

**MEMBERS' DAY HEARING ON PROPOSED RULES
CHANGES FOR THE 117TH CONGRESS**

MEETING
OF THE
COMMITTEE ON RULES
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTEENTH CONGRESS
SECOND SESSION

THURSDAY, OCTOBER 1, 2020



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THURSDAY, OCTOBER 1, 2020

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RULES,
Washington, DC.

The committee met, pursuant to call, at 1:05 p.m., via Webex, Hon. James P. McGovern [chairman of the committee] presiding.

Present: Representatives McGovern, Torres, Perlmutter, Raskin, Scanlon, Morelle, Shalala, Cole, Woodall, and Lesko.

OPENING STATEMENTS

The Chairman. The Rules Committee will come to order. This Members' Day hearing is an opportunity for us on the committee to do something radical—to listen more than we talk. This is a chance for us to hear from our colleagues on both sides of the aisle about their ideas for the next rules package. Regardless of who controls Congress next year, I think we can all agree that running this House with integrity means listening to all members. So that is what we are going to be doing here today.

We took a similarly collaborative approach with the rules package for this Congress, and I am proud to say it led to the first bipartisan vote on a rules package in decades. That didn't just happen; it took time, a lot of conversation and a willingness to acknowledge that no party has a monopoly on good ideas.

I am proud of what we created together, things like the consensus calendar to expedite consideration of ideas with broad bipartisan support; the diversity office, to get the Halls of Congress looking more like the real world; and the Modernization Select Committee, to advance good ideas from both sides that get this place functioning better. And although we were already holding these Member Day hearings in our committee, we also require that other committees hold them too, so that all members have a chance to be heard across the Congress.

Hopefully, more good ideas now have the chance to see the light of day and move forward. So I couldn't ask for a better partner in this process than our ranking member, Tom Cole. We come from different parties, but we share the same dedication to this institution. We want it to work better not for one political party or the other, but for the American people, because that is really what this is all about. A well-functioning House allows us to tackle the issues that can make a positive difference in peoples' lives. And that is why we all ran for Congress in the first place.

Before I turn to our ranking member, I want to acknowledge that today—today is the first day on the job for the House’s new parliamentarian, Jason Smith. Mr. Cole and I said a lot about him and his predecessor, Tom Wickham, on the floor last week. I am not going to repeat all the stuff, but suffice it to say, that our members spend a lot of time consulting with the parliamentarian’s office.

So I think we can all agree that it is fitting that he is starting his career as parliamentarian on a Rules Committee Member Day. So now I want to turn to our ranking member, Mr. Cole, for any comments that he would like to make. Is he not hearing me? So I think we have a little bit of a technical glitch here. We will just wait a minute while Mr. Cole gets—I can hear you, yeah.

Mr. COLE. It is working?

The CHAIRMAN. So Mr. Cole, I said a whole bunch of nice things about you. So I am not sure if you were plugged in when I said them.

Mr. COLE. Just now?

The CHAIRMAN. Yeah. I just said a whole bunch of nice things about you.

Mr. COLE. Oh, Mr. Chairman. Yeah, this is a prehearing so it is not recorded in any way, so you are in the clear.

The CHAIRMAN. No. We are in the hearing.

Mr. COLE. Are we? Well, thank you for saying nice things about me.

The CHAIRMAN. So anyway, I just said a whole bunch of nice things, and now I am yielded to you for any opening remarks.

Mr. COLE. I will reciprocate. I will take your word that you said nice things, so I would feel obliged to say nice things back, but they are pretty easy to say. First of all, Mr. Chairman, I want to thank you for holding the hearing, quite sincerely. I don’t think there is any more person dedicated to the institution than you, and, frankly, dedicated to making it member-friendly and having a form where we try to make this as responsive to each individual member as an institution as we can be while we discharge our functions.

You have been a good partner in defending the powers and prerogatives of the institution, and, again, trying to position members where they can be successful as they fight to achieve what is in the best interest of the people who sent them here and the interest of the country as a whole. So I look forward very much to the ideas we will hear today. I have no preconceptions.

I would be shocked if I agreed with every one of them, but I appreciate every one being offered, and I know the members coming to present ideas are doing it, again, in the best interest of the institution. So I thank you very much for making this forum available to our colleagues. I look forward to working with you to see if there are suggestions that we can, in a bipartisan manner, work on together to try and improve the functionality, the flexibility, and the effectiveness of the House of Representatives. And I know that we all want to do that, and I applaud you for your leadership.

With that, I yield back, Mr. Chairman.

The CHAIRMAN. Thank you very much. Ranking Member Cole yields back. And I am grateful for his opening, and we will be calling up our witnesses today in panels as they log on to the virtual platform. So I would like to welcome our first panel to provide tes-

timony on proposed rules change for the 117th Congress. We are delighted to have you.

Without objection, any written materials you submit to RulesDocuments@mail.house.gov before the conclusion of this hearing will be entered into the record.

So our first panel is Majority Leader Hoyer, Majority Whip Clyburn, Chairman Thompson, Mr. Langevin, and Ms. Eshoo. So we will yield to our Majority Leader Mr. Hoyer.

**STATEMENT OF THE HON. STENY HOYER, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF MARYLAND**

Mr. HOYER. Thank you very much, Mr. Chairman. I am glad to be with you today, and I thank Mr. Cole as well. I think the House is advantaged by the relationship that you and Tom Cole, as the ranking member, have, and the fact that both of you care about the institution.

And I might start my remarks with, no matter what we do in the rules, no matter what our rules say, if we don't have comity and respect for one another, the rules will not make us work better. They can set great guidelines for us, they can be the rules of conduct, they can be the rules of how we consider bills, but one of the things that we all need to work together in the next Congress is to raise the respect for one another, raise the consideration from one another, and I think, Mr. Chairman, you and the ranking member reflect that kind of attitude on working relationships.

So I appreciate the opportunity to participate in today's Members Listing Day on the rules package for the House in the 117th Congress. As we look ahead, many are anticipating a busy start to next year. I certainly do. Our rules ought to facilitate the House's ability to move swiftly to address the most pressing challenges facing our country.

Others have spoken, or will speak, I am sure, at length about several of the proposals for next year's rules package, including the importance of our pay-as-you-go rule.

But I want to focus on the restoration of congressionally directed spending. Now, that is a great phrase, and you and I both know, the press and the public will call them earmarks, but congressionally directed spending with the safeguards that Democrats put in place in 2007 and 2009. Very, very important.

The safeguards are discussed at the same time we discuss the focus on congressionally directed spending. Let me add, before I go further, on the Pay-As-You-Go, that we created the paygo waiver for emergencies like the COVID-19 crisis, where we have to meet a serious threat by investing in immediate priorities and needs.

We now have substantial fiscal challenges, however, about that, and they will confront us in the years and years ahead. And we must work responsibly together to address them in the coming years. With regard to congressionally directed spending, after abuses in the system were brought to light, we implemented significant reforms, as I have referenced, that made it transparent and held members accountable.

A couple of those reforms are included in the rules, and a number of those reforms included in the committee rules. As you know, we restricted it to governmental or nonprofit recipients and re-

quired every request to be published online for the American people to see and judge.

One of those rules is in the rules of the House. We made the system work and kept it honest. Unfortunately, however, when our Republican colleagues took control of the House in 2011, they used congressionally directed spending as a partisan talking point, unfortunately, and eliminated this valuable tool for Congress, and surrendered part of our power to the executive branch.

Tom Cole just said, and I agree with him very much, that the powers and prerogatives of the institution need to be protected. I will speak just a minute about that. Restoring this power in Congress, I believe, is essential to restoring the balance of our constitutional systems of checks and balances. A major focus, Mr. Chairman and Ranking Member, if I am fortunate enough to be the majority leader in the next Congress, will be finding ways to restore that balance, that is, the balance between the executive and the Congress.

And looking how Congress can better assert the powers that our Founders intended us to have as a coequal branch of government, and as the sole authority on spending taxpayer funds. Not the executive.

That is why I think the restoration of the congressionally directed spending for projects is so important. And my belief is that Members of Congress elected from 435 districts around the country know, frankly, better than those who may be in Washington what their districts need, what their States need. And we ought to return to a time when members can make that decision, but obviously have that judgment reviewed by the other 434 Members of the Congress.

The Founders neither intended nor envisioned an expansion of executive power the kind we have seen in recent years. Through many administrations, Democrat and Republican, however, we have seen that concern heightened by the actions of the Trump administration. This President, in my view, sees Congress not as a coequal partner in governing, but as an impediment to his authoritarian tendencies. We must approach the issue of congressionally directed spending within this context.

Since the elimination of congressionally directed spending in 2011, decisions about funding requests for projects in communities across the country have been made by the executive branch, not by the Members of Congress, who, under the Constitution, are solely responsible for the spending of money.

Members know the needs of their districts, as I said, and are in contact on a daily basis with local leaders and civic organizations. That is why I strongly support restoring safe, transparent, and accountable congressionally directed spending in the 117th Congress. And I will work towards that end with whomever is the chairman of the Appropriations Committee.

Several of the reforms we adopted during our previous majority are still part of the current House rules, but others were adopted as committee practices, and we ought to consider whether codifying them in the House rules for the 117th Congress.

I want to thank Chairman Kilmer of the Select Committee on the Modernization of Congress, and his fellow committee members, Mr.

Chairman, for working hard on a number of recommendations for the next Congress, which include restoring congressionally directed spending. And I thank them for that.

I believe strongly that this spending ought not to be, however, conditioned in any way on the involvement of entities outside of Congress. Now when I say "involvement," let me explain that I mean without the necessity to have a check-off or an approval of a local official or State official. This is the Congress' judgment. However, obviously, we would involve all of those in communications for their advice and counsel on what spending may be helpful for local jurisdictions.

I, therefore, would say that we ought not to have any requirement for outside approval other than the voting Members of the Congress. I hope you will consider this proposal seriously, which can help us better serve the people and communities that we represent.

Again, I want to thank you, again, for holding the Listing Day and for the hearing the many important and positive ideas members are bringing to the table for next year. I would close as I began, however. I think all of us as leaders, as Members of the Congress of the United States, when we get through this toxic, partisan battle that we are now participating in, hopefully we will be able to restore the kind of comity, Mr. Chairman, that I experienced and you were working in the Congress and I was a Member of the Congress, the kind of comity that we not only had on the Rules Committee, but we had in the Congress of the United States.

One of the finest members with whom I have served in the Congress over the last 40 years was Bob Michel, who is the minority leader. He was a partisan Republican from Peoria, Illinois, the middle of our country. He cared for his party and was his party's leader, but he cared for his country, and he cared for the institution and he respected and worked with in a positive way his fellow members. I appreciated that. I think other members appreciated that. And as a member for over 20 years in the Appropriations Committee, when I came there, it was a very partisan committee. And Silvio Conte from your State, Mr. Chairman, was an extraordinarily good member. A passionate member, but also a very bipartisan member, and that is what we need. Not bipartisanship in the sense that I am going to change my philosophy or my Republican counterparts is going to change his or her philosophy, but that we both have a philosophy that your ideas are worth listening to as are mine, and we may disagree, but we can do so in a positive way and that furthers the work of the Congress of the United States and our country.

Thank you very much for this opportunity to be with you.

The CHAIRMAN. Thank you very much. I appreciate your testimony.

We are now going to go Majority Whip Clyburn.

STATEMENT OF THE HON. JAMES E. CLYBURN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. CLYBURN. Thank you very much, Mr. Chairman and Mr. Ranking Member, Ranking Member Cole, and members of the committee. Thank you very much for allowing me to participate in this

Members' hearing today to discuss what may be a way to take back the spending authority that we have under Article I of the Constitution, which, in recent years, have been ceded to the executive branch.

I joined this august body back in 1993. At the time, the appropriations process allowed members to direct funds to activities and communities they deemed worthy. This process directed a small percentage of the appropriated levels to be congressionally directed, thereby not adding anything to the cost of the spending bills. And in this process resulted in Federal agency employees with no knowledge of residents or their needs deciding on the merit of our requests.

Even efforts to make the process fairer, such as competitive rank process, is inherently unfair because they reward skills rather than needs. I represent many rural communities, each with its own challenges and needs. These communities have limited resources and are unable to hire grant writers and lobbyists. What these communities do have is a Congressman who lives among them, interacts with them regularly, understands their needs, and has been elected by them to represent their needs.

When I was first elected to Congress, I was told by my State's Secretary of Commerce that until the water problems in my district were solved, there was little chance of attracting the levels of investments needed to improve the health, education, and welfare of the citizens who had overwhelmingly elected me to serve them. I heeded his advice. I used the earmark process to secure funding through the United States Army Corps of Engineers to create and expand the Lake Marion Regional Water Agency.

Now I might add, I was criticized severely by many of the people in this district, because that to them was wasted Federal dollars. Well, we move not just to establish it, but to expand it. And it includes a six-county rural area.

Today, I am pleased to say that South Carolina won the first Volvo plant in this country because of that water system. And now they are creating what is to be 4,000 jobs in this rural area. Were it not for this water system, these jobs would surely have gone elsewhere.

Twenty-five years ago, South Carolina's economy was driven by textiles and tobacco, and many of these communities relied on them. Today, South Carolina's economy is driven by transportation and tourism. Twenty-five years ago, South Carolina had no Heritage Corridors. Today, it has two. South Carolina had no, what we call, national parks. Today, South Carolina has three.

The initial funding for the nationally acclaimed Call Me MISTER program, designed to recruit, educate, and train African American males to become schoolteachers in elementary schools. That program, started by Clemson University, was started with an earmark, and it is now a national program.

Many of the communities of my district have been chronically neglected over the years. I was elected to address these inequities and help these communities that have been mired in poverty for generations, to help them get their fair share. And while I have spoken to a few successes, many other communities in my district

are still struggling. They need clean water. They need sewage systems. They need targeted Federal investments.

Mr. Chairman and members, we can put into our rules the safeguards needed to protect the process from abuse. We should prohibit a member from sponsoring a project that they or family members have a financial interest in. We should require transparency so that the public can see what the members have requested. I have always been proud of the spending I have requested for my district, and I welcome the public knowing about every one of them.

As our district's elected representatives, our rules should empower us to request spending we need to be in the best interest of the people we represent. We do our constituents a disservice by ceding to the bureaucracy the power the Constitution has given us to improve the lives of our constituents and help them pursue their dreams and aspirations.

I thank you for the opportunity to testify on this important matter.

And I yield back any time I may have left.

The CHAIRMAN. Thank you very much. This is the Rules Committee. Endless time.

I now yield to Chairman Thompson.

STATEMENT OF THE HON. BENNIE G. THOMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Thank you, Chairman McGovern and Ranking Member Cole.

Mr. Chairman, 16 years ago the bipartisan 9/11 Commission recommended that Congress should create a single principle point of oversight and review for Homeland Security. That there should be one permanent standing committee for Homeland Security in each Chamber. At the time, the Commission acknowledged that their recommendation to reform congressional oversight was the most difficult to realize, but was among the most important of its recommendations.

When the 109th Congress convened on January 4th, 2005, the Committee on Homeland Security became the 20th standing committee of the House and the first new one since 1974. At that time, the Committee Black letter jurisdiction statement reflected the reluctance of other committees to relinquish jurisdiction to this new committee.

The structure of Committee of Homeland Security's jurisdictional statement is unlike any other authorizing committee. It does not include broad subject matter authority like, for instance, the Armed Service Committee has over common defense generally.

Instead, it utilizes a novel structure where it mostly limits Committee on Homeland Security Black letter jurisdiction to six narrowly-drawn activities within DHS.

Over the years, the inadequacy of this jurisdictional statement has been criticized in independent reports by a host of groups, including the bipartisan Policy Center, the Heritage Foundation, the Brookings Institution, George Washington University's Homeland

Security Policy Institute, and the Center for Strategic and International Studies.

A 2013 task force report by the Aspen Institute and Annenberg Foundation concluded that fragmented jurisdiction impedes DHS's ability to deal with three major vulnerabilities: the threats posed by small aircrafts and boats, cybersecurity, and biological weapons.

Yet, over the past 15 years, under both the Republican and Democratic leadership, that statement has remained unchanged.

It concluded that DHS should have an oversight structure that resembles the one governing other critical departments, such as defense or justice and their committees' claim in jurisdiction over DHS should have overlapping membership. And just this past August, Mr. Chairman, the Atlantic Council and its future of DHS project recommended reform explaining that more than 90 committees and subcommittees have jurisdiction over all or part of DHS, and that the best window of opportunity for this will be during the 90-day window between the November 3rd election and the start of the 117th Congress on January 4, 2021.

Chairman McGovern, I could not agree more. There is no question that the moment is right for reforming CHS's jurisdictional statement in the 117th Congress. Next year marks the 20th anniversary of the 9/11 attacks, a catastrophic event that drove the creation of the Department of Homeland Security, and, in turn, my committee.

Further, 15 years have passed in which there has been more than enough evidence to support the conclusion that our initial and current jurisdictional statement is inadequate and undermines CHS's ability to fully execute its critical role as DHS's authorizer.

Finally, we are in a moment where public trust in the Department is at an all-time low, given its role in the President's cruel immigration agenda, and, more recently, on the streets where protesters and calls for reform have grown more and more urgent.

DHS does not need dismantling, it needs reforming. But for that to happen, the Committee on Homeland Security must have adequate legislative authority to produce and bring to the floor a DHS reform package.

I have been on the committee since its earliest days, and am proud of the work we have been able to accomplish despite our jurisdictional limitations. However, the committee's woefully inadequate jurisdiction causes many functions of DHS, a wide-reaching agency with collaborative missions in many fields, to fall under the jurisdiction of far too many competing congressional committees. The resulting web of referrals has bogged down important legislation to shape the future of the Department, and to reign in bad policy decisions and the leadership of various administrations.

Without effective leadership from Congress, including consistent reauthorization of the Department, Secretaries have been able to carry out wrong, ineffective, and dangerous policies. I am proposing, as chairs on both sides of the aisles have in past, that Congress reorganize the committee's jurisdiction to bring it in line with the goals of the 9/11 Commission's recommendation, and give the Department a true authorizing committee with the authority to advance reform legislation, and put it on a positive path.

I recognize the challenge it presents, and remember the difficulty in simply creating the committee in the first place. However, it is the right thing to do and believe that the time has come to do it.

With that, Mr. Chair, I yield back. And thank the committee for the opportunity to present my position.

[The statement of Mr. Thompson follows:]

**Remarks to Rules Committee on Proposed CHS Rule X Changes
10/1/20**

CHAIRMAN THOMPSON: Thank you Chairman McGovern.

Mr. Chairman, sixteen years ago the bipartisan 9/11 Commission recommended that “Congress should create a single, principal point of oversight and review for homeland security. There should be one permanent standing committee for homeland security in each chamber.”

At the time, the Commission acknowledged that their recommendation to reform congressional oversight was “the most difficult to realize” but was among “the most important” of its recommendations.

When the 109th Congress convened on Jan. 4, 2005, the Committee on Homeland Security became the 20th standing committee of the House and the first new one since 1974.

At the time, the Committee’s black letter jurisdictional statement reflected the reluctance of other Committees to relinquish jurisdiction to this new Committee.

The structure of CHS’ jurisdictional statement is unlike any other authorizing committee.

It does not include broad subject matter authority like, for instance, the Armed Service Committee has over “common defense generally.”

Instead, it utilizes a novel structure where it mostly limits CHS’ black letter jurisdiction to six narrowly-drawn activities within DHS.

Over the years, the inadequacy of this jurisdictional statement has been criticized in independent reports by a host of groups including the Bipartisan Policy Center, the Heritage Foundation, the Brookings Institution, George Washington University’s Homeland Security Policy Institute, and the Center for Strategic and International Studies.

In 2011, the Bipartisan Policy Center described jurisdiction over DHS as being “carved up to accommodate antiquated committee structures” and in 2012, the Heritage Foundation labeled it as downright “byzantine.”

Over the past 15 years, under both Republican and Democratic Leadership, that statement has remained unchanged.

In April 2013, the Aspen Institute and Annenberg Foundation issued a task force report that called for streamlining and consolidating Congressional oversight over the Department.

The task force, which included the co- chairs of the 9/11 Commission and former DHS officials from the Bush and Obama Administrations, concluded that “Fragmented jurisdiction impedes DHS’ ability to deal with three major vulnerabilities: the threats posed by small aircraft and boats; cybersecurity; and biological weapons.”

It recommended that DHS “should have an oversight structure that resembles the one governing other critical departments, such as Defense or Justice” and that “Committees claiming jurisdiction over DHS should have overlapping membership.”

And, just this past August, the Atlantic Council, in its “Future of DHS Project,” recommended reform, explaining that “more than 90 committees and subcommittees have jurisdiction over all or part of DHS.” and that “[t]he best window of opportunity for this will be during the 90-day window between the November 3 election and the start of the 117th Congress on January 4, 2021.”

Chairman McGovern, I could not agree more.

