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4 MARKUP OF H.R. 1860, THE DIGITAL GOODS AND SERVICES TAX

5 FAIRNESS ACT OF 2011;

6 H.R. 823, FOR THE RELIEF OF MARIA CARMEN CASTRO RAMIREZ AND

7 J. REFUGIO CARRENO ROJAS;

8 H.R. 316, FOR THE RELIEF OF ESTHER KARINGE;

9 H.R. 794, FOR THE RELIEF OF ALLAN BOLOR KELLEY;

10 H.R. 357, FOR THE RELIEF OF CORINA DE CHALUP TURCINOVIC;

11 H.R. 824, FOR THE RELIEF OF DANIEL WACHIRA;

12 H.R. 1857, FOR THE RELIEF OF BARTOSZ KUMOR;

13 H.R. 3120, THE STUDENT VISA REFORM ACT;

14 H.R. 6019, THE JUVENILE ACCOUNTABILITY BLOCK GRANT

15 REAUTHORIZATION AND THE BULLYING PREVENTION AND INTERVENTION

16 ACT; AND THIRD SEMIANNUAL ACTIVITY REPORT OF THE COMMITTEE

17 OF THE JUDICIARY FOR THE 112TH CONGRESS.

18 Thursday, June 28, 2012

19 House of Representatives

20 Committee on the Judiciary

21 Washington, D.C.

22 The committee met, pursuant to call, at 12:05 p.m., in
23 Room 2141, Rayburn Office Building, Hon. Lamar Smith
24 [chairman of the committee] presiding.

25 Present: Representatives Smith, Gallegly, Goodlatte,
26 Lungren, Chabot, King, Franks, Jordan, Marino, Ross, Quayle,
27 Amodei, Conyers, Berman, Scott, Watt, Lofgren, Jackson Lee,
28 Waters, Cohen, Johnson, Quigley, Chu, Deutch, Sanchez, and
29 Polis.

30 Staff present: Richard Hertling, Staff Director and
31 Chief Counsel; Travis Norton, Majority Parliamentarian;
32 Sarah Kish, Majority Clerk; George Fishman, Counsel, Sarah
33 Allen, Counsel; Perry Apfelbaum, Minority Staff Director;
34 Danielle Brown, Minority Parliamentarian; Norberto Salinas,
35 Counsel; and Bobby Vassar, Counsel.

36

37 Chairman Smith. The Judiciary Committee will come to
38 order.

39 Without objection, the chair is authorized to declare
40 recesses of the committee at any time.

41 And the clerk will call the roll to establish a quorum.

42 Ms. Kish. Mr. Smith?

43 Chairman Smith. Present.

44 Ms. Kish. Mr. Sensenbrenner?

45 Mr. Coble?

46 Mr. Gallegly?

47 Mr. Goodlatte?

48 Mr. Lungren?

49 Mr. Chabot?

50 Mr. Issa?

51 Mr. Pence?

52 Mr. Forbes?

53 Mr. King?

54 Mr. Franks?

55 Mr. Franks. Here.

56 Ms. Kish. Mr. Gohmert?

57 Mr. Jordan?

58 Mr. Poe?

59 Mr. Chaffetz?

60 Mr. Griffin?

61 Mr. Marino?

62 Mr. Marino. Present.

63 Ms. Kish. Mr. Gowdy?

64 Mr. Ross?

65 Mr. Ross. Present.

66 Ms. Kish. Ms. Adams?

67 Mr. Quayle?

68 Mr. Amodei?

69 Mr. Amodei. Present.

70 Ms. Kish. Mr. Conyers?

71 Mr. Berman?

72 Mr. Nadler?

73 Mr. Scott?

74 Mr. Scott. Present.

75 Ms. Kish. Mr. Watt?

76 Ms. Lofgren?

77 Ms. Lofgren. Here.

78 Ms. Kish. Ms. Jackson Lee?

79 Ms. Jackson Lee. Present.

80 Ms. Kish. Ms. Waters?

81 Mr. Cohen?

82 Mr. Johnson?

83 Mr. Pierluisi?

84 Mr. Quigley?

85 Mr. Quigley. Here.

86 Ms. Kish. Ms. Chu?

87 Mr. Deutch?

88 Ms. Sanchez?

89 Mr. Polis?

90 Chairman Smith. The gentleman from Ohio.

91 Mr. Jordan. Here.

92 Chairman Smith. The gentleman from Arizona.

93 Mr. Quayle. Present.

94 Chairman Smith. The gentleman from Colorado.

95 Mr. Polis. Present.

96 Chairman Smith. The gentlewoman from California.

97 Ms. Chu. Present.

98 Chairman Smith. Okay. The clerk will report.

99 Ms. Kish. Mr. Chairman, 13 members responded present.

100 Chairman Smith. Okay. A working quorum is present.

101 We have a number of bills that we are going to consider
102 today. I believe all of them are basically non-
103 controversial and bipartisan. And we will start with some
104 private immigration bills that we will consider en bloc.

105 Pursuant to notice, I now call up H.R. 823, For the
106 Relief of Maria Carmen Castro Ramirez and Jay Refugio
107 Carreno Rojas; H.R. 316, For the Relief of Esther Karinge;
108 H.R. 794, For the Relief of Allan Bolar Kelley; H.R. 357,
109 For the Relief of Corina de Chalup Turcinovic; H.R. 824, For
110 the Relief of Daniel Wachira; and H.R. 1857, For the Relief
111 of Bartosz Kumor.

112 For purposes of markup, and without objection, the bills
113 will be considered en bloc, and the clerk will report the
114 bills.

115 Ms. Kish. H.R. 823, for the relief of Maria Carmen
116 Castro Ramirez and J. Refugio Carreno Rojas --

117 Chairman Smith. Without objection, the bills will be
118 considered as read

119 [The information follows:]

120

121 Chairman Smith. I will recognize myself for an opening
122 statement.

123 I support the passage of these 6 private immigration
124 bills. Each of them conforms to the Judiciary Committee's
125 policies for private bills and represents a legitimate
126 effort to grant extraordinary relief.

127 Private bills offer narrow relief to specific
128 individuals. When a private bill is referred to the
129 Judiciary Committee, we have the ability to ask the
130 Department of Homeland Security for a report on any
131 information that might affect our judgment of whether to
132 move the bill forward. With respect to these six bills, DHS
133 has not reported any negative information about the
134 individuals the bills benefit.

135 Each of these individuals has a compelling story that
136 justifies the committee granting them the relief provided
137 for in these bills. For example, one of the individuals was
138 abandoned to die as an infant on a Nairobi trash heap.
139 Another came to the U.S. to care for a fiancé who became a
140 quadriplegic after being struck by a drunk driver.

141 Private bills are extraordinary remedies and should be

142 reserved for rare circumstances. These bills meet that
143 test, and I urge my colleagues to support them.

144 The gentlewoman from California, Ms. Lofgren, the
145 ranking member of the Immigration Subcommittee, is
146 recognized for her statement.

147 Ms. Lofgren. Thank you, Mr. Chairman. As you
148 mentioned, we are marking up the six private immigration
149 bills. Most of the bills are familiar to us. In fact, the
150 House passed two of them in the 110th Congress, but they did
151 not become law because of the Senate's failure to take them
152 up at the time. Those two bills, along with three others
153 that we will be considering today, were reintroduced in the
154 111th Congress, and as you have noted, the subcommittee
155 voted to request ICE to prepare reports.

156 Although the House and Senate were able to work together
157 toward the end of that Congress to break a logjam and enact
158 two private immigration laws, we were not able to get to
159 these bills.

160 The sixth bill we will consider today, the only one that
161 was introduced for the first time in this Congress, was
162 introduced by Ranking Member Conyers. The bill meets

163 several of our past precedents, and he may wish to describe
164 it in detail. In the interest of time, however, I will
165 simply incorporate the remarks that I have previously made
166 in support of each of the bills we will consider today.

167 I do want to make one point about private immigration
168 bills. One of the most important values served by such
169 bills is they help us identify problems in the laws that
170 must be fixed. One such problem is the rigid age cutoff
171 contained in the Immigration and Nationality Act for
172 international adoptions.

173 Under current law, an adoption must be finalized before
174 a child turns 16 in order for the child to qualify for legal
175 status in the United States. The only exception to this is
176 in the case of adopting the sibling of such a child, in
177 which case the cutoff is 18 years of age.

178 It does not make sense to have two different age
179 cutoffs. It just creates confusion. Moreover, this
180 committee regularly considers and passes private immigration
181 bills to help children who, through no fault of their own or
182 their adoptive parents, miss the more stringent age cutoff
183 of 16. In such cases, although the child has been legally

184 adopted by U.S. citizen parents, he or she cannot legally
185 remain with his or her parents in the United States.

186 In the last Congress, Chairman Smith and I introduced
187 H.R. 5532, the International Adoption Harmonization Act of
188 2010. The bill passed the House by voice vote, but was
189 never taken up in the Senate. It was a good bill that would
190 have harmonized the adoption requirements by setting a
191 uniform cutoff of 18. Instead, Congress enacted the bill
192 introduced by Senator Klobuchar that accomplished some of
193 the good goals of our bill, but left in place the one
194 discrepancy that I have discussed.

195 I mention H.R. 5532 only because it illustrates some of
196 the public good that can come from the private bill process.
197 Year after year, we hear heart-wrenching stories about
198 children who will be separated from their parents without a
199 private immigration bill because the parents were unable to
200 finalize the adoption before the kids turn 16. Two of the
201 beneficiaries of the bills before us, Allan Kelley and Bart
202 Kumor, fall into that category.

