

**PROPOSED REFORMS TO RULE XXI AND THE  
MODERN AUTHORIZATION AND APPROPRIA-  
TIONS PROCESS**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON  
RULES AND ORGANIZATION  
OF THE HOUSE

COMMITTEE ON RULES  
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

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# CONTENTS

THURSDAY, APRIL 14, 2016

Speakers Index .....	Page
Hearing on Proposed Reforms to Rule XXI and the Modern Authorization and Appropriations Process .....	V 1

## APPENDIX

Prepared Statements:	
Insert 1-1: Statement of the Hon. Tom McClintock, a Representative in Congress from the State of California .....	35
Insert 1-2: Statement of the Hon. H. Morgan Griffith, a Representative in Congress from the State of Virginia .....	39
Insert 2-1: Statement of the Hon. David E. Price, a Representative in Con- gress from the State of North Carolina .....	42
Insert 2-2: Statement of the Hon. Tom Cole, a Representative in Congress from the State of Oklahoma .....	51



## SPEAKERS INDEX

---

Byrne, Hon. Bradley; a Representative in Congress from the State of Alabama  
Cole, Hon. Tom; a Representative in Congress from the State of Oklahoma  
Collins, Hon. Doug; a Representative in Congress from the State of Georgia  
Griffith, Hon. H. Morgan; a Representative in Congress from the State of  
Virginia  
McClintock, Hon. Tom; a Representative in Congress from the State of Cali-  
fornia  
McGovern, Hon. James P.; a Representative in Congress from the State  
of Massachusetts  
Price, Hon. David E.; a Representative in Congress from the State of North  
Carolina  
Slaughter, Hon. Louise McIntosh; a Representative in Congress from the  
State of New York  
Stivers, Hon. Steve; a Representative in Congress from the State of Ohio



## HEARING ON PROPOSED REFORMS TO RULE XXI AND THE MODERN AUTHORIZATION AND APPROPRIATIONS PROCESS

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THURSDAY, APRIL 14, 2016

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON  
RULES AND ORGANIZATION OF THE HOUSE,  
COMMITTEE ON RULES,

*Washington, DC.*

The subcommittee met, pursuant to call, at 3:02 p.m., in Room H-313, The Capitol, Hon. Steve Stivers (chairman of the subcommittee) presiding.

Present: Representatives Stivers, Collins, Byrne, Slaughter, and McGovern.

Mr. STIVERS. The chairman has a really good microphone here.

Welcome to the subcommittee. It is great to have everybody here, and we are having our first hearing in the subcommittee this Congress. It is great to have the gentleman from Massachusetts. We are looking forward to the gentlelady from New York joining us here in a few moments.

And while I am not a big fan of opening statements, I would like to just give a quick opening statement, talk about the purpose and method of this and future hearings.

Today's hearing is entitled "Proposed Reforms to Rule XXI and the Modern Authorization and Appropriations Process." It is the first of several hearings we will have, and the aim of these is to explore improvements of how the House of Representatives functions.

Today, we want to have a constructive discussion among Members about the intersection of the House rules of appropriations and authorization and overall Federal spending.

At the center of this intersection is House rule XXI. Clause 2 of this rule prohibits the inclusion of legislative provisions in authorizations bill, while clause 4 restricts authorizing committees from reporting legislation that contains appropriations. Rule XXI also prohibits appropriations of unauthorized programs and altering mandatory programs in appropriations legislation.

But we all know, in practice, the separation of authorization and appropriating can get blurred. It can give rise to disputes between authorizing and the Appropriations Committee while also frustrating Members in their attempts to pursue policy goals that are important for their constituents and our country.

So finding potential solutions to address these issues may help the House return to regular order and make our institution more

effective at addressing the great issues facing our country today. But if these issues are addressed poorly, we could end up gumming up the process and making it worse.

For that reason, I am honored to have Representatives McClintock and Griffith before the committee. They put a lot of thought into separate proposals that, among other things, would amend rule XXI with respect to the current restriction on making changes to the funding of mandatory programs in appropriations bills. Both Representatives serve on authorizing committees, and Representative McClintock will also add the perspective of being a member of the Budget Committee.

So I am also honored to be joined by Representative David Price and our own Tom Cole, who serves on our committee but is also an appropriator. And it is great to have the perspective of an appropriator in this process as well.

Lastly, I am honored that you are here to talk about this. I am hopeful that Members will find this subcommittee to be an inclusive place. We want everybody to feel like they can have their robust discussion here and exchange their thoughts in a very respectful way.

I am encouraged that we have full attendance, and I look forward to having real, thoughtful, conversations on these proposals.

With that, I—do you know where—she is on the elevator. I will—

Mr. COLLINS. Keep talking. Filibuster—

Mr. STIVERS. We will just take a pause for a moment and wait on the gentlelady from New York.

Mr. MCGOVERN. Do you want me to give my—

Mr. STIVERS. Do you want to—I will recognize the gentleman from Massachusetts.

Mr. MCGOVERN. I will associate myself with the comments of Ms. Slaughter in a few minutes.

Look, I would rather deliver my whole statement here. I am kind of troubled by the proposals that are being brought before the Rules Committee today. You know, authorizations and appropriations do get mixed up with one another, and that is because we allow it to happen that way. We are constantly adding waivers—we are constantly adding riders to appropriations bills and authorizing language to appropriations bill that this committee, you know, provides all the waivers to do. I wish that wasn't a pattern. It is not just unique to when the Republicans have been in control. The Democrats have done that on occasion as well. I think it is bad, bad practice.

But when people talk about needing to get at mandatory spending, I think sometimes people forget that we have the ability to do that if we so choose. There is nothing that prevents us from doing that, other than we don't want to do it. So you don't need to have all of these little magical fixes, you know, to mess around with the appropriations process if you want to get at mandatory spending. We can have the committees of jurisdiction do hearings and do markups and report out legislation if that is what people want to do. And we could have a debate and make amendments in order. We could vote up or down on it. That is called regular order. And all of these attempts to get around regular order to try to find, you



know, backdoor approaches to getting at something that people don't seem to want to do, I think what it does is it could damage the entire appropriations process. And we have got to keep this government running. And it already is difficult enough. We can't even get a budget. And the problem with the budget is even the Republicans are having a battle amongst their own ranks about what a budget should be. So, at the end of the day, you want to tackle these issues, we have just got to do our jobs.

And so I don't like what is being proposed here today. I respect the Members who are before the committee, but, you know, it is not as if you can't do it. You know, the party in charge can do whatever they want to do and let the House work its will through regular order. And I don't think these are necessary. So, having said that—

Mr. STIVERS. There she is.

Ms. SLAUGHTER. Hi.

Mr. MCGOVERN. Louise, I just agreed with everything you are about to say.

Ms. SLAUGHTER. All right.

Mr. MCGOVERN. I yield back.

Ms. SLAUGHTER. Thank you, all. I am so sorry.

Mr. STIVERS. I yield time to the gentlelady from New York.

Ms. SLAUGHTER. Thank you, Mr. Stivers.

I got held up, something I am sure most of you are pretty much familiar with.

I do have an opening statement, but it is nice to see all of you.

All right. The proposed changes to House rule XXI would fundamentally change the way the Chamber has been governed since 1876 and would further inject partisanship into our already fraught appropriations process.

Let me be clear: the changes to rule XXI, as proposed, would alter longstanding House rules to make it easier to sabotage responsible spending bills. One of the rules changes proposed today would strictly prohibit appropriating money for programs with lapsed authorizations.

To take one example, we have not reauthorized the State Department since fiscal year 2003, but we are very much unlikely to shut down the State Department. The unfortunate reality is there are a number of controversial issues to be tackled in every authorization, and in today's climate, it has been difficult to impossible to reach agreement. But we have continued to appropriate money for the State Department, because, obviously, we can't do without it.

Under one of these proposals today, if a reauthorization of the State Department couldn't get the support of the Republican House, 60 votes in the Senate, and the signature of the Democratic President, we would be unable to appropriate any more money for the State Department, and the Department would have to shut its doors.

Under another of today's proposals, we would do away with the age-old prohibition of legislating on appropriations bills.

The Republican majority in the House could and would insert cuts to Medicare, Social Security, or food stamps into all the appropriations bills, which would lead all House Democrats to vote against the bills and cause the bills to fail in the Senate and cause

the President to oppose them. We would virtually be guaranteeing more full or partial government shutdown.

These proposals are yet another tactic to slash any spending that they choose, even at the risk of turning off the lights at the offices of agencies that protect our national security and keep us safe, such as the Departments of Defense and State, FEMA, NASA, Coast Guard, and the U.S. Secret Service.

And not only would these changes impact our national security, they would erode the bedrock of our social contract. The proposed changes are a backdoor way to cut Social Security, Medicare, veterans' benefits, WIC, Head Start, and the community block grants, programs that Americans rely on but the Republicans have been trying to slash for years.

And, what's more, the proposed changes would make it even more difficult to keep the government open and to avoid shutdowns. In our politicized environment, it is already hard enough to keep the government running with brinksmanship, political ploys, widespread grandstanding. These proposals would make the government shutdowns more likely by weighing down the annual appropriations process with controversial mandatory spending cuts to programs that Americans rely on.

We know the massive and sweeping implications that this seemingly small change would make, and we hope that a change like this will not go unnoticed by the media, the advocates, and Americans alike.

The larger view is this: It isn't the House's rules that are keeping Republicans from passing bills. The real issue here is the failure to run the House. We have no budget. They won't address the Flint water crisis, our crumbling national infrastructure, the looming threat of Zika virus, or any critical issues that are challenging us and frightening the public. We can't let this technical change derail our appropriations process that is already overburdened with divisive tactics and antics. So we have real problems to address, and I fear this change would make it even harder than it already is.

And I yield back the balance of time.

Thank you, Mr. Stivers.

Mr. STIVERS. Well, thank you.

So you just heard the bells ring. Votes were called. We would like to try to get through as much of the testimony as we can before we take a short recess to let folks vote. The order that I would like to invite folks to testify is almost straight down the row, except I would like Mr. Price to go before Mr. Cole in the interest of bipartisanship. So we will go Mr. McClintock, Mr. Griffith, Mr. Price, and then Mr. Cole, if that is amenable.

I would like to go ahead and recognize the Honorable Mr. McClintock.

**STATEMENT OF THE HON. TOM McCLINTOCK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. McCLINTOCK. Well, thank you, Mr. Chairman. Thank you very much for holding this hearing today.

As Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen warned that in his professional military judgment, our greatest national security threat is our national debt. He issued that warning

\$4 trillion of debt ago. The interest costs on that debt are eating us alive: \$255 billion this year that will accomplish nothing more than to rent the money that we have already spent.

The Congressional Budget Office warns that, within 6 years, our interests costs will exceed what we are currently spending on the entire defense budget.

Last May, Congress adopted a budget that changed this disastrous trajectory and pointed us back to balance by 2024. But having set that course, we then had to stay that course, and we haven't.

The budget now awaiting House action doesn't balance until 2026 and only then if we are able to summon the discipline to stick to these new numbers. Now, on very rough figures, we are now spending about \$4 trillion per year; \$2 trillion of that is for trust funds, Social Security, and portions of Medicare. When these funds run out of money, the benefits automatically plunge. That is a major problem, but it is not, strictly speaking, a budget problem. Roughly \$1 trillion is the discretionary spending that is directly under Congress' annual appropriations control. Now, that spending is actually declining. In 2010, our discretionary spending is \$1.35 trillion. The budget now before us spends \$1.07 trillion. That is down almost \$280 billion. The problem is the remaining \$1 trillion that Congress does not directly control. That is mainly entitlement programs, like food stamps, ObamaCare, Medicaid. This spending is exploding, and the only way to control it is to change the underlying laws, something that today's divided government makes virtually impossible.

But there is an alternative: to control mandatory spending through the same appropriations process that controls discretionary spending.

The problem is our own rules won't allow it. Rule XXI, clause 2(b), forbids any changes to mandatory spending in an appropriations bill. So I propose permitting appropriations bills to include such statutory adjustments to mandatory spending as are necessary to keep within the enacted budget. Think of it as one-stop reconciliation. It is necessary because spending is a pleasant experience. Cutting spending is very painful.

So spending bills pass, and reforms necessary to control spending do not.

Now, this reform would not give the Appropriations Committee carte blanche to assume the prerogatives of authorizing committees. It would be limited to annual and temporary changes necessary to keep spending in line within the budget parameters. It could be done upon consultation with the authorizing committees, or at least their chairmen, and would be pursuant to the budget that Congress has already enacted.

