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1 {York Stenographic Services, Inc.}
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4 MARKUP OF H.R. 4771, DESIGNER ANABOLIC STEROID CONTROL ACT;
5 H.R. 4250, SUNSCREEN INNOVATION ACT;
6 H.R. 594, PAUL D. WELLSTONE MUSCULAR DYSTROPHY COMMUNITY
7 ASSISTANCE, RESEARCH AND EDUCATION AMENDMENTS OF 2014;
8 H.R. 669, SUDDEN UNEXPECTED DEATH AND DATA ENHANCEMENT AND
9 AWARENESS ACT;
10 H.R. 4290, WAKEFIELD ACT OF 2014;
11 H.R. 4450, TRAVEL PROMOTION, ENHANCEMENT, AND MODERNIZATION
12 ACT OF 2014;
13 AND H.R. 5057, EPS SERVICE PARTS ACT OF 2014
14 TUESDAY, JULY 15, 2014
15 House of Representatives,
16 Committee on Energy and Commerce
17 Washington, D.C.

18 The committee met, pursuant to call, at 10:04 a.m., in

19 Room 2123 of the Rayburn House Office Building, Hon. Fred
20 Upton [Chairman of the Committee] presiding.

21 Members present: Representatives Whitfield, Shimkus,
22 Pitts, Walden, Terry, Rogers, Murphy, Burgess, Gingrey,
23 Latta, Harper, Lance, Guthrie, Olson, McKinley, Gardner,
24 Kinzinger, Griffith, Bilirakis, Johnson, Long, Ellmers,
25 Waxman (ex officio), Dingell, Pallone, Eshoo, Green,
26 Schakowsky, Barrow, Castor, Braley, Tonko, Yarmuth, and
27 Upton.

28 Staff present: Nick Abraham, Legislative Clerk; Clay
29 Alspach, Chief Counsel, Health; Gary Andres, Staff Director;
30 Ray Baum, Senior Policy Advisor/Director of Coalitions; Mike
31 Bloomquist, General Counsel; Sean Bonyun, Communications
32 Director; Matt Bravo, Professional Staff Member; Leighton
33 Brown, Press Assistant; Patrick Currier, Counsel, Energy and
34 Power; Brenda Destro, Professional Staff Member, Health;
35 Melissa Froelich, Counsel, CMT; Brad Grantz, Policy
36 Coordinator, Oversight and Investigations; Sydne Harwick,
37 Legislative Clerk; Brittany Havens, Legislative Clerk; Robert
38 Horne, Professional Staff Member, Health; Kirby Howard,
39 Legislative Clerk; Peter Kielty, Deputy General Counsel;
40 Alexa Marrero, Deputy Staff Director; Carly McWilliams,
41 Professional Staff Member, Health; Brandon Mooney,
42 Professional Staff Member; Paul Nagle, Chief Counsel, CMT;

43 Katie Novaria, Professional Staff Member, Health; Charlotte
44 Savercool, Legislative Coordinator; Macey Sevcik, Press
45 Assistant; Heidi Stirrup, Health Policy Coordinator; John
46 Stone, Counsel, Health; Shannon Weinberg Taylor, Counsel,
47 CMT; Jessica Wilkerson, Legislative Clerk; Jean Woodrow,
48 Director, Information Technology; Ziky Ababiya, Democratic
49 Staff Assistant; Michelle Ash, Democratic General Counsel;
50 Jeff Baran, Democratic Staff Director for Energy and
51 Environment; Phil Barnett, Democratic Staff Director; Jen
52 Berenholz, Democratic Chief Clerk; Eric Flamm, Democratic FDA
53 Detailee; Hannah Green, Democratic Policy Analyst; Karen
54 Lightfoot, Democratic Communications Director and Senior
55 Policy Advisor; and Will Wallace, Democratic Professional
56 Staff Member.

|
57 H.R. 4771

58 The {Chairman.} The committee will come to order, and
59 at the conclusion of opening statements yesterday, the chair
60 called up H.R. 4771, and the Bill was open for amendment at
61 any point.