203 The bill that Mr. Smith and I introduced would have
204 eliminated the need to consider such bills in the future

205 because it would have set a new requirement based on what we
206 have learned through reviewing so many of these cases. This
207 may be an issue for us to revisit in light of the individual
208 cases that keep coming before us.

209 And with that, I yield the balance of my time.

210 Chairman Smith. Thank you, Ms. Lofgren.

211 Without objection, the chairman of the Immigration
212 Subcommittee's statement will be made a part of the record,
213 as will the ranking member of the full committee's
214 statement.

215 [The information follows:]

216

217 Chairman Smith. A reporting quorum being present, the
218 question is on reporting the bills en bloc favorably to the
219 House.

220 Those in favor, say aye.

221 Opposed, no.

222 The ayes have it, and the bill is reported favorably.

223 With that, we will report this amendment in the nature
224 of a substitute, and staff is authorized to make technical
225 and conforming changes. Members will have 2 days to submit
226 views.

227 [The information follows:]

228

229 Chairman Smith. We will now go to H.R. 3120, the
230 Student Visa Reform Act. Pursuant to notice, I call up H.R.
231 3120, the Student Visa Reform Act, for purposes of markup.

232 And the clerk will report the bill.

233 Ms. Kish. H.R. 3120, to amend the Immigration and
234 Nationality Act to require accreditation --

235 Chairman Smith. Without objection, the bill will be
236 considered as read.

237 [The information follows:]

238

239 Chairman Smith. I will recognize the gentlewoman from
240 California, Ms. Lofgren, to offer an amendment in the nature
241 of a substitute. And the clerk will report that amendment
242 in the nature of a substitute.

243 Ms. Lofgren. Thank you, Mr. Chairman. Our student visa
244 program, known as the F visa, has a long and proud history.
245 For decades it has helped American colleges and universities
246 attract some of the brightest young minds in the world,
247 while offering those students the opportunity to study in
248 the world's leading institutions of higher education.

249 The benefits to our country have been great. The
250 inclusion of leading students from all over the world has
251 expanded and enriched the educational experiences for all
252 students involved. And by immersing foreign students in
253 American culture, the program often creates a lasting and
254 favorable understanding of our country that pays dividends
255 in foreign countries for years to come.

256 Unfortunately, some colleges and universities have been
257 undermining the laudable mission of this visa program. Last
258 year Immigration and Customs Enforcement took down two
259 schools in California, the International Technological

260 University in San Jose and Tri-Valley University in
261 Pleasanton, after they were found to have engaged in
262 widespread visa fraud and exploitation of students. Among
263 other things, the schools were found to have sponsored many
264 students without requiring that they actually take courses.
265 They also misled students as to the schools' accreditation
266 and the ability of students to transfer credits to
267 accredited institutions.

268 Commonly known as visa mills, these institutions took
269 enormous sums of money from their students, but provided
270 questionable academic courses and essentially worthless
271 degrees.

272 To prevent this type of fraud in the future, H.R. 3120
273 requires that colleges and universities be accredited in
274 order to host foreign students. Such accreditation would
275 need to be given by a regional or national accrediting
276 agency recognized by the Secretary of Education. Schools
277 that are not accredited are given three years to acquire
278 such accreditation, so long as they apply for accreditation
279 within one year.

280 Moreover, to prevent other types of academic

281 institutions from committing fraud, the bill also provides
282 the Secretary of DHS with the discretion to provide that
283 other institutions similarly be accredited. The Secretary
284 would be authorized to require accreditation in cases where
285 an appropriate accrediting body exists and the institution
286 seeks to host 25 or more foreign students. Seminaries and
287 other religious institutions would be exempt from this
288 requirement.

289 This bill follows in the footsteps of the bill sponsored
290 by Representative Barney Frank and Chairman Smith last
291 Congress that requires the accreditation of language
292 training programs before they can host foreign students.
293 That bill was enacted on December 14th, 2010, and has
294 already helped DHS crack down on fraud and language training
295 programs.

296 This bill would do the same. By requiring that visas
297 for foreign students only be granted where a school is
298 accredited, H.R. 3120 will prevent illegitimate institutions
299 from cheating foreign students who legitimately seek a bona
300 fide education in the United States.

301 In addition, this requirement will prevent fly-by-night

302 institutions from engaging in student visa fraud to smuggle
303 or traffic persons into the country.

304 Finally, I have worked with Chairman Smith on an
305 amendment to further strengthen the bill in light of recent
306 concerns that have come to our attention. That amendment
307 would provide a provision to prevent certain persons from
308 owning or running an academic institution that seeks to host
309 foreign students. Persons would be barred if they have been
310 convicted of human trafficking, transportation, free legal
311 sexual activity, alien smuggling or harboring, or visa fraud
312 under the student visa program.

313 The amendment will also give additional flexibility to
314 the Secretary of DHS with respect to schools that are
315 playing by the rules and trying to get accreditation, but
316 may be running into bureaucratic delays. Specifically, the
317 Secretary is given the ability to waive the accreditation
318 requirement in cases where a college, university, or
319 language training program is otherwise in compliance with
320 the law and is taking good faith steps to obtain
321 accreditation.

322 I thank the chairman for bringing this bill up for

323 consideration and for working with me to improve and
324 strengthen the bill. I would urge my colleagues to support
325 the bill and the amendment. And if the chairman wishes to
326 somehow consolidate magically the amendment and the bill, I
327 would certainly welcome that.

328 Chairman Smith. Okay. Thank you, Ms. Lofgren. We are
329 going to do a couple of things.

330 First of all, without objection, the amendment will be
331 considered as read and as a part of the base text.

332 [The amendment of Ms. Lofgren follows:]

333

334 Chairman Smith. Secondly, I associate myself with the
335 gentlewoman's remarks and think that she has accurately
336 described her amendment in the nature of a substitute. And
337 without objection, I will put my entire statement in the
338 record.

339 [The information follows:]

340

341 Chairman Smith. I do think we will need to go on and
342 vote separately on the amendment in the nature of a
343 substitute.

344 Ms. Lofgren. All right.

345 Chairman Smith. So the question is on the Lofgren
346 amendment in the nature of a substitute.

347 Those in favor, say aye.

348 Opposed, no.

349 In the opinion of the chair, the ayes have it, and the
350 amendment is agreed to.

351 Are there any other amendments?

352 If not, a reporting quorum being present, the question
353 is on reporting the bill, as amended, favorably to the
354 House.

355 Those in favor, say aye.

356 Opposed, no.

357 The ayes have it, and the bill, as amended, is ordered
358 reported favorably.

359 Without objection, the bill will be reported as a single
360 amendment in the nature of a substitute incorporating the
361 amendment adopted. Staff is authorized to make technical

362 and conforming changes. Members will have 2 days to submit
363 their views.

364 [The information follows:]

365

366 Chairman Smith. Thank you all. That is 2 down. We
367 have a couple more to go.

368 Pursuant to notice, I will now call up H.R. 1860, the
369 Digital Goods and Services Tax Fairness Act of 2011 for
370 purposes of markup.

371 And the clerk will report the bill.

372 Ms. Kish. H.R. 1860, to promote neutrality, simplicity,
373 and fairness in the taxation of digital goods and digital
374 services. And the House of Representatives may --

375 Chairman Smith. Without objection, the bill will be
376 considered as read and open for amendment at any point.

377 [The information follows:]

378

379 Chairman Smith. I will recognize myself for an opening
380 statement.

381 Daniel Webster once said that "An unlimited power to tax
382 involves necessarily the power to destroy." Government
383 needs revenue to fund services necessary to protect life,
384 liberty, and property, but State tax policies should not
385 destroy innovation and creativity.

386 Today we live in a digital world. Twenty years ago if I
387 wanted to listen to a Lyle Lovett song, I would have to go
388 to the local record store downtown to buy a vinyl album to
389 play on my turntable. Now I can sit in the comfort of my
390 living room, purchase a music file to play instantly on my
391 computer.

392 The trend toward digital goods extends beyond music. In
393 2011, Amazon announced that for the first time, it sold more
394 e-books over its Kindle platform than hard cover books, and
395 it expects that trend to continue.

396 Even services are becoming digitized. American
397 consumers and small businesses are using cloud computing to
398 give employees access to data from anywhere in the world.
399 In addition to consumer convenience, digital goods and

400 services benefit commerce and improve efficiency.

401 Digitization has allowed small businesses to expand
402 their markets beyond local communities without expensive
403 transportation costs. Digital goods involve little to no
404 reproduction costs, so they are less expensive than their
405 tangible counterparts. And downloadable music files have a
406 much lighter carbon footprint than the vinyl records of the
407 past.

408 The fact that consumers increasingly prefer to consume
409 goods and services in digital rather than tangible form
410 should not prompt States to impose unfair taxes. State and
411 local sales taxes should apply equally to goods or services
412 regardless of the form in which they are consumed.

413 Last year, I introduced the Digital Goods and Services
414 Tax Fairness Act of 2011 with Mr. Cohen, the ranking member
415 of the Courts, Commercial, and Administrative Law
416 Subcommittee, and Mr. Coble, the chairman of that
417 subcommittee. This bill prohibits States from imposing a
418 higher tax on digital goods and services than they impose on
419 tangible goods and services. It also provides a uniform
420 framework to determine where a transaction that involves

421 digital goods takes place.

422 This legislation is consistent with the principles of
423 the Internet Tax Freedom Act, which prohibits multiple or
424 discriminatory taxation on e-commerce.

425 I am concerned that without a Federal guidepost, States
426 will impose burdensome and confusing taxes on digital goods
427 that will put American innovation at a competitive
428 disadvantage relative to the rest of the world.

429 I am grateful for the support of members of this
430 committee, their support for this legislation, and encourage
431 my colleagues to vote for it.