A second reform I would urge you to consider is to gradually revive enforcement of House rule XXI, clause 2(a), which forbids appropriations, except for purposes authorized by law.

Ms. Slaughter is incorrect. This is not a new idea. This is in the rules. It dates back to 1837, and it is the mechanism that forces Congress to review its programs periodically. As the program's authorization expires, Congress must revisit it to ask obvious questions: Is it effective? Is it meeting its goal? Is it needed? Is it worth

the money we are paying? Depending on the answer to these questions, Congress then renews the program, reforms it, or lets it die.

Well, this process is broken down to the point that, today, nearly one-third of our discretionary spending is for programs whose authorization expired years, if not decades, ago.

And Ms. Slaughter is correct. Some of these programs are vital, but others have degenerated into the outrages often cited by taxpayer watchdog groups. But authorizing committees feel no urgency to revive them because we routinely fund them anyway by routinely waiving this rule.

Now, given the backlog of unauthorized programs, such a reform can't be implemented overnight. But the House should express its intention to restore this rule over a reasonable period, first, by freezing appropriations for unauthorized programs and, ultimately, forbidding them. And, of course, case-by-case exceptions can always be made by the House.

Before we can provide for the common defense or promote the general welfare, we have to be able to pay for them. And history warns us that countries that bankrupt themselves aren't around very long. I believe that these two reforms that we can make by ourselves, without action by the Senate or the President, are essential to restoring functional control of the purse strings to the Congress.

Thank you.

*[The statement of Mr. McClintock can be found in the Appendix as Insert 1-1.]*

Mr. STIVERS. Thank you.

Next, I would like to recognize the Honorable Morgan Griffith from Virginia.

**STATEMENT OF THE HON. H. MORGAN GRIFFITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA**

Mr. GRIFFITH. Thank you very much for the opportunity to participate in today's hearing. I am pleased to come before the subcommittee to discuss changes to rule XXI and how best to reform the authorization and appropriations process. One proposal I have would restore the ability of Members of Congress to offer more limiting language amendments to appropriations bills on the floor.

As a background, in 1983, when the Democrats were in the majority, the rules were changed at that point. So this is not a long-standing rule that dates back to the 1870s or 1880s. It was changed in 1983. It was seen at that time—it made it harder to make amendments. It was seen at that time as a response to the fact that the Reagan Republicans in the minority were working in a bipartisan fashion with some of the Democrats to get some cuts or limiting language into appropriations bills. The changes that I would propose would largely restore the rule that existed prior to 1983 and remain substantially unchanged since it began in 1876 to 1880. This change opens up mandatory spending to so-called limitation amendments during the appropriations process, as this autopilot spending is currently protected from reductions by rule XXI. See the attachment that I gave you previously, No. 1, for the rule itself.

My proposal would give Members of both parties the ability to offer amendments on the floor and in the Appropriations Committee to cut the amount of money an agency could receive, the number of employees that the U.S. Government or its agencies could have, and the amount of money that could be paid to an employee of the U.S. Government. Prior to 1983, amendments abolishing offices, such as Customs Service, reducing the number of naval officers, and imposing an employment ceiling on Federal employees, et cetera, were held to be in order under that rule.

Now, I am not saying that we should do all of those things. I am just saying that we ought to have the opportunity as duly elected Members of Congress to do that.

Now, I keep in my office a core sample of the rules. And so when I hear folks say that this is a rule that goes back to certain time, I go back to my core sample and look. And in our 1880 rule—and I ask you to take a look at the amendment that I have proposed. And I am going to read you the section, the pertinent section, under the 1880 rule, which was pretty much the same until 1983, 100 years: “Nor shall any provision in any such bill or amendment thereto changing existing law be in order, except such as being germane to the subject matter of the bill, shall retrench expenditures by the reduction of the number and salary of the officers of the United States by the reduction of the compensation of any person paid out of the Treasury of the United States, or by reduction of the amounts of money covered by the bill.”

If you take a look at my changes in 2(b) and 2(c) of rule XXI, you will see this language: Except germane provisions that retrench expenditures, one, by reducing amounts of money covered by the bill, which may include those recommended by the Committee of Appropriations by its direction of a legislative committee having jurisdiction over the subject matter; two, by reduction of the number and salary of the officers of the United States; and, three, by reduction of the compensation of any person paid out of the Treasury of the United States.

The order is different; the language is the same. So I think it is important that we take a look at this, because we are going back to the system. It is not going to make it harder to make our jobs. If that were the case, it wouldn’t have survived 100 years. It will get us back to a system where Members of Congress actually have authority to make proposals. It doesn’t mean they will pass, unless they can get a majority on the floor. Generally, that means you have to have some bipartisan support.

As my colleague, Mr. McClintock, said, it is impossible to get serious about cutting spending and setting priorities in Washington when our own rules prevent us from doing so. We must modify rule XXI to open up mandatory spending to the will of the House and eliminate barriers that put mandatory spending outside the reach of the amendment process.

We are \$19 trillion in debt. We can’t continue to shield mandatory spending.

Now, you know, we have heard that you can do that with a separate bill, and that is true. But most of the bills that we have that are really the big ones are authorizing for, usually, 5 years. Sometimes we shorten it to 2 years or 3 years, but it is usually for 5

years. Once that bill is passed, absent getting the committee to go in and say, "We made a mistake," and reverse itself, you have no other way, except through the appropriations process with a change in rule XXI, to effect a change. So I don't think it is exactly correct to say you can do it in the authorizing bill.

The American people expect us to get it done. We can get it done, but we have to change our rules of operation in order to make that happen.

So, you know, I think it is important for a legislative branch of government to have this authority and this power. I think we have given up too much of our power in many ways. This is one step that brings it back, not only to the House and to the Senate, but to individual Members to at least make the proposals they think are important.

And I have given you an appendix that shows you that while Medicaid, Medicare, food stamps, those are the issues that are going to get all the attention, we have hundreds of programs—now, I will tell you: this is my list. We don't actually—nobody has ever provided us with a list. We asked CRS how to get it. They told us how to go try to find some of it. This is a list I have been able to come up with on mandatory spending. But when you look at, say, we tried to find the Wild Horse and Burro Program, which is mandatory spending, you have got this page here, got a little star there, and that might be the program it is in. But you get into subprograms, and then you have got these four or five programs over here on this page, which might be the Wild Horse and Burro Program. But when I went to try to amend that early in my term here—and I have been here for 5-plus years now—I was told: Oh, you can't do that, except by making a change in the farm bill, because of rule XXI.

So it is not something that just happens once in a while. It happens all the time. Members are proposing changes, eliminating programs, reducing the numbers of employees in programs, cutting the money, and we are not allowed to do it. That is not the way a legislative body should operate, and I hope that you all would join me in supporting this rule, because, whether you are a Democrat or a Republican, this gives more power to the legislative branch of government in the long term and to its Members. And that means that, in order to be an equal branch of government, we have to have this power, whether the Democrats are in control or the Republican are in control.

With that, Mr. Chairman, I yield back.

*[The statement of Mr. Griffith can be found in the appendix as Insert 1-2.]*

Mr. STIVERS. Thank you very much.

The Members are advised that there are about 350 Members who still haven't voted. We have about 6 minutes left on the clock. So we might be able to get through both of the next witnesses' testimony.

I now recognize and welcome to the subcommittee the gentleman from North Carolina, the Honorable David Price.

**STATEMENT OF THE HON. DAVID E. PRICE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. PRICE. Thank you, Mr. Chairman, Madam Ranking Member, and colleagues. I am glad to be with you today. I appreciate the chance to testify in opposition to this proposed change to rule XXI.

I am here primarily as a representative of the House Appropriations Committee minority, but it is fair to say that the concerns I will raise are shared by my many members of the Committee from both parties. I want to begin, though, by acknowledging what I think is the premise of this discussion today, and we can all agree on this: In recent years, the congressional budget and appropriations process has broken down to the point of dysfunction. Budget resolutions are adopted late or not at all. Appropriations bills are stitched together in omnibuses, usually after a series of continuing resolutions that are necessary to avoid a government shutdown. And as the authors of these proposals have highlighted, far too many Federal agencies and programs languish without proper authorization.

In this context, it is understandable that the idea of radical reforms to the House appropriations process would hold appeal for some Members in search of solutions to our current woes. But I believe this is truly a case where the proposed remedy would be a good deal worse than the disease.

The rules changes before us today would weaken Congress' power of the purse by undermining its authority to enact mandatory spending and by prohibiting appropriations for programs that, for whatever reasons, are unauthorized. They would further politicize and immobilize the once bipartisan appropriations process by opening the floodgates to mandatory spending changes in the annual appropriations process. And, to top it off, they would punish Federal employees for carrying out directives under the law.

In short, the changes would only exacerbate our current dysfunction, not relieve it.

Now, longstanding rules don't automatically have merit. However, in this case, time has proven the 25th Congress correct in separating the appropriations process from the authorizing process through rule XXI to, quote, "prevent delay of appropriations bills because of contention over propositions of legislation," end quote.

Now, nothing in rule XXI has prevented us from enacting balanced budgets over the past 179 years. Instead, such failure has resulted from an unwillingness to compromise on revenues and expenditures. Many of us in this room today were here for the multiyear budget agreements in 1990, 1993, and 1997. They helped produce a roaring economy, and we had 4 years of balanced budgets.

We have paid off \$400 billion of the national debt. Why is that so hard to figure out? Why is that such a hard precedent to return to? I would contend the consequences of the George W. Bush administration's fiscal policies plunged us back into deficit financing through trillions of dollars in lost tax revenue and two unpaid-for wars. Then, of course, we had the necessary but expensive countercyclical responses to the great recession. All of that has contributed to the past 5 years of extremely partisan, a largely dysfunctional, congressional budgetary politics.

The Members offering their proposals before us today are attempting to scapegoat rule XXI for the problems of partisan dysfunction, driven largely by rightwing budgetary ideology. They are trying to change House rules in order to enact long-time priorities that are too politically unpopular to pass through regular order, namely, cuts to America's safety net. And, meanwhile, they have signed a pledge, of course, not to ever touch revenues.

I want to focus on the major changes proposed by the McClintock-Griffith amendments to rule XXI. Both would affect the authorizing and appropriations processes in significant ways to the detriment of both.

Rule XXI was set up by the 25th Congress to avoid the delay of appropriations because of conflicts and debates inherent in the establishment of new policy unrelated to the budget. The proposal before you today, offered by Mr. McClintock, would, among other changes, enable a point of order against unauthorized appropriations and allow reductions in mandatory spending to be enacted through appropriations bills.

Let me start with the first. Ostensibly, this provision is aimed at unauthorized appropriations. It is put forth as a way to force Congress, under threat of a shutdown, to review unauthorized programs. Now, let me be clear: The solution to the problem of unauthorized appropriations is important. And it is important for the authorizing committees to do their job and reauthorize or eliminate unauthorized programs. But to hold annual appropriations legislation, must-pass legislation that funds critical authorized and unauthorized governmental functions, to hold that hostage to the inaction of authorizing committees would only serve to create more brinksmanship and manufactured crises.

What are the practical implications? Ms. Slaughter has already referred to some of those. Proponents of the change cite CBO estimates that, in fiscal 2016, Congress appropriated approximately \$310 billion in funding, approximately one-third of the budget, for programs operated under expired authorizations. They say that shows rule XXI needs reform.

What the number really highlights is the breakdown of authorizations. But it certainly is not an indictment of the appropriations process or evidence that most unauthorized programs lack broad bipartisan and bicameral support.

So this has already been mentioned: Eliminating such funding through a point of order would force such entities as the National Institutes of Health, National Weather Service, and NASA to shut down immediately, pending action of the authorizing committees. A number of agencies and programs critical to the national security would be forced to put up a "closed" sign: the entire U.S. Coast Guard, Immigration and Customs Enforcement, the Federal Prison System, the Secret Service, Customs and Border Protection, along with Federal grants to State and local law enforcement agencies. We would also have to close a little-known agency known as the U.S. State Department.

Mr. STIVERS. Would the gentleman yield?

Mr. PRICE. Yes.



Mr. STIVERS. Apparently, they are not going to hold the vote open downstairs. So if we could—and I hate to cut you in the middle of your testimony.

Mr. PRICE. No, that is fine.

Mr. STIVERS. If we could resume there, if we can just go down, and as soon as the last vote—how many votes are we talking? There is a bunch. So, as soon as the last vote is done of the five votes, come right back, if you could. But I don't want anybody to miss a vote.

Thank you. We stand in recess.

[Recess.]

Mr. STIVERS. I would like to call the meeting back to order and recognize the Honorable David Price.

I am so sorry that we interrupted you. Please continue.

