

ENHANCING COMMITTEE PRODUCTIVITY
THROUGH CONSENSUS BUILDING

HEARING
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SELECT COMMITTEE ON THE
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TUESDAY, JULY 20, 2021

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON THE
MODERNIZATION OF CONGRESS,
Washington, D.C.

The committee met, pursuant to call, at 1:31 p.m., in Room 2360, House Office Building, Hon. Derek Kilmer [chairman of the committee] presiding.

Present: Representatives KILMER, CLEAVER, PERLMUTTER, PHILLIPS, WILLIAMS, TIMMONS, DAVIS, LATTA, VAN DUYNE, and JOYCE.

The CHAIRMAN. The committee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

I now recognize myself for 5 minutes for an opening statement.

We are here today to talk about strengthening committees and empowering Members in their policymaking roles. But before we discuss how to do that, I am going to take a cue from our most recent hearings and attempt to first define the problem statement.

The experts that we heard from last month pointed out that Congress spends a lot of time arguing over solutions and not nearly enough time defining problems. If we like a particular solution, we believe a problem exists. But if we don't like or feel threatened by a particular solution, we are more likely to deny that there is even a problem. This denial leads to a solution aversion. Members get stuck in a cycle of fighting over solutions to problems they haven't even taken the time to define.

So I am going to talk about the problems with committees and policy work as I see it, and I hope my colleagues will do the same. Taking the time to do this up front will hopefully help us have a more productive discussion to find solutions that can actually address agreed-upon problems.

So when I think about policymaking in Congress today, I think entirely too much time is spent making political noise. Congress also spends a lot of time on suspension bills and not enough time on big substantive bills. I am not suggesting that suspension bills aren't important. They are. Congress does important work using this process, but the amount of work that Congress does by suspension has steadily increased over the past couple of decades, and fewer suspensions are reported out by committees today than in the past.

Twenty years ago or so, less than half of the House's work was done by suspension. But during the 116th Congress, 66 percent of

measures considered on the House floor were suspension bills. In the 115th, 64 percent of what the House did was by suspension. So, Congress spends a lot of time making political noise in taking up suspension bills. Less time is spent on the big policy measures that used to be the bread and butter of committee work. As a result, much of what gets done gets done in leadership offices or by omnibus.

In 13 of the last 14 appropriations cycles, Congress has completed its appropriations work with an omnibus bill. And in most cases, the omnibus contained all 12 regular appropriations bills.

Members also spend a lot of time running between committee hearings instead of spending time in committee hearings. Last year, the Bipartisan Policy Center found that one morning, 131 Members, 30 percent of the entire House, had a conflict between two or more committee meetings, and in some hearings, up to 97 percent of committee members had a conflict. As a result, some Members hop from one hearing to another to give 5 minutes of remarks aimed at social media, rather than in finding policy solutions.

So I think all this is a problem, and it is a problem because when Members are not active participants in the policymaking process, when they are not engaged in the work they came to Congress to do, a few things happen. One, frustration builds, and that frustration can take Members in a lot of different and not always healthy directions. Some redirect their focus to communications where feedback is often instantaneous. Some seek out procedural tools to halt processes in which they were denied participation. And some become disillusioned with the process altogether and they feel they have no ability to effect change.

It is also important to acknowledge that committees have lost a tremendous amount of capacity over the past few decades. By 2015, the total number of House committee staff was half of what it had been in 1991. As a result, committees today lack the deep policy expertise that they need to do the substantive policy work that they are meant to do, and this brain drain from the Hill leaves Members more dependent on lobbyists for help.

There are more problems, and I hope my colleagues will share their thoughts, but hopefully this lets us begin the process of finding solutions that best fit the challenges committees and members face in the policymaking process.

As with our two most recent hearings, the Select Committee will once again make use of our committees' rules that we adopted earlier this year that give us some flexibility to experiment with how we structure our hearings. Our goal is to encourage thoughtful discussion and the civil exchange of ideas and opinions.

So, now a really formal part. In accordance with clause 2

(j) of House rule XI, we will allow up to 30 minutes of extended questioning per witness and, without objection, time will not be strictly segregated between the witnesses, which will allow for extended back-and-forth exchanges between members and witnesses.

Vice Chair Timmons and I will manage the time to ensure that every member has equal opportunity to participate. Any member who wishes to speak should just signal their request to me or Vice Chair Timmons. Additionally, members who wish to claim their in-

dividual 5 minutes to question each witness pursuant to clause 2(j)(2) of rule XI will be permitted to do so following the period of extended questioning.

Okay. That was really formal.

I would like to now invite Vice Chair Timmons to share our opening remarks, and then we will get to our terrific witnesses.

Mr. TIMMONS. Sure. Thank you, Mr. Chairman.

And I want to thank both of our witnesses for taking the time to come. We know how busy you all are. So we really appreciate it.

I just want to point out that we have 6 of the 12 members here and, as you can imagine, they all want to be here but they are in another committee or a subcommittee and that is how this place works. I was—I am on the Financial Services Committee. I spoke earlier, and I looked around as I was using my 5 minutes, and there must be 60 people on the committee, something like that, and I think there were four in the room when I was speaking. I had a great back-and-forth with Secretary Fudge but, you know, that is just not productive.

And so I am very excited to hear how you all were able to accomplish such a great feat in a bipartisan and collaborative manner and get it across the finish line. A lot of people are working on a lot of different, important bills and you all have a framework that you are about to share with us on how to accomplish the task of legislating. We don't do a lot of that. Generally speaking, the loudest voices in the room are the ones that are heard, and I can promise you that the people on the edges of this Congress are not going to solve our problems, and I can promise you Twitter is not going to solve our problems.

So I am just really excited about hearing the story of your success, and appreciate you all taking the time. I do hope that I can learn from your success, because I don't want to spend 20 or 30 years in Congress until I am able to succeed in the manner that you all did. So, again, I just really appreciate it.

And, Mr. Chairman, I yield back.

The CHAIRMAN. Thank you.

We are thrilled to have two of our colleagues joining us today, Representative DeGette and Representative Upton. Thank you for taking time out of your schedule to talk with our committee regarding the 21st Century Cures Act.

I will say, Congressman Upton, I would have said a bunch of nice things about you even if your family weren't here, but we are glad you are all here.

Mr. UPTON. I will just note that I like the color blue, but Mr. Joyce, being from Ohio, he probably has scarlet and gray and there is scarlet and gray. That is—

The CHAIRMAN. They definitely—

Mr. UPTON. They had a banner of Keith Lloyd in the old days. It is—but anyway.

The CHAIRMAN. Well, listen. The consensus-based approach that you took in drafting the Cures Act, along with your shared commitment to a bipartisan process, I think is a great model for how committees and members can work to successfully produce important policy, not just suspension bills, but something that really is sub-

stantive and that matters to a lot of Americans. I think Congress can learn from your experience, and that is why we are looking forward to hearing more about it.

So in the spirit of collaboration, I invite you to take 15 minutes together to present your testimony and respond to one another if someone says something that you want to respond to. And so we will take it away.

Ms. DEGETTE. I would defer to Fred to start for the reason to talk about how we developed our partnership. Fred was the chairman of Energy and Commerce at the time this all started. So I think it would be instructive to talk about how he decided to do this, then we can sort of talk about how we proceeded from there.

The CHAIRMAN. Great.

**STATEMENT OF THE HON. FRED UPTON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MICHIGAN**

Mr. UPTON. Well, let me just say a couple of things. I am not going to use the prepared text or anything like that, but I just—you know, this was something that we both really wanted to do, and we knew everybody wanted to do it. I mean, what family doesn't have cancer or Parkinson's or something like that? What can we do to solve the problem? And we also knew that the legislative process, this is not something [inaudible] suspension. It is not something we can do, you know [inaudible] it was going to take a 3-year effort because, if we wanted a smaller bill, we could have done it but it wouldn't have achieved the results that we all wanted.

So we knew—and we were a team from the get-go, but we knew it was going to take 3 years. And so Henry Waxman was my counterpart, as much as Henry wanted to be part of it, we named it the Upton-Waxman bill [inaudible] going to be there. And I reached out to a really good partner, Diana DeGette, and she and I worked on this. We went to each other's districts. We enlisted every member of our committee, Republican and Democrat. We passed H.R. 6, which was the bill that we introduced 53 to nothing in committee.

But I will tell you, the—oh, I am sorry. I didn't have it on. Could you not here me, Mr. Joyce? I am sorry. All right. Start over again. Start the clock.

But we passed the bill 53 to nothing. And, you know, one point I actually—this was stunning to the staff, but we actually adjourned for a couple of days because that we had a glitch, and there was one faction that we didn't want off the reservation. And we also knew that we had a time crunch, that the work that we were doing, we reached out to the Senate. They wouldn't have time to do this. They have got different rules than we did. No way were we going to get through the cloture and everything else. So we knew that we had to have a very big vote in the House so that they would be on board, and we reached out to Mitch McConnell and Lamar Alexander and others in the Senate, and they had confidence in what we were doing. We knew what they wanted. So we had some provisions that were there.

But I got to tell you, then-Vice President Biden was terrific. This is where we did the Cancer Moonshot. And we met with him for, I don't know, and hour or two, with Lamar Alexander, Diana and

I, down at the White House, and he knew what he wanted and he wanted \$1 billion. Then \$1 billion was a lot much money, unlike the infrastructure package. A billion was a lot of money, and we said it is done. It is in there.

But the bottom line was this: We worked with every member. We listened. We were able to reach out to the interest groups, the disease groups, the universities, pharma. We had a lot of roundtables. We—you know, I—when I became chairman of the committee, I ended up—we had opening statements for every member of the committee for every hearing. Oh, my. And when I ended that, oh, there were some members that were so angry. What do you mean I can't speak? I said, well, you know, I have the chairman of GM come in and, you know, 2 hours later, she finally gets to give her opening statement because you have got 50-some members, you know, on an important—so I said we are ending that. We are going to have just brief opening statements by the chair and ranker and that is it.

We are going to change the procedure in committee—this was an important one—and it has been held by my predecessors Walden and Pallone, that amendments that are bipartisan, when you get to a markup, subcommittee or full committee, go ahead of the queue so you don't have to wait for the section reading. You don't have to worry about getting foreclosed out. So that encourages people on both sides then to work together, because if you have got an amendment that is offered by Dingell and McKinley, bingo, it is going to happen. It is going to happen.

So let's have those individual members meet and be able to finesse things together, because they will have, you know, as we—this job is networking, and there is a lot of respect for every member of our committee, and you can put two people together, it is going to happen as part of that markup.

So that is—I don't know if other committees do that. That was my idea, and it has—again, it has held true. But, you know, as you look at what we did, we needed every day. I mean, we were—Diana and I were working as we were doing our Thanksgiving walks in Michigan and Colorado, you know, with just—

Ms. DEGETTE. He was walking. I was actually cooking, yeah.

Mr. UPTON[continuing]. With just—well, you know, I make a pretty mean whiskey sour till we do those as well, but that probably—anyway, but we needed every day. We had probably six or seven legislative days after Thanksgiving to really get the thing done, but, you know, we passed it 392 to 26. And we got through it a Senate filibuster. And, you know, it is all part of the record, but both Bernie and Elizabeth, you know, led the fight on a filibuster. And Biden was in the chair and, you know, as president of the Senate and, you know, we walked it through. We got 75 votes, I think, on cloture, and Schumer was against us on that. That is pretty hard to do. But because we built the record, we were able to get it done, and it was literally the highlight of that Congress, the last bill that Obama signed into law, and we made a difference.

And, you know, looking back, and Diana now is chair of the Oversight Subcommittee, I can't tell you how many hearings we have had in the last year or two. We wouldn't—we wouldn't have had a vaccine for COVID, might have been 8, 10, maybe even a

year afterwards, but because of the work that we did, allowed for Operation Warp Speed, allowed for the money, the research to go forward, allowed for the pharmaceutical companies to literally produce the vaccine before it was approved.

So Pfizer is my district. They actually do it in my district, as it happens. They did an incredible job getting ready, but they knew it was going to get approved and they could begin the manufacture process and get ready and hit. When the FDA approval came on that Friday, they could send the trucks out on Sunday afternoon to get it done. And the same thing happened with J&J and Moderna too.

So bottom line is this: I had a great partner, and that is what you have got to do on a bill like this. And we are looking to do Cures 2.0 now. We have spent a lot of time the last year. COVID slowed us down, but we are looking to introduce that bill soon to update what we did on Cures. But we are going to do it the same way. We are going to get the input. We are getting groups to contact all of you to be co-sponsors of the bill to move it forward, and hopefully we can build on what we did back in 2016.

STATEMENT OF THE HON. DIANA DEGETTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Ms. DEGETTE. Okay. So you can tell Fred and I have done this before, and I will just add a few things.

Fred—as I said, Fred was the chairman of the committee. I wasn't—you know, I was just a—I wasn't a junior member, but I was—

Mr. UPTON. You were pretty senior.

Ms. DEGETTE. I was pretty senior.

Mr. UPTON. You were the deputy whip. You were—

Ms. DEGETTE. Okay. Yeah, but—but I had—I had worked on biomedical research issues in the past, and I think that is one reason why Fred contacted me. And also, I really try to do all of my legislation on a bipartisan basis, if I can.

And so when Fred called me, of course, I was quite honored. And, as he said, what we did was immediately form this partnership, and we had an agreement that—that since it was around biomedical research, which impacts every family in America, Democrat, Republican, unaffiliated, doesn't matter, and so we agreed that we would—that we would try—that we would do a broad, sweeping bill.

You know, so often in Congress people do bills like call—like 21st Century Cures, and then it puts—like, it says, we are going have a study to study what to do, and then we pass it maybe on suspension, and then—and then the sponsors of the bill say, great news. We have cured all diseases by passing this bill.