432 Our chairman of the subcommittee is not present, so we
433 will go to the ranking member of the Administrative Law
434 Subcommittee -- oh, I am sorry. We will go to the ranking
435 member of the full committee, Mr. Conyers, first for his
436 opening statement.

437 Mr. Conyers. Thank you, Chairman Smith.

438 Members of the Committee, this is a good bill that could
439 be, and perhaps should be, made better. Our committee has
440 spent valuable time considering legislation that would help
441 State and local governments facilitate their efforts to dig

442 themselves out of the lingering effects of an economic
443 downturn. And such is the online sales tax ideas, very
444 important.

445 And according to State and local governments, my
446 friends, H.R. 1860 would reduce future State and local
447 government revenues and, therefore, push these entities
448 further into economic distress. So rather than pushing our
449 local governments further into debt, we should do the
450 opposite.

451 I recommend to your attention the Main Street Fairness
452 Act, for example, which was introduced by myself earlier in
453 the Congress, and there are some other similar approaches.

454 And so with that, Mr. Chairman, I would unanimous
455 consent to put my full statement in the record, and yield
456 back the balance of my time.

457 Chairman Smith. Without objection, the gentleman's full
458 statement will be made a part of the record.

459 [The information follows:]

460

461 Chairman Smith. And thank you, Mr. Conyers.

462 We will go now to the gentleman from Tennessee, Mr.
463 Cohen, the ranking member of the Courts, Commercial, and
464 Administrative Law Subcommittee.

465 Mr. Cohen. Thank you, Mr. Chairman. And as the ranking
466 member of the Courts Committee, I am extremely proud of the
467 Supreme Court and Justice Roberts today for upholding the
468 rule of law.

469 Ever since I became a member of Congress, I have
470 consistently favored easing State and local tax burdens that
471 threaten to impede consumers' access to the burgeoning
472 digital economy. To that end, I have supported making
473 permanent a prohibition on discriminatory State and local
474 Internet access taxes, and have backed the temporary
475 moratorium on discriminatory State and local taxation of
476 wireless communication services.

477 H.R. 1860, the Digital Goods and Service Tax Fairness
478 Act of 2011, is of a piece with these other measures. And I
479 am proud to have the chairman, Mr. Smith, and the chairman
480 of the full committee, Mr. Coble, who are my friends, as co-
481 sponsors.

482 This legislation, which I am the lead Democratic co-
483 sponsor, creates a single national framework to govern the
484 taxation of digital commerce by State and local
485 jurisdictions, eliminating inconsistency and confusion for
486 consumers and businesses. Importantly, the Act prohibits
487 State and local jurisdictions from imposing multiple or
488 discriminatory taxes on the sale or use of digital goods and
489 services, making sure those digital goods and services are
490 not taxed differently than any other form of good or
491 service.

492 This prohibition is helpful in ensuring that consumers,
493 and particularly low income consumers, have access to
494 innovative digital goods and services. Under the framework
495 established under 1860, State and local jurisdictions can
496 only impose taxes on retail sales of digital goods or
497 services, and limits the imposition of those taxes to a
498 customer or a seller. This ensures digital goods and
499 services are not taxed during multiple stages of a digital
500 sales transaction, particularly for acts or instruments that
501 merely facilitate the sale itself.

502 H.R. 1860 also determines the appropriate taxing

503 jurisdiction by limiting the authority of the jurisdiction
504 encompassing the customer's tax address. This will ensure
505 customers are not taxed by multiple States.

506 As of seven previous hearings on the subcommittee that
507 was held on State taxation issues, we have had hearings on
508 those, I am not unmindful of the concerns of State and local
509 taxing authorities with respect to Congress' intervention
510 in State and local taxation issues. Many States and
511 localities have struggling economies resulting in a
512 reduction in those jurisdictions' tax revenues. It is
513 understandable public officials in those localities would
514 oppose any measure that limits their ability to tax.

515 Congress certainly ought to be careful intervening in
516 State and local tax matters and do so sparingly. We should
517 let justice come first. That being said, these broader
518 national policies concerning overriding the traditional
519 deferences Congress has shown toward those localities are
520 overridden when justice is the primary concern. Congress
521 has permission to intervene in these circumstances.

522 I can think of no better example of when those cases are
523 true than with respect to the multiple discriminatory and

524 disparate tax treatment of digital goods and services, a
525 fast-moving, borderless marketplace across the State and
526 national boundaries thousands and perhaps millions of times
527 a day.

528 H.R. 1860 addresses the clear need for a uniform
529 national framework for determining which jurisdictions can
530 tax goods and services, under what circumstances.

531 I applaud House Judiciary Committee Chairman Lamar
532 Smith, a distinguished gentleman and a great jurist, for
533 introducing H.R. 1860 -- a great day for bipartisanship --
534 and for the leadership he has shown on this issue going back
535 to the previous Congress.

536 I also thank subcommittee Chairman Coble for his co-
537 sponsorship, the nicest guy you would ever want to meet.

538 Finally I would like to acknowledge the 24 Democrats who
539 joined with me in co-sponsoring this bill, including 6 on
540 this committee. Ideologically they represent a cross-
541 section of my party from some of the most moderate to some
542 of the more progressive. A broad spectrum of support just
543 within the Democratic Caucus speaks to the reasonableness
544 and wide appeal of this bill.

545 Kumbaya, a bipartisan bill. Hooray for America. Let us
546 move forward. I urge my colleagues to support this
547 legislation.

548 Chairman Smith. Thank you, Mr. Cohen, and thank you,
549 too, for those expansive remarks.

550 The gentlewoman from California, Ms. Waters.

551 Ms. Waters. Thank you very much, Mr. Chairman. I move
552 to strike the last word.

553 Chairman Smith. The gentlewoman is recognized for 5
554 minutes.

555 Ms. Waters. Mr. Chairman, I understand that H.R. 1860
556 was introduced to impose a framework on how State and local
557 governments should tax the online sales of digital goods and
558 services. Along these lines, this is why I am a co-sponsor
559 of a related bill, H.R. 3179, the Marketplace Equity Act.

560 Online commerce has created many benefits for customers
561 as well as challenges. Whether it is downloading an
562 application for your tablet or buying a television from
563 Amazon.com online, commerce is a dynamic industry with a
564 very real impact on the retail marketplace in State and
565 local governments that operate based on sales and use taxes.

566 While on concept I agree that States and local
567 governments should not discriminate against the sale of
568 digital goods, I would rather State and local governments
569 work with industry to propose a framework that works for
570 everyone. Since we do not yet have consensus among key
571 stakeholders regarding the impact of this bill, I simply
572 must oppose.

573 In a letter sent to the committee from the National
574 Governors Association, they note that the model for States
575 and industry working together to solve complex State issues
576 is the Mobile Telecommunication Sourcing Act. This law was
577 written together by States and industry to resolve the
578 questions of when and how States could tax mobile phone
579 service. The NGA is concerned that States were not
580 consulted in like manner during the drafting of H.R. 1860.

581 Mr. Chairman, I believe we are all committed to sound
582 tax policy that respects State sovereignty while providing
583 certainty for taxpayers. However, I think this legislation
584 should be given further consideration as the States and
585 industry continue to develop a workable compromise.

586 Thank you, and I yield back the balance of my time.

587 Mr. Conyers. Would the gentlelady yield to me, please?

588 Ms. Waters. Yes, I yield to the gentleman from
589 Michigan.

590 Mr. Conyers. First of all, I wanted to commend you on
591 your statement because I think I hear in your remarks that
592 we could do more to improve this bill to move it in the
593 right direction. That is all we are saying. And adding a
594 nexus standard and addressing some of these vague
595 definitions would not do any harm to this measure, but it
596 would make it more easily for more of us to support.

597 Ms. Waters. Yes.

598 Mr. Conyers. And thank the gentlelady for her
599 presentation and for yielding to me.

600 Ms. Waters. Thank you. I yield back the balance of my
601 time.

602 Chairman Smith. Thank you, Ms. Waters.

603 The gentleman from California, Mr. Berman, is
604 recognized.

605 Mr. Berman. Yeah. I am just trying to understand the
606 one aspect of this bill, and I am wondering if either the
607 chair or Mr. Cohen, the gentleman from Tennessee, could

608 answer the question.

609 This sounds like a bill I want to support because it
610 decides where the tax should be collected on a uniform
611 scale, and that make sense. And it prohibits discriminatory
612 treatment, and that makes sense.

613 The one specific example that has been sent to me by
614 local governments that are opposing this bill is the
615 following, that when you buy a hotel room, you book a hotel
616 room or other kinds of reservations online through one of
617 the discount travel companies, the discount travel company
618 gets those rooms at wholesale prices, and then
619 understandably adds some amount of money, which they charge
620 the consumer.

621 It still may be less than what would happen if you
622 contacted the hotel directly to reserve, and that is fine.
623 And the fact that they charge something extra than the
624 wholesale price is the only way they could function. So
625 that makes sense.

626 The question of what is the tax rate you pay and that
627 discriminatory tax treatment is defined in this bill as
628 requiring that tax be on the wholesale rate rather than on

629 the rate charged to the customer, it just raises an issue.

630 Is that accurate? Is that claim accurate? And, if so, what

631 is the justification for making that determination?

632 Chairman Smith. Would the gentleman from California

633 yield?

634 Mr. Berman. Happy to yield.

635 Chairman Smith. We received a copy of the same letter

636 that caught your attention, and it was delivered to us

637 yesterday. All I can say to you is that our respective

638 States share the same view, and we intend to address that

639 after markup and before we go to the House floor. So when

640 we have time to come up with a precise solution, we are

641 going to do so.

