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6 MEMBER DAY

7 TUESDAY, JULY 13, 2021

8 House of Representatives,

9 Committee on Energy and Commerce,

10 Washington, D.C.

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14 The committee met, pursuant to call, at 11:03 a.m. via
15 Webex, Hon. Frank Pallone [chairman of the committee]
16 presiding.

17 Present: Representatives Pallone, Rush, Butterfield,
18 Schrader, Cardenas, Ruiz, Dingell, McEachin, Soto, Craig;
19 Rodgers, Burgess, Latta, Griffith, Bilirakis, Long, Carter,
20 Palmer, Joyce, and Armstrong.

21

22 Staff Present: Jeff Carroll, Staff Director; Parul
23 Desai, FCC Detailee; Austin Flack, Policy Analyst; Lisa
24 Goldman, Senior Counsel; Waverly Gordon, General Counsel;
25 Tiffany Guarascio, Deputy Staff Director; Perry Hamilton,
26 Deputy Chief Clerk; Fabrizio Herrera, Staff Assistant; Ed
27 Kaczmariski, Policy Analyst; Zach Kahan, Deputy Director
28 Outreach and Member Service; Hank Kilgore, Policy
29 Coordinator; Rick Kessler, Senior Advisor and Staff Director,
30 Energy and Environment; Mackenzie Kuhl, Press Assistant;
31 Jourdan Lewis, Policy Coordinator; Meghan Mullon, Policy
32 Analyst; Juan Negrete, Junior Professional Staff Member;
33 Kaitlyn Peel, Digital Director; Tim Robinson, Chief Counsel;
34 Chloe Rodriguez, Deputy Chief Clerk; Andrew Souvall, Director
35 of Communications, Outreach and Member Services; Rebecca
36 Tomilchik, Policy Analyst; Anna Yu, Professional Staff
37 Member; Kate Arey, Minority Content Manager and Digital
38 Assistant; Sarah Burke, Minority Deputy Staff Director;
39 Michael Cameron, Minority Policy Analyst, CPC, Energy,
40 Environment; William Clutterbuck, Minority Staff
41 Assistant/Policy Analyst; Theresa Gambo, Minority Financial
42 and Office Administrator; Jack Heretik, Minority Press
43 Secretary; Nate Hodson, Minority Staff Director; Sean Kelly,
44 Minority Press Secretary; Peter Kielty, Minority General
45 Counsel; Emily King, Minority Member Services Director; Bijan
46 Koohmaraie, Minority Chief Counsel; Tim Kurth, Minority Chief

47 Counsel, CPC; Clare Paoletta, Minority Policy Analyst,
48 Health; Olivia Shields, Minority Communications Director;
49 Michael Taggart, Minority Policy Director; Everett Winnick,
50 Minority Director of Information Technology.
51

52 *The Chairman. So I call the hearing to order, and
53 this, of course, is our Member Day hearing. I see some of
54 our members are already on the camera. And to give our
55 digital team some notice, I am going to count down -- says I
56 am going to count down from five before calling the markup
57 (sic) to order, but I guess I already have, but we will do it
58 again. So five, four, three, two, one, and the meeting of
59 the Energy and Commerce Committee is called to order. So
60 today the committee is holding its Member Day hearing.

61 Due to the COVID-19 public health emergency, today's
62 hearing is being held remotely. All members and witnesses
63 will be participating via video conferencing.

64 As part of our hearing, microphones will be set on mute
65 for purposes of eliminating inadvertent background noise.
66 Member and -- members and witnesses, you will need to unmute
67 your microphone each time you wish to speak.

68 And statements for the record can be sent to Chloe
69 Rodriguez at the email address we have provided to staff.
70 She is our clerk. All documents will be entered into the
71 record at the conclusion of the hearing.

72 And I am going to start by recognizing myself for five
73 minutes, and say that today we are going to hear from our
74 colleagues about the issues of importance to them within our
75 committee's jurisdiction. This Member Day hearing is an
76 opportunity for any Member of the House to testify before us

77 for up to five minutes on issues important to them, their
78 districts, and the nation.

79 The Energy and Commerce Committee has been working hard
80 to crush the COVID-19 pandemic, provide relief to struggling
81 families, protect consumers, revitalize our economy, combat
82 climate change, and conduct robust oversight.

83 We have made significant improvements in crushing the
84 virus by passing the American Rescue Plan earlier this year.
85 This bill gave the Biden Administration the tools and
86 resources it needed to combat the virus. And the American
87 Rescue Plan supported a national effort to ramp up
88 distribution and administration of lifesaving COVID-19
89 vaccines.

90 We also held three oversight hearings on how states,
91 vaccine manufacturers, and the Biden Administration are
92 working to increase vaccines and ensure they are equitably
93 distributed, as well as another important oversight hearing
94 on vaccine hesitancy.

95 We have also provided critical relief to struggling
96 families, including expanding access to affordable health
97 care coverage during the pandemic. The American Rescue Plan
98 was the largest expansion of health care coverage in more
99 than a decade. It helped families with their utility bills,
100 so that they could keep the lights on, the heat working, and
101 the water running, and it also expanded the Internet

102 connectivity to help students and teachers without home
103 Internet access, so that we could close the homework gap.