There’s no question that the moment is right for reforming DHS’ jurisdictional structure in the 117th Congress.

Next year marks the 20th anniversary of the 9/11 attacks—the catastrophic event that drove the creation of the Department of Homeland Security, and in turn, my Committee.

Further, fifteen years have passed in which there's been more than enough evidence to support the conclusion that our initial and current jurisdictional statement is inadequate and undermines CHS' ability to fully execute its critical role at DHS' authorizer.

Finally, we are in a moment where public trust in the Department is at an all-time low—given its role in the President's cruel immigration agenda and, more recently, on the streets with protestors— and calls for reform have grown more and more urgent.

DHS does not need dismantling, it needs reforming.

But for that to happen, the Committee on Homeland Security must have adequate legislative authority to produce and bring to the floor a DHS reform package.

I would note that my predecessor as chairman secured a memorandum of agreement with other relevant committees to advance a DHS authorization bill. Unfortunately, efforts to secure a similar commitment this Congress from my fellow Democratic chairmen were unsuccessful.

I have been on the Committee since its earliest days and am proud of the work we have been able to accomplish despite our jurisdictional limitations.

However, the Committee's woefully inadequate jurisdiction causes many functions of DHS – a wide reaching agency with collaborative missions in many fields – to fall under the jurisdiction of far too many competing congressional committees.

The resulting web of referrals has bogged down important legislation to shape the future of the Department, and to reign in bad policy decisions and the leadership of various administrations.

For example, legislation that directs the Secretary of Homeland Security to take action is referred primarily to the Homeland Security Committee a mere 16% of the time. For comparison, 62% of legislation directing the Secretary of Transportation is referred to the Transportation Committee.

This lack of legislative oversight from Congress has left the direction of the agency to the administration – and we are seeing the result of Congress’s failure to effectively reign in the Department play out in the chaos wrought on by the Trump administration.

Without effective leadership from Congress – including consistent reauthorization of the Department – Secretaries have been able to carry out wrong, ineffective, and dangerous policies.

I am proposing – as Chairs on both sides of the aisle have in the past - that Congress reorganize the Committee’s jurisdiction to bring it in line with the goal of the 9/11 Commission’s recommendations, and to give the Department a true authorizing Committee with the authority to advance reform legislation and put it on a positive path.

I recognize the challenge that presents and remember the difficulty in simply creating the Committee in the first place.

However, it is the right thing to do and the time to do has come.

The CHAIRMAN. Thank you very much.
Mr. Langevin.

STATEMENT OF THE HON. JAMES R. LANGEVIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND

Mr. LANGEVIN. Thank you, Mr. Chairman. Can you hear me okay?

The CHAIRMAN. Yes.

Mr. LANGEVIN. Very good. Well, good afternoon, Chairman McGovern, Ranking Member Cole, and members of the committee. Let me begin by thanking you all for your commitment to listening to member feedback as you consider rules changes for the 117th Congress. As I am sure all of my colleagues on this distinguished panel may be well aware, cybersecurity has been an issue of great importance to me for more than a dozen years. And for more than a decade, I have made protecting our Nation's critical infrastructure from our healthcare system to our power grid to our elections a top priority.

I currently serve as the chairman of the Intelligence Emerging Threats and Capabilities Subcommittee on the House Armed Services Committee, and serve as a senior member of the Committee on Homeland Security's Subcommittee on Cybersecurity, Infrastructure Protection, and Innovation. Congressman Mike McCaul and I also cofounded, and we still, to this day, co-chair the Congressional Cybersecurity Caucus.

I come to you today as a representative of the Cyberspace Solarium Commission to share our recommendations to improve the Nation's cybersecurity posture. Congress created the Solarium Commission in the fiscal year 2019 NDAA, and I had the honor of being appointed to this Commission by Speaker Pelosi.

Congress charged the Commission, which comprised 14 members, four of whom were legislators, four Deputy Secretary level members of the executive branch, and six private sector experts with developing a strategic approach to better protecting the United States from cyber attacks of significant consequence.

We met for a year before releasing our report on March 11 that calls for an approach of layered cyber deterrence. In addition to this strategic vision, we delivered 82 recommendations on how the government can implement it. More than 50 of those recommendations are directed to Congress. Thanks to no small part to your leadership, Chairman McGovern, the House has included more than 20 of these bipartisan recommendations in this year's NDAA, including integration of a national cyber director within the Executive Office of the President.

So I would like to reiterate my thanks to you and your staff, particularly Lori Ismail, in working with us to ensure that these important proposals were presented to the full House for debate. However, one of the Commission's most critical legislative recommendations is directed not at the administration, but at Congress itself.

Recommendation 1.2 of the Commission Report states, Congress, and I quote: "Congress should create House Permanent Select and Senate Select Committees on cybersecurity to consolidate budg-

etary and legislative jurisdiction over cybersecurity issues as well as traditional oversight authority,” end quote.

So this is the proposal I put forward with my solarium House colleague, Congressman Gallagher, for your consideration today. The challenges of cybersecurity jurisdiction were on full display earlier this week when we considered three suspensions relating to grid cybersecurity.

Chairman Thompson was absolutely correct in the concerns that he expressed on the floor during debate that the bills did not reflect the views of the interagency and could increase silos in protecting this critical infrastructure sector.

Chairman Pallone was correct in his assertion that jurisdictionally, the bills were squarely in the remit of the Energy and Commerce Committee. Of course, underlying this debate was the fact that had Energy and Commerce included language to avoid the silos that the Solarium Commission warns against, the bill could have been referred to any number of additional committees.

So I can think of no clearer example on how the committee structure is broken than that it incentivizes the kind of silos that are antithetical to the whole-of-Nation approach we need to combat growing cyber threats.

So our proposal today directly counters the stovepiping by centralizing jurisdiction around cybersecurity matters. Among its many benefits, it will increase congressional cybersecurity policy making capacity by encouraging staff and member expertise; it will streamline oversight from the dozens of committees and subcommittees that currently claim some jurisdiction over cyber; and it will help Congress act with the speed and agility needed to have any hope of keeping up with the pace of technological innovation.

Mr. Chairman, I understand that matters of committee jurisdiction are extremely sensitive. I recognize that this proposal would represent a sea change in how we handle cybersecurity policies. However, I believe that it is inevitable.

We have seen cyber attacks like NotPetya that have felled national economies. We have seen our adversaries invest in their offensive cyber capabilities. And we remain the country that, because we best take advantage of the internet, we remain most vulnerable in cyberspace. Whether in the form of a massive cyber incident or a more sustained death-by-1,000-cuts campaign, I believe this Congress will recognize we could have done more, and that the current committee structure is actively undermining our ability to do so.

Mr. Chairman, what I am hoping you and your esteemed colleagues will do with the next rules package is take a page out of the Solarium Commission’s playbook. From the outset, we aimed to have the impact of the 9/11 Commission without the precipitating event of a national tragedy on the scale of that 9/11 event. No small task. But as former DNI Coats had said, and I quote, “The warning lights are blinking red, again,” end quote.

This organizational change will not, by itself, prevent a disaster, but it will position Congress to ensure the internet is free, open, interoperable, and secure in the decades to come.

Finally, Mr. Chairman, let me say something about Chairman Thompson’s remarks that we just heard a few minutes ago. First off, I wish to fully associate myself with Chairman Thompson’s re-

marks. DHS is hurting, and congressional dysfunction around the jurisdiction is, quite frankly, part of the problem.

Secondly, while I believe a cyber committee is inevitable, I appreciate that it is a big step. If the Rules Committee feels more comfortable consolidating jurisdiction within an existing committee, I believe that will significantly improve the situation, and I believe the Committee on Homeland Security is the only sensible home.

So, again, I thank Chairman Thompson for his leadership on many issues and his comments earlier. Again, I associate myself with them. With that, Mr. Chairman, I want to thank you.

I yield back and look forward to answering any questions you may have.

The CHAIRMAN. Thank you. And the final person on this panel is Ms. Eshoo.

STATEMENT OF THE HON. ANNA G. ESHOO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. ESHOO. Thank you, Chairman McGovern and Ranking Member Cole, the two of you, I think, are a source of pride to all the Members in the House by the way you work together. And all of the members of the committee, I appreciate being able to offer my suggestions for updating the House rules for the 117th Congress.

Specifically, I urge you to consider four changes: The first is to expand multi-factor authentication requirements. The second is to establish a working group to combat surveillance of congressional communications. The third is to ensure all House documents are machine-readable. And the fourth is to make permanent electronic submission of legislative materials.

I certainly appreciate the hard work of the House staff to protect our cybersecurity, but I think we have more work to do. As just one example of where we are, you might notice that the ID cards that our staff wear have a chip except it is not an actual chip. It is an image of a chip, and this measure is called security feeder.

So I urge the committee, first of all, to require multi-factor authentication for all access to the House network. Executive branch employees have IDs with real chips, which they insert into their laptops for multi-factor authentication. We currently require multi-factor authentication for remote access, but our requirements are actually incomplete. I would be happy to share vulnerabilities with the committee privately so as not to publicize them.

Secondly, I urge the committee to establish a working group to study and to combat potential surveillance of congressional communications. On August 28th, I wrote to the Director of National Intelligence, the DNI, and the NSA Director expressing my concerns regarding recent allegations that Edward Snowden surveilled communications of Congress while he was an NSA contractor.

I asked how often the intelligence community has surveilled Congress, or whether it has technical safeguards to prohibit such surveillance. And most frankly, the responses to my letter really ignored answering the questions. We have all received letters like that, so I think you know exactly what I am talking about.

But sadly, this isn't the first time that the IC has surveilled Congress.

In the 1970s, the CIA maintained files on 75 Members of Congress. So we know that our Constitution established three coequal branches of government with a separation of powers, one branch being able to spy on another is totally unacceptable. Now, press reports also indicate that Washington is littered with sting rays. These are devices used to intercept cellular communications, and while DHS confirms the problem, it is not clear who is operating the devices.

Third, I urge the committee to require all legislative material to be posted in a machine-readable format. Today, the bills are posted to Congress.gov in a machine-readable format, but the materials for mark-ups are posted online as PDFs, and sometimes they aren't even searchable PDFs. And why does this matter?

If we receive amendments in the nature of a substitute 24 hours before marking up lengthy bills, we can't compare the amendments to original bills without manually reading the documents line by line. It is the 21st century, so we need to do something about this. With machine-readable formats, members, their staff, and the public can easily analyze amendments.

And finally, I ask that the committee make permanent procedures for submitting legislative materials to the Clerk electronically. On April 16th, the Clerk announced procedures for secure process to introduce legislation, add cosponsors to bills, and insert statements to the Congressional Record electronically. This decision remains essential for the safety of members and staff. And my observation is the process is working quite well.

So making this change permanent makes our operations more efficient. An electronic time stamp also means we have a paper trail as to when items were filed.

So, again, I want to thank the committee for considering my recommendations. I welcome any questions that the committee might have for me moving forward.

And I yield back.

The CHAIRMAN. Well, thank you very much. I want to thank all of you for your testimony. There are, I think, some really important ideas here. I want to associate myself with the suggestions of the majority leader. I do think congressionally directed spending is something we should try to get back to, not just because we know our districts better I think than the executive branch, but also, because I think if the past is any indication, when people have skin in the game, when people know that passing certain bills will actually make a difference in their districts, we tend to get more bipartisan support.

So I look forward to this discussion continuing, and again, Majority Whip Clyburn who is also in favor of this, was very direct and persuasive about the value of that. Chairman Thompson and Mr. Langevin, I appreciate your recommendations, and we will work with you.

I think the issue, when you talk about committee jurisdiction, is always a little bit delicate because sometimes when you want to expand your jurisdiction, it means somebody else is diminishing theirs. And even though this makes sense, it is not always easy to get everybody reading off the same sheet of music, but we will—in the coming weeks, our staff will work with your staffs to just to

see where we can begin these conversations to see whether we get a consensus amongst committees that may be impacted by a consolidation on Homeland Security that maybe we can come to some sort of accommodation.

Ms. Eshoo, I think all of your suggestions are—but we will work with you. Some of these, I think, are rules changes, some of them may not necessarily be rules changes, but maybe helps the administration or something. But we will work with you to try to make sure they are all, to the extent possible, adopted. So I appreciate your testimony very, very much. Mr. Cole.

Mr. COLE. Thank you very much, Mr. Chairman. I want to begin in joining you in thanking all the members of the panel. This may be the most distinguished panel that has appeared before the Rules Committee. These are really substantive and significant members from leadership through every person on this panel. So I thought all the suggestions were well-thought through.

Let me make a couple of remarks as well. I am going to broadly agree with the majority leader about congressionally directed spending. As an appropriator, I don't think he will find that a shock. I will slightly disagree that I think it is any worse in terms of the loss of power with this President as opposed to any previous President.

This, to me, is a primarily institutional question. I always point out our former President, President Obama, I think requested the most earmarks of anybody in Congress when he was a United States Senator, but as soon as he became President, decided they were inappropriate and was happy to be rid of them. I think any President would be that way, but—and let me emphasize, I speak only for myself. I don't speak for my conference. I certainly don't speak for my leadership, but my opinion is we lost an important tool.

I think the majority leader's exactly right. We lost an important tool. Whip Clyburn made this point, too, to both help our constituents who they send us here and many of them are not in a position to get paid lobbyists. They rely on their member to look after their interest. That is part of the job, I think.

And I agree with, again, both the majority leader and majority whip that who both made the point face, cards have to be appropriate.

There is no question there has been abuses here in the past. We have members that went to prison for abusing this system. So the idea of publishing, making them accountable, not being able to airdrop congressionally directed spending projects into conference bills, all those things make a lot of sense to me.

And the idea of moving away from profit-making institutions make a lot of sense. Although I will add this: Just as Majority Whip Clyburn pointed out a really important program that, you know, encourages African-American males to go into teaching began with a single congressionally directed spending project. That is true of one of our most important weapons systems, the predator drone, which actually the Pentagon resisted, and this was a case where Congress actually had a much better idea than the bureaucracy, and our former colleague, Jerry Lewis, had a lot to do with making sure that particular weapons platform is available for our

use. It has been very valuable. Controversial, I will grant you, but unquestionably valuable.

So, again, this idea of shipping power over to the executive branch, I think, is a mistake. I think it is a failed experiment. I had these discussions frequently with our former colleague, former United States Senator, my late friend, Tom Coburn, who was famous in opposing earmarks, liked to call them the great gateway drug to spending, but I actually made the point in one of our discussions. Look, when we actually had earmarks, we actually balanced the budget. We have gotten rid of them. How close have we come to a balanced budget since then?

I am not suggesting that earmarks or congressionally directed spending result in a balanced budget. I am just saying there is not any relationship between the two. That has become a way to demagogue things, and it has cost us a tool and it has cost us power. So I very much agree with that.

Very much interested in Chairman Thompson's point about Homeland Security. Hal Rogers, as many of you know, is one of my great friends, and he has wrestled with the appropriations side of this issue. I think those are really important suggestions. They are difficult, I will grant you.

I see this same sort of thing, Mr. Chairman, probably should submit an idea to the Rules Committee, but I will give you a perfect example of this happening within the Appropriations Committee itself.

We have the Indian Healthcare Service funded in the Interior Approps Subcommittee, because it mostly deals with Indian issues. That seems like it makes sense, but it really ought to be in the Labor, Health, and Human Services, because it is part of Health and Human Services. It is the only part of that agency that is not controlled and has two practical consequences. The first is that Indian Health is always underfunded. It is the largest item in the interior budget, which is only about \$32 billion. You move it over to an agency that has \$190 billion, or a committee within its purview, you have a much better chance of getting that to where it needs to be.

Second thing, and this is a separate problem, but I have actually presented it to the Budget Committee, under both Republicans and Democrats, it is the only healthcare agency, number 1, that we don't use mandatory funding in except just third-party payment. So it is really subject to the limitations of the appropriations process, and that needs to be looked at.

Number 2, because it is an appropriated item, for instance, when we had sequester, and we held Medicare and Medicaid except for very small part of provider payments exempt from cuts, Indian Healthcare was cut, and it was already the most underfunded part of the—and I don't think that was deliberate, by the way, on anybody's part. We just treat it differently.

So there is some real merit to these suggestions in terms of looking at redistributing authority, because they have real life consequences. This isn't just a power game on Capitol Hill. Where you happen to be placed in the appropriations budget, since each one of those subcommittees has a different top line, really determines what your prospects are. As I have told my friends in Indian coun-

try on many occasions, you will never get IHS funded appropriately as long as it is stuck in Interior because there is too many responsibilities within that agency, and too little money. And that is actually an area where the two parties have worked very, very well together for over a decade now trying to do the best they could under that limited section.

So, again, I know I have droned on, but just thought I would take the occasion to put my particular favorite in front of people that might be able to actually help me down the line as we work through this.

But I want to thank each and every member for their testimony. I thought this was exceptionally thoughtful, good suggestions. A lot of areas here, Mr. Majority Leader, where you and I agree, and where I hope we can work in a bipartisan manner because, again, as the chairman pointed out, this is about institutional appropriate power, and constitutionally derived power. This isn't about trying to score political points against anybody, and I very much appreciate the spirit in which these suggestions were offered.

I think they all have considerable merit and look forward to working with my colleagues to try and implement as many of them as possible.

Yield back, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Mr. Perlmutter, any questions or comments?

Mr. PERLMUTTER. Yes. Just a couple. Thank you. And I am like 100 percent with Mr. Cole on this, both on the directed spending. Also, I do think, Mr. Cole, you want to present some kind of a rule change as to that Indian Health because it has come up on a number of occasions. So I think you brought it up here, and we ought to formalize it a little more.

I remember we had two colleagues, one of them became my Senator, Mark Udall, who was opposed to earmarks, and Jeff Flake, was very much. And he would go down to the mic and he would make his statements. And they were wrong then, and I told them so. And I think it really has hurt our institution. A lot of us took pride, and I know almost everybody took pride in the ability to provide an irrigation project, you know, help channel some kind of a difficult ravine, or help with a laboratory at a local college. And, actually, you can take ownership of that. So as a personal matter as well as a community matter, it is very beneficial.

So Mr. Clyburn, you are absolutely right. Because I felt personally like I was more effective and more connected to my district with the ability to do some of those things for a Boys and Girls Club or something like that.

I am with Mr. Thompson. I served on Homeland Security many moons ago with Mr. Thompson and Mr. Langevin. I don't know if they remember that, but we had similar problems back then as to not being able to really do all the things that are required of that committee because we kept bumping into jurisdictional issues. And so, I would be supportive of you two gentlemen and your request.

And to Jim Langevin, that would affect Financial Services because we have a cybersecurity component to that when it comes to the financial sector and the hacking potentially, and the disruption

of the financial sector. So, we should all get together and do that. And then, Anna Eshoo seemed to be specific and easy to do.

So I just appreciate the testimony, but particularly on the directed funding. I think we did ourselves a disservice by doing away with that.

And I yield back.

The CHAIRMAN. Thank you very much.

Mr. Woodall.

Mr. WOODALL. Thank you, Mr. Chairman. We always are able to make time to do those things that are in our wheelhouse, community jurisdictions, congressionally directed spending. I liked Ms. Eshoo's concerns. We are so resistant to increased security measures in this place, whether it is showing your ID when you pass the congressional entry points instead of expecting people to recognize you, or whether it is two-factor identification when you are logged into your computer. By the time we all come together on Ms. Eshoo's concerns, it is going to be too late because something awful will have happened.

We have to exert, in the name of protecting the institution, some disciplined inconvenience ourselves in ways that Ms. Eshoo has taken the time and, in fact, made a career of understanding and highlighting for those of us who do not understand them, and, again, will not until it is too late.

So, I just want to particularly thank her for that and it is not in our wheelhouse. We are uncomfortable going down this road sometimes, and it is easy to put it on the back burner until it is too late. And I hope we will take her advice and her very pointed solutions to heart, and make sure that we benefit from those.

With that, I yield back.

The CHAIRMAN. Thank you very much.

Mr. Morelle.

Mr. MORELLE. Thank you, Mr. Chairman, and thank you. I liked all the remarks of my colleagues in thanking such a distinguished panel. I do want to note, parenthetically, I find it hard to imagine anyone who served on a standing committee with Ed Perlmutter would have forgotten that experience. So I won't ask for any show of hands, but I find that hard to believe.

But I just wanted to note—I was thinking back as Mr. Leader and Mr. Whip were making their comments. I think about the Clinical Translational Science Building at the University of Rochester, or the Historic Eastman Theater where my dear friend, Louise Slaughter's memorial service was at the U of R, or the Center for Immigrating Manufacturing Studies, or the Sustainability Institute at RIT, MAGIC Spells Studios at RIT, which was for students in the nationally ranked gaming, film and animation schools, a hospital's dialysis.

Those are all things that I was able to actually get funded when I was a member of the New York State legislature and what we called member items, which is effectively the same—different terms, same thing that relates to directed spending.

