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MARKUP OF

H.R. 3101, THE TWENTY-FIRST CENTURY COMMUNICATIONS AND VIDEO ACCESSIBILITY ACT OF 2010, AMENDED;

H.R. 4692, THE NATIONAL MANUFACTURING STRATEGY ACT OF 2010;

H.R. 5156, THE CLEAN ENERGY TECHNOLOGY MANUFACTURING AND EXPORT ASSISTANCE ACT, AMENDED;

H.R. 4678, THE FOREIGN MANUFACTURER LEGAL ACCOUNTABILITY ACT OF 2010, AMENDED; AND

H.R. 3655, THE BEREAVED CONSUMER'S BILL OF RIGHTS ACT, AMENDED

WEDNESDAY, JULY 21, 2010

House of Representatives,

Committee on Energy and Commerce,

Washington, D.C.

The committee met, pursuant to call, at 10:08 a.m., in Room 2123, Rayburn House Office Building, Hon. Henry A. Waxman [chairman of the committee] presiding.

Present: Representatives Waxman, Dingell, Markey, Boucher, Pallone, Rush, Eshoo, Stupak, Engel, Green, DeGette, Capps, Doyle, Harman, Schakowsky, Gonzalez, Inslee, Baldwin, Ross, Weiner, Matheson, Butterfield, Melancon, Barrow, Hill, Matsui, Christensen, Castor, Sarbanes, Murphy of Connecticut, Space, McNerney, Sutton, Braley, Welch, Barton, Hall, Upton, Stearns, Whitfield, Shimkus, Shadegg, Blunt, Buyer, Radanovich, Pitts, Bono Mack, Terry, Rogers, Murphy of Pennsylvania, Burgess, Blackburn, Gingrey, Scalise, Griffith, and Latta.

Staff Present: Phil Barnett, Staff Director; Kristin Amerling, Chief Counsel; Bruce Wolpe, Senior Advisor; Caitlin Haberman, Special Assistant; Peter Ketcham-Colwill, Special Assistant; Neil Fried, Minority Counsel; Shannon Weinberg, Minority Counsel; Aaron Cutler, Minority Counsel; Will Carty, Minority Professional Staff; Brian McCullough, Minority Professional Staff; Garrett Golding, Minority Legislative Analyst; and Sam Costello, Minority Legislative Analyst.

The Chairman. The committee will please come to order. Today the committee is considering five measures: H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act of 2010; H.R. 4692, the National Manufacturing Strategy Act of 2010; H.R. 5156, the Clean Energy Technology Manufacturing and Export Assistance Act; H.R. 4678, the Foreign Manufacturer Legal Accountability Act of 2010; and H.R. 3655, the Bereaved Consumer's Bill of Rights.

We will have opening statements now, 5 minutes for the chairman and ranking member of the full committee, the Subcommittee on Communications, Technology and the Internet, and Subcommittee on Commerce, Trade and Consumer Protection, and the chairman emeritus. Two minutes for all other members.

H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act of 2010 brings digital technology and media to the disabilities community.

[The information follows:]

******** INSERT 1-1 ********

The Chairman. This bill is civil rights legislation for the 21st century. We should do everything we can to ensure that all Americans have access to the tremendous opportunity the Internet provides.

And I want to thank Mr. Markey, Boucher, Barton and Stearns, as well as their staffs, for supporting this effort in helping us get to this point in a truly bipartisan fashion.

This bill, while not perfect, has consensus from both sides of the able, the disabilities community, and numerous industry groups. Throughout this process, we have worked closely with all stakeholders to make improvements and find the creative solutions and flexibility that our evolving technology sector requires. I am especially pleased with the changes we made to the video description section and the eventual inclusion of all television markets throughout the United States.

Thanks to this legislation, blind individuals throughout the country will have access to video-described programming. This legislation will make a significant difference in the lives of millions of Americans, I hope we can complete our work in the House to mark the 20th Anniversary of the Americans With Disabilities Act next week and move together with the Senate to get a bill to the President in short order.

H.R. 5156, the Clean Energy Technology Manufacturing and Export Assistance Act, introduced by Ms. Matsui, will ensure that

clean energy technology firms have the information and assistance they need to be competitive at home and abroad.

[The information follows:]

******** INSERT 1-2 ********

The Chairman. The United States should have a greater share of the large and growing market for clean energy technology and this bill advances that strategic goal.

The bill provides funds for the International Trade Administration to promote policies that reduce production costs and encourage innovation investment and productivity. The bill also directs ITA to implement a National Clean Energy Technology Export Strategy. And I thank Ms. Matsui for bringing this bill to the committee and urge my colleagues to support it.

H.R. 4692, the National Manufacturing Strategy Act, mandates the development of a national manufacturing strategy.

[The information follows:]

******** INSERT 1-3 ********

The Chairman. Manufacturing is critical to our economy. Yet over the past 10 years, we have lost a third of the U.S. manufacturing jobs. This bill provides a comprehensive analysis of our manufacturing sector coupled with an ongoing strategy that sets out short- and long-term goals for manufacturing and recommendations for achieving these goals.

I would like to thank my colleagues on both sides of the aisle for their contributions to this bill, and I will be offering the substitute amendment that incorporates many of the suggestions.

The Foreign Manufacturer Legal Accountability Act, introduced by Ms. Sutton, establishes State and Federal court jurisdiction over foreign manufacturers who send to the U.S. finished products and component parts for assembly here.

[The information follows:]

******** INSERT 1-4 ********

The Chairman. It is no secret that the vast majority of recalls in recent years of defective or dangerous products have involved goods from overseas. Foreign manufacturers are willing to take advantage of the opportunity to sell in the U.S. but often fight to avoid the responsibilities with respect to safety and legal liability that apply to U.S. companies.

This bill changes that. If foreign manufacturers do business in the U.S., then they have to do so on the same footing as U.S. companies that manufacture and sell products here.

And, finally, H.R. 3655, the Bereaved Consumer's Bill of Rights, is a priority for subcommittee chairman, Bobby Rush, and I am pleased to bring it before the committee.

[The information follows:]

******** INSERT 1-5 ********

The Chairman. Grieving families arranging services, cremations, or burial for lost loved ones are at risk of being treated unfairly at an especially vulnerable time. Most families in this situation are not familiar with the funeral and burial industry. They are not price shopping and cannot use prior experience as consumers to guide them as they make decisions.

This legislation would address the risk of potential fraud, deception, and unfair practices by establishing a minimum standard for consumer protection across the funeral industry. The FTC already enforces the funeral rule, which requires funeral homes to present price lists and provide certain essential information to families planning funerals. This legislation would extend that type of protection to consumers dealing with cemeteries, crematoria, and sellers of funeral goods such as caskets and memorial stones.

We will take up these bills today and I look forward to the consideration by our members of these important legislation.

I want to yield to Mr. Barton for an opening statement.

[The prepared statement of Chairman Waxman follows:]

******** INSERT 1-6 ********

Mr. Barton. Thank you, Mr. Chairman, for conducting the markup today. We have got four or five bills before us: The Twenty-First Century Communications and Video Act, H.R. 3101; the Cemetery and Funeral Act, H.R. 3655; the Foreign Manufacturer Legal Accountability Act, H.R. 4678; Clean Technology Energy Act, 5156. Finally, the National Manufacturing Strategy Act, 4692.

Several of the bills the majority has worked with the minority on a bipartisan basis, and I think as a consequence those bills are better for the process. Some of the other bills, there has not been such bipartisanship. In my opinion, there are numerous issues to be dealt with.

In terms of H.R. 3101, the Communications and Video Accessibility Act, we have seen in the last 10 years huge successes in the competitive landscaping and in the marketplace in terms of telecommunication policy. There has never been anything like it in the history of this country. Sadly, the FCC yesterday seemed to ignore the developments that have actually happened in the marketplace. Saying that the private sector can't blanket every inch of America with advanced telecommunications is one thing, but implying that broadband expansion is stalled and that only the taxpayers' money can jump-start it is simply deceptive.

The fact is that 95 percent of our country has access to broadband. We have jumped from 8 million subscribers to 200 million in 10 years. I am willing to reform the Universal Service

Fund And target any subsidies to the unserved places that remain. But the FCC should not use the existence of those few nooks and crannies as an excuse to impose Washington wisdom over private sector performance. One of the many reasons that this sector has boomed in the last 10 years is because we have avoided government-driven technological mandates. That potential pitfall presents itself again today.

Encouraging and pushing the industry to address the needs of people who are disabled by the absence of sight or hearing is a noble goal. But instead of dictating the solution, it seems the best idea we can come up with -- I think our job is to extend the benefits of the Internet revolution to people with disabilities by letting the innovators innovate. In my opinion, the appropriate path is to set accessibility goals for the industry, give them reasonable timelines, and then let people who are smarter than us show everybody how to get the job done right.

I am pleased that the manager's amendment will make some of the changes that will ensure that this is the case. I do want to say that the majority has worked in a bipartisan process on this bill. I hope that we continue to work in that same fashion.

In terms of the other four bills before us, the Foreign Manufacturer Legal Accountability Act has a number of problems. It sounds like good policy. Who could be opposed to holding foreign manufacturers accountable? But the bill sets aside the Hague Convention to which we are a signatory, creates a new system

which probably violates multiple World Trade Organization rules. I don't think that makes much sense.

As currently drafted, the legislation would reach all the way down to the global supply chain, to the supplier of raw materials, and require each to have a registered agent in the United States for the purpose of receiving service of process and thereby expose themselves to the jurisdiction of the U.S. courts for any civil matter, not just product liability.

These requirements will strain the supply chains of American companies and may scare away foreign business. I have serious concerns that our trading partners will retaliate with more suffocating provisions similar to those that we experienced following the enactment of the Smoot-Hawley Tariff Act in the late 1920s, which as we all know, is one of the primary causes of the Great Depression of the 1930s.

The next bill is the Clean Energy Technology Manufacturing and Export Assistance Act. This bill would authorize, but not pay for, $75 million to assist businesses in developing and exporting clean energy technology. Seventy-five million is a drop in the bucket compared to the major pieces of legislation we have moved through committee recently, but it still is an additional $75 million. It is not paid for.

H.R. 4692, the National Manufacturing Strategy Act, is a bill designed to avoid facing up to the real problem that is damaging American manufacturing. That is bad tax policy. It is

unfashionable to speak on behalf of employers these days, but the fact remains that the United States has the second highest corporate tax rate in the developed world and will soon move into the top spot once Japan's government turns away from taxation and towards job growth.

Growth in manufacturing requires resources when the American Government is taking an extra 10 percent off the top compared to our global competitors. That simply will not happen. Instead of addressing the real issue, this bill spends 16 pages creating a new commission and a variety of studies. I don't think that is a very good idea for the committee to do.

And finally, last but not least, is H.R. 3655, the Bereaved Consumer Bill of Rights. Let me say the events that happened at Burr Oak were appalling. They were also highly illegal. State government has authority to do what needs to be done to solve these types of issues. This is not an area the Federal Government needs to preempt the States. I know the intention of the author is well intentioned, I know the goals of the bill are noble, but we simply don't need Federal regulation in this area. So I am honestly disappointed that 3655 is on the docket here in the full committee. But it is what it is.

With that, Mr. Chairman, I yield back. And I thank you for the courtesy of extending me an extra minute.

The Chairman. Thank you very much, Mr. Barton.

[The information follows:]

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

The Chairman. Mr. Boucher, I want to recognize you next.

Mr. Boucher. Well, thank you very much, Mr. Chairman. Today, among other measures, the subcommittee is processing legislation introduced by our colleague Mr. Markey that will modernize the laws governing access to communication services by individuals with disabilities. Next Monday marks the 20th Anniversary of the Americans With Disabilities Act. It is a significant milestone and we certainly have come a long way in the 2 decades since 1990.

We have also seen significant technological change since Congress first adopted the ADA, including the emergence of the Internet as a core communications infrastructure, the daily use by many Americans of e-mail, text messaging and video conferencing, both at home and at work, and increasing use of the Internet to view video programming. It is timely to modernize the communications laws to assure that these and other new technologies are accessible to individuals who have either vision or hearing impairment.

As we learned during the legislative hearing before our subcommittee, there are almost 1 million Americans who have severe or profound hearing loss, more than 1 million who are legally blind. Four percent of the population has great difficulty hearing and an additional 3 percent are visually impaired.

Americans are also aging. There are approximately 40 million

people over the age of 65 living in the United States today. That is about 13 percent of our population. One estimate shows that by the year 2050, that number will more than double to 88.5 million, an estimated one-fifth of our population. Naturally, this growth in the aging population will be accompanied by an increase in the number of Americans who are vision- or hearing-impaired and who will need accessible communications, products or services. We are modernizing the communications laws to meet those needs. And we have done so in a bipartisan process.

I want to commend Mr. Markey for his leadership and his persistence in bringing before our committee this much needed update of our communications laws. He is committed to this subject and he has done a magnificent job, in my opinion, in highlighting this concern and ensuring that it was addressed by the committee.

I also want to thank all of the stakeholders who have worked with us in a very collegial process as we have considered a wide range of recommendations received from the disabilities community, from industry, and from others, and then a bipartisan process involving members of the committee on both sides of the aisle have processed those recommendations. And shortly I will be offering an amendment in the nature of a substitute that embodies the work of that bipartisan group.

Mr. Chairman, this reform is long needed. It is appropriate that we take this action today and I want to thank all members who

have worked cooperatively to bring this measure now to the brink of passage. Thank you. And I yield back.

The Chairman. Thank you very much, Chairman Boucher.

[The information follows:]

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

The Chairman. I wish to recognize at this time the ranking member of Mr. Boucher's subcommittee, the gentleman from Florida, Mr. Stearns, for 5 minutes.

Mr. Stearns. Good morning. And thank you, Mr. Chairman. The bills I will talk about -- I don't have as complete an understanding of some of them as I do of H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act. And this is the one that perhaps I will concentrate a little bit more on.

Again, I want to reach out and say to you, Mr. Chairman, how much I appreciate your willingness to work with both Mr. Barton and I, and obviously Mr. Boucher and Mr. Markey. And I think it was very refreshing to get that kind of dialogue as we had yesterday in a meeting, and I think we reached some kind of consensus.

At the legislative hearing on this bill, I mentioned that as technological revolution speeds along, it is important, obviously, that people with disabilities are not left behind. All people, as Mr. Boucher pointed out, should be afforded the opportunity to enjoy the wide variety of technological devices that are available. I think we agree on that point. We cannot mandate, however, certain technologies and pick winners and losers. The best approach to ensuring accessibility is to establish accessibility goals but not dictate how to accomplish them. We

need to allow innovation to flourish and make the changes.

I was concerned about the overall scope of the original legislation and the technology mandates that were first included. However, as pointed out, the manager's amendment will fix many of the problems I had with the bill. So I look forward to discussing this legislation further when we consider the manager's amendment later this morning.

I would now like to address a few of the bills that came out of the Commerce, Trade, Consumer Protection Subcommittee that we are marking up today. Now, my, colleagues, as well intentioned as the bill H.R. 4678 is, the concerns I have with it, as a foreign manufacturer's legal accountability act, the overly broad language in the manager's amendment adopted at the subcommittee is particularly problematic. Specifically, the expansion of the scope of the bill to include foreign automobiles and especially foreign auto parts manufactured is unnecessary and has the potential to wreak havoc on our manufacturers' supply chains.

To begin with, foreign auto companies have well-established U.S. subsidiaries and have registered agents in every State. Extending this bill so it encompasses foreign manufacturers of component parts of automobiles will have unintended consequences. There are thousands of foreign component manufacturers. Many of these companies do not export anything to the United States, but some of the parts they produce are used on vehicles that are later exported to our country. This bill requires these auto part

manufacturers to also have a registered agent in the United States to receive service of process and waive its rights, waive its rights to argue that it should not be subject to particular legal actions in United States courts.

H.R. 4678 also appears to violate World Trade Organization rules. Now, H.R. 4678 could result in retaliatory measures by our major trade partners, including the European Union and Canada. It should also be noted that we have laws in place already that require foreign manufacturers to register with foreign agencies and/or have a registered agent in the United States, such as the Bioterrorism Act.

I support holding foreign manufacturers accountable for the goods they export to the United States and I support protecting consumers from harmful goods coming into our market, but I think this bill is not the right approach.

Let me just conclude, Mr. Chairman, by mentioning something that has come up which might be through the grapevine, but I still think it is important, Mr. Chairman, that we talk about it.

As you know, shortly we will be adjourning for a rather long district work period. There are some conversations that during this district work period, that Chairman Genachowski, the Chairman of the FCC, may choose to add broadband reclassification to the agenda of the Commission's September 16th opening meeting. I hope, Mr. Chairman, this isn't the case. Given the behind-the-scenes work that would have to take place at the

Commission, such a move would indicate little or no analysis or consideration was given to the comments and reply comments that were filed on the issue during the comment period. I understand there were 8,000 pages that have been filed as of to date on this particular issue.

I think it would be disrespectful to the bicameral, bipartisan staff discussions that you and others, me and Mr. Boucher, and including others, have launched. While it might be difficult, those discussions do suggest there is a path, a path to a narrowly targeted bill. But realistically, placing this issue on the FCC's September agenda would give Congress only a few days to react upon our return in September. So I urge, Mr. Chairman, you and others in the majority to consult with Chairman Genachowski and see if you can delay, at least until October, his discussion and its possible markup of this reclassification. Thank you, Mr. Chairman.

The Chairman. Thank you, Mr. Stearns.

[The information follows:]

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The Chairman. The chair recognizes the chairman emeritus of the committee, Mr. Dingell for 5 minutes.

Mr. Dingell. Mr. Chairman, I thank you and I ask unanimous consent to revise and extend my remarks and insert my opening statement into the record.

The Chairman. Without objection, that will be the order. The gentleman yields back his time.

[The information follows:]

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The Chairman. I will now go to Mr. Shimkus for his opening comments.

Mr. Shimkus. I have none, Mr. Chairman. Thank you

The Chairman. Mr. Pitts. Members of the Republican side, members seeking recognition for an opening statement? Mrs. Blackburn.