104 We are also protecting consumers by passing bipartisan
105 legislation to help the Federal Trade Commission protect
106 seniors and other targeted groups against predatory fraud and
107 scams. And we advanced out of committee legislation that
108 would restore the FTC's longstanding authorities to get
109 Americans their money back after they have been scammed, and
110 that is actually going to be on the floor this week.

111 We are revitalizing our economy by modernizing our
112 crumbling infrastructure to create millions of good-paying
113 jobs, to keep us competitive on a global stage, and to ensure
114 no community is left behind. And last month we passed out of
115 the committee, and then the House, legislation that will
116 ensure all Americans have access to safe and affordable
117 drinking water.

118 The committee has also held a hearing on our
119 comprehensive infrastructure bill, the LIFT America Act,
120 which aligns closely with President Biden's American Jobs
121 Plan.

122 And we are combating climate change by restoring common
123 sense methane pollution standards that were eliminated by the
124 Trump Environmental Protection Agency, and we have also held
125 seven legislative hearings on the Clean Future Act, this
126 committee's legislation to aggressively tackle the climate

127 crisis this decade, and to achieve net zero greenhouse gas
128 pollution by no later than 2050.

129 Now, with regard to today, I did want to stress that our
130 committee has a proud tradition of working in strong
131 bipartisan fashion to produce positive results for the
132 people, but we also value the contributions of our colleagues
133 who are not members of the committee, and work hard to listen
134 to their ideas and incorporate them into our committee's
135 overall work. And that is why this hearing today is so
136 important.

137 We look forward to continuing to listen to the ideas of
138 all Members as we work on legislative proposals to continue
139 to crush the pandemic, provide relief to struggling families,
140 protect consumers, revitalize our economy, and combat climate
141 change. So I know that the member meeting is required by the
142 House rules, but we would have it anyway, even if it wasn't,
143 because we really think that it is important to hear from
144 Members who are not members of our committee.

145 [The prepared statement of The Chairman follows:]

146

147 *****COMMITTEE INSERT*****

148

149 *The Chairman. So now I would like to recognize Mrs.
150 Rodgers, the ranking member, for five minutes for her opening
151 statement.

152 *Mrs. Rodgers. Good morning, Mr. Chairman. Good
153 morning, everyone.

154 This Member Day is really a chance for us to celebrate
155 the rich, bipartisan history of the Energy and Commerce
156 Committee. For more than 225 years, this committee has taken
157 on some of the most difficult challenges of the day. It has
158 done the hard work, plowed the hard ground necessary to
159 legislate and deliver results. To bring hope and healing to
160 our country, the rich history and the hard work of this
161 committee must continue.

162 Each of our colleagues who we will hear from today has
163 the honor of representing about 750,000 people. And just
164 like us, they were duly elected to serve, and are committed
165 to working on solutions to improve people's lives, empower
166 people to take risk, improve the world around them, and have
167 the courage to dream again. This what makes Energy and
168 Commerce uniquely American. It is the oldest committee on
169 Capitol Hill. It was here at the beginning, at the time when
170 our first hopes and dreams as a country were being hatched.
171 It was the -- at the beginning of the promise of America.

172 Today's member hearing is about listening and learning
173 about the solutions that our colleagues are working on, and

174 why these solutions are important in their districts.

175 For those who are not members of the Energy and Commerce
176 Committee, welcome. We look forward to hearing about your
177 work and your legislation, especially on our shared goals to
178 continue to lift people out of poverty, raise the standard of
179 living, and for America to win the future.

180 [The prepared statement of Mrs. Rodgers follows:]

181

182 *****COMMITTEE INSERT*****

183

184 *Mrs. Rodgers. Thank you, Mr. Chairman, I yield back.

185 [Pause.]

186 *Mrs. Rodgers. Mr. Chairman, I think you may be muted.

187 *The Chairman. I guess they automatically mute me after
188 -- when you were speaking, Cathy.

189 So I want to -- now we are going to go to members'
190 testimony. And each member who is joining us, you know, for
191 the purposes of making a statement, would have five minutes.

192 And members were given the order of recognition by staff
193 earlier this morning. Consistent with longstanding committee
194 practice, there will not be any questions of Members
195 following their testimony. So we are just going to run
196 through those who have -- who would like to speak.

197 And I am -- I have a list. And the first one that I
198 have, who I have already saw before, is the gentleman from
199 Colorado. Mr. Neguse is recognized.

200

201 STATEMENT OF THE HON. JOE NEGUSE, A REPRESENTATIVE IN
202 CONGRESS FROM THE STATE OF COLORADO

203

204 *Mr. Neguse. Thank you, Mr. Chairman and Ranking Member
205 McMorris Rodgers, for the opportunity to testify today about
206 some of my priorities within the Energy and Commerce
207 Committee's jurisdiction. And I want to, in particular,
208 thank you, Mr. Chairman, for your leadership during this
209 117th Congress.

