This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

RPTS BINGHAM

DCMN HOFSTAD

MARKUP (PART 2) OF:

H.R. 3527, THE POISON CENTER NETWORK ACT OF 2013;
H.R. 1098, THE TRAUMATIC BRAIN INJURY REAUTHORIZATION ACT;
H.R. 1281, THE NEWBORN SCREENING SAVES LIVES REAUTHORIZATION ACT OF 2013;
H.R. 724, A BILL TO AMEND THE CLEAN AIR ACT TO REMOVE THE REQUIREMENT FOR DEALER CERTIFICATION OF NEW LIGHT-DUTY MOTOR VEHICLES;
H.R. 3683, A BILL TO AMEND THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007 TO STRENGTHEN THE COLLABORATION BETWEEN THE UNITED STATES AND ISRAEL ON ENERGY DEVELOPMENT AND TO BOLSTER THE EXISTING UNITED STATES-ISRAEL ENERGY RELATIONSHIP BY ENCOURAGING INCREASED COOPERATION BETWEEN THE TWO COUNTRIES;
H.R. 3674, THE FEDERAL SPECTRUM INCENTIVE ACT; AND
H.R. 3675, THE FEDERAL COMMUNICATIONS COMMISSION PROCESS REFORM ACT OF 2013

WEDNESDAY, DECEMBER 11, 2013

House of Representatives,
Committee on Energy and Commerce,
Washington, D.C.
The committee met, pursuant to call, at 12:40 p.m., in Room 2123, Rayburn House Office Building, Hon. Fred Upton [chairman of the committee] presiding.

Present: Representatives Upton, Pitts, Walden, Terry, Murphy, Latta, Lance, Guthrie, Olson, McKinley, Pompeo, Kinzinger, Griffith, Bilirakis, Johnson, Long, Waxman, Dingell, Pallone, Eshoo, Engel, Schakowsky, Barrow, Matsui, McNerney, and Braley.

Staff Present: Nick Abraham, Legislative Clerk; Clay Alspach, Chief Counsel, Health; Gary Andres, Staff Director; Charlotte Baker, Press Secretary; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Matt Bravo, Professional Staff Member; Patrick Currier, Counsel, Energy and Power; Brenda Destro, Professional Staff Member, Health; Brad Grantz, Policy Coordinator, Oversight and Investigations; Kelsey Guyselman, Counsel, Telecom; Sydne Harwick, Legislative Clerk; Tom Hassenboehler, Chief Counsel, Energy and Power; Brittany Havens, Legislative Clerk; Peter Kielty, Deputy General Counsel; Grace Koh, Counsel, Telecom; Ben Lieberman, Counsel, Energy and Power; Nick Magallanes, Policy Coordinator, CMT; Brandon Mooney, Professional Staff Member; Katie Novaria, Professional Staff Member, Health; David Redl, Counsel, Telecom; Charlotte
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

Savercool, Legislative Coordinator; Heidi Stirrup, Health Policy Coordinator; Tom Wilbur, Digital Media Advisor; Ziky Ababiya, Minority Staff Assistant; Phil Barnett, Minority Staff Director; Jen Berenholz, Minority Chief Clerk; Stacia Cardille, Minority Chief Counsel; Shawn Chang, Minority Chief Counsel, Communications and Technology; Brian Cohen, Minority Staff Director, Oversight and Investigations, and Senior Policy Advisor; Greg Dotson, Minority Staff Director, Energy and Environment; Caitlin Haberman, Minority Policy Analyst; Elizabeth Letter, Minority Press Secretary; Margaret McCarthy, Minority Professional Staff Member; Karen Nelson, Minority Deputy Committee Staff Director for Health; and Anne Morris Reid, Minority Professional Staff Member.
This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.

The Chairman. I would note that we have a quorum. The committee will come to order.

At the conclusion of opening statements yesterday, the chair called up H.R. 3527, and the bill was open for amendment at any point.

[The bill follows:]

******** INSERT 1-1 ********
The Chairman. So let me ask -- and I would also just note that we are hoping that all of these bills can go without a recorded vote. There is nothing controversial, overly controversial, that is here from discussions that have gone on on both sides.

