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HIF336160

MARKUP OF:

H.R. 1641, FEDERAL SPECTRUM INCENTIVE

ACT OF 2015; AND

DISCUSSION DRAFT, TO AMEND THE NATIONAL

TELECOMMUNICATIONS AND INFORMATION

ADMINISTRATION ORGANIZATION ACT TO

FACILITATE THE DEPLOYMENT OF COMMUNICATIONS

INFRASTRUCTURE BY PROVIDING FOR AN INVENTORY

OF FEDERAL ASSETS FOR USE IN CONNECTION WITH

SUCH DEPLOYMENT, TO STREAMLINE CERTAIN

FEDERAL APPROVALS OF COMMUNICATIONS

FACILITIES, TO PROVIDE FOR MEASURES TO

PROMOTE THE USE OF UTILITY POLES IN THE

DEPLOYMENT OF BROADBAND, AND FOR OTHER

PURPOSES

WEDNESDAY, DECEMBER 2, 2015

House of Representatives,

Subcommittee on Communications and

Technology,

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Committee on Energy and Commerce,  
Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2123, Rayburn House Office Building, Hon. Greg Walden [chairman of the subcommittee] presiding.

Present: Representatives Walden, Latta, Shimkus, Blackburn, Lance, Guthrie, Olson, Pompeo, Kinzinger, Bilirakis, Johnson, Long, Ellmers, Collins, Cramer, Upton (ex officio), Eshoo, Doyle, Loeb sack, DeGette, Matsui, Lujan, and Pallone (ex officio).

Staff present: Gary Andres, Staff Director; Will Batson, Legislative Clerk; Ray Baum, Senior Policy Advisor for Communications and Technology; Karen Christian, General Counsel; Andy Duberstein, Deputy Press Secretary; Gene Fullano, Detailee, Telecom; Kelsey Guyselman, Counsel, Telecom; Peter Kielty, Deputy General Counsel; Tim Pataki, Professional Staff Member; Graham Pittman, Legislative Clerk; David Redl, Counsel, Telecom; Christine Savercool, Professional Staff, Communications and Technology; Dylan Vorbach, Legislative Clerk, Commerce, Manufacturing, and Trade; Gregory Watson, Legislative Clerk, Communications and Technology; Jen Berenholz, Minority Chief

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Clerk; Christine Brennan, Minority Press Secretary; Jeff Carroll, Minority Staff Director; Elizabeth Ertel, Minority Deputy Clerk; David Goldman, Minority Chief Counsel, Communications and Technology; Ashley Jones, Minority Director of Communications, Member Services and Outreach; Jerry Leverich, Minority Counsel; Lori Maarbjerg, Minority FCC Detailee; Tim Robinson, Minority Chief Counsel; and Ryan Skukowski, Minority Policy Analyst.

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Mr. Walden. Okay. I will call to order the Subcommittee on Communications and Technology. And the chair recognizes himself for an opening statement.

I am pleased that this subcommittee is meeting today to mark up much-needed legislation to speed the deployment of broadband infrastructure across this country. As we heard in our hearing on this topic, building networks is not for the faint of heart. It does take careful planning, significant capital, and a constant reinvestment of physical plant as technologies evolve.

Since 1996, the private sector has invested over \$1.4 trillion in communications networks, adding more than 6 million U.S. jobs to the American economy and ultimately accounting for over \$684 billion of the U.S. economic output.

As a nation, we cannot afford to stop investing in our communications networks, and yet network infrastructure builders continue to face unnecessary hurdles when they seek to trench fiber or build towers, particularly as they seek to cross Federal lands to provide services to those folks who are hardest to reach.

This subcommittee has heard from witnesses who reported on costly, unexplainable delays when seeking permission from the Federal Government to cross rights-of-way, many of which have already been developed. We have heard of the inconsistent application of rules and regulations from agency to agency and the unpredictable and unexpected inflict on those looking to

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expand broadband.