210 I want to start by talking about Ally's Act, which some
211 of you may be familiar with. Ally, a young constituent from
212 my district, wrote to my office in 2019 to let us know about
213 issues that she was facing getting her insurance company to
214 cover her hearing devices. Despite the medical necessity of
215 osseointegrated devices, or OIDs, for people who experience
216 different forms of hearing loss that could be helped with a
217 traditional hearing aid like the bone anchored hearing aid,
218 BAHA device, that Ally uses, private insurance companies
219 consistently deny coverage of OIDs.

220 I introduced Ally's Act, which is a bipartisan bill to
221 ensure access to these critical hearing devices, alongside
222 the co-chairs of the Congressional Hearing Health Caucus.
223 And I am proud to have garnered bipartisan support for this
224 bill, including several members of the Energy and Commerce
225 Committee.

226 We must ensure access to these critical hearing devices
227 so that individuals all around the country can access the
228 life-changing support that these devices could provide. I
229 look forward to continuing to work with you and your
230 committee to move this legislation forward.

231 I also wanted to talk about a second bill, and that is
232 the Disaster Safe Power Grid Act, a bicameral bill that I
233 introduced, along with Representative Schrader, in order to
234 strengthen our energy grid and reduce the risk of power
235 outages caused by wildfires. We have all seen the
236 devastating impacts of climate change in our communities, and
237 the disastrous wildfires that raged throughout the West the
238 past couple of years. With the extreme drought and heat
239 conditions currently taking place across the West, this
240 year's fire season has the potential to be another
241 devastating one.

242 This bill would establish a matching grant program for
243 power companies to reduce the risk of disaster-caused
244 outages, or power lines causing wildfires, emphasizing
245 methods to harden our electric grid and reduce wildfire risk.
246 Our power grid needs significant investments in order to
247 prepare and ultimately respond to the impacts of climate
248 change and extreme weather events. And I look forward to
249 continuing to work with your committee to enact this
250 legislation.

251 In closing, I want to say again thank you to Chairman
252 Pallone and Ranking Member McMorris Rodgers for the
253 opportunity to testify before you today. And I certainly
254 look forward to continuing to work with you on these issues
255 and many more.

256 Thanks again. And with that I yield back, Mr. Chairman.

257 [The prepared statement of Mr. Neguse follows:]

258

259 *****COMMITTEE INSERT*****

260

261 *The Chairman. Thank you. I thank the gentleman from
262 Colorado. And as I said before, our practice isn't to ask
263 questions of the Members on Members Day. So thank you for
264 your testimony, and we will certainly follow through on what
265 you are -- on your request.

266 All right. The next person I have down is the gentleman
267 from California, Jim Costa. Is Jim available? He is having
268 some problems with connecting?

269 *Mr. Costa. No, I have just --

270 *The Chairman. Oh, there he is, I see him.

271 Hi, Jim. You are recognized for five minutes.

272

273 STATEMENT OF THE HON. JIM COSTA, A REPRESENTATIVE IN CONGRESS
274 FROM THE STATE OF CALIFORNIA

275

276 *Mr. Costa. Thank you very much, Mr. Chairman and
277 members of the committee, for your efforts on what has been a
278 challenging 16 months for all of us. And I thank the
279 committee for its time.

280 One of the many lessons I believe that we have learned
281 out of this pandemic, this horrific pandemic that has taken
282 600,000 American lives and done so much damage to every
283 segment of our society, is that when we address a crisis, we
284 can do certain things quickly, like increase the production
285 of personal protective equipment, PPE. But certain things we
286 need to plan much better. And you can't create more
287 physicians or nurses. And the shortages of health care
288 workers that were at the front lines that saved so many lives
289 clearly made a incredible difference. And we should thank
290 them, all of them. I know we all do.

291 This legislation is to provide a billion-dollar
292 authorization to create new medical schools in underserved
293 areas, or to expand existing medical schools. And we should
294 also do so for our nurses. Frankly, the billion-dollar
295 authorization, when you see how much it takes to put together
296 a new medical school, is really modest.

297 If we are going to discuss ways to improve our nation's

298 infrastructure for the benefit of all Americans -- clearly,
299 we all believe in increasing and investing in our
300 infrastructure, but we must think beyond bridges and roads.
301 Access to transportation, broadband, education, clean
302 drinking water are so important. But there is another
303 critical need that requires equal and immediate attention,
304 and that is the access to quality health care.

305 The United States is expected to face a shortfall in
306 primary care providers over the next 5, 10, and 15 years,
307 especially in rural, low-income areas -- communities are
308 expected to feel the brunt of that shortfall. Rural
309 communities have long suffered from a lack of quality medical
310 care, and the COVID-19 pandemic has only exacerbated the
311 problem. Doctor shortages are known to reduce the access to
312 medical care by imposing longer wait times, causing people to
313 travel further to see specialists.

314 My bill, Expanding the Medical Education Act, will curb
315 the shortfall of physicians by establishing medical training
316 programs in areas of high need, high need. The Expanding
317 Medical Education Act would provide \$1 billion in funding for
318 medical school construction expansion and doctor training in
319 these unserved communities. But frankly, as I said, it is a
320 modest amount of money when you look at the need in
321 underserved areas across the country.