We did not want to do that. We didn't want to have just a fig-leaf bill that did nothing. We really actually wanted to restructure the way we do biomedical research at the NIH, drug and device approval at the FDA, and then get it—and then get it forward.

And also, as Fred mentioned, the money that we had for the Cancer Moonshot, but also we had money for research on brain diseases and on other diseases, it totaled about \$6 billion more for the NIH.

And so we agreed early on that—and so what we did, we met with Francis Collins, the head of the NIH; we met with the head of the FDA, all of the agencies, and we said to them, what is that it that you need to have to make this happen? And then, as Fred said, we met with all of the different stakeholders. We met with the research universities. We met with angel investors. We met with patient advocacy groups, everybody we could think of. We had more roundtables than we could count.

Mr. UPTON. MD Anderson.

Ms. DEGETTE. Right.

Mr. UPTON. Penn State.

Ms. DEGETTE. Traveling all around the country. And this did take us 3 years to put it together.

We had an agreement that we wouldn't move a bill forward that had provisions that we couldn't agree on. And there were provisions that we didn't agree on which we had to take out or not put in, but that was—that was our deal.

And as Fred said, we did have—and we also—this is really important. We engaged our colleagues on the Energy and Commerce Committee and in the House leadership in every step of the way. Remember, back then, 2015, 2016, the Republicans controlled the House and the Senate, but the Democrats controlled the White House. And that is one reason why we felt like it was important to do this on a bipartisan, bicameral basis, because we knew, if it was a Republican bill that passed Congress, then it would get vetoed by the President. And so we thought it was so important that we had to have that collaboration.

I.WILL POSIT TO THIS COMMITTEE THAT YOU ARE GOING TO SEE THIS GOING FORWARD. BECAUSE OF THE NATURE OF AMERICAN POLITICS, NO LONGER ARE YOU GOING TO HAVE A SITUATION WHERE YOU ARE GOING TO BE ABLE TO PASS VERY LARGE PIECES OF POLICY LEGISLATION IN A WAY THAT ONLY ONE PARTY AGREES WITH IT. AND WE ARE—AND WE CAN TALK ABOUT WHAT IS GOING ON RIGHT NOW WITH SOME OF THE BUDGET RECONCILIATION AND SO ON, BUT IF YOU ARE TALKING ABOUT A PIECE OF POLICY AND YOU CAN—WE CAN THINK ABOUT ALL OF THE PIECES OF POLICY THAT EVEN HAVE PASSED THE HOUSE THAT ARE STUCK IN THE SENATE, BUT IF WE CAN ACTUALLY TRY TO PUT TOGETHER BIPARTISAN COLLABORATION ON POLICY, THAT MAKES IT MUCH EASIER FOR US TO THEN PASS IT AND GET IT SIGNED INTO LAW.

And I will just say one last thing, and then Fred and I are delighted to answer questions. A lot of people talk—like to talk about process. How did you do this? I think that is the wrong question, because if you just say we are going to have bipartisanship, what does that mean? And to me, that means that you are going immediately start disagreeing in a partisan way about what—a lot of people say bipartisanship means I think something and you should go along with it, and that is not bipartisanship.

And so the way I look at bipartisanship is find a tough issue like the issue of how do we do biomedical research and drug and device approval in this country, put together a team of people, and then talk and—and both recognizing the same issue, but then work collaboratively on how to fix it.

And I could mention any number of the 40 issues that face us right now in this country, from immigration reform to climate change and all of the other issues. We all recognize as Democrats and Republicans that these are issues we need to resolve. So rather than retreating to our respective corners and having the Republican plan and the Democratic plan, put together that collaboration and then work with our leaders to try to make it happen. Nobody will get 100 percent of what they want, but at least we will work to fix the thorny problem.

So that is what I would—that would be my initial remarks.

The CHAIRMAN. Do you want to respond to anything she said?

Mr. UPTON. No. Our 15 minutes has expired, sir.

The CHAIRMAN. All right. All right. Well, let's—let's open it up for questioning.

I would love to just get a sense out of the gate, though. If we all acknowledge this is something that should happen more in this place, one, why do you think it doesn't happen more in this place? And are there things that the institution could do to incent it happening more?

Mr. UPTON. You know, as Diana was talking—and so this is just an idea. You know, I worked for President Reagan before I ran for office, and so he was a great President with a Democratic Congress and he got a lot of things done. And at the end of the day when he ran for reelection, he won 49 States, only losing Minnesota. But that is because of Mondale; a good man, by the way, Dean.

When I came, I said—you know, again, I was part of that team. I said, I am here. Want to make a difference. There is not a bill that I am going to work on that isn't bipartisan. So every bill that I have ever introduced has always had a Democratic sponsor. Kweisi Mfume, wonderful guy, he represented my mother-in-law when she was alive in Baltimore. And I had a bill early on, on creating a tax credit for small businesses that had to make structural changes to comply with the Americans with Disabilities Act. Believe me, I got it down in that one sentence to describe what it was, and Kweisi was my co-sponsor. It was Upton and Mfume. I was probably the only Republican who could actually spell his name, let alone say it. And I am glad that he is back. He really is a good friend.

And I can remember Kweisi coming up to me on the well of the House and he grabbed my lapel like I do to him and he sort of shook me and he goes: Upton, what have you done to my reputation? That bill is now law, and now the chamber of commerce supports me. It was hailed as the best bill for small business, and you have now ruined my reputation.

But it was—you know, whether it is that bill or oil spills or certainly what Diana and I did, I mean, there is not a bill that I haven't worked on. And so when I was chairman of Energy and Commerce, we had—Obama was President. Over 200 bills he signed into law that came out of our committee, every one was bipartisan. We had another 200 that, you know, didn't get out of the Senate, but they—even though they were bipartisan.

So somehow you have to instill to reach across the aisle, whether it is bill introductions or—I mean, you have to have some incentive, I think, to—you know, we are going to have a divided government

for some time, you know, House or Senate, whatever. It is close. You got to really push for that to get people's attention and get away from some of the backstabbing that otherwise you might see.

I guess this wasn't on.

Ms. DEGETTE. Just to add, you really do have to incentivize bipartisanship, and maybe that is at the leadership level with the Speaker and the minority leader to—to—if people come and they want to work on a bill together, from a leadership level, to support that. When Fred was chairman, as he said, he would prioritize bipartisan amendments, which is a tradition that has continued under Frank Pallone's leadership of Energy and Commerce.

But I think—I think at the leadership level—and I—again, I don't know how you bake this into any kind of rules, but if it was—if it was supported—now, 21st Century Cures, it was supported at the leadership level by—on both sides of the aisle and both sides of the Capitol. But so often what happens is, even if Members try to work together on a tough issue, then the political ramifications at the top levels become so great that these Members get sort of beaten back.

The CHAIRMAN. Mr. Timmons.

And if anyone has questions for our witnesses—

Mr. TIMMONS. If anybody has to—

The CHAIRMAN[continuing]. Just—

Mr. TIMMONS[continuing]. Leave—

The CHAIRMAN[continuing]. Gesture.

Mr. TIMMONS. Okay.

The CHAIRMAN. Go ahead. And then I got you.

Mr. TIMMONS. Perfect.

Three years, that is a pretty long time. I imagine things changed over the course of that time. So you all had an agreement in principle at the outset. How different was it when it actually was signed into law?

Mr. UPTON. Well, we needed that time to, frankly, put it together. I mean—I mean, we had probably, I don't know, 30 or 40 roundtables, and all over the country, I mean, and we—you know, we asked. You know, I can remember Diana, in my hideaway, telling Francis Collins, you know, if it only does this and this, then we are going consider this to be a failure. We—you know, he was complaining about not having—not able to have his researchers actually go to events around the country because there was a prohibition on funds for travel, and I said, well, if that is all we do, that is—you know, what a waste of time that will be.

So, you know, we learned from the venture capitalists that 50 percent of the money that they were investing in drugs and devices was going overseas from where it had been a few years before because our approval process took so long. And we wanted to make sure that the standards were still going to be safe, you know, and as we saw with the Pfizer trial and Moderna, there are still 30,000 people that were in those. We wanted to make sure that that wasn't diminished at all. But it just, as you explored this—and, you know, it was a pretty darn comprehensive bill. I mean, it was hundreds of pages long.

Ms. DEGETTE. 350.

Mr. UPTON. 350, Diana reminds me.

You know, and we took all these good ideas. You know, people, you know, these researchers and others, you know, we met with, you know, Nobel Prize winners, some of the frustrations they had. And, well, what is it that we need to do? And they would tell us, and then we would sit down. We had a really talented staff and they helped us get this thing through, but, I mean, it took that long.

Ms. DEGETTE. Well, we didn't have the bill written when we started, as you can tell. We just started with the idea that we needed to have more—we needed to restructure the NIH to the way biomedical research had changed, but the institution hadn't. And we needed to change drug and device approval at the FDA, as Fred says, to make sure we still had efficacy and safety but to make sure that it just didn't take decades and decades to approve new—new drugs and devices.

So we didn't have an idea particularly of the way to do that. So—so that is why it took 3 years to consult with all of the experts, and things did change. And what is interesting, Fred says now we are working. So it is 4 years—5 years later. We are now working on Cures 2.0, because even more things have changed—technology, the way you can do data aggregation, and, of course, now the Biden administration has proposed this ARPA-H, a mean—lean, mean problem-solution machine that would be based on DARPA but for healthcare. So we are putting that in it too.

So, you know, a lot of these things change all the time. That is true with all of the policy that Congress does.

Mr. UPTON. And the other thing was, you know, Paul Ryan, to his credit, he said, you know, we added \$45 billion over 10 years for health research, something that I have always supported. Actually, that was one of my first bills I worked on back in the nineties, to double the money for the NIH, and we were successful but then sort of stopped.

So Paul Ryan said you got to pay for it. You know, Mike Enzi, chairman of the Budget Committee over there in the Senate, said you got to pay for it, and we came up with the pay-for-its that were real. Maybe that is why Portman is calling me.

Ms. DEGETTE. That might have been the hardest—

Mr. UPTON. That was hard.

Ms. DEGETTE. That might have been the hardest part of it—

Mr. UPTON. And then Schumer stole them. Schumer found out what they were and then he stole them for a good cause, 9/11, and then we had to come up with them again. And that time, you know, we kept them secret. So—

Mr. TIMMONS. One—one follow-up question. So we spent a lot of time last Congress on this committee talking about time, calendar, and the schedule. Do you think that—well, let's just—2019, we had 65 full working days and 66 travel days. So do you think that being here more would be more productive and would help facilitate? I would say that we pinball around when we are here. You are just going all over the place and you are never actually able to do any—

Mr. UPTON. Of course, now we have Zoom that we didn't have before, but it is frustrating. You know, again, we are both on Energy and Commerce. It is hard on a Zoom hearing or a markup.

You know, you got different time zones. You know, you don't get a long notice about them. You know, this last week, we had a Health Subcommittee markup that took, I don't know, 5 hours, something like that, and we, Republicans, had about a 4-day notice that it was coming and speeches lined up. You know, I am traveling in the district and, you know, I have got to take my iPad and put it in my passenger's seat of my car, and my staff reminds me to turn off the camera because they will see that you are on the phone, talking to someone else while you are driving. I mean, it is just—it is a lot more difficult to do it that way.

And you also, you miss the chance. You know, if Diana or Debbie Dingell have an amendment and they want to talk to me about it, it is a lot easier for me to go from my seat on the dais to theirs and, you know, talk about PFAS or whatever it might be. So you miss that. So I think it is important that we are here, but we ought to also take advantage of the technology stuff.

Ms. DEGETTE. And I will say I completely agree. Some of the problems we have had the last 18 months have been because everything was remote. But as somebody who has been in Congress, I am in my 13th term, I have seen it—I know. Well, you have been here longer than I have. So—so—so I have seen it every which way, and it is a tough balance. If we were here 5 days a week, 4 weeks a month, probably many more of us would be divorced by now, but more than that, the activities would expand to fill the time.

So I don't think—I do think—I agree with Fred. It is important to be here and that is how you get a lot done, but I think you have to balance that against people's need to be with their families in their districts.

I don't know about everybody here, but in the last 18 months, what Fred's describing, all of us, it is—a problem that existed before has only gotten worse, because now you can be on two hearings or three hearings at one time and it is—

Mr. PERLMUTTER. You are supposed to be under the rule.

Ms. DEGETTE. Okay. But, sorry. But in any event, it does diminish the time you can actually work on substantive legislation.

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

The CHAIRMAN. Go ahead, Mr. Perlmutter.

And if others want to weigh in on this, just gesture to me and I will add you to the list.

Mr. PERLMUTTER. Yes. So, you know, I think you two had a history before—you didn't just do recompetite out of whole cloth. I mean, you had a history, both of you having served on the same committee and having worked in a bipartisan fashion on prior things. One of the very first things when I came in, there was a narrower piece of legislation that the two of you were working on, but it was on scientific research with respect to stem cells. And the opportunity, what I remember, was a real effort by both of you to engage other Members in a bipartisan way. I mean, that was like my first experience here, which was of—like, I thought, okay, this is going to work great. Look at how they are doing this. You know, and you had a lot of hurdles. You had vetoes. You had all sorts of stuff, but you kept grinding away.

So, you know, part of what I think your success is here is an openness to doing things in a bipartisan way, with a lot of give and take, and both of you having trusted one another in prior kinds of matters where you could—you knew each other was going to work, you were generally on the same page. And that does require time, you know. So I would say—I mean, I don't know how you react to that, but the fact is you had a history before you did the recompetite bill.