I don't think there is any question that you could meet both objectives of ensuring transparency and accountability and yet allow members who know their districts, know their communities the very best to make decisions on priority projects in their regions.

I thought Mr. Clyburn's discussion of what he had been able to do in South Carolina was so right on the money, because each of us, each community has challenges, but each are different than every other community. And so, I would be a strong supporter of doing that. And as I said, I don't think it is mutually exclusive that we have transparency and accountability, as well as congressionally directed spending. And, frankly, I think it is so inherent in Article I responsibilities of the Congress and the power of the purse. So I would agree with my very eloquent colleagues who have spoken before and thank the panelists.

I did have, if it is okay, I will admit to not having very much of a knowledge base on jurisdictions, and I suspect I appreciate very much the chairman's acknowledgement of the sensitivity of jurisdictions. But if I could just ask Chairman Thompson, can you just give me sort of an example of how you and your colleagues on the committee feel constrained in ways that would help give me some clarity around what it is exactly that you are asking to do without divulging too much, but perhaps you could just give me some instance of an example?

Mr. THOMPSON of Mississippi. Well, thank you very much.

I will give you a good example, is one of the challenges we have now is natural disasters. FEMA is one of those 22 agencies that is in Homeland. But before FEMA can move any resources pertaining to a hurricane, flood, wildfire, tornado, or anything like that, the Stafford Act has to be engaged that gives FEMA the authority to go out and perform its mission.

Mr. MORELLE. May I interrupt you? Do you mean the FEMA staff itself or other staff?

Mr. THOMPSON of Mississippi. The Stafford Act, which is—

Mr. MORELLE. Oh, I am sorry, I am sorry.

Mr. THOMPSON of Mississippi. Right. Which is the trigger that provides the resources.

Well, the Stafford Act is in another committee. It is not in Homeland. So FEMA is sitting here with all the resources marshalled to address the natural disaster, but they are in neutral because they don't have the authority to go and help American citizens. And sometimes our experience has been those authorities are sometimes days, if not weeks, before they are engaged. But if that authority was within Homeland, FEMA could do its job day one. And so it is those kinds of things.

The other thing, give you a good example, is with ICE, Immigration and Customs Enforcement. Well, if you have a problem in your district with ICE, that jurisdiction is in another committee because it is considered interior enforcement. But guess what? ICE is in Homeland because part of their mission is border security.

So I get the call from many of my colleagues saying, "We have this issue with ICE in our district," and then when I try to explain jurisdiction, the first thing they said, "But aren't they in Homeland?" "You are correct."

So what I am trying to do is we need to get the authorities and jurisdictions to match. And I am done after this.

Armed Services. Anything pertaining to the military goes to Armed Services. That is it. Agriculture. Anything that goes on related to agriculture is in Agriculture. And I am trying to get—not

trying to—you know, I am just trying to connect the mission with the authority and responsibility.

Mr. MORELLE. Those are very good examples, and I appreciate that.

So I do note that—again, my background is in the State legislature and we have sort of pretty discrete jurisdictions for the various committees, although at one point I chaired the insurance committee. I had a colleague who chaired the health committee. And so health insurance ended up being, depending on which section of law, could be in the insurance committee, could be in the health committee. So I am familiar.

And I guess there is no perfect way to divide that up. I even note here in the House, healthcare could be, if it is ERISA, it would come under Ed and Labor. It comes under Energy and Commerce. If it involves tax provisions, Ways and Means.

Is the situation you face more acute than some of the jurisdictional challenges that would face us on some of the issues like healthcare, et cetera? Do you think it is unique and more of a bright line?

Mr. THOMPSON of Mississippi. Oh, absolutely. And it is a matter of function. You want the agencies to work. So much of what we do is predicated on being able to respond in a timely manner. And so that response is limited simply because the agency that you are located in does not have the authority to execute on that issue.

And so I will give you another example. I am done after this. Family separation, that we had a big issue separating families from others. Well, that authority is not a Homeland authority, per se, it is vested in another committee, but the agency that created the problem is in Homeland.

And so we are just trying to, to the best that we can, tie the authorities and functions with the agencies and nothing more than that.

Mr. MORELLE. I see.

Mr. THOMPSON of Mississippi. And if the committee would like, I can provide you with several other examples of what we are talking about, just so we can serve the American people in a timely manner.

Mr. MORELLE. Well, I will say—and I apologize for the extended questioning. Thank you, this has really been very helpful.

And I apologize, Mr. Chair.

I assume that some of this came out of the fact that, as you mentioned, 9/11 really gave rise to the Department of Homeland Security. As a New Yorker, I am particularly grateful for that. So I assume some of this is the developing of an agency and a committee that follows it. So you are sort of getting shoehorned into existing law and existing wires that pre-existed 9/11 and the committee.

But I think you make a compelling case, and I really appreciate it. I can't imagine the frustration of having to have agencies that are under the jurisdiction of my committee or that you have oversight for, but you can't really affect or you can't connect with on the issues that colleagues are and the American public is talking about. So I really appreciate very much your leadership and your comments here.

The last thing I would say is, I agree with my other colleagues. Ms. Eshoo, I think you make compelling arguments on the issues of electronic submission and cybersecurity.

Oh, and I am sorry, just to go back for 1 second, I apologize. The notion of creating a select committee would, if we were able to address the Homeland Security Committee issues in the way that you, Mr. Chairman, Chairman Thompson, have suggested, would you then simply create potentially a subcommittee on cybersecurity? Is there no conflict between what you are recommending and what Mr. Langevin was recommending?

Mr. THOMPSON of Mississippi. No, absolutely. We created CISA, which is a cyber entity that has responsibility across the Federal agency platform. And so what we are saying is, keep the mission of Federal agency cybersecurity within that agency. The minute you pull it out, we would start creating the same problem we had before we created Homeland, which is the siloing of information that ended up with 9/11.

And so we are trying to avoid that by creating a system where everyone is here talking to each other and not everybody trying to come with a turf issue.

The other thing I can say is, all the recommendations of the 9/11 Commission report spoke to that issue, and the only one we have not completely fulfilled is this notion of jurisdiction for the Homeland Security Committee.

Mr. MORELLE. Fair again.

Mr. Chairman, thank you. I apologize for the length of my questioning, but I really appreciate all the panelists and the opportunity to speak. I yield back.

The CHAIRMAN. All right.

Mrs. Lesko.

Mrs. LESKO. Thank you, Mr. Chairman. No questions.

The CHAIRMAN. Thank you.

Ms. Shalala.

Okay. Did I miss anybody who is—

Ms. SHALALA. No, I am fine. I have just got a couple of things.

First of all, I agree with directed spending, and I absolutely agree with Representative Eshoo's recommendations.

And for Mr. Cole, Mr. Cole, I would love to see the Indian Health Service in Labor-HHS. I struggled trying to get resources for the Indian Health Service, as well as the Food and Drug Administration, which was stuck in Agriculture because they just were not high priorities for those committees. Even when I went and personally testified, it was just very difficult to get proper resources. So I would even think about the Bureau of Indian Education being moved to Education just to get some attention to these really important agencies.

Frankly, the only reason the Indian Health Service, during my years at HHS, and the Food and Drug Administration, the FDA, ever got significant resources was because I was Ted Stevens' doubles partner, and he helped me get resources for those two agencies, because it was hard to get the attention of those committees. So I just think that thinking through the right alignment is just the right thing to do.

Mr. COLE. Will the gentlelady yield for a question or comment?

Ms. SHALALA. Yes.

Mr. COLE. Well, number one, thank you for your focus on this in your time in the executive and your continued focus on it.

But to your point, this is actually an area, I will tell you, where I would compliment both Democrats and Republicans on Indian Health in the Interior Subcommittee of Approps for over a decade. They have really actually exceeded consistently what Republican and Democratic administrations have suggested. There is just not enough money there. It is just a matter of what their total pot is.

Ms. SHALALA. Well, exactly.

Mr. COLE. And the second area that I should have mentioned earlier and that your opinion on would be really valued, a number of years ago we made the decision, I think it was a smart decision, to forward-fund veterans' health so it is never at risk if we are in some sort of political spat up here. We haven't done that with Indian healthcare, and we ought to do the same thing, particularly if we are going to keep it within the discretionary budget.

You know, that, again, is something we just simply ought to do, so that if there is a squabble up here, all of a sudden there is not a dramatic decline in the availability of healthcare on some remote Indian reservation where people there have done absolutely nothing wrong, we just haven't gotten our job done up here.

So, anyway, I put that. But, again, thanks for your work and your commitment. You have such a distinguished record, and it is much appreciated.

Ms. SHALALA. Thank you.

The CHAIRMAN. The gentlelady yields back?

Okay. So are there no other questions of this panel? Then I want to thank this panel, and you are all now dismissed. Thank you.

Calling up our next panel, Mr. Davis, Ms. Wasserman Schultz, Mr. Cline, Mr. Castro, and Mr. Crist.

Thank you for providing testimony today.

Any written materials that you have you can submit to rulesdocuments@mail.house.gov before the conclusion of this hearing, and without objection, it will be entered into the record.

I now recognize the gentleman from Illinois, Mr. Davis.

STATEMENT OF THE HON. RODNEY DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. DAVIS of Illinois. Thank you, Mr. Chairman. Sorry about that. I wanted to make sure I was unmuted.

I appreciate being here. Chairman McGovern, Ranking Member Cole, good afternoon, and to the rest of the committee. Thanks again for allowing me to testify today.

The 116th Congress has been full of surprises, and although there have been endless challenges, the silver lining is our ability to learn from them, to adapt, and to make our institution work better for the American people.

I am here this afternoon to highlight three buckets of changes that the House could adopt to not only strengthen our operations, but pave the path for continued improvement.

The first set of changes is a clarification—

The CHAIRMAN. Mr. Davis, excuse me, could you put your video on?

Mr. DAVIS of Illinois. I thought I had it on, sir. I apologize.

The CHAIRMAN. There you go, you are on now. Yeah. You were in stereo and now in technicolor. Okay, great.

Mr. DAVIS of Illinois. You don't want me to reread the rest of it, do you? I will start at the same point.

I do want to say the first set of changes that I am asking for is a clarification of current House rules regarding the use of proxy voting. During this committee's hearing on H. Res. 965, I warned that proxy voting would likely be abused by members if authorized. I was assured that controls would be in place, and it was being implemented in order to assure member—in order to ensure member, family, and staff safety.

However, Mr. Chairman and Mr. Ranking Member, today, 4 months later, the trends are emerging that signal abuse of this option. As infection rates stabilize and in many States fall, proxy voting is being used in increased numbers by up to 20 percent of all members, and often inconsistently, with members picking and choosing when they want to be in D.C.

We are also seeing increased use of proxy voting on Fridays, a sign that members are using it to take a long weekend back home.

These practices show us that the use of proxy voting is no longer being utilized in the spirit in which it was implemented—safety—but rather in the spirit of convenience.

Americans deserve better. They deserve their members to show up to work, and I would encourage the next Congress' rules package include additional guardrails if the proxy voting remains at all.

The second bucket is an acknowledgement of the work of the Select Committee on Modernization of Congress, in which I and my peers passed our final report of nearly a hundred recommendations last week unanimously. These recommendations emphasize the need for the House to increase transparency, streamline operations, and improve accessibility so that all our constituents can engage in the work that we do.

Rules changes to require our legislative documents be publicly shared in a machine-readable format and for all committee votes to be recorded and compiled into a publicly accessible database are concrete, realistic improvements.

Similarly, making permanent some of the technological advancements we have made in facing the pandemic, such as continuing the Clerk's use of the e-Hopper and allowing the electronic sponsorship and cosponsorship of bills, not only saves our staff time, but saves the taxpayers money.

I would recommend we also expand electronic signatures for discharge petitions.

Lastly, modernizing our institution to be accessible by those with disabilities is a duty and priority in which we are behind. We have dedicated considerable resources to making our campus physically accessible, but need to put the same emphasis on accessibility for those that interact from afar.

There are many changes we need to make. Two at the top of the list are ensuring that all congressional websites are accessible to the disabled and that all video products of the House have closed captioning.

I encourage you and your team to read the Select Committee's final list of recommendations for more details on each of these proposed rules changes and dozens more.

The final bucket I encourage this committee to consider when crafting the rules for the 117th Congress is the need for continued modernization. As a previous staffer and now a member who has had the honor to serve on both the Committee on House Administration and this Select Committee on Modernization, I see opportunities before us to better this institution and to do it in a bipartisan manner.

The efforts of the Select Committee need to continue. I know there are different ideas on what form that should take, and I am open to the various options, including authorizing another Select Committee, creating a subcommittee of House Administration, or a less formal structure. The most important thing is that we continue the momentum that has been created.

Again, thank you, Chairman McGovern and Ranking Member Cole, for holding this hearing. A rules package not only guides us, it can push us all to be better. I applaud this committee for soliciting input from all members and look forward to continuing to work together. And at this time, I will yield back.

[The statement of Mr. Davis of Illinois follows:]

RANKING MEMBER DAVIS TESTIMONY***Rules Committee Member Day on 117th Congress Rules Package:***

Chairman McGovern, Ranking Member Cole, good afternoon and thank you for allowing me to testify before you today. The 116th Congress has been full of surprises and although there have been endless challenges, the silver lining is our ability to learn from them, to adapt, and to make our institution work better for the American people. I'm here this morning to highlight three buckets of changes that the House could adopt to not only strengthen our operations but pave the path for continued improvement.

The first set of changes is a clarification of current House rules regarding the use of proxy voting. During this committee's hearing on H. Res 965, I warned that proxy voting would likely be abused by Members if authorized. I was assured that controls would be in place and was being implemented in order to ensure Member, family, and staff safety. However, today, 4 months later, trends are emerging that signal abuse of this option. As infection rates stabilize and, in many states, fall, proxy voting is being used in increased numbers (up to 20% of all Members)¹ and often inconsistently – members picking and choosing when they want to be in DC.² We are also seeing increased use of proxy voting on Fridays – a sign that Members are using it to take a long weekend back home. These practices show us that the use of proxy voting is no longer only being utilized in the spirit in which it was implemented: safety. But rather in a spirit of convenience. Americans deserve better: they deserve their Members to show up to work and I would encourage next Congress's Rules package include additional guard rails.

¹ https://www.washingtonpost.com/powerpost/longest-serving-democrat-adapts--and-so-does-the-house--to-the-pandemic/2020/09/12/4a248d8c-f46e-11ea-b796-2dd09962649c_story.html

² https://www.washingtonpost.com/opinions/letters-to-the-editor/constituents-should-keep-a-close-eye-on-the-new-normal-in-the-house/2020/09/22/c29ec846-f9d6-11ea-85f7-5941188a98cd_story.html

The second bucket is in acknowledgement of the work of the Select Committee on the Modernization of Congress, in which myself and my peers passed our final report of nearly 100 recommendations last week.³ These recommendations emphasize the need for the House to increase transparency, streamline operations, and improve accessibility so that all our constituents can engage in the work that we do. Rules changes to require our legislative documents to be publicly shared in a machine-readable format and for all committee votes to be recorded and compiled into a publicly accessible database are concrete, realistic improvements. Similarly, making permanent some of the technological advancements we've made in facing the pandemic, such as continuing the Clerk's use of the e-hopper and allowing the electronic sponsorship and co-sponsorship of bills not only saves our staff time but saves the taxpayers money. I would recommend we also expand electronic signatures for discharge petitions. Lastly, modernizing our institution to be accessible by those with disabilities is a duty and priority in which we are behind. We have dedicated considerable resources to making our campus physically accessible but need to put the same emphasis on accessibility for those that interact from a far. There are many changes we need to make, two at the top of the list are ensuring that all Congressional websites are accessible to the disabled, and that all video products of the House have closed captioning. I encourage you and your team to read the Select Committee's final list of recommendations for more details on each of these proposed rules changes and dozens more.⁴

The final bucket I encourage you to consider when crafting the rules for the 117th Congress, is the need for continued modernization. As a previous staffer and now a Member who has had the honor to serve on both the Committee on House

³ <https://modernizecongress.house.gov/news/press-releases/select-committee-passes-final-round-of-recommendations-to-make-congress-work-better-for-the-american-people>

⁴ <https://modernizecongress.house.gov/recommendations>

Administration and the Select Committee on Modernization, I see opportunities before us to better this institution and do it bipartisanship. The efforts of the Select Committee need to continue. I know there are different ideas on what form that should take, and I am open to the various options including authorizing another select committee, creating a sub committee of House Admin, or a less formal structure. The most important thing is that we continue the momentum that has been created.

Again, I want to thank Chairman McGovern and Ranking Member Cole for holding this hearing. A Rules package not only guides us, it can push us all to be better. I applaud this committee for soliciting input from all Members and look forward to continuing to work together. I yield back.

Table of proposed rule changes:

Proposal #	Sponsor	Sponsor party	Brief summary	Purpose	Proposed last Congress
1	Rodney Davis	R	Clarify proxy voting rules and standards, and guardrails	Clarify voting rules	No
2	Rodney Davis	R	Require legislative documents to be publicly shared in a machine-readable format	Increase House transparency; streamline House operations	Yes
3	Rodney Davis	R	Require all committee votes to be recorded and compiled into a publicly accessible database	Increase House transparency	No
4	Rodney Davis	R	Continue the Clerk's use of the e-hopper and allow the electronic sponsorship and co-sponsorship of bills	Streamline/modernize House operations; permanent adoption of system already in place.	No

5	Rodney Davis	R	Allow the use of e-signatures on discharge petitions	Streamline/modernize House operations.	No
6	Rodney Davis	R	Ensure that all Congressional websites are accessible to the disabled	Increase accessibility to the House	No
7	Rodney Davis	R	Ensure that all video products of the House have closed captioning	Increase accessibility to the House	No
8	Rodney Davis	R	Continuation of House modernization activities; carrying on the work of the Select Committee on the Modernization of Congress	Continue advancement of modernization, implementation of the Select Committee's 97 recommendations	Yes. (In the form of the creation of the SCOMC)

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The CHAIRMAN. Thank you very much. And let me just assure you that we do take the recommendations of the Committee on Modernization seriously. We created the committee and we extended the life of the committee because we thought that the work was important. So we will look at those things.

Some of the recommendations would require rules changes. Some of them we don't need rules changes to do. We need to get various other committees to act on them. But I assure you we take it very seriously.

I am now happy to yield to Ms. Wasserman Schultz.

STATEMENT OF THE HON. DEBBIE WASSERMAN SCHULTZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. WASSERMAN SCHULTZ. Thank you, Mr. Chairman and Ranking Member Cole, and appreciate the opportunity to present my proposals before the House Rules Committee to my colleagues. This really is a fantastic opportunity at the beginning and onset of the 117th Congress for us to really continue to make the entire process that we go through each and every day more transparent and more inclusive.

In 2011, Congress chose to surrender a great deal of its power of the purse to the executive branch. And I associate myself with the remarks of Leader Hoyer, Whip Clyburn, Mr. Cole, and many others who have testified this afternoon that it is past time that we take back the power that we surrendered.

Banning congressionally directed spending and giving that power to the executive branch has made the appropriations process less accountable and more arduous. It has contributed to a lack of comity, and too many members feel too little direct impact in their districts and are consequently not able to be as involved in the process.

I believe the ban on congressionally directed spending is one of the factors that contributes to breakdowns in the process and delays that end with frantic year-end negotiations and government shutdowns.

And prominent leaders on both sides of the aisle, in and outside of Congress, have realized this. They recognize that the Constitution granted Congress the power of making important decisions about spending. John Hudak of the Brookings Institution astutely recognized that, quote, "The removal of congressional earmarking does not make earmarking go away. It simply transfers that power and that practice from the legislative branch to the executive branch."

It does not make sense for Congress to surrender control over Federal funding to unelected bureaucrats in the administration—and I mean any administration. Members of Congress are in the best position to know the needs of our district and the needs of our constituents.

The ban does not exist in law or in House rules, as you know, but only in practice, and it can be easily changed next Congress if there is only the political will to do so.

But we need to do this, as many of my colleagues have testified, the right way. We need to add additional requirements that will

ensure transparency and good governance while prohibiting wasteful spending, and that will require changing the rules. So I offer the following proposals to start us off on the responsible pathway towards restoring our constitutional authority.

One, prohibit congressionally directed spending for for-profit entities.

Two, post congressionally directed spending on the committee's website, in the Congressional Record, in bill reports, and on members' personal websites.

Three, establish an online, searchable congressionally directed spending database that is publicly accessible and media friendly.

Four, direct the Government Accountability Office to submit an annual audit that examines the public benefits of enacted congressionally directed spending and the efficacy of the proposed transparency and accountability measures.

Six, direct inspectors general to regularly review a sample of congressionally directed spending for waste, fraud, and abuse.

Seven, require that all restrictions on congressionally directed spending be enshrined in House rules and that any new disclosure requirements will apply to all legislation at all times, as has been discussed by other members this afternoon.

Currently, many legislative vehicles are left out of the requirements, including floor and self-executing amendments, amendments between Chambers, and legislation considered under suspension of the rules.

