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ORGANIZATIONAL MEETING

TUESDAY, JANUARY 13, 2015

House of Representatives,

Committee on Energy and Commerce,

Washington, D.C.

The committee met, pursuant to call, at 1:04 p.m., in Room 2123, Rayburn House Office Building, Hon. Fred Upton [chairman of the committee] presiding.

Present: Representatives Upton, Barton, Whitfield, Shimkus, Pitts, Walden, Murphy, Burgess, Blackburn, Scalise, Latta, Harper, Lance, Guthrie, Olson, McKinley, Kinzinger, Griffith, Bilirakis, Johnson, Long, Ellmers, Bucshon, Flores, Brooks, Mullin, Hudson, Collins, Cramer, Pallone, Rush, Eshoo, Engel, Green, DeGette, Capps, Doyle, Schakowsky, Butterfield, Matsui, Castor, Sarbanes, McNerney, Welch, Lujan, Tonko, Yarmuth, Clarke, Loeb sack, Schrader, Kennedy, and Cardenas.

Staff Present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Charlotte Baker, Deputy Communications Director; Sean Bonyun, Communications Director; Leighton Brown, Press Assistant; Karen Christian, General Counsel; Noelle Clemente, Press Secretary; Brittany Havens, Legislative Clerk; Kirby Howard, Legislative Clerk; Charles Ingebreston, Chief Counsel, O&I; Peter Kielty, Deputy General Counsel; Alexa Marrero, Deputy Staff Director; David McCarthy, Chief Counsel, Environment/Economy; Paul Nagle, Chief Counsel, CMT; Tim Pataki, Professional Staff Member; Charlotte Savercool, Legislative Clerk; Alan Slobodin, Deputy Chief Counsel, Oversight; Jessica Wilkerson, Legislative Clerk; Ziky Ababiya, Minority Policy Analyst; Michelle Ash, Minority Chief Counsel, Commerce, Manufacturing and Trade; Jen Berenholz, Minority Chief Clerk; Peter Bodner, Minority Counsel; Jeff Carroll, Minority Staff Director; Lisa Goldman, Minority Counsel; Hannah Green, Minority Policy Analyst; Ashley Jones, Minority Director, Outreach and Member Services; Elizabeth Letter, Minority Professional Staff Member; Margaret McCarthy, Minority Professional Staff Member; Tim Robinson, Minority Chief Counsel; and Ryan Skukowski, Minority Policy Analyst.

The Chairman. Can we get started? Committee will come to order, and the Chair will recognize himself for a few opening remarks.

First of all, welcome. Welcome to the 114th Congress. To serve as chairman of this committee for another Congress is certainly a unique privilege and a great responsibility for me. We have a rich and storied tradition of excellence. Members have come and gone through the years, and their legacies certainly endure on both sides of the aisle.

I want to especially congratulate Mr. Pallone on his new role as ranking member. In spite of the perceived gridlock and amid genuine differences and spirited debate between the parties, there are corners of Congress in which meaningful work continues to get done on behalf of the American people.

We are proud of our record of bipartisan success in the last Congress. Over 90 bills passed in the House, passed out of this committee, of which 50 are now law. Promoting jobs, modernizing the government, protecting families and communities in a host of areas.

There is never a shortage of thoughtful solutions within this committee on both sides of the aisle. You know, I view the Energy & Commerce Committee as a dynamic ideas factory. And we have established this solid foundation of success to build upon in this new Congress as we pursue 21st Century cures, construct the architecture of abundance, and embark on a Comm Act update. Our

priorities include, but are not limited to, jobs and innovation, affordable energy, and hope for better treatments and cures. Yes, we do have big expectations. The American public demands that we deliver, and we will get the job done.

To borrow a slogan from my old boss, President Ronald Reagan, "You ain't seen nothing yet." This is our time, and the opportunity is great.

I now recognize my friend, Mr. Pallone, for 5 minutes for an opening statement.

Mr. Pallone. I wanted to thank you, Mr. Chairman. I want to say I am excited to be working alongside you this Congress. We both have great respect for this committee, and I want it to succeed. And I hope that we can mostly agree on issues before us. But even where we don't, I will do everything to ensure that our disagreements are based on substance and handled with respect.

And I also look forward to working with all the members of this great committee. The committee's jurisdiction is vast, giving us great opportunity and great responsibility. But, of course, the strength of the committee is its members.

I was going to start now by introducing some of the new members --

The Chairman. Okay.

Mr. Pallone. -- if I could do that. We have an all-star lineup, in my opinion. We have five new members. And if I -- I think they are all here. If not, let me go through and I will see

if there -- anyone is missing.

But first is Yvette Clarke, who represents New York's 9th Congressional District. Her district has become the center of innovation for health care and includes some of the best hospitals, trade associations, and businesses in the industry. And I look forward to her bringing her enthusiasm and deep knowledge to this committee.

Second is Dave Loebsack. Dave is representing Iowa's 2nd Congressional District. He has been an advocate of making sound investments in renewable energy, such as wind, solar, and biofuels. And I know that Dave will be able to bring practical experience to the committee as we work to improve opportunities for all Americans.

And third, next to Dave is Kurt Schrader, who represents Oregon's 5th Congressional District. He has worked to blend his background in agricultural with his passion for technology, research, and the 21st century economy. And he is the cochair of our Blue Dog Coalition. So, obviously, he represents and strengthens the diversity of the Democratic caucus and will be a tremendous asset to the Energy & Commerce Committee.

And fourth is Joe Kennedy who is to Kurt's left. Joe serves the people of Massachusetts' 4th District. He is firmly committed to social justice and economic opportunity. Joe served in the Peace Corps and worked both as an international development analyst and an antipoverty consultant. And I know that he will

bring his passion for public service to everything he does on this committee.

And then last but not least is Tony Cardenas. Where is Tony situated? He is -- oh, he is down there. Okay. Tony represents California's 29th Congressional District. Always advocates strongly on behalf of his constituents on issues like juvenile justice, immigration, higher education, and economic improvement. And I am sure he is going to be able to lend his expertise to our committee's progress.

All of our members are experienced, talented, and motivated. And together I hope we can work to improve the lives of everyday Americans. Here is Tony now.

Now, Mr. Chairman, I understood you wanted to talk about the rules a little later, so --

The Chairman. I want to introduce our members, and then we will --

Mr. Pallone. Absolutely.

The Chairman. -- I will introduce the resolution.

Mr. Pallone. Sure.

The Chairman. So let me introduce our members. Thank you, Mr. Pallone.

Introduce our seven new members on our side. Dr. Larry Buschon from Indiana. He is a cardiothoracic surgeon by training. His membership on this committee continues a long committee tradition of, not only having the hardest working and most

qualified members in Congress, but also the best medical team. Dr. Buschon was elected to Congress in 2010. And since being elected, he has served on the educational workforce, Science, Space and Technology Committee. And I know that his knowledge of medicine and healthcare industry will be invaluable to our efforts in the 21st Century cures and other health policy matters. Should also note that he is an avid hockey player with injuries to prove it. A diehard fan of the Chicago Blackhawks and, like me, a member of the Congressional hockey caucus.