62 The chair now recognizes Mr. Pitts to offer an
63 amendment.

64 Mr. {Pitts.} Thank you, Mr. Chairman.

65 This amendment makes several technical and clarifying
66 changes to H.R. 4771.

67 The {Chairman.} The gentleman will suspend the--the
68 clerk will report the title of the amendment.

69 The {Clerk.} Amendment to H.R. 4771, offered by Mr.
70 Pitts of Pennsylvania.

71 [The amendment of Mr. Pitts follows:]

72 ***** INSERT 1 *****

|
73 The {Chairman.} Amendment will be considered as read,
74 the staff will distribute the amendment, and the gentleman is
75 recognized for 5 minutes in support of his amendment.

76 Mr. {Pitts.} Thank you, Mr. Chairman.

77 This amendment makes several technical and clarifying
78 changes to H.R. 4771, which was unanimously reported out of
79 the Health Subcommittee. These changes have been discussed
80 with the FDA, the DEA, with the various industry stakeholders
81 that support this necessary and bipartisan piece of
82 legislation, and I would encourage my colleagues to adopt
83 this amendment.

84 The {Chairman.} Gentleman yields back.

85 Any other Members wishing to seek recognition? Seeing
86 none, the vote occurs on the Pitts amendment.

87 All those in favor will say aye.

88 Those opposed, say no.

89 The opinion of the chair the ayes have it, and the
90 amendment is agreed to.

91 Are there further amendments to the Bill? Seeing none,
92 the question now occurs on favorably reporting H.R. 4771 as
93 amended to the House.

94 All those in favor, say aye.

95 All those opposed, say no.

96 The opinion of the chair the ayes have it, and the Bill
97 is favorably reported.

|
98 H.R. 669

99 The {Chairman.} Chair would now call up H.R. 669 as
100 amended by the Subcommittee on Health, and ask the clerk to
101 report.

102 The {Clerk.} H.R. 669, to amend the Public Health
103 Service Act to improve the health of children and help better
104 understand and enhance awareness about unexpected sudden
105 death in early life.

106 [H.R. 669 follows:]

107 ***** INSERT 2 *****

|
108 The {Chairman.} And without objection, the first
109 reading of the Bill is dispensed with. The Bill will be open
110 for amendment at any point. So ordered.

111 Are there any bipartisan amendments to the Bill? Are
112 there any amendments to the Bill? Seeing none, the question
113 occurs on favorably reporting H.R. 669 as amended to the
114 House.

115 All those in favor will say aye.

116 Those opposed, say no.

117 Opinion of the chair the ayes have it, and the Bill is
118 favorably agreed to.

|

119 H.R. 4290

120 The {Chairman.} Chair now calls up H.R. 4290 as amended
121 by the Subcommittee on Health, and asks the clerk to report.

122 The {Clerk.} H.R. 4290, to amend the Public Health
123 Service Act to reauthorize the Emergency Medical Services for
124 Children Program.

125 [H.R. 4290 follows:]

126 ***** INSERT 3 *****

|
127 The {Chairman.} And without objection, the first
128 reading of the Bill is dispensed with. The Bill will be open
129 for any--at any point. So ordered.

130 Are there any bipartisan amendments to the Bill? Are
131 there any amendments to the Bill? Seeing none, the question
132 now occurs on favorably reporting H.R. 4290 as amended to the
133 House.

134 All those in favor will say aye.

135 Those opposed, say no.

136 Opinion of the chair the ayes have it, and the Bill is
137 favorably reported.

|
138 H.R. 4450

139 The {Chairman.} Chair now calls up H.R. 4450 as amended
140 by the Subcommittee on Commerce, Manufacturing and Trade, and
141 asks the clerk to report.

142 The {Clerk.} H.R. 4450, to extend the Travel Promotion
143 Act of 2009, and for other purposes.

144 [H.R. 4450 follows:]

145 ***** INSERT 4 *****

|
146 The {Chairman.} Without objection, the first reading of
147 the Bill is dispensed with, and the Bill will be open for
148 amendment at any point. So ordered.

