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SELECT INVESTIGATIVE PANEL BUSINESS MEETING

WEDNESDAY, SEPTEMBER 21, 2016

House of Representatives,

Select Investigative Panel,

Committee on Energy and Commerce

Washington, D.C.

The panel met, pursuant to call, at 2:00 p.m., in Room 210, House Visitors Center, Hon. Marsha Blackburn [chairwoman of the panel] presiding.

Present: Representatives Blackburn, Pitts, Black, Bucshon, Duffy, Harris, Hartzler, Love, Schakowsky, Nadler, DeGette, Speier, DelBene, and Watson Coleman.

Staff Present: Elena Brennan, Staff Assistant; Karen Christian, General Counsel; Paige Decker, Executive Assistant; Giulia Giannangeli, Legislative Clerk, Commerce, Manufacturing, and Trade; Jay Gulshen, Counsel, Telecom; Peter Kielty, Deputy

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General Counsel; Tim Pataki, Professional Staff Member; Gregory Watson, Legislative Clerk, Communications & Technology; Jean Woodrow, Director, Information Technology; March Bell, Minority Staff Director/Chief Counsel; Rachel Collins, Minority Investigative Counsel; Emily Johns, Minority Research Assistant; Pierre Kamga, Minority Detailee; Emily Lataif, Minority Research Assistant; Mike Reynard, Minority Communications Director; Frank Scaturro, Minority Senior Investigative Counsel; and Matt Tallmer, Minority Investigator.

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Mrs. Blackburn. The Select Investigative Panel will come to order. And the chair recognizes herself for 5 minutes for an opening statement.

Ms. Schakowsky. And, Chair, I have a clarification on the agenda. I know you advised me that you had removed from the schedule consideration of possible release of a witness deposition and a revised notice was not issued, so I wanted to confirm that this item is not being taken up today.

Mrs. Blackburn. We will not be calling it up today. As I said in my communication last night, it had been removed from the schedule.

Ms. Schakowsky. And to the extent we need to consider this in the future, I hope you will consult with me and issue appropriate notice at that time. So I thank you.

Mrs. Blackburn. We will do so.

Ms. Schakowsky. And, Madam Chair, before we move to opening statements, I have a point of order against the draft contempt resolution and --

Mrs. Blackburn. State the point of order.

Ms. Schakowsky. Both items violate the rules of the House and House Resolution 461, which is titled "Establishing a Select Investigative Panel of the Committee on Energy and Commerce." House Resolution 461 equates the Select Panel to a subcommittee of the Energy and Commerce Committee and expressly states rule

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XI of the House rules and the full committee rules apply to us. And those rules grant sole power to report contempt to full committees of the House, not its subcommittees.

Only the full committee, through a meeting convened by its chair, in consultation with the ranking member, has the power to convene a business meeting to consider a vote on contempt. Our authorizing resolution further limits our power to act to the issuance of a final and interim findings and recommendations. It does not empower us to mark up legislation on contempt.

The parliamentarian has confirmed that the Select Panel has no authority to report contempt. To be clear, neither the authorizing resolution, nor House rules or 2 USC sections 192 and 194 authorize or contemplate the reporting of resolutions and reports seeking contempt by this Select Panel.

I therefore seek a ruling on my point of order. This panel cannot proceed as the item under consideration by this panel would violate House Resolution 461, rule XI of the House, and the rules of the Energy and Commerce Committee.

I thank you and I yield back. I would like a decision on this.

Mrs. Blackburn. The panel has been given the authority under House Resolution 461 to examine certain matters relating to the sale or transfer of fetal tissue and abortions, among other topics.

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The chair was also provided the authority under the resolution to issue subpoenas for documents and testimony. Nothing in the resolution or the House rules precludes this panel or a subcommittee from marking up a report on contempt for the purpose of forwarding it for consideration by a full committee or the House, as appropriate.

This is our purpose today, considering the body of the report, which makes certain recommendations on the form a resolution might take marking it up and then moving the panel to approve that report.

You are correct that subcommittees have not reported directly to the House, but in the Energy and Commerce Committee, subcommittees have marked up and moved this to the full committee.

Any other questions about House or committee action are not in order for the panel to determine.

Mr. Nadler. Madam Chair?

Mrs. Blackburn. The point of order is --

Mr. Nadler. Madam Chair?

Mrs. Blackburn. -- overruled.

Mr. Nadler. Madam Chair?

Mrs. Blackburn. State your purpose?

Mr. Nadler. I will ask if you can cite any -- you said there was precedent for a subcommittee in effect of a committee reporting directly -- signing for contempt. Could you cite the

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precedent, any precedent?

Mrs. Blackburn. The subcommittees, as I said in the previous statement, have not reported directly to the House, but subcommittees of Energy and Commerce have reported to the full Energy and Commerce Committee.

Mr. Nadler. So this report would be to the Energy and Commerce Committee, which would then perhaps consider the contempt citation? This would not be to the Speaker or to full House?

Mrs. Blackburn. It would be in order --

Mr. Nadler. I am sorry. You just said that there is precedent to report to the full committee. So I take it that what you are asking is that that is what we do, report to the full committee?

Mrs. Blackburn. We will mark it up and then we will issue the report in --

Mr. Nadler. To the full committee or to whom?

Mrs. Blackburn. It will go to the committee, and others will decide how it moves from there.

Ms. Schakowsky. So, excuse me, Madam Chair, I would like to appeal the ruling of the chair and would request a recorded vote.