Bill Flores from Texas is beginning his third term in Congress. Previously served on the Budget, Veterans Affairs Committees. Began his life in the Texas Panhandle herding cattle, and then made his way to Texas A&M. Bill's background before Congress is in accounting, and he worked for companies in financial management. He has deep experience in the oil and gas industry. But you may not know that his household is also the largest residential producer of solar energy in Brazos County, Texas. His knowledge of fiscal and energy matters will come to a good use as we move forward to develop solutions on energy architecture. Also, expect his sharp eye for financial matters will be a welcome addition to the oversight subcommittee as it continues to work to address government waste.

Susan Brooks from Indiana. Susan is now beginning her second term. She was U.S. Attorney for the Southern District of Indiana from 2001 through 2007. Previously served on Homeland Security

Committee as the chair of the subcommittee on emergency preparedness, response and communications. We expect to rely on her expertise as we continue our work relating to critical infrastructure and emergency preparedness, including communications networks and pandemics. She is also going to serve -- she also does serve on the Benghazi Select Committee this Congress and, also, Ethics. So she may be busy. In what free time she has, I understand that she and her family engage in trail riding. And Susan has been known to say those riding horses build character, patience, and guts. They are good for this committee as well.

Markwayne Mullin, Markwayne is beginning his second term. Grew up working in his father's plumbing businesses. Expanded that business from six employees to over a hundred. His hands-on experience growing and running a business will add important perspective to our efforts to address regulations across a number of industries. We would be remiss if I didn't mention Markwayne's other interests. He is probably the only member of Congress who can claim that he ran a fight club and is an accomplished Jujitsu and mixed martial arts athlete. I don't recommend that you get in the ring with him. In addition to the health policy matters Markwayne will consider on this committee, he will also focus on our colleagues' health by leading a bipartisan workout group. Probably a good thing after the holidays, especially with some of the chocolate candies that Ms. Eshoo passed to some of us a few

minutes ago.

Richard Hudson, from North Carolina. Richard is beginning his second term. Is following in the footsteps of, at least, two of his fellow E&C members, Mr. Walden and myself, by serving as a congressional staffer before serving in the Congress. He previously worked -- served on the Ag, Education and Workforce, and Homeland Security Committees. He worked hard for the members that he served, and we know that he will work hard to serve his constituents on this committee. His district is home to NASCAR, and what I have heard is the best barbecue in the south. Perhaps he would have a committee barbecue cook off among our North Carolina members.

Chris Collins from New York. Chris is beginning his second term. Previously served on Ag and Science. Was chairman of the Small Business Subcommittee on Health and Technology. Trained as a mechanical engineer. Chris is an entrepreneur with over 30 years of experience both finding and managing a number of businesses. On the other side of the coin, Chris has deep experience in local government, having served as the Erie County executive and led the effort to pull the county out of bankruptcy. With this committee's broad jurisdiction and the implications of our work on the economy, small businesses and local governments, he will certainly add much to our debate. I also think that members of the committee will find Chris to be an excellent colleague. Perhaps you received a birthday card from Chris with

his Big League chew gum that he sends to members on their birthdays.

Kevin Cramer from North Dakota. As you may all know, we have put Kevin to work right away as he will be on -- he was on the floor last week leading the charge on the Keystone bill. Before joining the committee, Kevin served on the Science and Natural Resources Committees. This experience, as well as Kevin's long experience in North Dakota's Government, including on the Public Service Commission, have given him and this committee important insight on regulatory and energy issues. Also, I should note that he gives to charities and his constituents. He works with the Rough Rider Honor Flight Program in his state, bringing North Dakota World War II vets to D.C. to see the Memorial. He also answers to Santa Claus during the month of December. He dresses up as Saint Nick.

So welcome, Republicans and Democrats, members to the committee.

Thank you.

So we will now -- it is my understanding we are going to have votes in about a half an hour. So I am -- I don't know that we will finish the next phase of this. But right now, we are going to move to the adoption of the committee rules for this Congress. And the chair has a resolution at the desk and asks the Clerk to report.

The Clerk. The resolution offered by Mr. Upton. Be it

resolved by the Committee on Energy and Commerce that the rules for the committee for the 114th Congress shall be.

The Chairman. Without objection, the resolution will be considered as read, and the Chair will recognize himself for 5 minutes.

[The information follows:]

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The Chairman. Do you want to put that clock? Thanks.

This committee has had a long tradition, under Republican and Democratic chairs, of adopting a rules package that allows us to conduct our committee business fairly, efficiently, and always with the goal of developing appropriate and thoughtful policy solutions. When we made changes to this committee's rules, it has always been to further that goal of producing the best policy solutions possible.

Today, we are going to consider a rules package that contains three changes to the committee rules from the last Congress. The first change is to Rule 3(c)(2) on committee witness disclosures to conform with House rules.

The second change pertaining to ex officio members is a minor one. In the last Congress, rule 8(e) included a sentence addressing the minority chair emeritus and his voting privileges. That sentence has been struck.

The third change is to rule 16, which relates to subpoenas. As House Resolution 5 granted this committee with staff deposition authority, we have struck the language from the 113th Congress relating to transcribed interviews. In addition, we made changes that authorized the chair of this committee to issue subpoenas with notice to members of the committee in consultation with the ranking member as practicable.

While this is a change in process from our previous committee rules, this authority is not unusual in the House. The House

rules provide that the power to authorize and issue subpoenas may be delegated to the chair of a committee. In the last Congress, six other house committees authorized their chairs to issue subpoenas without first convening a business meeting. They were Ways and Means, Oversight and Government Reform, Education and the Workforce, Foreign Affairs, Transportation and Infrastructure, and the Select Committee on Intelligence. In fact, the chair of these committees had this authority during the 110th and 111th Congress when Democrats controlled those gavels. So this is not new ground.

In my view, this is a necessary change to protect the institutional and jurisdictional concerns of this committee. By adopting this rule, the chair of the Energy and Commerce Committee will now have the same authority to issue subpoenas as the chair of the other top investigatory committees in the House.

As many of you know, at times, multiple committees may investigate the same topic or issue. I believe having this rule will allow this committee to continue to have the strongest record on oversight in the Congress. The simple truth is we cannot effectively scrutinize the laws and programs in our jurisdiction if subjects of investigations do not comply with our requests in a timely manner. Efficient subpoena authority will allow investigations to move forward with all due speed and allow policy solutions to be developed to correct any problems without unnecessary delay. Simply granting the chair this authority will

enhance our institutional interests and investigatory capabilities by showing that we can act quickly on a subpoena as leverage to gain or expedite cooperation.

My own record, and that of the chairman who came before me from both parties, demonstrates the seriousness and humility with which I have approached this responsibility. There will be no change to our tradition of conducting bipartisan investigations, consulting with the minority and doing our utmost to obtain voluntary cooperation with our requests without the use of subpoenas.

My staff has worked closely with the minority staff. They consult early and often. We work diligently to pursue bipartisan investigations whenever possible. GM, mental health, meningitis investigations being shining examples of that. I intend to continue to conduct a strong and comprehensive oversight, and this authority is a tool that we need to do. But it is far from the only tool in our toolbox, and it will be used only when needed.

Thank you, Ranking Member Pallone, your staff for discussing these changes with me and my staff. After hearing some of the concerns that you had with this rule, I strengthened the language detailing what the notification and consultation process would entail. In fact, the change we added to provide for consultation 72 hours in advance of the issuance of a subpoena is more than provided for in similar House rules from the 113th Congress, authorizing the chairs to issue subpoenas. This is a sensible

change to our committee rules that will protect our interests now and into the future.