So let me just ask if there are any bipartisan amendments to the bill, H.R. 3527.

Seeing none, the chair now concurs on favorably reporting H.R. 3527 to the House.

All those in favor will signify by saying aye.

All those opposed, say no.

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

The chair now will call up the second bill, 1098, as amended by the Subcommittee on Health, and ask the clerk to report.

The Clerk. H.R. 1098, to amend the Public Health Service Act to reauthorize certain programs relating to traumatic brain injury and to trauma research.

[The bill follows:]

****** INSERT 1-2 ******
The Chairman. 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 to this bill? Seeing none, are there any other amendments?

The gentleman from Pennsylvania.

Mr. Murphy. Mr. Chairman, can I move to strike the last word?

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Murphy. Mr. Chairman, I had stated in our markup in the Health Subcommittee yesterday that I wanted to work to see if we can improve some things. It has to do with elements of this that fund organizations who actively get involved in some lobbying, but, moreover, groups who will work -- and I understand they are trying to help make sure that patients' rights are protected and they are not abused, but in some cases -- and we had someone testify before our Subcommittee on Oversight and Investigations on a case that had occurred in Maine, where, against the recommendations of the physician and against the requests of the family, an advocate worked basically telling the patient what to say, they were discharged, and he went home and killed his mother with an axe.

I am still concerned, and I just want to make sure -- I know there was a manager's amendment put in the bill that asked for a report. And I just want to work between now and when this comes to the floor to see if there are other clarifications we might put in there that would
help us move forward. And so I just wanted to make sure we are working together.

The Chairman. Let me just say, we will be glad to work with you. And I imagine, because all of these bills are going to go by voice, that they are likely to be on the suspension calendar next year. And there is certainly an opportunity for, in essence, me to offer a manager's amendment under the rules of the House, and I would do so, working with you as well as with the minority to make sure that we continue the bipartisanship that is there.

But I certainly give you that assurance as we go forward.

Mr. Murphy. Thank you. I appreciate the chairman and the ranking member for working with us on this.

The Chairman. I know that the bill won't be scheduled until next year, you know, so I would suspect that in January or February we are likely to see the bill scheduled for floor debate.

Mr. Murphy. Thank you.

The Chairman. Are there other Members -- I would recognize the ranking member.

Mr. Waxman. Thank you. I move to strike the last word.

I have been a strong supporter of the Traumatic Brain Injury, or TBI, Program. I cosponsored the legislation that first authorized the program in the 1990s, and I supported the program's reauthorization 5 years ago.

TBI affects millions of Americans of all ages. It is a
particularly concerning issue for our Active Duty military and returning veterans. As the Representative of the Nation's largest Veterans Affairs facility, the West Los Angeles VA Medical Center, TBI is one of many complex health problems affecting the veterans communities served by this facility, which is why I am especially pleased that the bill, as amended by the Health Subcommittee, includes a requirement that HHS update us on their work with the Department of Veterans Affairs and Defense to implement recommendations coordinating Federal TBI efforts for current and former members of the military. Increased coordination will help us better understand the burden of TBI amongst military personnel, ensure our veterans know where they can access needed services, and advance research and prevention efforts.

This legislation would not be possible, nor would any of the bills before us today, without the support of you, Mr. Chairman, Chairman Pitts, Ranking Member Pallone. And I would like to thank all of you for your efforts.

I also want to acknowledge Congressman Pascrell's leadership on this particular bill, which has been essential to the process.

I yield back.

The Chairman. The gentleman yields back.

The gentleman from California, for what purpose do you seek recognition?

Mr. McNerney. I seek to strike the last word.
Mr. McNerney. Thank you, Mr. Chairman.

I want to suppress my support for H.R. 1098, a bill of my colleagues, Mr. Pascrell and Mr. Rooney.