The loser in this process isn't the broadband provider; it is the American economy and each incremental American household that must wait unnecessarily for the benefits of broadband that pay the price for the sluggish bureaucracy.

The draft bill before us represents a bipartisan effort to increase the efficiency of agencies, particularly the Department of Interior, in processing applications for access to rights-of-way. The legislation contains commonsense proposals for time limits, application tracking, and uniformity of procedures across the various agencies and field offices scattered across the country.

The legislation requires agencies to be accountable for the efficiency with which they process permitting applications. The draft bill also works to improve information on where providers can deploy by establishing a national inventory of Federal assets on which fiber can be hung, antennas can be attached, or wires can be trenched.

Combined with the language of H.R. 3805, the Broadband Conduit Employment Act, which requires certain federally funded highway projects to include conduit for communications facilities, this draft bill will provide a true roadmap for deploying 21st century information infrastructure.

It is important to remember that this bill is a discussion

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draft. I am aware that there are significant concerns on the part of electric utilities with respect to the proposed changes to utility pole attachments. While we seek to promote broadband deployment, that should not come at a cost to electric utility ratepayers.

It is my understanding the bipartisan committee staff have been working with the utilities to ensure that their concerns are heard and that the bill that is moved out of the committee at the end of our markup process meets the needs of the utility customers and broadband providers alike.

In addition to the broadband infrastructure bill, the subcommittee will consider H.R. 1641, the Federal Spectrum Incentive Act. H.R. 1641 is the product of bipartisan consultation and collaboration between our colleagues Mr. Guthrie and Ms. Matsui, and this is the second Congress in which we will consider this important legislation.

This legislation contains creative proposals to encourage Federal agencies to manage existing allotments of spectrum more efficiently and cede the remainder the commercial sector, allowing Federal entities to participate in an incentive auction that could provide the necessary capital to offset relocation or improve the efficiency of agency use.

H.R. 1641 contains the subcommittee's work to provide as many high-quality legislative tools as possible to improve government

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spectrum efficiency and bring spectrum to market to meet our nation's wireless broadband demand.

The United States is a world leader in broadband, both fixed and mobile. These two bills are commonsense legislation that will remove unnecessary barriers to increasing broadband deployment and improve internet access in the home and on the go.

I am proud of this subcommittee's work on these issues and the bipartisan cooperation. We have enjoyed working together to improve broadband internet access for all Americans. So I want to thank my colleagues and urge you to vote favorably to report these bills to the full Energy and Commerce Committee.

With that, I would recognize the vice chair of the subcommittee, Mr. Latta.

Mr. Latta. Well, thank you, Mr. Chairman.

And access to high-speed broadband has transformed the way we live, grow our economy, empower our communities. Americans are increasingly connected to networked and wireless devices, forcing broadband networks to grow in both scale and scope to keep pace with consumer demands.

While there is a clear need for more investment in our broadband infrastructure, especially in rural areas like I represent in Ohio, the cost of building, maintaining, and upgrading networks can be significant. The discussion draft before us today recognizes these challenges and helps to eliminate

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barriers for deployment of this critical infrastructure.

And I also thank the chairman for taking the concerns of our electric utilities into account as we work on this draft.

Today, we will also consider H.R. 1641, the Federal Spectrum Incentive Act. This bill helps to address the growing demand for wireless spectrum capacity, providing Federal agencies with an incentive to relinquish their unused spectrum and license it for commercial use. This bill will expand access to spectrum and better accommodate advanced mobile innovation.

I applaud Mr. Guthrie and Ms. Matsui, who worked on this bill. And I urge its passage, and I look forward to hearing the comments from my colleagues.

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

Mr. Walden. The gentleman yields back the balance of time.

The chair recognizes the ranking member from California, Ms. Eshoo, for 5 minutes.

Ms. Eshoo. Thank you, Mr. Chairman, and good morning, colleagues.