With a robust congressionally directed spending platform, Congress could reassert its authority in a clean and transparent manner while allowing members to better represent and secure targeted resources for our districts.

Restoring congressionally directed spending won't fix everything wrong with the appropriations process, but it can go a long way towards ameliorating the difficulty we experience in negotiations over funding the government.

Second, Mr. Chairman, I also want to mention my support for restoring the Select Intelligence Oversight Panel. The 9/11 Commission report included several recommendations aimed at increasing oversight of appropriations for the intelligence community.

That responsibility is really only handled by the Defense Appropriations Subcommittee right now, and that is why the House established the Select Intelligence Oversight Panel in the 110th Congress. I was proud to be a member of that panel.

Unfortunately, the panel was abolished in the 112th Congress. We should consider bringing it back. Revisions to the process and structure of the committee could be made to update the panel's approach and ensure that it is able to conduct a vital oversight role. The panel studies the budget requests and provides advice and feedback to the Defense Appropriations Subcommittee to help prepare the classified annex.

Now more than ever we need additional accountability over the black budget. With an administration that continues to abuse its outlay authorities and defy the congressional intent of appropriations bills, making sure that we have this important layer of accountability and oversight in the black portion of the budget of appropriations is absolutely essential.

And this panel would be useful no matter which administration is in power. It is important that Congress assert our authority over the intelligence budget and ensure that responsible funding decisions are made, and made thoroughly, with a lot of eyeballs.

And it is just so important for us to make sure that in terms of protecting our national security, which numerous members coming before the committee today have raised as being an ever-increasing threat, having an Oversight Committee, once again, that would be specifically focused on the oversight of the administration's budget requests and the intelligence spending that we do for our entire Nation would be a critical oversight component that would allow us to make sure that we can continue to improve our national security.

Thank you for the opportunity to present my suggestions, and I yield.

The CHAIRMAN. Thank you very much.

Mr. Cline.

STATEMENT OF THE HON. BEN CLINE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. CLINE. Thank you, Mr. Chairman and Ranking Member Cole. I really appreciate you holding today's hearing to listen to concerns and proposals from your colleagues regarding the rules of the House. Hearings like this are critical to the effective function of Congress, and I sincerely appreciate this opportunity to testify on practices that can improve the legislative operations of this body.

Many of the House rules that are in place provide the necessary transparency and accountability in the legislative process, but, unfortunately, these rules are often worked around or waived when it matters most. I am here today just to highlight practices already established that I believe we should be exercising to increase transparency and accountability. Accordingly, by following these well-thought-out rules, we can rein in the crippling dysfunction that has plagued the legislative process.

The 72-hour rule was established so that Members of Congress and the public have time to read and review legislation before having members vote on it. Unfortunately, this rule can be waived in the Rules Committee or can be worked around by amending an existing bill, typically by an amendment in the nature of a substitute.

Sadly, these occurrences are frequently used on appropriations and larger authorization measures. For example, last week the text of the continuing resolution was introduced less than an hour before members had an opportunity to vote on it. This flies in the face of responsible governance.

Measures like these should not be passed under suspension of the rules. Managing it in that manner takes away any feasible transparency to the voters of where their member stands on specific spending measures.

The abandonment of adhering to the spirit of the 72-hour rule has been happening well before this Congress. Admittedly, both sides of the aisle have utilized this tactic while in the majority. That is why I have introduced a House resolution with one of my fellow freshman Democrats to tighten this rule's instances where a

bill is stripped of its text and replaced by new language to skirt the 72-hour rule.

It is not just a matter of transparency that members should have time to read bills they will be voting on, it is a matter of respect, respect that all members have a right to read the legislation, not just those who are in leadership drafting it.

In addition to the ability to read bills before voting on them, members should be given the opportunity to offer amendments on bills that they were not able to help draft.

Way, way back in the day I was a staffer here on the Hill, and in the 1990s we considered more appropriations in larger authorization bills under open rules, or modified open rules, and this allowed members who did not have an opportunity to amend bills when they were in committee an opportunity to do so on the floor before having to vote on it.

There have been no open rules on the House floor during this Congress, and the last time an open rule, or revised open rule, was reported out of the Rules Committee was in the 114th Congress.

Many members sincerely do want to participate in the legislative process. We genuinely believe we have serious amendments to improve legislation. I have 16 years in the State legislature working with colleagues on both sides of the aisle to improve legislation throughout the process, and my colleagues on both sides of the aisle should have the chance to improve legislation here in the Congress.

The last area for improvement that I would like to recommend today is the importance of individual bill consideration when it comes to appropriations measures. And while it is not specific to this committee, this committee does have great sway and influence, and I would urge you to help encourage regular order when it comes to appropriations bills.

Each of the Appropriation subcommittees work hard to produce a bill, and members should be afforded the opportunity to vote on and offer amendments to individual appropriations bills.

As was said earlier by my colleagues, Article I, section 7 of the U.S. Constitution establishes that revenue bills shall originate in the House. This is one of the most important and serious responsibilities that the House has.

When these bills are passed as massive packages or funding is pushed through as a continuing resolution, that impacts members' ability to thoughtfully consider legislation. The American people should expect more fiscal responsibility and focus from Congress instead of relegating those duties by passing expansive appropriations packages.

Congressional leaders need to return to a regular order appropriations process, and the Rules Committee should encourage leaders to produce appropriations measures that are reported to the floor as their individual bills instead of as packages.

These are all issues that can easily be fixed by using the existing processes and respecting the rules that are established. These changes are within our power as members to make and would establish a baseline of respect that all members deserve in this Chamber. It also extends that same respect to the voters who elect-

ed each of us to thoughtfully represent them here in the House of Representatives.

Thank you for the work that you do, and I look forward to working with the Rules Committee to bring about more transparency and accountability in the legislative process.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Castro.

**STATEMENT OF THE HON. JOAQUIN CASTRO, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS**

Mr. CASTRO. Thank you to Chairman McGovern and Ranking Member Cole for holding this important hearing.

Today I am here to discuss a proposed change to the rules package for the next Congress that would institutionalize the Tri-Caucus Witness Diversity Initiative.

As you all know, the Tri-Caucus is composed of the Congressional Asian Pacific American Caucus, the Congressional Hispanic Caucus, and the Congressional Black Caucus.

This year, the Tri-Caucus launched this important initiative to track the diversity of the expert witnesses who testify before House committees. Our announcement included support from Speaker Pelosi, Majority Leader Hoyer, Whip Clyburn, the Women's Caucus, Congresswoman Sharice Davids, co-chair of the LGBTQ+ Caucus, and from Congresswoman Deb Haaland, co-chair of the Native American Caucus.

While a witness diversity initiative has never existed as part of the core functions of the House, two parliamentary bodies in the United Kingdom are already leading this work in Westminster and in Scotland. Our Tri-Caucus Initiative has in large part been modeled after their work to track the gender diversity of their witnesses.

And while this is the first initiative of its kind here, research on this topic as it pertains to gender does exist. For example, an American University report published earlier this year shows that during the 2017 hearings on tax reform, less than 19 percent of the witnesses who testified were women.

As you know, the 116th Congress is the most diverse Congress in our Nation's history. Yet too often our witnesses do not reflect the Nation's diversity. Unfortunately, for many years, many communities have often been underrepresented, including Latinos, African-Americans, Asian, women, and LGBTQ folks.

In this moment of national reckoning on racism in America and as a global pandemic disproportionately harms communities of color, now is the time for change and for our rules to reflect our values.

As Congress continues to draft legislation to support our country's fight against COVID-19, it is critical that Members of Congress hear from diverse witnesses in that process. The institutionalization of this important initiative will make clear to the American people the House's commitment to diversity and transparency in Congress.

With each Congress, we should aim to reform and improve on the ways in which we serve the American people. I believe this pro-

posal is an important step toward a more just, a fairer, and a more inclusive Congress.

And with that, I yield back my time.

The CHAIRMAN. Thank you very much.

The last on this panel, Mr. Crist.

STATEMENT OF THE HON. CHARLIE CRIST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. CRIST. Thank you, Mr. Chairman. Can you hear me all right?

The CHAIRMAN. Yes.

Mr. CRIST. Great. Thank you very much, Mr. Chairman. I would like to thank you and Ranking Member Cole, along with all the members of the Rules Committee. You all work so very hard, and the entire House are grateful to you.

Earlier this summer, Americans from big cities and small towns across our country took to the streets to peacefully protest racial injustice in the largest demonstrations in American history.

Between income inequality, wealth inequality, educational achievement gaps, criminal justice inequality, discrimination in lending and appraisals, voter suppression, maternal health disparities, and armed White supremacists proudly marching through American streets, the American people said, "Enough."

Americans of all shapes, sizes and colors said, quote, "Black lives matter," and committed to fight racism. We committed to dismantle systems of racism that hold Black Americans back instead of just going about business as usual.

Being on autopilot while the American experience continues to fail our Black citizens is no longer going to cut it. It is on all of us to do whatever we can to truly deliver equal opportunity and equal justice under the law.

We, as legislators, should be aware of and intentional about the racial impact of the policies we make. That is why I am proposing a small, but potentially significant change to the rule of the House for the 117th Congress.

Just as committee reports are required by House rules to include items like a Congressional Budget Office score for budgetary impact, we should also ask for a score on racial impact of legislation the House is considering.

Awareness will be important tool for fighting racism, however insidious or accidental in our policies. This information will help members who want to tackle racial gaps, and it will help members who, at the very least, don't want to make things worse.

The Congressional Budget Office already has this capability and already provides this analysis upon request. I ask that we work together, the party of Lincoln and the party of Obama, to say that although we may fall short sometimes, we as the House are committed to try. A racial impact score won't end injustice, but it will be a good start.

I thank you for your consideration and welcome any questions about my proposal. And briefly, before I yield back, Mr. Chairman, I want to associate myself with my good friend and fellow Floridian, Congresswoman Stephanie Murphy, for her amendment to raise the threshold for motions to recommit.

Thank you again so much, and I yield the balance of my time, sir.

The CHAIRMAN. Thank you all very much for your testimony, and I have no questions.

I do just want to point out for the record, though, Mr. Davis, that you mentioned that infection rates have been stabilized. The latest news reports show that infection rates, in fact, are going up. So we are not out of the woods with regard to this terrible virus, I am sad to say, in large part because we have not had a national strategy to manage it appropriately. But in any event—

Mr. DAVIS of Illinois. Mr. Chair.

The CHAIRMAN. Yes.

Mr. DAVIS of Illinois. Mr. Chair, I agree there are pockets where we are seeing increases. I was referring to overall in the last 4 months there are many areas that are going down.

But I would urge this committee also, I agree with you, we haven't prepared the House either. I think we need a comprehensive plan to be able to get the House back to work and be able to begin implementing some of the same measures that have helped stabilize other parts of the country.

The CHAIRMAN. And I think we should do what we can to better protect this Chamber. But I also don't believe the answer is to make it more challenging for members to participate during a pandemic.

In fact, my counterargument would be that I think it is really sad that the minority has decided to enforce against its own members a demand that they not participate in proxy voting, which has basically disenfranchised hundreds of thousands of voters.

I mean, you have members, depending on what week it is, a considerable amount of Republicans that don't show up, but they can't vote because, with the exception of one, your leadership says they can't.

So let's figure out how we go forward. I hope that this is not an issue in a few months, but that all depends on how the Nation handles this.

I now yield to Mr. Cole for any questions he may have.

Mr. COLE. Thank you very much, Mr. Chairman.

Just on that last point, I do want to say I do agree very much with what Mr. Davis said. There are legitimate cases where people can't be here, I respect that, and while I didn't agree with the methods we adopted, we adopted them, and that was done by a straight majority vote. That is fair enough.

I am concerned a lot of members are abusing them. A lot of members just simply are not—

The CHAIRMAN. Would the gentleman yield to me for 1 second?

Mr. COLE. I would certainly yield to my friend.

The CHAIRMAN. Let me just say that if members are abusing this, if members are using this just based on convenience, that is certainly not what I had intended, and I think that that is wrong. And I certainly, every chance I get, reinforce that message. This is not about convenience. It is about necessity. And if it changes—

Mr. COLE. Mr. Chairman.

The CHAIRMAN [continuing]. Then that is unfortunate.

Mr. COLE. Well, please don't think that I question you at all, because I don't.

The CHAIRMAN. Oh, I know.

Mr. COLE. And I know you take it seriously, I know that. I just think it is worth thinking about what we can do on that score, because it seems like a legitimate problem to me.

But I want to get back, number one, thank the panel. A lot of really great suggestions here. A couple I don't agree with, but broadly I do.

And so I have both a couple of comments for specific members and a question. Particularly I want to go first to my good friend, my fellow appropriator, Ms. Wasserman Schultz, who I had the pleasure when I first got on Approps of being on her subcommittee that she chaired on Leg Branch, and then later have her as my ranking member when I was fortunate enough to chair that committee, and there is just not a better appropriator. There is nobody more thoughtful from an institutional standpoint.

So, number one, I want to associate myself with the very thoughtful comments she had about congressionally directed spending and the safeguards and the ability to evaluate the effectiveness. I think if they are ever coming back, those kind of tools are actually indispensable in providing the public with some confidence that these things are being used, as they are 95 percent of the time or more, in an appropriate and productive way.

What I do want to also ask my friend, she talked about bringing back the Select Committee on Intelligence, and I have said on Defense Appropriations we do a lot of great work there. But, again, I take my friend's suggestion very seriously.

Can you tell me why we did away with that? What was the rationale for not continuing that Select Committee?

Ms. WASSERMAN SCHULTZ. So when it was done away with, it was done away with by the new Republican majority. So I am not sure what their motivation was, and so I can't speak for Speaker Boehner at the time. I think it was Speaker Boehner that did away with it.

Mr. COLE. Yeah.

Ms. WASSERMAN SCHULTZ. But it was in place and working effectively, so that we had—and if you recall, the Select Committee was a subcommittee of the Appropriations Committee, but it was a special select subcommittee that combined intel authorizers and appropriators from across the Appropriations Committee, and it was a combined pair of more scrutinizing eyes.

We held hearings and reviewed the budget, the budget requests. We would go more deeply and specifically into the black portion of the budget than the Defense Appropriations Committee is really able to do, because, I mean, the Defense Appropriations Subcommittee has such a huge responsibility being 50 percent of the discretionary funding.

My understanding why it wasn't brought back was that it had some cumbersome elements of it, that perhaps it wasn't functioning in the most efficient way.

So my proposal isn't specific to replicate it and bring it back exactly the way it was, but that there does need to be a Select Intelligence Subcommittee Panel recreated, perhaps new and improved,

so that we can make sure that there are either combined authorizers and appropriator eyeballs together, or maybe just appropriators, so that we can really have more attention paid than, frankly, the defense appropriators are really able to—

Mr. COLE. No, I think there is considerable merit to what you are talking about. Speaking as a defense appropriator, you are exactly right, it is a vast budget, and honestly, most of the intel hearings we have—of course they are classified, so I am not getting into detail—but the reality is what we are doing is consuming intelligence, we are being given intelligence, but we are not overseeing the intelligence that we are being given and asking the tough kind of questions.

So, again, nobody admires and loves Speaker Boehner more than me. He wasn't exactly the Appropriations Committee's biggest fan in Congress. And it doesn't surprise me that we are talking about congressionally directed spending and this particular item now that he is gone. And, again, I say that with great affection and respect for my friend, the former Speaker.

But this is a good idea, I think, and I would really like to think about this, associate myself with you, because, again, just speaking as a defense appropriator, you are exactly right. We are just not able to get into the detail of this vast budget any way you can when you are dealing with Interior and \$30 billion. It is a function of the dollars, and I don't think you could probably have too many eyes on this particular area, and I say that with no disrespect to any administration. Frankly, I think the bureaucracy needs to be watched as much as administrations do as well. So it is a good idea.

Let me move now, if I could, to my friend, Mr. Cline, and just tell you, as an appropriator, I couldn't agree more, and I bet every appropriator would want each bill to come individually. That is the way we treat them in the Appropriations Committee itself. We have unlimited amendments in the Appropriations Committee. Obviously, any member, either side of the aisle, got a good idea, can offer those amendments. I long for the day when we did that in the full House.

I will tell you, there are two problems, and they are bipartisan in nature. The first one is the absolute explosion of the number of people that decide they want to add amendments to the appropriations bill. And so it gets down, from a management question, how much time do you want to spend on appropriations? How much floor time do you want to give us?

We are happy to take it. But I don't know, when you—we have 100, 200, 300, 400 amendments, that is a problem. And how you have discipline that—it is actually a problem for this committee, too, the Rules Committee, but it is an enormous problem before we took it, just from the management.

The second thing I will tell you—and I will also tell you both sides are equally guilty—the number of “got you” amendments have multiplied extraordinarily in my time here, and, frankly, the fear of voting on those amendments by members.

When the Republican majority came back in, one of the things it actually did do was restore open rules on appropriations bills. But we actually got to a point, I remember it was on a—very well—

it was on a Confederate flag issue, of all things, over national monuments, and it blew apart a bill. And members were then afraid.

I mean, when I originally got here, you would literally, if you were a Republican, you would vote on the amendments however you wanted, but you would always vote for the final Republican bill. It was just kind of assumed because it was considered to be better. Democrats were the same way when they were in the majority.

But if you have got any thoughts about, number one, how to control the number of amendments.

And number two, again, we have lots of Republicans, I will just be honest with you, that won't vote for Republican appropriations bills, because they don't want to vote for anything other than defense and veterans. And if you have that, you can't move the bill, because you can't expect Democrats to do the work that a Republican majority is supposed to do.

This is a real problem inside our party. And, again, I have no problem with people voting against bills if they exceed what the budget cap has done. I have never seen Republicans do that. I mean, we write the budget, we write the bills within our budget.

So there has got to be, again, some way of dealing with the sheer number of amendments. And, again, I am all for them. I like individual bills, and I like open rules. So I agree with you.

But have you got any suggestions for how we avoid "got you" amendments and how we say, "Okay, after you have had a crack at your amendment, we do have to govern the country"? That means the Defense Department needs to be funded. That means Health and Human Services needs to be funded. You can't only vote for the things you like. You have responsibility to govern here. You can't expect the other party to do it when you are in the majority. That is a problem.

So, anyway, that is a lot of rambling thought. You are one of our brightest members. I am very interested in what you have to say.

Mr. CLINE. Well, I appreciate the question, the opportunity to respond.

The Appropriations Committee does a great job. And I think the answer is to get skin in the game on the parts of the various members regarding the bills, to get broader support, and getting them to vote for amendments definitely gets their skin in the game.

I would say, in 16 years in the State legislature, when we had amendments that went on and on, on the floor, we had to sit through them all.

So I would say, if you just asked for people to submit amendments by a date certain and then offer them on the floor in the order received and the ones—and you have to sit through all the amendments before you get to offer yours, then you will have a lot of people giving up on their amendments.

Mr. COLE. That is actually a very clever idea. I am not sure I want to subject myself to it, being a responsible member. There are a lot of members that offer pretty frivolous amendments, and they are not confined to either side. But an interesting thought.

Anyway, again, appreciate the testimony, appreciate all the testimony.

Yield back, Mr. Chairman.

The CHAIRMAN. Thank you. And when you were just having that give-and-take with Mr. Cline, I was thinking of the time that Jeff Flake offered several hundred—500 amendments, all on an appropriations bill, all reducing the amount by, like, a small amount.

Mr. CLINE. Mr. Chairman, that is when you penalize him by putting him on Appropriations.

The CHAIRMAN. Yeah.

Mr. COLE. Mr. Chairman. Mr. Chairman.

The CHAIRMAN. Yeah.

Mr. COLE. Can I respond to that? They tried that. It didn't work. They even booted Labor-H out of the subcommittee because we had two members that wouldn't vote to move a bill out of subcommittee that cut the top line by 14 percent because it wasn't enough.

So, yeah, please just send us real appropriators, Democrat or Republican alike, not people that you think will learn there, what people that want to be there, like my friend Ms. Wasserman Schultz. And I am sure you would be a great appropriator if you chose to be.

Mr. CLINE. Thank you.

The CHAIRMAN. Let me see what I do.

Mr. PERLMUTTER.

Mr. PERLMUTTER. Thanks, Mr. Chair.

And just on that last subject, Mr. Cline, I remember on the Rules Committee we were doing appropriations by an open rule. Our chair at the time was a guy named Dave Obey, and he had been going for 24 hours straight because so many amendments had been offered. And he finally—I don't know if, Mr. McGovern, if you remember this—

The CHAIRMAN. I do.

Mr. PERLMUTTER. But he always had about five pencils in his pocket, and he had broken them all, he was so mad. And he came to us, and he said, "I quit, unless you guys go back up and limit this appropriation bill." He said, "I will do a hundred amendments, that is it." And we had to leave the floor and go back and change the rule, because he felt like he had been—

Mr. CLINE. It is like break that filibuster. Make them sit, make them sleep there.