Mrs. Blackburn. Thank you, Mr. Chairman. As we consider moving a handful of bills to the floor this morning, I am once again concerned with the overreaching nature of some of these pieces of legislation. Industry needs certainty to thrive and continue to invest and create jobs.

As I have repeatedly said through the conversation on the disability bill, we need to strike the right balance between promoting innovation from the industries that create these technologies and the incredible access that is there for the disabled community. I don't feel we are quite there yet. I do think we are heading in the right direction. But I do think we need to be very mindful of that balance.

Additionally, Mr. Chairman, we are considering a bill to create a new fund for international trade in energy technology exports. I support creating more access to foreign markets for our industry, but H.R. 5156 does not do that. Instead, it promotes specific and short-sighted energy policies that pick winners and losers in the market and does not address primary

trade barriers. Rather than pass H.R. 5156, we should be encouraging this Congress and this administration to move toward a free-trade agreement, move forward on those free-trade agreements to jump-start our economy and create jobs.

And I am equally disturbed by H.R. 4678, because it will harm U.S. companies and do little to protect consumers from unscrupulous foreign companies that import defective or harmful products. This gift is nothing more than a gift to the labor industry in an election year. These foreign manufacturers with U.S. subsidiaries should be exempted from coverage because they are already fully accountable for the safety of their products under applicable regulators and tort law.

Thank you. And I yield back my time.

The Chairman. Thank you very much, Mrs. Blackburn.

[The information follows:]

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

The Chairman. Mr. Markey.

Mr. Markey. I thank you, Mr. Chairman, very much. And I want to begin by thanking you, Mr. Chairman, for your leadership in making it possible for us to bring H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act here to the committee. Your leadership and the leadership of Chairman Boucher has helped us to create something which I think is going to resound throughout this century as a historic turning point in terms of our relationship with the technology and the community in which, unfortunately, historically has not had the same access as everyone else. But I have to note as well that Mr. Barton and Mr. Stearns have been working on a bipartisan basis in order to accomplish that goal as well -- which is appropriate for legislation in this area.

I want to thank and praise the coalition of organizations for accessible technology. They are all out here. And they deserve the bulk of the credit for just pressing on this issue for years and years. And that is why we are here today. And thank you all for your excellent work in making it possible for us to be here today, and to all the industries that have worked to make it possible for us to reach this consensus here today. It has been I think a work that everyone ultimately can be proud of.

I am pleased that we have expanded the availability of video descriptions of television shows to media markets all across the

country so that Americans who are blind, the visually impaired, can more fully enjoy TV programming no matter where they happen to live. And I also pleased that we have provided the Commission the authority it needs to increase, after appropriate time and study, the amount of additional programming that could be distributed in the future for Americans who are blind, who have vision impairment.

Mr. Chairman, again I cannot thank you enough for your leadership on this issue and I hope that all members can support this legislation today.

The Chairman. Thank you, Mr. Markey.

[The information follows:]

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The Chairman. The chair looks to the Republican side if a member wishes to make an opening statement. The gentleman from Ohio.

Mr. Latta. Mr. Chairman, I ask unanimous consent to --

The Chairman. Let me ask unanimous consent that all members may be able to insert an opening statement in the record. We shouldn't have to do it one by one.

[The information follows:]

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The Chairman. The gentleman from Georgia seeks recognition for an opening statement?

Dr. Gingrey. Yes.

The Chairman. The gentleman is recognized.

Dr. Gingrey. Thank you, Chairman. Mr. Chairman, I want to thank you for calling today's markup on several pieces of legislation, many of which have been reported back to the full committee by the Subcommittee on Commerce, Trade and Consumer Protection.

In my limited time this morning, I would like to focus on two specific matters that I believe will be important for the purposes of this markup. The first matter is H.R. 3655, the Bereaved Consumer's Bill of Rights Act. This legislation was crafted largely in response to the incident that occurred at Burr Oak Cemetery in Alsip, Illinois. It resulted in charges of the unauthorized removal of human remains from graves and the subsequent reselling of those plots. As the story continued to unravel, shocking details were revealed. And my deepest condolences go out to families whose remains were desecrated.

Unfortunately, this is not an isolated incident. In my home State of Georgia, when I was in the State Senate, just outside of my congressional district, a national scandal on this very issue occurred. In 2002, the Tri-State Crematory of Walker County was at the center of a criminal investigation where the company failed

to cremate the remains of over 300 people and, even worse, they improperly stored the remains. The bodies were spread all over several acres of property. For the families of northwest Georgia, that was a scandal; and I feel nothing but sorrow for the trauma that they experienced.

While these incidents are tragic and deplorable, I do have concerns about the legislation before us today. Specifically, H.R. 3655 does not include an exemption for religiously based cemeteries from being included in the FTC's jurisdiction of this bill.

At the appropriate time, Mr. Chairman, I will be offering an amendment to address this particular issue.

Mr. Chairman, the other issue that I will mention briefly deals with the important issue of manufacturing. While we will be examining a number of bills that attempt to help bolster the industry, I do not believe that we can effectively help manufacturing grow in this country until we enact the existing and longstanding free-trade agreement that we have with Colombia, Panama and South Korea. I urge my colleagues in the majority, please act swiftly on this matter because that is the most direct way that we can help this industry grow.

Mr. Chairman, thank you. And I yield back.

The Chairman. Thank you very much, Mr. Gingrey.

[The information follows:]

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The Chairman. Ms. Eshoo.

Ms. Eshoo. First, Mr. Chairman, thank you for calling these bills up for markup. They are five important bills. I believe that they are going to protect consumers and help our economy to grow. I just wanted to say that on the approaching 20th Anniversary of the Americans with Disabilities Act, that it is an honor to be able to cast a vote for 3101. So kudos to Congressman Markey for his continuing exceptional leadership and to all of the advocates. You are the passion, the fuel, that has really driven this and I think it is really cause for celebration. In our country, we continually seek to push the edges of the envelope out so that every American will enjoy the fruits of what we have; in this case, America's technology which is celebrated around the world.

So with that, I will yield back the balance of my time, Mr. Chairman.

The Chairman. Thank you very much, Ms. Eshoo.

[The information follows:]

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The Chairman. Mr. Blunt.

Mr. Blunt. Thank you, Mr. Chairman. Thank you for holding this markup today on these five pieces of legislation.

I would like to spend my limited time today just addressing H.R. 4678, the Foreign Manufacturer Legal Accountability Act of 2010. Most members of our committee are in agreement that protecting consumers from potentially harmful foreign imports is a top concern of this committee. To that end, the United States has entered into bilateral treaties of friendship, commerce, and navigation with numerous countries that are designed to accomplish that goal. These treaties, Mr. Chairman, require partnered countries to provide equitable treatment of companies and nationals of the other country. These treaties also specify the requirements for making valid service a process on foreign companies, which are governed under the Hague Service Convention to which the United States is a party.

To that end, there is a legitimate internationally recognized treaty already in place that governs the service of process claims that American citizens and companies can rightly file against foreign companies.

I fail, Mr. Chairman, to see the rationale in usurping this treaty and opening our domestic manufacturers and exporters to retaliatory tariffs and trade regulations which I believe this legislation would do. The main goal of this body should be to

facilitate increased trade opportunities for our domestic firms.

While I believe this legislation is well intended and seeks to inoculate domestic manufacturers from harmful foreign imports, I feel there has to be a way to accomplish this without breaking current agreements with foreign nations and without exposing our domestic industries to more hostile exporting environments. Additionally, I think this legislation may very well be a WTO violation.

Mr. Chairman, I share my colleague's concern regarding the potential harmful imports that our constituents may become exposed to because of substandard regulations. However, I think this legislation isn't the way to accomplish it and I look forward to working with you, the sponsor and others to see if we can solve this problem in other ways. And I yield back.

The Chairman. Thank you very much, Mr. Blunt.

[The information follows:]

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The Chairman. Mr. Green, do you wish to make an opening statement?

Mr. Green. Thank you, Mr. Chairman, for holding a markup on these important bills. And I am pleased we are considering two bills today that I am a cosponsor of: The Foreign Manufacturer Legal Accountability Act and the National Manufacturing Strategy Act. I believe it is necessary that we advance these bills.

The legal accountability act ensures consumers are protected from imports that lack quality control and impose a risk. The Manufacturing Strategy Act will boost our economy by directing the government to find ways to support our domestic manufacturing capabilities.

It is important we put Americans back to work. And one of the ways we can accomplish this is by improving our capacity for manufacturing. In my home district in Houston, we have a great deal of manufacturing but we have the capacity to do more. This is the story across the country. And while our unemployment has fallen from its peak, we must remain focused on job creation, both short-term and long-term.

Additionally, I am pleased that the committee is considering the Twenty-First Century Communications and Video Accessibility Act. As co-chair of the Congressional Vision Caucus, I have worked to address the challenges faced by the vision impaired. And I believe that this bill takes the necessary steps to allow

disabled individuals to be able to utilize fully Internet-based communication services and equipment better, and better access to video programming. This bill enjoys bipartisan support and I am pleased we have worked with all our counterparts on the minority side to craft a bill to expand access to the disabled while addressing the concerns they raise.

And again, I yield back my time, Mr. Chairman.

The Chairman. Thank you, Mr. Green.

[The information follows:]

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

The Chairman. Mr. Murphy, do you wish to make an opening statement? Mr. Burgess? Let us see. We go to Mr. Scalise.

Mr. Scalise. Thank you, Mr. Chairman. Today we are marking up five bills and I would like to briefly comment on each of them.

First, H.R. 3101, the Twenty-First Century Communications and Video Accessibility Act, seeks to ensure that individuals with disabilities are able to utilize Internet-based communication services and equipment and better access video programming. I support these goals and I commend my colleagues for working on this issue. I hope that through today's markup we able to improve H.R. 3101 so that it strikes the appropriate balance between promoting innovation and promoting accessibility while allowing for continued growth.

Next is H.R. 4692, the National Manufacturing Strategy Act. As I stated at last week's hearing, I support the goal of this bill but have concerns about duplicating other efforts and studies that have already been done, expanding government's role in manufacturing and conducting more studies when the industry really needs action.

I understand that my colleagues have worked to improve this bill and will have a manager's amendment to address some of those concerns. And I look forward to hearing those details. Hopefully, it will provide our manufacturing industry with the tools they need to spur innovation, promote job growth, and

provide immediate results.

I have the same concerns about H.R. 5156, the Clean Energy Technology Manufacturing and Export Assistance Act. Its intentions are good, but I am concerned that they could be achieved through the International Trade Administration's current programs. Moreover, this legislation costs $75 million. With a $1.4 trillion deficit this year, we have to stop spending money we don't have, and funding has already been increased for export promotion in the stimulus bill and in the President's budget.

Now I will turn to 4678, the Foreign Manufacturer Legal Accountability Act. As I stated at our subcommittee hearing, this legislation was brought to my attention due to the difficulties that many constituents face dealing with the toxic Chinese drywall. The intent is good, but I do have concerns about the legislation and its scope. We must examine the provisions of this bill, including those on component parts, as well as those that loop in the auto manufacturing industry.

Finally, 3655, the Bereaved Consumer's Bill of Rights Act. I have serious concerns about this legislation, as do many of my colleagues and constituents. Let me be clear that the incidents we have seen in cemeteries such as Burr Oaks are despicable and hopefully would never happen again. But this bill would not have prevented Burr Oaks from happening. We have seen that States act swiftly in response to these incidents and we should not limit their ability to police this issue in the future.

So, Mr. Chairman, the goals of all these bills appear commendable, but we must not pass legislation simply because the intent is good. We must understand the implications and we need to report effective pieces of legislation that make sense and produce results for the American people.

Thank you. And I yield back.

The Chairman. Thank you, Mr. Scalise.

[The information follows:]

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

The Chairman. I want to recognize Mr. Rush.

Mr. Rush. Thank you, Mr. Chairman. Mr. Chairman, I want to thank you for scheduling today's important markup. Four of the five legislative measures that we are considering today were favorably reported out of the Subcommittee on Commerce, Trade and Consumer Protection that I chair.

Mr. Chairman, I do want to take just a moment to congratulate the young guns, the staffers of the Commerce, Trade and Consumer Protection Subcommittee. They have done some outstanding work and I am really, really proud of them.

Before I ask you for your support on these important matters, I would like to bring your attention to a sad reality. What makes our economic recovery so complicated is not the recession itself, but the fact that we are facing severe competition from developing countries. Yes, developing countries. It may be less painful to call them emerging markets, but the bottom line is competition is real. If we don't act now, next year, I repeat next year, China will become the first manufacturing economy in the world. China also will have control over the world's strategic resources. Once the currency manipulation issue with the United States will be resolved, they will simply transfer their manufacturing capability to new frontiers like Africa where they have already established an industrial trade zone.

India, Brazil and others are also growing their economy.

Obviously they have a strategy and their strategy is working. I am glad that Congressman Lipinski has introduced H.R. 4692, the National Manufacturing Strategy Act of 2010 and Congresswoman Matsui and myself and Congressman Dingell introduced H.R. 5156, Clean Energy Technology Manufacturing and Export Assistance Act for 2010. Both bills will make our clean energy and manufacturing industry globally competitive and create jobs in America.

The two other bills I am also asking you to support will protect American consumers: H.R. 4678, the Foreign Manufacturer Legal Accountability Act of 2010, introduced by Congressman Betty Sutton, and H.R. 3655, the Bereaved Consumer's Bill of Rights Act of 2010, which I have introduced.

Recent incidents in my home State of Illinois and in Arlington National Cemetery show that regardless of their status, religious or secular, for-profit or not-for-profit and even government-run organizations, all cemeteries need to be regulated. They all serve the same sacred purpose, which is to honor and respect the remains of our loved ones. I urge my colleagues to support this bill.

Mr. Chairman, in my time remaining, I would be remiss if I did not publicly acknowledge that the hard work and commitment of, again, my highly capable and resourceful subcommittee staff, my young guns, which in the time has included volunteers from other subcommittees, all of my staff from my chief counsel to my interns, have done a yeoman's job in helping members to prepare

for hearings and markups and draft complex legislation for introduction and consideration in helping to resolve -- to move to consider a number of bills through the committee process.

With that, I yield back the balance of my time and I say thank you to these outstanding staff that I am blessed with. Thank you.

The Chairman. Thank you, Mr. Rush.

[The information follows:]

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

The Chairman. The chair now recognizes Mr. Griffith from Alabama for an opening statement.

Mr. Griffith. I would like to thank the chairman and the ranking member for calling this important markup today. The financial responsibility being conscience with our money. I think probably in no time in American history is it more important. The suffocating fog of death that is settling in over the American economy, preventing the creation of jobs, thwarting the creation of small businesses, not allowing us to compete on a global stage, sets us up to set an example for the rest of the country as far as being responsible with our moneys.

Today we will take up a bill, H.R. 5156, which will lay out a new $75 million for 5 years. This bill is not paid for. It is a bill that flies in the face of PAYGO, a concept that my Democrat colleagues have paid much lip service to, and I think at this time we need to apply it to H.R. 5156. Americans are tired of our lack of responsibility in Congress. We are watching poll after poll show that they have no confidence in our ability to manage this economy. And creating new programs that are not paid for, even though well intentioned, have a perverse effect on the economy. And we at this time are hearing economists, both liberal and conservative, predict that America is now in its third depression, not recession.

So when are we going to demonstrate some fiscal

responsibility? When will Congress curtail this spiraling out of control spending? It is time now that we reverse the spending habits of our Federal Government. We need to do it today. We need to set the example today. It is important that we ensure that this bill does not pile on to our out-of-control deficit. If we cannot pay for it now, it should not be placed in effect.

We look forward to the discussion on this bill and, Mr. Chairman, I yield back my time and will have an amendment at the time you take this up. Thank you, sir.

The Chairman. Thank you very much.

[The information follows:]

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

The Chairman. Ms. DeGette, did you wish to make -- Ms. DeGette, did you have an opening statement? Ms. Baldwin. Ms. Baldwin waives her opening statement. Ms. Matsui?

Ms. Matsui. Thank you, Mr. Chairman. Thank you for calling today's markup. In the interest of time.. I plan to use my opening primarily to discuss H.R. 5616, legislation that I, along with Chairmen Rush and Dingell and Congresswoman Eshoo, introduced to boost the competitiveness of the U.S. energy industry.

Our Nation is running a trade deficit in green technologies ranging in the billions. And the U.S. clean tech industry is lagging behind many of its competitors in exports, including Germany and China. This is simply unacceptable. We must not become a Nation dependent on foreign clean energy products. We must be the Nation that leads the world in manufacturing and exporting clean energy technologies.

H.R. 5156 will strengthen the U.S. clean energy industry by requiring the Department of Commerce, in coordination with relevant agencies, to implement and sustain a national clean energy technology export strategy to provide U.S. clean tech firms with export assistance and finding and navigating foreign markets to sell their goods and services to new customers.

The President has laid out a laudable goal to double U.S. exports over the next 5 years. And this legislation will ensure clean energy exports are at the forefront of our national export

strategy. The bill will also strengthen America's domestic clean tech manufacturing industry. Unlike big U.S. companies, small and medium-sized firms simply do not have the resources and expertise to find and navigate foreign markets and are seeking assistance. H.R. 5156 will provide the assistance many U.S. small businesses are seeking. It will also enhance our standing in the race to be the global leader in clean energy.

I urge support for H.R. 5156 and the other bills being considered today. I thank you, Mr. Chairman, for holding today's markup. I yield back the balance of my time.

The Chairman. Thank you very much, Ms. Matsui.

[The information follows:]

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

The Chairman. Mr. Murphy, do you wish to make an opening statement? The gentleman is recognized.

Mr. Murphy of Connecticut. Thank you, Mr. Chairman. And I thank you and the other leaders of the committee for bringing these bills before us today.

I am particularly excited about the three bills related to the rebirth of American manufacturing. There is no way for this economy to move forward if we do not have an ability to make things in this country. It may not be the same type of things we made 50 years ago, but we still have a capability to do manufacturing.