Mr. UPTON. Yeah, it was really a trust. We had a trust in each other. And, you know, there is a story—I am not going to tell the whole thing—but it is, you know, there is—you slam doors, but they worked, not between the two of us, but, you know—

Ms. DEGETTE. No, just by me.

Mr. UPTON. [continuing]. Good cop and bad cop.

Ms. DEGETTE. The doors were slammed by me usually.

Mr. UPTON. Yeah. I wasn't gonna—

Ms. DEGETTE. But it worked. But—but—but—but, Ed, you are exactly right about that is—is having that personal relationship. And one thing that I think that we could—actually, the chairman and I talked about this, is trying to find ways to encourage Members to get to know each other on a personal basis. A lot of people, and I am one of them, feel that traveling someplace on a bipartisan basis really helps Members get to know each other and each other's family. But even just on the committee, having social events or working together, getting to know somebody personally that you can trust them, then helps you be—and, you know, over time, on the committees you get to know who you can trust and who you can't.

Mr. PERLMUTTER. My last question is, did have you fun doing this?

Mr. UPTON. Yeah. Yeah, we did.

Ms. DEGETTE. We can't talk about all those times but, no, we—we—not only did we have fun doing it, but we got to know each other's spouses and families. And we—I think both of us would say that, at this point, we are personal friends and our spouses are personal friends too, having gone through this whole process. And there is nothing more satisfying than, believe you me, than standing next to the President while he signs your bill that is going to help fix biomedical research that will help millions of patients. Right? And so it is that satisfaction in your job that really makes it work.

Mr. PERLMUTTER. Thank you.

The CHAIRMAN. Mr. Joyce.

Mr. JOYCE. Thank you.

And I appreciate the work that you both have done.

I just wanted to get back to something that you brought up starting out in building a bipartisan consensus and those type of things. Did you start with, say, you know, Alzheimer's, and this is an issue, and then start writing down the things you agreed upon, and then, you know, in that discussion, there would be some parts that maybe you disagree about a funding mechanism or these types of things, and then put that off but sort of built a list of things you work on and then worked on the things you disagreed upon? Or

how was that initial evolution, if you will, of how you got to a consensus?

Mr. UPTON. Well, it was an open process the whole way. So we really, I would say, we included all of the disease groups, cystic fibrosis. I remember we brought in a young 16-year-old and he told us how he lived. They were all there—diabetes, Alzheimer's. I mean, we got to know them all. We would have a roundtable and they would all share their frustration. They would all talk. You know, we had, you know, how much money—I remember the meeting that we had with Diana and Frank, and it was more than just Diana and I, we included other people. Bob Latta was a good part of that as well. But we—you know, how much money more do we need for NIH research? And we swatted around a couple of figures, and I said, well, I will take this to the Speaker and he is going to tell me I got to find the money for it, and we did. But, you know, we were—

Ms. DEGETTE. Here is what we did. We asked everybody that we met with to submit their ideas. And then what we did with our intrepid staffs, one sitting right back there, is—is—is all of our staff went through all of the suggestions and then they saw what they could agree on and that would seem like a good idea. They threw out the ones they both disagreed on, bad idea. And then they took the ones where there—that seemed like there was a kernel of a problem that needed to be addressed but maybe we didn't agree on that. And so then that is when we talked and that is when we tried to work it out.

And then there were some very, very difficult issues that probably did need resolution, but we couldn't—and there wasn't very many like this, but there were some we just couldn't come to an agreement about what the right approach was, and these were things that were really partisan issues. And so we just agreed not to put those in this bill.

But—but because of the topic, most of the issues we had in there, we could agree on and we thought they were important. There were also a lot of things that we thought were important but we couldn't afford to address them with the budget parameters that we had, because we did—we paid for the whole thing, as Fred said. So—

Mr. UPTON. So now we are—that we working on the Cures 2.0, we have done a couple of four or five different discussion drafts over the last 6 or 7 months. They are all public. We have asked for comments. We have gotten hundreds of comments. Our last deadline was Friday. Right, Mark? I think it was Friday. So we are going through there, those now, and I am hoping that in the next, you know, week or so, probably 2 weeks, we will be able to actually go to legislative counsel and we will put together what I hope will be H.R. 6 again.

Ms. DEGETTE. We want to try to pass this bill this year—

Mr. UPTON. Yeah.

Ms. DEGETTE [continuing]. Because then you get into silly season.

Mr. UPTON. Yeah. Not only that, but also, the President, to his credit, is doing this plug for ARPA-H and I think it is going to be in the approps bill. So we want to make sure that it is defined the

right way so that it works. So there is pressure on us to get it done so that we authorize that \$6 billion or \$7 billion dollars the right way so that we can even expedite further the case for diseases and devices.

Mr. JOYCE. So I just want to follow up a little further than—I got the initiation of it processed. Did you put time limits on it then? I mean, did you say we are going to work on this for the next 4 weeks, 6 weeks, 3 months or—

Ms. DEGETTE. Well—well, yes, we did Fred.

Mr. UPTON. Well—

Ms. DEGETTE. Because—because we had to—we said—I mean, for the first few years, you know, we wanted to get as much input as we could. We got all that input. But then we did have time limits on submission of when people could submit comments and when they had to be in, and then—then the drafting. And then—and then some of the—some of the—unfortunately, some of the time limits slipped a little bit, particularly after it went over to the other body. And in the end—and in the end, we were in this dicey situation that Fred just described where it was after the election and we were—the 2016 election, and we were home for the Thanksgiving recess and they were going to have a special session, and we had to get it passed through the Senate in the special session.

So—so up until then, we did set deadlines all along for drafting, for comments, all of that. And you really have to do that; otherwise—and that is what we are doing with Cures 2.0. If you don't do it, then it will just drift along indefinitely.

Mr. UPTON. And we, in essence, had to preconference it with Lamar Alexander, because they had to—we knew that they didn't have time to do the hearings. So we had to see what insistence they wanted on certain provisions, and we had to deliver for it to happen.

Mr. JOYCE. Thank you, Mr. Chairman.

The CHAIRMAN. All right. Mr. Phillips.

Mr. PHILLIPS. Thank you, Mr. Chair.

I.SAY THIS—I MAKE A POINT OF SAYING THIS IN EVERY MEETING BECAUSE I THINK IT IS SO TRUE, BUT YOU CAN'T WORK WITH PEOPLE YOU DON'T TRUST AND YOU CAN'T TRUST PEOPLE YOU DO NOT KNOW. AND RIGHT NOW, OUR INSTITUTION RELIES ON THE HOPE THAT PEOPLE, AS WONDERFUL AS THE TWO OF YOU, GET TO KNOW EACH OTHER AND SET ASIDE PARTISANSHIP IN A SHARED MISSION TO GET GOOD WORK DONE.

How can we better bake that into this culture here, onboarding, orientation, throughout the course of the year?

You know, lacking leadership that makes that a priority, a shared priority, you know, we can't do it ourselves without some type of a system—some type a systematic, I think, effort. Do you have any thoughts on how we can do better?

Ms. DEGETTE. Well, I do, which is, I think during the orientation, there should be many more—I don't—I don't know if some of—maybe some of the newer Members could say, but when I went through orientation in 1997, many of the orientation events were bipartisan events. They had—and some of the think tanks had bipartisan orientations too, the Kennedy School and others. I don't

know if they are still doing those, but over the years, I have heard many of them are, yeah.

The CHAIRMAN. Sure. Go on. What—there we go.

Ms. WILLIAMS. There we go.

So no shade to Mr. Davis, who helped us in our new Member orientation, but because of COVID, we—I am lobbying for a new Member orientation do-over for some of the things, because I feel like there are—there should have been opportunities—

Ms. DEGETTE. Right.

Ms. WILLIAMS [continuing]. More so for us to get to know each other. I know we are working right now on a bipartisan institute with the Library of Congress to be able to get both a bipartisan group together of freshmen Members, but we missed out on a lot.

Ms. DEGETTE. Uh-huh.

Ms. WILLIAMS. So I am—I will be lobbying you for some more do-overs of time for us to get together and get to know each other, because it makes a huge difference in our ability to work together.

Ms. DEGETTE. And I also—and that is what I had heard too, about your orientation, but I also think that—that—that doing more—I mean, really from a bipartisan perspective, all we have are events at the White House, right? And we didn't have those last year, but the summer picnic—

Mr. UPTON. You weren't invited.

Ms. DEGETTE. Really? They—they—

Mr. UPTON. I am kidding. I am kidding.

Ms. DEGETTE. Well, maybe they did do it last year, but I was—I was following the appropriate CDC protocols last year, so—anyway, anyway, I am just saying, rather than rely on that, maybe we should do more all-Member events. These Library of Congress lectures that they started having, of course, they didn't have during COVID, that really has helped a lot, and they didn't have those when I first came.

Mr. PHILLIPS. Let me ask about committees. Have either of you served on a committee in which the chair or ranking member prioritized, you know, some type of an effort to get their members to know each other, in any committee on which you have served over your respective careers, at the committee level?

Mr. UPTON. Yeah. Probably—I don't know that there is a overt effort. I mean, I try to do it. You know, Energy and Commerce, we want you on the committee, Dean. You know, we are going to work—

Mr. PHILLIPS. I would be happy to.

Mr. UPTON. Yeah. But, I mean, you know, we have a history of having really good, thoughtful Members on both sides of the aisle. And, you know, I think there has always been some collegiality that has been positive that we have had, but I think it just sort of goes with, you know, once you are there, of course, you are not looking to move again.

Mr. PHILLIPS. Sure.

Ms. DEGETTE. I do think Members do socialize, but it is not on a formal basis. And that—that—

Mr. PHILLIPS. Maybe it is an opportunity.

Ms. DEGETTE. I think it is an opportunity. That is a good suggestion.

Mr. PHILLIPS. Kicking off a new Congress and—okay.

Ms. DEGETTE. Yeah.

Mr. PHILLIPS. With that, I yield back.

The CHAIRMAN. Go ahead, Mr. Davis.

Mr. DAVIS. Thank you.

Great to see both of you.

Fred, you are kind of like a unicorn around here, a former chair that decided to stick around.

And I think, you know, both of you can continue to send a message of what worked when Congress worked. And I think there is some bipartisan scorn to go around as to why this process seems so broken.

Now, I am glad to be the House Administration rep on this committee, because a lot of suggestions we get, not just from the witnesses but my fellow members, we can act on, and we take this back and do what we can do try and foster more bipartisanship.

But I told my colleague, Ms. Williams, in her class at freshman orientation, you will never have another orientation like this again, I hope. I don't want to see another pandemic. But it was the most awkward orientation process that we could have ever experienced, and more awkward, Ed, than just hanging out with me. I mean, you know—

Ms. WILLIAMS. Wow.

Mr. DAVIS. But we want to fix that, but we also have to fix the institution itself. What you all did with the 21st Century Cures Act, I mean, that is the epitome of bipartisanship. I was a 16-year staffer. I remember passing transportation bills, highway bills. These types of issues were always done on a bipartisan basis. But the entire political lectern seems to be moving toward the polar ends of the political spectrum. You know, outrage is what raises profiles and it is what raises money. And it is unfortunate, because I think the majority of us here want to figure out a way to get back to some sense of governing, some sense of normalcy.

And I think Nikema is right. It starts with your first introduction to your fellow colleagues at orientation. We need to do a better job of making it bipartisan. And if I am ever given the chance to run that, we will make that happen. We will let you guys go through some remediation classes too because we need that. We really do.

But my question to both of you—and I wasn't here for your testimony, and Fred knows I didn't read it beforehand either.

Ms. DEGETTE. Well, we didn't submit it.

Mr. DAVIS. Well, that is good. I admit it—

Ms. DEGETTE. You are fine.

Mr. DAVIS. I admit it, I wouldn't have read it either. However—

The CHAIRMAN. For our next panel, we have read all of your testimony. We have you covered.

Mr. DAVIS. That—depends on the definition of “we.”

But what is the one thing that you guys may not have said in your opening statements, you know, based upon the questions and comments of everyone here—what is the one thing you both are doing to try and change this place now, and what kind of results are you getting?

Mr. UPTON. Well, I am—I don't think that there is something new that I am doing. I am keeping with the same formula that I had when I came, and that is to work with all of my colleagues on you name the issue. And I would like to think I have that reputation based on people that are looking to me to be a co-sponsor or a sponsor on different bills, work together.

You know, and, I mean—you know, I will say one thing. It goes back to the orientation. You know, one of the things that our class did, there were 50 in our class, is we decided that we would meet, at least on the Republican side, every Wednesday. And we did that for 28 years—

Ms. DEGETTE. Wow.

Mr. UPTON [continuing]. For an hour every week. And if you were a former Member because you left to go do something else or maybe you lost, you still were entitled to come. And it was a really good experience of building relationships, finding out what other people were doing on other committees. It was no staff, was all off the record, but it was really a terrific hour every Wednesday from 4 to 5. And that, I think, helped build the—you know, where we were and issues that we cared about and really got things done.

Ms. DEGETTE. Okay. So I am now, as Fred said, and as Mr. Joyce knows, because he was just with me, I am now the chair of the Oversight and Investigations Subcommittee of Energy and—

Mr. UPTON. Powerful.

Ms. DEGETTE [continuing]. The powerful, all-powerful Oversight Committee of Energy and Commerce. And as you can imagine with doing investigations in those areas, this could be a very partisan subcommittee. But I am—I am working very closely with my ranking member, Morgan Griffith, and we have decided that we are going to try to work together as much as we can for bipartisanship on our subcommittee hearings. What that means is we communicate with each other, not just during the hearings, but before the hearings.

