and American families who are
2148 in desperate need of assistance. H.R. 469, however, would
2149 encumber these efforts for any law relating to opioid
2150 treatment, addiction, and recovery.

2151 The bill open the floodgates to industry challenges
2152 that would delay the resolution of pending litigation by
2153 changing the standard for third-party intervention and
2154 underlying litigation. Section 3(b) of the bill requires
2155 courts to presume, subject to rebuttal, that almost any
2156 private third party be allowed to intervene in litigation
2157 between a public interest group and a Federal agency
2158 concerning a regulatory action that would require that such
2159 third party be permitted to participate in settlement
2160 negotiation between two litigants.

2161 Effectively, this shift in the burden of proof makes it
2162 much easier for any entity that is not already a party to

2163 the case to intervene in a case involving a consent decree
2164 or settlement agreement that seeks to compel agency action.
2165 By greatly expanding opportunities for industry to slow down
2166 this process, H.R. 469 effectively makes it more expensive
2167 for agencies to do what Congress has mandated it to do,
2168 while imposing greater costs and strains on the judicial
2169 system and in the process waste countless taxpayer dollars
2170 in costly procedural delays.

2171 H.R. 469 also imports a burdensome and time-consuming
2172 notice and comment process into litigation involving these
2173 suits. These provisions are designed to prevent the timely
2174 enforcement of statutory deadlines such as those designed to
2175 ensure the safe and effective treatment of opioid abuse
2176 patients. Accordingly, I urge all the members of the
2177 committee to support this important amendment. I thank the
2178 chairman and yield.

2179 Mr. Chabot. Thank you very much. The gentleman's time
2180 is expired.

2181 Mr. Raskin. I move to strike the last word.

2182 Mr. Chabot. The gentleman from Maryland is recognized.

2183 Mr. Raskin. Mr. Chairman, thank you so much. Having
2184 spent some time in the more rural parts of my district over
2185 the weekend in talking to people affected by the opioid
2186 crisis, I want to rise in favor of Mr. Cicilline's
2187 amendment.

2188 There is more than one person every day who dies in my
2189 State, in Maryland, from the opioid crisis. I daresay that
2190 is probably the case in the States of everybody on this
2191 committee and it might be as many two, three, four, five
2192 people who are dying every single day. So, Mr. Cicilline's
2193 amendment simply makes clear that a covered consent decree
2194 or settlement agreement pertaining to a deadline established
2195 by Congress, through the enactment of Federal statute to
2196 address the misuse of prescription painkillers, will not be
2197 blocked by virtue of passage of this legislation, and given
2198 what Congress did last year with comprehensive legislation
2199 to try to deal with this, it would make no sense for us to
2200 undermine our own efforts to deal with the opioid crisis.

2201 We want to make sure that the Federal agencies have
2202 every possible power, every possible tool in the toolkit, in
2203 order to go forward to address effectively the opioid crisis
2204 that is engulfing our country. So, I rise in very strong
2205 favor of Mr. Cicilline's amendment and I yield back to you,
2206 Mr. Chairman.

2207 Mr. Chabot. Thank you. The gentleman yields back.
2208 Does any other member seek recognition? If not, the
2209 question is on the amendment.

2210 Those in favor, say aye.

2211 Those opposed, no.

2212 In the opinion of the chair, the noes have it and the

2213 amendment is not agreed to.

2214 Mr. Cicilline. Mr. Chairman, I request a recorded

2215 vote.

2216 Mr. Chabot. The clerk will call the roll.

2217 Ms. Adcock. Mr. Goodlatte?

2218 Mr. Chabot. No. Well, I am sure he will be a no. I

2219 was just --

2220 Ms. Adcock. Mr. Sensenbrenner?

2221 [No response.]

2222 Mr. Smith?

2223 [No response.]

2224 Mr. Chabot?

2225 Mr. Chabot. No.

2226 Ms. Adcock. Mr. Chabot votes no.

2227 Mr. Issa?

2228 [No response.]

2229 Mr. King?

2230 Mr. King. No.

2231 Ms. Adcock. Mr. King votes no.

2232 Mr. Franks?

2233 Mr. Franks. No.

2234 Ms. Adcock. Mr. Franks votes no.

2235 Mr. Gohmert?

2236 Mr. Gohmert. No.

2237 Ms. Adcock. Mr. Gohmert votes no.

2238 Mr. Jordan?
2239 [No response.]
2240 Mr. Poe?
2241 [No response.]
2242 Mr. Marino?
2243 Mr. Marino. No.
2244 Ms. Adcock. Mr. Marino votes no.
2245 Mr. Gowdy?
2246 [No response.]
2247 Mr. Labrador?
2248 Mr. Labrador. No.
2249 Ms. Adcock. Mr. Labrador votes no.
2250 Mr. Farenthold?
2251 [No response.]
2252 Mr. Collins?
2253 Mr. Collins. No.
2254 Ms. Adcock. Mr. Collins votes no.
2255 Mr. DeSantis?
2256 [No response.]
2257 Mr. Buck?
2258 Mr. Buck. No.
2259 Ms. Adcock. Mr. Buck votes no.
2260 Mr. Ratcliffe?
2261 Mr. Ratcliffe. No.
2262 Ms. Adcock. Mr. Ratcliffe votes no.