I have worked with Representative Lipinski in particular on the National Manufacturing Strategy Act of 2010. And while this bill I think is a very welcome move forward to have a holistic and comprehensive national strategy on manufacturing, one piece of that strategy, which is referenced in this bill and I think is particularly important, is the role of Federal procurement on national manufacturing. The fact is that this country, mainly through the defense budget, is one of the biggest, if not the biggest, purchaser of manufactured goods in this country and more and more we are buying these things overseas. I absolutely believe that we can be the leader in renewable energy technology, as Ms. Matsui's bill sets us on a course to do.

But the fact is that the companies that are making wind

turbines are likely today the companies that are making propeller blades for our helicopters. And as they go out of business, as they lose more of their share of Federal defense procurement to foreign firms, we lose our capability to do the kind of next-generation 21st century manufacturing that we know we can thrive with.

So I am really excited to see these three bills, in fact all five of these bills, before the committee today. I look forward to making sure that as we set our national manufacturing strategy going forward, that we both protect and improve upon the ability to use taxpayer dollars to buy U.S. goods. And I yield back.

The Chairman. Thank you, Mr. Murphy.

[The information follows:]

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

The Chairman. Ms. Sutton.

Ms. Sutton. Thank you, Mr. Chairman. And I want to thank Chairman Rush, as well you, Chairman Waxman, for bringing these bills forward today. In the interest of time, I am going to limit my remarks to H.R. 4678, the Foreign Manufacturer Legal Accountability Act of 2010.

Every year countless Americans are injured, sometimes fatally, by dangerous products that have been manufactured abroad and imported into the United States. And recent examples we are well familiar with, toxic drywall, faulty infant cribs, lead paint in children's toys and defective tires. These products not only hurt American consumers, they hurt American businesses. U.S. manufacturers are responsible for ensuring that products they put on the market are safe, but it is extremely difficult for injured parties to hold foreign manufacturers accountable, because they are unable to serve process or establish jurisdiction.

This bill is a bipartisan bill with 63 cosponsors. It is simple, logical, and appropriate. It is about fairness and accountability. It is about protecting consumers, leveling the playing field for American businesses. It is about encouraging the design and manufacture of safer products and giving injured consumers and businesses their day in court.

For those foreign manufacturers that reap the benefits of the American marketplace, H.R. 4678 eliminates the layers of defenses

based on service of process and personal jurisdiction that are used by the same foreign manufacturers to avoid responsibility. Globalization has provided some with the wrong incentive to cut corners, use the cheapest suppliers, forego third-party testing, manufacture cheaper products, and consumers actually worldwide become at risk.

This bill will bring out justice and put our system in sync with commerce. It is supported by the Consumer Federation of America, Consumers Union, Public Citizen, U.S. Center for Justice and Democracy, National Consumers League, National Association of Consumer Advocates and the U.S. Business and Industry Council which represents 2,000 U.S. manufacturers. With that, Mr. Chairman, I yield back.

The Chairman. Thank you, Ms. Sutton.

[The information follows:]

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

The Chairman. Mr. Space, are you interested in making an opening statement.

Mr. Space. I will waive my opening, Mr. Chairman. Thank you.

The Chairman. He waives. Mr. Sarbanes is recognized.

Mr. Sarbanes. Thank you, Mr. Chairman. I appreciate the markup today, in particular the bills relating to American manufacturing. For too long now, it seems that proposals that have been put forward with respect to manufacturing have been treated often as a nostalgic walk down memory lane, but in fact they are critical to the economy of this country. And I believe that if we have a strong emphasis on manufacturing, that American manufacturing can actually be the thing that leads us fully out of this difficult economic time that we are in and to a recovery.

So it is exciting to now see, I believe, a consensus developing around how critically important this emphasis is. And it is reflected in the three bills that we are going to be considering among those before us today. I thank you for bringing those forward and I yield back my time.

The Chairman. Thank you.

[The information follows:]

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

The Chairman. Any member wish to seek recognition for an opening statement? Mr. Engel.

Mr. Engel. Thank you. Thank you very much, Mr. Chairman. These are five excellent bills and I support them all.

I just wanted to comment just briefly on two of them, Ms. Matsui's bill, helping to boost U.S. clean energy technology. It is really so important. Other countries are leaving us behind. They are moving on all these technologies. And we seem to be stuck. And anything that we can do to help us, our firms, to boost U.S. clean energy technology we should be doing.

As far as the Twenty-First Century Communications and Video Accessibility Act, technology is something that we take for granted. Fifteen years ago, most technology that I was exposed to was the television, and now I can turn on my digital television and watch a show I recorded on my TiVo. Then I can check the weekend weather on line, check e-mails on my Blackberry, make calls on my cell phone and do any number of things I couldn't do when I first came to Congress.

But, unfortunately, there are millions of Americans who cannot take advantage of the technology that I and many others in this room use every day. So when we hear that only 1 percent of the population suffers from severe hearing or vision loss, it sounds like a small number. But that translates up to a million people who cannot hear what I am saying right now and about 1.3

million people who are legally blind. They are prevented from using the same technology that we use every day without even thinking about it. The free market will often not update its technology to provide access to this 1 percent of the market, and that is why we are here today doing this bill.

I will be the first to say, though, I have seen excellent examples of extremely accessible technology created by Apple Computer and others, and it is my goal that these great companies will continue to produce great products without our need to intervene. However, it is our job to ensure that all Americans are treated fairly and equally, which is why we are here today. And I look forward to the passage of this bill and the others today.

I thank you, Mr. Chairman. And I yield back the balance of my time.

The Chairman. Thank you, Mr. Engel.

[The information follows:]

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

The Chairman. The gentleman from Washington.

Mr. Inslee. Thank you, Mr. Chair. I want to address the Twenty-First Century Communications Act. I really do want to thank committee staff on both sides working so hard on this, particularly of note for a fellow named David Bahar who works in our office who is hearing-impaired, who is really doing a great job on the bill.

In our markup, I raised several issues that we have found a consensus on the bill. I want to note them. I am very pleased that the manager's amendment instructs the committee to look at emergency communications technologies more broadly than just real-time texting. It includes geolocation, video relay services, and instant messaging services.

Another issue I raised was the current state of telecommunications relay services. These are critical technologies that allow people with hearing and speech disabilities to place and receive telephone calls that are absolutely imperative to normal communication. And I am very pleased that we are able to include in this bill the establishment of a telecommunications relay policy advisory council that will help ensure the necessary oversight of this critical telecommunications medium.

Further, the bill also instructs the FCC in coordination with other relevant Federal agencies to report on how the Commission is

working to ensure that consumers with disabilities have the following access to improve TRS technologies, that they do not face impediments, either policy or technological, and the Commission will work to facilitate broader adoption and more efficient use of telecommunication relay services in the workplace. This is a bill that has made substantial improvements.

Thanks for all working on it. Thank you.

The Chairman. Thank you very much.

[The information follows:]

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

The Chairman. Mr. Murphy, do you wish to make an opening statement?

Mr. Murphy of Pennsylvania. Yes. I would like to thank -- I know there is going to be a manager's amendment coming up improving on Mr. Braley's bill.

Mr. Waxman, I just want to comment positively on that. It reminds me of the story of a fellow that was driving through Texas in his SUV. And he sees a fellow riding on his horse and he says, Excuse me, are you a cowboy? And this fellow says, Yes, I am. He says, Is this your farm? He says, Well, we call it a ranch. And he says, Are those cows you have? He said, Well, we call them cattle. And he goes, Oh, I bet I can tell you how many cattle you have here. And the cowboy says, I bet you can't. The guys says, Well, how about if I tell you how many cattle you have here, I get to take one of your -- what do you call them -- calves? The cowboy said, Fair enough. And the guy takes out his laptop computer, puts a satellite dish on the top of his big SUV. He is writing, he is texting, he is sending things to Germany and Japan and NASA and all these things. He finally gets the data back and he says, All right, cowboy, you have got exactly 3,422 head of cattle. The cowboy says, That is amazing, I can't believe you know that. And go ahead, take a calf. So the guy takes one and puts it in the back of his SUV.

And the cowboy says, Well, wait a minute, I just want to be

able to have an opportunity to respond to this bet. The fellow says, Okay. And the cowboy says, I bet I can tell what you do for a living. The guy says, All right, you are on. He says, Well, if I win this, I will get to choose what I want. The fellow goes, Okay. And the cowboy says, You must be a consultant. And the fellow says, How did you know that? He says, Well, you came here and I didn't invite you, you told me something I already knew, and then you charged me for it. Now, can I have back my dog?

To that extent, I want to thank you, Mr. Chairman, for including in this bill the people that have expertise in manufacturing. I think that was critically important to do that, to make this much more important, to provide advice to this Congress and to this committee. We all want to make changes with manufacturing, and it is nice to see that we have got some people with some real expertise. Thank you, Mr. Chairman.

The Chairman. Thank you very much, Mr. Murphy.

[The information follows:]

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

The Chairman. Does any other member wish to make an opening statement or an opening joke? If not, the opening act is over with.

RPTS BINGHAM

DCMN ROSEN

[11:05 a.m.]

The Chairman. If not, the opening act is over. We will now consider the legislation. The Chair is calling up H.R. 3101 the 21st century Twenty-first Century Communications and Video Accessibility Act of 2010.

The Clerk will report the bill.

The Clerk. H.R. 3101, a bill to ensure that individuals with disabilities have access to emerging Internet protocol based communication and video programming technologies in the 21st century.

[The information follows:]

******** INSERT 2-1 ********

The Chairman. Without objection, the bill will be considered as read and open to amendment at any point. The committee will consider as base text the bill as forwarded by the Subcommittee on Communications Technology and the Internet.

The chair would like to recognize first Mr. Boucher for the purposes of offering an amendment.

Mr. Boucher. Well, thank you very much, Mr. Chairman I have an amendment at the desk.

The Chairman. The Clerk will report the amendment.

The Clerk. Amendment in the nature of a substitute to H.R. 3101 offered by Mr. Boucher of Virginia.

[The information follows:]

******** INSERT 2-2 ********

Mr. Boucher. Mr. Chairman I ask unanimous consent that the amendment be considered as read.

The Chairman. Without objection the amendment is considered as read and the gentleman from Virginia is recognized for 5 minimum.

Mr. Boucher. Thank you, Mr. Chairman. The amendment in the nature of a substitute reflects recommendations that our committee has received from a wide array of stakeholders, including representatives of the disabilities community, from industry and from others. It is also a product of a bipartisan process. And I want to express appreciation to Chairman Waxman to ranking members Barton and Stearns to their fine staffs to my staff, Amy Levine, for their work together on the changes that this amendment incorporates. These are the key changes.

The amendment requires that Internet browsers on smart phones be accessible for the visually impaired. It prohibits the FCC from requiring the use of proprietary technology to make products accessible for people who have disabilities. It adopts a provision in the Senate version of this measure requiring that the devices with small screens with television user interfaces and navigation devices be made accessible if doing so is achievable, and it directs the FCC to issue perspective guidelines for manufacturers and for service providers so that they will know what achievable means before they actually start manufacturing

products or putting products into the market.

It ensures that software or other application based solutions are an appropriate alternative to embedded physical accessibility as long as accessibility is assured through either hardware or software.

It gives the FCC authority to exempt small entities such as startup companies and others from the accessibility requirements so as to assure that these requirements do not at all hinder innovation and the origination of innovative companies.

It allows the FCC to consider whether accessibility requirements are achieved when manufacturers and service providers make a variety of devices available with various functionalities at various price points so that not every device that a manufacturer creates would have to contain these accessibility features.

And I would note that a similar approach was taken very successfully in implementing the hearing aid compatibility standards that apply today to cell phones.

The amendment requires that closed captioning be provided for video programming on the Internet when that programming is also displayed on television. This provision applies from the date of enactment prospectively and there is a requirement that the FCC study and report to Congress 3 years following the date of enactment regarding the potential for closed captioning of video that is to be only displayed on the Internet, and we have

incorporated recommendations from the disabilities community in making that key change.

The amendment enhances the requirements for video description so that sight impaired individuals can follow the visual aspects of television programming.

It directs the FCC to phase in video description requirements in the television markets below the top 25 markets on a continual basis with waivers being provided to broadcasters who can demonstrate financial hardships in meeting these requirements.

It also removes the cap on the number of hours of required video description that earlier versions of this legislation contained. The hours will increase on a schedule that will be set forth in the amendment and discretion is granted to the FCC in order to increase the number of hours over time.

And the amendment adopts a recommendation put forward during our hearing on the measure by our colleague, Mr. Inslee, to create an advisory counsel to address the use of telecommunications relay services in the workplace.

This bipartisan measure is a fitting tribute to the 20th anniversary of the Americans with Disabilities Act that occurs on Monday. It brings accessibility for the hearing and vision impaired to the Internet and to the smart phones that increasingly will be used for everyday communications.

I want to commend Mr. Markey once again for his leadership in championing this measure and the persistence with which he has

ensured that it be considered by the committee, and I thank all the members who have contributed to an excellent bipartisan process.

Mr. Chairman, I urge adoption of the manager's amendment, and I yield back the balance of my time.

The Chairman. Thank you Mr. Boucher. The amendment in the nature of a substitute is before us. Any discussion? Mr. Stearns.

Mr. Stearns. Mr. Chairman, let me just have an opportunity to speak on it. Legislation is rarely perfect and this bill is obviously no exception. We labored hard, and as Mr. Boucher mentioned, Mr. Markey is to be commended for pushing this. In the previous Congress, he tried to move the bill forward. He did not have the consensus. He made great efforts and I admire him for what he is doing and we want to support him.

Has every issue that I have raised been adequately taken care of? Not altogether about I think many of the issues raised by the disability community and industry and some of my colleagues have been satisfied. So I support the manager's amendment.

The main concern I expressed was that the legislation was extremely broad in scope originally. This manager's amendment addresses that by adding language explicitly stating that the relevant sections shall not be construed to require every feature and function of every device or service to be accessible for every disability. That is very important.

The manager's amendment also, among other things, revises the bill so that, one, it creates goals rather than technological mandates. It prohibits the FCC from mandating use of proprietary technologies, creates an achievable standard that strikes a balance between readily achievable standard in current law and the undue burden standard in the bill that was originally introduced; relies to a greater extent to advisory committees and industry developed technical standards subject to FCC review; clarifies that manufacturers and providers may rely on third party solutions to achieve accessibility. This allows exemptions for small businesses, allows waivers for aspects of multifunction devices not primarily designed for advanced communications, provides 2 additional years for mobile DTV devices to meet accessibility requirements, requires smart phones to make their Internet browsers accessible in 3 years for people with visual disabilities if achievable and reinstates video description and gradually expands it to all markets.

My colleagues, I am aware that industry is concerned that the bill also gives the FCC authority to expand the number of hours of video description. In order to balance the interest of the accessibility community in receiving more programming over time, in the interest of industry in having certainty, the provision does not grant the FCC that authority until 10 years from enactment.

Moreover, the FCC must issue a report to all of us here in

Congress at year 9 identifying the cost and benefits of expansion as well as explaining its proposal to us.

Congress will have 1 year from that report to weigh in, if necessary, before the FCC acts.

I am also aware that the consumer electronics industry is concerned that devices with screen sizes 13 inches and larger are not subject to the same achievability analysis that applies to smaller devices with regard to the requirement to provide closed captioning, video description and emergency information. The FCC can, however, grant waivers.

As I said previously, this legislation is not perfect. I still have concerns, but I promise to continue working with everyone as the legislation moves to the floor and any conferences we might have with the Senate, and with that, Mr. Chairman, I yield back.

The Chairman. The gentleman yields back his time.

Mr. Markey seeks recognition for what purpose?

Mr. Markey. In support of the amendment.

The Chairman. The gentleman is recognized.

Mr. Markey. I thank you, Mr. Chairman. And again, I want to thank you and Mr. Boucher for your extremely hard work on this piece of legislation and to Mr. Barton and to Mr. Stearns and all of the staff who have been working very hard to put together this now substitute amendment which is going to be considered.

Very briefly, this is going to require that television

programming that is closed captioned for viewing on TV is also closed captioned for viewing on the Internet, ensuring that Americans who are deaf or hard of hearing can fully access video programming as it migrates online. We have also increased the ability for Americans who are blind to access the Internet from smart phones. In the 21st century, individuals with disabilities must be able to get on to the Internet from whatever, from wherever they happen to be using online ramps to the Web just as the Americans with Disabilities Act mandated physical ramps into buildings 20 years ago.

Back then, Americans with disabilities couldn't get around if buildings weren't wheelchair accessible. Today it is about being Web accessible.

In accomplishing these accessibility goals, this amendment will provide industry with the flexibility needed to achieve them.

On video description, we have now exempted live or near live programming, granted program owners and providers of video programming the opportunity to seek an exemption from the FCC from the rules if they would be economically burdensome and included a 6-year phase in schedule for expansion of the video description rules to all media markets while providing the Commission the flexibility to grant waivers in media markets it deems appropriate.

The bill also will clarify that closed captioning of programing delivered over the Internet only applies to programing

that appears on television with captions after the date of enactment and is then distributed on the Internet.

And there is also a provision that equipment makers and service providers are given the choice of complying with the bill's accessibility requirements by either building accessibility into the device of service if achievable, or relying on third party solutions if they are achievable as long as the consumer can access the solution and pays only a nominal cost. We made clear that the bill does not require accessibility of every device for every disability.

Overall, the bill is focused on achieving outcomes, that is communications and video technologies that are accessible, not on how to make them so.

And I am also pleased that today's markup provides an opportunity to focus on a group in our country that often is overlooked and that is Americans who are deaf and blind. And it is a very small community, but it is one that I will be making an amendment later on which on a bipartisan basis will help to advance the technologies in a way that will help that community as well.

Again, I can't thank everyone enough to get us to this point, and I yield back the balance of my time.

The Chairman. The gentleman yields back the balance of my time.

The matter pending before us is the Boucher amendment in the

nature of a substitute. Members seek recognition? Mr. Markey, before you offer your amendment let me just make a few comments myself if I might. I just want to compliment Mr. Boucher and Mr. Stearns and Mr. Markey especially for this legislation, and Mr. Barton. We worked on a bipartisan basis, but the subcommittee produced a legislation and Mr. Markey was the author.