With that, my time has expired. And I recognize Mr. Pallone for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

And I am strictly referencing now Rule 16 related to subpoenas and the changes that you discussed in that regard.

And, you know, I do want to say, I do appreciate the discussions we had to date on this and the fact that you have put in the 72-hour notice and even changed the language with regard to consultation. But I can't support the change in the rule involving the procedures for subpoenas the way it stands now.

Past committee rules ensured minority input, and the proposal before us could result in zero consultation with the minority. I know that, you know, just like me, Chairman Upton considers the power to issue subpoenas to be a very serious matter and that is why I would commit to working together to get a subpoena out the door very quickly when necessary. But I do believe there are times when the involvement of all members is extremely valuable and that we would move toward what you call the business meeting. I know you talked about timeliness and unnecessary delay, but I think there are going to be occasions when moving to a business meeting and having a full discussion before we proceed would be necessary.

Without minority checks and protections, there is a huge

potential for abuse of power here on the part of whatever party is in the majority. And while your track record doesn't suggest that you would abuse this power, Chairman Upton, I think it sets a terrible precedent and would likely become a permanent fixture for the committee. I think that subpoena authority is a powerful authority and should be used only as a last resort.

Concurring with myself as ranking member or having a committee vote is the standard that, I think, every committee should follow. Now, I understand you talked about some of the other committees that don't have that. But I think that the problem is that we have moved away from this being bipartisan, and I would like to see every committee go back to the rules that we had in the previous Congress, which is that, before we move to a subpoena, the ranking member would have to agree or, if not, we would have a business meeting where we would actually discuss it and vote.

So I have to oppose the proposal. I do think that it is a huge mistake and that we are moving in the wrong direction, and I hope that you will reconsider this.

I might have some additional questions about the details as we move forward.

But at this point, I will yield back the balance of my time.

The Chairman. Chairman yields back.

Other members wishing to speak.

Gentleman from North Carolina.

Mr. Butterfield. Thank you very much, Mr. Chairman. I have two points that I want to make.

First of all, I want to see what it feels like to speak from the top dais. This is a pretty good feeling, and thank you for that.

The second point I wanted to make is that I want to associate myself with the comments of Mr. Pallone. And nothing is more powerful, nothing is more serious than to issue subpoena. And we all know that a subpoena is a very powerful document that restricts the movement of people, requires their attendance, requires them to go through their documents and produce documents to the committee. It is intrusive. And I think, at the very least, we should have the input from the minority any time a subpoena is being considered to be issued.

Democrats feel very strongly about this, Mr. Chairman. And I would really ask that you would reconsider your position. One person, who is the chairman of the committee, should not have the authority to just issue a subpoena on behalf of the full committee. The chair and the ranking member should be required to consent to a subpoena. If that is not possible, then, the full committee's concurrence should be required. But to give the power of subpoena to one man or, in future years, to one woman, I think, would be inappropriate for this committee. And so I agree with the Ranking Member. I ask that you reconsider.

And remember that, when you issue a subpoena, it is on behalf

of the committee. It is not on behalf of the majority, on behalf of the chairman. It is on behalf of the committee. And, at, least, let the full committee have the opportunity to have input.

Thank you, Mr. Chairman.

Mr. Pallone. Will the gentleman yield.

Mr. Butterfield. Yes.

I yield to the Ranking Member.

Mr. Pallone. Let me ask the chairman. You know, obviously, this wouldn't -- this change wouldn't be necessary, in my opinion, unless there was abuse -- well, I shouldn't say abuse -- unless there was a problem in the past whenever the majority or the chairman wanted to get the support of the ranking minority member to proceed.

And it just seems to me, I mean, from my recollection, having been here over 20 years, we just haven't had that many situations where, if the chairman has asked to move forward on a subpoena, that the ranking member has opposed it.

Do we have any information or we could ask counsel through you, Mr. Chairman, how many subpoena issuances elicited an objection from minority in the last Congress or even prior to that? And how many of those objections were disposed of through the staff?

I mean, I don't remember there being any real situations where we had a problem in the past or not that many. If maybe you could give us some examples or how many times that was a problem

in the past Congress or prior to that? How many subpoenas were issued? How many were objected to? Whether we had to go to a business meeting?

Counsel. In the last Congress, we did not issue any subpoenas out of this committee. In the previous Congress, in the 112th, we had two business meetings to issue subpoenas, both because we could not obtain the concurrence of the ranking member -- for the chairman to issue it on his own.

Mr. Pallone. I mean, again, it seems to me, not having any problem in the previous Congress 2 years, two occasions prior to that, it doesn't seem to me that, you know, this is the type of thing that necessitates a rule change based on, you know, any problem that has existed in this committee in the past.

You know one of the reasons why I don't quite understand why we are moving in this direction, Mr. Chairman, is because I don't remember there being any real difficulty here that would necessitate it.

I yield back to the gentleman.

Ms. Schakowsky. And, Mr. Chairman --

The Chairman. I yield to the gentlelady from Illinois.

Ms. Schakowsky. The issuance of a subpoena is really serious. And I think there is an implication when a subpoena is issued that it could mean that the person would not come voluntarily.

I am wondering, Mr. Chairman, if you could agree that, at the

very least, an effort on the part of both the chairman and the ranking member would be to get a witness to come voluntarily. Because I think that there is a certain implication that goes with a subpoena that could redound to the person's negative reputation. And I am wondering if you would agree that, if a person will come before this committee voluntarily, that a subpoena would not be issued.

The Chairman. If the gentlelady will yield.

This is -- well, our side, whether it is me or whether the -- our chairman of the oversight subcommittee, we are always going to try to work with the minority on witnesses, on testimony, on interviews. We get the same documents on our side as you all get.

Ms. Schakowsky. Would you commit to saying that reclaiming our time --

The Chairman. But there will not be a time that we will not be sitting down with staff or with members.

Ms. Schakowsky. No. No. But reclaiming -- saying that you would not, in fact, issue a subpoena to somebody that would come voluntarily?

The Chairman. Well, there would be no need for a subpoena if they would come voluntarily.

Ms. Schakowsky. Is that a yes?

The Chairman. Right?

Voice. Yes.

Ms. Schakowsky. Correct.

The Chairman. Yeah.

Counsel. I mean, our practice has been someone appears voluntarily before the committees, there is no need for a subpoena.

The Chairman. Our subpoena is a last resort. It is when we really are compelled to try and get information, testimony on an issue that is important before the committee. And every time we are going to be asking people to voluntarily appear. And it is -- the last resort is when we really go through the subpoena.

I would just note -- I know the gentleman's time from North Carolina has expired. But I would just note that Mr. Waxman had this authority when he was chairman of the OGR Committee. And other committees in the House, as I said in my opening remarks, six in the last Congress, more, it is my understanding that financial services and other committees are agreeing to similar language. Again, because of -- you know, Mr. Pallone and I did talk in the last couple of weeks and modified it substantially from where we were before.

Chair would recognize Dr. Murphy, chairman of the oversight subcommittee.

Mr. Murphy. Thank you, Mr. Chairman. I would like to speak in support of the rules change. In particular, the committee rule change reflects the delegation of power that flows from the rules of the House to the chairman of the committee with the authority

to issue the subpoenas. Whether the Congress is in session or not -- and that is very important -- it is going to be a valuable tool in ensuring timely compliance of investigations.