Mr. PRICE. Thank you, Mr. Chairman. Just to continue where I left off, I—

Mr. STIVERS. You can start if you want to—do what you want.

Mr. PRICE. No, no. I will start right here in the middle, and we will wrap as quickly as possible. I know better than to impose any further.

Anyway, I was saying the proposed rule would require us to shut down these agencies, these departments. And unless the authorizing committees acted to reauthorize every aspect of these departments or agencies, that is a process that, itself, is difficult. It is fraught with longstanding partisan divisions. You know, we would be out of business. It is a recipe for chaos.

It is a threat to national security. We regularly pass the Defense Authorization Act after the DOD appropriations bill. The proposal before us would jeopardize our national defense by tying critical annual funding to the authorizing process.

Further, if a Member wants to eliminate an authorized program or department like the Department of State, for example, they are welcome to introduce an amendment on the House floor doing so and put it to a vote. Nothing stopping a Member from coming to the floor during debate on an appropriations bill to strip out funding for a program or agency in that bill.

Now, as a senior appropriator, I am naturally sensitive to major changes in the appropriations process, but I really believe the annual work of appropriations serves the entire institution. It serves our place in the constitutional balance of power, regardless of which party is in power and regardless of who is President.

That is why appropriations has historically been relatively bipartisan. And it is why the Congress' place in the constitutional order is compromised to the extent appropriations is swamped by partisan maneuvers, and by that I mean everything from poison-pill riders to ideological budget resolutions or politically divisive cuts to unauthorized programs or entitlements that distract from the work of crafting workable annual funding bills.

Now, let me ask just take a final moment to address the proposal before us to allow reductions in mandatory spending in appropriations bills. That is the second major proposal.

It should be clear to all political observers that conservative Republicans are pushing this idea as a means of catering to the most

right-wing supporters, unrelenting in their desire to slash entitlements and slash our Nation's social safety net.

And it is not like I am making this up. This isn't a new idea. We have seen numerous Ryan budgets. They voucherize Medicare, they block-grant Medicaid, they slash nutrition assistance to low-income Americans. We remember President George W. Bush's efforts to partially privatize Social Security. This isn't new. This is another effort to placate the most conservative elements of the Republican Party.

Now, there is nothing wrong with scrutinizing our fiscal situation, reviewing spending and tax expenditures, including appropriated and mandatory spending. In fact, we should be doing that systematically, regularly. All elements of the Federal budget should be considered as part of a comprehensive budget deal.

But we should not single out any one item. The majority party in recent years has singled out domestic appropriations as though that were the entire budget. Now, in this proposal, we are singling out entitlements and, moreover, using them to gum up appropriations bills.

I really believe today's effort has more to do with conservative ideology than with any balanced approach to budgeting.

The only thing currently preventing Congress from reducing or increasing mandatory spending is political will. And any one of these authorizing committees that meets down the hall could gavel into session today; they could report a bill with changes to entitlement programs. The reason they will not is not because of rule XXI. The reason they won't is because Members of Congress lack the courage to compromise on long-term spending priorities.

So this rules change wouldn't solve that problem. It would only raise the stakes of partisan impasse by attaching such debate to must-pass appropriations bills. Very bad idea.

Mandatory spending programs such as Social Security, Medicare, Medicaid, veterans' benefits, Federal employee retirement and disability, food and income security programs, those are lifelines for millions of American families, many of whom have earned their benefits through years of paying into these programs through Federal service. When Congress originally created these retirement and social safety net programs, it explicitly decided that beneficiaries should not be subject to the vagaries of the annual appropriations process.

Further, this provision is biased in favor of reducing mandatory or entitlement spending, allowing only reductions in such spending, never increases, to be included in appropriations legislations. Now, why would we want to do that? Why would we want to tie the hands of future Congresses to adjust entitlement spending as needed on behalf of the American people? After all, these programs exist to provide for the most vulnerable members of society.

The rule jeopardizes long-term and future assistance for the poor or the elderly by favoring cuts over increases or even over minor adjustments and tying long-term and sensitive entitlement funding like Medicare to annual budgets of agencies like Education and Labor.

So, to put it plainly, Mr. Chairman, if the majority wants to cut entitlements, they should put a bill on the floor and have a straight

up-or-down vote. They could do that tomorrow. Everyone in this room knows such an effort would fail because it would be at odds with the will of the overwhelming majority of the American public.

So instead of honoring the public's preference in a straightforward manner, we are instead entertaining an effort to end-run the House budget process through a rules gimmick. It is as if the conservative wing of the majority is admitting they can't win the debate straight up so now they want to change the rules of the game. No wonder people are cynical about our politics.

It is clear the existing budget process has broken down. We have passed ideological and unrealistic budget resolutions that make passing appropriations bills nearly impossible. The proposed changes before us today would fix none of this and only make it worse.

We must muster the political will to make difficult and politically costly decisions. And that includes, I must say, whoever the next President is, whatever the next Congress looks like, it includes a comprehensive budget plan. And it has to address the main drivers of our deficit—that is, tax expenditures and entitlement spending—as well as the full gamut of appropriated spending.

We have a precedent in the nineties as to what such budget agreements look like. The proof was 4 years of balanced budgets, \$400 billion of the national debt paid off. Why is that so hard to understand?

I urge my colleagues to reject the proposed changes to rule XXI and redouble our efforts to address the underlying causes of our long-term fiscal challenges.

Thank you, Mr. Chairman.

*[The statement of Mr. Price can be found in the Appendix as Insert 2-1]*

Mr. STIVERS. Thank you very much.

And now I recognize one of our own on the Rules Committee and a subcommittee chair on the Appropriations Committee, Congressman Tom Cole.

**STATEMENT OF THE HON. TOM COLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA**

Mr. COLE. Thank you very much, Mr. Chairman. And thank you, Chairman Stivers and Ranking Member Slaughter, for the opportunity to testify today regarding the proposed reforms to rule XXI and the modern authorization and appropriations process. As a member of the Appropriations Committee, the Rules Committee, and the Budget Committee, I look forward to discussing whether changes are needed in the current House rules to make the appropriations process better.

I find myself in the unusual position as an appropriator of arguing against nonappropriators who want to enhance the power of the Appropriations Committee. I actually joked to my good friend Mr. Price earlier, if we are going to become the new Ways and Means Committee, maybe we could take over those splendid Ways and Means Committee rooms and just swap out where we do our humble work.

But as many of you are aware, the appropriations process is vested in Congress by section 9, Article I of the Constitution. Enacting

annual appropriations is something the Congress must do under the Constitution. It only follows that House rules providing for consideration of these bills should help, not hinder, the enactment of appropriations bills.

One of the largest challenges the Appropriations Committee faces is the decline of the reauthorization process. As we all know and several members have stated, CBO reports that \$310 billion in funding was providing in the fiscal year 2016 budget for programs whose authorization had lapsed.

In response to these challenges, there have been thoughtful suggestions, some by my colleagues testifying here today. One suggestion is amending rule XXI to create an additional point of order on appropriations bills that would require unauthorized programs to be left unfunded or frozen as a way to incentivize the authorization committees to enact authorizations.

In my opinion, these proposals have serious downsides. First of all, I do not see how additional points of order on appropriations bills will serve as an incentive to authorizing chairmen to move their authorization bills. The target is being put on the wrong back.

It is also unrealistic to expect that Congress will not fund our national security while awaiting a defense authorization bill, or that Congress will shut down funding for the National Institutes of Health for lack of an authorization, or that no increase will be provided for veterans' health when an authorization isn't moving for whatever reason.

The net result would be more pressure on the Rules Committee to provide additional waivers to these new rules. In addition, these changes would create obstacles to rapidly responding to emergencies and would disadvantage the House in relationship to the Senate, which does not have similar rules.

If the intent is to incentivize the authorization process, then proposals should address the authorizing committees, not the Appropriations Committee. However, if the intent of the proposed amendments of rule XXI is to ensure that no objectionable unauthorized programs are funded, there is already a process to prevent this, the so-called Armey protocol.

Currently, every appropriations bill is sent to the authorizing committee before being considered in the Rules Committee. If the authorizing committee objects to funding for an unauthorized program, it can already be exposed to a point of order. Rather than expanding additional points of order that are not likely to achieve their intended purpose and likely to make the appropriations process more arduous, we should focus on making sure the Armey protocol functions as intended.

Another set of proposals recommends changing rule XXI to make it easier to amend mandatory programs on appropriations bills, including a proposal to reinstate the so-called Holman rule, which was removed in 1983. This rule would allow changes in existing law as part of an amendment to reduce spending in an appropriations bill.

These proposals would significantly expand what amendments could be offered on appropriations bills. They would allow appropriations amendments that are legislative in nature, including how agencies and programs are staffed, structured, and compensated,

things that are directly under the jurisdiction of the authorization committees and involve permanent changes in law. It would diminish the roles of the authorizing committees, make them less central to the legislative process, and at the same time make it harder to pass appropriations bills.

It would involve appropriations bills in more controversies and increase the number of amendments to appropriations bills, which has already exploded in recent years. In 1982, the last year the Holman rule was in effect, there were 59 floor amendments offered to the 10 appropriations bills brought to the floor. Last year, there were 456 amendments proposed to the 7 bills that came to the floor, an 800-percent increase. I shudder to think how long it would take to consider an appropriations bill with a whole new category of made-in-order amendments not necessarily related to discretionary funding.

In conclusion, I believe that any changes in rule XXI must be carefully considered. We should consider proposals to change rule XXI to determine if they will help us achieve our shared goal of the enactment of annual appropriations bills. From my perspective, I am concerned that these proposed changes will not necessarily address the real challenges that their sponsors seek to change.

At the same time, I am certainly willing to work with my colleagues to identify changes that will make the process work more smoothly and will ensure that the authorizing committees do their jobs.

Thank you, and I look forward to answering any questions you might have.

*[The statement of Mr. Cole can be found in the Appendix as Insert 2-2.]*

Mr. STIVERS. Thank you very much.

I appreciate all of you for being here today and sharing your perspectives on these proposals.

I have a couple questions for Mr. McClintock.

You said on the second part, on page 3, where we would gradually revive enforcement of rule XXI, clause (a)(2). How would you propose gradual enforcement? Either we are going to enforce it or we are not. So I want to understand—

Mr. MCCLINTOCK. Well, we don't enforce it now.

Mr. STIVERS. We don't enforce it now. I understand that. Yeah.

Mr. MCCLINTOCK. The point is this. This is not some new radical idea, as is being portrayed by my colleagues. Quite the contrary. This is the existing House rule. And it has been the existing House rule since 1837. All we are asking is to restore enforcement of that rule. But I agree it does have to be done gradually.

We do have a huge backlog now of unauthorized programs that haven't been reviewed in years. I believe that Congress, you know, ought to make it its intention clear that the authorizing committees have a certain period of time, a year or two, even a session or two, to review these programs under their jurisdictions and to renew them, alter them, let them die, but to do their jobs. There is no incentive for them to do their jobs as long as we continue to shovel money at them regardless of whether or not these programs are authorized.

And I agree, some of them are absolutely vital. And, by the way, the House on a case-by-case basis can continue to override that rule, but it would be by a vote of the House. The important thing is that the committees are reviewing the expenditures as they ought to be doing.

Mr. STIVERS. Great.

Let me rephrase my question. How much notice do you think the authorizing committees should have? You kind of said maybe a session or two.

Mr. MCCLINTOCK. I think it would take at least a session. I think it would take at least 2 years.

Mr. STIVERS. A couple years.

Mr. MCCLINTOCK. Yeah.

Mr. STIVERS. Okay.

Mr. MCCLINTOCK. And, again, phased in gradually. You know, I have proposed perhaps the first phase would be freezing increases in expenditures and, finally, bringing back the force of that rule.

Mr. STIVERS. Great. Thank you so much.

On your other proposal, you kind of referred to one-stop reconciliation with regard to allowing votes on mandatory programs. As far as the process goes, reconciliation only takes 50 votes plus one in the Senate, but any appropriations bill would be subject to the 60-vote threshold. So how can we be sure that any proposals we would move would even be able to get through the Senate?

Mr. MCCLINTOCK. Well, we can't be sure of that now. Under the current rules, we can't be sure that appropriation bills are going to be taken up in the Senate. And the Senate may decide to work its will. We have a conference process that is very good at identifying and reconciling the differences between the two houses.

The point is this. The Appropriations Committee has been very effective at marking to the budget levels for discretionary spending. They have often rightly and proudly boasted of that success. And as I indicated, we have brought down the discretionary spending that is under the direct control of the Congress.