This is an important bill. It is a big step forward for the disabilities community and it allows flexibility for the industry. As Mr. Barton said last week on another bill, this is the way Congress ought to work on a bipartisan basis trying to develop consensus. I know Mr. Markey is going to offer an amendment shortly that will provide critical funding available to the deaf, blind individuals, and I would certainly urge the adoption of that amendment and the adoption of this bill.

At this point, I would like to call on Mr. Markey to offer his amendment.

This is an amendment to amend the amendment in the nature of a substitute.

Mr. Markey. I have an amendment at the desk.

The Chairman. The Clerk will report the amendment.

The Clerk. Amendment to the amendment in the nature of a substitute to H.R. 3101 offered by Mr. Markey of Massachusetts.

[The information follows:]

******** INSERT 2-3 ********

The Chairman. Without objection the amendment is considered as read. The gentleman from Massachusetts is recognized.

Mr. Markey. Thank you, Mr. Chairman very much. The amendment which my staff, Mark Bayer, has been working with your staff, with Mr. Boucher's staff and with the Republican staff, would direct the Federal Communications Commission to distribute through programs the Commission would approve of up to $10 million a year in specialized equipment for low-income Americans who are deaf and blind. The 10 million would be provided from the telecommunications relay services fund. This equipment is intended to leverage technology to enable deaf blind Americans to interact and communicate with the world around them.

The equipment eligible for funding under the amendment is telecommunication services, text to voice for Americans who are deaf, advanced communication such as e-mail, interchange services, meaning long distance phone service, and advanced communications and information services meaning broadband.

The CBO has told us that there is no score, no cost to the government associated with the amendment. The amendment is an important and reasonable effort to ease the accessibility challenges of the deaf-blind community. It is a small population, but there is no market based solution for this particular community. The market is too small for companies to make a profit. Legislation here is needed to try to help this very

specialized community.

I yield back the balance of my time with the thanks of the members.

The Chairman. Mr. Stearns.

Mr. Stearns. Thank you, Mr. Chairman. In looking through the amendment, I think that we have no objection to this. This is not adding to the Federal deficit. It is going to be paid by industry. And if you take roughly the 10 million and divide it by all the households who have a phone, it is probably less than 10 cents per household a year.

And the remarkable thing about this amendment and the idea of deaf-blind individuals, Members should realize there is now equipment though that you could go on the Internet and putting a piece of equipment in the SB port, you can see the Internet transcribe to Braille on this machine next to you, so that you as an individual if you are blind, and you go on and read this Braille off the Internet.

So it is an amazing technology, which I think all of us want to see the deaf and blind have this opportunity. And so, Mr. Chairman, I think it is a good amendment and I think we should move forward with it.

The Chairman. Thank you, Mr. Stearns. Any further discussion of the Markey amendment? The gentleman from Alabama, Mr. Griffith.

Dr. Griffith. I would just like to add my support to this

amendment. The Alabama Institute for the Deaf and Blind, which is a legendary institution in Alabama that is well over a century old that has been doing work with our challenged hearing and sight residents for years and years and years welcomes this, and I think that it is fitting that Helen Keller is our newest member of Statuary Hall and she would be proud of this amendment and the work that Chairman Markey has done as well as the rest of the staff. And we certainly appreciate it. And I think that anyone who has had an opportunity to visit the Alabama Institute for the Deaf and Blind would be absolutely impressed how the Internet has changed from deciphering a book on calculus for a premed student who is sight impaired manually to what can be done now over the Internet, and I just want to commend and let those of us who don't see it every day recognize what a huge impact this is going to have, and we appreciate the effort so much.

Mr. Markey. Would the gentleman yield?

Dr. Griffith. Yes.

Mr. Markey. I thank the gentleman and I thank Alabamians for selecting Helen Keller as one of the two statues that they have in the Capitol. She did her work at the Perkins School For the Blind up in Watertown, Massachusetts, in my district and in Alabama. That is where she began her pioneering work that has now revolutionized the relationship between the blind community and the deaf community and the rest of the population, and I thank the gentleman very much and Alabama for their leadership on this

issue.

The Chairman. Are we ready or the vote on the Markey amendment? All those in favor of the amendment say Aye.

Opposed, no.

No.

The ayes have it and the amendment is agreed to.

Ms. Baldwin do you wish to be recognized?

Ms. Baldwin. Mr. Chairman I have an amendment at the desk.

The Chairman. The gentlelady is recognized --

Mr. Stearns. Mr. Chairman I reserve a point of order.

The Chairman. The gentleman reserves a point of order.

[The information follows:]

******** INSERT 2-4 ********

Ms. Baldwin. Mr. Chairman, I ask unanimous consent that the amendment be considered as read.

The Chairman. Without objection, the gentlelady is now recognized for 5 minutes to explain the amendment.

Ms. Baldwin. Thank you, Mr. Chairman. And I understand that a question of germaneness has been raised with this amendment. So I offer this amendment, will make arguments and will ask for its withdrawal as I conclude.

Mr. Chairman, there is a good case to be made as to why we should tackle serious challenges facing the public, educational and government channels known as PEG channels and I hope that I might receive assurances from you that our committee will take up PEG issues in the near future.

I offer this amendment because of my concerns that Mr. Markey's legislation may not be complete without including our PEG channels in his very productive effort to ensure that Americans with disabilities can fully access existing and emerging technologies.

As my colleagues may know, there are over 2,000 PEG studios and an estimated 5,000 PEG channels in the United States. In a day of media consolidation, these local, noncommercial access channels bring unique voices, perspectives and programming to communities. They also serve as a lifeline to Americans with disabilities helping people stay connected and fully participate

in their democracy.

PEG channels provide an opportunity for individuals to, especially with mobility challenges, to monitor and engage in their local government, to take distance learning classes, to find out what services are available in their communities, and even participate in church worship services.

While we strive for digital inclusion, we must protect and enhance the existing access to news and civic life available through PEG channels.

My amendment would accomplish three simple things: First, it would clarify that the captioning obligations in the Twenty-first Century Communications and Video Accessibility will not relieve providers from PEG channels from meeting the same channels that are required of broadcasters. For example, AT&T does not offer PEG channels the same way other cable operators do. They group all PEG channels in a certain region on channel 99, which works through an onscreen menu-driven system. A person with a visual impairment may have challenges using channel 99 without assistance because of the way the onscreen menu works.

Further AT&T does not offer closed captioning on channel 99 or any of the PEG channels it carries. It offers only open captioning which scrolls kind of like a CNN ticker. As many people with disabilities know, this is a real problem for those communities who require closed captioning and/or second language caption.

My amendment would require providers of PEG channels to meet the same standards that are required of broadcasters and clarifies companies like AT&T are not in compliance with existing law let alone the new standard set forth in the underlying legislation before us today.

Second, my amendment would ensure that Americans with disabilities can rely on their PEG channels for emergency alerts. Unfortunately, some cable companies have started moving PEG channels to a digital only tier where they are completely inaccessible to analog cable customers placing an unnecessary burden on low-income and fixed income individuals and families and people with disabilities.

For example, in the State of Texas, Time Warner has begun sending notices to cities letting them know that as of August 5th in the midst of hurricane season, PEG channels will be moved from their current analog to digital format. If consumers want to view PEG channels after August 5th, they will have to obtain a converter box at an additional charge to the customer.

Finally, my amendment will update existing law to allow users to use PEG support in whatever manner best serves that community, including using funds to hire personnel.

This amendment is based on my CAP Act, standing for Community Access Preservation Act, H.R. 3745, which has been endorsed by the U.S. conference of mayors, the national league of cities, the National Association of Counties, and the Alliance for Community

Media and the National Association of Telecommunications Officers and Advisers.

I firmly believe that by strengthening our PEG channels, we are fulfilling the promise of Mr. Markey's goal to ensure that Americans with disabilities have full access to every means of communication available now and well into the future.

As I mentioned at the beginning of my statement, I do intend to withdraw this amendment. But I am hopeful that this committee will soon turn its attention to the challenges faced by PEG channels in our ever changing telecommunications environment.

The Chairman. Will the gentlelady yield to me?

Ms. Baldwin. I would be happy to yield.

The Chairman. You have raised a very important issue that we need to look at more carefully. And I want to consult with Mr. Boucher, Mr. Barton and Mr. Stearns and you further on what we can do in this area.

Ms. Baldwin. I thank the chairman, and with that, I would withdraw the amendment.

The Chairman. Without objection, the amendment has been withdrawn.

The vote now comes on the Boucher amendment in the nature of a substitute as amended.

All those in favor of that motion, signify by saying aye.

Aye.

Opposed, no.

No.

The ayes have it and the motion is agreed to.

The vote now is on the reported H.R. 3101 as amended with the recommendation the bill do pass.

All those in favor, signify by saying aye.

Aye.

Opposed, no.

No.

The ayes have it and the motion is agreed to.

We will now move to consideration of H.R. 4692, the National Manufacturing Strategy Act of 2010. Without objection, the bill will be considered as read and open to amendment at any point.

[The information follows:]

******** INSERT 2-5 ********

The Chairman. I have a manager's amendment.

And without objection, that amendment will be considered as read.

[The information follows:]

******** INSERT 2-6 ********

The Chairman. This manager's amendment makes a number of changes to consolidate and streamline provisions of the National Manufacturing Strategy Act as well as to improve the flow and the structure. One of the main differences is this amendment combines the board and task force into one advisory committee called the President's manufacturing strategy board. Also, that board will contain many but not all of the public sector representatives listed in the original bill and add the Office of U.S. Trade Representative. The amendment narrows down the private sector members to nine and consolidates a provision describing the range of individuals to be selected.

The chair of the board will be the Secretary of Commerce or a designee, and the vice chair will be chosen by the President from one of the private sector appointees.

This amendment gives the President's manufacturing strategy board the responsibility for conducting the comprehensive analysis of the manufacturing sector and developing the initial strategy, draft of the strategy.

The board must meet at least two times each year and at least four times in the year preceding the issuance of a national manufacturing strategy.

The factors that the original bill set out for the analysis have been paired down to provide for a more streamlined language and address concerns over excessive specificity. Also the section

requiring the board to consult with others has been bolstered to emphasize the desire to avoid duplication of efforts. The board will also develop estimates regarding outlays in revenue changes as well as potential savings.

I would like to thank the minority for suggesting and working with us on the language. I think it is useful information to have and has made the manager's amendment even better.

This amendment also changes and clarifies some deadlines and adds a new provision requiring an annual report by the board regarding the state of manufacturing and the implementation of national manufacturing strategies. The GAO review of the strategy has been limited to three cycles and the National Academy of Sciences study section also has been streamlined.

In addition the amendment is short in the sense of Congress and adopted a provision to encourage quick action. I believe that the manager's amendment strengthens this bill while meeting the crucial goal of establishing and updating a national manufacturing strategy.

This amendment was the product of bipartisan discussions. I think we have worked hard and well to improve the language based on suggestions from the subcommittee's hearing and subsequent staff discussions.

I want to thank Chairman Rush for all his hard work and for allowing us to move this bill so expeditiously. I would like to thank my colleagues on both sides of the aisle for their efforts,

and I urge support for this amendment and final passage of the bill.

Is there discussion on the manager's amendment?

Mr. Whitfield.

Mr. Whitfield. Mr. Chairman, thank you very much.

I would like to say that this amendment in the nature of a substitute I do believe improves this bill dramatically because it, in effect, eliminates the task force. And I think although Mr. Lipinski's motives were very best in trying to improve the manufacturing in the United States, the bill was so cumbersome, so duplicative, required so many studies, so many reports, even by the GAO and others. Your amendment in eliminating the task force makes this a much better bill in my opinion.

I would also like to say that while I will probably support this legislation, I do want to point out specifically that when we talk about a sector, I certainly think we should take into consideration the associations and industries that are dramatically affected by legislation. The National Association of Manufacturers believe that an effective manufacturing strategy must embrace specific action items, not just nonbinding goals and recommendations.

And as a matter of fact, they released a report in June in which they spelled out specifically what could be done by the government to improve manufacturing; for example, tax policies, government investment in infrastructure and innovation, trade

initiatives to reduce barriers and open markets to U.S. exports, all of those will help manufacturing.

Finally, they also indicated that while this Act is a laudable sign that Congress recognizes the stakes facing manufacturing in the United States, that they believe that this bill could be made much better and I do as well because, as I said, specific items to act on instead of general recommendations, and the fact that this legislation requires report only every 4 years, with the way things move so quickly today, technology changes so quickly, that may not be adequate either. But I personally am going to vote for the legislation because I think your amendment dramatically improves it. But I did want to emphasize that there still is a lot that Congress can do that would provide an even greater opportunity for manufacturing to expand in the United States.

And I yield back the balance of my time.

The Chairman. I thank the gentleman. The vote now comes on the amendment in the nature of a substitute.

All those in favor, signify by saying aye.

Aye.

Opposed, no.

No.

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

The vote not now comes on H.R. 4692 as amended with the

recommendation the bill do pass.

All those in favor, signify by saying aye.

Aye.

Opposed, no.

No.

The ayes have it. And the motion is agreed to.

The chair now calls up H.R. 5156, the Clean Energy Technology Manufacturing and Export Assistance Act.

Without objection, the committee will consider as base text the bill as amended by the Subcommittee on Commerce, Trade and Consumer Protection. And without objection the bill will be considered as read and open to amendment at any point.

[The information follows:]

******** INSERT 2-7 ********

The Chairman. Are there amendments to this legislation?

Dr. Griffith. Mr. Chairman.

The Chairman. The gentleman from Alabama.

Dr. Griffith. I have an amendment at the desk. It is CETMEA 10.

The Chairman. Without objection, that amendment will be considered as read.

[The information follows:]

******** INSERT 2-8 ********

The Chairman. The gentleman is recognized for 5 minutes.

Dr. Griffith. Mr. Chairman, I thank you for allowing me to offer this amendment. It is a simple, simple amendment and represents substance and symbol of getting our financial house in order.

At the end of the bill, the following new section would simply state that the provisions of this act shall be suspended and shall not apply if this Act will have a negative net effect on the national budget deficit of the United States.

We offer this amendment in the context and in the spirit that the United States is felt by both the liberal and conservative, some economists, that we are in indeed slipping into the third Depression, if not, the third Depression we are beginning to visualize a double-dip recession with housing, manufacturing and other sectors not responding to the stimulus or bailouts or other treatments that we have imposed over the last year to year and a half.

We may be entering into a decade of stagflation, slow growth and the unemployment and suffocating debt that we find settling over our economy at the present time.

Seventy-five million dollars doesn't sound like a lot of money. But at some point in time, America and this Congress is going to have to regain the confidence of the American people. And unless we can pay for the good ideas that we come up here

with, then I believe that this bill should not be enacted unless amended as suggested. I would love to hear discussion on this of why we should indebt ourselves another 75 million without having the ability to pay for it.

I urge support of this amendment, and I yield back the balance of my time.

The Chairman. The gentleman yields back the balance of his time. The chair recognizes himself in opposition to this amendment.

The legislation is an authorization of appropriations. It does not contain mandatory spending. It does not appropriate funds. It is only permission for the Appropriations Committee to provide funding in an appropriations bill some time in the future.

As an authorization, this bill has no effect whatsoever on the budget, the deficit or the debt. The right time to voice any concern about the money that is authorized in this bill is when any money actually is appropriated. Appropriations could choose to spend zero money on these new authorities, they could choose to spend the entire amount authorized or they could go somewhere in between. But whatever the Appropriations Committee chooses to spend on this program, they will have to live within the overall cap on discretionary spending.

Leaving aside for a moment the fact that this bill will have no impact on the deficit, I must also express concern over how this language is written in the amendment before us. It does not

tell us how we figure out whether there is a negative effect or would estimate the effect. We do not know what time period is involved. To the extent there is a negative net effect, whatever that means, in 1 year, what if this is a positive effect over 5 or 10 years? We also do not know which budget this amendment is referring to. It could be the unified budget, the Federal funds budget or the on-budget totals.

I am afraid that this amendment is too vaguely drafted to be understood much less enforced, and for that reason I respectfully must oppose the amendment.

Further discussion?

Mr. Barton.

Mr. Barton. Mr. Chairman, I want to support the Griffith amendment. I respect and acknowledge that this is an authorization bill. But there is no crime in adding a requirement that if it were to become law it would have to be paid for. And that is all that the gentleman from Alabama is saying is that if this committee is going to authorize new programs or additional spending, we should require that it be paid for before it is implemented. It is germane. It makes sense. It is exactly where the American people are in terms of public opinion support to not allow the deficit to grow any larger, and I think, it is worthy of support and so I would encourage the committee to support it.

The Chairman. Are we ready for the vote?

All those in favor, signify by saying aye.

Aye.

Opposed, no.

No.

Dr. Griffith. Mr. Chairman, may I have a roll call vote?

The Chairman. The gentleman requests a roll call vote.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell?

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Markey?

[No response.]

The Clerk. Mr. Boucher?

[No response.]

The Clerk. Mr. Pallone?

[No response.]

The Clerk. Mr. Gordon?

[No response.]

The Clerk. Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Ms. Eshoo?

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Stupak?

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Engel?

[No response.]

The Clerk. Mr. Green?

[No response.]

The Clerk. Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

[No response.]

The Clerk. Ms. Harman?

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky?

[No response.]

The Clerk. Mr. Gonzalez?

[No response.]

The Clerk. Mr. Inslee?

[No response.]

The Clerk. Ms. Baldwin?

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross?

[No response.]

The Clerk. Mr. Weiner?

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson?

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Butterfield?

[No response.]

The Clerk. Mr. Melancon?

[No response.]

The Clerk. Mr. Barrow?

Mr. Barrow. No.

The Clerk. Mr. Barrow votes no.

Mr. Hill?

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Ms. Matsui?

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen?

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Murphy of Connecticut?

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

Mr. Space. No?

The Clerk. Mr. Space votes no.

Mr. McNerney?

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton?

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley?

Mr. Braley. No.

The Clerk. Mr. Braley votes no.

Mr. Welch?

[No response.]

The Clerk. Mr. Barton?

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall?

[No response.]

The Clerk. Mr. Upton?

Mr. Upton. Aye.

The Clerk. Mr. Upton votes aye.

Mr. Stearns?

[No response.]