Now, this change will give the committee the opportunity to effectively execute the constitutional oversight responsibilities, which are important at the full committee and certainly to the oversight investigation committee and to obtain factual information in support of potential legislative solutions. The rule change supports congressional oversight, which is at the very core of our good government.

As former congressman Lee Hamilton once said, "Oversight of how effectively the executive branch is carrying out congressional mandates is an enormously important function of government." And enhancing this committee's oversight powers really better enable us to conduct programatic review, comprehensive assessment of what Federal programs work, what programs don't work, ferret out waste, fraud, and abuse and compel explanations and justification of policies.

Now, to that last point, I might say that we have not had to use a subpoena in the oversight and investigations subcommittee in the last Congress. However, it has been clear that sometimes people get more than desultory, drip out a few documents, and you have to ask for more, and they drip out a few more. And that approach has caused a good deal of problems. By having a subpoena authority, they can move through quicker would, I believe, help us

with getting records in the bright sunlight of review for Congress on behalf of the public.

Now, under our Constitution, there are competing interests between the legislative branch and the congress -- and the legislative -- executive branch -- excuse me. That is part of what has happened around here for a couple of centuries. There is tensions in recent years that have been increasingly difficult for the committee in conducting investigations. It is harder to get documents and to secure compliance. To get responses to the questions for the record. It can make months as -- come out.

So some agencies themselves put arbitrary time limits on briefings and witness interviews. And this authority is not a silver bullet. It is not going to stop all that. But it is a necessary tool to address some of these obstructions.

Now, as a matter of tradition, the committee majority, during the course of conducting an oversight, will be consulting with the committee minority. I support that in doing it is utmost to obtain necessary documents and information without using subpoenas as possible, except in some cases where witnesses may actually request a friendly subpoena to help provide them protection when they -- in testifying.

But this strong history of bipartisan cooperation in this committee, especially with regards to conducting oversight and this practice of cooperation and consultation, it will continue. I know I am committed to that as chairman of Oversight and

Investigation.

But this rule change could help enhance the institutional interests and capabilities of the committee by showing the committee could, if needed, act quickly on a subpoena as leveraged to expedite cooperation. That is important.

The rule change on subpoena authority will also be essential to the committee's efforts to obtain interviews and information. House rules for the 114th Congress have granted staff deposition authority to this committee for the first session. Given what we have learned from the experience of other committees that already have this authority, is it important to update and streamline the committee's subpoena authority to effectively support this new deposition authority? And it is important that the deposition authority is backed up by the chairman's subpoena authority in order to make that work and not a more cumbersome process that invites technical delays.

And to that end, I might add that this committee is one of the oldest committees, if not the oldest legislative committee in Congress. It has been here from the beginning. And to note that other committees already have this jurisdiction -- Ways and Means, Ed and The Workforce, Foreign Affairs, Oversight and Government Reform, and select committees on intelligence, transportation, infrastructure. It is important to protect our jurisdiction to allow us to move quickly rather than waiting in the sideline sometimes while other committees are moving forward in an area of

our jurisdiction which must be protected.

We know financial services is going to do this as well. So I want to make sure we protect those tools. We protect the authority and the jurisdiction of this committee. And this change strengthens our ability to ensure we can receive full and necessary information to conduct our oversight in a timely manner as the facts warrant with the respectful discussions with the minority in all these things. And I certainly know that the chairman will continue that process.

And with that I yield back.

Mr. Pallone. Will the gentleman just yield quickly?

Mr. Murphy. I have 15 seconds.

Mr. Pallone. I believe that you said that you hadn't had an occasion to ask for a subpoena or ask, you know, the ranking member to actually go along --

Mr. Murphy. Reclaim my time.

But on that, though, what has happened is we have had a very slow walk from some agencies where they have not given information. And it is the process of saying, do we need to issue a subpoena to get you to give up more of these documents rather than the drip, drip, drip approach. And that has been important. My time is --

The Chairman. Gentleman's time has expired.

Gentlelady from California, Mr. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman.

First, I would like to congratulate you on your continuing leadership of the committee and, certainly, to Mr. Pallone on our side. And I especially appreciate the words that you spoke in your opening statement today that you would work fairly, you would work efficiently, and that thoughtful policy decisions would come out of that.

Now, we are having a debate about, I think, something that is contrary to that. And I think that you are fair, and I think that you do work efficiently, and I think that your record here has been to make thoughtful policy decisions.

We all know that, at the core of our responsibilities here, that investigation and oversight is central to make determinations; and that subpoena power can and sometimes should be applied regardless of what administration it is, because we have to fulfill our responsibilities.

What doesn't impress me is what somebody else is doing. I have served on this committee since my second term in the Congress. So I am thrilled I am on this committee. I have never wanted to be any other place. And so whether Financial Services or Ways and Means or Science, Space and Technology or whomever else does whatever they do, I don't really think they compare to our committee. My committee -- this committee is my bias, obviously.

Now, the fact is, is that even after advice and consent with the minority, the majority does have the power to take a vote and

override if there is some kind of problem and there isn't agreement. You can still do that.

But I don't think that it is you, Fred Upton, to come out of the box today and start out this way. I would rather have us be partners. I know that you are in the majority. You have the votes. And if, in fact, it is in your view, that it is absolutely necessary for you to proceed to issue a subpoena, well, then, that is the way it is. And I would have I would accept that. But to cast aside a partnership of advice and consent, I really don't think that is menacing. And I have to say to our colleagues that spoke last, speaking of good government, I think that is good government. I really do. I think that is good government.

So I don't think this is befitting of the committee. I don't think it is fair. I really don't think it is efficient. And the -- it says "may inform." It doesn't say "shall." I mean, great you can get something delivered under your door at your office, and you have been informed. Well, there is a, you know, there is being informed and being informed or being partners in the process.

And so I think that it is not befitting of the committee. I don't really think it is you as a legislator, because you have not operated that way. And I don't know whether you have it within your discretion and power to say that we will operate the way we have.

The Chairman. If the gentlelady will yield just for a

moment.

Ms. Eshoo. I would be glad to.

The Chairman. It is not "may." The Chair shall notify the ranking minority member prior to issue any subpoena under such authority. It is not "may." It is "shall."

Ms. Eshoo. Well, then, I misunderstood it or I didn't hear it right. But everything that I said, I think, still stands. And I prefer, because I think that there is very solid ground there, that advise and consent with the minority be retained. You don't agree. There is not an agreement between you and the ranking member, take a vote and you are going to win because you are obviously the majority. And I think that that is fair. But to throw it out and to start this way, there really hasn't been anything established that has gone wrong that we can't retain one of the better parts of our rules, most frankly.

So I just wanted to get that out on the record. But if we were sitting and having a conversation and it were just the two of us, I would say the same thing to you.

So I will yield back. Thank you.

The Chairman. Appreciate the gentlelady's candor.

Other members on this side?

Ms. Eshoo. Thank you for the "young lady" anyway.

The Chairman. Gentleman from Illinois, Mr. Rush.

Mr. Rush. I want to thank you, Mr. Chairman.