The problem is they are completely powerless to mark down to the mandatory spending levels called for in the budget. And so, despite all the work on the discretionary side, we continue to see the budget spinning out of control because we can't touch the mandatory programs without separate, standalone legislation, which in this environment becomes extremely difficult to pass.

Put it together with the spending bill so that you get the savings along with the spending. I think that that is a streamlined process that actually allows us to stick to the budget numbers that we have set before we bankrupt our country.

Mr. STIVERS. Sure.

And to follow up on that, you had said in your testimony that the measures would be annual and temporary, I believe was the word you used—

Mr. MCCLINTOCK. The idea would be—

Mr. STIVERS [continuing]. So it would only apply for that Congress, and it could only go down to the numbers approved in the budget resolution for that year for that program. Is that correct?

Mr. MCCLINTOCK. Correct. Correct.

Mr. STIVERS. Okay. So I just wanted to understand. So the changes would expire at the end of the fiscal year, and then you would have to do it again in the next year to mark it down.

Mr. MCCLINTOCK. The idea is to give the Congress the full power to stick to the budget numbers that it has established.

Mr. STIVERS. And the way you envision your rule proposal, the amendments to the appropriations bill would not have the ability to reduce programs below the budget number in the budget resolution that is effective for that year. Is that correct?

Mr. MCCLINTOCK. Correct. And, by the way, this would only be effective if we have already voted to enact a budget setting these numbers.

Mr. STIVERS. So if an amendment under your rule was not just limited to that fiscal year, it would be ruled out of order, under the way your rule would be proposed. Is that correct?

Mr. MCCLINTOCK. Correct.

Mr. STIVERS. So are you envisioning amendments that would cut a specific dollar amount or maybe make programmatic changes—

Mr. MCCLINTOCK. It would make programmatic changes to the underlying statutes to the extent that are necessary to bring the spending to the budget numbers already enacted by the Congress.

Mr. STIVERS. So envision with me, if you will, remember back to our appropriations process. Last year and every year since I have been here—I know you were here 2 years before me—we have had an open rule process on appropriations bills generally, which means things move fairly fast.

How can we ensure through this process, these amendments, that we would get the relevant CBO and Budget Committee determinations, you know, on an amendment? Have you thought through that and what that might mean, given that it would be a fast-moving process?

Mr. MCCLINTOCK. Well, it would be a fast-moving process if it was brought to amendment. The idea would be that we would incorporate into the appropriations bills the statutory changes necessary to bring spending to the level set by the budget, both on the discretionary side as the current process and the mandatory side, which is currently forbidden.

Mr. STIVERS. Great.

So my next question is for Mr. Griffith.

How do you propose that your rule would work? Would it work just like it worked until 1983?

Mr. GRIFFITH. I would propose that that would be the case. And all the precedents from the rule's inception, roughly 1876 through 1982, that precedent would still be standing because we didn't change the language substantially. Like I said, in the earlier rules, there is an order difference, but the language is substantially the same as what we had for over 100 years. It seemed to work during that time period. There is lots of precedent that the parliamentarians can use. And I would submit it would work the same way.

And I would also submit to you that, while I know there are multiple reasons why we have gone from 59 the last year the Holman rule was in effect to 456 amendments, one of those reasons might be that there is just a tremendous amount of frustration that you can't get to other things, so people look for all kinds of little

changes in the section of the budget we can get to. Because the mandatory spending is the lion's share of our budget.

And if you had opportunities—now, let me make it clear again, there are only three categories, and so it is not like you could change an entire program. You could affect a program by reducing salaries, reducing the number of employees. That might affect the program. But you wouldn't actually take the program off the books unless you went through the regular order of that.

But this was regular order. It is what they worked out. They started, you know, figuring out what they could do. Someone raised the question, why just reductions? Well, the concern there was that, you know, you only have so much money, and when this rule evolved, it was, okay, we can do retrenchments if that is where people want to go, but you better have authorization; if we are going to spend big chunks of new money, that needs to be studied carefully.

But a retrenchment was considered appropriate, and it served our Nation well for many, many years. And as I said, as much as we hate to go back and rehash a prior political event, I have spoken to some of the Republicans who were in office at that time, and they have indicated that their view was it was an attempt to stop some changes that Ronald Reagan was proposing and that House Republicans, along with their colleagues, some of their colleagues on the Democrat side of aisle—Democrats still had control—where it had been very effective in the first couple of years of the Reagan administration. And this was a way to put a stop to it, because then you couldn't go in and say, okay, we are going to do this or that. All you could do was affect the money.

And here is where it tilts the power to the administrative branch of government. And I don't care whether it is the Democrat or Republican administrative branch. It tilts the power to them, because now all we can do is limit the money going to a particular area, sometimes with many programs under that particular item. And then the cuts are then decided by—you know, whether or not you keep this many employees, what you do, all of that is now decided by the administrative branch of government.

I would submit that under the Holman rule, although I have no examples to give you today, but I would submit that power was a congressional power that we ceded in 1983, which I don't think was appropriate. But, you know, we talk about this would make things more partisan. The failure to have this language started off with partisan origins, and today what I am trying to do is to restore it to a rule that existed during both a big chunk of Republican hegemony over the votes in the House and then a period of years where the Democrats had control and significant majorities in the House.

And so it worked for both Democrats and Republicans before. It can work for both Democrats and Republicans again. More importantly, it works for the people of these United States because it is a fairer process. It lets the floor and the Appropriations Committee have more power. And the gentleman was correct when he said he is arguing against more power for the Appropriations Committee. That, too, is true.



Mr. STIVERS. And I was going to ask you, and you already said, you don't have any examples in front of you of when the Holman rule was used and effective?

Mr. GRIFFITH. Well, I do have some examples of things that were proposed to be cut that were in my statement. I would have to go back and find them.

Mr. STIVERS. Yeah, I was wondering if you could give me any examples of when it was actually used to cut things, not just proposals that were then—

Mr. GRIFFITH. Well, and I don't know—those were held in order, and I don't know whether the votes were successful or not. Parliamentary precedent tells us that there was a challenge to whether or not that was appropriate under the Holman rule. And the ones that I mentioned—

Mr. STIVERS. Were upheld.

Mr. GRIFFITH [continuing]. It was appropriate. Whether or not the votes were there or not, I don't know. I would submit that on occasion, although rare occasion, it was probably successful.

The resistance you see to the rule is exactly why you won't have hundreds of amendments that actually pass. The authorizing committee, if it is not something that they have studied or care about, they are all going to be against it. You are going to have a group that proposes it. The authorizing committee is probably going to be against it. In some cases, if it is a floor amendment and not an amendment coming out of the Appropriations Committee, the appropriators are going to be against it, whether they are Democrat or Republican, in the majority or in the minority.

So it is going to be difficult to pass the amendment, as it should be. But if it is the will of the respective Members of Congress, representing all of the States, to make a retrenchment in those three specific areas that are allowed under the Holman rule and under my restoration of that Holman rule, than that is good government and it should go forward.

And so, you know, we haven't studied what kind of cuts were made because, contrary to some folks' opinion that we are trying to cut specific types of programs, that is not the case. What we are trying to do is to reestablish the authority of Congress to go in and not just say we are going to cut the money to program X but that we think that you have too many employees and that is where you ought to make the cut. And then you may also have a respective money cut, or you may cut the number of employees and put that money into programs that go directly to the people, as opposed to having it being spent by bean counters or others in D.C.

Mr. STIVERS. Great.

Mr. McClintock, one last question for you. From your perspective, what is wrong with the Army protocol that Mr. Cole brought up and the process now for unauthorized expenditures?

Mr. McCLINTOCK. I think the Army protocol is a very good practice. I would like to see it in the House rules. But I don't think it alone is adequate to provide the Congress with the tools that it needs to stick to the budget numbers it has adopted.

Mr. STIVERS. Great.

Mr. Price, one question for you, and then I will give it to Ms. Slaughter.

In your testimony, you state that time has proven that the 25th Congress was correct in adopting rule XXI and preventing a delay in the appropriations process over proposals of legislation.

The Holman rule, which has a long history—first adopted in 1876 by Democrats, actually, and then turned off in 1895 to 1910, then reinserted in the House rules from 1911 through 1983—is very similar to the proposal that Mr. Griffith would restore to the pre-1983 rule.

Do you have any legislative history on why it was changed in 1983 and why we should not turn it back on?

Mr. PRICE. My understanding of the changes in 1983, leaving aside the political motives that Mr. Griffith has attributed to this, I have no evidence one way or the other on that. My interpretation of the change that was made in 1983 would be that it was a further tightening up of the distinction between authorization and appropriations and that, in that respect, it appears to be consistent and appropriate.

But I think we need to back up a little bit. The Congress made a decision, almost at the beginning, to separate the authorizations and appropriations process. Now, admittedly, not every parliament in the world does that. But we have done it, and I would submit that that separation has served us well.

But, in any event, it would be a radical change. And I am particularly going here by what Mr. McClintock is envisioning. It would be a radical change to have the processes once again combined.

And as I am listening to our two friends here, I don't believe they are talking about the same thing. I mean, the Holman rule is one thing. That is a rather narrow provision which might or might not be tweaked. But as I hear Mr. McClintock talk, I envision the Appropriations Committee becoming the arena for considering the whole gamut of the Social Security program, the Medicare program, the Medicaid program. I mean, the distinctions would come down between mandatory and discretionary spending. I stand to be corrected on that, but I could imagine the appropriations process being totally gummed up by whatever people wanted to bring up in committee or on the floor with respect to changing this or that entitlement program.

So I suggest we just back off and look at this historical decision, which has been with us for a couple hundred years, to separate appropriations and authorizations and, as the founders of this distinction stated, to not let annual appropriations be held hostage—they didn't quite say it that way, but that is the idea—don't let annual appropriations be held hostage to disagreements on legislation or, one might say, to the obstruction of legislation or gridlock on legislation. Because we have to pass a budget each year. The government shuts down if we don't. And goodness knows we have enough trouble with that process already.

But the notion that you would fix it somehow by importing authorizations into this whole process and adding that whole gamut of controversies and difficulties, it is just inconceivable to me that this would work in any kind of positive way.

Mr. STIVERS. Thank you.

I now yield to the ranking member.

Ms. SLAUGHTER. Thank you very much, Mr. Stivers.

And I really learned a lot here today, and I thank all of you for a good discussion. When I first came, I obviously came down on the side of Mr. Cole and Mr. Price. And I think all of you made a good case, but I continue to stand with my first statement, that this is too draconian for us to do.

And if I might speak out of order for a moment, I would like to acknowledge the presence of Tom Wickham, who is the House Parliamentarian, who is a consummate professional recognized by both sides for his expertise and his fairness. And his visits up here are rare but very, very welcome.

And I yield back the balance of my time.

Mr. STIVERS. Great.

I would now like to recognize Bradley Byrne, our distinguished gentleman from Alabama.

Mr. BYRNE. Thank you, Mr. Chairman.

And I appreciate everybody being here today.

I was taught in college not to be an ideologue. I was taught to think through issues. I sometimes think that we are teaching college students today to be ideologues, but that is a different topic for another time.

So thinking through these issues and not being an ideologue, let me ask you a question, Mr. McClintock.

Mr. MCCLINTOCK. Only if it won't send me fleeing to the committee safe room.

Mr. BYRNE. The rule is very clear: We are not supposed to be appropriating to that which has not been authorized.

Mr. MCCLINTOCK. Correct.

Mr. BYRNE. We get around that by waiving the procedural point of order, correct?

Mr. MCCLINTOCK. Correct.

Mr. BYRNE. And what you said earlier was we want to not just, you know, slam the door right away but create enough time where our authorizers can do their jobs.

Mr. MCCLINTOCK. Exactly.

Mr. BYRNE. And I think that we should assume in good faith that they are going to do their job.

So what if we just said, the Rules Committee said today that on January 1, 2018, and going forward we are not going to waive the point of order anymore? That gives our authorizers a little over a year and a half to authorize it or not. And I think after that period of time it would be fair to assume if they haven't authorized it that their failure to decide is a decision in and of itself. What do you think about that?

Mr. MCCLINTOCK. I think that would be a huge step in the right direction. You know, again, there are vital programs that are unauthorized. The opponents of this proposal are absolutely correct in that respect. But I would have to think that those programs enjoy broad bipartisan support; reauthorizing them would be a very simple matter. And if a program after 2 years can't be reauthorized, maybe that is nature's way of telling us that it is superannuated and ought to be let alone for a while.

Mr. BYRNE. Well, that is kind of the way I looked at it. One problem up here—I have only been here 2½ years—is that inertia

takes over and we just kind of let things keep on going the way they have always gone and think that that is okay.