2263 Mrs. Roby?
2264 [No response.]
2265 Mr. Gaetz?
2266 Mr. Gaetz. No.
2267 Ms. Adcock. Mr. Gaetz votes no.
2268 Mr. Johnson of Louisiana?
2269 Mr. Johnson of Louisiana. No.
2270 Ms. Adcock. Mr. Johnson votes no.
2271 Mr. Biggs?
2272 [No response.]
2273 Mr. Rutherford?
2274 Mr. Rutherford. No.
2275 Ms. Adcock. Mr. Rutherford votes no.
2276 Mrs. Handel?
2277 Mrs. Handel. No.
2278 Ms. Adcock. Mrs. Handel votes no.
2279 Mr. Conyers?
2280 Mr. Conyers. Aye.
2281 Ms. Adcock. Mr. Conyers votes aye.
2282 Mr. Nadler?
2283 Mr. Nadler. Aye.
2284 Ms. Adcock. Mr. Nadler votes aye.
2285 Ms. Lofgren?
2286 [No response.]
2287 Ms. Jackson Lee?

2288 [No response.]
2289 Mr. Cohen?
2290 Mr. Cohen. Aye.
2291 Ms. Adcock. Mr. Cohen votes aye.
2292 Mr. Johnson of Georgia?
2293 [No response.]
2294 Mr. Deutch?
2295 [No response.]
2296 Mr. Gutierrez?
2297 [No response.]
2298 Ms. Bass?
2299 [No response.]
2300 Mr. Richmond?
2301 [No response.]
2302 Mr. Jeffries?
2303 [No response.]
2304 Mr. Cicilline?
2305 Mr. Cicilline. Aye.
2306 Ms. Adcock. Mr. Cicilline votes aye.
2307 Mr. Swalwell?
2308 [No response.]
2309 Mr. Lieu?
2310 [No response.]
2311 Mr. Raskin?
2312 Mr. Raskin. Aye.

2313 Ms. Adcock. Mr. Raskin votes aye.

2314 Ms. Jayapal?

2315 Ms. Jayapal. Aye.

2316 Ms. Adcock. Ms. Jayapal votes aye.

2317 Mr. Schneider?

2318 Mr. Schneider. Aye.

2319 Ms. Adcock. Mr. Schneider votes aye.

2320 Mr. Chabot. The gentleman from Virginia?

2321 Chairman Goodlatte. No.

2322 Ms. Adcock. Mr. Goodlatte votes no.

2323 Mr. Chabot. The gentleman from Texas?

2324 Mr. Poe. No.

2325 Ms. Adcock. Mr. Poe votes no.

2326 Mr. Chabot. The gentlelady from California?

2327 Ms. Lofgren. Aye.

2328 Ms. Adcock. Ms. Lofgren votes aye.

2329 Mr. Chabot. Are there any other members who seek

2330 recognition? If not, the clerk will report.

2331 Ms. Adcock. Mr. Chairman, 8 members voted aye, 15

2332 members voted no.

2333 Mr. Chabot. And the amendment is not agreed to.

2334 Are there any other members who seek to make an

2335 amendment to the bill? If not, a recorded quorum being

2336 present, the question is on the motion to report the bill

2337 H.R. 469 favorably to the House.

2338 Those in favor, say aye.

2339 Those opposed, no.

2340 The ayes have it and the bill is bill is --

2341 Mr. Conyers. Recorded vote.

2342 Mr. Chabot. The clerk will call the roll.

2343 Ms. Adcock. Mr. Goodlatte?

2344 [No response.]

2345 Mr. Sensenbrenner?

2346 [No response.]

2347 Mr. Smith?

2348 [No response.]

2349 Mr. Chabot?

2350 Mr. Chabot. Aye.

2351 Ms. Adcock. Mr. Chabot votes aye.

2352 Mr. Issa?

2353 [No response.]