Last month, the Department of Commerce and the NTIA hosted a workshop in the heart of my congressional district to help communities expand access and increase utilization of broadband. There were more than 100 local, State, and Federal leaders that attended, industry representatives, community activists, and other stakeholders.



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NTIA's takeaway from the workshop may surprise all of you. They said that the State that gave us semiconductor chips, internet search engines, and smartphones faces the same digital divide challenges as the rest of the country. So I think that this fits into the beginning of our hearing today because the hearing is really all about doing something about what I just mentioned.

And I want to thank you, Mr. Chairman, for seeing the advantage of the terrific ideas of members from both sides of the aisle, bringing them together as a package in order to expand broadband access to people in our country.

I am also very grateful to you for being the Republican lead on the dig-once bill. And, you know, sometimes it takes time for things to mature around here, but that is okay. It is a great idea, and I think with your cosponsorship of it, it really has helped to move the bill forward.

We all know that while conduit is estimated to add less than 1 percent to the total project cost, the GAO estimates that the efficiencies implementing a dig-once policy can save between 25 and 33 percent in construction costs in urban areas and roughly 16 percent in rural areas, which is very much you district.

So there is widespread support. We heard it from the FCC commissioners and others. So thank you for that.

The discussion draft also contains five other proposals

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intended to improve and streamline government processes that can hinder the deployment of broadband. And I think that these are all important ideas, including the Federal Spectrum Incentive Act. And bravo to Representatives Guthrie and Matsui for their work on this.

We know that in order to advance a 21st century spectrum policy and meet our nation's growing needs for wireless broadband, not only needs but demand for it, we have to think creatively about how to manage and relocate spectrum held by Federal agencies.

And so I am pleased to join my colleagues as an original cosponsor of the bipartisan legislation. And again, bravo to the two of you because I think you have done outstanding work on it.

So once again, Mr. Chairman, thank you for your work and for convening today's markup. I will look forward to continuing our work together to bring the bills to the Floor of the House. And when we do and pass it, enormous credit to the work of this subcommittee.

I yield back.

Mr. Walden. And we will march en masse to the Senate together.

Ms. Eshoo. Good.

Mr. Walden. Get them to act.

We will turn to the chairman of the full committee, the gentleman from Michigan, Mr. Upton.

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The Chairman. The great State of Michigan.

Mr. Walden. The great State of Michigan.

The Chairman. Despite our loss to the Buckeyes.

Thank you, Mr. Chairman.

There is no doubt that increasing available spectrum and simplifying broadband build-out processes for commercial use are indeed vital steps in ensuring America's continued broadband leadership.

The explosion of mobile wireless broadband has transformed the way folks in Michigan and across the country communicate, consume information, and use all of the services that the internet has to offer. To keep up with the ever-growing demand of this flourishing sector of the economy, broadband communication providers both wired and wireless must innovate and invest constantly.

Both bills before the subcommittee today aim to make those investments happen. These bills are the result of bipartisan efforts to increase the ability of our country's communication providers to invest in networks and bring the power and freedom of broadband to every single corner of the country. Areas that don't have access will be disadvantaged, left behind socially and economically, and we are trying to fix that.

The Federal Spectrum Incentive Act seeks to financially incentivize Federal agencies to relinquish unused or unneeded

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spectrum, opening up additional spectrum to be auctioned for commercial use. The broadband legislation combines good policies that eliminate hurdles infrastructure builders must navigate in order to build the broadband backbone of our national economy.

Two previous administrations have attempted to cut back the endless reviews, requirements, and requests that hinder efficient, timely, and economic deployment of communications infrastructure, but some of these changes can only come from this body, the Congress, and it is time that we take action.

Southwest Michigan needs broadband investment just like communities across the country. It is imperative that we make it easier for development in small towns like Dowagiac so that our rural communities can continue to compete in the 21st century global marketplace.