Mr. MCCLINTOCK. Right.

Mr. BYRNE. The American people are screaming at us right now, "It is not okay." Democrats are screaming that. Republicans are screaming that. The status quo is not okay.

Mr. MCCLINTOCK. And if it is not worth the time and fuss and bother to reauthorize, maybe it is also not worth the money that we are shoveling at it.

Mr. BYRNE. Right. And I dare say there are some of these programs and departments and agencies, et cetera, that if we took it out to the American people and let them vote, they wouldn't—Democrats and Republicans would have broad bipartisan agreement, "Why are we doing that?" Because it doesn't get to what people need for their everyday lives.

Let me follow up on something, because I wanted to make sure I understood something you said. And this was with regard to what you were talking about about mandatory funding in appropriations bills.

When the chairman was asking you about potential complications with availability of the CBO data and House Budget Committee guidance during the amendment consideration on the floor, I believe I heard you say that would only be the case if we allow amendments on the floor to affect those changes.

Does that mean that you are only requesting that the Appropriations Committee have the ability to report changes in mandatory spending, or are you advocating floor amendments?

Mr. MCCLINTOCK. Both. But I would be content to limit it to committee action.

Again, when the budget is adopted, there are CBO scores on all of the provisions involving the mandatory spending, the reforms necessary to effect those savings. Placing that in the appropriations process then allows us to take action, as we currently do on the discretionary side, on the mandatory side as well.

Mr. BYRNE. Okay.

Mr. MCCLINTOCK. And those CBO scores, I believe, are available and accompany the budget.

Mr. BYRNE. Mr. Griffith, let me ask you a question. I know where you are trying to go. I want to go there with you, but I am having a little problem with how you are trying to get there.

I think there is a big distinction both in substance but also in the practical reality of how things work between mandatory spending where people have paid into a program, like Social Security and Medicare, and all those other mandatory spending programs. And you have the list that you are trying to compile, which may not be complete. I think that is a pretty big substantive distinction and a pretty big practical political distinction.

So I wonder if, in thinking through what you are trying to do, if there is some way to make that very important distinction that, as you said, would, you know, affect \$2 trillion of what we are presently spending. So I would just throw that out there, if there is some way for us to practically understand.

But I don't think anybody around here wants to, without having a pretty thoughtful, deliberate process that has gone through com-

mittees and public hearings and everything else, to start making anything like a significant change to those two programs.

Does that make sense to you at all?

Mr. GRIFFITH. Well, it does. Now, you know, you wouldn't be able to affect the general tenets of the program. You could affect the employees who are working on that program, and that could have the indirect result of affecting that program; I grant you that. I would submit to you that, as I said before, it is going to be very difficult on some—particularly on something complicated like that—it would be very difficult to get passage on the floor to begin with, which is why I don't think it was a major problem up until the rule was changed, because it does take a tremendous amount of effort to make a change when you have got the authorizing committee that is most likely going to be opposed to you, et cetera.

That being said, while I think that going back to the Holman rule is the appropriate way to go if you wanted to pick out, you know, a program or two and say that that could only be done in the committee, because I am changing both 2(b) and 2(c)—2(c) deals with the floor, and then there is a clarifying amendment in 2(d)—2(b) deals with the appropriating committee. You could put something in there like that, or you could just say you couldn't do it. That wouldn't be my preference. But, obviously, if there was great concern and we could try it out as an experimental program or a test case to see if going back to the Holman rule caused the chaos that some of my colleagues have felt that it would. We could try it by making some distinction in which programs of those really big ones—and Social Security clearly is a different animal. Medicare has different components to it, and I recognize that. Then there are all the other programs. And many of them—I mean, I have looked at the list that I have got to the best of my ability to figure out where things are in there, and there is a lot of them that I wouldn't vote to do anything to. There are some that I would, and it is the fact that we don't have the ability to get to it in what was the regular order for many, many decades. I think that we ought to be able to do that.

That being said, if it is the will of the House that we go with this as a test case and we set aside a couple of programs and leave the other hundreds of programs out there to be examined by the membership, I certainly wouldn't say that was a bad step. That certainly would be a step in the right direction.

Mr. BYRNE. I am just speaking to you like a regular old rank-and-file Member. I wouldn't feel comfortable with any process that would have any sort of a significant effect on Social Security and Medicare if they didn't go through an extremely thorough hearing, deliberative committee process, et cetera.

Mr. GRIFFITH. I would agree with that. And let me just make it clear so there is—and I know you know this, but I don't want anybody taking out a little sound bite and thinking we have said something different. I wouldn't vote for one of those amendments.

Mr. BYRNE. Right.

Mr. GRIFFITH. But the opportunity to offer an amendment is different than actually approving the amendment. And all I am saying is that, as Members elected by our respective congressional districts, we ought to have more ability to impact this process, as was

done for, you know, 100 years, and that didn't seem to cause chaos or the destruction of the Republic.

Mr. BYRNE. I would like to ask Dr. Price—Professor Price—and Professor Cole, what do you all think about the Rules Committee saying, “Look, we have been waiving this point of order, but as of January 1, 2018, we are going to stop waiving the point of order”? Doesn't that give our authorizing committees plenty of time to get their job done and tell us what should be authorized and what shouldn't?

Mr. PRICE. Well, I do think we have a problem with way too many unauthorized programs. I am reluctant to paint with too broad a brush. I do think, from time to time, there are good reasons for that as well as bad. There are certainly some persistent problems that leaders in both parties could testify to as to finalizing some authorizations, you know, like that State Department authorization.

Mr. BYRNE. After a year and a half?

Mr. PRICE. I think that the historical record is pretty clear that some of this is pretty difficult stuff and not probably solved by simplistic remedies.

Having said that, I am all for exerting pressure, and I would hope pressure is from within the authorizing committees themselves. I mean, these people didn't join these committees just to sit there, right? They chose to be there because they presumably would be writing legislation.

So I am not making excuses for those committees, but I think to condition the appropriations process on the completion in each and every instance of the underlying authorization would be just an invitation to—if you think gridlock is bad now, that would be an invitation to just shutting this place down or certainly shutting the appropriations process down.

And let me just say: I agree with you, Mr. Byrne, about the way the public views a lot of this. So I think our constituents want to see—they don't want to see programs just indefinitely continued. But there is nothing that gives any kind of privileged position right now to unauthorized programs. On the Appropriations Committee, on the House floor, we can cut and cut and cut those programs if that is our political desire. So there is no privileged position that these programs have by virtue of being unauthorized. There is no immunity that they enjoy. So if the point is to get at authorized or unauthorized programs, you know, the appropriations process provides a perfectly viable way to do that.

Mr. BYRNE. I want Dr. Cole to speak to this, but it seems to me that—I am not proposing changing the rule. I am proposing, after a year and a half time, enforcing the rule. So what is wrong with that?

Mr. COLE. Well, I am like my friend Mr. Price. I am loath to tell you that I am not in favor of finding ways to get the authorizing committees to reauthorize.

But I do want to pick up on a point he made that I was going to make as well. We do cut spending for unauthorized programs all the time. You know, we cut—State Department hasn't been reauthorized. If you go back and look at foreign aid, we cut 24 percent out of foreign aid. And there is considerable expertise on these com-

mittees in the areas on—we don't have to wait around on Appropriations for the authorization guys to do something to act within the sphere that we have. I would suggest our Members on Defense Approps, with all due respect, are every bit as knowledgeable about the defense of the country as the Members on the House Armed Services Committee. They actually probably go to at least as many hearings, and since they are so much smaller, they interact a lot more with the witnesses, having been on both Armed Services and now on Defense Approps. And I could say the same thing on Natural Resources, where I served, and now Interior Approps.

So I am not saying the authorization thing isn't a problem, but it is not a silver bullet either. Going through the authorization, it is not as if we haven't tried to save money in State since the last time it was authorized. It is not as if we haven't cut and changed appropriations. So I think we can get too hung up on that point.

Second, you do empower, you know, an obstructionist minority perhaps—and I don't mean that aimed at our colleagues in the minority—I mean, anybody that just wants to gum up the works in an authorization committee. I saw this happen, frankly. Mr. Simpson, when he was chairman of the Interior Committee, tried to force the authorizers to reauthorize the Endangered Species Act, to just go through it; we think it is a problem area. And he was going to withhold funding. And the authorizers, for whatever—it is highly contentious; it is highly partisan; it has been used in political campaigns to defeat Members on both sides of the aisle—simply couldn't get it done. Now, I suppose we could have just gotten rid of the entire program. But our own leadership said: No, you can't do that; that would become an issue in and of itself.

So these issues become complex. And I suggest that Appropriations is not a tool to discipline the other committees. That is not its function. You need to get the other committees to do their job. Now, as Mr. McClintock—and he has been great about this, honestly—pointed out, look, when we get a number from the Budget Committee, we live within the number, whether we like the number or not. And we have made substantial reductions and cuts and sometimes in things we didn't want to do. I have been here for many years. I voted against ObamaCare in every iteration. I have never seen a substitute produced out of the appropriate committees. You know, I have watched these committees do Medicare part D or ObamaCare. It is not as if they can't function legislatively, but they don't want to pick up entitlements and deal with entitlements. And that is 70 percent of the spending.

So I don't think us withholding appropriations, which might affect the defense of the country or some other important day-to-day function—you are also putting the American people at risk here. You are not just putting an authorizing committee at risk. They didn't do their job, and we didn't fund the military. Then who is at risk? The American people are at risk. So I don't think you blackmail your own people.

But there has to be a way—and I would love to work with my colleagues on this—to encourage or incentivize authorizing committees to do their work. But, at the end of the day, remember, the unauthorized appropriations are certainly a tremendous amount of money, \$310 billion. That is in a \$3.9 trillion budget that is over

half a trillion dollars out of balance. So you could reauthorize them all and you would still have a substantial deficit.

The real issue is, hey, when are we going to reform Social Security the way Ronald Reagan, Tip O'Neill, and Howard Baker did in 1983? When are we going to sit down and look at Medicaid? Now, we do this in the Budget Committee. The Budget Committee has, you know, advanced programs in Medicare and Medicaid reform. They are highly controversial, very, very spirited debates. I have never seen those things picked up in the appropriate committees of jurisdiction. When the Budget Committee gives us a number, we are living within the number.

So the other committees have got to figure out a way just to do their work. And I would be a lot more impressed if I saw them—again, we have seen major legislation—never a problem around here to move tax bills. My friend mentioned tax expenditures. Okay. If you are going to do that, why can't you pair that with a mandatory spending bill? If you are going to cut taxes, okay; over here, you are leaving the expenditure part of this that you control totally unaddressed. Now, I am not advocating you have to offset tax cuts with additional spending. But there is no linkage whatsoever. So I see bills coming to the floor to cut taxes; I never see bills coming to the floor to cut—not cut, but reform Social Security. Same thing with Medicare. Same thing with Medicaid. Again, Budget Committee wrestles with these things. They vote on them. They put their fingerprints up there on them. A lot of Members do. Why can't those committees do it? But, again, I would urge you—I know I have gone on a long time—don't use the Appropriations Committee to discipline every other committee because it hasn't done its job. And the only reason why we are doing that is because the Appropriations Committee has done its job. It has lived within what this body collectively told it to live within.

The last point I want to make, and this is somewhat unrelated, but I think it is important, there are two things I think you need to look at when you look at both of these proposals. One is, how much do you want us to do? Do you really want us, as an Appropriations Committee, to become experts on Medicare and Medicaid and Social Security? Because we already have the range of the entire, you know, discretionary part of government, where we have blocks of expertise in each of our committees. So you are going to now have to both enlarge the committee and create new areas—we have no expertise. I have strong opinions about Social Security, Medicare, and Medicaid, but I don't pretend to know as much as the people in the relevant committees. Do you really want to trust me to do that job? It is going to take a long time.

Mr. BYRNE. But under my proposal, that wouldn't get to that.

Mr. COLE. No, that is true. As I said, this was unrelated. I thought it was an important point to make. And you need to think—you would really, under these things, put everything under our control, except the raising of revenue and whatever taxes. We would control everything out of that single committee.

Mr. BYRNE. If I followed your line of reasoning, then, if we are not going to enforce the rule, why do we keep the rule the way it is? Why don't we change the rule and say it is okay to appropriate



things if they haven't been authorized? Because the rule right now says we are not supposed to.

Mr. COLE. That is true. And, again, you know, I will leave it to this committee. I am not coming up here arguing that one way or the other. All I am saying is when you do that, if the job doesn't get done by that authorization committee, don't think you are just punishing the authorizers. You are punishing the American people, who are supposed to be getting some sort of service or some sort of benefit.