149 The chair recognizes Mr. Bilirakis for the purpose of an
150 offering of an amendment.

151 Mr. {Bilirakis.} Thank you, Mr. Chairman. I have a
152 bipartisan amendment at the desk--

153 The {Chairman.} And--

154 Mr. {Bilirakis.} --on behalf of myself and--

155 The {Chairman.} And--

156 Mr. {Bilirakis.} --Representative Schakowsky.

157 The {Chairman.} And the clerk will report the
158 amendment.

159 The {Clerk.} Amendment to H.R. 4450, offered by Mr.
160 Bilirakis and Ms. Schakowsky.

161 [The amendment of Mr. Bilirakis and Ms. Schakowsky
162 follows:]

163 ***** INSERT 5 *****

|
164 The {Chairman.} And without objection, the reading of
165 the amendment is dispensed with.

166 The gentleman is recognized for 5 minutes in support of
167 his amendment.

168 Mr. {Bilirakis.} Thank you, Mr. Chairman.

169 Brand USA has the authority to collect in-kind
170 contributions from the private sector, and use the fair
171 market value of those contributions towards its federal match
172 in order to meet its mission. The statute allows up to 80
173 percent of its match to be from in-kind contributions,
174 Reducing the in-kind limit, and increasing the cash
175 requirement requires the private sector to put more skin in
176 the game, if you will, with regard to their contributions to
177 Brand USA for it to meet its federal match.

178 That is exactly why I introduced the version of H.R.
179 4450. It began to adjust the ratio, and increased the
180 requirement that at least 25 percent of the contribution to
181 Brand USA should be in the form of cash.

182 As Congress examines what the proper ratio should be, it
183 is imperative that we fully understand the role that those
184 contributions make. Many of the in-kind contributions that
185 Brand USA receives are vital to its mission. For example,
186 in-kind contributions of flights, hotels and tour packages to

187 bring foreign travel agents to America to showcase what our
188 communities have to offer are vital. They may not be able to
189 afford cash to participate in Brand USA's effort with regard
190 to--I am speaking to the--with regard to the small and local
191 stakeholders.

192 We agreed during a subcommittee markup to continue to
193 work with Ms. Schakowsky on this issue, and we have crafted
194 this amendment. I am sympathetic to the desire to require a
195 greater cash investment, and this amendment allows for a
196 maximum of 70 percent of Brand USA's contribution towards its
197 match to be in-kind contributions, down from 75 in the
198 underlying text. And, again, this is a workable solution,
199 and I urge support of this amendment.

200 Thank you, Mr. Chairman.

201 The {Chairman.} Gentleman yields back.

202 Other Members wishing to speak on the amendment? Seeing
203 none, the vote occurs on the amendment offered by Mr.
204 Bilirakis and Ms. Schakowsky.

205 All those in favor will say aye.

206 All those opposed, say no.

207 The opinion of the chair, the ayes have it. The ayes
208 have it and the amendment is agreed to.

209 Are there further amendments to the Bill? Seeing none,
210 the question is on H.R. 44 as amended.

211 All those in favor to favorably report this will say
212 aye.

213 Those opposed, say no.

214 Opinion of the chair the ayes have it. The Bill is
215 favorably reported.

|
216 H.R. 4250

217 The {Chairman.} Chair now calls up H.R. 4250, as
218 amended by the Subcommittee on Health, and asks the clerk to
219 report.

220 The {Clerk.} H.R. 4250, to amend the Federal Food, Drug
221 and Cosmetic Act to provide an alternative process for review
222 of safety and effectiveness of non-prescription sunscreen
223 active ingredients, and for other purposes.

224 [H.R. 4250 follows:]

225 ***** INSERT 6 *****

|
226 The {Chairman.} Without objection, the first reading of
227 the Bill is dispensed with. The Bill will be open for any
228 point.

229 And the chair would recognize Mr. Whitfield to offer an
230 amendment in the nature of a substitute.

231 Mr. {Whitfield.} Well, thank you--

232 The {Chairman.} The clerk--

233 Mr. {Whitfield.} --Mr. Chairman.

234 The {Chairman.} The clerk will report the title of the
235 amendment.

236 The {Clerk.} Amendment in the nature of a substitute to
237 H.R. 4250, offered by Mr. Whitfield.

238 [The amendment of Mr. Whitfield follows:]

239 ***** INSERT 7 *****

|
240 The {Chairman.} And the amendment will be considered as
241 read, and the staff will distribute the amendment. And the
242 gentleman from Kentucky is recognized for 5 minutes in
243 support of his amendment.