Traumatic brain injury can result in cognitive problems such as difficulty thinking, abnormal speech or language, and memory problems. TBI's effects on veterans and their families can be devastating. An increasing number of veterans are returning home each year from conflicts overseas, and far too many of them are suffering from traumatic brain injuries. We have to do everything we can to help ensure they receive treatment and care. Focusing on research and development, on diagnostic tools, and on treatment of TBI will greatly benefit our Nation's heroes.

I was proud to author a law in 2010 that created a Committee on Care of Veterans with TBI at the Veterans Administration, whose mission it is to assess and analyze the needs of veterans with traumatic brain injuries, to make recommendations on improving treatments and improving VA efforts on this issue.

The TBI Committee's efforts, combined with reauthorization of important research grants and investments and coordination between scientific agencies as a result of H.R. 1098, will continue to benefit veterans and others across the country and ensure that scientific and medical advancements will continue for years to come.

Thank you, Mr. Chairman. I yield back.
The Chairman. The gentleman yields back.

Are there other Members wishing to offer an amendment?

Seeing none, the question now occurs on favorably reporting H.R. 1098, as amended, to the House.

All those in favor shall signify by saying aye.

All those opposed, say no.

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

The chair now calls up H.R. 724 and asks the clerk to report.

The Clerk. H.R. 724, to amend the Clean Air Act to remove the requirement for dealer certification of new light-duty motor vehicles.

[The bill follows:]

******* INSERT 1-3 *******
The Chairman. 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 to the bill?
Seeing none, are there any amendments to the bill?
Seeing none, the question now occurs on favorably reporting H.R. 724 to the House.

All those in favor shall signify by saying aye.
All those opposed, say no.
The ayes appear to have it. The ayes have it, and the bill is favorably reported.

Mr. Dingell. Mr. Chairman?

The Chairman. The chair would recognize Mr. Dingell.

Mr. Dingell. For an inquiry. I am assuming that there will be opportunity for the usual 2 days for Members --

The Chairman. Absolutely. I would note that, by unanimous consent, yesterday I reminded all Members that their opening statements will be made part of the record.

[The information follows:]
The Chairman. But, yes, there will be opportunity at the conclusion of today's markup for a number of days for any Members to make comments as part of the official committee report.

And it is obvious that none of these bills will be scheduled for the House floor until next year. I would imagine, because of the little -- zero controversy with any of them, that they are likely to be scheduled under a suspension of the rules come January when we return.

Mr. Dingell. Thank you, Mr. Chairman. I am comforted.

The Chairman. Thank you.

The chair would now call up H.R. 3683 and ask the clerk to report.

The Clerk. H.R. 3683, to amend the Energy Independence and Security Act of 2007 to improve United States-Israel energy cooperation, and for other purposes.

[The bill follows:]

******* INSERT 1-4 *******
The Chairman. Without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any point.

So ordered.

Mr. Engel. Mr. Chairman?

The Chairman. The gentleman from New York.

Mr. Engel. Mr. Chairman, I move to strike the last word.

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Engel. Thank you, Mr. Chairman.

Both the Department of Energy and State have key roles in energy engagement abroad. The Secretary of State, of course, is the Nation's diplomatic face abroad. The Department of Energy has strong technical and analytical abilities. And as the ranking member of the House Foreign Affairs Committee and a member of this committee, I am interested in ensuring the roles of each agency are protected and their strengths are utilized in accordance with the Department of Energy Organization Act.

I am concerned that this text before us might not reflect these considerations appropriately. So I would like to commend you, Mr. Chairman, and also the ranking member for bringing this legislation forward. And I would also like to ask if both of you would be willing to work with me to strike the right balance so that the roles of both agencies are respected, in order to have the most effective legislation possible.

The Chairman. Would the gentleman yield?
Mr. Engel. Certainly, Mr. Chairman. I yield.

The Chairman. Let me just say I very much appreciate your leadership role as the ranking member on the Foreign Affairs Committee. You have been a good friend, and you are in an appropriate spot, and I appreciate that leadership and input. And I can absolutely assure you that I look forward to working with you to achieve these goals.

And I yield back to the gentleman from New York.

Mr. Waxman. Would the gentleman yield to me?