Mr. PERLMUTTER. Well, he felt like he was being punished, and he didn't deserve to be punished.

Mr. CLINE. Right.

Mr. PERLMUTTER. And he said it and we agreed.

So there has been some real abuse of this. And so I would like to change—I want you to know that. And that is why there has been limitation, and Mr. Cole has recognized it, we have recognized it. You may have some points as to a limiting factor, you got to have your amendments in so many days in advance, you have got to sit there through all of them. And that may make it a better approach and people feel that they are more involved. But I can tell you, there has been real abuse on that process and I hear you.

Mr. CLINE. And I appreciate that. And I have combined talking about the two issues in my testimony. But the open rules apply to nonappropriations bills as well, and I think a more open process

would put more skin in the game on the part of members and get them supporting the bills on final passage.

We have Jefferson's rules in Virginia, where if you contribute to the product, you are bound to vote for the product.

Mr. PERLMUTTER. Well, and that is another issue here because you could get an amendment and still vote against the bill, and that has been something else that we watch closely. But I hear you, and I recognize what you are suggesting.

I did want to respond to the Chairman and Mr. Davis and Mr. Cole, and then sort of in advance to my friend, Mr. Morelle, because I am a little bit in disagreement with all of you on the proxy voting piece of this thing.

The way the rule was written—and I have it in front of me—is that proxies are only available during a covered period. And a covered period is defined very specifically as a period where there has been a pandemic declared and the Sergeant at Arms and the House Physician have to advise the Speaker, who then says this period is—this covered period will now last for 45 days.

So you are in a very restrictive time to be able to use a proxy. So this isn't a proxy that we would have when it is sunny and warm and everybody is healthy and there is no pandemic.

Now, we may want to actually offer proxies or some virtual voting, but that is not the system that we created, and it is very restrictive. And there isn't, Mr. Davis—and I know Mr. Morelle had the same concerns—but there isn't a call for a doctor's note to be able to say, "I get to do proxy voting." That is not what is required. What is required is a declaration of a pandemic, which, in my opinion, is far more restrictive.

So I just wanted to say that. But I do believe, and I would say to the chair and to Mr. Cole, we really do have to look closely again at what we did, sort of in an emergency measure, with respect to proxies, with respect to virtual voting, and with respect to that whole Rule 25, which is the rule on the continuity of government in the event of a catastrophe and how we continue the legislature in place.

So I will leave it at that. Obviously, I am for the congressionally directed spending. But I do think our committee has to take a good look at, I guess it is Rule 20, it is when we have a quorum, but it is really the catastrophe of an attack or a pandemic.

So with that, I yield back.

The CHAIRMAN. Thank you.

Mr. Woodall.

Mr. WOODALL. Thank you, Mr. Chairman. In true Rules Committee fashion, we have outlasted many of our witnesses.

I think that Mr. Castro's testimony on diversity during testimony, which I think is incredibly important but probably more so now that I am in the minority than when I was in the majority, but as we talk about faith and trust in institutions, the majority has the privilege of setting the agenda. But when we have these panels that include five majority witnesses and one minority witness, it does appear that we are preparing for a press release more than we are preparing for shedding light on difficult and partnered subjects.

So I would not only like to see the metrics that Mr. Castro has been focused on, but also that diversity of ideas as we enter eras where I hope we will have fewer Republican ideas versus Democratic ideas and just more good ideas versus bad ideas. I think there is an opportunity for that.

I wanted to find out from Mr. Cline, you know, the first open rule I got to be a part of was in 2011. We took up the entire appropriations package at once, the entire omnibus appropriations bill. We went from Tuesday to Saturday morning, so 5 days, 24 hours a day, and considered every amendment that any member had to offer on anything in the entire 12 appropriations bill package. Exhausted, as you suggested, ultimately won the day.

But we will now have more amendments offered under a structured rule, from the Rules Committee, than were offered under an open rule in the late 1980s. So there is a habit that has been formed, both as Mr. Cole suggested, that members are offering frivolous amendments that are designed to take down bills instead of build up bills, and leads to a reluctance to vote on tough amendments because we don't have any experience voting on tough amendments. The leadership sorts all those out ahead of time so that members can be more comfortable on the floor.

But secondarily, we have lost those relationships with our committees. As a young freshman member, I don't need to offer my amendment on the floor of the House. I need to take it to the chairman 2 weeks before the committee bill gets marked up so that I can get it included in the base text so that it will survive conference down the road.

As you have struggled with these issues, have you seen any steps to get members back in a good habit? Because I fear if we flipped the switch tomorrow and made things the way you and I would like for them to be, we would encounter the exact same uncomfortable situations that have brought leaders on both sides of the aisle to shut the process down.

Mr. CLINE. Well, I appreciate the question. And you all, with respect, have been here a lot longer than I have.

From my experience there at the State level, for example, there is a lot more contact between the chairman and the ranking member as bills are constructed. So maybe the ranking member does go to his members on his committee and say, "The chairman has asked for input. Here is your opportunity for input." Not on the floor. Members may ultimately refuse to acknowledge that. But if earlier input is solicited from both sides and they feel invested in the product as it comes out of committee, the less likely you get these efforts to gum up the process just for the sake of gumming up the process.

There may be a legitimate issue as a bill goes to the floor. But as a freshman, I feel like my opportunity to weigh in is at committee, especially on issues of jurisdiction, which I serve on, not floor to a bill where I didn't see it come through committee and I don't have any—you know, maybe I have a good idea, but I should have weighed in at the committee level to make that point.

Mr. WOODALL. Yeah. I was a big fan of open rules when I arrived here, and having watched that broken process continue I now see the wisdom of providing some structure, even if it is giving the, as

we have done many times, giving the chairman and the ranking member on the floor the ability to consider 30 extraneous measures of their choice, providing some form of parameters.

But the excuse I always here is we don't have enough floor time. And as you and I both know, we start sometimes fairly late and end sometimes fairly early. I believe we can make time on the floor. We might not have enough pencils for David Obey on the floor because the chairman and the ranking member do bear the brunt of that workload when it happens.

I think we would be derelict not to try to move back in that direction. I don't think there is any member of this Chamber who believes shutting your colleagues down leads to a better work product than including their colleagues in it. And so I appreciate those suggestions.

Mr. Chairman, I yield back.

Mr. CLINE. And, Mr. Chairman, I would just say, if you had one open rule on any—it doesn't have to be an approps bill—each year, you kind of learn the lessons, and the freshmen get to learn the lessons over again of why you don't necessarily have open rules on every bill and why structured rules have benefits.

The CHAIRMAN. I appreciate that, but I think the problem we have is deeper than just an open rule versus a nonopen rule. We do have a problem, and I think it is fair to say that there are Members on both sides who look at their role very differently. And so, another problem, quite frankly, with appropriations bills is, we do everything perfectly here, but if you do not have a product in the Senate, you are back to, well, we don't want to be here making these big omnibus bills, because otherwise, there is no way to move forward. And so, I don't know how we resolve that problem in the short-term, but—

Mr. CLINE. I share that frustration.

The CHAIRMAN. So anyway, thank you.

I now yield to—I don't know if Mr. Morelle has any questions.

Mr. MORELLE. Just a couple of questions or, maybe just thoughts. I, first of all, don't feel that I know enough about the appropriations process, or even, frankly, lawmaking yet here. I am trying to unlearn everything I learned in New York for decades, but I do think the problems in any legislature have been well-articulated, which is the balance between trying to allow as much as participation and many good ideas from Members, but also, to your point, Mr. Chair, you actually have to enact laws, you have to pass bills, and you have only got so much time here to do it and we have got some big issues.

So I would be delighted to with all my colleagues and Mr. Cline in trying to figure out how to balance better perhaps those interests and end up with hopefully better product. I wasn't going to mention, but since Mr. Perlmutter uttered my name, I would say this, as it relates to proxies. I think two conditions ought to be met.

Mr. Perlmutter rightly points out that when we created the rule around this pandemic, one condition had to be met, and that is, you essentially had this national emergency, which we recognized would make it very difficult for Members to be here physically in Washington voting, but we did not want to disenfranchise them or, more importantly, their constituents.

But I actually think if we were to pursue either a temporary or permanent rule in the 117th Congress, that two conditions ought to be met: The first is, that the national emergency, that declares there to be a covered period, has to be met, and that would be the same individuals who need to confer to declare a national emergency that we did in the 116th rules, even if it is not COVID-19, if it is a future disaster of some kind, but I also think a second condition, and that is the failure to appear to vote in person and to use the proxy ought to be, by virtue of your inability to be here because of the national emergency. And I think my concern, which I expressed, I think, when we were first talking about this, and when we implemented the rule, which I voted for, but some concern that we could be down a slippery slope. And I don't think simply meeting the first test is enough. I think, you know, I could have said, for instance, Gee, I don't want to fly. It is an hour flight from Rochester, but the drive is 6½ hours each way. Yet since the beginning of March, I have driven virtually every week with one exception. So I spend 13 hours in a car to come down and back.

That is, in my mind, an inconvenience. I suppose I could say, well, it is a covered period, I don't want to spend 13 hours in a car to come down and vote for a few days and go back. But to me, that is an inconvenience. There is not a reason because of the covered emergency which would prohibit me, or prevent me from being here. And I think that ought to be the second condition or test that needs to be met when we—

The CHAIRMAN. Will the gentleman yield to me one second?

Mr. MORELLE. Yes, of course, Mr. Chairman.

The CHAIRMAN. Right now, I mean, if you want to vote by proxy, you have to sign a letter that says that you cannot physically be here due to the pandemic. Now, I mean that is the requirement. We have that requirement.

Mr. MORELLE. But I don't think it is in the rule. And, frankly, I am not sure—well, you know, I would always defer to the chair.

The CHAIRMAN. The deal is, we are trusting Members to abide by the regulations that we have put out there. And so the point is well-taken, and if there are people who are doing this simply out of convenience, that is not appropriate.

Mr. MORELLE. Right.

The CHAIRMAN. And, again, I think that is something that we need to think about. Thank you.

Mr. MORELLE. And I would simply just say tightening it up perhaps, or putting it in the actual rule. And, by the way, I think, by and large, this has been used very effectively, and I think people have been very, very good about observing not only the letter, but the spirit of the rule, and hope that would continue and maybe some small adjustment to help ensure that would make our friends on the other side of the aisle more comfortable.

And with that, Mr. Chair, I yield back.

Thank you, sir.

The CHAIRMAN. Thank you.

Ms. Shalala.

Ms. SHALALA. No questions. Thank you.

I have enjoyed the discussion.

The CHAIRMAN. Thank you.

Did I miss anybody?

Mr. PERLMUTTER. Mr. Chair, I did have one question for Mr. Crist. Could I ask that question?

The CHAIRMAN. You may.

Mr. PERLMUTTER. Mr. Crist, I am trying to figure out in the racial and ethnic impact score. What is it—is there something like that that exists today not so much in the Congress, but maybe Florida does something like that, or someplace—I don't know—I am trying to figure out what it looks like.

You are muted, Charlie.

You are still muted. We can't hear you.

Mr. CRIST. There we go. Yeah. I understand that it does exist in the Congress presently, if requested, and this would make it more of a mandatory thing so that, you know, any legislation that we would put forward, it would give us an idea about whether or not the legislation is going to be disadvantageous, if you will, to a minority or not.

Mr. PERLMUTTER. Okay. All right. Thank you.

I yield back.

Mr. CRIST. Thank you for the question.

The CHAIRMAN. Thank you very much. No other questions? This panel is dismissed.

Thank you very much.

We go to our next panel, which is Mr. Kilmer, Mrs. Murphy, Ms. Davids, Mr. Taylor, and Mr. Woodall. And we will begin with Mr. Kilmer.

And let me just say before I yield to Mr. Kilmer, I want to thank Chairman Kilmer and Vice Chair Graves, in particular. I want to take a moment to congratulate both of you on an incredibly successful Congress. Under your leadership, the Select Committee on Modernization did important work on analyzing how Congress could work more effectively and efficiently on behalf of the American people, identifying specific recommendations somewhere, I think, near 100, I believe, to do just that. A feat unto itself. Your staff must be exhausted.

Mr. Chairman, you and Vice Chair Graves went even further and pushed the committee's recommendations into results. As all of our colleagues will recall, the Select Committee ushered in two critical resolutions with the help of the House Administration Committee. While we may not have known at the time, the Select committee's recommendations to improve House technology systems, enhance and unify telework practices, and just generally push the House into the 21st century, helped pave the way for key technology changes that were critical to ensuring that the House could work, and do it safely in the wake of this terrible pandemic. And you did it all while having to endure "Nickelback," whatever that is, and Woodall, who we all know so well. But we will have more time for this in the coming weeks. To Mr. Woodall and Mr. Graves, thank you both for your service for your Nation.

I know Chairman Kilmer and Ms. Scanlon, our Rules colleague, and the rest of the Modernization Committee, I hope that you are all proud of the work that you have done. And I think it has had a lasting impact, and we thank the hard-working staff of the Mod-

ernization Committee. I think you have improved this institution, and so, I am grateful for your leadership.

Anyway, I just wanted to say it because, I think, a lot of people may not appreciate the extent of your work and how hard you worked, and the fact that this is the way this place should work where Democrats and Republicans come together and try to, you know, do things for the good of the institution.

So let me thank you, and I will now yield to Mr. Kilmer.

STATEMENT OF THE HON. DEREK KILMER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON

Mr. KILMER. Thank you, Chairman McGovern, and thank you for your kind words. And thank you, Ranking Member Cole.

I appreciate you hosting the Members' Day hearing, and appreciate the opportunity to share with you some ideas for improving the House rules for the 117th Congress.

Two years ago in testimony before this committee, I proposed as part of the House rules for the 116th Congress, a committee to consider measures to improve the operation of Congress, and as an independent and coequal branch of government. And under your leadership, the Select Committee on the Modernization of Congress was created as part of the rules package for the 116th.

As chair of the Select Committee, I am here to say thank you for your guidance and support over the past 2 years. I am very grateful to you and to your staff. And with that help, the Select Committee unanimously passed 97 bipartisan recommendations to make Congress work better for the American people.

And I am proud of what we achieved and I am grateful for the opportunity to lead the effort, along with Vice Chair Tom Graves and in partnership with Mr. Woodall and Ms. Scanlon from your committee, who served very ably.

I am also going to share with you some of the bipartisan recommendations the Select Committee recently passed that would improve the way the House functions.

The Select Committee spent a lot of time focusing on ways to reclaim Congress' Article I powers, and made a number of strong recommendations in that space. And the first proposal I would like to highlight will help restore Congress' Article I power of the purse. We recommended, on a bipartisan basis, a community-focused grant program to reduce dysfunction in the annual budgeting process, and restore Congress' unique constitutional authority to appropriate Federal dollars to support projects that have the broad support of local communities across the United States.

This competitive grant program calls for transparency and accountability and supports meaningful and transformative investments in the communities we represent. Taxpayer dollars will be spent more efficiently and transparently on local projects with guardrails against abuse.

And the Select Committee believes that this program could help end the era of government shutdowns, and I urge the committee to include it as part of the 117th Congress' rules package.

In addition to the community-focused grant program, I would like to share a couple of ideas designed to strengthen Congress' Article I powers. The first has to do with encouraging the Article I

principle of debate and deliberation. The Select Committee recommended establishing a pilot for weekly Oxford-style policy debates on the House floor.

Debate exposes us to perspectives that are different from our own, and requires us to really think through our positions in order to build the best arguments we can. It requires the ability to listen, as well as speak, and that is incredibly important. My Select Committee colleague, Emanuel Cleaver, constantly reminded us that how we treat each other matters, and these Oxford-style debates could showcase passionate but civil exchanges about the issues of the day, and we should encourage more of that.

Along the same lines, the Select Committee recommended that committees experiment with alternative hearing formats to encourage more bipartisan discussion. Committees should try questioning witnesses in ways that encourage discourse rather than grandstanding. We also recommended that more committees follow the Select Committee's lead, and experiment with mixed seating arrangements, where Democrats and Republicans sit side by side rather than on opposite sides of the dais.

These simple experiments encourage dialogue and civility and ultimately strengthen Congress. Including these ideas in the next House rules package would help Congress restore Article I capacity. Another way to build capacity is to build efficiency into the congressional schedule.

Between committee work, floor work, running a personal office, and constituent work in the district, the demand for time is constant, so the Select Committee tried to find ways to reduce frustrating conflicts. We focused on committee work and recommended that the House establish specific committee-only meeting times when Congress is in session.

We also recommended that the House establish specific days or weeks where committee work takes priority. Creating a common committee calendar portal to help with scheduling could also reduce conflicts. These ideas will make Congress work more efficiently and productively on behalf of the American people.

Finally, I would like to thank you for your continued attention to a number of operational issues the Select Committee has recommended. Prior to the COVID-19 pandemic, we recommended that the House update its procedures to allow Members to electronically add or remove their names as bill cosponsors. We are happy to see this now in effect and think it should be permanently authorized. Same goes for our recommendations to expand the use of digital signatures, and make permanent the option to electronically submit committee reports.

We should adopt procedures that make Congress more efficient, rather than reserve them for emergencies. The COVID-19 pandemic has forced us to take a hard look at continuity issues, and think about how we can better prepare for the unexpected. The Select Committee recommends that committees establish bipartisan telework policies, and update systems to encourage in-person electronic voting and other modern technologies.

Cybersecurity, telework, and emergency preparedness training should also be given to all Members of Congress. By taking these steps, we can ensure that Congress is fully prepared in the event

of another crisis. Continuity of government plans should be built into our procedures and happen as a matter of course.

From day one, the Select Committee's guiding principal has been to make Congress work better so that we can better serve the American people. That simple but profound goal has guided all of our work, some of which I have shared with you today.

Vice Chair Graves and I believe the bipartisan ideas that we proposed to improve the House rules can help build capacity, and ultimately strengthen Congress, and we hope they will be implemented.

For that matter, our committee generally agreed that the work to modernize and improve the People's House should be an ongoing effort, not done once every 20 or 30 years or so. And so, I would encourage this committee to consider how, if at all, to ensure that the work of improvement continues going forward.

On behalf of the Select Committee, I appreciate your consideration. I am happy to provide additional information to support your work and thank you, again, for your leadership, partnership, and for the opportunity to speak before the committee today.

The CHAIRMAN. Thank you very much.

Mrs. Murphy.

STATEMENT OF THE HON. STEPHANIE N. MURPHY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mrs. MURPHY of Florida. Chairman McGovern, Ranking Member Cole, and the members of the committee, thank you so much for this opportunity to testify about my views on the rules that will govern the operation of this Chamber in the next Congress.

So, my first set of recommendations involve fiscal discipline and transparency. First, I respectfully request that we retain the paygo rule in Rule XXI, clause 10 of the current House rules. This rule was also in effect for the 110th and 111th Congresses' when Democrats were in the majority. In general, it prohibits the consideration of direct spending or revenue legislation that is projected to increase the deficit over two discrete time periods. Second, I would recommend that we strengthen the transparency around this rule.

If the Rules Committee reports a special rule providing for a consideration of a bill, the accompanying committee report should be required to include a specific statement indicating whether the special rule waives the paygo rule, in particular, as opposed to a vague statement waiving all points of order against the bill. This can be accomplished by amending Rule XIII, Clause 3, and my office is preparing draft language, and will share it with your staff.

Third, I would like to work with the committee on crafting a carefully calibrated amendment to the House rules that would, except in exigent circumstances, prohibit the House from considering a bill unless CBO and JCT have prepared and published a cost estimate of that bill.

I seek these three changes for a simple reason. You know, contrary to wishful thinking in some corners, deficits and debt do matter. They matter to our economy, they matter to our security, and to our children and grandchildren's future. And I recognize that deficit spending to combat the health and economic consequences of COVID-19 is necessary, and I support that spending.

But Congress will need to bring spending and revenues into better balance once the pandemic is behind us. And we shouldn't keep digging ourselves into a deeper fiscal hole. And if we do, we better be upfront with the American people about it.

My second set of recommendations involves the motion to recommit provided for in Rule XIX. Unlike some of my colleagues, I do not believe we should eliminate the MTR, which I view as an important tool for the minority party in an otherwise majoritarian institution.

At the same time, I recognize that the MTR is frequently used by the minority party to engage in, you know, cynical politics and campaigning on the House floor, rather than as a part of a genuine effort to improve a bill.

The text of the MTR does not undergo committee review, or otherwise get vetted through regular order, and so it is often poorly written and confusing, and Members rarely have the sufficient time to review the language and to determine what it actually does as opposed to what the minority party claims it does. And I think this is a recipe for bad legislating.

So for those reasons, I believe we should retain the MTR, but require two-thirds support for the MTR to pass rather than the current requirement of majority support. This would put the MTR on the same plane as a suspension bill.