The Clerk. Mr. Whitfield?

Mr. Whitfield. Mr. Chairman, before I vote would it be appropriate for me to ask a question to legal counsel about one issue before I vote?

The Chairman. Well, not under the rules.

Mr. Whitfield. Not under the rules.

The Chairman. I will ask unanimous consent that we allow the gentleman 1 minute to do this, and without objection.

Mr. Whitfield. I would like to ask legal counsel this question. When this legislation was first introduced, it did not include in the definition any technology relating to carbon capture and sequestration, and either in the substitute or the amendment, I forgot which, the language was supposed to have been put in the bill that would allow funding through this bill to be available for carbon capture and sequestration. And is it your understanding that this bill would allow funding for a carbon capture and sequestration technology?

Counsel. It is my understanding that the definition that was substituted was a definition that was generally understood by this committee to include carbon capture sequestration.

Mr. Whitfield. Then I vote no.

The Clerk. Mr. Whitfield votes no.

Mr. Whitfield. I want to vote yes on the bill because of carbon capture and sequestration, and I want to vote no on his amendment because I think it is so important that we have carbon capture and sequestration to continue to use coal in this country that provides 51 percent of our electricity.

The Chairman. The gentleman has asked his question. We need to move on with the call of the roll. The Clerk will continue the call of the roll.

The Clerk. Mr. Whitfield.

Mr. Whitfield. I vote no.

The Clerk. Mr. Whitfield?

Mr. Whitfield. No.

The Clerk. Mr. Whitfield votes no.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Shadegg?

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt?

[No response.]

The Clerk. Mr. Buyer?

[No response.]

The Clerk. Mr. Radanovich?

[No response.]

The Clerk. Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack?

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack votes aye.

Mr. Terry?

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Rogers?

Mr. Rogers. Aye.

The Clerk. Mr. Rogers votes aye.

Mrs. Myrick?

[No response.]

The Clerk. Mr. Sullivan?

[No response.]

The Clerk. Mr. Murphy of Pennsylvania?

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania votes aye.

Mr. Burgess?

Dr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Gingrey?

Dr. Gingrey. Aye.

The Clerk. Mr. Gingrey votes aye.

Mr. Scalise?

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Griffith?

Dr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mr. Markey?

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Inslee?

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Mr. Ross?

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Butterfield?

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

The Chairman. Does any member wish to -- any member that has not voted wish to record your vote? Any member wish to change his or her vote? If not the Clerk will tally the roll.

The Clerk will announce the vote.

The Clerk. Mr. Chairman on that vote the yeas were 15 the nays were 30.

The Chairman. Fifteen ayes, 30 noes. The amendment is not agreed to.

Are there further amendments to the bill?

If not we will vote on reporting H.R. 4501 with the recommendation that the bill do pass.

The vote now comes on final passage of the bill.

All those in favor, signify by saying aye.

Aye.

Opposed, no.

No.

The ayes have it and the motion is agreed to.

Ms. Harman. Parliamentary inquiry, Mr. Chairman.

The Chairman. Yes, Ms. Harman.

Ms. Harman. I think you used the wrong bill number. I just want to be sure. That I think it is 5156. Am I wrong?

The Chairman. Yes. The gentlewoman is on the ball. The gentlelady is on the ball and there was a typo so the vote that we just took was on reporting 5156.

Any objection to -- we will take the vote again. All those in favor of reporting 5156 will say aye.

All those in favor, signify by saying aye.

Aye.

Opposed, no.

No.

The ayes have it and the motion is agreed to.

Now we have before us, I am going to move to H.R. 3655, the Bereaved Consumer's Bill of Rights Act.

[The information follows:]

******** INSERT 2-9 ********

The Chairman. The committee, without objection, will consider the bill read and open to amendment at any point and further that the base text for the bill will be that as amended by the Subcommittee on Commerce, Trade and Consumer Protection.

The bill is now before us. Are there any members seeking recognition?

Mr. Rush, do you seek recognition for the purposes of offering an amendment? Mr. Gingrey wants to offer an amendment.

Mr. Rush. Mr. Chairman, I have an amendment at the desk.

The Chairman. The gentleman has an amendment at the desk. The Clerk will report the amendment.

The Clerk. Amendment to the committee print to H.R. 3655 offered by Mr. Rush of Illinois, page 6 --

[The information follows:]

******** INSERT 2-10 ********

The Chairman. Without objection, the amendment will be considered as read. And the gentleman from Illinois is recognized to explain his amendment.

Mr. Rush. Thank you, Mr. Chairman. Mr. Chairman, you may recall that this committee's May, 5 2010 markup, I requested that you withdraw the marine bill as I did not want to risk the passage of this bill which was amended by Mr. Gingrey and would have provided a carve out for religious owned and operated cemeteries. Had these amendments carried, it was my firmly held view that my bill would have been entirely gutted. My views have not changed since the last markup.

Mr. Chairman, I am not only a Christian, but I am a Baptist minister and so I am very sensitive to religious matters, very sensitive to religious matters.

Mr. Chairman, a Catholic or a Baptist or a Jew or a Muslim who decides to bury, cremate or entomb a departed loved one is just as vulnerable as the same religious follower or an atheist or an agnostic were they to decide to purchase funeral goods and service from a nonreligious cemetery or crematory.

Those who would assert that somehow religious organizations are more immune than nonreligious organizations from committing unfair and deceptive practices that harm bereaved consumers are ignoring so many examples of such misconduct. Mr. Chairman, this is not really a religious matter, this is a business matter. And

I would ask that the members of the subcommittee, or of the full committee, keep that in mind. Here are a couple of examples. In 2008, in Ozone Park, New York, the kin of an interred couple has brought forth court litigation against Bayside cemetery a Jewish crematory, rather, run by a congregation named Shari Sadic. The plaintiff claimed that the congregation responsible for the cemetery failed to uphold its contract to maintain the perpetual care of his interred parents and diverted money from the perpetual care trust fund to renovations for the congregation's place of worship.

In addition to the neglect, there were incidents of grave desecration. At St. Patrick's cemetery in Saginaw, Michigan in 2007, when Jeff la Plan died unexpectedly at the age of 20, his family was sold four adjoining plots in Mr. La Plan now, "in car salesmen fashion" according to Jeff La Plan's brother Jim. Jeff's family intended for him to be buried in the northern most plot and the remaining three plots were for his parents and wife. A year after his passing, Jeff's mother passed away. The cemetery officials informed Edwin, the family's patriarch, that Jeff had been buried in the wrong plot.

Third example Mr. Chairman, at St. Matthew's Cemetery in Saint Louis, Missouri in 2008, Ms. Janet Bono described her unpleasant experience of purchasing a monument for her father's grave. Bono was surprised to be quoted a foundation fee at a cemetery where numerous monuments stood without foundations, while

others rested on foundations of poor craftsmanship. In light of the poor upkeep of other grave sites in the cemetery, Bono expressed concern about paying for a foundation that may not be maintained. Bono stated that her purpose in closing her account as being a search for recourse because she felt as though, and I quote, "people are being gouged at a very vulnerable time in their life."

Furthermore, Mr. Chairman, to exempt all the religious organizations which do not have an affiliation through ownership contract or some other management arrangement with a for-profit third party is bad policy and poor legislation.

RPTS KESTERSON

DCMN MAGMER

[12:04 p.m.]

Mr. Rush. We simply do not know the scale of effects of such exemptions. How many cemeteries will be exempted from the bill? No one can provide a reliable answer, only to say that we have already voted on an amendment -- not the States. They can't provide an answer. The GAO cannot at this point provide an answer. The IRS cannot provide an answer. The Social Security Administration cannot provide an answer. The FTC cannot provide an answer. And the FCC currently administers the funeral rules that covers funeral homes and -- but they don't cover cemeteries, nor do they cover crematoria.

Mr. Chairman, my amendment will address this problem in a very forthright way. It will say that any cemetery, religious or nonreligious, that does not engage in commerce in the operation of their cemetery is exempt. But the moment that they sell product or sell a service, then they are covered by this legislation.

Mr. Chairman, I think that this is a long way toward helping those individuals, be they a customer or a consumer of a nonreligious service or a religious service. It will yield them the protection that they need.

We have had too many instances across the board, from the National Cemetery in Arlington to the aforementioned cemetery in

my district. The American people need to have the protection of this legislation. Mr. Chairman, I ask the committee members to support this amendment.

The Chairman. Thank you, Mr. Rush. Your time has expired.

Mr. Barton.

Mr. Barton. Mr. Chairman, I am not an advocate in any shape, form, or fashion of euthanasia. But if there were such a thing as legislative euthanasia, this bill would be a candidate for it.

I have nothing but respect for subcommittee chairman Mr. Rush and his many good deeds, both in the Congress and as a pastor of his church in Chicago. He is attacking a problem that, if it exists, it can be successfully attacked at the State level.

All of the instances that he has referred to violated State laws; and in the case of his home State of Illinois, the State has acted very aggressively and I think appropriately to remedy that situation.

The apparent justification for the underlying bill is that, under current law, funeral homes are subject to regulation by the Federal Trade Commission. So if it is okay for funeral homes, it might as well be okay for cemeteries.

Now, because of the vigorous opposition in the religious community to this bill, Mr. Rush is attempting to alleviate that opposition by offering this amendment that would exempt religious cemeteries, houses of worship that are not organized, operated, managed, or owned by contractor affiliation with the provider of

funeral goods or services. I mean, it is a pragmatic political decision; and, again, he is to be commended for being politically pragmatic, but it shows the weakness of the underlying bill. We simply don't need to regulate cemeteries at the Federal level.

I do have a question of counsel. What does the term "middle adjudicatory" mean?

Voice. Sir, I do have that definition with me. It is an administrative structure organization found in religious denominations.

Mr. Barton. It is a what?

Voice. As I understand from the definition I have before me, it is an administrative structure organization between the local congregation and the national or international level of that religion.

Mr. Barton. So it is some sort of a middleman within a religious organization between the national and the local?

Voice. That is my understanding from the definition that I have.

Mr. Barton. Does the author of the amendment share that?

Mr. Rush. I do. But let me -- if I might -- you will yield?

Mr. Barton. Well, I would always yield to my friend from Chicago.

Mr. Rush. Thank you.

I would ask the counsel, what is the definition of adjudicatory?

Voice. I had understood that to have the same definition.

Mr. Rush. As middle adjudicatory?

Voice. That was my understanding.

Mr. Barton. Let me yield to Dr. Gingrey, and then I will be happy to yield to Mr. Whitfield.

Dr. Gingrey. Actually, Mr. Chairman and Ranking Member, I have a second-degree amendment to the Rush amendment. So go ahead and yield to Mr. Whitfield.

Mr. Whitfield. Mr. Gingrey, one of the questions I wanted to ask you is I think you offered this amendment in subcommittee and your purpose was to exempt nonprofit religious organizations from this legislation, which I think we all support it. And then I think that Ms. Harman did an amendment to your amendment in subcommittee in which she said that they were exempted as long as there was not a contract or an affiliation with a for-profit provider. Now, Mr. Rush evidently has introduced an amendment which says any provider. Is that your understanding?

Dr. Gingrey. Mr. Whitfield, Mr. Barton controls the time; and if he will yield to me, I will respond to that.

Mr. Barton. I don't know. I am in a quandary here. Anything that improves the bill makes it more likely to pass. So I am tempted to oppose this amendment. I strongly support religious organizations to not being subject. So I am going to support any amendment that does that.

Dr. Gingrey. If the gentleman will yield for me --

Mr. Barton. I will be happy to yield to my friend --

Dr. Gingrey. And I appreciate the gentleman from Texas for yielding.

The Chairman. The gentleman's time has expired.

I know the gentleman from Georgia has his own amendment. Do you want to offer it and then speak on --

Mr. Barton. Or do we have to dispose of the Rush amendment?

Dr. Gingrey. Mr. Chairman, that would be fine. That would be fine. Whenever it is appropriate, I will offer --

The Chairman. I understand yours is a second-degree --

Dr. Gingrey. It is a second-degree amendment to the Rush amendment, yes.

The Chairman. The gentleman from Georgia is recognized for the purposes of offering an amendment; and, without objection, that amendment will be considered as read.

[The information follows:]

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

The Chairman. The gentleman is recognized for 5 minutes. This is an amendment to the Rush amendment.

Dr. Gingrey. Mr. Chairman, that is right. This is a second-degree amendment, an amendment to the Rush amendment.

In response to Mr. Whitfield, in regard to our original amendment, the concern, of course, being religious organizations -- and I, too, am scratching my head about what middle adjudicatory means while counsel continues to search for that. But I assume that that is also in the hierarchy of religious organization, whether it is my religion, Catholic, or Mr. Rush's faith. I am not really sure that matters.

But the point is that the original amendment was to carve out for these religious organizations that have their own as part of their obligation, if you will, to their faithful to provide a cemetery, an interment location for the faithful of the particular congregation. And they are totally nonprofit. There is no profit motive whatsoever. That they really shouldn't come under the jurisdiction of the Federal oversight.

And the gentlelady from California, Ms. Harman, was completely in agreement with me. In fact, she took it a step further to say that if the management or oversight of a church-affiliated cemetery was turned over to maybe a larger church who had better expertise in taking care of the cemetery, so long as they remain nonprofit that would be a carve-out.

And so in the Rush amendment, my only concern is that it might remove that exclusion for -- I don't think there should be any exclusion that is turned over to a for-profit organization. And I am just going to insert that phrase "for-profit". When it says with a provider, it would be with a for-profit provider of funeral goods or services. There would be no carve-out basically, Mr. Rush and my colleagues, for that situation.

And I think that this second-degree amendment goes right back to what Ms. Harman and I were trying to achieve several weeks ago when we started to mark this bill up. I would hope that my colleagues would support the second-degree amendment, which would, I think, perfect the Rush amendment; and then we will go ahead and approve the Rush amendment as amended by my amendment.

I hope that didn't confuse, and I will be glad to take any questions from anybody who wants to ask them.

Mr. Whitfield. Will the gentleman yield?

Dr. Gingrey. I will yield to the gentleman from Texas.

Mr. Whitfield. We received a number of letters from religious groups who are asking for an exemption from this legislation, and I do believe that Mr. Gingrey's amendment does precisely what he and Ms. Harman intended. So I think it is a good amendment and one that we certainly should adopt.

Mr. Rush. Would the gentleman yield?

Dr. Gingrey. Mr. Rush, I would be glad to yield to you in just one second. Let me reclaim my time just to reiterate what

Mr. Whitfield is saying. And I would like to submit this for the record, Mr. Chairman, a letter from Catholic Cemetery Conference in support of the Harman-Gingrey amendment which now would be the second-degree amendment to the Rush amendment. And just real quickly --

The Chairman. Without objection, that will be made part of the record.

[The information follows:]

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

Dr. Gingrey. Will that be accepted, Mr. Chairman? Thank you.

And I will yield to the gentleman from Illinois.

Mr. Rush. Mr. Chairman, I really want to remind members of the committee that, first of all, there are only 10 States that regulate cemeteries in the Nation. That means there are 40 States that have no State regulations. They are totally silent on the regulation of cemeteries.

I further want to remind members that when you have to decide the final resting place for your loved ones or your loved ones have to decide the final resting place for themselves, they are very, very vulnerable. They are at their most vulnerable. And there are some across this Nation, religious and nonreligious, who prey upon these vulnerable consumers.

And I also might want to remind my friend, Dr. Gingrey, that just because --

Dr. Gingrey. Mr. Chairman, I would like to reclaim my time in the 1 second that I have got remaining to respond to the chairman of the subcommittee.

Mr. Rush, in 2003, the Government Accountability Office report surveyed 48 States and said all regulate cemetery, but many or most States exempt religious cemeteries. That was a 2003 GAO report. Forty-eight States regulate; many or most exempt religious cemeteries.

And I see that my time has expired.

The Chairman. The gentleman's time has expired.

The chair recognizes Mr. Rush.

Mr. Rush. Mr. Chairman, I just want to say on this matter, also, the not-for-profits -- I have a lot of history with not-for-profits. I am probably more intimately connected with not-for-profits than with for-profits. And I know that nonprofit organizations can offer funeral goods and services at retail prices. They do so every day. If a religious organization contends that these services are not intended to turn a profit for their church, then why does it matter whether the third party is nonprofit or profit?

Mr. Chairman, if you -- I want to use this metaphor. If a baker were to give out their bakery goods for free without a profit, then they would be exempt from this legislation. But once a bakery affiliates or wants to sell bakery goods or a third party sells their bakery goods, then they are not in the not-for-profit spirit or they are not in the not-for-profit mode. They are indeed in the for-profit mode.

And I would just note as a reminder, I just want to say that just because there is a label of not-for-profit, that does not mean that there is not a profit motive or a profit result that doesn't come out -- that doesn't come about as a result of these transactions.

Further, Mr. Chairman, I really want to just remind members

of the basic point here. The basic point is that, across the board, there are religious organizations now that run cemeteries where there is litigation pending or litigation already concluded in far too many places where they have been targets of outraged consumers who feel as though they have been gouged in some instances or certainly feel as though they have been victimized by some of these religious-run cemeteries, and this bill is meant to addresses those particular matters.

I think that to exempt religious organizations will create a loophole in this legislation that a Mack truck would be able to drive through. And, Mr. Chairman, I just think that this amendment, the second-degree amendment, is ill-conceived, ill-advised; and I think it is unfortunate that we are discussing this particular matter. We have to save and protect the American consumers across the board, and a carve-out for religious organization will not help us to do that.

Mr. Butterfield. Will the gentleman yield?

Mr. Rush. Mr. Butterfield, yeah, I would yield, Mr. Butterfield.

Mr. Butterfield. Excuse me, Mr. Chairman.

I am generally sympathetic with what you are trying to accomplish with this bill, but do you anticipate that religiously run cemeteries would be held to the same standards as a for-profit cemetery in terms of recordkeeping?

And the reason I ask that is because I am from the southern

part of our country, and many of our churches have small cemeteries that they have maintained for more than 100 years, and the recordkeeping responsibility may end up being a burden for some of the churches. So do you anticipate the same level of recordkeeping for church-run cemeteries as opposed to for-profit cemeteries?