Mr. Engel. Yes, certainly.

Mr. Waxman. I thank you for yielding.

I also want to join in expressing support for achieving these goals, as well. This bill is a worthwhile bill, it is a good bill, it is a bipartisan bill. It is important for our national interests to help Israel develop their natural resources in a responsible way.

Thank you.

Mr. Engel. Well, thank you. I want to thank both the chair and the ranking member. I appreciate their help and their friendship very, very much.

And I yield back, Mr. Chairman.

The Chairman. The gentleman yields back.

Are there any bipartisan amendments to the bill?

Seeing none, are there any other amendments to the bill?

Seeing none, the question now occurs on favorably reporting H.R. 3683 to the House.
All those in favor shall signify by saying aye.

All those opposed, please say no.

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

The chair now calls up H.R. 3675 and asks the clerk to report.

The Clerk. H.R. 3675, to amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the Federal Communications Commission.

[The bill follows:]

******** INSERT 1-5 *******
Without objection, the first reading of the bill is dispensed with, and the bill will be open for amendment at any point. So ordered.

Mr. Walden. Mr. Chairman?

The Chairman. The chair would recognize the gentleman from Oregon.

Mr. Walden. Mr. Chairman, I believe we have a bipartisan amendment at the desk.

The Chairman. All right. Let me -- clerk will report the bipartisan amendment.

The Clerk. Amendment in the nature of a substitute to H.R. 3675, offered by Mr. Walden.

[The amendment of Mr. Walden follows:]

****** COMMITTEE INSERT ******
The Chairman. Without objection, the reading of the amendment is dispensed with.

And the gentleman is recognized for 5 minutes in support of his amendment.

Mr. Walden. I thank the chairman.

And I thank my colleague, Ms. Eshoo, and Mr. Waxman and their staffs and others who have worked on that on our side of the aisle, as well.

As you know, trying to get the FCC to be more transparent in its proceedings, to be available and open in terms of its rulemaking so that people know ahead of time how they operate, trying to clear up some of these dockets that have been pending forever, trying to bring some certainty to the process is something that the Subcommittee on Communications and Technology has pursued for several years now.

There are different ways to achieve the ultimate goal that I think all of us on the full committee and subcommittee share, which is to make sure that the public's business is done in a timely manner and in a public manner.

And while we had different views about how to achieve that, we have come together in a bipartisan bill that really tells the Commission, "Commission, heal thyself, and look at these issues that we believe are very important going forward."

I have used as an example the fact that I had a series of translator applications that had been pending for basically 10 years. And we had
sold the business in between. And then after the FCC finally approved them, they gave me 30 days to perfect them.

And so, I mean, there are just some processes and timelines that need to be dealt with there. That wasn't the reason I got involved in all of this, other than just experience is important in this process. I had forgotten I even had the applications pending, frankly, because we had sold the business.

But the long and short of it is this amendment calls on the FCC to do the proposed rulemaking and all and look at these issues that we have raised.

Now, I have been encouraged because the new Chairman of the FCC, Tom Wheeler, and I have met and talked. He has made reforming processes and procedures at the FCC a priority and has put one of his key staff people on a 60-day review.

A lot of what we recommend here they could do. But the one thing they can't do is be able to meet and talk in a more productive way as commissioners. They call it sunshine; I am not quite convinced that is the best title for it. But the long and the short is, if this bill becomes law, which I hope it does, that the Commission then, if it does what we ask them to do, will get this new authority that will also improve the way they can conduct their business. But it is sort of a carrot and stick, and we are going to move forward.

So I commend my colleagues on the other side of the aisle for working with us on this. It is not everything I would like to do, but
I think it is a very solid, balanced compromise going forward. And, with that, I would yield to the gentleman from California, Mr. Waxman.

Mr. Waxman. Thank you very much for yielding to me.

I want to thank you and Chairman Upton for working on a bipartisan basis to reach this compromise on the FCC Process Reform Act. I also want to commend Ranking Member Eshoo for her leadership.