322 Priorities of funding will be given to educational

323 institutions that focus on diversity, medically deprived
324 communities. My district is a good example in the
325 California's San Joaquin Valley, where dire need is so
326 critical for more health care professionals of all levels:
327 physicians, nurses, health care techs. Having medical
328 schools in these areas will allow students who want to stay
329 and work in these communities to complete their studies, as
330 well. It has been proven, if you are able to train
331 physicians and nurses in a given area, they are far more
332 likely to stay there. Our growing our own doctors,
333 therefore, is the only way to confront, in large part, this
334 medical crisis. The legislation is gaining momentum, with
335 full endorsement of the Congressional Hispanic Caucus, and I
336 think it has strong bipartisan appeal.

337 The fact is that rural communities, underserved
338 communities throughout the country suffer without immediate
339 action. And I am urging the committee's support for this
340 legislation in the infrastructure package, or whatever means
341 is most suitable toward its success.

342 For 40 years I have supported increasing medical care
343 throughout not only my valley that I represent, that I have
344 the honor and privilege, but throughout the country. And
345 building new medical schools across the country, I think,
346 will go a long ways in increasing our nursing programs toward
347 dealing with this shortage that is real, and is only going to

348 grow unless we address it.

349 So, obviously, while it is parochial in nature, we are
350 trying to -- and the governor in California has put money to
351 build this new medical school in the San Joaquin Valley, like
352 a lot of efforts that we are engaged in, a combination of
353 state and Federal resources often times is the key to
354 success, and that is why I am urging you to support this
355 authorization. And if you want to increase the amount, that
356 would be terrific.

357 So thank you so very much, Mr. Chairman and members of
358 the committee.

359 [The prepared statement of Mr. Costa follows:]

360

361 *****COMMITTEE INSERT*****

362

363 *The Chairman. Thank you. Thank you, Jim.

364 Again, I -- we are not going to ask questions, but I did
365 want to say that, you know, we have a lot of concern about
366 the shortage of doctors and the need for health
367 infrastructure. In the LIFT America Act we do have -- I
368 forget exactly how much, but maybe somewhere between a 30 and
369 \$40 billion authorization for, you know, health care
370 infrastructure, hospitals, labs, community health centers,
371 with particular attention to underserved areas. So this is
372 very much in line.

373 You know, I didn't want to -- if I could ask the ranking
374 member -- I know we are not asking questions, but if you
375 wanted to make some comments, I don't want to preclude any
376 comments that you or maybe -- in case there are other members
377 who would want to make some comments.

378 *Mrs. Rodgers. Okay. Well, thank you, Mr. Chairman.

379 And both -- well, to Jim, I really appreciate you
380 raising this issue. Certainly, the -- it is in my district
381 across the country, the health care shortage. And we need to
382 be taking action. I have a hospital in my district. It is a
383 critical access hospital who hasn't been able to open their
384 ICU to full levels. They are at 50 percent because they
385 can't get the health care personnel that they need. And I
386 know that that is repeated over and over. And I look forward
387 to working with you.

388 I think this an issue that is bipartisan. We all,
389 Republicans and Democrats, recognize that we need more
390 doctors, more nurses to meet our health care needs in rural,
391 underserved areas, as well as across the country.

392 So thank you for joining us today.

393 *Mr. Costa. Well, thank you, Cathy, and your bipartisan
394 support is welcomed. Obviously, this an issue that affects
395 all Americans, and we should do whatever we can to encourage
396 the education of physicians and nurses across the country.
397 And I think if we train within our regions, they are much
398 more likely to stay there. So I look forward to working with
399 you on this.

400 *The Chairman. Thank you, Jim.

401 Again, I don't want to preclude anyone else who might
402 want to make a comment, but we are not asking questions of
403 the Members. We told them in advance we weren't going to do
404 that. Does anyone else want to say anything?

405 *Mr. Costa. Let me just make one more closing --

406 *The Chairman. Sure.

407 *Mr. Costa. I want to thank you, Mr. Chairman of the
408 committee, and especially chairman of the subcommittee, Anna
409 Eshoo, who is very familiar with this issue. And she and her
410 staff have worked very hard in helping us put the legislation
411 in what we hope is a form that will be acceptable to the
412 committee. So I want to thank all of you for your good work,

413 and thank my friend, Anna Eshoo, for her efforts.

414 And let me know what changes you think we need to look
415 at to make sure that it complies with the overall efforts
416 that the committee is working on.

417 *The Chairman. All right. Thank you so much, Jim.

418 *Mr. Costa. Thank you. Okay, keep up the good work,
419 everybody.

420 *The Chairman. Thank you. Next I have Anthony
421 Gonzalez, the gentleman from Ohio -- speaking of Ohio, with
422 all my Ohio presidents on the wall behind me here. Is
423 Anthony -- there he is.

424 *Mr. Gonzalez. Yes, I am here. Yes, sir. Well, it is
425 good to see a Ohio representative in your office.