Mr. Rush. We had testimony, Mr. Butterfield, from Judge Holmes, who was the head of the commission established in my home State; and she responded to that very same inquiry. Her position was, because of the nature and the amount and the number of burials at church-owned -- small-church-owned cemeteries, that those churches keep records much better than the ones at the larger cemeteries because there is not as many -- the volume is not just as great. And because --

I am sure your experience is like my experience for my father, who I buried at a church-owned cemetery some years ago. They use these documents not just for the purposes of keeping a record and an account of where they were buried, but these become historical family documents. So they have more of an abiding interest and abiding concern that these records are accurate and these records are complete and that they are maintained.

The Chairman. The gentleman's time has expired.

Are we ready for the vote?

The vote now occurs on the Gingrey amendment. All those in favor of the Gingrey amendment will say aye. Opposed, no.

Let us see a show of hands.

Dr. Gingrey. Mr. Chairman, let us have a roll call vote.

The Chairman. You want me to call it?

Dr. Gingrey. Yeah, let us have a roll call vote on it.

The Chairman. It sounded like the ayes have it. Does anybody want to ask for a show of hands or --

Dr. Gingrey. Mr. Chairman, I will agree to a show of hands.

The Chairman. Let us do that. Then we will see whether we are going to go for a roll call.

Let us see a show of hands. All those for the Gingrey amendment, please raise your hand. All those against the Gingrey amendment, please raise your hand.

The clerk will announce the vote.

The Clerk. Mr. Chairman, on that division vote, there were 15 ayes and 12 nays.

The Chairman. Fifteen ayes and twelve nays. The amendment is agreed to.

The vote now comes on the Rush amendment, as amended.

All those in favor of the Rush amendment, as amended, say aye. Opposed, no.

The ayes have it. The Rush amendment, as amended, is agreed to.

Are there further amendments to the legislation?

Mr. Barton. Mr. Chairman, I have some amendments, but I want to ask some questions of counsel.

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Barton. As the bill is currently drafted, would Arlington National Cemetery be subject to its jurisdiction?

Voice. No, it would not.

Mr. Barton. It would not be.

Would the State-owned cemetery in Austin, Texas, that is operated by the State of Texas be subject to its jurisdiction?

Voice. State-owned cemeteries that are operated by States are covered by the legislation.

Mr. Barton. What about a municipal cemetery that would be operated by the City of Meridian, Texas, for example?

Voice. Municipal cemeteries are covered by the legislation.

Mr. Barton. So municipals are covered, State cemeteries are covered, but national military cemeteries are not covered?

Voice. That is correct.

Mr. Barton. Mr. Chairman, I have an amendment at the desk.

The Chairman. The clerk will report the amendment.

Mr. Barton. This is the amendment 001.XML with respect to municipal cemeteries.

The Chairman. Without objection, the amendment will be considered as read.

[The information follows:]

******** INSERT 3-1 ********

Mr. Barton. The gentleman from Texas is recognized for 5 minutes.

Mr. Barton. Mr. Chairman, this amendment in terms of the wording is somewhat obtuse, because it strikes line 15 on page 6 and inserts. But what it does is it would exempt -- it would exempt municipal-owned cemeteries from the regulations of this bill.

There are many towns, cities, and counties across the United States that own cemeteries; and they responsibly manage these cemeteries. These are not money making operations for the local government. They are run primarily as a public service and, in many cases, because privately run for-profit cemeteries have gone bankrupt or have been abandoned.

Under the bill before us, a minor violation of the FTC cemetery rule could trigger a fine at the rate of $16,000 per violation. Obviously, if you have a municipal-owned cemetery in a small town, that could bankrupt the town.

The FTC's jurisdiction generically -- not specifically with this bill but just generically -- has been limited to for-profit businesses. Since so many of our municipal-owned cemeteries are obviously not-for-profit, it would seem -- especially based on the vote that we just had on religious cemeteries -- to exempt municipal-owned cemeteries, also.

So I would encourage the adoption of this amendment.

The Chairman. Thank you, Mr. Barton.

Further discussion of this amendment?

Mr. Rush, do you wish to be recognized?

Mr. Rush. Yes, Mr. Chairman, I would.

The Chairman. The gentleman is recognized.

Mr. Rush. I think, Mr. Chairman, this is right along the similar task of a carve-out that would include religious organizations.

Mr. Chairman, let me just use my State as an example. My State did have some authorization. They were empowered to regulate the cemeteries in my State prior to the travesty and tragedy at Burr Oak, but they failed to do that.

Mr. Chairman, those of us who are in Congress, we very much are familiar with sometimes where States abdicate their responsibility, do not enforce their responsibility. And I think as a State right now -- if there is one area where their enforcement authority goes lacking, it is in the area of protecting consumers, particularly consumers of cemetery services. So I think that this exemption kind of really goes against really the common sense and our common experience and our common practice.

I think that the States and municipals should be held to an even higher standard, but they certainly should be held, if not to a higher standard, to the same standard that is set forth in the baseline bill. So, Mr. Chairman, I vigorously oppose my friend,

Mr. Barton's, amendment because I think that not only do I see that as being a Trojan horse with regards to the entire bill, but I also think on its face this is an amendment that leaves a problem that has not been addressed, leaves that problem in place. The argument for most American citizens is they would want the protection at the Federal level or that their States or municipalities be exempt.

I yield back the balance of my time.

The Chairman. Will the gentleman yield?

You are opposed to the amendment?

Mr. Rush. I am opposed to the Barton amendment, yes, I am.

The Chairman. Further discussion?

Mr. Shimkus.

Mr. Shimkus. Strike the last word. And if I could ask my ranking member a question.

On his amendment, from what I understand, you in essence strike what is in the law or any other political subdivision of a State. So not only municipalities, but for, like, my State of Illinois under the Northwest Ordinance, township was the first form of government. And we still have an active township governance system in the State of Illinois which may not be a municipality. Townships would also be considered under your language. Is that --

Mr. Barton. That would be my intent. Now, I am not an attorney, but that would be my intent.

Mr. Shimkus. Question to counsel. Since we are striking any other political subdivision of State, for State of Illinois which has township government, that would include a subdivision of the State. Is that your interpretation?

Voice. That is correct.

Mr. Shimkus. And I would just tell my colleagues that we do have a township form of government. They have an annual meeting. They elect members of the township board. They are as close to the people as you can get. Some do operate cemeteries. And I think we should be -- the same argument that my colleague made for a municipality could also be made for the townships. And I have great respect for my friend from Chicago, but township governments are not compensated real well. So I support my ranking member's amendment.

Mr. Barton. I need all the support I can get. Thank you.

The Chairman. Further discussion?

The gentleman from Alabama.

Mr. Griffith. Thank you, Mr. Chairman.

I would like to speak in favor of the ranking member's amendment.

The city councils, county commissioners, and elected officials in most municipalities are responsible for municipally owned cemeteries; and they are very, very responsible. And I believe that this amendment would go to the fact that we already have adequate -- adequate regulation by elected officials

responsible to the public who 99.9 percent of the time these are nonprofit cemeteries, and they are run well, and their recordkeeping is excellent. And I don't believe they would benefit from being covered under this new law. So I am in support of the ranking member's amendment.

Thank you, Mr. Chairman.

The Chairman. If the members are ready, we will now proceed to a vote on the Barton amendment.

All those in favor of the Barton amendment say aye. Opposed, no.

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

Are there further amendments to the bill?

Mr. Barton. Mr. Chairman.

The Chairman. Mr. Barton.

Mr. Barton. As much as I want to go to the hot dog lunch out in the courtyard right behind us, I still have an amendment at the desk. It deals with an FTC study of this issue.

The Chairman. The clerk will report the amendment.

The Clerk. Amendment to H.R. 3655 offered by Mr. Barton.

Page 1, strike --

The Chairman. Without objection, the amendment is considered as read.

[The information follows:]

******** INSERT 3-2 ********

The Chairman. The gentleman from Texas is recognized for 5 minutes.

Mr. Barton. I thank the chairman.

I am going to be brief on this. This is the proverbial "gut the bill" amendment. I don't want to make any bones about it.

I do think the gentleman from Illinois has raised an issue that is substantive. I know he is very sincere in his concern and his efforts to remedy this problem. I don't think it is a news flash that I think the remedy is worse than the problem he is trying to address.

But, having said that, I do think it is worthy to determine just how extensive the problem is. So this particular amendment would place the bill with the requirement that the Federal Trade Commission conduct a study and report back to the Congress in a timely fashion just what the facts are on this issue that Mr. Rush has brought before his subcommittee and now the full committee. So it would replace the regulation with a study that then the Congress would have the facts in all the States and territories and whether it wanted to move forward to regulate this part of our country.

So I would encourage the adoption of the study amendment as a replacement for the base bill.

The Chairman. The gentleman yields back his time.

Mr. Rush, I presume you would oppose this amendment.

Mr. Rush. I do.

The Chairman. I think the members understand the amendment before us. If no one seeks recognition, we will now proceed to a vote.

All those in favor of the Barton amendment will say aye. Opposed, no.

The nos have it, and the amendment is not agreed to.

Yes?

Ms. Baldwin. I move to strike the last word.

The Chairman. The gentlelady seeks to strike the last word.

Ms. Baldwin. Thank you, Mr. Chairman. Very briefly.

I am a strong supporter of the bill before us today and commend Chairman Rush for his efforts to address the deplorable conditions at some cemetery and funeral homes across the country. The bill before us rightly requires all cemeteries to record and retain burial locations. We know that one of the primary causes of misplaced burials at cemeteries like Burr Oak and Arlington was the lack of consistent, auditable recordkeeping systems.

However, I am concerned that because we do not require that these records be electronic we may continue to run into problems at cemeteries and funeral homes. By their very nature, paper records are more easily lost and destroyed and are susceptible to human error that could make auditing more difficult.

I understand that recordkeeping requirements included in H.R. 3655 are intended to preserve flexibility for cemeteries to

maintain accurate records without necessarily compelling them to go through the expense that going electronic may pose. And assuredly there are small cemeteries where it may be acceptable to keep records and maps that are not digital. However, I do believe it should be a cemetery's responsibility to ensure that each burial record can be tied to a grave space on a map which in turn can be tied to a grave space on the ground, and I believe that digitizing these records is the surest way to do just that.

Therefore, I am not offering any amendment to the bill, but I would certainly ask that the chairman and the committee consider report language that requires the FTC to encourage cemeteries and funeral homes to digitize their records, to keep digitized records such that a backup copy can be stored off site and so that maps are recorded electronically.

I am grateful for this allocation of time, Mr. Chairman; and I yield back.

The Chairman. The gentlelady yields back her time.

The vote now comes on reporting H.R. 3655, as amended, with the recommendation that the bill do pass.

Those in favor of that motion will say aye. Opposed, no.

The ayes appear to have it. The ayes have it, and the motion is agreed to.

The last bill under consideration is H.R. 4678, the Foreign Manufacturer Legal Accountability Act of 2010.

Without objection, the committee will consider as base text

the bill as amended by the subcommittee on Commerce, Trade, and Consumer Protection; and further without objection the bill will be considered as read and open to amendment at any point.

[The information follows:]

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

The Chairman. The chair recognizes himself for a manager's amendment.

Without objection, that amendment will be considered as read.

[The information follows:]

******** INSERT 3-3 ********

The Chairman. The manager's amendment I am offering makes substantive and technical changes to the legislation.

First, the amendment clarifies the effective date for the requirement that foreign manufacturers register an agent. Both the effective date of the registration requirement and the deadline for the publication of regulations regarding who must comply and how is set at 1 year after enactment. Clearly, you can't be expected to comply with the requirement on the same day that the regulations regarding the requirement could be published. This amendment fixes the issue by setting the effective date for the registration requirement after the deadline for the regulation.

Second, in response to concerns raised by the minority staff, the amendment strikes a portion of the language setting out the minimum information that must be provided to register an agent. In particular, the minority was concerned that a foreign manufacturer may not always know under what brand names or other marks a product might be sold once it moves upstream. So it would be unreasonable to ask them to supply this information. I think that is a legitimate point to this amendment. It removes this requirement.

Finally, we have heard and tried to accommodate concerns raised by U.S. companies that receive covered products from their own foreign subsidiaries and from foreign companies with U.S.

subsidiaries through which they distribute covered products. The amendment accommodates the concerns of U.S. companies in the first category by giving them an exemption if the assets of the U.S. parent exceed certain levels. The amendment tries to accommodate the concerns of foreign companies in the second category by giving them an exemption if a U.S. subsidiary certifies that it is responsible for any liability related to the covered products of the foreign manufacturer.

In both instances, companies have to provide some sort of assurance to qualify for the relevant exemption. I believe that if we are giving foreign manufacturers a pass on having to comply with this bill, we should, at minimum, require such assurances so that consumers injured by dangerous or defective products have a means of obtaining accountability.

I thank Ms. Sutton for introducing this bill and for being open to discussions with the minority staff and groups representing foreign and domestic manufacturers to address issues that have been raised about this bill. Although there may still be some fine tuning that needs to be done on this bill by this committee and the Committee on Ways and Means, it remains a bipartisan measure because it is hard to argue against the basic principle underlying this bill, that all manufacturers who do business here should play by the same rules.

I am committed to continuing to work after this markup with anyone who has a legitimate concern about this bill and specific

good-faith solutions to address them. In the meantime, however, I urge my colleagues to support the manager's amendment and to support this bill to the floor.

Mr. Barton.

Mr. Barton. I rise in opposition to the manager's amendment.

The Chairman. The gentleman is recognized.

Mr. Barton. It is not hard, Mr. Chairman, to argue against this bill and to argue against the manager's amendment.

We received it this morning at 9:15. We have never seen this language. It has not been discussed in a hearing. It has never been vetted or shared until we received it this morning at 9:15 for a markup that was scheduled to begin at 10:00 o'clock.

I listened to your explanation of the manager's amendment. I would point out that any foreign manufacturer -- to use your phraseology -- that sells their products in the United States, has a subsidiary or an outlet in the United States, that is subject to the rules here in the United States. So they are going to be liable in the sense that somebody is representing them and making available for purchase. And if some law is violated or something is done that shouldn't be done, there will be a remedy in court for the affiliate that is already here in the United States. So what this bill does is basically open themselves up to double jeopardy.

There are serious concerns with the definitions in the bill, and Mr. Stearns and Mr. Whitfield are going to ask some questions

in a minute about those. What the manager's amendment and the underlying bill basically does is set up a defendant shopping situation. It is a fishing expedition to try to determine for litigation purposes who has the deepest pockets; and if those pockets happen to be overseas, so be it.

The language in the manager's amendment would require the principal officer of the U.S.-based subsidiary to certify that he or she will be responsible for any liability stemming from a coved product regardless of whether the liability stems from the design or product defect. If there is a legitimate theory of liability against a foreign manufacturer, there is an existing system in law in place that we have signed to take care of it. It is called the Hague Convention. Us and 59 other countries are signatories to this international convention. This bill circumvents that. I think that is a mistake.

So I know the hour is somewhat late. The American Meat Institute hot dog supper -- or lunch awaits us. But this is an important issue, and I would hope that we could derail this bill.

The Chairman. The gentleman has yielded to me on his time.

I understand you don't favor the bill; and, therefore, you don't favor the amendment. You complained that it was only provided at 9:00 o'clock this morning, but there has been extensive discussions about the changes, and many of the changes were made to accommodate the points that your staff had raised. And it wasn't until the final language was pinned down, but I

don't think that is a surprise that we were working to accomplish those goals.

I can understand you oppose the amendment on the merits, I can understand you oppose the bill on the merits, and I respect that we have that difference.

Mr. Barton. Well, I appreciate your understanding, Mr. Chairman.

Ms. Harman. Mr. Chairman.

The Chairman. Who seeks recognition?

Ms. Harman, for what purpose do you seek recognition.

Ms. Harman. Move to strike the last word.

Mr. Barton. I yield back the balance of my time.

The Chairman. Thank you, Mr. Barton.

The gentlelady is recognized for 5 minutes.

Ms. Harman. Thank you, Mr. Chairman.

I am sorry about the hot dogs. But I do think this bill is important, and it has important ramifications for many businesses located in my district, which is the home of Toyota and Honda's North America operations. Honda in particular employs 27,000 people in the United States, thousands in my district, and believes that this bill could use some additional refinement.

I want to support the manager's amendment. I know that you and your staff worked hard to accommodate a lot of the issues that have been raised.

I also want to say to Ms. Sutton that the goals of her bill

are worthy. I agree with her.

And I do get it, as the staff memo says, that of the product recalls that we have had in the last several years 82 percent involve imports; and it is critically important that we improve the way imported products are regulated.

Having said all that, as the chairman said and I think as Mr. Barton said as well, a number of foreign firms have established U.S. subsidiaries, big ones that employ thousands and thousands of our constituents, and those constituents pay U.S. taxes, in most cases are Americans, and those subsidiaries are fully subject to U.S. law.

Mr. Barton used the phrase "double jeopardy". I am not sure that is quite fair. But competitive disadvantage might work, because these companies which manufacture cars in the United States -- just to pick Honda and Toyota -- will be treated differently under this bill from other companies that manufacture cars in the United States; and this disadvantage can hurt.

So I just want to say that I am for the manager's amendment, will vote for it, but I plan to vote against this bill because I think it is could use more refinement; and I am hoping that after we refine it further I would be able to support it.

I yield back the balance of my time.

Ms. Sutton. Will the gentlelady yield?

Ms. Harman. I would be happy to yield to Ms. Sutton.

Ms. Sutton. I thank you for your comments and support of the

concepts of the bill.

Just to clarify a little bit about what the manager's amendment does in regard to the situation you raised, the fact that the employer, Toyota, Honda, companies such as that, while they have a presence in the United States, they have Toyota of USA, the fact of the matter is when we tried to serve process and establish jurisdiction over them in U.S. courts we get answers back from Toyota -- I am reading from a pleading, a pleading -- Defendant Toyota Motor Sales USA, Inc's, response to Plaintiff's Special Interrogatory Set No. 1 -- and I could submit it for the record --

[The information follows:]

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

Ms. Sutton. Toyota Motor Sales USA is the authorized importer and distributor of Toyota motor vehicles in certain geographic areas of the continental United States. Toyota Motor Sales USA, Inc., does not design, test, manufacture, or assemble Toyota vehicles in the ordinary course of its business; and Toyota Motor Sales USA was not responsible for the design, manufacture, assembly, or developmental testing of the 2005 car in this case.