Mrs. Blackburn. Mr. Pitts, you are recognized.

Mr. Pitts. Madam Chair, I move to table the motion

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Mrs. Blackburn. The gentleman has moved to table the --

Mr. Nadler. A recorded vote, please.

Mrs. Blackburn. -- resolution. And a recorded vote is requested. The clerk will call the roll.

The Clerk. Mr. Pitts? Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Black?

Mrs. Black. Aye.

The Clerk. Mrs. Black votes aye.

Mr. Bucshon?

Mr. Bucshon. Aye.

The Clerk. Mr. Bucshon votes aye.

Mr. Duffy?

Mr. Duffy. Aye.

The Clerk. Mr. Duffy votes aye.

Mr. Harris?

Mr. Harris. Aye.

The Clerk. Mr. Harris votes aye.

Mrs. Hartzler?

Mrs. Hartzler. Aye.

The Clerk. Mrs. Hartzler votes aye.

Mrs. Love?

Mrs. Love. Aye.

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The Clerk. Mrs. Love votes aye.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Nadler?

Mr. Nadler. No.

The Clerk. Mr. Nadler votes no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Ms. Speier?

Ms. Speier. No.

The Clerk. Ms. Speier votes no.

Ms. DelBene?

Ms. DelBene. No.

The Clerk. Ms. DelBene votes no.

Mrs. Watson Coleman?

Mrs. Watson Coleman. No.

The Clerk. Mrs. Watson Coleman votes no.

Chairman Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Chairman Blackburn votes aye.

Mrs. Blackburn. The clerk will report the tally.

The Clerk. Chairman Blackburn, on that vote there were 8

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ayes and 6 noes.

Mr. Nadler. Madam Chair? Madam --

Mrs. Blackburn. The motion to appeal is tabled.

State your purpose.

Mr. Nadler. Madam Chair, since the committee lacks the authority to proceed despite its self-serving vote, I now move to adjourn.

Mrs. Blackburn. The adjournment vote is not debatable.

The clerk will call the roll.

The Clerk. Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts votes no.

Mrs. Black?

Mrs. Black. No.

The Clerk. Mrs. Black votes no.

Mr. Bucshon?

Mr. Bucshon. No.

The Clerk. Mr. Bucshon votes no.

Mr. Duffy?

Mr. Duffy. No.

The Clerk. Mr. Duffy votes no.

Mr. Harris?

[No response.]

The Clerk. Mrs. Hartzler?

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Mrs. Hartzler. No.

The Clerk. Mrs. Hartzler votes no.

Mrs. Love?

Mrs. Love. No.

The Clerk. Mrs. Love votes no.

Ms. Schakowsky?

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Ms. DeGette?

Ms. DeGette. Aye.

The Clerk. Ms. DeGette votes aye.

Ms. Speier?

Ms. Speier. Aye.

The Clerk. Ms. Speier votes aye.

Ms. DelBene?

Ms. DelBene. Aye.

The Clerk. Ms. DelBene votes aye.

Mrs. Watson Coleman?

Mrs. Watson Coleman. Aye.

The Clerk. Mrs. Watson Coleman votes aye.

Chairman Blackburn?

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Mrs. Blackburn. No.

The Clerk. Chairman Blackburn votes no.

Mrs. Blackburn. And, Mr. Harris, do you seek to be recorded?

The Clerk. Mr. Harris is not recorded.

Mr. Harris. Vote no.

The Clerk. Mr. Harris votes no.

Mrs. Blackburn. The clerk will report the tally.

The Clerk. Chairman Blackburn, on that vote there were 6 ayes and 8 noes.

Mrs. Blackburn. The motion is not agreed to.

At this point I would recognize myself for 5 minutes for an opening statement.

The Select Investigative Panel has worked to obtain details of accounting records, accounts payable, and cash transfers of abortion businesses, fetal tissue procurement organizations, in particular StemExpress since December 2015. Nine months is enough time for an entity to produce accounting documents. Title 42 USC 289(g)(2) makes it a 10-year felony to sell human fetal tissue for a profit. The statute passed as an amendment by Henry Waxman in 1993. Sell human fetal tissue for a profit, you break the law. Donate fetal tissue with zero profit, you are within the law.

On December 17, 2015, we sent our first document request to StemExpress asking them to voluntarily produce, among other

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items, a list of all entities from which StemExpress receives or procures fetal tissue, a list of all entities to which StemExpress sells or donates fetal tissue, an organization of company personnel involved in the procurement of fetal tissue, all communications directing StemExpress personnel to procure fetal tissue, all accounting records related to the cost and pricing of fetal tissue, documents relating to rent or site fees paid to abortion clinics where StemExpress obtained fetal tissue, and all StemExpress banking records related to fetal tissue.

Citing nondisclosure agreements, StemExpress did not provide the names of its nonpublic customers or the detailed organization chart or the accounting and banking records.

Next, we issued a subpoena on February 12, 2016, requiring StemExpress to produce, among other items, the names of employees involved in the procurement of fetal tissue. StemExpress refused to produce the names citing safety concerns despite assurances we would redact the names.

The first subpoena also demanded production of all banking and accounting records relating to fetal tissue. StemExpress produced accounting summaries. The panel issued a second subpoena on March 29 to Cate Dyer requiring the production of the names of the firm's finance director, finance manager, or account manager. The subpoena also required the production of accounts payable and receivable. StemExpress to date has also refused to

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produce those documents.