We had a situation come up recently, not—not in today's hearing, but in a recent hearing where an issue came up in the middle of the hearing that could have really sparked a huge partisan fight in our committee. This—we were actually doing the hearing remotely, and we were texting each other about how to smooth this over and resolve it, and we were able to do it. Some people still raised their partisan disagreements, but we were able to do that.

And I carry that same real effort towards bipartisanship and fairness when I preside on the floor. I really try hard to make sure that I am being respectful to Members on both sides of the aisle and that I am—even though I may personally vehemently disagree with what they are saying, that I give them the opportunity to be heard and to be fair. So that is what I am doing myself.

Mr. DAVIS. Well, I appreciate the fact that both of you are willing to be here and step up and help us learn from the successes you have had in the past. It is a very difficult time. I mean, we don't know what triggers Members. I am being triggered right now by a Broncos phone, being a Raiders fan; it is very—

Ms. DEGETTE. Go Broncos.

Mr. DAVIS continuing]. It is very difficult. Probably being triggered by a Cub hat too. But you know what? I am going to get beyond this.

Mr. UPTON. My family.

The CHAIRMAN. Yeah.

Mr. DAVIS. I am going—I am going to make sure that we do what we can here to take your advice. And thank you both for your time. And I yield back.

The CHAIRMAN. I need to apologize to Mr. Latta, because we have got to go on to the next.

Mr. Latta. Can I just make one comment?

The CHAIRMAN. Yeah, go ahead.

Mr. Latta. Real quick. I didn't push it there. Yeah, thanks.

Well, first of all, I have been on E&C for over 11 years and was there with Cures. And just to tell you real briefly. I will never forget. You might remember Fred Barton—I am sorry. Fred, you might remember what Joe Barton said at the end, our former chair emeritus, that he had not served on that committee in all those years—and that was a long time that he had been on the committee—that a bill of this magnitude and could have been so divisive, went out with a unanimous vote.

So, you know, when I think back to E&C through the years, you know, about 93 percent of our bills have come out through the years bipartisan out of committee. It shows the work that is done in committee. That is the point I always think we need to be thinking about as we go forward here, is that legislative work starts in committee, and I am a firm believer of that. This is the way it gets done. Because if it starts the other direction, it is going to be a tough—a tough road to hoe.

So, you know, again, from all that your, both of your work on the committee through the years, it is that bipartisanship, but it is also showing that you work in committee. So thank you very much.

Ms. DEGETTE. Mr. Chairman, can I just say one thing?

The CHAIRMAN. Sure.

Ms. DEGETTE. Because I want to bust a myth on the record. I feel really strongly about this. I frequent—nobody has said this today, but I frequently hear people say, oh, we need to go back to having Members here 5 days a week so they can be here over the weekend and so the families can get to know each other and the spouses can get to know each other.

And, you know, I have now been in Congress 25 years. My kids were 2 and 6 when I came here, and now they are 27 and 31. And what I will say is that is a charming vision that has long passed in this society. We now have 25 percent of the Congress, soon I hope it will be at least 50 percent, are women. Most of the men in Congress have working spouses. And in those—in those bygone days, all those social events were planned by stay-at-home wives, and we don't have that anymore in Congress, either for the male members or the female members.

And so to say that we are going to have people here all the time so they can socialize, when I came to Congress, I had a wonderful colleague, Jim Davis. Some of you might remember Jim. He was from Florida. His kids were exactly the same age as mine. We lived very close to each other in Bethesda in those days, and we never

saw each other socially, because Jim's wife Peggy and my wife, Lino, both had jobs.

Mr. UPTON. Her husband.

Ms. DEGETTE. And so—my wife—my husband—thank you, Fred—my husband Lino.

And so I think when we think about ways for Members to get to know each other, we can't—we can't go back to that trope. We have to find new ways for us to all get to know each other on a personal basis.

Thank you.

The CHAIRMAN. I am going to make that the last word for this panel, with gratitude to you both. Thank you for sharing your perspectives with us.

And, with that, let me invite up our second panel. We are joined by three experts who are going to share their experiences and ideas for making committees work better, making them more productive and collaborative.

Witnesses are reminded that your written statements will be made part of the record.

Our first witness is Jenness Simler. Ms. Simler served as professional staff on the House Armed Services Committee from 2005 to 2017. Most recently, she served as staff director of the committee, as well as deputy staff director, for 4 years. In these roles, Ms. Simler was the senior advisor to the committee chairman, responsible for strategic planning and operations for the committee, leading the staff, and delivering the annual defense policy bill.

Previously, she served as the policy director for the committee, conducted oversight of Navy and Marine Corps procurement and R&D programs, managed defense acquisition policy and industrial base portfolio, and had responsibility for defense science and technology programs.

Prior to her work in Congress, Ms. Simler served as the deputy to the chairman, Combating Terrorism Technology Task Force within the Office of the Secretary of Defense.

Welcome. You are now recognized for 5 minutes.

STATEMENT OF MS. JENNESS SIMLER, VICE PRESIDENT, BOEING GLOBAL SERVICES AND FEDERAL ACQUISITION POLICY

Ms. SIMLER. Good afternoon, Chairman Kilmer, Vice Chair Timmons, members of the committee. Thank you for inviting me to speak with you today regarding committee best practices, promoting bipartisanship, and strengthening policymaking. I am truly grateful for the opportunity.

As the chair said, my name is Jenness Simler. I am currently employed by the Boeing Company, but I am testifying before you today as the former staff director and deputy staff director of the House Armed Services Committee, and the views expressed here today are my own.

By way of brief background, I joined the HASC as a member of the professional staff in 2005. I served in both the majority and the minority. And after more than a dozen years on the committee and working tirelessly with members to craft the National Defense Authorization Act, which—I have to just brag on them—has been enacted, as you know, annually for over 60 years, I hope my experi-

ence may offer some unique perspectives regarding committee work and cooperation.

First, let me ask you to consider the following. What do these individuals have in common—a former Army explosive ordnance disposal officer, a prosecutor of 9/11 co-conspirators, the second ever female fighter pilot, a nurse, an author, a former CEO? These are just a sampling of the careers that HASC staff had prior to working for Congress.

What they also have in common is that they were never asked their party affiliation. They are patriots, hired for their policy expertise and commitment to service.

This is just one aspect of how the HASC gets a bill enacted every year with large bipartisan majorities. I firmly believe bipartisanship is at the heart of consensus building, which leads to transparency, sound policymaking, and productive legislating.

Bipartisanship does not mean, as we have heard here just in the first panel, that the Members agree on all issues. Far from it. However, with deliberate intent, bipartisanship can be built in order to allow policy differences to be debated constructively and to create resiliency in the face of electoral change.

Bipartisanship at the HASC starts with its membership. My written testimony further addresses how staffing practices also enable bipartisanship, but focusing on the Members for now, I will start by observing that Members who request seats on the Armed Services Committee tend to represent districts with a strong military footprint. This is a key difference compared to other committees where members may have fewer shared district equities. Nevertheless, there is an opportunity for other committees to consider ways to help members feel more aligned by building upon common constituent priorities.

For example, committees have authority to use task forces and panels to create small member teams to conduct oversight on specific issues and build camaraderie. Alternatively, much like Chairman Upton's example, field hearings and codels can be very effective in bonding members and hearing from like-minded constituents from across the country.

Second, bipartisanship at the HASC also stems from issues within the committee's jurisdiction. Not only do members have a profound sense of the importance of national security, but they also take pride in fulfilling specifically enumerated constitutional responsibility. Moreover, many of the issues the committee considers do not lend themselves to partisanship. For example, a member doesn't feel one way about the importance of naval power just because they are a Democrat or a Republican. They may care where the next ship is built, but all members support domestic shipbuilding.

However, the military is a microcosm of issues facing America. There are plenty of issues, particularly social issues or foreign policy, where members may divide along party lines. That is where deliberate cultivation of bipartisanship and transparency makes a difference.

The chairman and the ranking member do a great deal to set the tone and expectations for members in this regard. Likewise, policy offsites early in a new Congress or at the start of a legislative cycle

also serve as useful education and sobering reminders of the natures of the threats we face.

Committees without national security responsibility could still replicate this practice by regularly level-setting members regarding the shared problems that need to be solved and the responsibilities of the committee to offer solutions, much as Representative DeGette suggested.

Third, on the HASC, trust is strengthened through technology and practices used to conduct hearings and to build the NDAA. While the majority is responsible for the calendar and for operations, hearings are designed collaboratively. There is a single joint hearing memo. Many events are scheduled as roundtables or briefings to turn off the camera and to facilitate a free exchange of information.

As you know, the NDAA is voluminous, to say the least. Some of the bill is template, but most of the bill and report comes from ideas submitted by members and staff.

The committees use a web-based portal to collect members' legislative requests, and all requests can be viewed by both majority and minority staff. They have a shared goal to include as much as practicable from the members' top priorities.

The committee also uses a separate database to draft both the bill and report language from start to finish. The database is open to the entire staff. There is no surprising the minority, and minority staff have the opportunity to make edits in real time.

For markup, members submit amendments electronically in advance of the actual markup. All submitted amendments are reviewed by the entire staff together in one room, in one lengthy meeting. The goal of the amendment review is to identify where consensus is possible, where drafting flaws may inadvertently limit consideration, and where the debates will be.

Following this review, members have the option to revise amendments, in order to build bipartisan support or to correct parliamentary deficiencies prior to markup. This practice minimizes disruptions and disappointments the day of markup.

Still, every member of the committee can offer as many amendments as he or she would like, and they will all be considered. There are multiple opportunities to legislate as the subcommittees each have legislative jurisdiction, as well as the full committee.

Every year, well over 350 amendments are considered before the NDAA ever leaves committee. Technology aids in this process as amendments are now distributed electronically and can easily be found in the committee repository for member review.

During floor consideration of the NDAA, where hundreds more amendments are filed, a similar bipartisan process is used to review the amendments with similar goals—where can consensus be found and where are the important debates that need to occur.

A comparable theme extends to conference negotiations with the Senate. Both the majority and minority staff member are assigned to each provision and participate in all negotiations.

When I was new to the staff, I was actually really surprised to learn that the biggest conference disagreements are between the House and the Senate, not between Republicans and Democrats.

The key takeaway from these practices is that while no member will support every provision in the bill, they are incentivized to support it because they have had such a direct hand in shaping the content, every member was included in the process, and the confidence that conference negotiations are a consensus process that reflects the will of both the majority and the minority.

I hope these observations form a useful starting point for this committee's work. I look forward to your questions. And once again, thanks to the committee for your time today, your valuable work, and your efforts to modernize an institution I care so deeply for. Thank you.

[The statement of Ms. Simler follows:]

Select Committee on the Modernization of Congress
Hearing: Enhancing Committee Productivity through Consensus Building

July 20, 2021

Good afternoon Chairman Kilmer, Vice Chair Timmons and Members of the Committee. Thank you for the invitation to speak with you today regarding committee best practices, promoting bipartisanship, and strengthening policymaking. My name is Jenness Simler. I am currently employed by The Boeing Company, but I am testifying before you today as a former Staff Director and Deputy Staff Director of the House Armed Services Committee. The views expressed are my own.

By way of brief background, I joined the HASC as a member of the professional staff in 2005. I served in both the majority and minority. And after more than a dozen years in various roles on the committee and working tirelessly with members and fellow-members of the staff to craft the National Defense Authorization Act (NDAA), which has been enacted annually for 60 years, I hope my experience may offer some unique perspectives regarding committee work and cooperation.

First, let me ask you to consider the following. What do these individuals have in common? A former Army EOD officer, a prosecutor of 9/11 co-conspirators, the 2nd ever female fighter pilot (with over 1500 hours in the F-15 Eagle), a retired Army colonel and nurse, a counter terrorism expert and professor, a former Thunderbird #1 with more sorties over Vietnam than any other pilot, a former army program manager, an author, a Defense Acquisition Workforce Level III Science & Technology manager, a former CEO. These are just a sampling of the careers the HASC staff had prior to working for Congress. What they also have in common is that they were never asked their party affiliation. They were patriots, hired for their policy expertise and commitment to service.

This is just one aspect of how the House Armed Services Committee gets a bill enacted every year with large bipartisan majorities. I firmly believe bipartisanship is at the heart of consensus

building, which leads to transparency, sound policymaking, and productive legislating. Bipartisanship does not mean the members agree on all issues. Far from it. However, with deliberate intent, bipartisanship can be built in order to allow policy differences to be debated constructively and to create resiliency for institutions in the face of electoral change.

Bipartisanship at the HASC starts with its membership. Members who request seats on the Armed Services Committee tend to represent districts with a strong military or defense industrial base footprint. This is a key difference compared to other committees, where members may have fewer shared equities. Bipartisanship also stems from the issues within the committee's jurisdiction. Not only do members have a profound sense of the importance of national security, but they also take pride in fulfilling a specifically enumerated constitutional responsibility for Congress. Moreover, many of the issues the committee considers do not lend themselves to partisanship. For example, a member doesn't feel one way about the importance of naval power or science and technology just because they are a Democrat or a Republican. They may care where the next ship is built, but all members support domestic shipbuilding. However, the military is a microcosm of the issues facing America as a whole. There are plenty of issues, particularly social issues or foreign policy, where members may divide along party lines. That's where the deliberate cultivation of bipartisanship and transparency makes a difference.

As I mentioned at the outset, the staff tend to be hired externally and based on their subject matter expertise. While there are technically majority and minority positions to allow both the chairman and the ranking member to hire staff, there is no political litmus test. It is not uncommon for a staff member to be hired by the majority when one party is control of the House and to stay in that majority position when the other party assumes the majority. It is rare to hear a member of the staff introduce themselves as a "majority" or "minority" staffer. In fact, I think many members of the committee do not know exactly which staff are majority and which are minority. The staff also share offices space, take meetings together, and travel together. These practices build trust between and among the members and the staff.