Mr. BYRNE. I am not trying to punish anybody. I think the American people are being punished by our failure to get control over our spending.

Mr. COLE. I would agree with that wholeheartedly. And I would put my record on those things up on the line with anybody else's. And I agree with you. But stopping functions of government because something hasn't been done is essentially a sort of governmental shutdown in miniature in a particular area. Maybe that is what you want to do, but you are putting at risk people that have no part in that process, that have no mechanism to enforce it or to defend themselves from it. And I would think long and hard—look, I don't think the day would come when we would not authorize defense. I have enormous respect for people on the Armed Services Committee. But what if it did? What if it did?

So you are really shutting down whole functions of government. It is not just the legislative process here; it is reality out in the field where the rubber meets the road. That is a high risk to take. It may be the only way, but I just want to point out that is a high risk to take.

Mr. BYRNE. Well, I have monopolized my time here, but you brought up the Endangered Species Act. I have got people in my district whose livelihoods are being challenged by what I consider to be the inappropriate use of the Endangered Species Act. And they get no fair hearing in front of the people in the relevant agencies who are involved with that before their livelihoods are put at risk by what I think is a total misinterpretation of that, because we have legislatively delegated to that agency that authority. And we have lost the ability to control it, we the Congress, the people that are elected by the people to make sure that the people's will is enforced. And perhaps the only way we have of controlling that is by using the power of the purse. So I think there are certain programs that if you went to the people in America and said, "Do you want these to continue or not," the people of America would say, "No, if that is the way that these agencies are going to use them, if they are going to go way beyond what they have ever done before."

Now I will say this: bad facts make bad law. In the last several years, we have had some terrible facts. And part of what is driving this is the American people have just had enough of what has been happening out there with the over-assertion of Federal authority. And if we could pull back, then we may not be having the sort of discussion we are having today. I apologize for speaking so long, but I think this is critically important.

Mr. COLE. I think it is too. Let me respond, because I suspect we agree 100 percent in terms of the inappropriate exercise of power

and bureaucracies. Now, on the appropriations, let's just take the Environmental Protection Agency, probably one of the more controversial agencies. It is operating with 22 percent less money than it had in 2010 and at 1989 staffing levels. And that was driven, not by anything the authorizing committee did, but through the appropriations process.

But if we need to do something, why can't the Natural Resources Committee, where there is enormous expertise, simply pass a law? Now, it may or may not get through the Senate. We have actually cut, in the House, EPA more than 21 percent. I think we have cut it in the mid-30s. But those cuts get partially restored in the negotiation process with the Senate and the administration. But, again, I don't see how any of this is an excuse not for the authorizing committees to simply do their job. And if you can't get it through the Senate or—we will still do our part. We tend to philosophically agree—when we are in the majority, we philosophically agree with what our friends on Natural Resources are trying to do, our friends on Armed Services are trying to do. So we will use that.

But, again, using the funding of day-to-day government to discipline a committee because it either hasn't authorized something or has not achieved a policy objective puts the day-to-day functioning of government at risk and creates enormous problems in terms of moving any kind of appropriations bill through. I mean, it literally is—and I know my friends mean this in the right way—but, again, how powerful do you guys want us to be? Because you act like it is going to be the Congress that does it. Believe me, these decisions, they will be made largely inside the Appropriations Committee, and you will have enormously expanded our power, I guess because you trust us because we have been able to bring down discretionary stuff. But I think that is too much power that, you know, Congress itself, there was a time when all taxing power and all appropriations power was in the same—with the old Ways and Means, before Appropriations was created. And the sentiment in the body then was that was too much power. That was way too much power for one small group of people to have.

So I do think it is worth asking these deeper questions, because the frustration is going to lead you to making us stronger than I would argue we should be.

Mr. COLE. Now, again, like anybody else, I guess if you give Frodo the ring, he will put it on. But do you want to give him the ring?

Mr. BYRNE. Well, I have taken up too much time. I was just saying my proposal would take power away from the Appropriations Committee. It wouldn't allow you to appropriate to things that aren't authorized.

But I yield back, Mr. Chairman.

Mr. STIVERS. Thank you very much. That was a great exchange.

I now recognize the gentleman from Massachusetts, Mr. McGovern.

Mr. MCGOVERN. I am not going to speak for very long here. You know, as I am listening to this, I can't help but think that this is not a House rules problem. The dysfunction that exists here, the inability to get authorization bills passed, the inability to do a lot of what the American people want—I don't know. We can blame it

on the House rules if we want. We can say that there is a magic silver bullet, or we can try to concoct a system that essentially forces us to do certain things. But this really isn't a House rules problem. I mean, you know, I don't want to be partisan here, but you guys are having trouble with the budget right now. That is not a House rules problem. That is a problem of ideology within the Republican Conference. The problem with some of these authorization bills is that they have become polarizing debates that extremes have kind of taken over, and they go so far one way that it becomes impossible to get a majority to support them.

That has nothing to do with House rules. If you want to cut, you know, SNAP, which I know a lot of my colleagues do, you know, you had the opportunity to do that in the farm bill, and you did. You cut it by \$8 billion. You voted—initially, you cut it by \$40 billion, but you cut it by \$8 billion, which I think was unconscionable, but there was the opportunity to do it.

Now, people, some people, think that we should cut it even more deeply. Well, I think you wait for the next farm bill or the next appropriate vehicle to be able to do that. But I don't think this is a House rules problem. If people are frustrated with the way this place runs, look in the mirror. Those of us who serve here, need to kind of figure out a way where we get back to a time where we don't have to get everything we want. And, you know, even the budget agreement that the Speaker, helped negotiate, last year is now coming under attack, and we are not quite sure whether we can proceed when the election is over with.

So, you know, I think this is more an issue of the people who are getting elected, who are coming here, are—you know, are moving more and more ideologically to one side, but so far to one side that it is, quite frankly, out of the mainstream of where the American people are. We ought to have appropriations bills. The appropriators—I mean, we ought to have authorization bills. The authorizers ought to do their job. But it is—I don't think you are not getting them because the chair or the ranking member of the authorizing committee don't want to bring a bill to the floor; it is some of the amendments and the nitpicking and the polarizing issues that get all attached to these bills that make it very difficult to be able to get them passed.

But I would like to get back to a day where we can, you know, figure out how we can work in a bipartisan way to get legislation that, again, may not be everything I want, may not be everything you want, but reflects genuine compromise. You don't have to agree on everything to agree on something. And we are at the point now where the something we agree on is never enough to move it forward on the House floor.

So, you know, I don't think—you know, I appreciate my colleagues coming with these ideas. I think it is very interesting to talk about them, but to the extent that this place doesn't function right, I think it has more to do with the makeup of the membership than it does with the House rules. And I think we need to figure out a way to kind of get back to the concept where getting legislation done is, actually, you know, a goal that we both share. The problem is that the incentives in this place are not to compromise, are not to get a deal. It is always to have a fight. And I think that

is—when you talk about the American people being frustrated, they are really frustrated because we don't seem to be able to get anything done. We do the minimum. We get our appropriations bills, and we usually keep the government running at the last minute, but I think they are expecting more. And, again, it is not a House rules problem. I think it is us.

Mr. PRICE. Mr. Chairman, I wonder if I could respond——

Mr. MCGOVERN. Sure.

Mr. PRICE [continuing]. To what my friend is saying.

I basically agree with him. In fact, I was saying myself in my statement that the political dysfunction around here was a function of ideology and probably wasn't going to be solved by a proposal of this sort.

But I would like to suggest that maybe he is going a bit too far, because I do think—I think the rules can make a difference. And I have an example to suggest.

Now, these gentlemen, I think, are doing a good job of trying to figure out what difference the rules changes they are interested in would make. And I, of course, disagree with those particular changes.

But let me remind you of one rules change that I think everybody agrees had a great impact, and that was the—it was part of the 1990 bipartisan comprehensive budget deal with President George H.W. Bush and the Democratic majorities in the Congress. And, you know, that budget deal set numbers, revenue numbers, entitlement numbers, spending numbers. It did lots of things with numbers, but it also set a rule. And the rule was called Pay-As-You-Go. And it directly addressed the problem my friends are trying to address here; that is, entitlement spending. It set the rules for how the budget—the reconciliation process would work. And it said, in short, that if you are going to raise entitlement spending, you are not going to be able to do that unless you do one of two things: unless you reduce the entitlement spending somewhere else or unless you raise revenue. Otherwise, it is not a nonstarter. You are not going to cut taxes unless you raise taxes somewhere else or you cut entitlement spending. Those are pretty powerful inhibitions against both tax cuts and entitlement spending increases.

And I suggest to you that was a rules change, and it did work. And we lived with that discipline for a long, long time. And you remember when it was lifted, unfortunately, early in the George W. Bush administration.

But I just suggest, Mr. McGovern, that is one area where it is productive, I think, to think about how the rules affect what we do. Although, I do believe, right now, whatever rules we are working with are getting swamped by polarized politics.

Mr. MCGOVERN. Yeah. And a rule is only as good as whether we follow it. And one of the things that we have done on this committee on many occasions is waive rules, PAYGO rules and other rules. You know, again, so we have all these rules, and if we don't enforce them and we don't follow them, you know, then they lose their—I agree with the concept, but I am saying——

Mr. PRICE. My point was——

Mr. MCGOVERN. It goes back to what I was saying before. We are waiving these things, I think, more for political reasons and for ide-

ological reasons. And I go back to my—I really do think that, you know, at some point, we need to figure out a way to regroup in a bipartisan way and to approach some of these very difficult debates, whether it is dealing with entitlements, which are very, very delicate issues or our tax policies or whatever, in a way where it—you know, everything doesn't have to be like we are in the middle of a political campaign.

So, with that, I appreciate you being here.

And I yield back.

Mr. STIVERS. Thank you very much to the gentleman.

I have a couple of followup questions before I wrap up the hearing.

The first is for Dr. Price, Professor Price. You referred to the 1990 PAYGO rule, which I think was a big step forward. Do you recall what the deficit was in 1990?

Mr. PRICE. I can't give you the publicly held—

Mr. STIVERS. I will remind you. I just googled it. It was \$220 billion that year.

Mr. PRICE. The annual deficit?

Mr. STIVERS. The annual deficit.

Mr. PRICE. I know the deal produced \$500 million in 5-year savings.

Mr. STIVERS. And it is great that we have PAYGO, now CutGo, which we have—a rule we have improved. But the problem with that is it kind of locked in a deficit of about that amount, unless you actually make programmatic changes. It prevented you from going above that, other than interest and other waiving of the rule, but it essentially made it hard to go below it, too. So that is the only concern.

I agree with you: it was better than what we had before. So I just wanted to remind you of that.

I do have two followup questions for Mr. McClintock.

You had talked a little bit about, when you changed mandatory spending, it couldn't go below the budget resolution; it would go to the budget resolution number. What would happen if we would find ourselves in a situation where the House and Senate didn't agree on a budget number? Would that rule be, essentially, unable to be enforced because there is no budget number?

Mr. MCCLINTOCK. Well, those differences would then be resolved by the normal conference process that has evolved over centuries and is very good at isolating and working out—

Mr. STIVERS. Well, there have been years when we didn't have a budget, I guess. So I am saying, if we don't have a budget resolution in effect—

Mr. MCCLINTOCK. Well, that is exactly right.

Mr. STIVERS. That is what I am trying to figure out.

Mr. MCCLINTOCK. The idea behind this would be the budget resolution has to be in place. So we have already voted to enact spending at certain levels on both the discretionary and the mandatory sides. As we have discussed, the House has been very effective at marking on the discretionary side. It has been totally ineffective marking down to the mandatory side, because the appropriations—because of, you know—

Mr. STIVERS. Rule XXI.

Mr. McCLINTOCK [continuing]. Clause 2(b) forbids that. And the ironic thing is clause 2(a), that prohibits unauthorized spending, we waive routinely, but 2(b), that is absolutely essential to getting mandatory spending within the parameters set by the budget, we never waive.

Mr. STIVERS. So, for some of our friends—on both sides of the aisle—who don't want to pass a budget this year, it would render this change——

Mr. McCLINTOCK. Well, the budget——

Mr. STIVERS [continuing]. Worthless? We need a budget.

Mr. McCLINTOCK. Yes. Exactly. And we do anyway.

Mr. STIVERS. We do anyway. I agree with that. But it would help increase, I guess——

Mr. McCLINTOCK. And, again, the source of my frustration is we had a budget that set numbers. We couldn't stick to those numbers. Why can't we stick to them? Well, a big part of that is we don't have direct control over the mandatory expenditures.