426

427 STATEMENT OF THE HON. ANTHONY GONZALEZ, A REPRESENTATIVE IN
428 CONGRESS FROM THE STATE OF OHIO

429

430 *Mr. Gonzalez. Well, Chairman Pallone, Ranking Member
431 McMorris Rodgers, and members of the committee, thank you for
432 allowing me to address the committee on an important issue
433 that I have been working on since last Congress and, frankly,
434 for most of my adult life, and that is the ability of student
435 athletes to capitalize on their name, image, and likeness, or
436 NIL, sort of a new issue for Congress, but not a new issue
437 for college athletics.

438 As a former student athlete at the Ohio State
439 University, I know firsthand the impact college sports can
440 have on our students, our athletes, and our communities
441 across the country. For me, my time playing at Ohio State
442 shaped my life immeasurably, and I am more thankful for the
443 lessons I learned on and off the field every day. College
444 athletics has a way of doing that. For many of my teammates,
445 college sports provided the best and sometimes the only
446 opportunity to attend college and earn a degree. That, in
447 and of itself, is a fantastic gift.

448 Until the beginning of this month, student athletes
449 across the nation were restricted from capitalizing on their
450 NIL because of an NCAA policy. This meant that student
451 athletes couldn't sign autographs, teach swim lessons, or

452 accept any financial award while non-athlete students on the
453 campus had these freedoms. States took matters into their
454 own hands and, beginning in 2019, with the California Fair
455 Pay to Play Act, started passing state laws allowing for
456 student athletes to profit from their NIL in their respective
457 state. The pressure of multiple state laws going into effect
458 July 1st caused the NCAA to act, finally.

459 On June 30th, the NCAA announced an interim policy
460 allowing for student athletes across the nation to profit
461 from their NIL. Universities located in a state with an NIL
462 law used this as guidance. Whatever the law in the state
463 was, that was their guidance, while universities located in
464 states with no NIL were tasked with creating their own NIL
465 policy. It was a huge win for student athletes everywhere,
466 when the NCAA finally overturned this inequitable policy.
467 But it has resulted in exactly what we don't want, which is a
468 patchwork of state laws and individual school policies that
469 has created chaos in the NIL space.

470 Without a clear standard across the board, student
471 athletes will continue to face a convoluted and confusing set
472 of policies. So, for example, student athletes in my home
473 state of Ohio are going to be playing by different rules than
474 student athletes in other states, depending on what their
475 state legislature has done. That doesn't make any sense at
476 all, and it is horrible for competitive balance in the NCAA.

477 So Congress has the opportunity to deliver this, the
478 clarity that we need, by passing a Federal NIL law that will
479 create one uniform standard, protect the recruiting process,
480 and preserve the college athletic systems that Americans
481 love.

482 The Energy and Commerce Committee is uniquely positioned
483 to consider legislation on NIL, which, at its heart, is
484 centered around fair commercial activity and market
485 involvement for student athletes. The committee should hold
486 a hearing on NIL to further examine the issue. The Senate
487 has held multiple hearings to examine the subject, and I hope
488 to see the House do so, as well.

489 A good starting point, if I may be so bold, would be to
490 consider my bipartisan bill that I have been working on with
491 Emanuel Cleaver for the last year-and-a-half, the Student
492 Athlete Level Playing Field Act. This the only bipartisan
493 bill introduced in either chamber that protects student
494 athletes' rights for their NIL, and would provide one Federal
495 standard.

496 Thank you for the opportunity to speak. Thank you for
497 holding this hearing. And I look forward to working with you
498 to find a fair, timely solution for student athletes across
499 the country. I yield back.

500

501

502 [The prepared statement of Mr. Gonzalez follows:]

503

504 *****COMMITTEE INSERT*****

505

506 *The Chairman. I thank the gentleman, and it is
507 certainly an important issue that we need to look into, and I
508 am really pleased that you raised it.

509 I -- you know, my son went to Kenyon College in Ohio.
510 But, of course, Kenyon was real small compared to Ohio State,
511 so they didn't have this -- I shouldn't say they don't --
512 shouldn't -- they didn't have the same level of student
513 athletes, because they did have a lot of good student
514 athletes, but I understand your notion of uniformity.

515 Let me ask if the ranking member would like to say
516 something.

517 *Mrs. Rodgers. Anthony, I do appreciate you raising the
518 issue. You have a unique perspective by playing when you
519 were in college, and then now being on Capitol Hill to lead
520 on this issue, and I really appreciate you working, and the
521 time that you have spent with me, as well as working to find
522 a bipartisan approach that we can bring some uniformity at a
523 national level, because I am concerned about the patchwork of
524 state laws, and what that may mean, college by college. And
525 so I appreciate you raising this issue today, and bringing
526 your legislation forward. And I want to continue to work
527 with you to figure out how we can move something forward.

528 *Mr. Gonzalez. Thank you.

529 *The Chairman. Thank you. Mr. Palmer is recognized.

530 *Mr. Palmer. Yes, Anthony, obviously, you played

531 decades after I did at the University of Alabama, and I share
532 the concerns that you have about how this is going to impact
533 college athletics. I would like to talk with you about it,
534 because I also don't want to create, basically, a government-
535 run program.