On April 20 our panel held a hearing at which witnesses were presented with a sample of accounting records from StemExpress and several abortion clinics. All witnesses, all witnesses, including three former DOJ prosecutors, agreed that in order to gain a complete understanding of what is going on the panel should review banking and accounting records.

We next wrote a letter to StemExpress listing accounting documents covered under our subpoenas and stated that failure to produce would force the panel to pursue all means necessary to compel compliance. StemExpress' attorney stated he would not produce the accounting documents without a new subpoena.

The records detailed in the letter were clearly covered under previous subpoenas. Congressional committees frequently request accounting records and other sensitive documents during investigations. This situation is not unique. The panel is entitled to this information so we can answer the question that is raised by the statute. Did companies improperly profit?

A subpoena is not a suggestion. It is a lawful order, and a subpoena is to be complied with.

At this time I yield Ms. Schakowsky 5 minutes for an opening statement.

Ms. Schakowsky. Today's markup is an unauthorized, dangerous, unjustified, illegitimate escalation of Chair

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Blackburn's partisan attack on health care and lifesaving research.

As we have made clear, the chair and Select Panel have no authority to report contempt to the House or its Speaker, a McCarthy-esque process historically used only in the past by the House Un-American Activities Committee. This illegal meeting is a political sideshow with devastating consequences for anyone who cares about women's health care or lifesaving medical research.

The chair has manufactured a controversy over documents that she does not need. StemExpress has cooperated with the panel and was doing so voluntarily before the chair issued subpoenas in violation of House Energy and Commerce Committee rules that required her to notify and consult with me first.

Over the course of this investigation, StemExpress has produced over 1,000 -- well over 1,000 -- 1,700 pages of invoices, purchase orders, email correspondence, cost estimates, and accounting reports. StemExpress also repeatedly offered witnesses to explain its fetal tissue procurement business and answer the panel's questions, including any accounting-related matters.

Republicans refused these offers, never scheduled these interviews, and any failure to obtain information rests with Chair Blackburn, not StemExpress or its CEO.

But getting the facts has never been the goal. Throughout

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this investigation, Chair Blackburn has abused congressional authority to harass, intimidate, and ultimately drive companies away from fetal tissue work in an effort to end lifesaving research. This so-called investigation has been largely conducted out of the public view ironically at the same time that she and other leading Republicans professed support for researchers and funding 21st Century Cures.

Tragically, this stealth campaign is working. One tissue procurement company informed the panel in December 2015 "Due in large part to the costs borne from having to respond to these congressional inquiries, our client is no longer doing business."

The University of California at Los Angeles told the panel that "Recent national events have increased the challenge of obtaining the fetal tissue" that are being used for ongoing research projects, a study with the potential to impact "development of therapies for HIV, cancer, multiple sclerosis, asthma, and organ transplant rejection."

UCLA went on to explain "Another laboratory has reduced their effort on studies that require fetal tissues despite the importance of this research due to concerns about personal safety."

The significance of fetal tissue research has been reiterated by other leading research institutions, including Harvard, the Yale School of Medicine, and the University of

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Minnesota. Other researchers have reported that promising studies and clinical trials for neurological conditions such as multiple sclerosis and Alzheimer's disease have been halted or delayed due to the reduced availability of fetal tissue for research.

These attacks are particularly troubling as scientists race to understand how the Zika virus impacts fetal brain development and find a possible cure. A leading association of research scientists have explained that "The use of donated fetal tissue, including placenta tissue, has provided the best understanding of how the Zika virus behaves in the body." And these insights "are already guiding the development of drugs that may protect the unborn baby from the ravages of the Zika virus."

Chair Blackburn's dangerous witch-hunt has put this lifesaving research at risk. It also directly endangers individual lives. On Monday, Chair Blackburn publicly released the name of a health care provider who was interviewed by the panel. This doctor has already been the target of harassment and threats. She repeatedly asked the chair to safeguard her identity. In fact, just last week, her counsel informed the majority that her university has had to increase security to safeguard its doctors, teachers, and students.

And they made crystal clear "The university has been working with campus police and local law enforcement regarding the

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publication of the names by the panel majority, as well as the publication of the addresses and contact information of its doctors and the lab assistants by Live Action News blog that was published during the same week. The university is also concerned about the inflammatory rhetoric of both publications and will be seeking additional security measures to safeguard these individuals and their students."

From the outset, this investigation has been a dangerous partisan witch-hunt. I will continue to oppose pursuit of criminal contempt, and I will continue to fight to end this investigation and undo the damage to doctors, scientists, and the lifesaving work that they perform.

If I could, Madam Chair, I ask unanimous consent to enter into the record if I could --

Mrs. Blackburn. So ordered.

Ms. Schakowsky. -- the Democrats' response to the Republican interim update, the letter from the University of California Los Angeles, the letter from university counsel regarding proposed release of a witness deposition, fact sheets from the International Society of Stem Cell Researchers, and today's letter from Ranking Member Pallone to Chairman Upton requesting that he "immediately intervene and demand that the Select Panel Chair Blackburn withdraw her request for a contempt vote."

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[The information follows:]

*****COMMITTEE INSERT 1*****

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Ms. Schakowsky. And with that, I thank you and I yield back the balance of my time.

[The information follows:]

*****COMMITTEE INSERT 2*****

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Mrs. Blackburn. The gentlelady yields back.

The chair reminds members that pursuant to the committee rules, all members' opening statements will be made a part of the record.