Last Congress, we were unable to reach consensus and the legislation foundered, but I am hopeful that our ability to find common ground will change the result this year. In fact, our process on the FCC process bill should be a model of how this committee can operate. When we have serious bipartisan engagement, we can make progress.

I support the legislation, and I thank the gentleman for his leadership.

Mr. Walden. Well, reclaiming my time, I appreciate his comments, his work.

And I would just amend his statement to say the legislation foundered in the Senate, as did our bill on consolidated reporting, which was fully bipartisan and I think passed unanimously in the House, and we have done that one again. We need to figure out, at a minimum, how to get that bill into law, because that does save the FCC a lot of time and energy. They still report on the important topics; they just don't have to do it the way they do today and don't have to report on the telegraph anymore, too, if that becomes law.
With that, I would either yield to the gentlelady from California or yield back.

Ms. Eshoo. I would be happy to accept the time.

Thank you, Mr. Walden, for your leadership, for your work; to all of the members of the subcommittee, and most especially to the staffs on both sides of the aisle. I said it yesterday when we opened the markup with our opening statements, and I couldn't mean it more.

This has been around for 3 years, and I think that this is our best shot. I really do. I think that this is going to be a product that is going to move not only through the House but my sense is that the Senate will not find different parts of it menacing.

It is important because it is reforms. No one got everything that they wanted, but I think that we have an excellent package. I am very pleased that the sunshine legislation that has been bipartisan from the get-go is included in it.

I hope that when it gets over to the Senate, that they will make sure that when the legislation becomes law that this reform will take place right away and that they won't have to wait yet another year.

It is about the functioning of the FCC in the 21st century.

So I am pleased to support it; I am pleased with the product. And I am very grateful to all of the Members for their participation in it over the 3 years and, most especially, our respective staffs. They have just been terrific. So this is a nice Christmas present, I think.

And, with that, I will yield back.
The Chairman. Time has expired. I move to strike the last word for just a moment.

I, too, want to thank both sides in being able to work together.

I would note that tomorrow we have an important subcommittee hearing with all the FCC commissioners attending, including Tom Wheeler, the new Chairman of the FCC. And I would like to think that they will be favorably disposed to saying good things about this legislation as we move it through today and soon to get it on the House floor.

And, again, I appreciate you, Ms. Eshoo, and Mr. Walden and the great crew that we have to really put something together that is going to make a lot of sense.

And I yield back my time.

The amendment offered by Mr. Walden is the pending vote.

All those in favor will say aye.

Those opposed, say no.

In the opinion of the chair, the ayes have it. The ayes have it. The amendment is agreed to.

Are there further amendments to the bill? If there are not, the vote occurs on the bill as amended.

All those in favor will say aye.

Those opposed, say no.

The ayes have it, and the bill, as amended, is agreed to.

The next order of business, the chair would call up H.R. 3674 and
ask the clerk to report.

The Clerk. H.R. 3674, 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 follows:]

******** INSERT 1-6 ********
The Chairman. 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 to the bill?
Seeing none, are there any amendments to the bill?
The gentleman from Kentucky.

Mr. Guthrie. I would like to move to strike the last word.

The Chairman. Strikes the last word. The gentleman is recognized for 5 minutes.

Mr. Guthrie. Thank you, Mr. Chairman. And I appreciate you including this bill in today's markup. And I apologize for not being here yesterday for opening statements. I was -- flight delays in the airport, unfortunately. I apologize.

But my colleague, Congresswoman Matsui, and I introduced H.R. 3674, and it is legislation to expand incentive auction authority to Federal spectrum. This bill would encourage agencies to relinquish some of the spectrum bands they currently hold and allows agencies to receive a portion of the auction proceeds.

This legislation is critical to further address our Nation's spectrum crunch. I urge my colleagues to support this bill.

And I would like to say how much I have enjoyed working with Congressman Matsui, my friend from California, on this bill and others that she has been the lead on and on the Federal Spectrum Working Group. It has been fun to work together.
Would you like me to yield?

Ms. Matsui. Yes, would you yield, please?

Mr. Guthrie. I will yield.