536 At the same time, I am very concerned about how this
537 going to impact decision-making with 17, 18, and 19-year-
538 olds, and almost create an atmosphere of free agency with the
539 transfer portal. I see a lot of issues that could arise from
540 this. But at the same time, as someone who grew up
541 absolutely dirt poor, went four years of college without a
542 coat -- and, believe me, in Alabama it still gets cold -- I
543 understand your perspective, that there are a lot of athletes
544 who would never walk into a college, were it not for the
545 athletic ability. But even though they are on scholarship,
546 they don't have the means to support themselves.

547 So at some point I would like to sit down and talk with
548 you about this, because I think this is a very complex issue
549 that we need to carefully consider whatever steps we take
550 moving forward on this.

551 I yield back.

552 *The Chairman. All right. I have three hands up,
553 electronically. First, I think, was -- Bobby Rush is
554 recognized.

555 *Mr. Rush. Yes, I want to thank you, Mr. Chairman, for

556 this timely hearing. Mr. Chairman, I don't know if you
557 recall, but some years ago, when I was going to chair the
558 Subcommittee on Consumer Protection, we did have a series of
559 hearings and commentaries on this particular issue. And
560 there were some of us who began to actually have a bipartisan
561 approach to solving this problem. And I certainly want to
562 congratulate my colleague for taking this issue on.

563 Mr. Chairman, I never will forget that one of the
564 witnesses that was at our hearing, who was a former student
565 athlete, said that when he was in college you could get a
566 bagel, but you could not get cream cheese on top of the
567 bagel. That was what -- that is how he described his
568 situation. And there was some -- an athlete who
569 participated, and who said that he had been injured by
570 playing a game, and immediately his scholarship was taken
571 from him. The cost of his medical care, surgery and medical
572 care, all this was -- his family, without means, had to
573 assume all these costs, and he had no support. As soon as he
574 got injured, he was exiled, lost his scholarship, and had to
575 provide for his own medical care, he and his poor family.

576 So, again, this a very, very serious situation, and I
577 think that the American people really want to see the
578 Congress move in a bipartisan way to enact a Federal
579 framework for these student athletes. And all other nuances
580 of this particular bill, they can be worked out in the

581 committee hearing and in markup, but we need to, without
582 hesitancy, move. The time is right now, and we should move
583 to bring this matter to a markup.

584 I yield back, Mr. Chairman.

585 *The Chairman. Thank you, Mr. Rush. And I think -- I
586 guess I was going to say I am the most senior member of the
587 committee, but that is not true, because Fred Upton was here
588 before me.

589 *Mr. Rush. Right.

590 *The Chairman. But we remember -- I remember, when I
591 first got on the committee, Cardiss Collins, I think, was the
592 subcommittee chair.

593 *Mr. Rush. Right.

594 *The Chairman. And she had numerous hearings on college
595 sports, professional sports, women's sports.

596 *Mr. Rush. Right.

597 *The Chairman. To the point where I was kind of tired
598 of going to the hearings. But it is certainly something that
599 is a major part of our jurisdiction. So thank you.

600 I see Gus -

601 *Mr. Rush. Mr. Chairman, if I might, Member Cardiss
602 Collins was responsible for title 9.

603 *The Chairman. Exactly.

604 *Mr. Rush. It came out of my -- our committee, and out
605 of her subcommittee.

606 *The Chairman. Exactly, exactly. All right. So we are
607 going to go to -- Gus Bilirakis is recognized.

608 *Mr. Bilirakis. Thank you, Mr. Chairman. I am going to
609 be very brief. I believe that Anthony's bill, along with
610 Emanuel Cleaver, strikes the right balance. And -- but we
611 can even build on that particular bill. And I am going to
612 ask you, Mr. Chairman, Ranking Member, and then also the
613 chairman of the subcommittee -- I am the ranking member --
614 that we hold a hearing as soon as possible. It is very
615 important. I have already talked to Anthony about this
616 particular bill and, as I said, it strikes the right balance.

617 I would recommend that we have student athletes testify,
618 as well. But again, I am not the chairman of the committee,
619 but we have got to move on it as soon as possible. Thank
620 you, and I will yield back, Mr. Chairman.

621 *The Chairman. All right. Well, let me take that up,
622 and we will talk to Cathy, and see what we can do. I also
623 see Tony Cardenas's hand is up.

624 You are recognized for five minutes.

625 *Mr. Cardenas. Thank you, Mr. Chairman. Thank you,
626 Anthony, for bringing this forward to us. And hopefully, we
627 will have some hearings. I don't think these hearings are
628 going to have to go on forever. You brought up a good point,
629 Anthony. There are students on these same campuses who have
630 the fluidity and ability to make sure that they can actually

631 work, and actually have enough money to eat. And I am sure
632 you are familiar, Anthony, with the stories of students,
633 because of their limitations, because they are athletes,
634 they, literally, are going to practice, burning thousands of
635 calories, and they don't even have enough money to buy a
636 sandwich, or even make a sandwich.

637 So these are the kinds of things that I think that we
638 need to expose and bring to light, because I think the
639 average American just doesn't understand. They see on
640 Saturdays or whatever day of the week that they are watching
641 these amazing, amazing young people play, and they just think
642 it is all fun and games. But in reality, they are suffering.
643 They, literally, are suffering.