Mrs. Blackburn. Are there further opening statements?

Mr. Pitts, you are recognized, 3 minutes.

Mr. Pitts. Thank you, Chairman Blackburn. I will keep my opening statement short.

It is imperative to get to the bottom of what is happening behind closed doors in the fetal tissue market. For far too long, this moneymaking industry has gone unnoticed. Today, we are simply asking for transparency.

What is the problem with complying with a congressional subpoena? I know I can speak for all my colleagues when I say we wish it didn't have to go this far. We shouldn't have to enforce this with a contempt proceeding. Subpoenas should be respected, laws should be followed, and this investigation must continue. It is both false and disrespectful to believe that subpoenaed documents do not have to be produced and that the time clock can be ridden out by the deniers. As my colleagues have said before, let these documents come out.

And, Madam Chair, with the inflammatory attacks on you, let me say thank you for your steadfastness, your integrity, your resolve in light of this horrendous practice.

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And thank you, Madam Chairman. I yield back the balance of my time.

Mrs. Blackburn. The gentleman yields back, and Ms. DelBene, you are recognized 3 minutes for an opening.

Ms. DelBene. Thank you, Madam Chair.

Madam Chair, today's proceedings and frankly this entire investigation are an insult to our constituents. We were sent here to find common ground and work together on serious policy issues, but with less than 10 days remaining in the fiscal year, we have not enacted a single appropriations bill, we have not provided funding to fight opioid addiction, we have not addressed the water crisis in Flint, and this chamber still hasn't taken meaningful action to protect Americans from Zika.

Instead of tackling these critical issues, we are mired in an endless string of divisive partisan fights that are based on ideology rather than facts, and it is shameful.

I started my day in another partisan hearing where my Republican colleagues on the Judiciary Committee continue to threaten the IRS commissioner with impeachment with no facts or evidence to support it. So it seems fitting that I am spending my afternoon watching Republicans on this panel threaten to hold a small biotech company in contempt, again, with no facts or evidence to support it.

It is time to stop the charade. This so-called

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investigation has never been objective or fact-based, and these proceedings are no different. This panel has always been about harassing, intimidating, and threatening the people who enable this lifesaving medical research to take place, and it is simply because the majority opposes a woman's constitutional right to choose.

What is worse, these efforts are working. One company that has historically provided tissue to researchers has gone out of business entirely. They wrote to the panel in December that the decision to close was "due in large part to the costs borne from having to respond to these congressional inquiries."

Some scientists have reported significant challenges finding tissue, which has delayed important research and forced laboratories to spend considerable time and resources identifying other alternative sources. And others are stopping fetal tissue research out of concern for their safety. And I have heard from researchers who say tissue donations have slowed considerably since the witch-hunt against Planned Parenthood began last summer.

As someone who started her career in biomedical research, I am deeply disappointed to see the impact this panel is already having. If we ever hope to protect women and families from Zika, if we ever want to develop treatments for diseases like Alzheimer's or HIV, we need to stop harassing researchers and

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cutting off lines of scientific inquiry for no reason.

Unfortunately, the majority's allegations and insinuations have never been rooted in facts. They have been based on extreme ideological opinions about women's rights. And as today's proceedings make clear, the majority has prejudged the outcome of this investigation without any evidence.

It is time to stop wasting taxpayer dollars on this relentless crusade and get back to the work of the American people. Thank you, and I yield back.

Mrs. Blackburn. The gentlelady yields back.

Dr. Bucshon, you are recognized for 3 minutes.

Mr. Bucshon. Thank you very much, Madam Chairwoman.

Fetal tissue cell lines are available for research that are historical cell lines, and there is no evidence that use of fresh fetal tissue has resulted in any scientific research results. Hypothetical opinions on the subject is not science. It is being used for expediency and for lower cost. I do understand that academic careers have been based on using fresh fetal tissue, but the ends does not justify the means.

I yield back.

Mrs. Blackburn. The gentleman yields back.

Ms. DeGette, you are recognized for 3 minutes.

Ms. DeGette. Thank you very much, Madam Chair.

I guess I didn't realize that the purpose of this committee

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was for us to decide whether fetal tissue research was scientifically viable or not. We are Members of Congress, and even those of us who are doctors are not researchers and I don't think it is up to me to substitute my judgment for that of researchers and doctors.

But this is just a part of the pattern that we have been seeing of an abusive congressional power to intimidate, bully, and harass researchers, health care providers, biotechnology companies, and women who exercise their constitutional rights to choose. It really doesn't have anything to do with illegal sale of fetal tissue research because if it did, we would have referred this right to the U.S. attorney for criminal charges. Instead, this sham investigation just goes on and on. It is an embarrassment to Congress. It is an embarrassment to the people that we represent.

And now today, preparing to hold StemExpress in contempt is tantamount to accusing them of a crime. If you think they committed a crime, just send it over to the U.S. attorney. Don't issue a contempt citation in order to have Kabuki theatre here in the U.S. Congress because contrary to the narrative that the majority has advanced, the Select Panel has uncovered no evidence of wrongdoing by StemExpress.

And furthermore, StemExpress continues to work assiduously to respond to this committee's request. They have already

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provided over 1,700 pages of documents and jumped through hoops to explain the accounting reports for fetal tissue transfers. They have offered to provide witnesses to explain their best practices and answer the panel's allegation, but all of these offers have been ignored by the majority because the majority doesn't want to hear their answers. They just want to continue to try to make their points.