I am confident that the hard work that this subcommittee has produced are good policies that will become productive laws. The broadband economy is our nation's job-creation engine, and we should be working to support it, not enacting laws and regulatory policies that hinder it. I would hope that we can continue this bipartisan effort to help our nation's communications network thrive and lead our global economy, and passage today will mean that it will come before the full committee, and then the House Floor, work with our colleagues in the Senate to actually get it

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to the President's desk.

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

Mr. Walden. The gentleman yields back the balance of his time.

The chair recognizes the gentleman from New Jersey, Mr. Pallone, for 5.

Mr. Pallone. Thank you, Mr. Chairman.

As we all know, consumer demand for high-speed broadband is only going up, and to meet this demand, we must continue to invest in our nation's communications networks, just like our nation's other infrastructure. These are the networks that keep us in touch every day and keep us connected during emergencies, and that is why Congress's priority should never be whether to invest in this critical infrastructure but how we invest.

The best way to build this sound infrastructure is to ensure that both industry and the government are working together, and the bipartisan draft bill we are marking up today demonstrates how this is done. This bill focuses on sound and practical ideas to help the private and public sector work together to benefit the American people. For instance, this committee has repeatedly been told that broadband siting reviews can slow broadband deployment to some of the hardest-to-reach areas of the country.

The solution proposed in this draft would have agencies

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streamline their internal procedures. In exchange, the agencies will be given the authority to collect fees from the applicants to help pay for the speedier reviews. And the end result is consumers get connected faster.

These types of sensible solutions are the result of tireless bipartisan work across this subcommittee, but there is no rest for the weary. More must be done because more and more of our communications needs are wireless, and that means we need more infrastructure, but we also need spectrum. The budget deal we reached a few weeks ago was a good start, but I hope we can continue our bipartisan efforts to free more airways for commercial broadband. And that is why we are also marking up the Federal Spectrum Incentive Act introduced by Representative Doris Matsui. This way we are working both sides of the problem.

Only by continuing these twin efforts of improving network infrastructure and freeing up more spectrum can we meet consumer demands. And by working together, as we have done with these pieces of legislation, we can show the country that our government can still work for them.

So I want to thank Chairman Upton, Chairman Walden, Ranking Member Eshoo, and all their staffs for all their efforts and dedication to meeting consumer demand and doing it the right way.

And I would also like to thank the ranking member of the House Committee on Natural Resources, Mr. Grijalva, and his staff for

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helping us improve this draft bill in very meaningful ways so that these changes do not sacrifice or negatively impact the environment.

And I yield back the rest of my time. Thank you.

Mr. Walden. I thank the gentleman for his work on these bills and his comments.

We will now turn to the gentlelady from Tennessee, Mrs. Blackburn, the vice chair of the full committee, for 3 minutes.

Ms. Blackburn. Thank you, Mr. Chairman.

Just a couple of quick comments, by the end of 2019 there will be 3.9 billion networked devices that are connected to the broadband, and I think that we need to keep our focus on that. That is going to be more than twice, almost three times what we have right now. That requires that we be mindful of the utilization of the broadband and of the network. It also means we need to look closely at that CTIA report that has been there about spectrum, reallocating that 350 megahertz. I want to thank those that have put a lot of effort and time into crafting the legislation, and I look forward to its passage and yield back.

Mr. Walden. The gentlelady yields back.

The chair now recognizes the gentleman from Pennsylvania, Mr. Doyle, for an opening comment. No?

Then we go to Loeb sack.

Mr. Loeb sack. Pass.

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Mr. Walden. Pass? Ms. Matsui.

Ms. Matsui. Thank you.

Mr. Walden. Thanks for all the work you do on these issues and others, and we recognize you for opening comments.

Ms. Matsui. Well, thank you, Mr. Chairman.

Today, the subcommittee is considering important bipartisan legislation. These bills will expand the wireless and wireline networks that every American relies upon to grow our businesses, stay connected with our families, and participate in our economy.