644 And also, thank you, Anthony, for bringing up the point
645 that, for some people, especially poor Americans of all
646 stripes, this was their really only opportunity to actually
647 get a good education. And I think it is high time that we in
648 America treat them as student athletes, not just athletes
649 first and students a distant second. So, again, thank you so
650 much for bringing this up, Anthony. I am looking forward to
651 working with you on this.

652 I worked on some bills in this arena, and hopefully our
653 offices can work together. And any way I can help you, I am
654 more than happy to do so. Thank you so much for bringing it
655 to the committee.

656 Thank you, Mr. Chairman.

657 *The Chairman. Thank you. I don't see anybody's hand
658 up, electronically. Any --

659 *Mr. Gonzalez. Mr. Chairman, could I just briefly, just
660 in closing -- tons of interest, and I thank you all for your
661 comments, and I appreciate them all. As you can tell, it is
662 something that is -- it is personal to me. I was a student
663 athlete. So was my wife.

664 Mr. Cardenas just mentioned, you know, you think of the
665 high-profile athlete, and you think everything is paid for.
666 Well, my wife was a college swimmer at Stanford in Palo Alto,
667 which is probably the most expensive city in the country,
668 wasn't on full scholarship -- great swimmer, wasn't on a full
669 scholarship -- and so still had to find a way to pay tuition,
670 on top of everything else, in terms of being able to feed
671 herself and what not. And that is true for so many athletes.

672 And if we just think of this high-profile stuff, it is
673 really everybody. It can impact the highest-profile athlete
674 in college football, but it can impact folks you have never
675 heard of who just want to teach some swim lessons to make a
676 few dollars, so that they don't graduate with a ton of debt.

677 So I really just commend you all, and I am thankful that
678 you are passionate about it, as well. And I will help
679 anybody on anything related to this. I just want to see it
680 get done. So thank you all.

681 *The Chairman. Thank you, Anthony. I remember -- that
682 is what it was -- Kenyon had a very good swim team. That was
683 their big thing at Kenyon College, the swim team.

684 All right, thank you. The next person I have is the
685 gentleman from Pennsylvania. Fred Keller is recognized for
686 five minutes.

687

688 STATEMENT OF THE HON. FRED KELLER, A REPRESENTATIVE IN
689 CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

690

691 *Mr. Keller. Thank you, Chairman Pallone and Ranking
692 Member McMorris Rodgers, for holding this hearing to discuss
693 the critical issues that fall under the Energy and Commerce
694 Committee's jurisdiction. There are two bipartisan bills
695 that have been referred to the committee that I would like to
696 discuss.

697 The coronavirus pandemic has changed so much about how
698 we deliver health care at nursing homes, long-term care
699 centers, and skilled nursing facilities. Pandemic -- you
700 know, every sector that houses individuals in the congregate
701 setting has been impacted by the pandemic, but not more than
702 the nursing facilities, which have faced unique challenges,
703 including a shortage in the essential workforce that cares
704 for our seniors.

705 Since CMS issued the Section 1135 flexibilities to allow
706 states to bring on temporary nurses' aides, TNAs, that
707 provide additional care to seniors in these settings, more
708 than 4,000 TNAs have started their important work serving our
709 seniors in Pennsylvania. Those flexibilities are starting to
710 be rolled back, and will fully expire once the COVID-19
711 emergency period has ended. If this happens, those TNAs who
712 joined the ranks of our frontline health care workers will

713 lose their temporary status.

714 That is why Congresswoman Wild and I have introduced
715 H.R. 331, the Nurses Care Act, which would extend these
716 flexibilities for TNAs brought on during the pandemic,
717 allowing states to determine the best method of certifying
718 its existing TNA workforce, and allow on-the-job experience
719 to count toward moving a TNA toward full certification. This
720 approach serves as a lifeline to nursing facilities, and
721 provides an attractive career pathway to help meet the
722 growing demand this industry faces.

723 Estimates indicate there will be around 73 million
724 Americans over the -- age of 65, including 9 million aged 85
725 and older, by 2030. This will require the industry to add
726 roughly 1.4 million workers by 2025, mostly at the direct-
727 care level. The senior care industry cannot afford workforce
728 shortages of any size. I would urge the committee to
729 consider the Nurses Care Act and similar efforts to shore up
730 this workforce pipeline for nursing facilities and senior
731 living centers, so TNAs can continue their important work of
732 providing care and essential services to our nation's
733 seniors.

734 Another issue that impacts seniors in Pennsylvania and
735 around the country is certain Medicare Part D drug pricing
736 policies, and the burdens they place on seniors and
737 independent community pharmacies. As you may be aware,

738 pharmacy benefit managers play a significant role in the drug
739 pricing debate with certain anti-competitive tactics that
740 raise patient costs at the pharmacy counter, and claw back
741 hundreds and thousands in DIR fees from pharmacies months
742 after drugs have been dispensed, making it difficult to
743 operate these small businesses.

744 CMS has determined that there was a 91,500 percent
745 increase in DIR fees between 2010 and 2019, and this
746 unchecked growth of DIR fees creates access issues for
747 seniors in Part D, and increases the possibility of pharmacy
748 deserts.