244 Mr. {Whitfield.} Well, Mr. Chairman, thank you very
245 much.

246 A number of months ago, we had a hearing, the Health
247 Subcommittee did, with the FDA about the delay in the
248 approval process of certain sunscreen applications that are
249 sunscreens which are being sold throughout the world, but not
250 in America. And with cancer being such a prevalent disease
251 as a result of overexposure to sun, we thought it was
252 essential that we try to resolve and speed up this approval
253 process, while at the same time still protecting the health
254 of the American people. And because of the good hard work of
255 the Republican staff and the Democratic staff, and the FDA
256 and the work with a group called the PASS Coalition and the
257 Environmental Working Group, an agreement has finally been
258 reached.

259 And so this amendment in the nature of a substitute
260 reflects that bipartisan agreement reached in consultation
261 with the Food and Drug Administration.

262 So this amendment establishes a regulatory framework

263 with achievable timelines that will strengthen the existing
264 sunscreen approval process. The framework set forth in the
265 amendment will ensure that all sunscreen ingredients receive
266 a transparent review within a predictable time frame. This
267 will allow Americans access to the best sunscreen products on
268 the market, and also spur innovation in an area of
269 significant public health importance.

270 I want to thank the gentleman from Michigan, Mr.
271 Dingell, for co-sponsoring this legislation, and without his
272 assistance and the assistance of his staff and your staff,
273 Mr. Chairman, this agreement never would have been reached.
274 So I encourage all of the colleagues to support this
275 amendment.

276 And I now yield back the balance of my time.

277 The {Chairman.} Gentleman yields back his time.

278 Other Members wishing to speak on the amendment? Seeing
279 none, the---

280 Mr. {Dingell.} Mr. Chairman, I have an amendment at the
281 desk.

282 The {Chairman.} Gentleman from Michigan has an
283 amendment to the amendment.

284 The clerk will report the title.

285 The {Clerk.} Amendment to the amendment in the nature
286 of a substitute to H.R. 4250, offered by Mr. Dingell of

287 Michigan.

288 Mr. {Dingell.} Mr. Chairman, I ask that the reading be
289 dispensed with.

290 The {Chairman.} Yeah. The amendment will be considered
291 as read, and the staff will distribute the amendment to the
292 amendment.

293 And the gentleman from Michigan is recognized for 5
294 minutes in support of his amendment.

295 Mr. {Dingell.} Mr. Chairman, I thank you for your
296 courtesy.

297 This is a simple amendment. It makes technical changes
298 to the amendment in the nature of a substitute to fix
299 drafting errors and to clarify certain provisions. Many of
300 the changes were made at the request of stakeholders and
301 other interested parties.

302 I believe that here, this committee can be proud of what
303 it has accomplished with this legislation. We have seen to
304 it that the members on both sides have worked together in a
305 bipartisan fashion. You have been a superb leader and--as
306 has been our friend, Mr. Whitfield. I commend them all, and
307 other Members who have participated in this, because the
308 result from the standpoint of the consumer is much better.

309 Consumers deserve access to the most effective
310 sunscreens available. There is a significant problem with

311 skin cancer in this country now. We are correcting that by
312 allowing out consumers to get access to substances that are
313 not available in this country, but which are, and have long
314 been found to be beneficial to Europeans without any
315 associated danger.

316 I urge adoption of the amendment.

317 I yield back the balance of my time.

318 [The amendment of Mr. Dingell follows:]

319 ***** INSERT 8 *****

|
320 The {Chairman.} The gentleman yields back.

321 The chair would recognize the gentleman from California
322 for 5 minutes.

323 Mr. {Waxman.} Thank you, Mr. Chairman.

324 I support the amendment by Mr. Dingell. I want to thank
325 Mr. Dingell and Mr. Whitfield, Chairman Upton and their
326 staff, for their hard work on this legislation, and for the
327 willingness to work with our staff in a strong bipartisan
328 manner. I also want to thank the PASS Coalition, the
329 Environmental Working Group, and especially the FDA, for
330 working so diligently with us to come up with a workable
331 approach that will enable FDA to review and make
332 determinations on sunscreen applications in a timely manner.
333 We still have a little work left to address some remaining
334 technical issues, but I am confident we will be able to do so
335 before we go to the floor. There may be additional
336 improvements from the Senate, but we will be sending them a
337 strong Bill from them--for them to work from.