Communications infrastructure deployment is a challenge not only in rural America but also in urban places like my district of Sacramento where many of my constituents don't have the access they need.

The bills we are considering today tackle these obstacles from two sides. First, we are advancing a discussion draft to speed the rollout of physical infrastructure. I am pleased to join Ranking Member Eshoo and Chairman Walden as a sponsor of one of the bills included in the discussion draft. H.R. 3805 encourages dig-once policies so that when highway projects are under construction, we also install broadband conduit.

Second, we are approving bipartisan legislation that I coauthored with my friend Congressman Guthrie to make more spectrum available, which we know is critical for robust wireless networks.



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I want to also thank Chairman Walden and Ranking Member Eshoo, who also joined us as original cosponsors of the bill.

Spectrum is the invisible infrastructure of our 21st century economy. H.R. 1641 is an innovative approach to solving a problem this committee has been focused on for several Congresses, how to put more spectrum in the pipeline for innovation and grow our wireless economy. We know that the Federal Government is one of the largest users of spectrum and that spectrum is essential for many Federal agencies' missions.

Our bipartisan bill creates a new approach to spectrum management by offering incentives for Federal users to relinquish or share spectrum. It would create the first-ever incentive auction for Federal agencies and allow Federal spectrum users to share in the revenues from the auction. The success of the WAS-3 auction earlier this year highlighted the incredible commercial demand for spectrum in the marketplace. As you look to the deployment of the next generation of wireless networks, we need an aggressive strategy so that the United States can continue to lead the world in 5G.

Congress took some important steps in the bipartisan budget deal earlier this year to provide incentives for improving efficiency through the Federal Spectrum Relocation Fund. We need to do more to build on these provisions, and passing our bill, the Federal Spectrum Incentive Act, is a critical next step. I

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urge my colleagues to support our legislation and look forward to working together to help our wireless economy continue to grow.

And I yield back, Mr. Chairman.

Mr. Walden. I thank the gentlelady for her comments and her good work.

I will now turn to the gentleman from Kentucky, Mr. Guthrie. Thank you for your great leadership on these issues as well. And please go ahead.

Mr. Guthrie. Thank you, Mr. Chairman. I appreciate you bringing this bill forward. And I am here to speak on the Federal Spectrum Incentive Act of 2015.

This is a bipartisan bill I was proud to reintroduce this year with my colleague and friend from California, Congresswoman Doris Matsui. I always appreciate working together as co-chairs of the Congressional Spectrum Caucus. I am very glad to see this bill advancing today as we work to expand the FCC's incentive auction authority to include spectrum use by Federal agencies.

This bill will provide financial incentives to encourage government agencies to relocate from spectrum they are currently occupying, freeing up spectrum for purposes of commercial use and innovation. These funds can be used to help pay for relocation costs or to offset sequestration cuts.

Whether you use it to browse apps or news articles on your mobile phone or as a first responder trying to get resources to

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an emergency situation, we all rely on spectrum. While we can't see spectrum, we know it is a limited and critical resource that affects nearly every aspect of our daily lives.

In January, we saw huge success with FCC's Advanced Wireless Services spectrum auction, which raised an unprecedented \$44.8 billion, and I am hopeful that we can achieve similar success with future spectrum auctions.

I want to thank the chairman for bringing this important legislation before the subcommittee for a markup, and I would also like to thank Congresswoman Matsui for her continued leadership on this bipartisan issue.

And I yield back the balance of my time.

Mr. Walden. The gentleman yields back the balance of his time.

The chair now recognizes the gentleman from New Mexico, Mr. Lujan, for 5 minutes.

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

I want to begin by thanking Chairman Walden and Ranking Member Eshoo, Chairman Upton and Ranking Member Pallone for their efforts to draft this important broadband infrastructure legislation.

When it comes to broadband deployment--I have said this before but it bears repeating--more than half of rural Americans and 2/3 of Americans living on tribal lands lack access to advanced

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broadband. We are currently failing too many Americans and we must do better. Our nation's economic future and access for our constituents depends on it.