And I could go on.

So the point is they direct the plaintiff back to Toyota outside of the country, and we can't get the documents to even pursue justice. So that is one of the problems, And we dealt with that with the manager's amendment by making sure that if there is a company like Toyota or Honda who has a large U.S. presence that they can just certify that they will be accountable and that way they are exempt from having a foreign-registered agent.

Ms. Harman. Well, reclaiming my time which is about to expire, I am not familiar with that pleading. My goal is to have equal treatment of U.S. subsidiaries of foreign firms and U.S. firms in the automobile market. It makes a big difference in terms of our ability to grow jobs here. Those firms don't feel, yet, that the manager's amendment meets that goal.

The chairman himself said he is open to more refinement; and that is what I am suggesting, more refinement. And hopefully we will get to a shared view that this legislation does what it is

intended to do and does not do what it is not intended to do.

Thank you, Mr. Chairman. I yield back.

The Chairman. The gentlelady yields back her time.

Further discussion --

Mr. Whitfield. Mr. Chairman.

The Chairman. Yes, the gentleman from Kentucky.

Mr. Whitfield. Thank you.

The Chairman. For what purpose do you seek recognition, to discuss the amendment?

Mr. Whitfield. To discuss --

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Whitfield. Mr. Chairman, a lot of attention has been given in the U.S. Congress and around the country about the importance of manufacturing and doing everything we can to stimulate our economy. And on this particular piece of legislation we have letters from the National Association of Manufacturers, the Organization for International Investment, the Association of National Automobile Manufacturers and others; and I would just like to read the first paragraph of this letter.

The proposed legislation would harm the U.S. economy and impose unprecedented and burdensome requirements on legitimate companies based in the United States and abroad. It also would have a perverse effect of destroying U.S. manufacturing jobs by discouraging investment in U.S. manufacturing facilities at a critical time for our economic recovery.

And I agree with the gentlelady from California who talked about U.S.-based companies with foreign entities, foreign operations abroad, how they would be discriminated against in this legislation; and I would like to ask the legal counsel a few questions, if I could.

The purpose of this legislation in all of the debate that we had was a defective product. As drafted under this legislation, can a foreign manufacturer be served for a lawsuit involving something other than product liability?

Voice. My understanding is that they could be served for other purposes, but they could not be -- they are not consenting to jurisdiction for anything other than the covered products.

Mr. Whitfield. But they could be sued for any civil suit?

Voice. They could be served with process for the purpose of any Federal regulatory or civil action, but the consent of jurisdiction is limited to liability arising from the covered product.

Mr. Whitfield. Are we at this time a signatory to the Hague Service Convention, the United States?

Voice. I believe we are a signatory to that convention.

Mr. Whitfield. Does that have the force of law in the United States?

Voice. It would have the force of law in the United States.

Mr. Whitfield. And has the U.S. Supreme Court held that its procedures are mandatory if a country does not have in place an

alternative means of service that preserves the due process rights of the foreign company?

Voice. I am not familiar with the decision that you are referring to, so I cannot address that particular point.

Mr. Whitfield. Volkswagen v. Schlunk, 1988.

I think the argument we are making here is that this legislation, while it has the best intention, is counterproductive to U.S. manufacturing interests because it indiscriminately risks severing critical supplier relationships benefit U.S. manufacturers.

It also extends much further than just a product. Even a component part or a part of the product could be a part of this.

It is also that this legislation, it is my understanding, circumvents the Hague Service Convention. It violates article 3 and 11 of the General Agreement on Tariffs and Trade. It abrogates U.S. commitments to key trading partners under the WTO agreement. And that is why we have a lot of letters from a lot of entities that are seriously concerned about the overall impact and the ramifications of this legislation.

So I would hope that we would move cautiously, judiciously before we send a bill like this to the floor; and I yield back the balance of my time.

The Chairman. The gentleman yield back his time.

Mr. Stupak.

Mr. Stupak. Mr. Chairman, move to strike the last word.

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Stupak. What this legislation does is establish a registered agent. So if there is a lawsuit, there is someone you have to serve. So you have notice that you are being sued, and you must answer.

When we had the hearing in this room on drywall, you all had the drywall, rotten drywall from China that is causing all kinds of problems in our home, the individual, following the Hague Convention had to get the process, the lawsuit, if you will, to China. They had to translate it to Mandarin Chinese and then to give it to the local government, and the government official in China will then serve your lawsuit when they feel like it. And the individual testified before our committee $150,000 it cost him so far just to get it served, just to get the process served, just to give them notice that there is a lawsuit.

Eighty-two percent of all recalls we have in this country are from foreign goods. Tomorrow, in Oversight, we are going to do one on genetic testing; and we are going to have an overseas manufacturer testify tomorrow. So if you want to bring a claim, you are going to have to go to Iceland to contact this manufacturer tomorrow.

Look, in everything we have done, in all the stuff we have done in oversight investigations in this committee -- toys, dog food, pharmaceuticals, auto parts, toothpaste with melamine in it, all of these things -- if you started a corporation today, any one

of us, a limited liability practice, a limited liability corporation, you would have to go to your State, and you would have to register. What do you register? A registered agent. What does that registered agent do? It accepts process. It doesn't assign liability.

All we are saying is, why make Americans run through these legal hoops in other countries that you know nothing about? You have to hire attorneys over there just to get your lawsuit changed to Chinese or Norwegian, whatever it might be. All we are saying is, have a registered agent. Tell us who in this country can accept service on your behalf. You want to sell goods in our country, just have someone to accept service; and we will battle it out in the courts.

That is all this is, is establish a registered agent. That is all it is. Tell us who is acting on your behalf so we can give you the papers and then you can argue whether or not the jurisdiction is going to be in Iceland or China or Norway, wherever you want to make it.

But someone has to at least accept the paperwork to get the product going. Once you file suit, you only have so many days to serve the defendant. So that is all this says. I would hope that we would pass this legislation. All it says is, who is the person who can accept paper on your behalf?

I yield back.

The Chairman. Thank you.

Further discussion?

Ms. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman.

I want to point out an issue that I believe needed to be addressed in the bill, and I am prepared to vote for it, but I think that we need to work on what I would like to raise. And that is that I appreciate the issue of component parts and why it is set forward in the bill the way it is. But, as I often say, life is not tidy. For example, biologics and pharmaceuticals, both of which deal with chemicals and biologic parts, I mean, it is easy to identify auto parts, but it is far more complex to separate out the parts of biologics and pharmaceuticals.

So I think that this needs to be thought through, and I do think that it needs to be addressed, and it needs to be fine tuned. I would be happy to work with the author of the legislation, the chairman.

But I just set this down. I know we contacted the author of the legislation, her staff about it. But really nothing was worked out. So I want to raise it, set it on the table and say that we want to work with you, and I am prepared to vote for the bill. But it really does need to be addressed, because that is a real hairball if you are going to try to get into the chemicals of these -- and the construct of these elements.

The Chairman. Would you yield to Mr. Inslee?

Ms. Eshoo. I would be glad to.

Mr. Inslee. Thank you.

I just want to confirm my understanding if I can ask counsel this.

As I understand the bill, registration of the agent constitutes acceptance of jurisdiction -- in the jurisdiction where the agent is registered, is that correct? In other words, this would accept the jurisdiction of State and Federal courts in that jurisdiction, is that correct?

Voice. That is correct. Yes.

Mr. Inslee. The reason I ask that is I think that is a very important point. Mr. Barton and others argue that, essentially, America is protected because we are part of the Hague Convention. In fact, the Hague Convention is not protection for American consumers or business people. And, by the way, a lot of times these plaintiffs are injured business people. People lose businesses because of defective products, not just personal injuries.

But the Hague Convention does not solve the problem of jurisdiction. So even though you can serve the individual in China or Germany or anywhere else, that still allows them to contest jurisdictions. You might get service on them, but you never get access to the American courts.

This is a very important thing we are doing, which is saying if you are going to have access to American market, if you are going to compete with American businesses who are domestic

manufacturers, you have got to have a jurisdiction of our courts; and I think this is ultimately fair to American businesses, domestic businesses. Because if you are a domestic business right now, you are subject to American jurisdiction and you are competing with foreign manufacturers who can escape jurisdiction of our courts, even if the Hague Convention applies. So I really think this is important for business equity so that American businesses are on the same level playing field with foreign businesses.

If you do business in this country, if you are selling your products, if you are making a buck in this country, you ought to be subject to the jurisdiction of our courts. So this is a Hague plus, and American businesses and consumers deserve it.

Ms. Eshoo. Reclaiming my time, Mr. Chairman and Ms. Sutton, do I have an understanding from you that you will work with us on the issue that I have raised relative to page 4, line 23, section G?

Ms. Sutton. I am always willing to try to work to improve a bill.

Ms. Eshoo. Good.

The Chairman. Further discussion?

Are we ready for the vote.

Mr. Stearns. Mr. Chairman.

The Chairman. Mr. Stearns.

Mr. Stearns. Mr. Chairman, let me ask you a question. As

Mr. Barton pointed out, we didn't get this early enough to have a chance to read it. In fact, as he pointed out, we received the text at 9:15 this morning. So I am just going to have to ask you this question, having not read the bill completely.

As I understand the language in your bill, manufacturers agree to be responsible for any liability from a covered product of a foreign manufacturer, producer, including the liability for the design, testing, assembly, manufacturing, warnings, labeling, inspections, packaging, or any other cause of action related to the covered product. That is sort of your language in that, is that correct?

The Chairman. The gentleman is reading the language of the bill offered by Ms. Sutton.

Mr. Stearns. Is that correct what I just said?

Voice. I am sorry. Which section were you referring to?

Mr. Stearns. I don't know which section.

The Chairman. I think the gentleman just read from the bill.

RPTS BINGHAM

DCMN NORMAN

[1:05 p.m.]

Mr. Stearns. Now, here is what some of the manufacturers are concerned about. Their responsibility, they understand about the safety of the product with any State or Federal regulatory proceeding and they obey that liability. But they are concerned about the broad implication of design, testing, assembly, manufacturing, warnings, labeling. I mean they could be sued for liability on labeling and inspection.

And I think, Mr. Chairman, what we are concerned about is this is so broad and extensive that what is going to happen is they will get, if this passes, then there will be retaliation by foreign companies that have American companies that are going to do the same thing in ours, and I am afraid the way I see it is it is just too broad of a liability implication for these manufacturers.

And I suggest, I think they suggested another type of language to you, which would be less encompassing. So I guess, Mr. Chairman, I am asking, would you consider possibly before this moves to the floor to consider some kind of technical language that would help the National Association of Manufacturers with the language that is not so encompassing?

The Chairman. If the gentlemen would yield to me. I think

it is reasonable to ask us to look at technical changes that might make the bill clearer. I don't know if we could -- I don't know enough about where the parties are precisely, but I would think that Ms. Sutton wouldn't object to further discussions and see if we can work something out.

Ms. Sutton. Certainly I am also always willing to work and try to improve the bill. But if the gentleman would yield.

Mr. Stearns. I would yield.

Ms. Sutton. Thank you. If I could just provide this information: In a number of countries where U.S. products are sold, U.S. companies are already subject to domestic legal systems in the place where the injury occurs. So in that sense, this bill actually closes a loophole in the U.S. legal system by creating accountability obligations consistent with those that exist abroad.

An example the new Chinese tort law which is modeled in part on the law of several U.S. States, article 43, 45, and 47 establish both punitive damage and strict liability --

Mr. Stearns. Taking back my time.

Mr. Stupak, I just would tell you even if you served it, you can't get a foreign country sometimes to cough up and pay for this. You and I both know that sometimes it is just fruitless to get the foreign country to pay.

I yield to Mr. Whitfield.

Mr. Whitfield. You know, when we did have that hearing on

the drywall, Mr. Stupak made some great points. But the fact was in that case, even if they obtained the judgment, they would not have been able to obtain the funds.

Mr. Stupak. On that point, why not at least give them the opportunity to try? They can't even pay. You don't have to worry about paying if you can't play. If you don't get to play, you can't pay it, right?

Mr. Whitfield. We have been told that an attempt to serve legal process under this bill would face a court challenge as a violation of U.S. treaty obligations. And so if the U.S. unilaterally is going to go out and be violating WTO agreements and others, I do think we are subjecting ourselves to retaliation from other countries.

All of us want to do what is right here. We do want to protect the American taxpayers and people injured by products. But there are some legitimate questions that can have far-reaching ramifications.

Mr. Stupak. Would the gentleman yield?

Mr. Stearns. I will be glad to yield.

The Chairman. Without objection, the gentleman will be given 1 more minute.

Mr. Stupak. I don't know how it is a violation of WTO and all that when every company doing business in this country, any one of us, must register and have a registered agent to accept process service; and all we are saying to the to foreign

manufacturers, you must do the same. We are leveling the field. Do the same thing. All we are saying is just tell us who is the registered agent who accepts that process, and you are subject to the court. It is that simple. There is nothing more. Yield back.

Mr. Stearns. I just have a little more time.

And, Mr. Stupak, what happens if you have frivolous lawsuits and frivolous claims? I think the manager's amendment fails to provide any true relief or exemption because of its requirement that companies waive their basic legal rights to a fair defense against even frivolous claims. So I think we are all a little concerned about --

The Chairman. Will the gentleman yield to me? That is not an accurate statement. We don't do anything that doesn't already exist in the law. And if there are frivolous lawsuits filed between domestic parties in the United States, the same rules that would apply to them would apply to a lawsuit against a foreign company.

Ms. Sutton. Mr. Chairman.

Mr. Stearns. Mr. Chairman, I think my time has expired.

The Chairman. The gentleman's time has expired. Mr. Dingell, do you seek recognition?

Mr. Dingell. Mr. Chairman I rise in strong support of the bill and seek recognition for that purpose.

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Dingell. I am sure this committee has been deluged with complaints from a bunch of foreign manufacturers who want to continue the advantages that they have gotten over the years by the fact that they are exempt, either because of their physical absence or because of their national laws, from our regulations.

We just had a very extensive period of hearings on the subject of Toyota. Toyota was so immune to U.S. process that we had to send our Secretary of Transportation and the head of NHTSA over there to ask them to please submit to our laws and to comply with our laws.

This is not a new situation. States have been compelled to do this throughout the years because of problems that they have confronted with people who would have evaded service and evades complying with their contracts in areas like insurance and things of this kind. All the legislation does before us is to assure that foreign manufacturers will submit to the same requirements that U.S. manufacturers do.

Now, there are a few good-hearted folks who have begun to shift production from the United States over to other countries and call themselves American companies. And those companies are now going to have to have their foreign products treated the same way their American products do. This is going to see to it, first of all, that good-hearted folk like Toyota submit to U.S. process and U.S. regulation. And it is going to insist that other businesses which have been outside the United States will now be

subject to U.S. suits and U.S. process.

Now, the foreigners have got some pretty clever ways of doing business, one of which is if an American citizen has been hurt by a foreign product, they sue in the U.S. courts. But then the U.S. court judgment is not good against a foreign manufacturer, whether they are a manufacturer of some kind of a mechanical device like an automobile or a thing like a pharmaceutical or a medical device or something. The foreigners, when our injured citizen goes over there, our citizen is compelled to start the suit ab initio and to then seek relief in a foreign court, where the liability of the foreign manufacturer is much more constrained than is the liability of an American manufacturer in this country.

If you want to see American workers, if you want to see American manufacturers treated fairly, support the legislation and don't listen to these good-hearted folk who are rushing in and telling us that foreigners are going to discriminate Americans. Hell, they have been doing that for years. And I just don't see what the concern about this potential discrimination might be. All we are just doing is seeing to it that our people are treated fairly, and that is what we are here for.

Now, having said that, they are going to have to comply with our laws on manufacturing the same way American manufacturers do. And they are going to have to do something else. They are going to have to understand that they are going to be subject to American process, and they are not going to find themselves being

adversely treated under our foreign trade agreements or foreign trade laws. We are going to treat them just exactly the same way we treat U.S. manufacturers.

And I would love to see somebody run into a foreign trade entity and say, we want to be favorably and especially so, treated in U.S. markets, U.S. courts. This is sort of a cockeyed idea. And I can't see that any American to whom we are going to go home and answer very shortly in an election is going to say this is a bad idea. On the contrary. They are going to say, Dingell, or anybody else on this committee, it is a great idea. You ought to be supporting us and seeing to it that we are treated fairly by the foreigners in our country, and that our manufacturers and our workers are given fair treatment in the U.S. marketplace. And maybe it will just help us save a few of the jobs that are running overseas, and maybe it will just help us get ourselves out of a recession which is seriously plaguing the U.S. economy and for which everybody in this room is going to have to go home and answer come fall.

I yield back the balance of my time.

The Chairman. The gentleman yields back the balance of his time.

Are we ready for the vote on the manager's amendment? That will not preclude other discussion on other amendments.

Mr. Shimkus. Mr. Chairman, strike the last word, but I will be as brief as possible..

The Chairman. The gentleman from Illinois.

Mr. Shimkus. Thank you, Mr. Chairman. Issue one is, it is my understanding that foreign auto manufacturers, U.S. subsidiaries, all have registered agents in each State. This registered agent can be served in a lawsuit answering to one of the points.

The other point is the reason why you have an international agreement is that you don't start a trade war based upon regulations. In many of the countries, Caterpillar is a great U.S. company. Caterpillar in Central Illinois produces heavy mine equipment. Over 60 percent of what they produce goes overseas.

What we risk here is if we break from the path of dealing with an international agreement is that many litigations going -- being involved in foreign courts, including countries with less developed judicial systems, hindering our ability to compete internationally. And I will tell you out of the 3,500 employees in Decatur, 60 percent of them rely on exported big UAW manufacturing, and we better be very, very careful. And that is why you have international agreements.

The Chairman. Will the gentleman yield to me?

Mr. Shimkus. I will.