338 Thank you, Mr. Chairman. Yield back my time.

339 The {Chairman.} The gentleman yields back.

340 The chair would recognize the gentleman from Kentucky.

341 Mr. {Whitfield.} Mr. Chairman, I just want to take this
342 opportunity to publicly thank Taylor Booth on my staff who

343 said he never thought he would be spending this much time on
344 sunscreen, but without him it wouldn't have happened. So I
345 just want to thank him. Yeah.

346 The {Chairman.} The gentleman yields back.

347 The--other Members wishing to speak? Seeing none, the
348 occur--the vote occurs on the Dingell amendment to the
349 Whitfield substitute.

350 All those in favor will say aye.

351 Those opposed, say no.

352 In the opinion of the chair, the ayes have. The
353 amendment is adopted.

354 The vote now occurs on the Whitfield substitute as
355 amended by the Dingell amendment.

356 Those in favor will say aye.

357 Those opposed, say no.

358 Opinion of the chair the ayes have it. The vote now
359 occurs--are there other further amendments to the Bill?
360 Seeing none, the vote now occurs on favorably reporting the
361 Bill as amended, H.R. 4250.

362 All those in favor will say aye.

363 Those opposed, say no.

364 Opinion of the chair the ayes have it. The Bill is
365 favorably reported.

|

366 H.R. 594

367 The {Chairman.} The chair now calls up H.R. 594, as
368 amended by the Subcommittee on Health, and asks the clerk to
369 report.

370 The {Clerk.} H.R. 594, to reauthorize and extend the
371 Paul D. Wellstone Muscular Dystrophy Community Assistance,
372 Research and Education Amendments of 2008.

373 [H.R. 594 follows:]

374 ***** INSERT 9 *****

|
375 The {Chairman.} Without objection, the first reading of
376 the Bill is dispensed with, and the Bill will be open for
377 amendment at any point. So ordered.

378 The chair would recognize Dr. Burgess for the purpose of
379 offering an amendment.

380 Dr. {Burgess.} Thank you, Mr. Chairman. I have a
381 bipartisan amendment at the desk.

382 The {Chairman.} And the clerk will report the
383 amendment.

384 The {Clerk.} Amendment to the committee print for H.R.
385 594, offered by Dr. Burgess of Texas.

386 [The amendment of Mr. Burgess follows:]

387 ***** INSERT 10 *****

|
388 The {Chairman.} The amendment will be considered as
389 read. The staff will distribute the amendment, and the
390 amendment--and the gentleman from Texas is given 5 minutes to
391 discuss his amendment.

392 Dr. {Burgess.} Thank you, Mr. Chairman.

393 This Bill, the Muscular Dystrophy Community Assistance,
394 Research and Education Act, is a success story. This was
395 enacted by this committee, and there have been 67 clinical
396 trials of drugs and therapies for muscular dystrophy, and
397 many can be traced to the basic research efforts stemming
398 from this law.

399 In Duchenne muscular dystrophy alone, children are
400 living 10 years longer, and many are now entering adulthood.
401 And, again, it is a success story of this committee.

402 This bipartisan amendment makes additional clarifying
403 changes from the subcommittee print that further tightens and
404 narrows the language of the Bill, reflecting productive
405 conversations with our Senate colleagues. This amendment
406 enjoys the full support of the underlying Bill, and I thank
407 Mr. Engel for his partnership, and I also want to thank the
408 staff on both sides of the dais, both sides of the aisle,
409 both sides of the Capitol, for their work in getting the Bill
410 to this point.

411 I urge all Members to support the amendment, support the
412 underlying Bill, and look forward to its speedy consideration
413 on the floor of the House.

414 And I yield back.

415 The {Chairman.} Gentleman yields back.

416 Other Members wishing to speak on the amendment offered
417 by Dr. Burgess and Mr. Engel? Seeing none, the vote occurs
418 on the amendment.