Mr. Chairman, I have sat here and listened to your rationale

for the change from the way that this committee is operating, at least for the last session of Congress and probably for many sessions before that. And, Mr. Chairman, I must conclude that you have presented to us solutions that don't solve, explanations that, in the real sense, don't explain. And I might even add that you have made some conclusions that don't even conclude. So, Mr. Chairman, I am therefore saying with the thought that here we are today expressing a solution, but we don't even have a problem.

Where is the problem? There has been no indication of a real problem that exists in terms of this committee and how this committee operates along the areas of subpoenas. You know, we all understand the importance of subpoenas, and we all will fight very vigorously to make sure that we have effective subpoenas when it is called for.

But, Mr. Chairman, I just don't understand why we are doing this. To me, this is a power grab and, I might add, it is a cheap power grab. We don't need this power that you are seeking today.

Mr. Chairman, I am also -- I am very, very, very proud of being a part of this committee. I have sat on this committee for 20 years or more now. And I like the way mostly that we conduct our businesses. There is a camaraderie that exists. There is a pride that exists in terms of how we can disagree but don't become disagreeable and how we can rise to our higher selves.

But, Mr. Chairman, I think that we are -- have to be careful about what we are doing here today and think very seriously about

it. I want to -- there is a difference, Mr. Chairman, between being a beacon light. And I consider this committee as a beacon. I don't want to compare ourselves, look at other committees and say, "I want to be like them." I want other committees to look at our committee and say, "We should be like Energy and Commerce."

So -- and most committees, most members of this Congress, they are proud of the fact that Energy and Commerce Committee conducts themselves most of the time in a high and noble way. And the best of our angels are come to bear in some of the work that we do. We don't want -- we don't want to give up being the beacon light and become the stop light, like in some of these other committees.

Mr. Chairman, I remember very well our OGR under the era of Dan Burton. Dan Burton, our former colleague, built his national reputation on issuing subpoenas by himself. The Lone Ranger of subpoenas, standing there just issuing one subpoena after another. That is all he did was issue a subpoena. And then we have Dan Burton like, our current colleague, Darrell Issa, he want to issue subpoenas, also, building a national reputation on just issuing subpoenas. Mr. Chairman, I implore you, do not Burton-ize or Issa-ize our committee. Don't do that. Don't do that. You are not Dan Burton and you are not Darrell Issa. You are Fred Upton.

I look forward to hearing and to witnessing you and our ranking member discussing developing a common agenda, working together. You are two fine people. Don't create this artificial

division at this moment, at this time. We have some very serious work to do. And, Mr. Chairman, let us -- no politician should -- to agree and not need power grabbing just for the purpose of power grabbing.

I yield back.

The Chairman. Gentleman's time had expired.

Other members wishing to speak?

Yeah, Mr. Green.

Mr. Green. Thank you, Mr. Chairman. And I won't take all the 5 minutes. I will yield part of my time to my colleague, Congresswoman DeGette.

I have been on the committee since 1997. All those years in Republican control, except for two terms. And I have a lot of reservations about changing the rules because if -- where I come from, we have a saying, "If it ain't broke, don't fix it." And it doesn't seem like, in the years I have been on the committee, the system is broken. And there have been able to get subpoenas when we needed it working together.

For our new members, I want to welcome you. But this is the oldest standing committee in Congress. I don't care what other committees have served -- that have in their rules, but our committee typically works across party lines. And I can, over the last years since 1997, I guess there has been dozens and dozens of issues that I have worked on on across party lines. And that is why I think this is something that we don't need to work on. And

it may sometime during the session, if there is a problem, then, you can come back and you still have the majority, as Congresswoman Eshoo said. You still have the majority to issue those subpoenas with a vote of the committee.

I guess my worry is, is that we don't want to take away from the tradition and the history of our committee working across those party lines. And we have always worked on bipartisan cooperation, even on oversight, no matter who is in the presidency. And that is my concern about it. Like I said, other committees may do it. But the Energy and Commerce Committee is a special committee because we know how hard it was for more of us to get on here to begin with.

With that, I would like to yield the remaining of my time to my colleague from Colorado.

Ms. DeGette. Thank you very much.

Well, I have been on the oversight subcommittee for 18 years now, and I am the ranking Democrat on that subcommittee. And, Mr. Chairman -- and also to my wonderful colleague -- the chairman of the Oversight and Investigations subcommittee, Mr. Murphy, we have always worked quite well together in trying to get witnesses to appear where appropriate and trying to avoid having to issue subpoenas.

In the 18 years I have been on this subcommittee, I can count on one hand the number of times where we weren't able to find agreement. And, in those cases, under the current rules -- and I

think this is an important point to make -- if it is a recess, the chairman can, in fact, issue a subpoena unilaterally under the current rules.

If the Congress is in session and we can't work out a subpoena, then, what happens is it goes to a vote of the committee. And in that case, the very few opportunity -- the very few times it has happened, in fact, the subpoenas have been issued and the witnesses came in.

What I am worried about is the same thing many of my colleagues are worried about, which is, if you change the rules that this chairman can just unilaterally issue a subpoena for any reason, then, that can change the very tenor of the discussion. And, Mr. Chairman, that is what the people on this side of the aisle are talking about, is it can really change the tenor of this discussion and it can politicize the investigations that really should be bipartisan and should not be politicized.

And I will tell you, if our beloved friend Mr. Dingell were here, he would take great umbrage at a statement that we should make our rules more like the rules of OGR. I don't think anybody wants to see that level of politicization. And that is why I think that we are not worried about the current leadership. I am certainly not worried about my chairman on O&I, and I am not worried about you working with the minority. But I worry how it will change the structure and the operations of this very venerable committee.

And so I just -- I think this is a solution in search of a problem. I think it is a very bad idea. To the best recollection of current and former committee staff and the members of this committee who have been here for a long time, we can never remember, with either Democrats or Republicans in charge, that this committee having unilateral subpoena power as part of the rules.

And so I would just ask you -- this is a very serious step. And like all of my colleagues, we know you have got the votes. We can count. But we think this is a very bad way to start out the new Congress.

And with that, I will yield back.

The Chairman. The gentleman yield back? Mr. Green?

Mr. Green. I yield back.

The Chairman. Let me just have a little housekeeping issue here. The votes have started on the House floor. I think we have at least three votes. So obviously we will have a vote on this package.

So the question is, how many more members on your side would like to speak? Just one. Just one?

I yield to the gentleman from New York.

And then, if we are done, and then we will vote and then we will still need to come back and do the vice chairs, et cetera. But there will be no recorded votes necessary for that. It is my understanding.

Mr. Engel.

Mr. Engel. Well, thank you very much, Mr. Chairman.

I think what everybody is really saying is that, you know, we all -- I have been on this committee since 1996. And we have, all of us, worked hard to be on this committee. And this committee is generally regarded in Congress as a cut above the rest. And one of the reasons it is a cut above the rest is because of the comedy we have had on this committee where we haven't been as rancorous as some of the other committees, no matter which party was in the majority.

And I just think a rule like this -- and Mr. Green is quite right. If it ain't broke, don't fix it. We haven't had a problem in the past. And so I don't see any reason to fix this now. We have always managed to work out our differences, and I think we can in the future. And I think a rule like this, which makes the minority really feel disenfranchised, is really the wrong way to go for a committee of this stature.

And I yield the balance of my time to Mr. Pallone.

Mr. Pallone. Thank you, Mr. Engel.