The Chairman. I think you made a statement that is not accurate. If somebody in your district wants to sue Toyota, they cannot file it and have it accepted -- process accepted in the State. Under The Hague agreement they would have to go to Japan.

Now, that may be different --

Mr. Shimkus. It is my understanding that every foreign -- and we are talking about automobile companies -- have registered agents in every State. And maybe if that is not clear, maybe we ought to clarify that.

The Chairman. If the gentleman would permit, I don't believe that is accurate but --

Mr. Shimkus. I think we should clarify that because that is really the premise of this whole legislation.

Mr. Barton. If the gentleman from Illinois would yield to me.

Mr. Shimkus. I would.

Mr. Barton. You can see sue the Toyota dealer in your city, you can sue Toyota U.S.A. You have got all kinds of people you could sue. What you are saying is you can't sue Toyota Japan; is that right?

Mr. Stupak. But every one of those companies have a U.S. corporate, and as the lawsuit shows, it is a shell corporation. All it does is move vehicles. When Toyota testified before the Oversight and Investigations Subcommittee, we asked technical questions "What do you say?" "I don't know. All I am is just a salesman. I am a salesman for North America." That is what the CEO of Toyota of North America does. He has no right to accept any process for lawsuits. Anything we wanted to do had to go back to Japan. Heck, they only had one black box reader in this

country. One. And whenever you take a black box out of the EDR, electronic data recorder, it has to be sent to Japan. Everything went to Japan. They do not have registered agents for the purpose of accepting process in lawsuits in this country. They hide behind the shell corporations they have.

The Chairman. The gentleman from Illinois still has the time, unless he yields.

Mr. Shimkus. I would definitely yield to continue this debate.

Mr. Whitfield. We know that there is a long line of cases in the U.S. where American citizens have filed lawsuits against automobile companies -- Mazda motors of America, Toyota of America, whatever -- and have obtained judgments; and not only judgments, but have collected on those judgments. So I know this is much greater than just automobile manufacturers, but we know that people have been collecting on judgments against automobile manufacturers in the U.S.

The Chairman. Does the gentleman yield back his time?

Mr. Shimkus. I yield back my time.

The Chairman. I want to recognize Mr. Barton who had some questions, and then I hope after that we can proceed to the vote on the manager's amendment. As I understand it, there is one more amendment that I understand is not controversial, and then I would like us to move to final passage before we have to vote on the floor.

Mr. Barton. And I will ask for a roll call vote on final passage for members who are trying to make plans.

I have a question of counsel about section 4, section 4 subparagraph (a), and I quote: A person may not import into the United States a covered product or component part that will be used in the United States to manufacture a covered product if such product or component part are or any part of such product or component part was manufactured or produced outside the United States by a manufacturer producer who does not have a registered agent described in section 3(a whose authority is in effect on the date of importation.

My question is: What is meant by the term "any part"?

Counsel. I am not sure as to the reach of that definition. I know there is some ambiguity in that section. Unfortunately, that section is I believe not within the jurisdiction of this committee, and Ways and Means --

Mr. Barton. Don't give me that garbage about Ways and Means. Ways and Means has waived jurisdiction, so this committee for this bill is the committee of jurisdiction.

This is a Federal statute. You have got a term in it. Nobody understands it. Apparently the counsel doesn't understand it, and yet we are expected to vote on it? Let me ask you this --

Ms. Sutton. Will the gentleman yield?

Mr. Barton. In a second I will.

Is this "any part" different than the definition in section 2

that defines a "covered product"? Is there a difference in definition between "any part" in section 4 and the term "covered product" in section 2?

Counsel. I believe there is some ambiguity with respect to the reach of component parts in section 4. It is also my understanding that staff deferred on that issue with the understanding that Ways and Means would be dealing with that entire section..

The Chairman. Will the gentleman yield to me?

Mr. Barton. Sure.

The Chairman. As I understand it, the Ways and Means Committee is not deferring to us on that section 4, which is in their jurisdiction. I think they are planning to mark up that section 4.

Mr. Barton. The minority staff has been told that Ways and Means is waiving their jurisdiction.

The Chairman. Well, we don't believe that. That is not our information, but we will have to wait and see.

Mr. Barton. This is a fine kettle of fish.

Ms. Eshoo. Does Mr. Barton still have the time?

Mr. Barton. I don't know. Do I have the time? I have the time. I want to yield to the gentlelady from Ohio. She was going to attempt to clarify my question about the definition of "any part."

Ms. Sutton. Thank you, Representative Barton.

Concerns were raised with respect to the coverage of component parts that are incorporated in the covered products before they enter the U.S., and we addressed the issue in this amendment in the nature of a substitute at the subcommittee markup.

In the definition section, we clarified that a manufacturer or producer of an item that is intended to be a component part of a covered product, but is not yet a component part of such products, is covered under the bill.

So manufacturers or producers of component parts that are already incorporated into covered products -- so they are going to be covered overseas -- are not covered because they are already a part of another product that has been -- there will be a registered agent for and there will be accountability.

The bill also requires a study by each agency within a year of enactment on the feasibility of covering component parts within covered products manufactured or produced outside the U.S.

So, hopefully, that provides some clarification. But if not, I would be happy to continue to discuss it with you.

Mr. Barton. Reclaiming my time, briefly.

Mr. Chairman, this just shows the problems with the bill. We have the author, or the primary author of the bill, who has just made a very good-faith effort to explain what it means, and I am still not sure what she told me, and I am not sure she knows exactly what she told me, but at least she attempted to tell me

something. So I appreciate that.

But "any part" in the common vernacular is so broad that it could go down to such -- it could be construed to mean just material like lead soldering and things of this sort, because the fact that you really have trouble defining "part" causes a problem. So I am going to oppose the bill.

I do want to compliment Chairman Dingell on his outfit today. He looks very spiffy on TV. Debbie has done a good job of dressing him in a tie and a matching suit that reflects the season.

The Chairman. The gentleman's time has expired.

Mr. Barton. I oppose the bill.

The Chairman. The gentleman's time has expired. I would like us -- Mr. Stearns, I don't want to cut anybody off.

Mr. Stearns. I have two quick questions for the counsel and then I am done. Strike the last word.

Counsel, section 2(g) on page 4 states that a covered product includes not only all consumer products, motor vehicles, motor vehicle equipment, drugs, medical devices and chemicals; it would also include any component part shipped to the United States for the purpose of domestically assembling any of those products. Is that correct?

Counsel. I believe that is correct.

Mr. Stearns. So to clarify on the provision, if a pharmaceutical manufacturer imports 10 different ingredients to

the United States for the purpose of manufacturing prescription drugs, would the manufacturer of each of those imported ingredients then have to register an agent and submit to the jurisdiction of U.S. courts?

Counsel. I believe if each ingredient is shipped in separately for manufacture in the United States, then each one would need to register an agent.

Mr. Stearns. But if the pharmaceutical manufacturer decides to just manufacture the drug overseas, then import it into the United States, then under this provision they would only have to ensure the overseas manufacturer has a registered agent and submits to U.S. court jurisdiction. Is that true?

Counsel. I believe that is correct.

Mr. Stearns. So under this bill, Mr. Chairman, if the importer chooses to import fully manufactured goods from abroad instead of component parts for domestic manufacturing, they will, in effect, have less regulation they will be forced to comply with. Thank you Mr. Chairman.

The Chairman. Is there further discussion?

Mr. Dingell. Mr. Chairman, I would seek recognition at the appropriate time.

The Chairman. The gentleman seeks recognition for the purpose of --

Mr. Dingell. For purposes of some inquiries to counsel, who I think needs a little bit of refreshing his recollection.

The Chairman. Okay, let me just say we do have a request for time, and Mr. Rogers has a request for time. We then have the vote on the manager's amendment, unless we get another request for time. And then we have another amendment by Mr. Braley. And then I would hope at that point we could go for final passage.

There are votes on the floor of the House.

I would like us to get to the point where we can, when we come back, we can go to the roll call vote on final passage.

So if members don't object, Mr. Dingell, I would like to recognize you for --

Mr. Dingell. Mr. Chairman, if you are in a hurry to get a vote and the obfuscation of my good friends -- and by the way, I want to thank my friend from Texas for his complimentary remarks about me -- has not caused any significant loss of votes on this time, I will waive my questions.

The Chairman. The gentleman waives his questions.

Will the gentleman from Michigan be willing to have 2 minutes? He is recognized for 2 minutes for questions.

Mr. Rogers. Thank you, Mr. Chairman. I just simply want to point out you can see the difficulty of the bill and the interpretation of the bill is going to have some impact. The National Association of Manufacturers opposes this bill. Trial lawyers support this bill.

In a State like Michigan, just over the last few years we have lost 400,000 manufacturing jobs, 400,000 middle-class

manufacturing jobs gone. We are dying.

Manufacturers still would love to compete. Any piece of legislation that pits a middle-class manufacturer against a high-priced trial lawyer is wrong. It is absolutely wrong.

How many more manufacturing jobs must we lose in this country? If you make it one ounce harder or one penny more expensive, you are putting the weight of competition on the backs of these people who are hardly making it already.

This should be a very easy "no" vote for everybody. And if you honestly care about the middle class who are working in these factories, trying to compete in a worldwide market, don't make it harder for them to do that.

Our median income has slipped in the State of Michigan with every manufacturing job we have lost. We used to be rated in the top percentile. Now we are in the bottom percentile. Why? Because we don't build things anymore, because bills like this make it harder and harder and harder for these people to compete. And guess what? They are not all going to build windmills. The math doesn't work.

We have got to still produce things in this country. I would urge this majority to stop making it difficult for these people to do what they do best, and that is manufacture some of the best products in the world. They can't do it if we can't compete.

This is a very easy "no" vote for me. I hope it is a "no" vote for everybody that cares about our incredibly shrinking

middle class and those that build things in the United States of America. I yield back my time.

The Chairman. The gentleman's time has expired.

The vote now comes on the manager's amendment.

All those in favor, signify by saying aye.

Opposed, no.

The ayes have it. The manager's amendment is agreed to.

Mr. Braley, you have an amendment.

Mr. Braley. I do.

The Chairman. Without objection, the manager's amendment will be considered as read. You are recognized for 5 minutes.

[The information follows:]

******** INSERT 4-1 ********

Mr. Braley. Mr. Chairman I seek recognition to offer the amendment submitted by Mr. Melancon numbered 061. This amendment would direct GAO to conduct a study of methods to pursue overseas enforcement --

The Chairman. Will the gentleman yield to me? A study by GAO sounds like something no one would object to. Is there any objection to that amendment?

If not, all those in favor, signify by saying aye.

Opposed, no.

The ayes have it. The amendment is agreed to.

The vote would now come on reporting the bill. But this is going to require a roll call vote. And to be fair to all the members, we will ask the members to come back and vote after the votes on the House floor.

Without objection, all debate has ceased and the previous question is ordered and the vote on final passage will take place.

Mr. Stearns. Mr. Barton is under the impression that we are going to vote afterwards.

The Chairman. I think we are going to vote afterwards. It is the only fair way to do it.

And so I would urge all members -- let me ask Mr. Stearns and others, could we call the roll, and people who are here will respond, and those who are not here come afterwards and respond?

Without objection, the Clerk will call the roll.

The Clerk. Mr. Waxman.

The Chairman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Dingell.

Mr. Dingell. Aye.

The Clerk. Mr. Dingell votes aye.

Mr. Markey.

[No response.]

The Clerk. Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

Mr. Rush. Aye.

The Clerk. Mr. Rush, aye.

Ms. Eshoo.

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo, aye.

Mr. Stupak.

Mr. Stupak. Yes.

The Clerk. Mr. Stupak, aye.

Mr. Engel.

[No response.]

The Clerk. Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. Aye.

The Clerk. Ms. DeGette, aye.

Mrs. Capps.

Mrs. Capps. Aye.

The Clerk. Mrs. Capps, aye.

Mr. Doyle.

Mr. Doyle. Yes.

The Clerk. Mr. Doyle, aye.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman, no.

Ms. Schakowsky.

[No response.]

The Clerk. Mr. Gonzalez.

[No response.]

The Clerk. Mr. Inslee.

Mr. Inslee. Aye.

The Clerk. Mr. Inslee, aye.

Ms. Baldwin.

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin, aye.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

[No response.]

The Clerk. Mr. Matheson.

[No response.]

The Clerk. Mr. Butterfield.

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield, aye.

Mr. Melancon.

Mr. Melancon. Aye.

The Clerk. Mr. Melancon, aye.

Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow, aye.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill, no.

Ms. Matsui.

Ms. Matsui. Aye.

The Clerk. Ms. Matusi, aye.

Mrs. Christensen.

[No response.]

The Clerk. Ms. Castor.

Ms. Castor. Aye.

The Clerk. Ms. Castor, aye.

Mr. Sarbanes.

Mr. Sarbanes. Aye.

The Clerk. Mr. Sarbanes, aye.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. Aye.

The Clerk. Mr. Murphy, aye.

Mr. Space.

Mr. Space. Aye.

The Clerk. Mr. Space, aye.

Mr. McNerney.

Mr. McNerney. Aye.

The Clerk. Mr. McNerney, aye.

Ms. Sutton.

Ms. Sutton. Aye.

The Clerk. Ms. Sutton, aye.

Mr. Braley.

Mr. Braley. Aye.

The Clerk. Mr. Braley, aye.

Mr. Welch.

[No response.]

The Clerk. Mr. Barton.

[No response.]

The Clerk. Mr. Hall.

[No response.]

The Clerk. Mr. Upton.

[No response.]

The Clerk. Mr. Stearns.

Mr. Stearns. No.

The Clerk. Mr. Stearns, no.

Mr. Whitfield.

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus.

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Shadegg.

[No response.]

The Clerk. Mr. Blunt.

[No response.]

The Clerk. Mr. Buyer.

[No response.]

The Clerk. Mr. Radanovich.

[No response.]

The Clerk. Mr. Pitts.

[No response.]

The Clerk. Ms. Bono Mack.

[No response.]

The Clerk. Mr. Terry.

[No response.]

The Clerk. Mr. Rogers.

Mr. Rogers. No.

The Clerk. Mr. Rogers votes no.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

[No response.]

The Clerk. Mr. Murphy of Pennsylvania.

[No response.]

The Clerk. Mr. Burgess.

Mr. Burgess. No.

The Clerk. Mr. Burgess votes no.

The Clerk. Mrs. Blackburn.

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn votes no.

Mr. Gingrey.

[No response.]

The Clerk. Mr. Scalise.

[No response.]

The Clerk. Mr. Griffith.

Mr. Griffith. No.

The Clerk. Mr. Griffith, no.

Mr. Latta.

[No response.]

The Clerk. Mr. Ross.

Mr. Ross. Aye.

The Clerk. Mr. Ross, aye.

Mr. Markey.

Mr. Markey. Aye.

The Clerk. Mr. Markey votes aye.

Mr. Weiner.

Mr. Weiner. Aye.

The Clerk. Mr. Weiner votes aye.

The Clerk. Mr. Gingrey.

Mr. Gingrey. Nay.

The Clerk. Mr. Gingrey, no.

Mr. Shadegg.

Mr. Shadegg. No.

The Clerk. Mr. Shadegg votes no.

Ms. Schakowsky.

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky, aye.

The Chairman. While most members have voted, certainly a quorum has already voted, the roll will still be kept open until after the votes that are pending on the House floor for other members to add their vote to the tally before we have a final announcement of the vote.

So we are in recess until after the last votes on the floor. Please come back for those who -- please come back as quickly as possible.

[Recess.]

The Chairman. The meeting will come back to order. The Clerk will continue the votes for members who wish to be recorded.

Mr. Hall. Mr. Chairman, how am I recorded?

The Chairman. Mr. Hall, I don't believe you are recorded.

Mr. Hall. I vote no.

The Clerk. Mr. Hall votes no.

Mr. Blunt.

Mr. Blunt. No.

The Clerk. Mr. Blunt votes no.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Gonzalez.

Mr. Gonzalez. Aye.

The Clerk. Mr. Gonzalez votes aye.

Mr. Welch.

Mr. Welch. Aye.

The Clerk. Mr. Welch, aye.

Ms. Bono Mack.

Mrs. Bono Mack. No.

The Clerk. Ms. Bono Mack votes no.

Mr. Pallone.

Mr. Pallone. Yes.

The Clerk. Mr. Pallone votes aye.

The Clerk. Mr. Upton.

Mr. Upton. No.

The Clerk. Mr. Upton votes no.

Mr. Latta.

Mr. Latta. No.

The Clerk. Mr. Latta votes no.

Mr. Boucher. How am I recorded, Mr. Chairman?

The Clerk. He is not recorded, Mr. Chairman.

Mr. Boucher. Mr. Boucher votes no.

The Clerk. Mr. Boucher votes no.

Mr. Scalise.

Mr. Scalise. No.

The Clerk. Mr. Scalise votes no.

Mr. Barton.

Mr. Barton. Can you tell me what the vote is first?

The Clerk. Mr. Barton, the vote is on final passage of the bill.

Mr. Barton. Of which bill?

The Clerk. Of H.R. 4678, the Sutton bill.

Mr. Barton. I vote no.

The Clerk. Mr. Barton votes no.

Mr. Pitts.

Mr. Pitts. No.

The Clerk. Mr. Pitts votes no.

Mr. Engel.

Mr. Engel. Yes.

The Clerk. Mr. Engel votes aye.

Mr. Radanovich.

Mr. Radanovich. No.

The Clerk. Mr. Radanovich votes no.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Yes.

The Clerk. Mr. Murphy votes aye.

The Clerk. Mr. Buyer.

Mr. Buyer. No.

The Clerk. Mr. Buyer votes no.

Mr. Gonzalez. [Presiding.] Have all members who wish to vote recorded their vote? Obviously, yes.

The Clerk will report the tally.

The Clerk. Mr. Chairman, on the vote on final passage, the yeas were 31 and the nays were 22.

Mr. Gonzalez. The motion to order reported H.R. 4678 is approved.

Without objection, staff will be authorized to make technical and conforming corrections to the measures considered at today's markup. And we stand adjourned.

[Whereupon, at 2:35 p.m., the committee was adjourned.]