642 Mr. Berman. Well, this letter is dated June 2th, which

643 is not a long time before today. So I understand that. Are

644 you telling me that, a serious question here, which you want

645 to try to resolve.

646 Chairman Smith. That is correct.

647 Ms. Lofgren. Would the gentleman yield?

648 Mr. Berman. Sure.

649 Ms. Lofgren. Because I share your concern. I did not

650 think that the bill did that, but if it does, I would like
651 to associate myself with the remarks of the chairman. We
652 should fix it.

653 Chairman Smith. We will need to clarify and make sure
654 that we do not get tripped up on that.

655 Mr. Berman. This is just the most important cities in
656 the countries, the ones in California. A letter from the
657 League of California Cities, dated June 27th, 2012. Could I
658 just include that letter --

659 Chairman Smith. Without objection, that letter will be
660 made a part of the record.

661 [The information follows:]

662

663 Chairman Smith. The gentleman yields back the balance
664 of his time. And the gentlewoman from Texas, Ms. Jackson
665 Lee, is recognized.

666 Ms. Jackson Lee. Mr. Chairman, I would like to inquire
667 and take you at your word. My support for the bill is a
668 long overdue national framework for this very difficult,
669 complex system of technology and online purchases.
670 Individuals who can be in different places and reside in one
671 State, but are purchasing something in another State.

672 I frankly think we owe it to those who produce goods, a
673 sense of order and a sense of correctness. However, as the
674 gentlelady from California and my distinguished ranking
675 member has said, that why not make a good bill a better
676 bill?

677 So, Mr. Chairman, I would ask, and as you well know, we
678 both come from the same State that has offered some
679 commentary on this very point. I would like this bill to
680 draw massive support on the floor of the House. I think it
681 can. And I would like those who have written a June 27th
682 letter to know that I have taken note of it.

683 But, Mr. Chairman, I would like to inquire, can we, who

684 have co-sponsored this bill, work with the issues that have
685 been cited, in particular, dealing with a lost revenue and
686 some other items. As it goes to the floor, will we be able
687 to, for those who have particular interest in the
688 legislation, be able to see that product before we go to the
689 floor? I yield to the chairman.

690 Chairman Smith. The answer is yes. And as I mentioned
691 to Mr. Berman, I recognize that we may need to clarify some
692 aspects of the bill. We will continue to work with all
693 members between now and the House floor.

694 I also want to say that I have a manager's amendment
695 that will also address some of the concerns that have been
696 raised.

697 Ms. Jackson Lee. Reclaiming my time then, Mr. Chairman,
698 with that in mind, I am particularly hoping the ranking
699 member, whose wisdom we all value, will have the input
700 necessary in this particular legislation. And I yield back.

701 Chairman Smith. Okay. Thank you, Ms. Jackson Lee.

702 I will recognize myself for the purpose of offering a
703 manager's amendment. And the clerk will report the
704 amendment.

705 Ms. Kish. Amendment in the nature of a substitute to
706 H.R. 1860, offered by Mr. Smith of Texas, strike all after
707 enacting clause --

708 Chairman Smith. Without objection, the amendment will
709 be considered as read --

710 [The amendment of Chairman Smith follows:]

711

712 Mr. Conyers. May we get a copy?

713 Chairman Smith. -- and considered the basis for
714 purposes of the amendment. I am told it is in the back of
715 the materials that have been distributed, but we will make
716 sure that everybody has a copy before we proceed.

717 Mr. Conyers. Thank you.

718 Chairman Smith. I will recognize myself for a statement
719 on the amendment.

720 This amendment makes both substantive and technical
721 changes to the bill in light of some concerns expressed by
722 State and local taxing authorities.

723 The Courts, Commercial, and Administrative Law
724 Subcommittee's hearing on the base bill last year prompted
725 discussions among taxing authorities, industry, and
726 committee staff.

727 Last summer, Republican and Democratic committee staff
728 held a 7-hour meeting with stakeholders to work on ways to
729 improve this bill. At that meeting, the Federation of Tax
730 Administrators, FTA, raised some concerns about unintended
731 consequences that might arise from language in the bill.
732 Their input was helpful. It is in everyone's interests to

733 have clear language to prevent costly litigation.

734 This amendment responds to many of the FTA's concerns.
735 It strikes the provision that allows challenges under the
736 bill to be brought in Federal court. Those lawsuits will
737 now need to be brought in State court.

738 It also delays the effective date of the bill to give
739 administrators time to implement its provisions. And it
740 clarifies technical language to eliminate or at least
741 minimize unintended consequences.

742 There is broad support on this committee for the base
743 text of the bill. Nevertheless, we worked with State and
744 local governments to try to address their concerns. This
745 amendment addresses many of them, but if concerns remain
746 even after this markup, we will consult with Ranking Member
747 Conyers and other co-sponsors to address them.

748 So I urge my colleagues to support this amendment.

749 Mr. Conyers. Mr. Chairman.

750 Chairman Smith. The gentleman from Michigan, Mr.
751 Conyers, Ranking Member of the full committee, is recognized
752 for his statement on the amendment.

753 Mr. Conyers. Chairman Smith and members of the

754 committee, this amendment in the nature of a substitute
755 makes much needed changes and is a good first step to
756 improving the bill.

757 For example, it clears up the definitions about what is
758 a discriminatory tax. And it also adds clear language
759 ensuring that States can retain the right to collect a use
760 tax from consumers who purchase digital goods or services
761 from remote sellers.

762 And thanks to our staff negotiations, we are striking
763 Section 6 from the introduced bill, which created a lot of
764 heartache for State and local government groups, to be
765 candid with you.

766 But what is not here, and we could use some discussion
767 on it, is a nexus standard. That is still missing. And I
768 am trying to avoid prolonging this by introducing such an
769 amendment. And there are still several vague definitions
770 that are not technical in nature or procedural. They are
771 substantive.

772 And I am looking to hear from our chairman as to how
773 this is going to be dealt with without these matters being
774 addressed. And even though he does not want me to, I yield

775 to Chairman Smith.

776 Chairman Smith. Let me reassure the gentleman, as I
777 have the gentleman from California, Mr. Berman, a minute ago
778 that this is a highly technical bill. We will continue to
779 work with the gentleman, and make sure that we clarify any
780 language that needs to be clarified before we go beyond
781 markup today. So we will continue to try to address his
782 concerns.

783 Mr. Conyers. But could you say anything at all about
784 the nexus standard, Mr. Chairman? It is completely out of
785 disfavor from your point of view, or is there some small
786 amount of redeeming merit in it?

787 Chairman Smith. If the gentleman would yield.

788 Mr. Conyers. Just where do we come in on the scale on
789 this? I yield.

790 Chairman Smith. The bill does not concern the nexus
791 issues that you have mentioned. Nevertheless, once again,
792 if we need to clarify language, we will. But I do believe
793 that gentleman's concerns are legitimate, but ultimately can
794 be and will be addressed.

795 Mr. Conyers. Well, I can see I am not going to get much

796 further with this dialogue. And I feel that we have worked
797 together across the years before you were chairman.

798 Chairman Smith. And we will continue to do that.

799 Mr. Conyers. And with the coming months, even if you
800 may not remain the chairman I look forward to working with
801 you.

802 Chairman Smith. Thank you, Mr. Conyers. Mr. Conyers,
803 you and a couple of other members have alluded to indirectly
804 or specifically mentioned another bill introduced by our
805 colleague, Mr. Womack. And that is the bill that includes
806 some of the nexus issues that you have just mentioned. We
807 do have a hearing on that bill scheduled for the end of July
808 or at least some time in July. And so a lot of those issues
809 that you are concerned about, we can address at that
810 hearing.

811 Mr. Conyers. Very good. But can we mark this bill up
812 as soon as we can, maybe sooner than the end of July. We
813 will back after a week. I would urge that we see where we
814 are going on this as early as we can, sir.

815 Chairman Smith. Okay, and I thank the gentleman for his
816 comments.

817 Mr. Conyers. Could I get unanimous consent to enter in
818 the National Association of Counties, League of Cities,
819 Conference of Mayors letter directed to you and myself?

820 Chairman Smith. Without objection, that letter will be
821 made a part of the record.

822 [The information follows:]

823

824 Mr. Conyers. And in addition, we have the labor
825 opposition to this measure clearly outlined, dated June
826 26th. And the Center on Budget and Policy Priorities, dated
827 May 29th, 2012, which discusses the potential impairing of
828 funding for education, healthcare, and other State and local
829 services.

830 Chairman Smith. Okay. Without objection, those
831 additional documents will be made a part of the record.

832 [The information follows:]

833

834 Mr. Conyers. Thank you, sir.

835 Chairman Smith. Are there any amendments to the
836 amendment?

837 Mr. Polis. Mr. Chairman?

838 Chairman Smith. Let me recognize the gentleman from
839 North Carolina, and then we will recognize the gentleman
840 from Colorado.

841 Mr. Watt. Mr. Chairman, I have, I think, 2 amendments
842 at the desk. I do not? Okay, well, go to him next then.
843 Maybe I will get 2 amendments at the desk.

844 Chairman Smith. Thank you, Mr. Watt.

845 We will recognize the gentleman from Colorado, Mr.
846 Polis.

847 Mr. Polis. Mr. Chairman, I have 1 amendment at the
848 desk.

849 Chairman Smith. The clerk will report the amendment.

850 Ms. Kish. Amendment offered by Mr. Polis of Colorado to
851 the amendment in the nature of a substitute to H.R. 1860, in
852 Section 3(e) --

853 Chairman Smith. Without objection, the amendment will
854 be considered as read.

855 [The amendment of Mr. Polis follows:]

856

857 Chairman Smith. And the gentleman will from Colorado is
858 recognized to explain his amendment.

859 Mr. Polis. Thank you, Mr. Chairman. And, again, I
860 generally agree with the sentiments of this bill. In
861 writing these sorts of bills, obviously we need to be very
862 careful about words and how they can be interpreted. And
863 some of the areas have already been discussed.