Mr. Chairman, I just wanted to ask a couple of questions because, obviously, those of us on the Democratic side do not feel that this rule, you know, is the right way to go and this change is going to be -- you know, make the process more democratic and less transparent.

So I just wanted to talk about some alternatives. I notice

that when you made your introductory remarks, you seemed to say that the rule now eliminates transcribed interviews. And I just wanted -- one of the things that I understand --

Mr. Chairman. I don't think so.

Mr. Pallone. Well, that is what I wanted to ask you. I mean, why can't we continue to use transcribed interviews in lieu of subpoenas? And is that your intention? And does the rule preclude that?

Counsel. Under -- I can take part of that question.

In the previous Congress, the House rules did not provide this committee with authority to conduct depositions, which is similar to a transcribed interview, nor could we compel a person to attend a deposition.

Under House Res 5 that was passed last week, this committee, along with three other committees, is authorized to conduct staff depositions with member attendance. Again, we --

Mr. Pallone. So the only reason why that has been admitted from the rule is because it is allowed by the House rule?

Counsel. I think it is duplicative, yes.

Mr. Pallone. Okay. Now, what about -- you know, obviously, I would still like the chairman, even under this proposed rule, to move to have a business meeting, if you will, and have a discussion, you know, instead of just issuing the subpoena with the notice, you know, without the minority's input.

So is it still possible -- let me ask the counsel -- that

the -- that the chairman can waive his or her right to authorize the subpoena and put the matter to the committee for resolution? And how and under what circumstances would that occur --

Counsel. I could --

Mr. Pallone. -- with this new rule.

Counsel. Sure. I can point you to the specific House rule and, I think, the committee rule that allows this. Under Clause 2(m)3(A)(i) of Rule XI of the U.S. House, this rule provides that a subpoena can be issued by a committee or subcommittee following a majority vote. It also provides that the chairman of the committee may authorize -- that he may delegate that power to himself to issue the subpoena.

And our committee rules, if you look at Rule 1, states that the rules of the House are the rules of this committee to the extent applicable. So based on the language of the House rule in Rule XI and our own committee rule, the chairman may issue a subpoena himself or he may convene a business meeting to do so.

So the fact that our -- the rules before us right now provide the chairman with a new ability to issue subpoenas on his own authority does not preclude that option.

Mr. Pallone. All right. And then lastly -- and, again, Ms. Eshoo, in your comments made me want to ask this question. It says in the proposed rule that the chair shall notify the ranking minority member prior to issuing any subpoena under such authority. To the extent practicable, the chair shall consult

with the ranking minority member at least 72 hours in advance of a subpoena being issued under such authority. So it seems to me that there are going to be -- that this allows situations where the 72-hours advance notice is not necessarily in effect.

What is the meaning of this, "to the extent practicable"? I mean, and, again, maybe I will ask counsel and ask Fred to comment -- the Chairman to comment on it as well. Because I don't want a situation -- you know, obviously, I don't like this at all. But I don't want a situation where we don't get the 72-hour notice. How do you interpret this language?

Counsel. How I interpret this language, it says the Chair shall notify the ranking member -- so that is first -- to the extent practicable, the Chair shall consult with the ranking minority member at least 72 hours in advance.

I think Fred can speak for his intent.

Mr. Pallone. Yeah.

Counsel. I don't think that is my role. But I think it offers some flexibility, say, if you can't contact each other for some reason within the 72-hour window.

The Chairman. I will find you. Let me just say, I will find you.

Mr. Pallone. Well, I understand. But, I mean, I -- my concern here is that, you know, again, I don't like the change at all. But if we had the 72-hours notice, that would be something.

My concern here is that, when you put in that language "to

the extent practicable," that doesn't necessarily mean that I am going to get 72-hour notice. I don't see why we need that phrase, "to the extent practicable."

Counsel. I think it provides some flexibility to the chair and to you, in case you are not available for some reason 72 hours out.

Mr. Pallone. Well, again, Mr. Chairman, I think it would be -- I would certainly feel a lot better if you took out "to the extent practicable" because, I think, that is a huge loophole. And, again, I am not worried about you because you are a reasonable person. But this sits around after you are not the chairman anymore and, you know, who knows what we get next.

The Chairman. I look both ways when I cross the street.
Gentlemen -- appreciate that.

The gentleman's time is expired.

I think all time has expired.

If no other member wishes to speak, we will have a roll call vote. So the -- and just, we will come back after these votes to finish other business, but no recorded votes are expected.

Clerk will call the roll on the resolution.

The Clerk. Mr. Barton.

Mr. Barton. Pass.

The Clerk. Mr. Barton votes --

Mr. Barton. Pass.

The Clerk. -- pass.

Mr. Whitfield?

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus?

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mr. Walden?

Mr. Walden. Aye.

The Clerk. Mr. Walden votes aye.

Mr. Murphy?

Mr. Murphy. Aye.

The Clerk. Mr. Murphy votes aye.

Mr. Burgess?

Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Scalise?

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Latta?

Mr. Latta. Aye.

The Clerk. Mr. Latta votes aye.

Mrs. McMorris Rodgers?

[No response.]

The Clerk. Mr. Harper?

Mr. Harper. Aye.

The Clerk. Mr. Harper votes aye.

Mr. Lance?

Mr. Lance. Aye.

The Clerk. Mr. Lance votes aye.

Mr. Guthrie?

Mr. Guthrie. Aye.

The Clerk. Mr. Guthrie votes aye.

Mr. Olson?

Mr. Olson. Aye.

The Clerk. Mr. Olson votes aye.

Mr. McKinley?

Mr. McKinley. Aye.

The Clerk. Mr. McKinley votes aye.

Mr. Pompeo?

[No response.]

The Clerk. Mr. Kinzinger?

Mr. Kinzinger. Aye.

The Clerk. Mr. Kinzinger votes aye.

Mr. Griffith?

Mr. Griffith. Aye.

The Clerk. Mr. Griffith votes aye.

Mr. Bilirakis?

Mr. Bilirakis. Aye.

The Clerk. Mr. Bilirakis votes aye.

Mr. Johnson?

Mr. Johnson. Aye.

The Clerk. Mr. Johnson votes aye.

Mr. Long?

Mr. Long. Aye.

The Clerk. Mr. Long votes aye.

Mrs. Ellmers?

Mrs. Ellmers. Aye.

The Clerk. Mrs. Ellmers votes aye.

Mr. Buschon?

Mr. Buschon. Aye.

The Clerk. Mr. Buschon votes aye.

Mr. Flores?

Mr. Flores. Aye.

The Clerk. Mr. Flores votes aye.

Mrs. Brooks?

Mrs. Brooks. Aye.

The Clerk. Mrs Brooks votes aye.

Mr. Mullin?

Mr. Mullin. Aye.

The Clerk. Mr. Mullin votes aye.

Mr. Hudson?

Mr. Hudson. Aye.

The Clerk. Mr. Hudson votes aye.

Mr. Collins?

Mr. Collins. Aye.

The Clerk. Mr. Collins votes aye.

Mr. Cramer?

Mr. Cramer. Aye.

The Clerk. Mr. Cramer votes aye.

Mr. Pallone?

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Rush?

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Ms. Eshoo?

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Engel?

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green?

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps?

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle?

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Butterfield?

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Ms. Matsui?