Behind the scenes, this trust is strengthened through the technology and practices used to conduct hearings and to build the NDAA. While the majority is responsible for the calendar and

for operations, hearings are designed collaboratively. There is a single, joint hearing memo issued by the staff. Many events are scheduled as roundtables or briefings, to turn off the cameras, and allow a real exchange of information to take place.

As you know, the NDAA is voluminous. Some of the bill is template, with certain items re-authorized every year like military end-strength. But most of the bill and report comes from ideas submitted by members and staff. The committee uses a web-based portal to collect member legislative requests and all requests can be viewed by both majority and minority staff. They have a shared goal to include as much as practicable from all members' top priorities. The committee also uses a separate database to draft both the bill and report language from start to finish. The database is open to the entire staff at all times. There is no surprising the minority with the content drafted on the side and minority staff have the opportunity to make edits in real time. Everyone can see exactly where a provision is in the approval process and who the sponsor of the provision is. At mark up, all submitted amendments are reviewed by the entire staff together in one room, with the goal toward identifying where consensus is possible and where the debates will be. Every member of the committee can offer as many amendments as he or she would like and they will all be considered. This fosters significant transparency and the opportunity to legislate, as the subcommittees each have legislative jurisdiction, as well as the full committee. Every year, well over 350 amendments are considered before the NDAA ever leaves committee. Technology aids in this process, as amendments are now distributed electronically and can easily be found in the committee repository for review.

During floor consideration of the NDAA, where hundreds more amendments are filed, a similar bipartisan process is used to review the amendments, with similar goals – where can consensus be found and where are the important debates that need to occur. A comparable theme extends to conference negotiations with the Senate. Both a majority and minority staff member are assigned to each provision and participate in all negotiations. When I was new to the staff, I was surprised to learn that the biggest conference disagreements were often between the House and Senate, not Republicans and Democrats! The key takeaway from these practices is that bipartisan cooperation and transparency at the staff level creates a product that all members' feel reflects

their input. As a result, while no member will support every provision in the bill, they are incentivized to support it because they have had such a direct hand in shaping it.

In conclusion, while there are some HASC practices that may be difficult to replicate in other committees, I hope these observations form a useful starting point for this committee's work. I also believe there are external best practices the HASC and other committees could adopt with respect to staff diversity, professional training and career development, and leadership opportunities for personal staff, which could only improve outcomes. I look forward to your questions and once again thank the committee for your time today and the valuable work you are doing to modernize an institution I care for deeply.

The CHAIRMAN. Thank you.

Our next witness is Warren Payne. Mr. Payne worked for the committee on Ways and Means, where he held a number of staff leadership roles from 2007 to 2015, including serving as policy director. He also serves as a fellow for the Bipartisan Policy Center, and as part of the BPC Advisory Group, made up of former senior staff to members' committees in leadership.

As policy director at Ways and Means, Mr. Payne was responsible for developing policy in all areas within the committee's jurisdiction. Major legislation that he worked to enact includes the Tax Increase Prevention Act, the ABLE Act, the Middle Class Tax Relief and Job Creation Act, two highway and infrastructure funding bills, and free trade agreements with Colombia, Peru, Panama, and South Korea.

Mr. Payne also served as a senior staffer to both the National Commission on Fiscal Responsibility and the Joint Select Committee on Deficit Reduction.

Mr. Payne, you are now recognized.

**STATEMENT OF MR. WARREN PAYNE, SENIOR ADVISOR,
MAYER BROWN**

Mr. PAYNE. Thank you very much, Mr. Chairman, Vice Chairman, and members of the committee. Thank you for the opportunity to be here today.

Again, for the record, my name is Warren Payne. I am currently a senior adviser at the firm of Mayer Brown. The views I will express today are my own.

As the chairman said, I spent a number of years at the Ways and Means Committee, including as the committee's policy director. In addition to supervising policy development for the committee, I was also the lead staff liaison to the Senate and the administration.

While I was on the committee, for the vast bulk of the time I was on committee, the Senate had a Democratic majority and the administration was governed by the Obama-Biden administration. So from my perspective, the development of bipartisan consensus was a necessity. It was required.

I found in my role that I would spend as much time talking and engaging with my Democratic counterparts in the Senate and the administration as I did with my own staff and committee members. I found that this engagement across the aisle was vital to my ability to do my job successfully.

We are Democrats and Republicans for a reason. We have different views, we have different perspectives, and we have different backgrounds. Sometimes it means we don't really understand what drives our individual views and perspectives. That lack of understanding, I found, often led to incorrect assumptions about why a position was being held or what a member's or staff's motivation could be. And that incorrect assumption led to miscommunication, and that made bipartisan consensus much more difficult to reach.

It was only through frequent and informal communication with my Democratic counterparts that I was able to learn and understand their background and motivations.

As the chairman said, 2 years ago, I participated in a project of the Bipartisan Policy Center to help draft recommendations to im-

prove and modernize Congress. I brought my experiences from the committee to that effort.

I have submitted for the record two detailed memos from BPC. I am going to highlight just a few things in my oral testimony, in particular, a couple observations on improving staff development and creating more opportunities for private and informal engagement among members and staff.

With regard to staffing, I would argue Congress does need to invest more in its staff. Certainly, this investment can take the form of higher salaries, but I think just as important are increased opportunities for professional development, particularly for committee staff, which are expected to have very high knowledge and expertise in the areas of the committee's jurisdiction.

I would like to emphasize opportunities for what I call real-world professional development and education. As an example, the Senate has a convention called the staffdel, where staff will travel on a bipartisan basis. I would recommend the House adopt and broaden this convention to include domestic travel and activities as well.

In particular, this will provide not only an opportunity for more professional development and experience for the committee staff, it also will provide a very important mechanism to improve engagement and interaction between the members and potentially staff.

As an example of the benefits of this type of activity, I look to my time in the executive branch. Before I came to Ways and Means, I served as a senior adviser to one of the chairpersons at the U.S. International Trade Commission. It is an agency that has three Republican and three Democrat Commissioners.

During that time, I have traveled frequently with my Democrat counterparts, staff of Democrat Commissioners. This was important, not only that I got to see how the policymaking the Commission would do, would impact the stakeholders where they work and live, but also gave me tremendous opportunity to learn and be with and engage with my Democratic counterparts and learn to understand their background and motivations.

The regular committee structure, I don't think, lends itself to these types of engagements. Hearings and markups are good and necessary, but I would emphasize the need for more private, informal settings for engagement at the committee level.

IN PARTICULAR, THE COMMITTEE SHOULD ENSURE NUMEROUS OPPORTUNITIES FOR CLOSED-DOOR, PRIVATE, MEMBER-LEVEL DISCUSSIONS. TRANSPARENCY IS IMPORTANT. IT IS NECESSARY FOR CONGRESS TO OPERATE, BUT IN ORDER FOR MEMBERS TO HAVE THE KIND OF FRANK AND FREE EXCHANGE OF IDEAS THAT I THINK IS CRITICAL, IT IS AN ACTIVITY THAT DOES NOT LEND ITSELF TO TELEVISION AND C-SPAN. SO MORE CLOSED-DOOR, MEMBER-LEVEL DISCUSSIONS.

Secondly, I would emphasize having those kinds of engagements at something below the full committee level. Ways and Means is one of the smallest committees in Congress, and we found even doing full committee, closed-door activities with the relatively few members we had to be challenging. Other committees like T&I or Financial Services, where the committee membership is much larg-

er, would face an even harder time logistically pursuing a significant closed-door member activity.

So whether at the subcommittee level or in ad hoc format, those create potentially even more opportunities for bipartisan member and staff engagement.

I would share with the committee one example of this activity from my time at Ways and Means. We formed 11 working groups, each led by one Republican and one Democratic member. Each working group was assigned one area of tax policy. Members self-selected into which working group they wanted to participate in. The committee, the roundtables, the working groups had almost complete flexibility to how they operated.

The benefit of this approach was, because members self-selected into a working group they were interested in, there was a commonality of interest for the members participating. No matter how diverse their own individual backgrounds, they were there because they had an interest in this issue, and so there was a nexus of commonality off of which they could have good productive conversations.

I think these working groups produce tangible benefit of bipartisan success, because the education working group, which was coled by former Congresswoman Diane Black and Congressman Danny Davis, produced legislation with respect to education tax credits that the committee subsequently marked up and moved out of committee and to the floor.

So I would leave you with those examples. And the most important message is, the more opportunities members and staff can have for informal, closed-door opportunity to engage and exchange of views, the more successful I think committees will become.

Thank you very much. I look forward to answering any of your questions.

[The statement of Mr. Payne follows:]

Select Committee on the Modernization of Congress
Hearing: Enhancing Committee Productivity through Consensus Building

July 20, 2021

Good afternoon Chairman Kilmer, Vice Chair Timmons and Members of the Committee. Thank you for the opportunity to discuss with you options for improving the bipartisan operation of the Committee system in the House. For the record, my name is Warren Payne and I am a senior advisor at the firm of Mayer Brown. The views expressed today are my own.

From 2007 to 2015 I was a member of the Republican professional staff of the Ways & Means Committee, including several years as the Committee's Policy Director. In that role I was responsible for supervising and coordinating policy work across all aspects of the Committee's jurisdiction. I also served as the lead staff liaison to the Senate and the Administration. During my time on the Committee staff the Senate had a Democratic majority, and for most of my time on Committee the Executive Branch was governed by the Obama-Biden Administration. Thus, working across the aisle and forging bipartisan consensus was a necessity.

I found that I spent nearly as much time talking and engaging with my Democratic counterparts in the Senate and the Administration as I did with my own Members and staff. Further, I found that this significant and intense engagement across the aisle to be critical for improving the operation of the Committee. We are Republicans and Democrats for a reason, we have different perspectives and views and sometimes that means we don't really understand the context that drives each other's views on policy. It was only through frequent and informal communication with my Democratic counterparts that I was able to learn and understand the context and motivations behind my counterparts' positions.

I strongly believe that the numerous legislative accomplishments that the Ways & Means Committee achieved during that period were possible in large part because we took the time to understand what was motivating the folks on the other side of the negotiating table. While I don't think I ever changed the mind of any of my Democratic counterparts, that understanding of context and motivation facilitated the ability to find successful compromises.

Two years ago, I participated in an effort by the Bipartisan Policy Center (BPC) to gather and develop recommendations on strengthening the Committee process and improving the staffing of Congress. My contributions to this project reflect my the experience I have just described to you – experience that emphasized the need for staff and Members of the Committee to engage in robust, informal and private conversations.

The recommendations developed and made by BPC were provided to the Committee in the form of two memos. I have attached copies of those memos to my written testimony. Rather than review all the recommendations in these memos, I would like to highlight a few of the recommendations that I am particularly supportive of. First, improving career development opportunities for staff and second, creating more opportunities for staff and Members to engage with each other outside of the formal Committee activities.

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With regard to improvements in staffing, Congress needs to invest more in its staff. While such investment could take the form of higher salaries, other improvements such as tuition assistance or student loan forgiveness, and more opportunities for training and professional development can also be extremely useful tools to help Congress recruit and retain exceptional staff.

Providing opportunities for continuing education and professional development is particularly important for Committee staff who are expected to have an extremely high level of expertise in areas of the Committee's jurisdiction.

In particular, opportunities for "real world" education are important. The Senate has a convention called the "staff del" where Senate staff travel internationally to meet with policy makers and stakeholders relevant to such issues as international trade and foreign affairs. The House should adopt this concept and broaden it to include opportunities for domestic travel as well. Adopting this recommendation will simultaneously provide more opportunities for education and career development and also provide a significant opportunity to improve engagement across the aisle.

As an example of the potential benefits of this type of activity I look to my time in the Executive Branch. Before I joined the Ways & Means Committee I served as a senior advisor for a Commissioner at the U.S. International Trade Commission. In that capacity, I frequently traveled to visit the factories and work places of the companies involved in trade disputes before the Commission. These trips were undertaken jointly with the agency career staff and staff for other Commissioners, including and especially staff from Democratic nominated Commissioners.

These trips not only provided me with an opportunity to see how policy could impact stakeholders where they live and work but also provided opportunities to expand and deepen my relationship with my colleagues on the other side of the aisle.

The Committees would benefit tremendously from staff, and Members, having the opportunity to learn and interact with each other in these kinds of circumstances.

Similarly, Committees should be encouraged to pursue alternative activities on a bipartisan basis outside the formal activities of the Committee. The regular structure of Committee operations, formal hearings and mark ups, do not necessarily lend themselves to strengthening communication and understanding of views among staff and Members across the aisle.

The BPC memos make a number of recommendations for potential bipartisan activities but I would like to focus on two complimentary recommendations. First, Committees should ensure robust opportunities exist for bipartisan, Member discussions behind closed doors. While transparency is important and vital for Congress to operate the need for transparency must be balanced against the need to provide Members opportunities to have frank conversations where they can discuss and debate a wide range of views and policies. It is very difficult to engage in those types of discussions while they are being broadcast on CSPAN.

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In my time as Policy Director at Ways & Means we conducted numerous closed door, bipartisan briefings at the Member level where both outside experts and Committee staff presented information on policies being debated by the Committee. No Member ever abandoned their views and beliefs in these settings, but they did provide Members an opportunity to discuss their different views in a less confrontational or adversarial setting.

Secondly, Committees should emphasize opportunities below the full committee level. Whether at the subcommittee level or in more ad hoc situation, smaller group activities can provide even better opportunities for Members to engage with each other.