864 I wanted to direct everybody's attention on page 4 to
865 the description of how a tax liability can be divided
866 between effectively bundled goods or combined goods. And
867 the current language in E1 on page 4, again, says that
868 charges for digital goods or digital services are aggregated
869 with and not separately stated from other goods or services,
870 namely goods that are not digital goods or digital services
871 as defined in this bill. The charges may be passed, et
872 cetera, et cetera.

873 And then there is a carve out that says unless the
874 seller can reasonably identify the charges for the digital
875 goods or digital services from its books or records kept in
876 the regular course of business.

877 And my amendment strikes that. We are certainly open to

878 another solution, and I am going to use an illustrative
879 example of why the current language does not work, and I am
880 going to use an example of the iPhone and iPod, not because
881 this is something that Apple has discussed with me or
882 concerns Apple, and I do not want Apple's opinion of the
883 bill is. I am using this example because the *New York Times*
884 did a breakdown analysis of the various components of the
885 iPad.

886 It was done in discussion of trade issues. So we are
887 drawing from where, and these devices here where the parts
888 come from, how much they cost. On an iPad that retails for
889 \$300, they found that the physical components, namely the
890 hard drive manufactured by Toshiba, display module, the
891 video multiprocessor, all those parts combined might be
892 somewhere around \$100 of the cost. An additional amount
893 beyond that is what you might call the digital component of
894 an iPad.

895 Now the intent of this bill, and certainly what I agree
896 with is that the apps that somebody subsequently downloads
897 to an iPhone or iPad would be, should be covered under this
898 bill. The question is, the digital components that are

899 layers on top of the physical components and are inseparable
900 from a physical purchase. And as the world becomes more and
901 more complex, this will affect even, and it even does today,
902 our toasters, our ovens. They are all smart. They all have
903 a digital component, a software component.

904 And this particular section as written now effectively
905 allows the company to divide, again, with the only standard
906 being reasonably identify, their digital component from
907 their physical or structural component and have them taxed
908 separately. I do not think that was the intent of the bill.
909 I understand there some bundled digital services that we
910 need to make sure the taxes are properly allocated, and I
911 sympathize with that, and I think that we can define
912 language to do that.

913 But this current language that my amendment strikes is
914 not the right standard. Reasonable identification of
915 charges from the digital goods or services in books or
916 reference kept in the regular course of business. So,
917 again, under this, without any specific input, again, from
918 Apple, just because the *New York Times* did the breakdown,
919 they would then be able to say, well, it is \$100 or \$90 of

920 physical. It is \$90 or \$100 of digital when, in fact, you
921 buy it; therefore, there are two different tax rates.

922 This also allows, because of the reasonable identifying
923 standard, which is the only standard that effectively allows
924 companies to game the system in favor of whichever tax rate
925 may be lower, which we generally assume would be the digital
926 tax rate.

927 So, again, my amendment is not necessarily a complete
928 solution to bundled digital services, but at least it makes
929 it clear and removes what could otherwise be a gaping
930 loophole that could affect everything from toasters to
931 televisions to ovens.

932 And with that, I yield back.

933 Chairman Smith. I will recognize myself to comment on
934 the amendment. I would have to oppose it, not because I
935 disagree with the direction the gentleman is going, and
936 certainly he stated his purpose of the amendment very, very
937 well, but because I thought the gentleman was going to offer
938 the amendment and withdraw it. Is that not the case?

939 Mr. Polis. Yes, I would be happy to withdraw it. I
940 just wanted to clarify that we will be able to continue to

941 work on these issues to make sure that we can avoid that as
942 being a consequence.

943 Chairman Smith. Thank you, Mr. Polis.

944 Ms. Lofgren. Would the gentleman --

945 Chairman Smith. Let me say to the gentleman, you got my
946 attention, and, yes, we will work on that. I thought you
947 stated it very well.

948 Mr. Polis. And will be happy to withdraw my -- I did
949 want to see if there were any other speakers on my
950 amendment.

951 Ms. Lofgren. Would the gentleman yield?

952 Mr. Polis. My time has expired.

953 Ms. Lofgren. Oh.

954 Mr. Polis. But you can claim your time on my amendment,
955 and then I will withdraw it.

956 Chairman Smith. Okay. The gentlewoman from California
957 is recognized.

958 Ms. Lofgren. I will be very brief. I think that the
959 gentleman's amendment has a lot of merit, and I am glad we
960 are going to have a chance to work on it because as we look
961 ahead, you are exactly right. I mean, we are now thinking

962 one thing, but the impact is going to be considerably
963 different in the future as the technology changes.

964 So I appreciate not only the amendment, but the breadth
965 that you bring to this with your background in technology.
966 I think it is really a gift to the committee that you are
967 able to share that perspective.

968 And I thank the chairman for yielding, and I yield back.

969 Mr. Polis. Mr. Chairman, I withdraw my amendment.

970 Chairman Smith. Thank you, Ms. Lofgren.

971 Without objection, the amendment is withdrawn. Thank
972 you, Mr. Polis.

973 Are there other amendments? The gentleman from North
974 Carolina, Mr. Watt, is recognized.

975 Mr. Watt. Mr. Chairman, I have 2 amendments at the
976 desk, but I think I am just going to move the strike the
977 last word and discuss them without distributing them.

978 Chairman Smith. Okay.

979 Mr. Watt. If that is all right with you.

980 Chairman Smith. That would be more than all right. I
981 think the clerk has to report the amendment in any case --

982 Mr. Watt. For me to strike the last word?

983 Chairman Smith. I am told by the parliamentarian that
984 is not the case. The clerk does not need to report the
985 amendment. And the gentleman from North Carolina is
986 recognized for 5 minutes.

987 Mr. Watt. He is going to force me to offer them.

988 Chairman Smith. No.

989 Mr. Watt. I did not think so. I did not think that is
990 what the rules said.

991 Okay. I move to strike the last word in that case, Mr.
992 Chairman.

993 Chairman Smith. And the gentleman is recognized for 5
994 minutes.

995 Mr. Watt. Thank you, Mr. Chairman. The two amendments
996 I have reflect concerns, some of which have already been
997 raised. One is the changing technology, which we just
998 talked about, and that would be addressed through my
999 amendment, if I were to offer it, with a sunset provision on
1000 the bill. But I have been assured by the staff, and
1001 hopefully I will be assured by the chairman, that we can
1002 have a discussion about whether there should be a sunset,
1003 what the appropriate length of that sunset should be between

1004 now and the floor. And if I can get that assurance, then I
1005 will be happy about that.

1006 Chairman Smith. If the gentleman will yield, yes, we
1007 will have that discussion, and the gentleman will be
1008 consulted before we go to the floor.

1009 Mr. Watt. That is a little bit less than I had hoped
1010 for in terms of assurance that we might do something about
1011 it. But that is all right, I understand. You do not want
1012 to stake yourself out too far there.

1013 The other one has to do with the definition of seller on
1014 page 13. I just think in general we want to avoid any --
1015 this is an area of my concern throughout this process in
1016 earlier bills that dealt with foreclosing local governments
1017 from imposing taxes even on the Internet. Now on the
1018 digital products we do not put local brick and mortar stores
1019 in a different posture than we do people who are online.

1020 And it may be that the definition of seller here is
1021 appropriate, but I think there needs to be some more
1022 discussion about that. And your staff has assured me once
1023 again that that will be a subject that will be open for
1024 discussion between now and the floor.

1025 And so if I can get maybe your assurance and Ms.
1026 Lofgren's assurance that you all are still working on that
1027 and that I can be a part of that discussion, I would be
1028 happy.

1029 Chairman Smith. And if the gentleman would yield, that
1030 is easy to give him that reassurance because I honestly do
1031 believe that most of us agree with the underlying purpose of
1032 the legislation. They are just trying to improve the
1033 legislation. And so I would hope and expect that we would
1034 be able to satisfy the gentleman from North Carolina.

1035 Mr. Watt. All right. That is as much or more than I
1036 might have expected on that prong. So I think in light of
1037 that, instead of withdrawing the amendments or instead of
1038 offering the amendments and having you use the power of
1039 majority to vote them down, it would probably be in my best
1040 interests not to offer the amendments. And so I will not do
1041 so.

1042 Chairman Smith. Okay. Thank you, Mr. Watt. I do
1043 appreciate that, and I think we will improve the bill more
1044 as a result of your taking that action.

1045 Are there any other amendments? The gentlewoman from

1046 California, Ms. Chu, is recognized.

1047 Ms. Chu. Mr. Chair, I have an amendment at the desk.

1048 Chairman Smith. The clerk will report the amendment.

1049 Ms. Kish. Amendment offered by Ms. Chu of California to

1050 the amendment in the nature of a substitute --

1051 Chairman Smith. Without objection, the amendment will

1052 be considered as read.

1053 [The amendment of Ms. Chu follows:]

1054

1055 Chairman Smith. And the gentlewoman is recognized to
1056 explain her amendment.

1057 Ms. Chu. Mr. Chair, this amendment would require a GAO
1058 study in 3 years to determine how this law has affected
1059 State and local revenues.

1060 I am concerned that the Digital Goods and Services Tax
1061 Fairness Act could significantly reduce State and local
1062 revenues by preempting taxation of purchases such as
1063 downloaded music, movies, and online services. With this
1064 amendment, we will know exactly how much revenue is lost as
1065 a result of this legislation.