Yesterday, StemExpress issued a statement that reads "All Americans should be concerned that a congressional panel can use the threat of contempt proceedings" to fit a narrative while ignoring the facts. I think this pretty much says it all.

Now, it would be outrageous enough if it were limited just to this one step, but this panel has also been harassing witnesses. Just this week again the majority publicly disclosed the name of the doctor who is engaged in fetal tissue research. Now, this has been leaked again and again despite the fact in the deposition, which I attended, this very witness said that she has been under death threats. And we all know what happens when Members of Congress use phrases loosely. We saw it happen at the Planned Parenthood clinic in Colorado Springs in my own State.

So by throwing all of these names around, by making all of this public, it doesn't have any intention of getting to the bottom of things. It has an intention of threatening witnesses, creating problems, and shutting down these companies.

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And, Madam Chair, I would ask unanimous consent to enter into the record the emails regarding the efforts of StemExpress to comply with the subpoenas of this committee.

Mrs. Blackburn. So ordered.

[The information follows:]

*****COMMITTEE INSERT 3*****

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Mrs. Blackburn. The gentlelady's time has expired.

Mr. Duffy, you are recognized for 3 minutes.

Mr. Duffy. Thank you, Madam Chair, and I want to thank you for all of your hard work on this panel.

I would just note listening to the opening statements from my friends across the aisle, I have heard them talk about a waste of time, but I can't help but think to the start of this hearing, as they were making different points of order and making motions to adjourn truly wasting our time.

This committee 9 months ago sent out a request for documents to StemExpress. And they failed to comply completely with that subpoena. Now, we have sent other subpoenas to tissue procurement businesses and they have complied. They had no problem sharing their information with this committee. But StemExpress, however, failed to fully comply.

And we are not talking about really sensitive information. We are talking about their banking records, their accounting records. That is what we have asked for. What is in the banking and accounting records that is so secretive that they won't comply with a congressional lawful subpoena? That is the question that we have to ask ourselves. What don't they want us to know?

My friends across the aisle are talking about this hearing stopping Zika, stopping research? Not at all. This is an investigation that we are authorized to do and we have asked for

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documentation and it has not been complied with. I would say to StemExpress, listen, let's get on with the investigation. Provide the information.

But what concerns me is that at every turn my friends across the aisle will drag their feet, they will complain. I would just ask let's all cooperate together. There is a level of cooperation if we get the documents, you join us in those requests, we examine them and make a determination after that examination. But we can't move forward until we have compliance from those whom which we sent subpoenas.

And I just want to make one other note. They might have sent us 1,700 documents. It is about sending us the documents that we asked for. We know another story in the news of someone who supposedly sends us a lot of documents but not all the documents. What is important we get what we ask for, not what you want to give us.

With that, again, Madam Chair, I thank you for this hearing and I yield back.

Mrs. Blackburn. The gentleman yields back.

Ms. Speier, you are recognized for 3 minutes.

Ms. Speier. Thank you, Madam Chair.

For almost a year now this so-called Select Panel to Protect Infant Lives has spread its reign of terror to include research institutions and health care providers across America. Instead

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of taking action to actually protect babies by preventing the spread of Zika virus and funding vaccine development without forcing NIH to pilfer \$7 million from its cancer research funds and more than \$4 million from its heart disease research funds, this panel has conducted an unfair and reprehensible smear campaign with the intent of forcing researchers and companies out of the business of advancing medical science and saving lives.

I take exception with Mr. Duffy's comments. In fact, microencephaly was linked to Zika by a UCSF professor who used fetal tissue. One researcher from the University of California San Francisco who is studying how Zika is transmitted from mother to baby through the placenta said that "Fewer people are willing to donate fetal tissue and it is slowing us down." The University of California Los Angeles has also reported similar chilling effects on lifesaving research.

If there ever was a question as to whether or not this panel was politically motivated and without a scintilla of commitment to engage in a thoughtful, balanced investigation, let me read you this email sent by the majority staff to the counsel of StemExpress' accountant. "This subpoena was issued by the chair" -- meaning by the majority. "The minority is free to issue their own demand letters, and we do not include the minority staff on discussions related to subpoenas issued by the majority. If the majority is on the phone call, we will terminate it and call you

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back." That is a process of Democrats and Republicans working together to get to the truth? What a joke.

I don't have enough time to thoroughly catalog the abuses of power made by this kangaroo court, but needless to say, it has made a mockery of the proceedings of the House and has sorely abused the power and stature of this body. To now bring contempt charges against a company that has provided 1,700 pages of documents and numerous offers to make employees available for questions and to which the majority has not communicated with this company since May, so over 4 months, no communication, and now they are getting slapped with a contempt charge.

This Select Panel is an affront to our Constitution and all of its principles. The activities of this committee have sullied the reputation of the House of Representatives, and I believe it should be shut down. I yield back.

Mrs. Blackburn. The gentlelady yields back.

Mrs. Hartzler, you are recognized for 3 minutes.

Mrs. Hartzler. Thank you, Madam Chairman.

First, I just wanted to remind everyone that the Republicans here in the House have passed \$1.1 billion of funding for the Zika research and eradication and it is the Democrats that have blocked it three times. So let's not confuse why we are here and with other extra issues that we all care about.

And we certainly care about finding cures, and I would hope

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that we would oppose it being done through the harvesting and trafficking of baby body parts. And that was the original concern here. So I think it is certainly a worthy mission that we have to find out if the law was broken and if profits are being made from this or not.