Finally, I recommend that we continue to find new ways to foster bipartisanship in the House by facilitating floor consideration of bills that have a critical mass of bipartisan cosponsors. At the urging of myself and other Members, the House established the consensus calendar in Rule XV, Clause 7 of the current rules, and I am deeply grateful to you and your staff for helping make that happen.

In the coming weeks, my office will propose specific ways to strengthen the consensus calendar, and to otherwise promote bipartisan cooperation during these otherwise highly partisan times. I think the American people want their representatives to work across party lines, and House rules should reward lawmakers who conduct themselves in that spirit.

With that, thank you, and I yield back.

The CHAIRMAN. Thank you very much.

I should just point out for the record, though, that in the current Rules Committee reports, we don't just say "waive all points of order." We actually, in the section on explanation of waivers, if we waive paygo, it specifically says in our report that we waived clause 10 of Rule XXI, which is the paygo provision.

So the Rules Committee report is pretty explicit about waiving paygo or not waiving paygo for that matter. So it is there. But in any event, thank you. I now turn to Ms. Davids.

STATEMENT OF THE HON. SHARICE DAVIDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Ms. DAVIDS. Thank you. And thank you, Chairman McGovern and Ranking Member Cole for holding this hearing and allowing us the opportunity to comment on proposed House rule changes for the 117th Congress.

So, my recommendation for rule change is pretty straightforward. I propose that the director of the Congressional Budget Office be invited to provide an address or report to Congress on the fiscal state of the Nation each year. And, you know, while right now we are in a crisis which necessitates spending to keep our economy going, our Federal budget is on an unsustainable trajectory. And I believe this is the sort of report that could provide a common baseline for my colleagues and I to work from using the same data and operating under the same budgetary assumptions year to year.

You know, as this body formulates budgets and votes on appropriations packages each year, it would be helpful to have the general input and objective position—have that general input of an objective position so that we can set goals based on facts. And I also think this sort of annual report could help remind our colleagues of the very real effects of congressional spending and, perhaps, facilitate a conversation on how we could direct Federal resources in a responsible way.

And, of course, we should be adhering to the existing House rules, the Pay-As-You-Go, which we were just talking about, or hearing about, rule which requires Congress to pay for legislation we are proposing and voting on—you know, budgeting is about priorities, and deciding what is important and what price we are willing to pay for it, and that principle is at the fundamental core of paygo, which is why I support its inclusion and its continued inclusion in the House rules for this Congress and the next Congress.

We have seen the disastrous consequences of fiscal irresponsibility with deficit financed tax cuts for the wealthy and out-of-control budgets, and it is worth noting, and we have already heard this, but I will reiterate, that we are going through a pandemic right now, and this—the spending that we are doing and the relief that people need is very real and necessary, and this is the kind of crisis where paygo rules might need to be waived. This is a good example of that.

When we are in a crisis, we need to make sure that the people of this country are being cared for, and it is also times like these that we see a real demonstration of the necessity for greater fiscal responsibility in normal times, in times that are good. And so, we are setting ourselves up to go through times like this.

So I would encourage the adoption of this rule change, and any other changes that would help promote the adherence to fiscal responsibility as we aim to use our taxpayer resources in the most effective way possible.

And with that, I will yield back. Thank you for having me.

The CHAIRMAN. Thank you very much. Mr. Taylor.

Mr. TAYLOR. Thank you, Mr. Chairman.

Can you hear me?

The CHAIRMAN. Yes. Yes.

**STATEMENT OF THE HON. VAN TAYLOR, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS**

Mr. TAYLOR. Great. Okay. Well, it is great to be with you, and the ranking member and all the members of the Rules Committee. And I just want to say that I am a big believer in rules and proc-

ess, and the process that we have, I think, is really important. And so one statistic that kind of strikes me is in the 100th Congress—this is when I was in high school—in 1987/1988, 8 percent of all bills that were filed actually became law. And now, in this Congress, we are at about 1 percent. And that is because we are filing about 50 percent more bills, but we are passing many fewer bills. So the percentage of success is dropped, as well as the number of bills that are being filed has gone up.

And so, I am concerned that the ability for Members to—when I say “play small ball” to do small, commonsense piece of legislation, and get those all the way through the President’s desk have been impaired.

So I am going to offer three solutions, and I have talked to some of the Rules Committee staff about this, and this has been a discussion within the problem-solver caucus. The first one is to build on the 290 rule that was successfully implemented in the last Congress. And that is to have 290—to apply that same rule to Senate bills.

So most legislative chambers in this country, even though they are State legislators, have a provision that allows House Members to support Senate bills, Senate bills to support House bills. And so that—so you would have to create that mechanism in order to do 290 for Senate bills, but allow Members not only to advocate for a bill and to take credit for it, but also for Members to then, in turn, be able to take that—get behind a Senate bill, and then actually compel it to get on the floor and get on the consensus calendar, and really expand what I think has been a big success.

And your staff has been very complimentary of the problem solver’s success in getting the 290 rule into effect and seeing it work.

A second thing I wanted to talk about is what I call four-fifths/two-thirds. And that is, again, allowing bills that are modest in intent, and then are singular in focus to be able to come to the floor of the U.S. House.

And so, if a bill gets four fifths of the committee members to sign on to the bill, so 80 percent of the committee members. So in the Armed Services Committee, there is 60 members. So you are getting 50 members, you would then, in turn, be able to actually bring that bill to the floor of the U.S. House, and then it would basically be a suspension bill. You would have to get two-thirds vote. I put it on the consensus calendar, and we could have discussions about some of the details about—but, again, you are trying to allow a bill that is—and you would have to get four fifths of the committee of jurisdiction.

And there are some bills that are big and complicated that get referred to many, many committees of jurisdiction. And I think we would probably have to have some mechanism to allow committee chairs, if they wanted to, to waive it. Or if they didn’t want to, say no, I want four fifths of my committee, then they would have that power.

And then finally, the third idea is trying to make sure that bills, again, that are commonsense, where they have passed the House and the Senate actually, go to the President’s desk. If you believe that most Congresses, there are half a dozen bills that pass the

House, pass the Senate, they are companion legislation, but actually don't get to the President's desk.

So what about a half a dozen State legislators have done is they have a rule process called "over ineligible" where they will take the—this is a very difficult one to explain. It is very simple in practice.

But basically, if you have a Senate bill that comes over, it is in the House, the House companion has passed committee and it is now on the floor. The House author of the House bill can say, you know what? I am going to take my bill, set it on the table. I am going to pull the Senate bill, which is here, it has passed. It is in this Chamber. It is down at the well. I am going to pull that up and so now we are going to vote on the Senate bill. It is a way to expedite the Senate bill.

Some State legislators actually have it automatic. So wherever—when the Senate bill comes over to the House, it is automatically moved to whatever point in the process it was in. So, again, this doesn't take any—no one loses any power per se and, one of the ideas that I have is to protect the House Member, the author of the bill, to say, you know what? I want to use the Senate bill and move this on so it goes on to the President's desk. And, again, there is a small number of bills every Congress—one other thing this will do is it will actually encourage Members to do more to work on companion legislation so that, in turn, it will improve the probability.

I have actually talked to a member of the Senate about having a similar bill, an over ineligible rule, over on the Senate side. Say, Hey, we are doing this to help expedite your bills, you should do this to expedite our bills. And I have gotten a favorable response from Republicans and Democrats that I have spoken to about all of these rules as I have discussed it with my colleagues in the problem solver caucus.

And with that, Mr. Chairman, I yield back.

The CHAIRMAN. Thank you.

Mr. Woodall.

STATEMENT OF THE HON. ROB WOODALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

Mr. WOODALL. Thank you, Mr. Chairman. I know ours is not supposed to be based solely on competition, our business, but I just think it is worth pointing out that while serving under your leadership here on the Rules Committee, I have voted 100 percent of the time against Ms. Scanlon, and her against me. While serving under Chairman Kilmer's leadership on the Select Committee, Ms. Scanlon and I voted 100 percent of the time together. And so, I don't know if there is anything that Mr. Kilmer has to add that he wasn't comfortable sharing in open session about how you might bring people together here on the Rules Committee as he has been bringing people together on the Joint Select Committee, but I did want to put that out there and, tell him how much I appreciated his leadership.

I will tell you, Mr. Chairman, I think we were disadvantaged by not having Ms. Davids and Mrs. Murphy on our committee. I support both of their ideas, and they sounded very similar to some of

the ideas that you and I and the committee had worked on throughout the year.

Mr. Chairman, my amendment is to some of the good work that you did at the very beginning of this Congress, by requiring that bills be reported out of committee before they are considered here in the Rules Committee. And I would go one step further, add a section 3 to—paragraph 3 to the Section 103(i) that was passed in H. Res 6. It said it shall not be in order to consider a rule or order that waives the application of paragraph 1 after the bill or joint resolution has been referred to committee for 15 legislative days.

The point of this change, Mr. Chairman, is to say that we have found reasons and there are always reasons to waive the rules, including brand-new rules that were done with the best of intentions as this one that you promulgated. If a bill has been sitting in committee for 15 days, clearly there is not an emergency that requires that it move forward without a hearing.

If it has just been sitting in committee and no one has been acting on it, surely it doesn't need to be rushed to the floor with no input from the committee whatsoever. I recognize that no matter who is in the majority, we have emergency measures and, in fact, the rule, as it exists today, makes an exception for emergency-designated legislation, but this would further the building of trust in the committee process that you began by saying we are not going to use this process to short-circuit a committee process; we are only going to use it to expedite things that are simply coming so quickly, they haven't had an opportunity to be dropped in committee and the chairman hasn't had an opportunity to have the hearing or the markup.

Making the point that the reason we don't follow your rule isn't because we don't want to, it is because we haven't had an opportunity to. If the opportunity is presented, then we need to be able to say yes to that opportunity as your rule was designed to achieve.

It requires that the point of order under this paragraph be—the question of consideration shall be debatable for 10 minutes, and the member initiating the point of order and an opponent to have that time, but shall otherwise be decided without intervening motion, except for one that the House adjourn.

And, again, this is not intended to disadvantage the majority, which is in charge of running this institution. It is only intended to complement the effort that the Rules Committee chairman made at the beginning of this Congress.

With that, I yield back.

The CHAIRMAN. I think that is the last person on this panel, Mr. Woodall. So let me just say, I appreciate your words, Mr. Woodall, with regard to the McGovern rule. Let me just say before that, there was no such rule. There was nothing in place. And I said when we were doing this that we would try to do as well as we can, but it wouldn't be perfect, because there would be times when it would be difficult to do that.

I think we were much better at it last year than this year, but this year, to be fair, we are in the middle of a pandemic, and there is a lot of things that aren't normal, right. So—and we will continue to try to do better.

I really do believe, in principal, that it is a mistake to short-circuit the committee process, but I think we have been making a concerted effort, and a fairly effective effort in trying to comply with that. And, again, in my perfect world, that is the way this place should run. I mean, there should be hearings and a markup in committee before it comes to the Rules Committee, and then we can bring a bill to the floor. So I will try to do better.

Anyway, having said that, I think there are some really good ideas that have been presented here today, and we will obviously be working with the members who are here today and their staffs to try to figure out how we can move forward on some of these. And, again, we might have to do some tweaks here and there, but I really appreciate your time.

Let me yield to Mr. Cole. Oh. I am sorry. Let me yield to Mr. Woodall for any questions. Maybe you might want to question yourself.

Mr. WOODALL. I do, Mr. Chairman. I have been conflicted about several things. I am hoping we are going to be able to sort those out together right here. The only other thing I wanted to mention, Mr. Chairman, is whether or not there is a process related to attaching unrelated legislation to a message between the Chambers without bipartisan concurrence. That is something you and I have talked about in Rules Committee on many occasions, and I have tried to work out some language, but it does have to be incredibly nuanced to protect the ability of the majority leader to continue to operate the floor while still protecting minority rights.

I appreciated Ms. Davids—I believe it was Ms. Davids—mentioning the motion to recommit in the nature of the—was it you, Mrs. Murphy? The motion to recommit as being that one opportunity that the minority has, as you recall, from the media articles when the majority leader decided he was going to start attaching unrelated legislation as messages between the Chambers. Folks celebrated that as being this wonderful new procedural tool that has been crafted to prevent the minority from getting in the way of—with their messaging motions to recommit.

Again, I recognize the need to attach legislation, and I recognize the need for the desire for the expedited process between the Chambers. I certainly wouldn't want to craft something that was so restrictive, the majority could not assert its agenda. But I do think, because there has been so much consternation about that process throughout the year, whether it is celebrating on one side or bemoaning on the other, that it is worth looking at. These habits that we get into, not passing appropriations bills individually, not having open rules, not sending things through committee.

Again, you took major steps at the beginning of this Congress to try to get us out of some of those bad habits that we had spent a couple of decades getting into, and I put messages between the Chambers in that category. And I appreciate you recognizing me.

I yield back.

The CHAIRMAN. Mrs. Torres, any questions?

Mrs. TORRES. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Perlmutter.

Mr. PERLMUTTER. I have a couple. To the Modernization Committee members, the question I had, and we have seen it in a num-

ber of different proposals that we have had is how to streamline and modernize the calendar, and be more efficient in our travel, and more efficient in our workdays, if you will. I am curious what you all concluded. In our kind of summary of what you proposed, it is pretty general. We have got some more specific proposals, but generally, what did your committee come up with?

Mr. KILMER. Maybe I will take first crack at that, and then if either of your Rules Committee colleagues who served on the Select Committee want to weigh in as well, I welcome that.

So we focused primarily on principles rather than on proposing a specific calendar. And one of the principles that we proposed was that there should be more days in session than travel days. I think last calendar year we had 65 full days and 65 travel days in session. And, you know, again, if the notion is, how do we have Congress work best for the American people, I would argue we need to increase time legislating. And so, reducing the amount of time in transit is important.

The other thing we looked at, though, was the productivity of the time that we have, and the bipartisan policy center did, I think, a very strong report looking at the conflicts that exist between committees. They looked at one day, and found on just one morning, 131 members of the House had a conflict between two or more committees.

And so, the concern, of course, is, you know, if—and I don't raise that as an individual member who feels like I need a clone to attend all my committee meetings, but rather, as someone who thinks that important learning and work is intended to happen in committees. And that work is challenged when folks aren't there, and that can negatively impact the ability of Congress to deliver.

And so, we made recommendations in that space as well to create—to encourage blocked scheduling when committees meet, to create a common committee calendar portal, so the committees can have visibility into other committee activities and potential conflicts for their members, you know.

Over COVID, you have actually seen the House do committee-only weeks, and I think that has been very positively received by members where you have days that are committee activity only without floor activity. So we recommended continuing that, as well just to try to drive as much productivity as possible.

The other thing, and I will mention quickly, and it may not seem like a big deal, but related to the calendar, we also said that the Congressional Calendar should accommodate a bipartisan member retreat, because actually having Democrats and Republicans engage one another to try to advance an agenda and to try to enhance civility was something that the 12 members of our committees all felt were important efforts.

Mr. PERLMUTTER. Thank you.

And for Mrs. Murphy, a question. You might be—the two-thirds proposal on MTR, kind of your logic behind that, please.

Mrs. MURPHY of Florida. Sure. So, MTRs are often presented at the very last minute on the floor with very little time available for members to consider what the MTR is actually saying. And I have to say, having had to do that all Congress—those MTRs are so poorly written sometimes, it is hard to read it and figure out ex-

actly what the MTR is trying to do, bumping it up against the legislation that it is—the law that it is trying to change.

So, one, MTRs are written a bit hazardly. They are introduced with very little time for members to review and understand the impacts. And then, finally, if you are going to make a change to a bill that has already come through the entire process and had, you know, consideration debates, and you are going to throw something on at the last minute, it really shouldn't be passed and be a part of that bill, successfully be a part of that bill, unless it meets a higher threshold, I think.

And we just picked the threshold that a suspension bills do that. With the suspension bill, that is the level would say, Okay, this is harmless enough, enough people would agree with this that we should make this last—this change. And I just think, you know, when you allow a bill to be added with just simple majority, when it has gone through this very short and sloppy process, it makes—it ends up making for bad legislation.

We have a process for a reason. I don't want to take away minority rights at all, and I think—I don't want to eliminate an MTR, but I think if an MTR is going to have the impact of law, then it should pass a higher threshold than a simple majority.

Mr. PERLMUTTER. Thank you.

And the last question for you, Mr. Taylor. So, you know, there is a desire, and I think we all share the same desire to see legislation move through both Chambers and get to the executive and signed, and I don't care whether it is a Democratic Senate or a Republican Senate, we have all—I remember my first 4 years here, we had a Democratic Senate, but we would send stuff and it would kind of get all boxed up over there.

And how do you think in the proposals you are suggesting—I mean, I don't want it to just be a one-way street that we pass everything that the Senate sends to us, but everything we send to them gets bottled up. So how do you think this helps that?

Mr. TAYLOR. Well, again, I think we are in a position to start going to the Senators and saying, Look, we are doing a 290 rule for your bills, you should do something like that for our bills. We are doing an over ineligible rule for your bills to expedite your bills. To improve the probability of your companion legislation passing, you should do a similar—I have already had that conversation, saying, Look, I am going to offer this in the House. This is a common-sense thing, nobody's cut out, everybody gets their say. The committee chair, the Speaker gets their say, the author gets their say, but I think we—one of the divides as I described it to my constituents—partisan divide. What they don't see is the camel divide.

There is a lack of interaction between the two legislative Chambers that is striking to me. Actually, before I got here, I read the House rules and the Senate rules, because I wanted to see who had floor privileges. Could I go on the Senate floor? Could the House Senators come on the House floor? And I actually got in an argument with two members that had worked here for several Congress' who insisted to me that Senators couldn't be on the House floor unless they were former House Members. And under no circumstances could House Members go on the Senate floor. No, no. You are wrong. Senate rule 27, we can go on their floor. But even

if that is technically true, culturally it is not true. We have a lack of interaction between the Chambers.

What is the chance of both over ineligible and 290 is it encourages Senators to come and work their bills, to come to the House floor and say, Hey, I really want your signature because I am at 270 signatures. If you sign on, I can finally get the 290 and get this thing on the President's desk.

And also, it encourages companion legislation. Over ineligible encourages companion legislation. One of the advantages of companion legislation—I was a State legislator in Texas—one of the advantages is that sometimes you, in your Chamber, can't figure out where the problem is, but the companion legislator figures out where the problem is, and they send you—I found out where the problem is, and they wouldn't tell you because of these reasons. But I found out what the problem is, and so I put this amendment on and now it is good. So here we go. You are ready to go.

So I think you have to begin with a step of faith, and just start working on their stuff, and let's just say—I will say this, for every 10 bills that are sent from the House to the Senate, the Senate sends one back. We are a far more effective legislative body from a volume point of view than they are. There could be no debate about that. I believe that that is because our consent calendar is basically a 95 percent consent calendar. Their consent calendar is unanimous. And having an incredibly high bar makes it very difficult for them to play small ball, to do smaller things. Until they drop that from unanimous to 90 percent, or 80 percent, or some other more reasonable number, we will continue to have bills get blocked because somebody wants a better cubby hole over in the Capitol, and that has happened.

Mr. PERLMUTTER. All right. Thank you very much.

I yield back.

The CHAIRMAN. Thank you. Mr. Morelle.

Mr. MORELLE. Thank you, Mr. Chair. I, frankly, just want to thank each of the members. I think their suggestions, while I may not also agree with each of them, I think they are very thoughtful, and appreciate their participation. I also want to, if I can, at the risk of signaling out Mr. Kilmer and the members of Modernization Committee, there is a lot to take in on the list that I have in front of me, but obviously, some of the changes that would allow us to have an electronic system for many of the things that right now have to be done in the physical world, I would embrace. I think they make a whole lot of sense.

The other thing that I would just say, just as a general observation of what Mr. Kilmer talked about, is the ability for members in committees to really take advantage of witnesses who are in front of the committees and engage in a little more thoughtful dialogue, instead of what at times to me appears to be making speeches as to—one of the things that I particularly appreciate about this committee is the ability to have more back and forth, and to really ask questions, and that is why I value these opportunities. And whenever a rule is before the House or before the committee, so I appreciate his thoughtfulness on that.

As well with that, I will yield back, Mr. Chair.

The CHAIRMAN. Ms. Scanlon.

Ms. SCANLON. I am going to pass. Thank you.

The CHAIRMAN. Ms. Shalala.

Ms. SHALALA. No, I will pass. Very thoughtful.

I yield back.

The CHAIRMAN. Did I miss anybody who wanted to ask a question?

Okay. I think we are all set. I want to thank the panels for being here. You are now dismissed. And now we are going to be calling—our next panel will be Mr. Schneider and Mr. Lieu. And as they are getting ready to testify, I want to ask unanimous consent to insert into the record testimony from Miss Kathleen Rice, Garret Graves, Katie Porter, Emanuel Cleaver, Josh Gottheimer.