2354 Mr. King?

2355 Mr. King. Aye.

2356 Ms. Adcock. Mr. King votes aye.

2357 Mr. Franks?

2358 Mr. Franks. Aye.

2359 Ms. Adcock. Mr. Franks votes aye.

2360 Mr. Gohmert?

2361 Mr. Gohmert. Aye

2362 Ms. Adcock. Mr. Gohmert votes aye.

2363 Mr. Jordan?
2364 [No response.]
2365 Mr. Poe?
2366 [No response.]
2367 Mr. Marino?
2368 Mr. Marino. Yes.
2369 Ms. Adcock. Mr. Marino votes yes.
2370 Mr. Gowdy?
2371 [No response.]
2372 Mr. Labrador?
2373 Mr. Labrador. Yes.
2374 Ms. Adcock. Mr. Labrador votes yes.
2375 Mr. Farenthold?
2376 [No response.]
2377 Mr. Collins?
2378 Mr. Collins. Aye.
2379 Ms. Adcock. Mr. Collins votes aye.
2380 Mr. DeSantis?
2381 [No response.]
2382 Mr. Buck?
2383 Mr. Buck. Aye.
2384 Ms. Adcock. Mr. Buck votes aye.
2385 Mr. Ratcliffe?
2386 Mr. Ratcliffe. Yes.
2387 Ms. Adcock. Mr. Ratcliffe votes yes.

2388 Mrs. Roby?
2389 [No response.]
2390 Mr. Gaetz?
2391 [No response.]
2392 Mr. Johnson of Louisiana?
2393 Mr. Johnson of Louisiana. Aye.
2394 Ms. Adcock. Mr. Johnson votes aye.
2395 Mr. Biggs?
2396 [No response.]
2397 Mr. Rutherford?
2398 [No response.]
2399 Mrs. Handel?
2400 Mrs. Handel. Aye.
2401 Ms. Adcock. Mrs. Handel votes aye.
2402 Mr. Conyers?
2403 Mr. Conyers. No.
2404 Ms. Adcock. Mr. Conyers votes no.
2405 Mr. Nadler?
2406 Mr. Nadler. No.
2407 Ms. Adcock. Mr. Nadler votes no.
2408 Ms. Lofgren?
2409 Ms. Lofgren. No.
2410 Ms. Adcock. Ms. Lofgren votes no.
2411 Ms. Jackson Lee?
2412 [No response.]

2413 Mr. Cohen?
2414 Mr. Cohen. No.
2415 Ms. Adcock. Mr. Cohen votes no.
2416 Mr. Johnson of Georgia?
2417 [No response.]
2418 Mr. Deutch?
2419 [No response.]
2420 Mr. Gutierrez?
2421 [No response.]
2422 Ms. Bass?
2423 [No response.]
2424 Mr. Richmond?
2425 [No response.]
2426 Mr. Jeffries?
2427 [No response.]
2428 Mr. Cicilline?
2429 Mr. Cicilline. No.
2430 Ms. Adcock. Mr. Cicilline votes no.
2431 Mr. Swalwell?
2432 [No response.]
2433 Mr. Lieu?
2434 [No response.]
2435 Mr. Raskin?
2436 Mr. Raskin. No.
2437 Ms. Adcock. Mr. Raskin votes no.

2438 Ms. Jayapal?

2439 Ms. Jayapal. No.

2440 Ms. Adcock. Ms. Jayapal votes no.

2441 Mr. Schneider?

2442 Mr. Schneider. No.

2443 Ms. Adcock. Mr. Schneider votes no.

2444 Mr. Chabot. The gentleman from Virginia?

2445 Chairman Goodlatte. Aye.

2446 Ms. Adcock. Mr. Goodlatte votes aye.

2447 Mr. Chabot. The gentleman from Texas?

2448 Mr. Poe. Yes.

2449 Ms. Adcock. Mr. Poe votes yes.

2450 Mr. Chabot. The gentleman from Texas?

2451 Mr. Farenthold. Yes.

2452 Ms. Adcock. Mr. Farenthold votes yes.

2453 Mr. Chabot. The gentleman from Florida?

2454 Mr. Rutherford. Yes.

2455 Ms. Adcock. Mr. Rutherford votes yes.

2456 Mr. Chabot. Are there any other members who wish to

2457 vote? If not, the clerk will report.

2458 Ms. Adcock. Mr. Chairman, 15 members voted aye, 8

2459 members voted no.

2460 Mr. Chabot. The ayes have it and the bill is ordered

2461 reported favorably to the House and members will have 2 days

2462 to submit views.

2463 All right, we want to thank all members for their
2464 participation this morning and if there is no further
2465 business to come before the committee, we are adjourned.

2466 [Whereupon, at 12:58 p.m., the committee was
2467 adjourned.]