And so, you know, we just are here and the American people deserve some facts. And I will share some of them. In the course of this investigation the committee has requested certain information and documents from StemExpress. StemExpress refused to submit the requested information or only gave partial or summarized records.

So we issued a subpoena for the entirety of the information needed for and within the scope of this investigation. The committee even made assurances offering to mask the identity of certain people mentioned in documents in order to protect their privacy, for example, to address the concerns mentioned by StemExpress for not submitting the requested information. Still, they refused. So here we are today, almost a year after the initial request, holding contempt proceedings. Those are the facts.

We are here to determine whether or not StemExpress and Ms. Dyer are in contempt of Congress for not submitting the requested documents and information. The American people, through their elected representatives, formed this panel to find out if anyone

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illegally profited from the sale of baby body parts. The accounting records and information requested are vital to finding a truthful and complete answer to that question. The American people deserve that answer from this panel.

So to reiterate what the chairwoman said in her opening statement, these are not suggestions. They are lawful orders, and noncompliance comes with a penalty.

So thank you and I yield back.

Mrs. Blackburn. The gentlelady yields back.

Mrs. Watson Coleman, you are recognized for 3 minutes for your opening.

Mrs. Watson Coleman. Thank you, Chairman.

Over and over again we have seen Republicans try to legitimize their attacks on women's health care, and this investigative panel is no different. This panel was borne out of the falsehood and corrupt videos created against Planned Parenthood. Since then, Republicans have used this so-called investigation to target organizations and single out researchers, doctors, and even students by name because of the lifesaving and completely illegal work they are doing to cure diseases.

Despite no evidence of wrongdoing, the chair continues to pursue baseless, inflammatory allegations and abuse her congressional authority. The chair has issued 36 unilateral subpoenas in violation of the rules of the Energy and Commerce

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Committee. She has denied Democrats access to the panel's records and files. She has violated House deposition rules designed to protect witnesses and ensure that they are treated fairly and professionally. She has publicly released the names of innocent individuals whose lives are being threatened and harassed. The only legitimate thing about the panel is the danger it presents.

We all remember the horrific act of the domestic terrorism that left three dead at a Colorado Springs Planned Parenthood facility last November. Instead of working to ensure that horrific acts of violence like that would never happen again, Republicans are making them likelier by collecting and disseminating sensitive personal information.

The actions of the majority have been abusive and dangerous. We need to call it for what it is, the new era of McCarthyism that serves to incite antiabortion extremism. The chair and the Select Panel have no authority to report contempt to the House or the Speaker. This illegal meeting is a political sideshow intended to further punish and harass a company because these Republicans oppose abortion and the lifesaving research that StemExpress facilitates.

Not only are Republicans putting lives at risk, they are also risking solutions to some of the most devastating diseases of our time. We have learned about the chilling effects on promising

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research that could unlock lifesaving treatments and cures. During our first hearing, a scientist conducting research on a promising therapy for multiple sclerosis testified to see their supply of fetal tissue dry up. A lab at a prominent university has reduced its effort on studies that require fetal tissue despite the critical nature of the research due to concerns about personal safety. A stem cell biologist has reported a delay in her research on how the Zika virus is transmitted from mother to baby because fewer people are willing to donate tissue.

The list goes on and on about medical studies that have been delayed or canceled because researchers are facing increased obstacles to acquiring fetal tissue samples. We must stop this. It is time for all of us to say no more to the continuous attack on our women's health care and against lifesaving research.

And for the record, Democrats very much support Zika funding. We just don't believe that this bill should be at the expense of access to health care for women or anybody.

With that, I yield back. Thank you, Chairman.

Mrs. Blackburn. The gentlelady yields back.

At this time, Mrs. Love, you are recognized for 3 minutes.

Mrs. Love. Thank you, Madam Chairwoman.

As Members of Congress, we have been asked to do a job. The Select Panel on Infant Lives was created to investigate the industry of fetal tissue procurement, an industry that very few

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people know about. Our fact-finding mission has been informative, and most parties have been compliant with the panel's requests. The information that we have found has been very useful in our role in congressional oversight.

And our interim report showed that even though our investigation has been useful, there is still much that we do not know. For instance, some of the panel's work has been delayed because StemExpress has not been willing to comply with congressional requests and subpoenas. Imagine what kind of precedent we are setting if people are not listening or paying attention to subpoenas. I mean, the American people have the right to know what is going on in this industry, and that is what we are trying to do.

The requests and actions by the panel are not out of the ordinary. The other businesses and institutions like StemExpress have fully complied with the Select Panel's requests for information. Why not StemExpress? If the business practices of StemExpress and all companies involved in this industry are not performing illegal activity, then they should be willing to work with the panel to help us understand this industry. This is not just about us. It is about the American people understanding the industry.

For these reasons, the Select Panel is meeting here today to further the investigation for the American people and find out

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the facts of this industry.

I yield back.

Mrs. Blackburn. The gentlelady yields back.

Mr. Nadler, you are recognized for 3 minutes for an opening.

Mr. Nadler. Thank you, Madam Chair.

I wish I could say I am shocked to find myself here today voting on a report on contempt against StemExpress, but today's meeting is just another step in a long, corrupt process. This effort is in clear violation of House rules.

The company against whom the chair is attempting to bring criminal contempt charges has made a good-faith effort to comply with the demands of the Republicans on this panel even as those demands change from day to day. The company has made reasonable and clearly necessary requests for some consideration to be made for the safety and security of its employees and the clinics, scientists, and other companies with whom it works. The Republicans refuse to acknowledge these requests.