419 All those in favor will say aye.

420 Those opposed, say no.

421 Opinion of the chair, the ayes have it. The amendment
422 is agreed to.

423 Are there further amendments to the Bill? Seeing none,
424 the vote occurs on H.R. 594, as amended.

425 All those in favor will say aye.

426 All those opposed, say no.

427 Opinion of the chair, the ayes have it. The amendment--
428 the Bill is favorably reported.

|
429 H.R. 5057

430 The {Chairman.} The chair now calls up H.R. 5057, and
431 asks the clerk to report.

432 The {Clerk.} H.R. 5057, to amend the Energy Policy and
433 Conservation Act to permit exemptions for external power
434 supplies from certain efficiency standards, and for other
435 purposes.

436 [H.R. 5057 follows:]

437 ***** INSERT 11 *****

|
438 The {Chairman.} Without objection, the first reading of
439 the Bill is dispensed with. The Bill will be open for
440 amendment at any point.

441 Are there any amendments to the Bill? Seeing none, the
442 question now occurs on favorably reporting H.R. 5057 to the
443 House.

444 All those in favor will say aye.

445 All those--sure--I am sorry. Yes, gentleman is
446 recognized for 5 minutes.

447 Mr. {Tonko.} Thank you, Mr. Chair. I want to thank my
448 colleague, Representative Gardner, for working with me on
449 H.R. 5057.

450 External power supplies have become regular fixtures in
451 homes and workplaces around the world, as we have expanded
452 our use of rechargeable batteries to power a wide array of
453 electrical products every day. Because these products are so
454 common, lowering their power consumption translates into
455 substantial energy savings for both consumers and businesses.
456 Provisions included in the Energy Independence and Security
457 Act started us on a path to efficiency improvement in 2007.

458 Earlier this year, the Department of Energy finalized a
459 rule to build on the earlier effort. H.R. 5057 creates a
460 short-term targeted exemption that will enable the transition

461 to more energy-efficient products to proceed in an orderly
462 and predictable way, both for manufacturers and for the
463 current owners of equipment that utilize an EPS.

464 The prior energy efficient regulation included an
465 exemption for service and spare parts. This narrow exemption
466 enables manufacturers to continue to provide service and
467 replacement parts for existing equipment. It allows owners
468 of equipment to keep it functioning for the full intended
469 life of the product. Without the exemption, time and money
470 would be invested, bringing service and spare parts for
471 existing equipment up to the new standards. That does not
472 seem the best use of resources.

473 This Bill ensures the exemptions provided for in this
474 legislation will not result in a significant delay in
475 reaching the new energy efficiency targets for EPS equipment.
476 The Bill provides DOE with the authority to establish a
477 reporting requirement to track the number of parts that are
478 shipped, and that do not meet the efficiency standard. Also,
479 if the Department finds that this exemption is undermining
480 the energy savings that are projected under the new
481 efficiency regulations, the Secretary can issue a rule to
482 limit or rescind the exemption.

483 H.R. 5057 strikes an appropriate balance that keeps us
484 moving forward on efficiency goals for external power

485 supplies, while providing manufacturers and owners of current
486 products assurance that service and spare parts will be
487 available.

488 I thank Chairman Upton, Ranking Member Waxman, and my
489 coauthor on the Bill, Representative Gardner, for their
490 cooperation and support to bring this Bill forward, and I
491 urge all of our colleagues to support the legislation.

492 And with that, Mr. Chair, I yield back the balance of my
493 time.

494 The {Chairman.} Gentleman yields back his time.

495 Are there other Members wishing to speak on the Bill?
496 Seeing none, the question now occurs on favorably reporting
497 H.R. 5057 to the House.

498 All those in favor will say aye.

499 Those opposed, say no.

500 Opinion of the chair, the ayes have it, and the Bill is
501 favorably reported.

502 Without objection, the staff is authorized to make
503 technical and conforming changes to the legislation reported
504 by the committee today. So ordered.

505 And without objection, the committee stands adjourned.

506 [Whereupon, at 10:23 a.m., the committee was adjourned.]