I would like to share one example of this type of activity from my time at Ways & Means. In 2013, we established bipartisan working groups tasked with examining 11 different discrete areas of tax policy. Each working group was led by one Republican and one Democratic Member who had expressed an interest in leading that working group. Other Members were free to participate in any working group they chose. The leaders of the working group established their own agenda and were free to meet with stakeholders, hold roundtables and request assistance from Committee staff in almost any manner they wished.

This structure maximized the opportunities for bipartisan engagement and discussion among Members. Because Members were free to participate in a working group that was of interest to them it guaranteed that no matter how different or varied the backgrounds of the individual Members participating there was a commonality of interest that could serve as a foundation for discussion and debate.

I believe these working groups enabled not only a significant increase in the technical understanding of Members of parts of the Tax Code but also, and more importantly, enabled the establishment and deepening of relationships among and between Members that improved the overall operation of the Committee.

These working groups produced tangible evidence of the improvement in bipartisan cooperation when the Education Working Group, led by Congresswoman Diane Black and Congressman Danny Davis produced legislation that reformed aspects of education tax credits that was subsequently marked up by the Committee.

This is the most important recommendation I can make to you today - Committees should find more ways to have small groups of staff and Members engage on a bipartisan basis in private settings that provide the opportunity to learn more about the context and background that motivates each other's policy views and thereby fosters an environment where everyone has information and knowledge that facilitates successful bipartisan negotiations.

Again, thank you for the opportunity to speak with you today and I look forward to answering any questions you may have.

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The CHAIRMAN. Thank you, Mr. Payne.

And our final witness is Scott Adler. Dr. Adler is vice provost and dean of the graduate school and professor of political science at the University of Colorado Boulder.

VOICE. Go Buffs.

The CHAIRMAN. He is also a former founding director of the American Politics Research Lab. Dr. Adler has spent most of his 25-year career at CU Boulder, studying the organization and performance of the U.S. Congress, and his current research examines congressional agenda setting and committee power.

Among his many publications, he is the author of "Why Congressional Reforms Fail: Reelection and the House Committee System," and co-author of "Congress and the Politics of Problem Solving."

This committee has been great for Amazon.com book sales for political science books.

Dr. Adler received his Ph.D. from Columbia University, and was a member of the American Political Science Association's Presidential Task Force on Congressional Reforms.

Dr. Adler, we just got notice that they may be moving up votes, so I may ask you to maybe abridge your comments a little bit, if possible, just to make sure we have plenty of time for Q&A.

STATEMENT OF DR. SCOTT ADLER, VICE PROVOST AND DEAN OF THE GRADUATE SCHOOL, UNIVERSITY OF COLORADO BOULDER

Mr. ADLER. Sure.

Chair Kilmer, Vice Chair Timmons, members of the Select Committee, thank you for inviting me today. As Chair Kilmer said, I am a professor of political science, and spent most of my career studying the structure reform and performance of congressional committees, and the views expressed here are my own.

The points I would like to emphasize today are, first, the central role that legislative committees play in Congress' governing responsibilities. Second, how that role has significantly diminished in recent years. Third, that strengthening the position of committees will improve Congress' legislative capacity and lawmakers' engagement in policymaking. And finally, I will offer some suggestions on how the House can bolster the committee system.

Now, the example given of the 21st Century Cures Act and the dynamic that developed between Representatives DeGette and Upton in many ways highlights exactly what is important about the place of legislative committees as a venue for lawmakers to develop expertise, build personal relationships within their caucus and across the aisle, incorporate the input of stakeholders, and retain skilled and knowledgeable staff.

Historically, these aspects of committees both promote lawmaking activities by members and place committees at the forefront of policy innovation. But lawmaking perhaps should be thought of as a muscle that committees must continually exercise for it to remain strong. For many years and for a variety of reasons, that muscle had atrophied. The data are clear. Committees are reporting a smaller proportion of the bills enacted into law. Federal agencies increasingly exist under expired authorizations,

and the House and Senate authorizing committees are far less utilized in negotiating inter-Chamber differences.

Many congressional observers, including many lawmakers, recognize that some committees and the committee system as a whole does not retain the position that it once held as the center of policy-making and oversight. When committee power diminishes, the body becomes more reliant on centralized leadership and outside stakeholders, which reinforces that atrophy.

Certainly, there is plenty about the old days of the congressional committee dominance that was undesirable, but if we seek a structure that engages and incentivizes Members of Congress to collaboratively invest in policymaking, it almost by necessity involves a reinvigorated committee system.

Now, at the macro level, a vigorous committee system does a number of things. It incentivizes specialization so that Congress has the technical knowledge to skillfully debate and resolve differences. It makes it easier for Congress to reliably address policy problems, and ultimately improves and rebalances the position of Congress with respect to the executive branch.

For lawmakers, strong legislative committees provide all members the opportunity to continually engage in productive and collaborative policymaking, facilitate regular interaction with stakeholders, and offer productive ways to demonstrate to constituents their legislative abilities. However, without a clear and predictable process for members to regularly legislate, they will turn their energies elsewhere.

So how should we reinvigorate the committee system? This panel itself has already considered and made a number of meaningful recommendations, and we have heard other very good suggestions from the witnesses here today. Let me offer a few additional thoughts.

Lawmakers need to see that the pay-off of their investment in knowledge, skill, time, and resources will happen.

First, a return to routine reauthorizations provides a much needed rhythm to oversight and governance of the executive branch. Our work shows that it offers a better structure and schedule to the operations of committees and can lower the legislative stakes through regular opportunities to revisit existing policies.

Additionally, we also know that lawmakers respond to actions taken by the Chamber and the leadership that assure committees will have fair consideration—the committee work will have fair consideration by the entire body, even better if the Chamber can provide a degree of protection so that their efforts won't easily unravel once reported out of committee.

To be sure, I don't believe that the entire committee system is broken. In fact, over the next several months, we will see bills from several committees that still retain that ongoing policy leadership role. In particular, the annual work of Armed Services and Appropriations are good examples of committees who regularly exercise their policymaking and oversight responsibilities.

A more regular reauthorization process, even annual reauthorizations, like the NDAA, may help other committees achieve this rhythm.

Ultimately, of course, there are many alternatives for strengthening the committee system and lawmaker engagement. And I appreciate this panel's thoughtful consideration on this important topic.

Thank you, and I look forward to your questions.
[The statement of Mr. Adler follows:]

**Testimony before the Select Committee on the Modernization of Congress
United States House of Representatives**

**E. Scott Adler
Vice Provost and Dean of the Graduate School
Professor of Political Science
University of Colorado Boulder**

**“Enhancing Committee Productivity through Consensus Building”
July 20, 2021**

Chair Kilmer, Vice-Chair Timmons, and Members of the Select Committee: thank you for inviting me to testify today. My name is Scott Adler and along with my administrative duties as Dean of the Graduate School at the University of Colorado Boulder, I am also professor of political science. For nearly all of my career I have studied the U.S. Congress, with a particular emphasis on the structure, reform and performance of congressional committees.

I am grateful for the efforts of the members of this panel in addressing these important topics.

The points I'd like emphasize today are:

- First, the central role legislative committees play in Congress's governing responsibilities
- Second, how that role has significantly diminished in recent years
- Third, that strengthening the position of committees will improve Congress's legislative capacity and lawmakers' engagement in policymaking

- Finally, I'll offer some suggestions for how the House can bolster the committee system to achieve these goals

The example of the *21st Century Cures Act* and the dynamic that developed between Representatives DeGette and Upton in many ways highlights exactly what is important about the place of legislative committees as a venue for lawmakers to develop expertise, build personal relationships in their caucus and across the aisle, incorporate input from stakeholders, and retain skilled and knowledgeable staff.

Historically, these aspects of committees both promote lawmaking activities by members and place committees at the forefront of policy innovation.

But lawmaking should perhaps best be thought of as a muscle that committees must continually exercise for it to remain strong. For many years and for a variety of reasons, that muscle has atrophied. The data are clear: committees are reporting a smaller proportion of the bills enacted into law, federal agencies and programs increasingly exist under expired authorizations, and the House and Senate authorizing committees are far less utilized in negotiating inter-chamber differences than in the past.

Many congressional observers, including many lawmakers, recognize that some committees and the committee system as a whole does not retain the position it once held as the center of policy making and oversight authority. When committee power diminishes, the body becomes more reliant on centralized leadership and outside stakeholders, which reinforces the atrophy of committees as a means of legislative engagement.

Certainly, there is plenty about the old days of congressional committee dominance that was undesirable. But if we seek a structure that engages and incentivizes members of Congress to collaboratively invest in policy making, it almost by necessity involves a reinvigoration of the committee system.

Bolstering committees achieves some very concrete and important goals.

At the macro-level a vigorous committee system:

- Incentivizes specialization so that Congress has the technical knowledge to skillfully debate and resolve policy differences
- Makes it easier for Congress to reliably address policy problems
- And ultimately improves and rebalances the position of Congress with respect to the executive branch

For lawmakers, strong legislative committees:

- Provide all members the opportunity to continually engage in productive and collaborative policy making
- Facilitate regular interaction with stakeholders through a relationship focused on revisiting and updating federal policy
- And offer productive ways to demonstrate to constituents their legislative abilities

However, without a clear and predictable process for members to regularly legislate, they will turn their energies elsewhere. Lawmakers are politically ambitious and smart. These are the attributes that got them here. If lawmakers do not expect their investment in policy knowledge and the skills of navigating Capitol Hill will pay off in tangible ways, they are likely to – and very often do – pursue activities that detract from meaningful legislative engagement.

How, then, should we reinvigorate the committee system? This panel itself has already considered and made a number of meaningful recommendations, and we have heard other very good suggestions from the witnesses here today. But let me offer a few additional thoughts.

Lawmakers need to see that there is payoff in their investment of knowledge, skill, time, and resources.

- First, a return to routine reauthorizations provides a much-needed rhythm to oversight and governance of the executive branch. Our work shows that it offers a better structure and schedule to the operations of committees and can lower the legislative stakes through regular opportunities to revisit existing policy.

- Additionally, we also know that lawmakers respond to actions taken by the chamber and leadership that assure committee work will have fair consideration by the entire body. Even better, if the chamber can provide a degree of protection so that their efforts won't easily unravel once reported out of committee.

To be sure, I don't believe that the entire committee system is broken. In fact, over the next several months you will see bills from several committees that still retain their ongoing policy leadership role.

In particular, the annual work of Armed Services and Appropriations are good examples of committees who regularly exercise their policymaking and oversight responsibilities. A more regular reauthorization process, even annual reauthorizations like the NDAA, may help other committees achieve this rhythm.

Ultimately, there are many alternatives for strengthening the committee system and lawmaker engagement and I appreciate this committee's thoughtful consideration of this important topic.

Thank you and I look forward to your questions.

Dr. E. Scott Adler: Professional Background

Scott Adler is Vice Provost and Dean of the Graduate School & Professor of Political Science at the University of Colorado Boulder. He is also Former Founding Director of the American Politics Research Lab. Dr. Adler has spent most of his 25-year career at CU Boulder studying the organization and performance of the U.S. Congress, and his current research examines congressional agenda setting and committee power. Among his many publications, he is the author of Why Congressional Reforms Fail: Reelection and the House Committee System and co-author of Congress and the Politics of Problem Solving. Dr. Adler received his B.A. in political science from the University of Michigan, and his Ph.D. in political science from

Columbia University, and was a member of the American Political Science Association's Presidential Task Force on Congressional Reforms.

Improving the Legislative Operations of Congressional Committees

E. Scott Adler
Professor of Political Science
Dean of the Graduate School
University of Colorado Boulder

Jeremy Gelman
Assistant Professor of Political Science
University of Nevada, Reno

Summary

Our recommendations for modernizing Congress begin from a straightforward premise: members put more effort into legislating when their ideas have a chance of becoming law. As such, we have developed two recommendations that will make the legislative process more effective, efficient, and transparent; that respond to bipartisan concerns raised about the bill development process; and account for the contemporary realities of congressional lawmaking. These two recommendations work best when adopted together but can be implemented separately. We also make a third recommendation regarding committee jurisdictions.

1. Standing committees move to an annual authorization process.

Annual authorizations encourage committees to create a more routinized approach to legislating in order to provide reliable opportunities for lawmakers to update public policy and oversee executive branch agencies and programs.

2. A procedural change, “guaranteed regular order” (GRO), which ensures committees and other members play important roles in developing major authorization bills.

Guaranteed regular order provides a procedural pathway for committees to ensure their work is considered and that other members can offer their input and expertise.

For standing committees, adopting an annual authorization process and/or GRO bolsters their lawmaking and oversight roles. For members, these reforms will foster civility, collaboration, and bipartisanship. It provides a venue for them to continually interact and build relationships with colleagues who share similar policy interests. Both standing committees and lawmakers stand to gain from adopting these reforms.

3. Committee jurisdictions should be left as they are unless and until there is widespread and bipartisan consensus for a wholesale reconfiguration of committee policy authority.

Goals

In developing these recommendations, we were guided by four goals:

1. Reinvigorate Congress’s oversight of executive branch agencies and fulfill Congress’s constitutional obligation to create and update federal law.
2. Reestablish the role and authority of committees, particularly authorizing committees, in the lawmaking process.
3. Incentivize lawmakers to invest in policy specialization and law development and bolster bipartisan participation in committee bill development.
4. Enhance stakeholder investment in committees as policy agenda setters.