1066 For example, I am concerned that the measure could
1067 potentially disrupt fundamental features of State and local
1068 taxation due to undefined or vaguely defined terms likely to
1069 produce costly litigation, all at the expense of other
1070 individual and business taxpayers.

1071 As an example, the bill would define digital service in
1072 such a way to exclude from the calculation of video
1073 franchise fee revenues generated by on demand and pay per
1074 view services. With the increasing popularity of these
1075 services, the loss of these revenues would adversely affect

1076 local government budgets. These fees, based on operator's
1077 gross revenues, are used by communities across the country
1078 for a variety of purposes, including parks, libraries, and
1079 public safety.

1080 In addition, the bill could create loopholes for savvy
1081 corporations to cherry pick the most favorable State and
1082 local tax rates, depriving their own jurisdiction of revenue
1083 owed.

1084 Companies could purchase all of their digital goods and
1085 digital services all in one locality for tax purposes, and
1086 then distribute those goods or services to offices or
1087 subsidiaries in other locations, thus saving money for the
1088 corporation by evading tax laws.

1089 As a former mayor of a city in California and a former
1090 elected member of the California Board of Equalization,
1091 which is the State's tax board, I am very sensitive to these
1092 issues, and I can understand why there is opposition to this
1093 bill from the National Association of Counties, the National
1094 League of Cities, the U.S. Conference of Mayors, the
1095 International City/County Management Association, the
1096 Government Finance Officers Association, the National

1097 Association of Telecommunications Officers and Advisors, and
1098 the National Governors Association.

1099 Several labor unions are also opposed, including the
1100 AFL-CIO, the American Federation of State, County, and
1101 Municipal Employees, the International Association of
1102 Firefighters, the International Federation of Professional
1103 and Technical Engineers, National Education Association, and
1104 the United Auto Workers.

1105 I also ask unanimous consent to submit their letters.
1106 Actually some have already been submitted, but I did not
1107 hear the National Governors Association.

1108 Chairman Smith. And without objection, we will submit
1109 their letters.

1110 [The information follows:]

1111

1112 Chairman Smith. And will the gentlewoman yield? I just
1113 want to say that I support her amendment to require a GAO
1114 study, and I urge my colleagues to support your amendment as
1115 well.

1116 Mr. Chu. Thank you. I truly appreciate that.

1117 I recognize that the chairman is at work to address the
1118 concerns within the manager's amendment, but I worry that
1119 the language may still be too vague. I believe that there
1120 is a chance for common ground and compromise that will
1121 ensure all stakeholders can get behind this legislation.

1122 And I believe my amendment will help to do that. But I
1123 urge my colleagues to come back to the table and work out an
1124 agreement on the legislation as a whole.

1125 Chairman Smith. Thank you, Mr. Chu.

1126 The question is on the amendment to the amendment.

1127 All in favor, say aye.

1128 Opposed, nay.

1129 The amendment is agreed to.

1130 Are there any other amendments?

1131 [No response.]

1132 Chairman Smith. If not, the question is on the

1133 manager's amendment.

1134 Those in favor, say aye.

1135 Opposed, no.

1136 In the opinion of the chair, the ayes have it, and the
1137 amendment is agreed to.

1138 A reporting quorum being present, the question is on
1139 reporting the bill, as amended, favorably to the House.

1140 Those in favor, say aye.

1141 Opposed, no.

1142 The ayes have it, and the bill, as amended, is ordered
1143 reported favorably.

1144 Without objection, the bill will be reported as a single
1145 amendment in the nature of a substitute incorporating
1146 amendments adopted. And staff is authorized to make
1147 technical and conforming changes. Members will have 2 days
1148 to submit their views.

1149 [The information follows:]

1150

1151 Chairman Smith. We are going to go back very, very
1152 quickly to considering the semiannual activity report of the
1153 committee. And pursuant to notice, I now call up the 3rd
1154 Semiannual Activity Report of the Committee on the Judiciary
1155 for the 112th Congress.

1156 And the clerk will report the Activity Report.

1157 Ms. Kish. 3rd Semiannual Activity Report of the
1158 Committee on the Judiciary --

1159 Chairman Smith. Without objection, the activity report
1160 is considered as read.

1161 [The information follows:]

1162

1163 Chairman Smith. I ask unanimous consent that the report
1164 be transmitted to the House pursuant to Clause 1(d) Rule 11
1165 of the Rules of the House of Representatives.

1166 Without objection, the report will be so transmitted.

1167 We will go to the last bill of the day. This is a bill
1168 sponsored by the gentlewoman from Texas, Ms. Jackson Lee.

1169 Pursuant to notice, I now call up H.R. 6019, the
1170 Juvenile Accountability Block Grant Reauthorization and the
1171 Bullying Prevention and Intervention Act for purposes of
1172 markup.

1173 And the clerk will report the bill.

1174 Ms. Kish. H.R. 6019, to amend the Omnibus Crime Control
1175 and Safe Streets Act --

1176 Chairman Smith. Without objection, the bill will be
1177 considered as read and open for an amendment at any point.

1178 [The information follows:]

1179

1180 Chairman Smith. And I will recognize myself for an
1181 opening statement. I am going to put my opening statement
1182 in the record.

1183 [The information follows:]

1184

1185 Chairman Smith. And recognize the gentlewoman from
1186 Texas, Ms. Jackson Lee, for her opening statement.

1187 Ms. Jackson Lee. Mr. Chairman, thank you very much.
1188 And to my colleagues, let me thank you. Let me thank the
1189 Judiciary staff, the Democratic staff and the staff of the
1190 chairman, for their courtesies and their work on this
1191 legislation.

1192 On October 18th, 2010, in Houston, Texas, we had a
1193 hearing on this issue of bullying. Even though as the chair
1194 of the Congressional Children's Caucus, we have been working
1195 on issues dealing with children for a period of time. But
1196 it was eye opening to see the sheriff, the Republican
1197 district attorney, Republicans and Democrats, local
1198 officials, and parents, who called in on teleconference to
1199 speak about the epidemic of bullying.

1200 Lee Hirsch, who produced the movie, *Bully*, documented
1201 that there are 13 million children a year that will be
1202 bullied.

1203 This legislation is a combination of bipartisan efforts,
1204 and its first order is to reauthorize the Juvenile
1205 Accountability Block Grants Reauthorization and Bullying

1206 Prevention Intervention Act. And that is the title of the
1207 bill, but it reauthorizes the Juvenile Accountability Block
1208 Grants, and as well as provide grant funding to States for
1209 programs that address bullying, the cyber bullying and
1210 prevention, and gang prevention, and intervention, in
1211 addition to expressing a sense of Congress on the importance
1212 of best practices.

1213 In essence, it gives to our local communities an extra
1214 added opportunity to address this indicting feature that our
1215 children have to face. My modification would ensure that
1216 not only prevention, but also intervention, programs are
1217 taken into account when addressing the issue of bullying,
1218 cyber bullying prevention. In addition, I encourage local
1219 communities to develop best practices that can be utilized
1220 across the Nation.

1221 The Juvenile Accountability Block Grant authorizes the
1222 attorney general to make grants to State and units of local
1223 government to strengthen the juvenile justice systems and
1224 foster accountability resources on holding juveniles
1225 accountable for their actions and building up the juvenile
1226 justice system. Though is not a criminal justice or a

1227 criminal with penalties. This is not a bill that provides
1228 penalties. It is intervention, and this is allowed under
1229 the Department of Justice and under the juvenile section of
1230 the Department of Justice.

1231 This is, in fact, a documentation or an affirmation of
1232 the need to help our youth. The study of the Ethics of
1233 American Youth surveyed more than 40,000 high school
1234 students, and has been conducted every other year, that more
1235 than 40,000 high school students have been interviewed this.

1236 The study by the non-profit Joseph Institute of Ethics
1237 also found that one-third of all high school students say
1238 that violence is a big problem at their school. And nearly
1239 1 in 4 say they do not feel very safe. In addition, the
1240 American Justice Department says that each month 1 out of
1241 every 4 kids will be abused by another. Seventy-seven
1242 percent of students are bullied mentally, verbally, or
1243 physically. One out of 5 kids admits to being a bully or
1244 doing some bullying. Eight percent of students miss a day
1245 because of bullies. Forty-three percent fear harassment in
1246 the bathroom. And the list goes on and on.

1247 I cite for you a number of articles, and I will just

1248 read one of them and ask the articles be put into the
1249 record. First of all, the synopsis of the movie *Bully*. I
1250 ask unanimous consent that it be put into the record.

1251 Chairman Smith. Without objection, it will be made a
1252 part of the record.

1253 [The information follows:]

1254

1255 Ms. Jackson Lee. I thank the gentleman very much. And
1256 a last statement is to mention one that many of us have
1257 mentioned or seen, and that is the story of a 68-year-old
1258 bus driver, Karen, in Greece, New York. She was 68 years
1259 old, is a bus monitor, and she was a victim of bullying, a
1260 68-year-old. A group of middle school children verbally
1261 abused her about her weight and age. They threatened to
1262 stab her and torture her. They called her fat and were
1263 caught on video engaging in the very behavior that I believe
1264 we must address today.

1265 And so this is not a condemnation to my colleagues. It
1266 is an opportunity. And it is an opportunity to provide our
1267 local communities with their best practices efforts. And
1268 those will include district attorneys, and sheriffs, and
1269 chiefs of police, school districts. Many of the people who
1270 testified in the hearing that I had were members of the
1271 board of trustees who experienced tragedies in their own
1272 school districts. They are seeking help. They want help.
1273 They want to work with us. And I believe this is a national
1274 statement made by a very important committee, the Judiciary
1275 Committee, that we are ready to help, using the laws of this

1276 Congress and using the resources that we have, the
1277 Department of Justice.

1278 I would ask my colleagues to support it, and I would
1279 like to acknowledge a number of co-sponsors, including John
1280 Lewis and Mike Condor, who co-chairs the Congressional
1281 Caucus Against Bullying, and who will be holding an all-day
1282 session today.