And Mr. Price is absolutely right that PAYGO was a very good reform, but that only constrained changes——

Mr. STIVERS. Future.

Mr. McCLINTOCK [continuing]. In the entitlement programs.

The problem is the entitlement programs haven't changed, but they are dramatically expanding. That is what is pulling us so far out of balance.

And I do want to make a distinction between that and, again, the trust fund. Social Security and the portions of Medicare funded by the payroll tax, that is a separate issue. It is still very important to resolve, but it is not a direct budget issue. I am talking about the trillion dollars that goes out a year—roughly a trillion dollars that goes a year—that we don't have any direct control over.

Mr. STIVERS. You are not talking about Social Security, and you are not talking about Medicare?

Mr. McCLINTOCK. Right. Right.

Mr. STIVERS. The gentleman from Virginia, Mr. Griffith.

Mr. GRIFFITH. And, Mr. Chairman, I would submit that—of course, I would prefer a change—but either a change, a waiver of 2(b), or a return to the Holman rule would put a number of avenues on the table that would allow us, I believe, most fervently, to get a budget. I don't think that would be any problem whatsoever if you had that as one of the tools that the House could use.

And, currently, as my colleague said, there is a waiver of 2(a) on a regular basis, but nobody ever wants to waive 2(b), nor do we want to—at least up until now—want to change it back to the original Holman rule. Either one of those would give us so many different avenues that I think we could have a resolution, could have had a resolution weeks ago.

Mr. STIVERS. Thank you.

And one last question for Mr. McClintock. So you talked about consultation with the authorizing committee. Do you envision that the same way the current Army protocol works or some other way? How would the Appropriations Committee, under your rule, consult or get consultation with the authorizing chair or committee?

Mr. MCCLINTOCK. Well, as I said, I would, obviously, advocate the broadest application of this principle but would be quite content if it were simply done through the committee process.

The budget enacts mandatory spending at a certain level, calls for certain reforms to bring that mandatory spending to that level, and in the absence of standalone legislation, the Appropriations Committee, with the advice and consent of the authorizing committee, would make those changes in that statute necessary to bring us within the parameters of the budget.

Mr. STIVERS. So how does that—what is that advice and consent, and how does it work? So what would the Appropriations—and, you know, they talked about how powerful this—

Mr. MCCLINTOCK. Once the budget is enacted, it calls for certain reforms in mandatory spending and certain levels of mandatory spending. Those reforms would, then, be within the purview of the Appropriations Committee to place into the appropriations bill to—

Mr. STIVERS. So the assumptions under the budget resolution would have to be enacted—

Mr. MCCLINTOCK. Yes. And the Arney protocol—

Mr. STIVERS [continuing]. As a way to get it?

Mr. MCCLINTOCK. And the Arney protocol, which facilitates communication between the authorizing committees and the Appropriations Committee, you know, could certainly be harnessed for that purpose as well.

Mr. STIVERS. Okay. Because there would have to be changes to reduce the number. You can't just put a number in. You have to say how you are going to get to that number—

Mr. MCCLINTOCK. Which is what—

Mr. STIVERS [continuing]. So that is what the consultation would be. And it would be with the chairman or the entire committee? Would there be some kind of referral or hearing of a committee with notice? I am trying to understand what—how this would just work.

Mr. MCCLINTOCK. Those details would be worked out.

Mr. STIVERS. Okay.

Mr. MCCLINTOCK. I mean, the Arney protocol does serve as a template for that.

Mr. STIVERS. A means.

Mr. MCCLINTOCK. And as I understand it, that is the authorizing committee chairman, who, presumably, is in communication with the majority of the Members.

Mr. STIVERS. Sure. And I am not trying to be difficult. I am trying to understand how it would work.

Mr. MCCLINTOCK. No, I understand.

Mr. STIVERS. I am just trying to ask questions about how all these things work, so we can then work out the details and figure out what it would mean. And so we can understand how that rule might work in the real world.

We certainly appreciate all four of you being here. I think it was a very robust and thoughtful discussion. I appreciate the two proposals and the gentlemen for their hard work in trying to figure out how we can make the House work better, how we can navigate the intersection of authorizing and appropriating committees in a

thoughtful way. And I appreciate the gentlemen from the Appropriations Committee for giving their perspective as well.

This has been, I think, a great opening hearing on the ideas of how we can improve the House rules, and we will definitely continue. We have three more hearings we are going to have, I think. So I really appreciate the thoughtful input, and thank you so much for all your help.

With that, we will end the hearing.

[Whereupon, at 5:31 p.m., the subcommittee was adjourned.]



## **A P P E N D I X**

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### **PREPARED STATEMENTS**

Insert 1–1: Statement of the Hon. Tom McClintock, a Representative in Congress from the State of California

**Congressman Tom McClintock  
Testimony before the House Rules Committee  
Subcommittee on Rules and Organization of the House  
“Proposed Reforms to Rule XXI and the Modern  
Authorization and Appropriations Process”  
April 14, 2016**

As Chairman of the Joint Chiefs of Staff, Admiral Mike Mullen warned that in his professional military judgment, our greatest national security threat is the national debt. He issued that warning about four trillion dollars of debt ago.

The interest costs on that debt are eating us alive -- \$255 billion this year that will accomplish nothing more than to rent the money we've already spent. The Congressional Budget Office warns that within six years, our interest costs will exceed what we are currently spending on the entire defense budget.

Last May, Congress adopted a budget that changed this disastrous trajectory and pointed us back to balance by 2024. But having set that course, we had to stay that course, and we haven't. The budget now awaiting House action doesn't balance until 2026 -- and only then if we are able to summon the discipline to stick to these new numbers.

In very rough figures, we are now spending \$4 trillion per year. \$2 trillion of that is mainly for trust funds: social security and portions of Medicare. When these funds run out of money, benefits automatically plunge. That's a major problem, but not, strictly speaking, a budget problem.

Roughly \$1 trillion is the discretionary spending directly under Congress' annual appropriations control. This spending is actually declining. In 2010, our discretionary spending was \$1.35 trillion. The budget now before us spends \$1.07 trillion. That's down almost \$280 billion.

The problem is the remaining \$1 trillion that Congress does not directly control. That's mainly entitlement programs like food stamps, Obamacare, Medicaid. This spending is exploding. The only way to control it is to change the underlying laws, something that today's divided government makes virtually impossible.

But there is an alternative: to control mandatory spending through the same appropriations process that controls discretionary spending. The problem is that our own rules won't allow it. Rule XXI, Clause 2(b) forbids any changes to mandatory spending in an appropriations bill.

I propose permitting appropriations bills to include such statutory adjustments to mandatory spending as are necessary to keep within the enacted budget. Think of it as one-stop reconciliation. It's necessary because spending is a pleasant experience. Cutting spending is painful. Thus, spending bills pass and the reforms necessary to control spending do not.

This reform would not give the Appropriations Committee carte blanche to assume the prerogatives of authorizing committees. It would be limited to annual and temporary changes necessary to keep spending in line with the budget parameters. It could be done upon consultation with the authorizing committees or at least their chairmen, and would be pursuant to the budget that the Congress has already enacted.

A second reform I urge you to consider is to gradually revive enforcement of House Rule XXI clause 2(a), which forbids appropriations except for purposes authorized by law. This rule dates back to 1837, and is the mechanism that forces Congress to review its programs periodically. As a program's authorization expires, Congress must revisit it to ask the obvious questions: Is it effective? Is it meeting its goals? Is it still needed? Is it worth the money we're paying? Depending on the answer to these questions, Congress then renews the program, reforms it, or lets it die.

This process has broken down to the point that today nearly one third of our discretionary spending is for programs whose authorizations expired years, if not decades, ago. Some of these programs are vital. Others have degenerated into the outrages often cited by taxpayer watchdog groups. But authorizing committees feel no urgency to review them because we routinely fund them anyway, by routinely waiving this rule.

Given the backlog of unauthorized programs, such a reform can't be implemented overnight. But the House should express its intention to restore this rule over a reasonable period, first by freezing appropriations for unauthorized programs and ultimately forbidding them. And of course, case-by-case exceptions could still be made by the House.

Before we can provide for the common defense or promote the general welfare, we must be able to pay for them, and history warns us that countries that bankrupt themselves aren't around very long. I believe these two reforms – that we can make by ourselves, without action by the Senate or by the President – are essential to restoring functional control of the purse strings to Congress.

Insert 1-2: Statement of the Hon. H. Morgan Griffith, a Representative in Congress from the State of Virginia



Congressman H. Morgan Griffith  
*Virginia's Ninth Congressional District*

**Rep. Griffith Statement on Proposal to Change House Rule XXI**

Thank you for the opportunity to participate in today's hearing. I am pleased to come before the Subcommittee to discuss changes to Rule XXI and how to best reform the authorization and appropriations processes.

One proposal, which I have offered up twice before the House Republican Conference, would restore the ability of Members of Congress to offer more limiting language amendments to appropriations bills on the floor.

As background, in 1983 when the Democrats were in the majority, the rules were changed relating to the offering of amendments to appropriations bills to make it more difficult to offer floor amendments. This was seen by the minority Republicans as a partisan move to hinder the ability of Reagan Republicans to succeed on the floor in reducing spending items. Republicans had been working with some Democrats during the first two years of the Reagan administration, and the rules were changed to restrict Members' ability to offer limiting language to appropriations bills.

The change that I propose would largely restore the rule that had existed prior to 1983 and had remained substantially unchanged since it began in 1850. This change opens up mandatory spending to so-called limitation amendments during the appropriations process, as this auto-pilot spending is currently protected from reductions by Rule XXI (see Attachment 1).

My proposal would give Members of both parties the ability to offer amendments on the floor and in the Appropriations Committee to cut the amount of money an agency could receive, the number of employees that the U.S. government or its agencies could have, and the amount of money that could be paid to an employee of the U.S. government. Prior to 1983, amendments abolishing offices of the Customs Service, reducing the number of naval officers, and imposing an employment ceiling on federal employees in the bill were held in order under this formulation.

It is impossible to get serious about cutting spending and setting priorities in Washington when our own rules prevent us from doing so. We need to modify House Rule XXI to open up mandatory spending to the will of the House and eliminate barriers that put mandatory spending outside the reach of the amendment process.

With our federal government \$19 trillion dollars in debt, we cannot afford to shield mandatory spending from our efforts to curb wasteful spending and to reign in a ballooning bureaucracy.

The American people expect Congress to get their fiscal house in order, but right now, our own rules are standing in our way. When people think of mandatory spending, most people think of the big-ticket items such as Medicaid and Medicare. However, there are numerous mandatory

spending programs, many of which might surprise you are mandatory. The list that my office has been able to identify includes thousands (see Attachment 2).

I hope the members of the Subcommittee will join me in supporting this proposal to House Rule XXI and I look forward to continuing to work with you to ensure that our rules promote a more open and productive legislative process.

Thank you.

Insert 2-1: Statement of the Hon. David E. Price, a Representative  
in Congress from the State of North Carolina



**Congressman David Price****Testimony regarding proposed changes to House Rule XXI****April 14, 2016**

Good afternoon Chairman Sessions, Chairman Stivers, Ranking Member Slaughter, and other Members of the Committee. Thank you for inviting me to testify this morning in opposition to the proposals to change House Rule XXI offered by Mr. McClintock and Mr. Griffith. While I am here primarily as a representative of the House Appropriations Committee minority, it is fair to say that the concerns I will raise are shared by many appropriators in both parties.

I want to begin, however, by acknowledging something on which I think we can all agree: in recent years, the congressional budget and appropriations process has broken down to the point of dysfunction. Budget resolutions are adopted late or not at all; appropriations bills are stitched together into omnibuses, usually after a series of continuing resolutions, necessary to avoid a government shutdown; and, as the authors of these proposals highlight, far too many federal agencies and programs languish without proper congressional authorization.

In this context, it is understandable that the idea of radical reforms to the House Appropriations process would hold some appeal for Members in search of solutions to our current woes. But this is truly a case in which the proposed remedy would be worse than the disease.

The rule changes before us today would weaken Congress's power of the purse by undermining its authority to enact mandatory spending and while prohibiting appropriations for unauthorized programs.

They would further politicize and immobilize the once-bipartisan appropriations process by opening the floodgates to mandatory spending changes in the annual appropriations process.

And to top it off, they would punish federal employees for carrying out directives under the law.

In short, the changes would only exacerbate our current dysfunction, not relieve it.

The set of rules comprising House Rule XXI predates the states of Florida, California, and Texas joining the Union. They've survived the Civil War, the abolition of slavery, two world wars, the new deal, and the great society. They most certainly predate the current dysfunction in Congress, which is presumably the problem the proposals before us attempt to address.