Recommendations #1: Annual Authorizations

As one of the primary mechanisms for Congress to legislate, evaluate program effectiveness, and oversee the executive branch, the authorization process has steadily withered over several decades. We propose to reinvigorate and expand congressional authorizations in a manner that bolsters committee policy involvement and creates more opportunities for bipartisan participation by lawmakers. Annual authorizations would work as follows:

- As a first step, committees are required to markup one bill per year that reauthorizes an expiring or expired federal program, unless waived by a 3/5 majority vote by the full committee.
- Gradually as lawmakers and staff increase their familiarity and comfort with the reauthorization process, committees fold more of their expiring legislation in a growing annual authorization.
- For matters involving the jurisdiction of other committees, either:
 - before offering any amendment that involves the jurisdiction of other House committees, committee members provide a letter from the respective committee chairman indicating a waiver of the right of referral.
 - if the other committee chooses not to waive its jurisdictional rights, the Speaker can provide for a sequential referral with the committee of jurisdiction over the annual authorization being the “primary” committee.
- Bolster the lawmaking activities of subcommittees through committee rules that divide up sections of the annual authorization by subcommittee jurisdiction.

Justification

Among the leading factors in the diminished role of committees has been Congress’s inability to complete, and in many cases even consider, the reauthorization of expiring programs, agencies and laws.¹ For a very large number of committees, the lack of reauthorizing activity leaves the committee with little active role in lawmaking.² One very notable exception to this pattern is the National Defense Authorization Act (NDAA), with its 60 years of uninterrupted passage. The NDAA offers a striking example of how committees, operating in a bipartisan manner, are central to lawmaking and maintain congressional oversight of executive functioning.³ We propose that other committees emulate this same process for their yearly activity. The aggregation of critical lawmaking into bigger authorizations allows committees to combine the agendas of different members and increases the likelihood that a lawmaker’s priority legislative language is adopted.

The intent of expanding annual authorizations is to reestablish congressional control of programs and agencies by taking them off autopilot and returning them to a regular in-depth review of their effectiveness and an updating of their enabling legislation.

Advantages

¹ Adler, E. Scott, Stefani R. Langehennig, and Ryan W. Bell. “Congressional Capacity and Reauthorizations.” In *Congress Overwhelmed*, 191–208. University of Chicago Press, 2020.

² See Sinclair, Barbara. *Unorthodox Lawmaking: New Legislative Processes in the US Congress*. 5th ed. Washington, D.C: CQ Press, 2017; Curry, James. “Change and Continuity for Committees in Congress,” in *New Directions in Congressional Politics*, Jamie Carson and Michael Lynch, eds. Second edition.

³ Chuzi, Amanda. “Defense Lawmaking.” *Columbia Law Review* 120.4 (2020): 995-1034.

- Ensure that governing keeps up to date with changing circumstances and congressional priorities (Goals 1 through 4).
- Incremental changes associated with single-year authorizations lower the stakes for losing coalitions, providing opportunity to revisit legislative decisions annually (Goals 1 and 2).
- Provide lawmakers and staff regular authorizing activity to prevent institutional atrophy (Goal 3).
- Ensures that lawmakers and their staff keep in regular contact with policy stakeholders in executive agencies and outside of government (Goal 4).
- Ongoing opportunities for positive and productive interactions amongst lawmakers of both parties and a place for open discussion of policy differences (Goal 3).
- Regular opportunities for lawmakers to have their policy ideas seriously considered and included in important legislation (Goals 1 and 3).

Other Considerations

- The Senate lawmaking process and bills may need to be adapted to fit the new House legislative format.
- Requires long-term and bipartisan commitment to a sizable committee workload from chairs and rank-and-file members.
- Likely to require a variety of augmentations of congressional staff (many of which are part of prior SCMC recommendations):
 - Expansion of some committee staff and investment in retaining those staff.
 - Creation of non-partisan committee staff positions.
 - Expansion and investment in congressional support units (CBO, CRS, etc.).

Recommendation #2: Guaranteed Regular Order (GRO)

Guaranteed regular order provides a procedural pathway that ensures a bill is considered once it leaves committee, provides committees more control in developing a bill's content, requires a more open and deliberative legislative process, and incentivizes lawmakers to invest in a measure's development. GRO works as follows:

Every calendar year, each standing committee has one opportunity to move a major authorization through guaranteed regular order. GRO bills differ from other measures in two important ways: 1) they are privileged business, like appropriations bills or budget resolutions⁴ and 2) they include a set of procedures that affects how they are treated throughout the legislative process. Committing to GRO begins in the standing committees, in which the following procedures must be followed:

- The bill authorizes a major program and is marked up in the full committee, during which majority and minority party amendments are considered.
- When reporting a bill, the standing committee includes a:
 - letter informing the chamber that the bill meets the GRO requirements and should be treated under GRO procedures.

⁴ Per clause 5(a) of Rule XIII

- recommendation for the bill's special rule, including the amount of floor debate and amendments the committee prefers.
- slate of bipartisan conference committee members to be appointed in case the chambers must resolve differences.

After a bill is reported from committee:

- The Rules Committee can write a special rule, with the only restriction being that the Rules Committee cannot adopt self-executing provisions that alter the bill's content. If the Rules Committee does not adopt a special rule, the GRO bill remains privileged business and can still receive floor consideration.
- If a conference committee is appointed, the Speaker of the House can appoint the committee's recommended slate or add additional committee members to it.

Justification:

When a committee invests in developing policy, it needs confidence its legislation will be considered. GRO provides this opportunity. It enhances committee control over its major authorizations and provides open, deliberative policy development. GRO facilitates a legislative process that is effective in the modern Congress by creating a reliable, annual lawmaking opportunity during which members can revise programs, conduct oversight, and attach their smaller, germane measures to a larger bill.⁵

Advantages:

- Creates a reliable opportunity committees can use to move important legislation, with the knowledge that its work will not be undone later in the legislative process (Goals 1 through 4).
- Addresses members' preference to return to regular order in a meaningful way (Goals 2 and 3).
- Increases minority party members' opportunities to participate in the legislative process (Goal 3).
- Bills developed with bipartisan input have a better chance of passing the Senate and being signed into law,⁶ and creating durable policy changes⁷ (Goals 1, 2, and 4).
- Provides more opportunities for lawmakers to have their ideas considered and voted on (Goal 3).

Other Considerations:

- GRO may not produce more bipartisan votes on major reauthorizations than bills developed using 'unorthodox' legislative procedures.⁸

⁵ See: Adler, E. Scott and John Wilkerson. 2013. *Congress and the Politics of Problem Solving*. Cambridge University Press.; Casas, Andreu, Matthew Denny and John Wilkerson. 2020. "More Productive Than We Thought: Accounting for Legislative Hitchhikers Reveals a More Inclusive and Productive Lawmaking Process." *American Journal of Political Science* 64(1): 5-18.

⁶ Curry, James M. and Frances E. Lee. 2020. *The Limits of Party: Congress and Lawmaking in a Polarized Era*. University of Chicago Press.

⁷ Maltzman, Forrest and Charles Shipan. 2008. "Change, Continuity, and the Evolution of the Law." *American Journal of Political Science* 52(2): 252-267.

⁸ Curry, James M. and Frances E. Lee. 2020. "What is Regular Order Worth? Partisan Lawmaking and Congressional Processes." *Journal of Politics* 82(2): 627-641.

- The House’s transition away from regular order was pursued as a means of avoiding deadlock.⁹ The same issues that moved the House away from regular order persist and are more prevalent.
- Open amending processes allow for messaging votes members may prefer to avoid.
- More public negotiations can make it more difficult to reach a bipartisan deal.¹⁰
- In practice, scheduling GRO measures for floor consideration requires coordination between majority party and committee leaders. By privileging these bills, while offering a path through the Rules Committee, it is more likely the House will consider the committee’s version.
- Adopting GRO would require modifying the House’s rules.

Connection Between Annual Authorizations and GRO

Annual authorizations and GRO complement one another but can be adopted separately. Annual authorizations would work more effectively if moved through the GRO process. GRO would be more readily adopted and used more often if the House moved towards annual authorizations. However, neither requires the other to work. As the NDAA shows, annual authorizations are viable without new procedures being adopted. Standing committees can use GRO to move large authorizations whenever they decide to address that topic. Each reform, and its benefits, stands on its own.

Recommendation #3: Leave Committee Jurisdictions Alone

Committee jurisdictions are a constant source of debate and have been a target of reform movements at many different points in modern congressional history. There are nearly infinite permutations and combinations of policy areas, with no ideal set that would result in optimal lawmaking activity. The one thing that is certain is that proposals for the reconfiguration of policy jurisdictions will be met with fierce opposition and can likely poison the waters for other well intentioned and considered reforms.¹¹

While improvements can be made on the margin, substantial and meaningful changes require a wholesale restructuring that would likely also need the alignment of Senate committee jurisdictions. Unless and until the entire Congress – leadership, committee chairs, rank-and-file, both parties – have the inclination and time for a top-to-bottom restructuring it is not worth the very costly political capital to do any rearrangement of policy jurisdictions.

⁹ See: Sinclair, Barbara. 2016. *Unorthodox Lawmaking*. CQ Press: Washington DC; Curry, James M. and Frances E. Lee. 2020. *The Limits of Party: Congress and Lawmaking in a Polarized Era*. University of Chicago Press.

¹⁰ Curry, James M. 2015. *Legislating in the Dark*. University of Chicago Press.

¹¹ Adler, E. Scott. *Why Congressional Reforms Fail: Reelection and the House Committee System*. Chicago: University of Chicago Press, 2002.

The CHAIRMAN. Great. We have got a bit of time for questions before they call votes.

It seems like there is three themes that kind of came out in your testimony. One is, some of this is around sort of the norms of the committee, right? So, in Armed Services, it functions in a bipartisan way because it has always functioned in a bipartisan way, and there are some sort of norms in that regard.

One theme is around committee capacity, and, you know, you have seen some diminishment of committee capacity over time, the budgets for committees and those sorts of things.

And then three is, you know, some of your tips that you provided around how to empower individual rank-and-file members, particularly in an environment where, more often than not, particularly on the big stuff, you have seen more and more centralization of power.

So if time permits, I hope we get a chance to pull on all three of those threads.

Let me ask, you know, because, Ms. Simler, you mentioned how in Armed Services some of the staffing is not necessarily—the committee is not necessarily staffed where you ask what party are you affiliated with.

I came out of a State legislature that we had nonpartisan committee staff, that, you know, their job was to help identify big problems and write the legislation. And then we had partisan committee staff that would also give their input but more from the angle of politics.

We have this on Armed Services kind of, and this committee has it, but that is a choice. I don't know if you have thoughts about how to incent that, whether that is a good idea, whether committees should have some funding that could be solely used for non-partisan staff.

I would be curious, maybe to Ms. Simler or Dr. Adler, or both briefly. I want to make sure we can get to as many people as time, so if you can keep remarks short.

Ms. SIMLER. I don't think it has to be a binary choice, and I don't want to leave the impression that the committee staff on the Armed Services Committee are on some sort of ivory tower of only pure policy thought. This is a political institution, and to be successful as a member of the staff, particularly in terms of committee staff, you need to have that substantive subject matter expertise but also the political antenna, if you will, in order to make sure that you are advising members of, first, what the right policy outcome is, but what does the political landscape look like, and can that landscape be shaped to achieve that policy objective, or does the policy objective perhaps need to be fine-tuned so you can at least make incremental progress.

So I would say I don't think it has to be binary. Although, I do believe that the approach that is—to committee staff that is taken in terms of looking at subject matter expertise first, is an appropriate one, because there has also a role for personal staff and then, of course, leadership staff to build that political advice for members.

The CHAIRMAN. Go ahead.

Mr. ADLER. I would very much agree that there is a utility in having nonpartisan staff. As you mentioned, right here on this committee, you have a mix of partisan staff and nonpartisan staff. And I think, in a lot of ways, having staff that isn't necessarily attached to the majority or attached to the chair specifically but continues the institutional knowledge over time as well, have a mission of not necessarily carrying out the agenda of one party or the other but of fulfilling the responsibilities, the legislative responsibilities of the committee is very important.

And I think it also helps to build those bridges across the aisle where there may be difficult questions, that those staff that are nonpartisan are meant to adjudicate where the best place for policy is and work out some of those differences.

The CHAIRMAN. Go ahead.

Mr. TIMMONS. Just do one quick question. I think in order to facilitate these policy conversations, we need to both incentivize collaboration, because at the end of the day, we are going to need 60, 70 percent of the middle to come to terms with whatever we are pushing.

And then the other thing is disincentivizing conflict entrepreneurs. So if we are going to incentivize collaboration for the purpose of policymaking and also disincentivize conflict entrepreneurs, what are your thoughts on just one or two ideas in each of those areas?

Mr. PAYNE. So off the top of my head, because I haven't really contemplated that, I think one thing you heard, particularly from former Chairman Upton, is committee leadership makes a difference. Right? I was fortunate to work for two Republicans who had a view that felt like we should be trying to do as much as possible on a bipartisan basis.

And mind you, it is not like Ways and Means is known—Ways and Means doesn't have the reputation HASC does for, like, being all bipartisan, right? There is lots of shirts-and-skins stuff that happens at Ways and Means.

But a few of you have been around long enough to remember, perhaps, Republican Ways and Means chairmen who didn't have that view and who were extremely partisan. And so you just couldn't do this type of thing without having that leadership at the committee level. So that is one.

But, two, that same leadership can help frame a landscape or structure of engagement to minimize the benefits of that kind of entrepreneurialism, Mr. Timmons, you talk about, if those members aren't given the opportunity to participate in the roundtable or the subcommittee or the working group.

So a lot of this, I think, really does stem from what structure the chairman is going to impose, and then, you know, to the extent that the chairman and ranking member can reach agreement on some of those structures so they have the same incentives on both sides of the dais, that is a big task to ask, particularly when you are in the minority, right? You have a certain mind-set when you are in the majority about what it is you are supposed to do on committee.