StemExpress has offered up witnesses and dates those witnesses would be available to provide explanations and testimony about precisely how their business operates. The Republicans ignored those offers. Most importantly, StemExpress has produced reams of documents, over 1,700 pages in response to each of the panel's requests. The Republicans always demanded more documents, more names, more information. Somehow, it has

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never been enough.

But this panel has never been about pursuing the truth. Rather, this witch-hunt is designed to end fetal tissue research. It is designed to force these companies into bankruptcy. This corrupt process has always been about cutting off fetal tissue donation without the chair ever having to issue a report or release any factual findings of illegal activity by StemExpress, Planned Parenthood, or any of the multiple other organizations, individuals the chair and the Republicans have shamefully named in the press despite repeated requests to protect their safety. This is not a legitimate attempt to gather relevant information.

Mrs. Hartzler said "We should determine if the law is being broken and if profits are being made. The American people, through their elected representatives, formed this panel to find out if anyone is profiting from sale of baby body parts." No. If there is evidence that StemExpress or anyone else is violating the law by selling fetal tissue at a profit, that evidence should be referred to the U.S. attorney. It is not the province of Congress and this committee to look at evidence of somebody's breaking the law simply for that purpose.

The Supreme Court has been very clear. "Nor is the Congress a law enforcement or trial agency. These are functions of the executive and judicial departments of government. No inquiry is an end in itself; it must be related to and in furtherance of a

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legitimate task of the Congress. Investigations conducted solely for the personal aggrandizement of the investigators or to punish those investigated are indefensible."

Instead, this handful of Republicans will grossly abuse the power of Congress to intimidate, harass, and ultimately push private businesses out of perfectly legal business activities or even into bankruptcy. Without a single vote, they will cut off access to fetal tissue and thereby end the vital research on which it depends in a time when public health officials continue to struggle against the Zika virus and scientists getting closer to unlocking the mysteries of Alzheimer's and Parkinson's disease.

It is shameful and underhanded. It is dishonest, dishonorable, and contemptible. This corrupt process and clear lack of regard for the rules of the House, not to mention lack of regard for the personal safety of providers, students, scientists, patients, and employees has brought us here and has brought discredit upon the House. I urge my colleagues to stop this witch-hunt, follow the rules of the House, stop this contemptible conduct. Do your jobs.

I yield back.

Mrs. Blackburn. The gentleman's time has expired.

If there are no further opening statements, the chair recognizes herself for the purpose of calling up the report --

Ms. DeGette. Madam Chair?

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Mrs. Blackburn. -- of the Select Investigative -- for what purpose does the gentlelady seek recognition?

Ms. DeGette. Madam Chair, I have a point of order regarding the resolution.

Mrs. Blackburn. State your point of order.

Ms. DeGette. Madam Chair, the Energy and Commerce rule 2(e) states that "No bill, recommendation, or other matter shall be considered by the committee unless the text of the matter has been available to all members for 3 days." And it is the practice, as you know, Madam Chairman, to post the resolution online for 3 days.

In your opening statement you said that we would be marking up a resolution today, but we have never received text of a proposed resolution. And so we don't, frankly, Madam Chair, know what we are going to be marking up today and we have not received the requisite notice.

Mrs. Blackburn. The --

Ms. DeGette. I am wondering, Madam Chair, what you are planning to mark up today.

Mrs. Blackburn. We are marking up the report. The text was posted on Monday --

Ms. DeGette. Well, that is --

Mrs. Blackburn. -- and that is what we are marking up today.

Ms. DeGette. Madam Chair, is this the document -- it is a

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20-page document, pages 1 through 20 that says "resolution recommending that the House of Representatives finds StemExpress," et cetera? Is that it?

Mrs. Blackburn. That is the document that we are marking --

Ms. DeGette. You are planning to mark up that document, Madam Chair?

Mrs. Blackburn. Yes.

Ms. DeGette. Okay. So --

Mrs. Blackburn. We are marking up that resolution.

Ms. DeGette. -- my point of order, Madam Chair, is that this I not actually under the rules of the House or the rules of the Energy and Commerce Committee something that can be marked up. We thought maybe you were going to have a different type of resolution that we could actually mark up today. We sought assistance from House legislative counsel to draft amendments to the language in this report, and they informed us that because of the form of it, which is a 20-page -- it looks like a committee report, that it is not amendable text.

And since it is outside the purview of this committee to be issuing contempt citations, we would need to have some kind of amendable text to be under the rules of the House and the rules of the Energy and Commerce Committee. And therefore, I raise a point of order against proceeding on a vote on a resolution until

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we actually have amendable text and until we have had notice of the language for 3 days in advance of a vote on that text.

Mrs. Blackburn. The text was posted on Monday. You have had Monday, you have had Tuesday --

Ms. DeGette. It is not amendable text, though, Madam Chair.

Mrs. Blackburn. -- you have had Wednesday. You can offer amendments to the body of the report. And at this time we are on the --

Mr. Nadler. Point of order, Madam Chairperson.

Mrs. Blackburn. State your point of order.

Mr. Nadler. My point of order is that House legislative counsel has advised us that this is not amendable text. We cannot offer amendments to it. It does not meet the requirements of the rules of the Commerce Committee or the House. And therefore, it is not in order to proceed on a markup of something that cannot be marked up.