Of course, long-standing rules do not automatically have merit. However, in this case, time has proven the 25th Congress correct in adopting rule XXI to "prevent delay of appropriation bills because of contention over propositions of legislation."

Nothing in rule XXI has prevented us from enacting balanced budgets over the past 179 years. Instead, such failure has resulted from an unwillingness to compromise on revenues and expenditures. Many of us in the room today were here for the multi-year budget agreements in 1990, 1993, and 1997, which, coupled with a growing economy, produced several years of balanced budgets and allowed us to pay down more than \$400 billion of the national debt.

I would contend the consequences of the George W. Bush Administration's fiscal policies—which plunged us back into deficit financing through trillions of dollars in lost tax revenue, two unpaid-for wars, and a necessary but expensive countercyclical response to the Great Recession, have contributed to the past five

years of extremely partisan and largely dysfunctional congressional budgetary process. The members offering the proposals before us today are attempting to scapegoat House Rule XXI for the problems of partisan dysfunction, driven largely by right-wing budgetary ideology. They are trying to change House Rules in order to enact longtime right-wing priorities that are too politically unpopular to pass through regular order; namely cuts to America's safety net.

I want to focus on the major changes proposed by the McClintock and Griffith amendments to rule XXI. Both would affect the authorizing and appropriations processes in significant ways, to the detriment of both.

As I mentioned earlier, Rule XXI was set up by the 25th Congress to avoid the delay of appropriations because of conflicts and debates inherent to the establishment of new policy unrelated to the annual budget. The proposal before you today offered by Mr. McClintock would, among other changes, enable a point of order against unauthorized appropriations and allow reductions in mandatory spending to be enacted through appropriations bills.

Let me start with the first. Ostensibly, the provision aimed at unauthorized appropriations is put forth as a way to force Congress, under threat of shutdown, to review unauthorized programs. Let me be clear: the solution to the problem of unauthorized appropriations is for the authorizing committees to do their job and reauthorize or eliminate unauthorized programs. To hold annual appropriations legislation - must pass legislation that funds critical authorized and unauthorized government function - hostage to the inaction of the authorizing committees would only serve to create even more brinksmanship and manufactured crisis and allow for the manufacture of regular national crisis.

What are the practical implications of this measure? Proponents of this change cite CBO estimates that in Fiscal Year 2016, Congress appropriated approximately \$310 billion in funding for programs operating under expired authorizations as evidence that rule XXI needs reform. What that number highlights is the breakdown of the authorization process, but it's certainly not an indictment of the appropriations process or evidence that unauthorized programs lack broad, bipartisan or bicameral support.

To eliminate such funding through a point of order on the House floor would force such entities as the National Institutes of Health, National Weather Service, and NASA to shut down immediately, pending action of the authorizing committees. Further, a number of agencies and programs critical to our national security would be forced to put up a "closed" sign – namely, the U.S. Coast Guard, Immigration and Customs Enforcement (ICE), the Federal Prison System, the Secret Service, Customs and Border Protection (CBP), along with federal grants to state and local law enforcement agencies. We would also have to close a little known and rarely discussed agency known as the U.S. State Department.

Adopting this proposed rule change would require us to shut down each of these core government functions, and the list goes on and on, unless the authorizing committees acted to reauthorize every aspect of these departments or agencies, a process itself fraught with longstanding partisan divisions unrelated to funding, all before the end of the fiscal year - it's a recipe for chaos and a threat to our national security. We regularly pass the defense authorization act *after* the DOD appropriations bill. The proposal before us would jeopardize our national defense by tying critical annual funding to the NDAA process.

Further, if a member wants to eliminate an unauthorized program or department, like the Department of State, for example, they are welcome to introduce an amendment on the House floor doing so and put it to a vote. There is nothing, I repeat nothing, stopping a member from coming to the floor during debate on an Appropriations bill to attempt to strip out funding for a program or agency in that bill.

As a senior appropriator, I am naturally sensitive to major changes in the appropriations process. But the annual work of appropriations serves the entire institution and its place in the constitutional balance of power, regardless of who is President. That is why appropriations has historically been relatively bipartisan, and it is why the Congress's place in the constitutional order is compromised to the extent appropriations is swamped by partisan maneuvers—whether they be poison-pill riders, ideological budget resolutions, or politically divisive cuts to unauthorized programs or entitlements that distract from the work of crafting workable annual funding bills

Now, let me take a moment to address the proposal before us to allow reductions in mandatory spending in appropriations bills. It should be clear to all political observers that conservative Republicans are pushing this proposal as a means of catering to their most right-wing supporters who are unrelenting in their desire to slash entitlements and savage our nation's social safety net. It's not like this effort is rooted in any new ideas: we've seen numerous Ryan Budgets that voucherize Medicare, block-grant Medicaid, and slash nutrition assistance to low-income Americans. And we remember President George W. Bush's efforts to practically privatize Social Security. This is just another effort to placate the most conservative elements of the Republican Party.

I want to be clear, there is nothing wrong with scrutinizing our fiscal situation, reviewing spending and tax expenditures, including appropriated and mandatory spending – in fact, it is our basic responsibility. All elements of the federal budget should be considered as part of a comprehensive budget deal – BUT we should not simply single out entitlements, much less use them to gum up appropriations bills. Today's effort has more to do with conservative idealogy than any clear-eyed and balanced approach to budgeting.

Again, I'd simply like to make clear that the only thing currently preventing Congress from reducing or increasing mandatory spending is political will. Any one of the authorizing committees that meet down the hall could gavel into session today and report a bill with changes to entitlement programs. The reason they will not is not because of Rule XXI, but because Members of Congress lack the courage to compromise on long-term spending priorities.

This rule change will not solve that problem; it would only raise the stakes of partisan impasse by attaching such debate to legislation needed to prevent a shut down.

Mandatory spending programs such as Social Security, Medicare, Medicaid, veterans' benefits, federal employee retirement and disability, and food and income security programs are a lifeline for millions of American families, many of whom have earned their benefits through years of paying into these programs and through federal service. When Congress originally created these retirement and social safety net programs, it explicitly decided that beneficiaries should not be subject to the vagaries of the annual appropriations process.

Further, this provision is biased in favor of *reducing* mandatory, or entitlement spending, allowing only *reductions* in such spending, not increases, to be included

in Appropriations legislation. Why should we tie the hands of future Congresses to increase entitlement spending on behalf of the American people? After all, entitlement programs exist to provide for the most vulnerable members of society – this rule jeopardizes long-term and future assistance for the poor and elderly by favoring cuts over increases and tying long-term and sensitive entitlement funding like Medicare to the annual budgets of agencies like the Departments of Education and Labor.

To put it plainly – if the majority wants to cut entitlements, they should put a bill on the floor and hold a straight up or down vote. Everyone in this room knows such an effort would fail because it would be at odds with the will of the overwhelming majority of the American public. Instead of honoring the public's preference in a straightforward manner, we are instead, entertaining an effort to end-run the House budget process through a rules gimmick. It's as if the conservative wing of the majority is admitting they can't win the debate straight up, so they now want to change the rules of the game. It's no wonder our politics are filled with cynicism.

Finally, I just want to touch on the provision before us today that would allow appropriators to explicitly reduce or eliminate a number of federal employees or their pay. We already allow for the withholding of funding for specific activity. It's unnecessary to further savage the federal workforce, which has borne the brunt of sequestration and flat lined budgets. Further, indiscriminately eliminating federal staff would degrade an agency's ability to function in areas unrelated to the activities subject to Congressional defunding efforts. Maybe degrading federal capacity in areas affected by indiscriminate staff cuts is the ultimate goal of this measure, but a country like ours, that values good governance, should not do so in such an indirect manner.

It's clear the existing congressional budget process has broken down. We've passed ideological and unrealistic budget resolutions that make passing appropriations bills nearly impossible. The proposed changes before us today would fix none of this and will assuredly make it worse. What we must do is muster the political will to make difficult and politically costly decisions, including a comprehensive budget plan that addresses the main drivers of our deficits and debt: tax expenditures and entitlement spending.

I urge my colleagues to reject the proposed changes to Rule XXI and redouble their efforts to address the underlying causes of our long-term fiscal challenges.



Insert 2-2: Statement of the Hon. Tom Cole, a Representative in  
Congress from the State of Oklahoma

TESTIMONY OF REPRESENTATIVE TOM COLE  
SUBCOMMITTEE HEARING: PROPOSED REFORMS TO RULE XXI AND THE MODERN  
AUTHORIZATION AND APPROPRIATIONS PROCESS  
APRIL 14, 2016

Thank you Chairman Stivers and Ranking Member Slaughter for the opportunity to testify today regarding proposed reforms to Rule XXI and the modern authorization and appropriations process. As a member of the Appropriations Committee, the Rules Committee, and the Budget Committee, I look forward to discussing whether changes are needed in the current House Rules to make the appropriations process better.

As many of you are aware, the appropriations process is vested in Congress by Section 9, Article I of the Constitution, which states that “No money shall be drawn from the Treasury, but in consequence of appropriations made by law.” Enacting annual appropriations is something the Congress must do under the Constitution. It only follows that House Rules providing for consideration of these bills should help, not hinder, the enactment of appropriations bills. Without question, the appropriations process is not problem-free. This hearing provides an opportunity to discuss some of the current issues we face.

One of the largest challenges the Appropriations Committee faces is the decline of the reauthorization process. As we all know, CBO reports to us that \$310 billion in funding was provided for FY 16 for programs whose authorization had lapsed. In response to these challenges, there have been thoughtful suggestions, some by my colleagues testifying here today. One suggestion is amending Rule XXI to create an additional point of order on appropriations bills that would require unauthorized programs to be left unfunded or frozen, as a way to incentivize authorization committees to enact authorizations. In my opinion, these proposals have serious down-sides. First of all, I do not see how additional points of order on appropriations bills will serve as an incentive to authorization chairmen to move their authorization bills. The target is being put on the wrong back. It is also unrealistic to expect that Congress will not fund our national security while awaiting a defense authorization bill, or that Congress will shut down funding for the National Institutes of Health for lack of an

authorization, or that no increase will be provided for veterans' health when an authorization isn't moving, for whatever reason. The net result would be more pressure on the Rules Committee to provide additional waivers to these new rules, something I imagine the Rules Committee would not welcome.

In addition, these changes would create obstacles to rapidly responding to emergencies, and would disadvantage the House in relation to the Senate, which does not have similar rules. If the intent is to incentivize the authorization process, then proposals should address the authorization committees, not the appropriations committee. However, if the intent of the proposed amendments to Rule XXI is to ensure that no objectionable unauthorized programs are funded, as you know, there already is a process to prevent this: the Army protocol. Currently every appropriations bill is sent to the authorizing committees before being considered in the Rules Committee. If the authorizing committee objects to funding for an unauthorized program, it can already be exposed to a point of order. Rather than expanding additional points of order that are not likely to achieve their intended purpose and likely to make the appropriations process more arduous, we should focus on making sure the Army protocol functions as intended.

Another set of proposals recommends changing Rule XXI to make it easier to amend mandatory programs on appropriations bills, including a proposal to reinstate the "Holman rule", which was removed in 1983. This rule would allow changes in existing law as part of an amendment to reduce spending in an appropriations bill. These proposals would significantly expand what amendments could be offered on appropriations bills. They would allow appropriations amendments that are legislative in nature, including how agencies and programs are staffed, structured and compensated – things that are directly under the jurisdiction of the authorization committees and involve permanent changes in law. It would diminish the roles of the authorizing committees, and make them less central to the legislative process and, at the same time, would make it harder to pass appropriations bills. It would involve appropriations bills in more controversies and increase the number of amendments on appropriations bills, which has already exploded in recent years. In 1982, the last year the Holman rule was in effect, there were 59 floor amendments offered to the ten appropriations bills brought to the floor. Last year, there were 456 amendments proposed on the seven bills that came to the floor, an 800% increase. I shudder

to think how long it would take to consider an appropriations bill with a whole new category of made in order amendments, not necessarily related to discretionary funding.

In conclusion, I believe that any changes to Rule XXI must be carefully considered. We should consider proposals to change Rule XXI to determine if they will help us achieve our shared goal of the enactment of the annual appropriations bills. From my perspective on the Appropriations Committee, I am concerned that these proposed changes will not necessarily address the real challenges that their sponsors seek to change. At the same time, I am willing to work with my colleagues to identify changes that will make the process work more smoothly, and will ensure that authorizing committees do their jobs. Thank you, and I look forward to answering any questions you may have.