749 CMS has also said that the average growth of pharmacy
750 DIR fees will increase roughly an additional 10 percent per
751 year.

752 I am proud to be a co-sponsor on H.R. 3554, the Pharmacy
753 DIR Reform to Reduce Senior Drug Costs Act, led by Energy and
754 Commerce members Representatives Welch and Griffith. This
755 bipartisan bill seeks to reduce patients' cost sharing,
756 prevent plans and pharmacy benefit managers from clawing back
757 DIR fees from pharmacies, enhance price transparency, and
758 establish consistent pharmacy performance measures that
759 foster quality care, and enhance the viability and
760 predictability of pharmacy operations.

761 Any meaningful drug pricing package must also include
762 reforms to address these DIR fees. By taking action, we can

763 save American seniors up to nine billion in out-of-pocket
764 costs, as estimated by CMS.

765 Chairman Pallone and Ranking Member McMorris Rodgers, I
766 urge this committee to consider the bipartisan legislation
767 that will lower drug costs for seniors and preserve access to
768 community pharmacies, which are the most accessible provider
769 of prescription drugs in rural and underserved areas and, I
770 might add, were an integral part in dispensing the vaccine
771 all across America.

772 Thank you again for holding this hearing, and I yield
773 back.

774 [The prepared statement of Mr. Keller follows:]

775

776 *****COMMITTEE INSERT*****

777

778 *The Chairman. Well, I thank the gentleman. You raise
779 two very important issues that our committee continues to
780 grapple with. One certainly is the drug pricing issue,
781 which, you know, we have been the lead on many efforts to
782 control, or at least limit price increases, particularly
783 within -- you know, by trying to encourage generics over the
784 years. And then, certainly with regard to nursing homes, you
785 know, in my home state the situation with the nursing homes
786 during the pandemic was dire. I mean, we had many deaths and
787 many concerns that we continue to grapple with. So these are
788 very important issues. I appreciate you bringing them up.

789 And I yield now to our ranking member, Mrs. Rodgers.

790 *Mrs. Rodgers. Thank you, Mr. Chairman.

791 And Fred, I really appreciate you taking the time to
792 join us and raise these issues. I completely agree about the
793 importance of price transparency and accountability with the
794 PBMs -- work with you on legislation, and that Morgan
795 Griffith and others are leading on the committee.

796 We came really close to a solution on the DIR fees last
797 Congress. It was one of those really disappointing ends, but
798 we don't give up. So I appreciate you bringing that forward
799 today.

800 And I, too, would just join on the nursing homes.
801 Certainly, they were on the forefront, and I appreciate you
802 raising the issues around staffing, because they got hit

803 especially hard during COVID-19. And it is going to be
804 important that we are looking at what we can be doing to
805 continue to support the important role that they play in our
806 communities and for our families.

807 Thank you for joining us.

808 *Mr. Keller. Thank you. I appreciate the opportunity,
809 and I really look forward to working with everybody on the
810 committee.

811 *The Chairman. I see that Gus is -- is that left over
812 from the previous one? I don't see him on the screen, so it
813 probably is left over.

814 Did anyone else want to raise anything?

815 If not -- all right, thank you, Fred. Thanks so much
816 for being with us today. We will follow up.

817 *Mr. Keller. Thank you, I appreciate it.

818 *The Chairman. So my notes say that we also have David
819 Schweikert from Arizona, who is joining us. Do you -- is he
820 with us?

821 No, he is not? Okay. And I understand that Ed Case is
822 not joining us. Is that correct?

823 So we are done. Okay, then we are done. Except let me
824 -- we do have a number of members who want to submit
825 statements for the record, so I will ask unanimous consent
826 that the following statements, for the record, be submitted
827 by these Members: Representative Sablan of the Northern

828 Mariana Islands; Representative Wexton of Virginia;
829 Representative Higgins of New York; a statement from four
830 representatives, Representative Chu of California, Frankel of
831 Florida, Pressley of Massachusetts, and Escobar of Texas --
832 that is together; and then, separately again, a statement
833 from Representative Jenniffer Gonzalez-Colon of Puerto Rico;
834 Representative Balderson of Ohio; and we also have a
835 statement from a member of our committee, Doris Matsui of
836 California.

837 So, without objection, so ordered.

838 [The information follows:]

839

840 *****COMMITTEE INSERT*****

841

842 *The Chairman. And let me just thank everyone and all
843 the members for participating in today's hearing.

844 But I mean, even though Members come today or don't come
845 today, you know, we are always constantly getting input from
846 people, from the Members who are not on our committee. And I
847 know many of you do the same thing, and work with the non-
848 Members. So we pride ourselves, as you all know, in getting
849 input from all Members, not just members of our committee.

850 But unless -- did you want to add anything, Mrs.
851 Rodgers?

852 Okay. Then, without further ado, at this time the
853 committee is adjourned. And, well, I guess we will see you
854 virtually other days this week, and then be back in person
855 next week. So thanks again. The committee is adjourned.

856 [Whereupon, at 11:44 a.m., the committee was adjourned.]