Ms. Matsui. Thank you very much. It has been a pleasure working with you, also.

And I obviously am a strong supporter of this bill that Brett Guthrie and I introduced, along with, you know, Chairman Walden and Ranking Members Waxman and Eshoo.

It really is an outstanding bill. It is a product of bipartisan cooperation and leadership. And it is a first-of-its-kind bipartisan legislation that really offers a new, fresh approach to spectrum management by implementing a voluntary Federal spectrum incentive auction, similar to the broadcast incentive auction.

And for the first time, the bill will allow government agencies to receive money in exchange for their spectrum. And as we know, the U.S. Government is the single largest spectrum user in the country, and this financial incentive will provide many of the government agencies with a deal that will be really hard to refuse, particularly as our Nation's budget continues to shrink.

And as Brett Guthrie and I know, this is a win-win-win for consumers, for American ingenuity, and for the Federal Government.

And it has been a pleasure working with you.

And we both urge our colleagues to support this.

And I yield back to you.
Mr. Guthrie. Thank you.

I yield back, Mr. Chairman. Oh, I would yield to Ms. Eshoo.

Ms. Eshoo. I want to thank both Representatives Guthrie and Matsui. They have spoken beautifully about this.

The full committee really needs to fully appreciate how tough this was to do. I think there were an awful lot of people that were taking bets that no major agency in the Federal Government would give up a shred of spectrum regardless of what our call was. And these two Members took it upon themselves to form the working group, where they would sit and meet with the agencies, present the case very carefully, thread the needle. And the outcome is a great win.

Now, we know that DOD holds some really valuable spectrum. And, to their credit, to the Members' credit, to DOD's credit, and to other agencies', they came along. They decided to be a partner in this effort.

So I salute the Members that are presenting the legislation, the Members that were part of the working group. I think the subcommittee chairman and myself had a great idea about these working groups. And you know what? Yours really worked. So I salute you. I thank you.

The American people are going to be winners in this, and the agencies are not going to be punished. They are part of the win in this, as well. So kudos to you. And we are really proud and grateful to you for the work that you have done.

Mr. Guthrie. Thank you.
And just before I yield back, it wouldn't have happened without the staffs from both of our offices working. And they worked hard on it together, along with the Energy and Commerce staff. So, Mr. Chairman, thanks for making them available, and we appreciate the hard work they have done. Appreciate it.

I yield back.

The Chairman. We all appreciate your work --

Mr. Walden. Would the gentleman yield, Mr. Guthrie, for some complimentary comments from me?

Mr. Guthrie. Sure.

Mr. Walden. I thought you might.

Mr. Guthrie. Of course.

Mr. Walden. A minute left.

Look, I just really want to thank our colleagues on the subcommittee and especially Ms. Matsui and Mr. Guthrie.

These work groups have been very effective. These issues are very difficult and complicated, technical. And I think it has really been a good venue to get the information we need and then help the rest of the sub- and full committee figure out the best policy moving forward for the country.

Spectrum is very valuable. To the extent to which it is not fully utilized by the government, it should be freed up, one way or another, leased or sold. And we need to provide a mechanism to encourage that in the government in a positive way, like you would in the private
I think your bill certainly puts us on that path to do that. I am delighted to support it. And I really appreciate the work that you all have done on this effort. I commend you for it. The country is better off as a result. And I am glad that the chairman has allowed us to pursue this path and mark up this bill today.

I yield back.

The Chairman. The gentleman yields back. Time has expired. Are there further amendments to the bill? Seeing none, the question now occurs on favorably reporting H.R. 3674 to the House.

All those in favor will say aye. Those opposed, say no. The ayes have it, and the bill is favorably reported. Without objection, the staff is authorized to make technical and conforming changes to the bills, plural, reported by the committee today.

So ordered.

And, without objection, the committee stands adjourned.

[The information follows:]

******** COMMITTEE INSERT ********
Whereupon, at 1:06 p.m., the committee was adjourned.

This is an unedited transcript. The statements within may be inaccurate, incomplete, or misattributed to the speaker.