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Ms. Castor?

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes?

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. McNerney?

[No response.]

The Clerk. Mr. Welch?

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Lujan?

Mr. Lujan. No.

The Clerk. Mr. Lujan votes no.

Mr. Tonko?

Mr. Tonko. No.

The Clerk. Mr. Tonko votes no.

Mr. Yarmuth?

Mr. Yarmuth. No.

The Clerk. Mr. Yarmuth votes no.

Ms. Clarke?

Ms. Clarke. No.

The Clerk. Ms. Clarke votes no.

Mr. Loeb sack?

Mr. Loeb sack. No.

The Clerk. Mr. Loeb sack votes no.

Mr. Schrader?

Mr. Schrader. No.

The Clerk. Mr. Schrader votes no.

Mr. Kennedy?

Mr. Kennedy. No.

The Clerk. Mr. Kennedy votes no.

Mr. Cardenas?

Mr. Cardenas. No.

The Clerk. Mr. Cardenas votes no.

Chairman Upton?

The Chairman. Votes aye.

The Clerk. Chairman Upton votes aye.

The Chairman. Other members wishing to cast a vote?

Mr. Barton?

Mr. Barton. Votes no.

The Clerk. Mr. Barton votes no.

The Chairman. Other members wishing to cast a vote?

If not, the Clerk will report the tally.

The Clerk. Mr. Chairman, on that vote, there are 28 ayes and 23 nays.

The Chairman. 28 ayes. 23 nays. The resolution is agreed to.

And we will stand in recess until the votes are over and then come back.

[Recess.]

The Chairman. We are going to resume the committee business.

And, again, we are not anticipating any recorded votes, but we have got some business to conclude.

And I just want to say on the last debate and vote -- and I know Mr. Kennedy is not here at the moment. It reminded of an old statement that, I believe, Senator Bentsen said in a debate a

number of years ago about Jack Kennedy. He knew Jack Kennedy, and Dan Quayle was not Jack Kennedy. I appreciate the nice comments. I did know Dan Burton, and I am no Dan Burton either.

And I note, too, that one item of business to continue, Mr. McNerney was not here for the roll call -- for the conclusion of the roll call vote on the committee rules resolution. And he would like the record to reflect that he would have voted no. I tried to suggest that maybe we could do that by unanimous consent, but I am told -- the parliamentarians have said, no, we can't open -- reopen the vote without having a whole new roll call, vacate the vote and start over. So I would like the record to reflect that he would have voted no. And I appreciate -- sorry that the votes were in progress and so it was a little bit of a quick gavel at the end.

Mr. McNerney. I appreciate that.

The Chairman. Yeah. I now would like to announce the selection of the vice chair of the committee.

I am pleased that Marsha Blackburn of Tennessee will again serve as vice chair of the committee on Energy and Commerce. In this role, she provides leadership across the committee, from helping to chair full committee hearings to being an active participant in her subcommittee assignments. She also continues her service on the Budget Committee, ensuring that the Energy and Commerce Committee's perspective is represented as the annual fiscal blueprint is developed.

Thank you, Vice Chair Blackburn, for stepping up again. I look forward to working together with you in this Congress as we pursue an ambitious agenda of legislative solutions that truly will benefit all of our constituents.

We will now consider a resolution establishing the jurisdiction of the Energy and Commerce's subcommittees. The chair has a resolution at the desk and ask the Clerk to report.

The Clerk. Resolution offered by Mr. Upton.

The Chairman. Without objection, the reading of the resolution is dispensed with. And the Chair recognizes himself briefly.

[The information follows:]

***** INSERT 1-2 *****

The Chairman. Jurisdiction of the subcommittee set forth in the resolution is identical to the resolution that we considered in the 113th Congress. There are no changes. Is there further discussion of the resolution?

Seeing none, the vote occurs on the resolution. All those in favor will say aye.

All those opposed say no.

The ayes appear to have it. The ayes have it, and the resolution is agreed to.

Now, consider resolution appointing the subcommittee chairs, vice chairs, and designating the subcommittee members. The Chair has a resolution at the desk and asks the Clerk to report.

The Clerk. A resolution offered by Mr. Upton.

The Chairman. And without objection, the reading of the resolution is dispensed with. And the Chair recognizes himself briefly.

[The information follows:]

***** INSERT 1-3 *****

The Chairman. Pursuant to Committee Rule 4 adopted earlier this afternoon, this resolution simply designates the chair and the vice chair of each subcommittee and the resolution also designates the Republican members of each subcommittee. I am very excited, as I said earlier, to have seven new Republican members joining our subcommittees, and thank my Republican colleagues for agreeing to serve in those positions. We do have an ambitious schedule ahead of us in this Congress, and I look forward to working side by side with you.

Is there further discussion of the resolution?

Seeing none, vote occurs on the resolution.

All those in favor will say aye.

All those opposed say no.

The picking the chairs, the ayes have it. And the resolution is agreed to.

The Chair now yields to Mr. Pallone to offer a resolution appointing ranking members and Democratic members of the subcommittees.

Mr. Pallone. Thank you, Mr. Chairman. I offer a resolution designating the subcommittee ranking members and the Democratic subcommittee membership for the 113th Congress -- did I say 113th? But it should be 114th Congress, right.

I am very pleased that our Democratic caucus has selected the following ranking members of the subcommittees.

The Chairman. Wait. Let me just say.

Mr. Pallone. Yes.

The Chairman. The clerk will report the resolution.

The Clerk. A resolution offered by Mr. Pallone.

The Chairman. Without objection, the reading of the resolution is dispensed with. And the gentleman is recognized for 5 minutes.

[The information follows:]

***** INSERT 1-4 *****

Mr. Pallone. And I am pleased that our Democratic caucus has selected the following ranking members of the subcommittees. Ms. Eshoo will serve as ranking member of the subcommittee on Communications and Technology.

Ms. Schakowsky will serve as ranking member of the subcommittee on Commerce, Manufacturing and Trade.

Ms. DeGette will serve as ranking member of the subcommittee on Oversight and Investigations.

And Mr. Rush will serve as ranking member of the subcommittee on Energy and Power.

The only change, really, is Mr. Green who will serve as ranking member of the subcommittee on health.

And Mr. Tonko will continue to serve as ranking member of the subcommittee on environment and the economy.

Obviously, all these people have a lot of expertise. With the exception of Mr. Green, they have all served before. And so I am very pleased to see that these are the choices of the caucus. They were ratified by the Democratic caucus this morning, Mr. Chairman.

The Chairman. Is there further discussion of the resolution?

There is no further discussion. The vote occurs on the resolution. All those in favor will say aye.

All those opposed say no.

Picking the chairs, the ayes have it, and the resolution is agreed to.

The Chair now recognizes himself to announce a number of policies that we will observe again in this Congress. During the last Congress, we can -- and I recognize myself for 5 minutes.

During the last Congress, we continued our transition to paperless hearings by electronically distributing testimony at all of the committees hearings. We are going to continue that. For members that are more comfortable with paper copies of testimony, we will continue to work with you to accommodate your needs. I believe that this change has helped our committee budget and improved our efficiency. I thank the members for their patience as we adjusted to paperless hearings.

The policy has been, also, participation at hearings, if you are not on the subcommittee. This policy has been commonly referred to as the Eshoo protocol, ever since my friend from California discussed the issue with me during our 2011 organizational meeting.