[The statements of Miss Rice, Mr. Graves, Ms. Porter, Mr. Cleaver, and Mr. Gottheimer follow:]

**Congresswoman Kathleen M. Rice (NY-04)
Statement for the Record**

**Member Day Hearing on Proposed Rules Change for the 117th Congress
Committee on Rules
1:00 P.M., Thursday, October 1, 2020
H-312, The Capitol.**

- Thank you, Chairman McGovern and Ranking Member Cole for the opportunity to provide a written statement to the Committee in support of including the Fiscal State of the Nation in the 117th Congress rules package.
- This year, our national debt exceeded \$26 trillion, and according to the Congressional Budget Office, federal debt held by the public is projected to rise to 109 percent of GDP by 2030.
- Going forward, it is critical for Congress to fully and clearly understand the financial issues facing our country.
- Unfortunately, this information is often buried in hundreds of pages of financial statements on agency websites and so it is easier for Members of Congress to learn about our budget elsewhere, often from less reliable third-party sources.
- My proposal would promote greater transparency of our country's financial health and equip lawmakers with the most current and impartial data on the federal budget.
- The Fiscal State of the Nation (H.Con.Res. 68) would require the Comptroller General of the United States, who is the head of the Government Accountability Office, to deliver an annual address to a joint hearing of the House and Senate Budget Committees on the financial position and condition of the federal government.
- The Comptroller General would present findings from the Financial Report of the United States Government, which is produced by the Government Accountability Office, and all Members of Congress would be eligible to attend.
- By inviting a nonpartisan government official to provide us with an objective analysis of our financial position and condition, Congress would demonstrate to the public that we are serious about enhancing our awareness of the federal deficit and improving our fiscal decision-making.
- The presentation would take place within forty-five business days of issuance of the Financial Report to ensure lawmakers receive the information in an accurate and timely manner.
- The House Select Committee on the Modernization of Congress has recognized the importance of this issue.

- On September 24, the committee issued a new slate of policy recommendations to make Congress work better for the American people, and one of their recommendations is to require an annual Fiscal State of the Nation.
- At a time when we must spend to support our frontline workers and everyday Americans struggling to survive this pandemic, it is more important than ever to also be forward-looking.
- This policy would significantly improve Congress's understanding of our nation's fiscal health and prove to the American people that we're not ignoring the national debt as it continues to grow.
- I would also like to echo Rep. Stephanie Murphy's proposal to reform the Motion to Recommit by requiring two-thirds support for the MTR to pass. The MTR should meet a higher threshold than other amendments or bills since Members often do not have sufficient time to review it and assess its possible effects on our districts, states, and the country as a whole.
- Thank you for your time and consideration.

Written testimony of Rep. Tom Graves, Vice Chair of the Select Committee on the Modernization of Congress

U.S. House Committee on Rules – Member Day
October 1, 2020

Thank you Chairman McGovern and Ranking Member Cole for hosting today’s Member Day hearing.

I appreciate the opportunity to support my friend Derek Kilmer and our work on the Select Committee.

Over the last 18 months, he and I have led this bipartisan committee with one goal: to make Congress work better for the American people.

Just last week, we passed our final package of recommendations.

I am proud that we have worked together to pass 97 total recommendations.

Every recommendation was bipartisan.

Even with the challenges our nation faced – the longest government shutdown in history, impeachment, the pandemic, we worked together to deliver solutions that could really make a difference for the legislative branch and those we serve.

These recommendations, just to name a few, boost transparency, restore Congress’ Article One responsibilities, revitalize House technology, improve continuity and congressional capacity.

That is thanks to Chair Kilmer, and all our members, for their commitment to our mission and respect for one another.

One of the things I value most about this committee is though we have different backgrounds, as Members we’ve united with a common goal to improve the way the House works.

I want to express my support for the items Mr. Kilmer just mentioned in his remarks today.

I came from the Georgia General Assembly and was appointed to serve on the House Committee on Appropriations my first year in Congress.

In Georgia, we are constitutionally required to pass a balanced budget. In Congress, we haven’t followed the regular budget process in almost three decades.

Fixing the way we spend and guard taxpayer dollars has been a priority for me in Congress and on this committee.

The power of the purse is arguably one of Congress' most important responsibilities. And 64% of the Members currently serving in Congress have never operated under a regular budget and appropriations process.

I think we would all agree that a Congress that operates under regular order, with less government shutdowns and transparent community-focused funding, would work better.

I also want to highlight the importance of the schedule and calendar recommendations we passed.

One of things we heard about the most from Members and staff was the need for a more predictable calendar.

I think this gets to the heart of our work here in Congress.

As Members, we want to spend more time legislating, debating, and forming relationships with each other that produce solutions for those we serve.

But right now, there are more days spent traveling and navigating travel delays than there are working days.

This has a direct impact on our relationships with each other and ability to get the job done for those we serve.

That has to be fixed. I think allowing more time for committee work, and ensuring we have more work days than travel days, is a really good start.

Together we've also identified opportunities for bipartisan learning, found ways to better connect with our constituents, encouraged bipartisan Member retreats, and showed the American people that regardless of our political differences, a commitment to those we serve should come first.

My last year in Congress has been spent working alongside Chair Kilmer and our 10 committee members, identifying ways to truly make The People's House more efficient, effective and transparent for the people we serve.

I can think of no better capstone to my career in Congress.

I urge our future leaders to use these recommendations as a tool kit to build a better Congress.

And I urge you to support these reforms and help Chair Kilmer and our bipartisan group continue working to make Congress work better for all Americans.

This committee deserves an extension to continue identifying ways to fix Congress and restore faith in our institution.

We didn't want to make recommendations that would sit in a report on the shelf and not be utilized. The House passed our first major piece of legislation earlier this year and it's important to keep this momentum going.

It's important in the coming months that this team is able to implement the work they've done. The American people deserve a Congress that is as modern and forward-thinking as they are.

Thank you again for hosting today's hearing and allowing us to share our work.

Testimony of Congresswoman Katie Porter (CA-45)
House Committee on Rules
October 1, 2020

Chairman McGovern, Ranking Member Cole, and Members of the Committee, thank you for this opportunity to submit testimony about the House Rules for the 117th Congress. I regret that I cannot be there in person due to a simultaneous hearing in the Committee on Oversight and Reform .

I want to address three topics: the House Calendar, Truth-in-Testimony disclosures, and Motions to Recommit.

First and foremost is modernizing the House Calendar.

Last year, Congress was scheduled to spend 66 full work days in D.C. and roughly 65 days traveling.

This schedule wastes enormous amounts of taxpayer money, and it takes time away from legislating and connecting with constituents in our communities. It directly undermines our effectiveness as Members of Congress and as an institution.

Fortunately, this calendar is not etched in stone. On the contrary it is not even 10 years old.

In the 112th Congress, Republican leaders tried to address what they perceived as problems with the existing calendar including a lack of predictability, overlapping floor and Committee schedules, and too much time spent out of our districts. The calendar implemented at that time by then-Speaker Boehner and then-Majority Leader Cantor remains in effect and largely unchanged.¹

¹ "The House Calendar and Schedule: Evaluating Practices and Challenges," testimony of Kyle Nevins before the House Select Committee on the Modernization of Congress, October 16, 2019. Retrieved at:

However, in my experience, the problems recognized by the 112th Congress also remain unresolved.

The bipartisan Pocan/Timmons proposal—two weeks on, two weeks off, with legislative work including hearings and voting on Monday through Friday—would increase the number of days members are in D.C. to 105 and decrease the number of travel days to 24.

That's a 60% increase in the number of days we have to legislate and conduct oversight and a 63% decrease in the number of days in our districts that are lost due to travel.

Not to mention: this calendar change would cut carbon emissions, decrease the risk of coronavirus transmission, and help members of Congress with young children.

However, we were elected to serve our constituents, and the fact that our current calendar makes that harder is reason enough for change.

We were also elected on the promise that we would serve the interests of our constituents, not special interests, and certainly not foreign governments. That is why the second topic I want to address is strengthening the rules around Truth-in-Testimony for Congressional witnesses.

Current rules require non-government witnesses to disclose federal grants or foreign government payments related to the subject of any hearing in which they testify. This is not to deter witnesses from testifying—but to ensure that Congress and the public are aware of any conflicts of interest.

However, witnesses tend to define these requirements narrowly, especially when it comes to foreign funding. When creative readings of the rules aren't

<https://www.congress.gov/116/meeting/house/110095/witnesses/HHRG-116-MH00-Bio-NevinsK-20191016.pdf>

enough, many witnesses choose to testify in their “personal” capacity, avoiding the requirement to disclose funding to the organizations where they work.

Look at the Truth-in-Testimony forms from almost any recent hearing about regional security in the Middle East or East Asia, and you will see witnesses from organizations across the ideological spectrum who have failed to disclose foreign funding.

Expert witnesses are critical to performing our legislative and oversight duties, and we must be able to trust their testimony. Witnesses and organizations that would rather keep secret their funding than testify to Congress will have to make that decision.

I am committed to reducing the role of special interests, which is why I will conclude by stating my support for a two-thirds threshold on motions to recommit, as opposed to the current simple-majority needed for passage.

We have repeatedly seen motions to recommit weaponized by special interests to extract concessions which only a small caucus of members actually support.

A two-thirds threshold for adoption would address this problem while making sure that bills that are fatally flawed can still be revised or recommitted at the last moment.

As I near the end of my first term in Congress, I am grateful for this opportunity to reflect on how to better serve my constituents and strengthen this institution. I thank you for your consideration and I look forward to working together to see them adopted.

Remarks by Congressman Emanuel Cleaver, II
Subcommittee on Rules and Organization
House Committee on Rules
Member Day Hearing
Thursday, October 1, 2020

Chairman McGovern and Ranking Member Cole, thank you for holding this hearing to give Members the opportunity to voice their thoughts on potential Congressional rule changes.

As many of you know I have openly discussed the need for Congressionally-directed spending, which many refer to as earmarks, with constituents and colleagues from both sides of the aisle. While I respect the difference of opinion people have on this important issue, some of which I hear from my friends, I cannot overstate how strongly I support the re-implementation of earmarks to the spending process.

By ending the practice of congressionally-directed spending, we have not reduced the size of the federal budget “pie”. **We have just given the whole pie to the executive branch.**

Part of our job is to advocate on behalf of our districts and ensure that taxpayer money comes back to our communities. Prior to the ban, I was able to secure funding for the renovation for a domestic violence shelter, an orthopedic trauma research center, neighborhood safety programs, as well as flood control measures for the Turkey Creek area in Kansas City.

These are valuable projects to our constituents and have an enormous impact on their lives. They show people that Congress can work together on their behalf – which they can see in a tangible way.

Now, when my local cities or towns come to me and say they really need this project funded – that it is one of their top priorities – I am forced to tell them that Congress is no longer involved in the selection process. That they need to talk to the Office of Management and Budget (OMB), or the headquarters of the Army Corps of Engineers, or the Department of Transportation. My constituents don't know who to call at OMB or DOT headquarters to lobby for a project. They come to me – their Congressman.

This Congress, I was honored to serve as a member of the Select Committee on the Modernization of Congress. On this Committee, there was widespread, bipartisan, and near unanimous agreement that Congress deferring this responsibility to the Executive Branch leads to worse outcomes for our constituents. Furthermore, Congress is explicitly given the constitutional mandate to maintain “power of the purse” and so this session is a dereliction of the duty to which we are charged.

While some of my colleagues on the Committee maintained concerns with the former earmark process that I do not share, all understood that in principle our constituents are better served by their Members of Congress than by bureaucrats here in Washington. Due to this, a key recommendation that was put forth by the Committee was to institute a Community Focused Grant Program. This program, unlike the former earmark process, would maintain end-to-end transparency, with proposals submitted to Congress from the communities we serve and visibility as

to which projects were approved and why for all to see.

I would strongly encourage the members of this Committee to read that report in full and consider the arguments laid forth for why some approach to Congress reclaiming its Article I powers is crucial, whether via the former earmark process, the Community Focused Grant Program, or some other idea altogether.

Regardless of what approach we take, Congress must regain its “power of the purse”.

Thank you for allowing me the opportunity to speak before the committee.

CONGRESSMAN JOSH GOTTHEIMER
RULES COMMITTEE MEMBER DAY TESTIMONY
WASHINGTON, D.C
OCTOBER 1, 2020

Chairman McGovern, Ranking Member Cole, and Members of the Committee, thank you for the opportunity to submit testimony for today's Member Day Hearing about proposals for Rules reforms aimed at making Congress work better for the American people.

I have had the pleasure of working with the Rules Committee previously, including on the Problem Solvers Caucus' "Break the Gridlock" Rules reform package at the end of the 115th Congress. This package included the creation of the Consensus Calendar, strengthening the three-day rule for Committee markups, a return to regular Committee processes, and others. I'm thankful for the assistance and cooperation of the Rules Committee Members and staff to help get that across the finish line.

Of course, we can always continue to improve the functioning of Congress, which is the goal of some of the potential reforms I will discuss today. The Problem Solvers Caucus has been examining ways to further reform certain processes to help Congress work better – Rep. Van Taylor has helped head up this process for us and I understand he testified today as well. I thank him for his tireless efforts.

First, building upon the success of the previously enacted Consensus Calendar – which, so far this Congress, has resulted in the addition of twelve motions to place bills on the Consensus Calendar. We could similarly establish a Consensus Calendar to help urge the passage of Senate bills that may be supported by House Members. Enabling House members to cosponsor Senate-passed legislation - and making those bills eligible for the House Consensus Calendar upon reaching 290 House cosponsors - will help get more legislation signed into law.

Another item we are considering is a proposal we are referring to as "Over and Eligible." Specifically, the Over and Eligible proposal empowers a House Member whose bill is on the Floor to offer a motion to swap their House bill for the identical Senate companion bill that has already passed the Senate. In swapping consideration of the House bill for the "over and eligible" Senate bill, the Senate bill, if passed, would immediately proceed to the President's desk for signature.

Lastly, we are considering a possible change to allow Members more agency to get their bills moving through the Committee process and then onto the floor. This proposed change would require Committee chairs to hold a markup within 15 legislative days of any measure referred to their committee that has earned the cosponsorship of 4/5 of the Members of that Committee.

Upon favorable markup in all Committees of referral, the bill would be placed on the Consensus Calendar, and the sponsor could move at any time to bring the measure up for consideration.

Of course, these changes can be complex as they intersect with existing House Rules but I greatly appreciate the collaborative process we've had with the Rules Committee in shaping these Rules changes to work in the best way that they can for Members and therefore the American people.

I appreciate the opportunity to submit testimony today and your continued collaboration on these initiatives. I would be happy to answer any questions you may have.

The CHAIRMAN. I also ask unanimous consent to insert into the record the regulations to accompany H. Res. 965.
[The information follows:]

Remote Voting by Proxy Regulations Pursuant to House Resolution 965

- A. Proxy Designation Letter
1. A Member seeking to vote remotely by proxy must submit to the Clerk a dated and signed letter authorizing another Member to serve as their proxy. The letter must be submitted before the beginning of the first vote in which the Member wishes to vote by proxy, and must include:
 - i. An affirmative statement that because of the public health emergency the Member is unable to physically attend proceedings in the House Chamber and is granting authority to have their vote cast by proxy.
 - ii. The name and state of the Member who is being designated as a proxy.
 - iii. The original signature of the Member granting the proxy. Auto-pen or stamped signatures will not satisfy this signature requirement.
 2. A letter missing any of the items in paragraph 1 shall not be verified by the Clerk pursuant to regulation B.3, which will result in the proxy being unable to vote on the Member's behalf.
- B. Submission of Proxy Designation Letter to Clerk
1. Before submitting a letter designating a proxy, Members must confirm with their designated proxy that he or she agrees to and is able to vote for them.
 2. To ensure the Clerk receives the letter in a timely manner, a Member seeking to vote by proxy should scan and email the letter to the Clerk from a House-maintained email account. Such electronic copy shall be actionable by the Clerk, including if, despite best efforts, the physical original is lost or damaged.
 3. Upon electronic receipt of any letter described in these regulations, the Clerk must verify the letter and send a confirmation of receipt via email. A Member seeking to vote by proxy must then send the dated and signed hard copy of the letter to the Clerk so that it may be kept as a record. The Clerk, in concurrence with the Chair of the Committee on House Administration, may impose additional security requirements with respect to the electronic submission of proxy letters.
 4. The Clerk must make any letter received pursuant to these regulations available on a publicly accessible website as quickly as practicable upon verification of the letter.
 5. The letter will be used by the Clerk to certify that a Member serving as a proxy has the authority to cast votes on behalf of the Member voting remotely by proxy.
- C. Duty of the Proxy
1. A Member serving as a proxy must agree to and be able to appear in the Capitol for roll call votes at any time for the duration of the covered period. If they are unwilling or unable to perform this duty at any point, they must inform the Member for whom they are voting by proxy as quickly as possible.
 2. Before a Member's presence may be recorded by proxy during a quorum call, the Member serving as a proxy must have exact instruction pursuant to regulation C.6 from the Member voting by proxy on whether they intend to be recorded as present, and must follow such instruction in responding to the quorum call.

3. Before a vote may be cast by proxy, the Member serving as a proxy must have exact instruction pursuant to regulation C.6 from the Member voting by proxy on whether they intend to vote yea, nay, or present on the specific text or matter at hand, and must follow such instruction exactly in casting the proxy vote.
4. If the text of a measure changes after such instruction is received, the Member serving as a proxy may not cast a vote for the Member voting by proxy until new instruction is received.
5. If an identical motion is made to a motion on which a Member voting by proxy has previously given instruction, the Member serving as a proxy must still receive voting instructions pursuant to regulation C.6 on the new motion in order to cast the proxy vote.
6. The Member voting by proxy must provide written voting instruction (which may be in electronic form) to the Member serving as proxy. Members shall use official devices and accounts to transmit such instruction to the maximum extent practicable. If they are unable to transmit written instruction in a timely manner, a member of their staff may transmit the instruction at the direction of the Member, and that Member must confirm the instruction by telephone to the Member serving as proxy before the vote may be cast on their behalf.

D. Alteration or Revocation of Proxy

1. At any time during the public health emergency, a Member is permitted to change their designated proxy.
 - i. In addition to including all the information required by regulation A, a letter changing a Member's proxy must clearly state that the signing Member seeks to change their proxy from the Member currently holding their proxy to a different Member who will hold their proxy starting on the date specified in the letter.
 - ii. Any such letter must be submitted following the directions provided for the Proxy Designation Letter in regulation B.
2. A Member may revoke their proxy at any time for any reason. Revocation of proxy does not prohibit a Member from designating a proxy at a later time.
 - i. A Member seeking to revoke their proxy must send to the Clerk a signed letter revoking their proxy which includes the date upon which their proxy is revoked. This letter must be submitted following the directions provided for the Proxy Designation Letter in regulation B.
 - ii. Pursuant to section 2(a)(2)(B) of House Resolution 965, a Member will be considered to have revoked their proxy if they vote or record their own presence in the House Chamber.

E. Timing of Votes

1. The Majority Leader must provide Members with 24-hours' notice before any vote on the final disposition of bills or joint resolutions conducted during the period designated by the Speaker pursuant to House Resolution 965.

The CHAIRMAN. And I will now turn this over to Mr. Schneider.

STATEMENT OF THE HON. BRADLEY SCOTT SCHNEIDER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. SCHNEIDER. Thank you. I very much appreciate the opportunity to speak with you. I want to thank Chairman McGovern, Ranking Member Cole, and members of the committee, for hosting today's hearing to solicit ideas for members on Rules for our next the 117th Congress. I would like to discuss my views on the motion to recommit as outlined in Rule XIX.

As a majoritarian institution, the MTR represents one of the last opportunities in the House for those in the minority to influence legislation being considered on the floor. In principal, I support the MTR as a procedure that keeps debate alive and retains minority rights within the House. In practice, however, minority party, both Democrats and Republicans, use the MTR as a partisan cudgel, or just as often, an attempt to artificially create a wedge issue.

Using the MTR as a wedge along partisan fault lines is certainly the prerogative of the minority party. And, again, both Democrats and Republicans have used MTR toward that end over the decades. But what has been different this Congress and what I find not just reprehensible but, in fact, dangerous is the Republican use of American Jews, Jewish heritage, and the long-fought battle against the scourge of anti-Semitism to divide us.

The great seal of the United States bears the motto, E Pluribus unum. Out of many, one. It reflects the national ethos that has long given strength to our Nation. It should be a principle that unites us. So it is concerning when any group of Americans is used as a prop to sow division. Using American Jews, who have long faced bigotry and very real threats of violence, is something altogether different.

The Alt-Right Unite the Right rally in Charlottesville in 2017, and subsequent attacks in Pittsburgh, Pennsylvania, and Poway, California, are examples that dominate the news, but they are just the tip of the iceberg.

According to the Anti-Defamation League, or ADL, anti-Semitic incidents increased by 12 percent in the United States in 2019, and marked the highest number in ADL's four decades of record-keeping.