So it is probably more incumbent on the chairman and the ranking member from that perspective, but it really makes a difference

as to who is leading the committee, in my experience, as to how viable any of those things are.

The CHAIRMAN. I think what is tricky about all of this—and now I have got Mr. Latta and Mr. Cleaver—committees can do a lot of the things that you have raised now. Right? They can have informal dialogues. They can have—as Chairman Upton said, you know, if an amendment was bipartisan, we took that up first. They can do committee travel.

The question is, is there something that our committee could recommend to incent some of that good behavior. Right? I don't know if you have thoughts on that, but I would value your two bits if you do.

Mr. ADLER. Well, one of the things that I was going to say, which I think touches on both of these questions—and I am getting back to one of the bigger points in my written testimony—there is no magic bullet to lower the heat.

We saw that when committees were doing regular legislative activities, like a reauthorization—and I will talk about Appropriations or Armed Services, the ones that are doing it on an annual basis—I know that that is a hard thing for a lot of committees to do, and it is hard for us to imagine certain committees ever being able to do reauthorizations on an annual basis.

And I am talking about folding together a lot of what they normally do stretching over many years but renewing it every year, similar to how the Armed Services Committee does the NDAA. It can lower the heat. Knowing that issues can come back up for consideration each year, it can lower the stakes over what is being decided at any given moment.

Now, of course, it does scare a lot of folks who think that, well, what if we don't get this done, do all these programs go away? And then, of course, there are other members who would love to see programs go away.

But getting the committees in the rhythm of thinking that every year they are going to revisit this large reauthorization, I think, will build up those relationships, those important relationships that have to exist in order for them to legislate but also give them some confidence that what decisions are made today, if they truly don't work out, if the policies require some updating and some revisiting, that will be—that opportunity is there again next year and the year after.

So I think it is worth considering the possibility that some of the committees might work better, might work in a more collaborative fashion—the members get to know each other better—by having that kind of rhythm to their schedule.

The Chairman. Mr. Latta, and then I got you, Mr. Cleaver.

Mr. Latta. Well, thank you very much, Mr. Chairman. And thanks to the panel today.

First, let me just say this: I think that, you know, I pointed out in the past that when we look at our committee's again, they are so important. That is where we get our work done.

And I think two things. I think that, number one, our committees are too large, there are too many members. I am just kind of—just out of consensus, do you all—because, you know, when I look back at this chart right here—this is Energy and Commerce—in

1947, Energy and Commerce 27 members. This year we have 58, and it has just gone up. So that is one of the issues.

The other issue I have is that we have—Members serve on too many committees. And I think to your point, you said, you know, you get to know your constituencies and the Members are very similar. Well, you don't have that when you serve on too many different committees.

So to tie that together, when you talk about, like, block scheduling, I think that one of the things that has come out, and maybe, Mr. Payne, you would like to talk about this—we have a real problem around here just trying to get our committees to operate, and because we don't have the time set up where it is, like, you are on a certain time, this is when you have to be in committee where we get things done. Could you just comment maybe on block scheduling?

Mr. PAYNE. Yes, sir. Having dedicated time where the committees know they can meet and you are not going to be interrupted by votes, it is vital to having the—you know, Chairman Upton talked about taking 3 years, right, to do Cures. That means they probably did that in 2-, 3-, 4-hour chunks at a time. Right? And so you need that kind of time in order to be able to have a really robust discussion and debate.

And so having time blocked off for the committees to operate—and the committees can choose how to use them. Maybe that is when you have all your full committee hearings. Maybe that is when you have all your subcommittee hearings. Maybe that is when you do your roundtables, your markups.

But having dedicated time the committees know will not be interrupted, that is an incredibly important resource, from just thinking of it from a staff's perspective, in being able to plan and know that we are going to have members there when we need them there.

I mean, Ways and Means is a pretty small committee, so we didn't have some of the challenges that you are talking about, but that was just a function of the fact that we were a relatively small committee.

Mr. LATTA. Thank you.

The CHAIRMAN. Mr. Cleaver.

Mr. CLEAVER. Yeah. Thank you, Mr. Latta, for those questions. I am right with you on that. I think it is ridiculous.

I would suggest—and I think I may have said something to the chairman about this previously. I would suggest that we do need to restructure how we operate in terms of committees and all that. I think that is important. But I think far more important, at least as I see it, is the annual, almost now traditional, moments where we surrender greater and greater authority to the executive branch of the government. I don't think we are going to be able to have a full appreciation for what we do when we depreciate ourselves in favor of a coequal branch of the government.

You know, there are a lot of examples. One of them, I mean, December 8, 1942, it is the last—just think about this—the last time the Congress of the United States declared war. So we shouldn't have had any fights after that. I mean, because that is the last time we declare—well, actually, we declared in 1941, and in 1942,

we amended it, amended to include Bulgaria, Romania, and Hungary, the allies of the Axis.

But yesterday—2 days ago I heard on the news, they were interviewing a woman, an attorney here in D.C., who said, the President needs to go over to the Senate, call Pelosi over to the Senate, and tell them, you cannot go home in August unless you finish this agenda.

You know, I don't know what people take—what courses people take in law school, Attorney Perlmutter, but, you know, we got a civics problem in the country. But we are victims ourselves, because we just surrender all of the authority of the House of Representatives to the President. I don't care who is in power. I don't care who is in power. You got it, Mr. President, tell us what to do.

And it bothers me, particularly when I realize that, you know, we are surrendering, and then we don't get a chance to run our operation in a way in which—you know, we don't surrender to the chairs, the leadership, you know. We are going to vote on stuff, and I will bet you less than 80 percent of the people had anything to do with it.

I am through.

The CHAIRMAN. Anyone want to respond to that?

Mr. ADLER. So I might respond to both comments. First, I agree with you that Congress needs to be in a position to be a coequal partner in governing. I would say the places in which Congress has retained that—I will go back to the NDAA, Armed Services—it really has retained that because of the strength of those two committees on the House and Senate side.

Mr. CLEAVER. Yeah.

Mr. ADLER. They are very involved. And I think that—personally, I believe that committees are the key to that, that expertise, building that expertise, and that specialization both on staff and with Members, the longevity that they serve and reexamining the policy in that area.

So I think committees are critical for doing that, and, of course, critical for engaging lawmakers in this process.

And back to Representative Latta's point about too many committees. Before you arrived, I think Vice Chair Timmons mentioned that there were overlapping committee hearings or meetings, and, of course, the reason for that is because you all serve on several committees at once.

Now, the motivations for that are multilevel. Members want to be able to be involved in policymaking in several different areas, as well the leadership would like to be able to give you good committee positions. So by reducing those assignments, of course, you are taking that away both from the leadership and individual lawmakers.

The only other—you can't invent more hours in a day. So the only other choice is to spread the meetings out which, of course, has other sorts of political costs.

Ultimately, I agree with you, though. I think we probably should have Members specializing a little bit more, doing—spreading themselves less thin across the entirety of Federal policy and focusing in on their work in a couple of areas rather than across four or five.

The CHAIRMAN. Do you have any questions? Go ahead.

Mr. PERLMUTTER. Yeah, a couple questions and just a comment.

Mr. Payne, I think you were spot on when you were talking about the bipartisanship sort of comes from the leadership of that particular committee. And, you know, I think just in my current situation, I have got two very bipartisan-type chairs, and I have got two—the committee itself is a partisan committee, the Rules Committee. But another committee is pretty partisan, and it makes a big difference in how the rest of us manage our affairs.

And so, you know, HASC has generally had a pretty bipartisan-type leadership. Everybody is engaged, and so I think that is important, and we are in a much more centralized setting, where we have ceded not just authority to the executive branch but to leadership.

And I personally—you know, that is why I asked the question of DeGette and Upton, you know, in their putting that bill together, did they have fun. Because at the end of the day, you know, we want to be proud of our craft and what we do for the people. And I don't know if any of you want to comment about that.

And the other thing I was going to talk about were the staffdels. We have taken advantage of the German Marshall Fund and had our staff participate in that, and I know it has been great for everybody. So just a couple comments and, you know, the development of trust is sort of key to all of this. And I will shut up.

Mr. PAYNE. The one thing I might respond to, sir, is the importance of getting this into the DNA of the committee, because if you want to create a setting where you are more likely to have future leaders of the committee who endorse the bipartisan aspect—no chairman becomes chairman, and no member becomes ranking member airdropping into a committee. They have been on the committee for a number of years before that happens.

So if it starts whenever you can start it, and it becomes part of the committee's DNA, it becomes self-reinforcing that future leaders will continue to endorse that type of approach.

Ms. SIMLER. Just comment kind of addressing Mr. Cleaver and Mr. Perlmutter and the chairman's comments. I do think—I agree, I am concerned about the acquiescence, if you will, of power to the executive branch. I do think part of the solution to that does go back to committee work and building—just building that muscle of legislating makes it less, I think, worrisome for both leadership and individual members about having to take tough votes and to reclaim that constitutional authority. So I do think that there is something to that.

And, Chairman Kilmer, to your question about incentives to the committees to do all these things that we have been talking about, because they do have a lot of the authorities they need, I will steal one of Dr. Adler's recommendations a little.

I do think there is something to be considered regarding some kind of expedited floor consideration for legislation that meets certain criteria. And that could be something this committee works on in terms of what those criteria look like, but that might be an additional incentive, as well as disabusing Members of this notion that somehow bipartisanship and transparency and consensus-building means that you lose political leverage. That is not the case.

Actually, transparency and bipartisanship and cooperation, if done correctly, allows each party to build a communications plan that lets them advocate for their positions and to build that case for the public and still get the political wins that they need. So that is my recommendation.

The CHAIRMAN. That bell you heard was votes, so I may have us go into quick speed round. Go ahead, Vice Chair Timmons. I know you had one more issue.

Mr. TIMMONS. We should leave the committee jurisdictions alone, and it doesn't really matter if we try to because they are not changing. But, you know, the other question is, cybersecurity is such a pressing issue. Any legislation which is comprehensive, which is long overdue, would have to go through like a dozen House committees and at least half a dozen Senate committees. It is just really hard, so I mean, what do we do about that?

Mr. ADLER. Yeah. So since 9/11 and the creation of Homeland Security jurisdictions—well, Homeland Security itself, its jurisdiction is spread out among, it must be a dozen other committees—it is a very large number—and then, of course, cybersecurity similarly so.

And, unfortunately, there are those overlaps, which are—over the years, we have seen efforts to shave, on the margin, the jurisdictions of certain committees. And that is easiest done at the beginning of the term—particularly if you have turnover in the majority, the new majority can do that.

But I would say, as a whole, my recommendation as a whole, trying to reorganize all of the committee jurisdictions is a fool's errand. You will end up killing every other good recommendation you have because that will just be way too difficult to do, so I would recommend you stay away from it.

Shaving on the margins might be one thing, but a wholesale restructuring is something that really just will be the end of all the other good recommendations you are going to have.

Mr. CLEAVER. Our lives. Our lives.

The CHAIRMAN. Yeah, exactly. As someone who wants to not be murdered, it is—so—and I may have this end with this: You wrote the book on failed reform efforts. Having said that, there has been some past efforts at reform that have been successful. There was intent behind pulling power away from chairs.

Now, I think the unintended consequence is that power has been vested in—has been centralized, so that rank-and-file members may not feel the sense of efficacy that, you know, that many, I think, Members want, and many committees may not have that sense of efficacy, particularly on the big stuff, where often it will happen through omnibus or something like that.

And I don't know if you have thoughts about if there are recommendations that this committee could make. So I am on Appropriations, and last week we were sitting—members were having lunch together, and a senior appropriator, a Republican, said, you know, this place really vested more and more power in leadership.

And so I asked him, I said, how do you change that? And he goes, well, it is just a choice by Members and it is a choice by committees. And I was, like, but is it?

So I guess my question to you is—and maybe we can take it off-line if you have more than 60 seconds' worth of thought about this,

but—so are there recommendations this committee could make—and I say this without any disrespect to leadership on either side of the aisle, but with a view that members want to have a sense of efficacy, that committees, to meet Mr. Latta's point, if committees are going to be the place where policymaking happens, something needs to change. Any thoughts on that?

Mr. ADLER. Well, as you said, it is more than a 60-second conversation, but I think that, ultimately, the caucus can make these decisions about how they want to structure themselves.

Now, that is not easy, as you said, and, of course, what we are talking about is shifting—we will call it shifting—some of that authority away from the centralized leadership, the party leadership, to committee chairs. And I will say that historically we went the other direction, but that is what was seen as necessary at the time.

Now, there needs to be another reinvestment. And I think one of the ways to characterize this is that is what—that it is also what can be good for individual Members as well. It can help them to present themselves as effective and engaged lawmakers.

I think right now the emphasis on grandstanding and position-taking has overtaken what used to be seen as, this is how you make your name as being an effective lawmaker. And I think that a lot of Members could—they want to be reelected, and they do a good job representing their constituencies, but representation needs to happen at the legislative level more so than at just simply position-taking.

The CHAIRMAN. We are going to have to leave it there. And I apologize in advance, because I think all of us would like to come and talk with you a little bit more as we wrap up, but we have to run and vote. So let me thank all of our witnesses for their testimony.

Let me thank our committee members for their participation and our staff for putting together yet another terrific hearing with wonderful experts. So thank you and thank you for being here.

Without objection, all members will have 5 legislative days within which to submit additional written questions for the witnesses to the chair to be forwarded to the witnesses for their response. I ask our witnesses to please respond as promptly as you are able.

Without objection, all members will have 5 legislative days within which to submit extraneous materials to the chair for inclusion in the record.

And, with that, this hearing is adjourned. Thanks so much.
[Whereupon, at 3:17 p.m., the committee was adjourned.]