1283 Chairman Smith. Okay. Thank you, Ms. Jackson-Lee. And
1284 also even though I put my opening statement in the record, I
1285 do want to make it clear that I support this legislation and
1286 have co-sponsored it with the gentlewoman from Texas.

1287 The gentleman from Michigan, Mr. Conyers, is recognized.

1288 Mr. Conyers. I just wanted to ask unanimous consent to
1289 put my statement in the record and lament the fact that the
1290 grant has been so severely reduced. We are talking about
1291 one-eighth of the original authorization. But I support
1292 this. I will continue to work on it to have it fully
1293 funded. And I thank the gentleman for allowing me --

1294 Chairman Smith. Thank you, Mr. Conyers. And without
1295 objection, your entire statement will be made a part of the
1296 record.

1297 [The information follows:]

1298

1299 Chairman Smith. Are there other members who wish to be
1300 recognized?

1301 [No response.]

1302 Chairman Smith. If not, I would like to entertain
1303 amendments.

1304 The gentleman from Virginia, Mr. Scott, is recognized.

1305 Mr. Scott. Thank you, Mr. Chairman. Mr. Chairman, H.R.
1306 6019, the Juvenile Accountability Block Grant
1307 Reauthorization and Bullying Prevention Intervention Act of
1308 2012, sponsored by the gentlelady from Texas and yourself,
1309 reauthorizes the Juvenile Accountability Block Grant, or
1310 JABG, at a level of \$40 million a year for the next 5 years,
1311 and includes a provision amending the section of the law
1312 that authorizes the youth of JABG funds to address bullying
1313 in schools and a sense of Congress encouraging best
1314 practices addressing bullying.

1315 The use for bullying prevention is already an allowable
1316 use, so it is somewhat redundant. But I am particularly
1317 disappointed in the bill, that the funding level authorized
1318 in the bill -- and I recognize that it reflects the current
1319 level of appropriations. But I do not think we should lock

1320 ourselves in to such a low authorization level for the next
1321 5 years.

1322 JABG has a strong bipartisan foundation of legislation.
1323 It was authored by Crime Subcommittee Chairman Bill McCollum
1324 and myself in 1999. The bill we filed was co-sponsored by
1325 every member of the Crime Subcommittee and other members,
1326 but it did not pass in '99, but it did pass in 2002, again,
1327 with the co-sponsorship of every member of the committee.
1328 That bill was reintroduced by yourself and with me as the
1329 main co-sponsor.

1330 The original level in both bills was \$500 million
1331 authorization, but when it was passed it was \$350 million.
1332 And it contains a formula of distribution to effectively
1333 address juvenile delinquency, to prevent children from
1334 evolving into serious criminal activity. That is why we,
1335 again, have filed a bill to keep the authorization at \$350
1336 million.

1337 Ironically as we seek to bring more attention to
1338 bullying in the bill, I am reminded that the Columbine
1339 tragedy was said to have been resulted from bullying, that
1340 kids who did the shooting had suffered at the hands of

1341 classmates. And yet we focus on lowering the amounts of
1342 assistance we provide to strapped communities to address
1343 such problems as bullying.

1344 Since 1999, Federal assistance to localities to address
1345 juvenile delinquency prevention has dropped by about 90
1346 percent. And so while I support the bill as far as it goes,
1347 I think we need to do much more to reflect the needs of
1348 localities in dealing with juvenile justice issues. And the
1349 appropriation level of only \$40 million, in my judgment,
1350 does not allow enough assistance.

1351 I yield to the gentleman from Michigan.

1352 Mr. Conyers. I merely want to indicate my support for
1353 your analysis, Ranking Member Scott. And I join you in your
1354 statement. Thank you.

1355 Ms. Jackson Lee. Would the gentleman yield?

1356 Mr. Scott. I yield.

1357 Ms. Jackson Lee. As a sponsor of the bill, let me thank
1358 my colleagues for their commitment and passion, which equals
1359 mine. And I look forward to working with Chairman Smith as
1360 this bill makes its way to the floor to take into
1361 consideration the idea of the funding.

1362 The underlying premise of the bill is to emphasize
1363 intervention, to emphasize the national crisis of bullying,
1364 and to reauthorize the block grants. In the art of
1365 compromise we find ourselves at \$40 million, which, for
1366 those of us who have been strong supporters of what the
1367 block grants can do, we clearly want the numbers to be
1368 increased.

1369 But I thank the chairman for working with me, for at
1370 least establishing a presence and an amount that can grow.
1371 I hope our colleagues can work together across the aisle to
1372 raise that amount to what communities can do in expanding
1373 the services that they are giving.

1374 But I want to encourage my colleagues to support this
1375 bill and the underlying premise of the reauthorization for
1376 the \$40 million per year that we can all work together to
1377 increase and improve.

1378 With that, I yield back to the gentleman.

1379 Chairman Smith. Thank you, Ms. Jackson Lee.

1380 Are there any amendments?

1381 Mr. King. Mr. Chairman?

1382 Chairman Smith. Does the gentleman from Virginia have

1383 any amendments?

1384 Mr. Scott. I do.

1385 Chairman Smith. Okay. Let me take his amendments. Let
1386 me say that we are going to need to recess for various
1387 reasons momentarily. And --

1388 Mr. Scott. I think I can offer these. They are very
1389 brief, Mr. Chairman.

1390 Chairman Smith. Okay. The clerk will report -- is the
1391 gentleman offering these amendments en bloc?

1392 Mr. Scott. Mr. Chairman, I have 2 amendments at the
1393 desk, number 77 and 79, which I would like to offer en bloc.

1394 Chairman Smith. Okay. The clerk will report the
1395 amendments.

1396 Ms. Kish. Amendment to H.R. 6019, offered by Mr. Scott
1397 of Virginia, amendment to page and line numbers of the June
1398 25th, 2012 --

1399 Chairman Smith. Without objection, the amendments will
1400 be considered as read.

1401 [The amendments of Mr. Scott follow:]

1402

1403 Chairman Smith. And the gentleman from Virginia is
1404 recognized to explain the amendments.

1405 Mr. Scott. Thank you. Mr. Chairman, amendment number
1406 77 would have the sense of Congress in the bill. The bill
1407 says that you should use best practices for the purposes of
1408 bullying. It suggests that best practices is only limited
1409 to bullying. The language has changed to make it clear that
1410 best practices are expected in all cases. Number 79 retains
1411 the language in current law calling for research-based anti-
1412 bullying programs when JABG funds are used.

1413 I think both of those are consistent with the intent of
1414 the present law and of the bill.

1415 Chairman Smith. Okay. Thank you, Mr. Scott. And if
1416 the gentleman would yield --

1417 Mr. Scott. I yield.

1418 Chairman Smith. I support --

1419 Ms. Jackson Lee. I would like to be able to see the
1420 amendment, Mr. Chairman, before you offer support because I
1421 have only seen --

1422 Chairman Smith. I was going to say that I support these
1423 amendments. I will wait for the gentlewoman from Texas to

1424 take a look at them. But I support these amendments and
1425 urge my colleagues to support them as well.

1426 Are there any other members who wish to be recognized?

1427 Ms. Jackson Lee. May I offer a friendly amendment,
1428 please, a friendly amendment to number 77 by indicating for
1429 the use of best practices engaged for bullying prevention
1430 and all activities which grants under part whatever it is
1431 may be used. I would like to be consistent with the
1432 legislation and say encourage the use of best practices is
1433 encouraged for the prevention of bullying and for all other
1434 activities for which grants are given.

1435 Ms. Scott. Well, it is redundant. If the gentlelady is
1436 insisting that the word "bullying" be used another different
1437 time. Amendment 79 has it as an allowable use. The point
1438 of this amendment is to make it clear that best practices
1439 are to be encouraged for all activities and not single out
1440 one activity for which best practices are used.

1441 We have gone to great lengths over the course of the
1442 juvenile justice legislation to make it clear that best
1443 practices and evidence-based practices are used, not just
1444 slogans and sound bites and what may be --

1445 Ms. Jackson Lee. Would the gentleman yield? In the
1446 spirit of collegiality, if I could read it to you, maybe you
1447 would understand what I am saying. "Best practices is
1448 encouraged for the prevention of bullying and all other
1449 activities." I want to keep it consistent, you know, with
1450 the legislation. I would ask the gentleman if he would -- I
1451 do not take out "all activities," and I said "and all other
1452 activities."

1453 Mr. Scott. Well, yeah, yeah. But what is the
1454 legislative purpose of putting "bullying" there when it is
1455 one of 13 different allowable uses? To single out one
1456 suggests there is some legislative purpose to that.

1457 Ms. Jackson Lee. If the gentleman is yielding, it is
1458 not exclusive. It is clarifying, and I think it is
1459 enhancing. And so I would appreciate if the gentleman would
1460 view it in that way. And his language that has "all other
1461 activities" remains in place.

1462 Mr. Scott. Well, if the chairman would make it clear in
1463 the report language that this is totally duplicative and
1464 redundant and has no legislative purpose.

1465 Mr. Marino. [Presiding] Is this something we can work

1466 out on the way to the floor?

1467 Ms. Jackson Lee. Yes, I will look forward to doing
1468 that. We can move on the amendments.

1469 Mr. Marino. Does the gentlelady withdraw her amendment?

1470 Ms. Jackson Lee. I do withdraw it, and I would like to
1471 move forward on the amendments. I would like to pass this
1472 legislation, and I would like to encourage my colleagues to
1473 support the bill.