I have no doubt that all my colleagues, on both sides of the aisle, oppose bigotry and hatred in any form, including anti-Semitism. And so no party should ever assert that there is anything but unanimous opposition within the House against anti-Semitism. To do otherwise raises the risk of empowering those who traffic in hate and who would like nothing more than to believe that they have allies within the U.S. Congress who support their anti-Semitic views.

I want to repeat myself. The MTR provides a venue for debate on worthy issues of divergent opinions. But when action on the floor of the U.S. House of Representatives dehumanizes any group, in this case, American Jews facing anti-Semitism, it diminishes the institution and does a disservice to our Nation.

The cynical ploy of weaponizing anti-Semitism for political gain is as offensive as it is dangerous. Again, MTR should be a tool to insert healthy debate within the legislative process, and parties may choose to use it to push their agenda, or put the majority party on the record.

My minority party should not, however, cynically use any of our citizens or group of citizens as a wedge or a pawn. We don't know who will be in the majority in the next Congress. I believe, therefore, that we can now take this opportunity to prohibit the use of MTRs next Congress until there is a bipartisan agreement that, while we can and often shouldn't vote controversial issues on policy disagreements, we must never use the MTR to subvert our common goal of condemning anti-Semitism.

I support the MTR as a way to retain the minority's voice in the legislative process, but I refuse to condone how it has been used by Republicans this Congress to infer Democrats, or any Member of this body, are not sufficiently opposed to anti-Semitism. I also support proposals to require a high bar for passage of an MTR, such as requiring two-thirds the vote for passage, similar to suspension bills.

When we are legislating on the fly, as is the case with MTRs, it is important that we get the details right.

Thank you for providing me the opportunity to speak on how MTR has been used in this Congress.

And with that, I yield back.

The CHAIRMAN. Thank you very much.

Mr. Lieu.

**STATEMENT OF THE HON. TED LIEU, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. LIEU. Thank you, Chairman McGovern and Ranking Member Cole for holding this Members Day and for all the members of the committee for your time.

I am going to talk about two subjects. The first is my proposal on inherent contempt, and the second is about the MTR.

Inherent contempt is a power that the House of Representatives already has. The Supreme Court has repeatedly upheld this power, Congress has repeatedly used it in the past. My proposal simply puts in procedures in the House rules to let us execute this power.

Specifically, inherent contempt gives us the ability to enforce congressional subpoenas. And in my proposal, it does that through the imposition of a fine for witnesses who do not comply with congressional subpoenas. And this is not a partisan issue. We have seen Congress, over time, cede way too much of our power to the administrative and executive agencies, and to the executive branch, both Democratic/Republican administrations have thumbed their noses at congressional oversight, although I have to say the Trump administration has done it way more than other administrations.

And what this rule change does is it [inaudible] witnesses in this process. So, for example, it creates a process for dialogue between the witness and the committee. It puts in procedures for the witness to lodge objections. It puts in procedures for the administration to lodge privileged objections. [Inaudible] the witness to negotiate, but at some point, it allows the committee to then forward

a resolution to the House floor where the chairman of the committee will present and then members can ask questions. And at some point, it allows the House to vote on imposition of a fine. And if that passes by a majority vote, then the witness will, in fact, be fined in the first increment of up to \$25,000.

But, again, before that can be imposed, it puts in another 20-day delay for negotiations to continue.

So there are numerous due process protections for witnesses, for the administration, but at the end of the day, if the administration or a private witness is going to simply not comply with the congressional subpoena, then the full House can impose a fine of up to \$25,000 in first increment. And if it continues, then we can impose a fine of up to \$100,000 at the end of the day.

So that is my proposal. And it is, again, also not partisan in a sense that I fully believe Joe Biden's going to win in November, and I think many of you do as well. This would apply to the Biden administration. And so, I would seek favorable consideration of this proposal. And then, I would like to talk about the motion to recommit. First of all, it is just a stupid way to govern.

What does this process do? It literally hides language from the Members of Congress and then the language is dropped in and gives us about 15 minutes to cast a vote. That is not really governing. That is called a game. That is what makes the American people hate us, that we play these games. And it was wrong when we did it to you. It was wrong when the Democrats were in the minority and we did this to the Republicans. It is wrong that you do this to us. This is not to, actually, substantively influence legislation; this is simply to play games on the taxpayers' dime. That is what makes it so offensive.

And I also reject the notion that somehow, this is ability for the minority party to speak. It is not. The minority party has numerous ways to influence legislation. You get to participate in committees. You get to introduce amendments in committees. And then when the bill leaves the committee, you get to introduce amendments in the Rules Committee. If, in fact, there is a problem with a bill that is about to be voted on the floor, then what happens is, the whole purpose of when a person of your committee—you are on the Rules Committee is allow amendments to that bill. And then the minority party gets to speak about the bill on the House floor. The minority party can go to the press. There is so many ways to influence legislation.

The MTR is not designed to do that, and in practice, it doesn't even do that. None of the MTR proposals are real or actual substantive changes; they are just designed to be "gotcha" moments for the Members of Congress. And, again, this is a procedure where literally the language is hidden from the vast majority of Members of Congress, and then we are asked to vote on it.

We just have to get rid of motion to recommit, stop playing these games on taxpayers' dime. It doesn't make any sense to continue any form of motion to recommit. We should not be playing these games. We should be trying to actually make substantive legislation and not do an end round around the Rules Committee.

With that, I yield back.

The CHAIRMAN. Thank you very much for your testimony.

Look, I appreciate your work. Just on the inherent contempt issue, I have been frustrated as well at the lack of cooperation with subpoenas that have been issued by committees here in the House.

But if we imposed a fine, I mean, I don't know what that fine would be, but to compel some of the people who don't want to comply with subpoenas in this administration it would have to be very, very high, because all these people are multimillionaires and billionaires, and you just wonder whether they would just rather pay the fine.

And then, on the other hand, you have to consider if you had a different Congress and they were trying to compel a government worker to come and testify, but that government worker may be told by his or her adviser not to come, and here is somebody on a government worker's salary, whether or not they would be bankrupted if it were abused.

And I am just trying to figure out, I think we need to do something, because we can't—what has been going on, with lack of compliance and lack of respect for Congress, is unacceptable. I just want to make sure that we have thought this out and that we are doing this in the way that it is most compelling. And I don't know if you have any response to that.

Mr. LIEU. Thank you for those questions.

You are absolutely right that if someone is super wealthy then this isn't going to work. That is also a function of our capitalistic system. People who are super wealthy, for example, get tax breaks that none of us on this committee get.

And so, yes, that is a problem. I am not sure we can fix that. And people who are super wealthy do get certain advantages.

However, the vast majority of people subjected to congressional subpoenas are not like Wilbur Ross. They are not, in fact, super wealthy. So I think this would have a deterrent effect.

There is room in this proposal to allow the head of the agency to be fined. We can do it so that we go after the head of an agency if, in fact, they are the ones that are ordering a subordinate to not come. So that is a modification that can definitely be made.

The CHAIRMAN. Thank you.

Mr. Woodall.

Mr. WOODALL. Thank you, Mr. Chairman. I will start where you left off with Mr. Lieu.

I think it is absolutely critical that we are able to compel the executive branch to comply with congressional subpoenas. I think our challenge has been the partisanship here in our Chamber.

It was obvious to you that the Trump administration was practicing this obstruction more than any other. I came to town in 2011, so my first vote along these lines was our criminal contempt resolution against Attorney General Holder, which passed the House, was referred to the Justice Department, and then the Attorney General decided he was not going to pursue the criminal contempt resolution against himself.

It passed in a largely partisan way. I think we had 17 Democrats vote with us. But the problem was not that we were not able to issue the subpoena or pass the contempt resolution. It is that the enforcement, which ought to be zeroing out somebody's budget, making sure the head of the agency doesn't get their pet project

funded, all of these things that we ought to be doing together we end up being divided on, and I fear collecting those fines would be yet another one of those things.

Given that you have spent some time thinking about this and constructive ways to solve it, did you come across something that would lead to us passing more of these subpoenas and contempt resolutions in a partnership fashion than in the fairly partisan fashion that we have seen?

Mr. LIEU. So thank you, Representative Woodall, for your question.

You are absolutely right, and I noted in my opening statement both Democratic and Republican administrations have thumbed their noses at Congress. So to me this is not a partisan issue. It is simply taking back—it is not even taking back our power. We already have this power. The Supreme Court has, in fact, upheld it, and Congress has used it in the past.

I am just putting in procedures to allow us to execute it if we want to. We still don't have to execute this power next term, but at least there is an option to do that. And right now it just seems sort of silly for us to have no ability to execute that option even though we have the power to do so.

And it is my hope that we could get more subpoenas issued on a bipartisan basis. I think that would, in fact, be better for the institution.

Mr. WOODALL. You may recall Republicans grappled with this when we were in control and went down the line of creating procedures to zero out an individual government employee's salary if we didn't like the way they were treating Congress, and to Mr. McGovern's point, creates an incredibly punishing tool to just your average government worker, who had no idea they were getting ready to get dragged into a congressional fight.

But I do hope that we can solve that because I believe that we are both, irrespective of who leads the Congress, irrespective of who leads the White House, we are all disadvantaged as Americans when Congress becomes feckless in its attempts to do oversight over the executive branch.

Let me go now to the motion to recommit. You know, they taught me in freshman orientation 10 years ago that that was just a procedural motion, it had no policy aspect to it whatsoever, and so just vote no. And so I recognize that that is not the sign of something that is valuable legislation. That is the sign of something that you would think could go by the wayside.

But in our very new era of having almost all closed rules all the time, right, not a single open rule in Paul Ryan's administration, not a single open rule now in Speaker Pelosi's operation, there is no opportunity sometimes for the minority to have input on the House floor.

If we had open rules the challenges would be very much the same as the ones you pointed to, Mr. Lieu. Those amendments are offered, dropped right there on the floor, can be written on the back of a cocktail napkin, no opportunity for legislative drafting and perfection. Folks don't have time to consult with their staff. And under the 5-minute rule, 10 minutes later you could be asked to vote on a very consequential amendment that had not been seen before.

So last-minute legislative language used to be a hallmark of this institution. Wasn't used to disrupt the institution. It was just common as a function of the legislative process.

I remember once on our prescription drug bill last year the majority saw, in its wisdom, the ability to offer the minority an amendment in the nature of a substitute. And in exchange the minority said, then we are not going to press for our motion to recommit. We traded away what you and I would both agree was not a particularly effective legislative tool, and in exchange we got a very substantive conversation about how we wanted to reform prescription drugs in the country. I support that.

I am particularly concerned about Mr. Schneider's concerns, because I raised the very same issues in the Rules Committee last night, Mr. Schneider. We were talking about a bill that was—a resolution that was intended to speak out against horrific treatment that has been alleged of noncitizens in the country after they have been detained by Federal forces.

And the resolution, I believed, was designed to divide us on something that we should have been speaking in one voice to condemn, that there is no benefit in America of having it appear that someone condones inhumane treatment by Federal authorities against noncitizens.

So is it clear to you that there is a difference, the occasional majority bills that are brought to the floor for a vote that are designed apparently to divide us, as opposed to unite us, versus the motion to recommit, which I would absolutely concede is often designed as something that makes it appear that we are divided when, in fact, we may not be so?

Mr. SCHNEIDER. No. Thank you. I appreciate the question.

The distinction I would draw here is, it is never good to divide us. But that is part of the politics and part of the process here. It is using a group as a pawn, as the wedge to create that division, to try to create a false impression of antagonism to a group or an individual that doesn't actually exist, that I think becomes so dangerous.

And my concern specifically with respect to the use of American Jews and the issue of anti-Semitism in our country, which, as noted with the ADL numbers, is on the rise in the country as it is around the world, we are empowering groups that are trafficking in anti-Semitism, and we are diminishing groups that are being used as the wedge.

Mr. WOODALL. I think back on some of those motions to recommit that I am sure you are referring to. I would often say we were talking about protecting this group or that, groups that rightfully need protection, and the motion to recommit said, yes, those things are important. But someone needs to speak out against anti-Semitism, and they are not. Someone needs to speak out against anti-Israel sentiment, and they are not. Someone needs to do these things, and so we are going to do this. We can't move legislation to the floor on our own, and so we are going to put it in, in this context.

In our last panel we heard members on both sides of the aisle talk about the need to protect the motion to recommit. I do hope

that we can find a way to make it more valuable as a legislative tool.

But I could not agree with you more that the politics of division that we play have dangerous consequences in many ways. Again, I believe not being able to speak with one voice on behalf of noncitizens in U.S. custody is dangerous because it suggests that something is acceptable when it, in fact, is not, and that is certainly true as it relates to anti-Semitism.

And so I would be happy to work with you in a Republican majority, as we are sure to see in January. I want you to know, I will be just as willing to partner with you as I am in a Democratic majority today.

Mr. SCHNEIDER. I appreciate that. In all our interactions we have always had good comity, and I think it is that comity that allows us to put forth policies that advance the interests of the Nation.

There will be arguments, and there will be divisions of opinion, but we should never use individuals or groups of individuals as a pawn in advancing that cause.

Mr. WOODALL. I will just share with you, I don't believe our conversations in the Modernization Committee are privileged any longer. We tried not to out one another while those conversations were going on. But we grappled with the motion to recommit because folks did have such strong feelings about it.

And while it was not—while reforming it was in our final recommendations, I thought one of the more fruitful places was, how can we encourage the minority to surrender that motion in favor of getting a more substantive legislative alternative path?

Let's not use—let's not eliminate the motion to recommit to silence the minority. Let's change the motion to recommit to empower legislative discussion and just give the minority one opportunity to take it where they would like to take it. And so your counsel is well taken.

Mr. Chairman, I yield back.

The CHAIRMAN. Thank you.

Mrs. Torres.

Mrs. TORRES. No questions or comments. Thank you.

The CHAIRMAN. Thank you.

Mr. Perlmutter.

Mr. PERLMUTTER. I have a couple comments, and I would like to start where Rob and Brad just left off.

I had not opposed MTRs before as a general principle, but the MTR from a week ago on anti-Semitism really bothered me in a whole range of ways. And, obviously, as a member of the Rules Committee, we say, oh, it is procedural, you know, and I sort of went down that path and I voted against it. And then it passed.

And then we vote on the bill, as amended by the MTR, and every single Republican voted against the bill, with that amendment.

And we had Mr. Cline on just a few minutes ago, and he talked about the Virginia rule, where if you amend something, then you vote for the bill. Well, that doesn't seem to be commonplace around this place.

After that vote I was making some calls, and a guy answers, he says, "Why did you vote—why are you anti-Semitic?" He didn't say

it quite like that. “Why did you vote against the anti-Semitism amendment, Ed? I don’t understand.”

I said, “It was procedural.” I said, “But then I voted for the bill, so it was part of the bill.” And I said, “All those guys who presented the amendment, it was just a phony-baloney stunt because they all voted against the bill.”

And it did create precisely what Brad is concerned about, that I could say all the Republicans were anti-Semitic and he could say he was worried that any Democrat who voted against the amendment was anti-Semitic. And it just really went right to—right here for me. I mean, that is a core value thing for me.

And so I have to admit, I am attracted to Mr. Lieu’s proposition here on MTRs, that what is the value of them. You know, is this really something important that it is the last word for the minority? Is that really something? Or is it a gotcha thing? And we certainly did it. You know, we would do MTRs.

So I have some reservation about these things that I didn’t have until about last week. And so I just—I want to raise that.

And I guess my other comment to Mr. Lieu on the inherent contempt is the enforcement component that Mr. Woodall raised, that what are we going to do, add to the Capitol Police, are we going to get fines, are we going to sell somebody’s house on the courthouse steps? I mean, I just don’t understand how we have the—I don’t understand what you would put into place to actually enforce something in some substantial way.

So I guess I am just presenting that to you, Mr. Lieu, because I do have some skepticism about this.

Mr. LIEU. Could I answer that?

Mr. PERLMUTTER. Sure.

Mr. LIEU. All right. So right now, in fact, our congressional subpoenas can be enforced, as Mr. Woodall pointed out when they went after Attorney General Holder. Towards the end, that was enforced. It just took many years. Because the way we enforce it, we have to litigate it through the courts—meaning the district court, the appellate court, and the U.S. Supreme Court. So it literally takes years to enforce a congressional subpoena.

Now, the difference with this proposal is, let’s say you assess a hundred thousand dollar fine ultimately on a witness, and, yes, it will be litigated through the courts. But at the end of the day, if the witness is wrong on the issue and the courts find that, yes, we have the ability to enforce this subpoena as lawfully ordered, that witness will be on the hook for a hundred thousand dollars.

So it flips the burden, where the witness now knows if they ignore the congressional subpoena they could, in fact, be on the hook for a lot of money at the end of the day.

Take the Don McGahn case, for example. We have been litigating that issue through the district court, through the appellate court, it hasn’t gone up to the Supreme Court yet. At some point there will be a decision. And let’s say we in Congress win. Well, what happens? Don McGahn then comes in and he testifies.

But if there was also a threat that he might think, “Oh, I might also be on the hook for a hundred thousand dollars,” I don’t know if he actually would ignore the congressional subpoena.

So that is the difference. It puts this burden on the administration that if they lose, they could be on the hook.

Mr. PERLMUTTER. So I guess I would just follow up, and then I would yield back.

So let's say we get a hundred thousand dollars. So that in your scenario the court said, yes, it is a hundred thousand dollar fine, and then we have got to go collect through the courts. That is what I was saying, auction it on the courthouse steps? I mean, do you think we are going to do that?

Mr. LIEU. Right. It would be the same way that the courts right now impose fines on people who ignore court orders. And, yes, there would be at some point a collection would occur.

Mr. PERLMUTTER. Okay. Thanks. I appreciate that. I just have a little—I am not sure that we have the staying power to do that. But I hear you.

And I yield back to the chair.

The CHAIRMAN. Ms. Scanlon.

Ms. SCANLON. [Inaudible.] Thank you.

The CHAIRMAN. Mr. Morelle.

Mr. MORELLE. Thank you, Mr. Chair. I just want to add my thanks to Mr. Schneider and Mr. Lieu for their thoughtful comments and for the opportunity to have them in front of us. I will yield back.

The CHAIRMAN. Ms. Shalala.

Ms. SHALALA. No questions, Mr. Chairman.

The CHAIRMAN. Thank you.

And I think Mr. Raskin may have some—see if Mr. Raskin—
Mr. RASKIN. Mr. Chairman.

The CHAIRMAN. Yes? Mr. Raskin.

Mr. RASKIN. Thank you, Mr. Chairman. I just—I wanted to say a word about Mr. Lieu's proposal, which I think is—

The CHAIRMAN. And put your video on, please.

Mr. RASKIN. Sorry. Okay. Can you hear me now, Mr. Chairman?

The CHAIRMAN. I can hear you, but we can't see you. We need your video.

Mr. RASKIN. Oh, okay. I thought it was on. Okay.

The CHAIRMAN. There you go.

Mr. RASKIN. Here we go. I just wanted to say a word on behalf of Mr. Lieu's proposal.

At a certain point earlier in this Congress I looked at the Supreme Court precedent governing contempt of Congress, going back to *Anderson v. Dunn*. And this really goes back to the beginning of the Congress, and the Supreme Court has been very clear from the beginning that Congress has the same institutional authority to impose sanctions for disobedience of its orders that a court has.

And as a body equal in stature and powers to the Supreme Court, we have the authority to enforce our orders. And if we don't have that, then the lawmaking function is fatally compromised because it is inherent in lawmaking that we have the power to obtain the information that we need.

And James Madison was very clear about this when he said that those who mean to be their own governors must arm themselves with the power that knowledge gives. And so what does it mean for us to have the power to legislate over all of these subjects, over

war and foreign policy and commerce and bankruptcy and piracy and banking and you name it, if we can't get the information that we need?

So the lawmaking power implies the power to go out and collect information, the power of subpoena, the power to have people come and testify before us. And if we get an executive branch, if we get a President of whatever political party or persuasion who decides to thumb his nose at Congress or give the finger to Congress, that is a crisis in our form of government.

And so we need to have the full panoply of powers to enforce our own orders. And, obviously, that is something that goes way beyond any particular party or any particular President.

But we are the preeminent branch of government, the reason we are in Article I, and we come first, like the First Amendment and all of its rights comes first. And the reason why the Congress has the power to impeach the President and the President doesn't have the power to impeach us is because we are the lawmaking power and the representatives of the people.

So with all that, I just want to say, I am in very strong support of what Mr. Lieu is doing, and I think that we have got to move a process forward that allows us to make the inherent contempt power not just latent within our arsenal but something that is explicit and right there so people understand it.

I yield back, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Does any other member of the committee wish to ask a question?

Seeing none, I want to thank our witnesses for their testimony. You are now excused.

Are there any other members who wish to testify on proposed rules changes for the 117th Congress?

Last chance.

Seeing none, this closes our Members' Day hearing. So without objection, the committee stands adjourned. Thank you, everybody.

[Whereupon, at 4:30 p.m., the committee was adjourned.]