By right, all members of the House are entitled to nonparticipatory attendance at hearings if they are not on the committee. For members of the Energy and Commerce Committee, however, you may question witnesses at a hearing even if you are not on the subcommittee, but you will be recognized only after all of the members of the subcommittee have been recognized, Democrat and Republican, regardless of when they arrive at the hearing.

I would ask that members not abuse that privilege. We all have busy schedules. It can be frustrating when a member that is

not on the subcommittee has not been present for the majority of the hearings, shows up at the last second to ask questions. If you want to participate and ask questions, I think you should attend the majority of the hearing if you can. It is not a requirement. Just a request.

Also, one of the rule changes that we did before and will continue, bipartisan amendments. During markups in the last two Congresses, bipartisan amendments were given priority recognition. I intend to continue that tradition in this Congress. I encourage members to work on both sides of the aisle together.

However, a word of caution for anyone drafting bills or amendments. The majority leader follows several protocols in scheduling legislation for the floor. And while these protocols are not binding in committee, I would encourage you to observe the protocols in drafting the legislation.

We will now consider a resolution adopting the committee oversight plan. The Chair has a resolution at the desk and asks the Clerk to report.

The Clerk. Oversight plan for the Committee on Energy and Commerce, U.S. House of Representatives, 114th Congress.

The Chairman. Without objection, the reading of the resolution is dispensed with. And the Chair recognizes himself for 5 minutes.

[The information follows:]

***** INSERT 1-5 *****

The Chairman. The rules of the U.S. House require each committee to adopt an oversight plan and submit it to the Committee on Oversight and Government Reform and the Committee on House Administration by February 15th. At this meeting this morning, we have already discussed the committee's long tradition, under both Republican and Democratic chairs, of conducting strong oversight of the agencies and the programs in our jurisdiction.

As chairman of this committee and as former chairman of the subcommittee on oversight investigations, I know firsthand the importance of strong oversight. When oversight is done right, it creates the factual records that informs our committees' legislative solutions and allows us to develop the right fixes for the problems that we find.

We saw that example in the last Congress with the investigation of the deadly fungal meningitis outbreak. The investigation was certainly bipartisan, as it should be, and the committee worked hard to gather the facts and the documents about how the outbreak occurred. At the end of the day, the problems we identified in the investigation led to reforms of the drug compounding regulatory framework.

The oversight plan for the 114th Congress proposed today outlines some of the topics and matters of which this committee intends to conduct oversight during the 114th. By no means does this plan limit in any way the matters that we may decide to look into. The committee enjoys broad jurisdiction, which includes the

most important policy issues and debates facing our country today.

As in the last two Congresses, we will continue to examine matters relating to health care, environmental, communications, and energy programs. We will examine these programs to be sure that they are managed efficiently and responsibly and consistent with congressional intent.

My staff has had a number of discussions this week with Ranking Member Pallone's staff about the plan that we are going to consider today. Ranking Member Pallone will offer some remarks shortly, I expect. It is my understanding that the minority intends to support the adoption of the plan before the committee. I believe the oversight plan for the 114th is comprehensive, well-balanced, and represents well our strong work on oversight.

I would urge a yes vote on the oversight plan, look forward to its adoption, and recognize my friend from New Jersey for 5 minutes.

Mr. Pallone. Thank you, Mr. Chairman.

This committee, as you know, is at the forefront of many policy decisions this Congress will consider. The committee's jurisdiction affects the lives of all Americans, as well as the strength of the U.S. economy. The oversight plan before us is not bad. Many important topics are discussed, including cybersecurity and pandemic preparedness.

And while I know the oversight plan does not limit what the committee will review in the coming 2 years, I must comment on a

few areas that are not addressed in the majority's plan.

Commitments to oversee these vital issues should be made now.

The first issue is long-term care. A crisis in long-term care is looming, both for those who will need these services and for the Nation. Studies suggest that 10.9 million Americans are currently in need of these services, and that most of us will need them sometimes in our lives. With the cost of care averaging \$75,000 a year, millions of Americans struggle to meet these expenses. And because Medicare and most private insurance plans provide limited or no long-term care benefits, Medicaid becomes the last resort for patients with chronic illnesses and disabilities.

In 2010, Federal spending on long-term care reached \$120 billion. And in 2027, state Medicaid spending alone is projected to reach \$115 billion. Moreover, additional cost to those that miss work to care for loved ones are off the books and serious reform is needed.

Another second health-related issue that I believe as a committee we have a social responsibility to address is drug pricing. Funding biomedical research and its resulting treatments are key to saving lives. Both, also, help spur economic prosperity. Innovative new drugs for decades have made major contributions to our lives and, in many instances, they have allowed us to watch our loved ones get better and live longer, sometimes even healthier lives. And now we are even seeing some

new drugs curing diseases outright. Discoveries certain worthy of praise.

As we move into the 21st Century, we absolutely need to continue to encourage innovation and help to ensure that new treatments emerge. But we also need to make sure that patients have access to affordable treatments. Otherwise, we will bankrupt families for which a new medicine may be the difference between life and death. And we will strain our Federal healthcare systems. Cures in cutting-edge medicines are of no value if their high cost put them out of the reach of patients who need them.

A third important issue is environmental justice. The pursuit of environmental protection for all, regardless of race, origin, or socioeconomic status. This committee has a responsibility to promote environmental justice by investigating threats that disproportionately affect low-income communities and communities of color. Those vulnerable communities breathe dirtier air, drink dirtier water, and live close to the waste dumps and Superfund sites. We must consider these communities in all of our oversight work. Yet, the oversight plan makes no mention of Superfund, RCRA or EPRA, which are designed to protect these communities.

And, finally, a fourth issue, climate change. Like last Congress, the oversight plan fails to acknowledge the reality of manmade climate change. In fact, it even suggests that the committee should examine the science underlying international

agreements and regulations aimed at combatting climate change. These elements are fundamentally misguided and inconsistent with both the overwhelming scientific evidence and the urgent need for strong action. We should be looking at how to improve and enhance the administration's efforts to combat climate change, not questioning well-established science and suggesting that ongoing EPA clean air and climate change regulations need to be pulled back or eliminated.

Just over 2 years ago, Superstorm Sandy slammed into New Jersey, causing unprecedented devastation in my district. Climate change affects sea levels, causing beach erosion, storm surge damage, and flooding. We cannot -- I cannot imagine my state being hit with another major storm, but this committee has the duty to understand why it is happening and make efforts so it will not happen again.

While I don't intend to take the unusual step of offering a series of amendments to the oversight plan today, I do hope the chairman will work with me to find ways to incorporate these issues into our agenda. And I would, also, note that these are, by no means, an exhaustive list of my priorities. Instead, they are just a snapshot of pressing issues that this committee should address.

Thank you, Mr. Chairman.

The Chairman. Appreciate the gentleman's concerns.

If there is no further discussion, the vote occurs on the

resolution. All those in favor will say aye.

Those opposed say nay.

The ayes appear to have it. The ayes have it. The resolution is agreed to.

Without objection, staff is authorized to make technical and conforming changes to the resolutions adopted today, including the organizational meeting portion and the oversight plan is so ordered.

Without objection, the committee stands adjourned.

[Whereupon, at 3:03 p.m., the committee was adjourned.]