1474 Mr. Marino. Does anyone else wish to speak on the Scott
1475 amendments?

1476 [No response.]

1477 Mr. Marino. If not, the question is on the amendment.

1478 All in favor, signify by saying aye.

1479 Opposed?

1480 Mr. Scott. Parliamentary inquiry, Mr. Chairman.

1481 Mr. Marino. Yes?

1482 Mr. Scott. Did the amendments pass?

1483 Mr. Marino. Well, I was asked to wait for a moment from
1484 my colleague. I am just ready to ask if we can get moving
1485 here, please. We all right?

1486 The vote was called. In the opinion of the chair, the

1487 ayes have it.

1488 Are there any other amendments?

1489 Mr. King. Mr. Chairman, I have an amendment at the
1490 desk.

1491 Mr. Marino. Okay.

1492 Mr. Scott. Mr. Chairman, I reserve a point of order.

1493 Mr. Marino. Okay. The clerk will report.

1494 Ms. Kish. Amendment to H.R. 6019, offered by Mr. King
1495 of Iowa, amendment to page and line --

1496 Mr. Marino. Without objection, the amendment is
1497 considered as read.

1498 [The amendment of Mr. King follows:]

1499

1500 Mr. Marino. And the gentleman is recognized.

1501 Mr. King. Mr. Chairman, I identify this as an amendment
1502 to the Scott amendment number 79.

1503 The chair took up the Scott amendment in preference to
1504 the King amendment. The King amendment does go to the Scott
1505 amendment as adopted. But it does not strike the findings
1506 as has been reported. The amendment that is in front of
1507 you, the King amendment, is an amendment that only strikes
1508 the language in the Scott amendment that also was in the
1509 underlying bill and replaced identically and verbatim by the
1510 Scott amendment.

1511 And these are the words that would be struck by the King
1512 amendment to the Scott amendment, which is, "as well as
1513 intervention programs regarding bullying."

1514 And, Mr. Chairman, this amendment is eliminating the
1515 language which creates Federal programs and expands existing
1516 Federal programs.

1517 I have supported this legislation in the past when it
1518 passed out of this committee and off the floor in 2005. I
1519 support this legislation today as a reauthorization. But I
1520 think everybody in this Congress knows that we cannot be

1521 expanding the scope of government. The Supreme Court has
1522 taken care of that today for us.

1523 But with bullying -- thank you for the smile, the
1524 ranking member from Michigan. But what we have is with
1525 bullying, I believe that bullying has almost become a human
1526 universal. It exists in every society and every
1527 civilization from the dawn of humanity and the dawn of time.
1528 And we can and should stigmatize the bullies and de-
1529 stigmatize their victims.

1530 We have made some progress with those programs. The
1531 tragedies that have taken place across the country and the
1532 tragedies that have taken place in my neighborhood are stark
1533 and they are painful. And anyone in this Congress opposes
1534 bullying.

1535 But one of the things that has been taken place is the
1536 Federal government has grown beyond its scope. What I have
1537 seen is this. I sat down with a whole series of teachers
1538 and said, do you need a Federal program to address bullying?
1539 I have not found one teacher that has said that. My wife
1540 has taught two generations of kindergartners, and her
1541 friends on that list that flow in that culture in

1542 civilization say, no, we do not need the Federal government
1543 intervening. Each one is an individual case. And we can
1544 take care of these individual cases within our schools if we
1545 have a good superintendent, a good principal, a good
1546 teacher, and, even better yet, if we have cooperative
1547 parents.

1548 For the Federal government to intervene and create
1549 intervention programs between parents, teachers, parents,
1550 principals, and superintendents, schools, and school boards,
1551 it is irresponsible on our part to think that we can step
1552 into these schools and create programs.

1553 And I went further, and I met with a significant number
1554 of the State Board of Education just on Monday night, and I
1555 asked them, do you need more tools from the Federal
1556 government? Do you need us to create more programs to deal
1557 with bullying in the schools? Their answer was, we have a
1558 law. We have some Federal help to guide us. We have a
1559 State law, and we require every school district to establish
1560 an anti-bullying program within their school district. And
1561 we believe it is effective, and we believe that we can
1562 address this without the Federal government. And we would

1563 just as soon not have the Federal government intervene in
1564 the relationships between the State Board of Education, our
1565 superintendents, our principles, our teachers, our parents,
1566 our families, and our communities.

1567 This is an unnecessary Federal intervention. It is an
1568 expansion of the authorization that we established here in
1569 2005, in good faith and good conscience. And this is an
1570 example also of what happens when the Federal government
1571 sticks the nose of its camel under the tent. Someone comes
1572 along and slips a little subtle language in there that
1573 reaches the Federal government into our schools. And now if
1574 my amendment does not succeed here, and we end up with
1575 reauthorization that becomes law, you will see this little
1576 innocuous language that says, "as well as intervention
1577 programs regarding bullying," that little innocuous language
1578 becomes an intervention program that identifies and perhaps
1579 also profiles young people as likely to be bullyers, and
1580 under the direction and potential punishment of some Federal
1581 government program.

1582 We cannot raise children at the guidelines of the
1583 Federal government. We can do so if the parents are

1584 involved. We can do if local government is involved, local
1585 school systems are involved. But if there was ever anything
1586 that was outside the scope of the vision of our Founding
1587 Fathers, one of them certainly was keeping the Federal
1588 government out of the relationship between parents,
1589 students, parents, teachers, principals, administrators.

1590 And so I urge the adoption of this amendment, which just
1591 simply allows the underlying legislation to be reauthorized
1592 within the scope of its original intent in 2005, and within
1593 the scope that came before this committee. I support the
1594 passage of this bill and its reauthorization in its original
1595 form. And I urge adoption of my amendment.

1596 And I yield back the balance of my time.

1597 Mr. Marino. Thank you, Mr. King. Are there any other
1598 members that wish to speak on the amendment?

1599 Ms. Jackson Lee. Mr. Chairman?

1600 Ms. Marino. Yes, Ms. Jackson.

1601 Ms. Jackson Lee. I vigorously oppose the gentleman's
1602 amendment, and I thank the committee, and I thank Chairman
1603 Smith for --

1604 Mr. Marino. Excuse me. The gentlelady is recognized

1605 for 5 minutes.

1606 Ms. Jackson Lee. Thank you, Mr. Chairman. I thank
1607 Chairman Smith for the work that we have done together and
1608 his opposition to Mr. King's amendment.

1609 This, in fact, as my colleagues have just said to me,
1610 guts the bill. This is not in any way to distract away from
1611 local and State jurisdiction. In fact, this is enhancement.

1612 It is well acknowledged that we are living in different
1613 times from even the time of the most recent reauthorization
1614 of this block grant. And we worked very hard in listening
1615 to testimony from people all over the country on the
1616 victimization and the tragedies that have occurred with
1617 respect to what is a term that is not of yesteryear. It is
1618 not the schoolyard fight. It is more difficult than that.

1619 And what we are encouraging is that to highlight for
1620 school districts, and States, and local municipalities,
1621 working with juveniles, best practices, intervention, not to
1622 the exclusion of any other utilization of the block grant.

1623 We worked very hard to narrow the language. This
1624 legislation is not recent in coming. It has vast support.
1625 And its underlying premise is, again, to enhance and

1626 reauthorize this funding. And as many members have
1627 critiqued, they would like it to be more, count me in. I
1628 would like it to be more.

1629 But, colleagues, this has come about through intense
1630 cooperation and work, and I would ask that the amendment of
1631 Mr. King be rejected by this committee, and that we pass
1632 H.R. 6019, and provide enhanced opportunity for our local
1633 communities to answer the question of why 13 million
1634 children claim that they are being bullied in this country.

1635 And I would yield back to the gentleman and call for a
1636 vote, and call for a vote on the underlying bill.

1637 Mr. Marino. Thank you. Does anyone else wish to make a
1638 statement or discuss this amendment?

1639 [No response.]

1640 Mr. Marino. No? Okay. Without objection, though, I
1641 ask that Chairman Lamar Smith's statement be entered into
1642 the record in opposition to this amendment.

1643 [The information follows:]

1644

1645 Mr. Marino. The question is on the amendment.

1646 Those in favor, say --

1647 Mr. King. Mr. Chairman, a point of order. I believe
1648 that there is a reservation on the table.

1649 Mr. Marino. Oh, yes.

1650 Mr. Scott. Mr. Chairman, I withdraw my point of order.

1651 Mr. Marino. Okay, thank you.

1652 Now the question is on the amendment.

1653 Those in favor, say aye.

1654 Those opposed.

1655 In the opinion of the chair, the noes have it, and the
1656 amendment is not agreed to.

1657 Are there any other amendments at the desk?

1658 [No response.]

1659 Mr. Marino. No other amendments?

1660 [No response.]

1661 Mr. Marino. Okay. A reporting quorum being present,
1662 the question is on reporting the bill, as amended, favorably
1663 to the House.

1664 Those in favor, say aye.

1665 Those opposed, say no.

1666 The ayes have it, and the bill, as amended, is ordered
1667 reported favorably.

1668 Ms. Jackson Lee. Thank you very much, Mr. Chairman.

1669 Mr. Marino. Okay. Without objection, the bill will be
1670 reported as a single amendment in the nature of a substitute
1671 incorporating amendments adopted. And staff is authorized
1672 to make technical and conforming changes. Members will have
1673 2 days to submit their views.

1674 [The information follows:]

1675

1676 Mr. Marino. There being no further business before the
1677 committee, we are adjourned.

1678 [Whereupon, at 1:35 p.m., the committee was adjourned.]