The draft legislation before us today is a good start, and I am pleased that the bill proposes to create a database of Federal assets that could be used to support broadband deployment, something that would benefit New Mexico.

New Mexico is also a land of vast and beautiful landscapes, and much of it, more than 1/3 in fact, is administered by the Federal Government. That makes this bill's efforts to streamline the siting approval process at the Department of Defense, Department of Interior, and the Forest Bureau especially welcome news for my home State.

I also want to thank Congresswoman Eshoo for again championing dig-once legislation and for Mr. Walden for being an original cosponsor. This commonsense bill is an important step forward, and I am proud to cosponsor it.

Mr. Chairman, there also is recognition of the work that the staffs did in paying attention to NARUC, the National Association of Rural Utility Commissioners, a body that I was once proud to be a member of. I know that Ray Baum was proud to be a member of as well, who works on the staff. And there are several recommendations that have come out of NARUC that are also included in the base legislation in the proposal that is before us.

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One area that is not included, though--and we were hopeful that the BIA, through a rulemaking, might be able to address this--was a recommendation that there be an evaluation of working with Federal assets, tribal lands, local governments, including cities and counties, as we have a conversation about easements and rights-of-ways and how we can best work with one another as well, based on the current parameters that we have before us.

And I certainly hope that as we get to full committee markup and with other conversations that this is a provision that we could consider as well because there are multi-committee jurisdictions in this capacity. But nonetheless, as we talk about access into different communities, there have been some filings by tribes that have suggested that deployment of services will not extend into those communities because of the liability associated with the assets of entry into those lease agreements as well. And so we are furthering holding back the opportunity to expand those services into those communities. So I would just point that out, Mr. Chairman.

And again, for all the work that everybody has done in this space, I just want to say thank you so very much and look forward to getting this to the President.

Thank you, Mr. Chairman.

Mr. Walden. Thank you. And thanks for all your good work.

Are there other members on the Republican side that would

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like to give any opening comments for our markup?

If not, and no other Democrats, I think we can proceed then. Your opening statements obviously will be part of the official record if you have written ones you want to submit.

We now call up the discussion draft and ask the clerk to report.

The Clerk. Discussion draft to amend the National Telecommunications and Information Administration Organization Act to facilitate the deployment of communications infrastructure by providing for an inventory of Federal assets for use in connection with such deployment, to streamline certain Federal approvals of communications facilities, to provide for measures to promote the use of utility poles in the deployment of broadband, and for other purposes.

[The discussion draft follows:]

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Mr. Walden. Without objection, the first reading of the bill is dispensed with and the bill will be open for amendment at any point. So ordered.

Are there any bipartisan amendments?

Are there any amendments?

The question now occurs on forwarding the discussion draft to the full committee.

All those in favor will say aye.

Those opposed will say nay.

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

The chair now calls up H.R. 1641, and I ask the clerk to report.

The Clerk. H.R. 1641, to amend the National Telecommunications and Information Administration Organization Act, to provide incentives for the reallocation of Federal Government spectrum for commercial use and for other purposes.

[The bill H.R. 1641 follows:]

\*\*\*\*\* INSERT \*\*\*\*\*

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Mr. Walden. Without objection, the first reading of the bill is dispensed with. The bill will be open for amendment at any point. So ordered.

Are there any bipartisan amendments?

Seeing none, are there any amendments?

Seeing and hearing none, the question now occurs on forwarding H.R. 1641 to the full committee.

All those in favor, say aye.

Those opposed, nay.

By golly, the ayes appear to have it. The ayes have it, and the bill is favorably reported.

Without objection, staff is authorized to make technical and conforming changes to the legislation approved by the subcommittee today. So ordered.

Without objection, this subcommittee now stands adjourned. I thank the members for their great work.

[Whereupon, at 10:37 a.m., the subcommittee was adjourned.]