Mrs. Blackburn. We are within the rules of the Energy and Commerce Committee and the rules of the House, and the text was posted on --

Mr. Nadler. Could you explain how you can be in the rules if we don't have amendable markup text in front of us?

Mrs. Blackburn. Legislative counsel would advise you on providing amendments. We are within the rules of the Energy and Commerce Committee and the rules of the House, and we are at this

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point --

Ms. DeGette. Madam Chair, I appeal the ruling.

Mrs. Blackburn. -- on the ruling of the chair.

Mr. Pitts, you are recognized.

Mr. Pitts. Madam Chair, I move to table the appeal.

Ms. DeGette. Madam Chair, I ask for a recorded vote.

Mrs. Blackburn. The gentleman has moved to table the motion. We will have a vote on tabling the motion.

The Clerk. Mr. Pitts?

Mr. Pitts. Yes.

The Clerk. Mr. Pitts votes aye.

Mrs. Black?

Mrs. Black. Aye.

The Clerk. Mrs. Black votes aye.

Mr. Bucshon?

Mr. Bucshon. Aye.

The Clerk. Mr. Bucshon votes aye.

Mr. Duffy?

Mr. Duffy. Aye.

The Clerk. Mr. Duffy votes aye.

Mr. Harris?

Mr. Harris. Aye.

The Clerk. Mr. Harris votes aye.

Mrs. Hartzler?

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Mrs. Hartzler. Aye.

The Clerk. Mrs. Hartzler votes aye.

Mrs. Love?

Mrs. Love. Aye.

The Clerk. Mrs. Love votes aye.

Ms. Schakowsky?

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Nadler?

Mr. Nadler. No.

The Clerk. Mr. Nadler votes no.

Ms. DeGette?

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Ms. Speier?

Ms. Speier. No.

The Clerk. Ms. Speier votes no.

Ms. DelBene?

[No response.]

The Clerk. Mrs. Watson Coleman?

Mrs. Watson Coleman. No.

The Clerk. Mrs. Watson Coleman votes no.

Chairman Blackburn?

Mrs. Blackburn. Aye.

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The Clerk. Chairman Blackburn votes aye.

Mrs. Blackburn. The clerk will report the total.

The Clerk. Chairman Blackburn, on that vote there were 8 ayes and 5 noes.

Mrs. Blackburn. The motion is tabled. At this point --

Mr. Nadler. Madam Chairperson? Madam Chairperson?

Mrs. Blackburn. At this point I call up the report.

Mr. Nadler. Madam Chairperson?

Mrs. Blackburn. At this point I call up the report.

Mr. Nadler. I demand recognition, Madam Chairperson. I am entitled to it under the rules.

The Clerk. Resolution recommending that the House of Representatives --

Mrs. Blackburn. You are not recognized at this point.

The Clerk. -- find StemExpress, LLC, and Catherine Spears Dyer --

Mr. Nadler. Madam Chairperson, I move to adjourn. It is not debatable and it is in the order. It is privileged.

The Clerk. -- founder and chief executive officer of StemExpress, LLC --

Mr. Nadler. Madam Chairperson, he has no right to read that.

The Clerk. -- in contempt of --

Mr. Nadler. A motion to adjourn is privileged and cannot be delayed.

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The Clerk. -- Congress for refusal to comply and is duly issued by the Select Investigative Panel of the Committee on Energy and Commerce.

Mrs. Blackburn. The gentleman will suspend. The question is on the motion to adjourn. The clerk will call the roll.

The Clerk. Mr. Pitts?

Mr. Pitts. No.

The Clerk. Mr. Pitts votes no.

Mrs. Black?

[No response.]

The Clerk. Mr. Bucshon?

Mr. Bucshon. No.

The Clerk. Mr. Bucshon votes no.

Mr. Duffy?

Mr. Duffy. No.

The Clerk. Mr. Duffy votes no.

Mr. Harris?

Mr. Harris. No.

The Clerk. Mr. Harris votes no.

Mrs. Hartzler?

Mrs. Hartzler. No.

The Clerk. Mrs. Hartzler votes no.

Mrs. Love?

Mrs. Love. No.

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The Clerk. Mrs. Love votes no.

Ms. Schakowsky?

Ms. Schakowsky. Yes.

The Clerk. Ms. Schakowsky votes aye.

Mr. Nadler?

Mr. Nadler. Aye.

The Clerk. Mr. Nadler votes aye.

Ms. DeGette?

Ms. DeGette. Aye.

The Clerk. Ms. DeGette votes aye.

Ms. Speier?

Ms. Speier. Aye.

The Clerk. Ms. Speier votes aye.

Ms. DelBene?

[No response.]

The Clerk. Mrs. Watson Coleman?

Mrs. Watson Coleman. Yes.

The Clerk. Mrs. Watson Coleman votes aye.

Chairman Blackburn?

Mrs. Blackburn. No.

The Clerk. Chairman Blackburn votes no.

Chairman Blackburn, on that vote there were 5 ayes and 7 noes.

Mrs. Blackburn. The motion is not agreed to. The clerk will continue to report the title of the report.

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Ms. Schakowsky. Madam Chair, let me have the record reflect that the Democrats are refusing to participate in this illegitimate and unsanctioned effort to seek criminal contempt. We refuse to sanction or endorse this exercise by continuing to participate.

Mrs. Blackburn. The lady's actions are noted. At this point, the clerk will continue to report.

The Clerk. Resolution recommending that the House of Representatives find StemExpress, LLC, and Catherine Spears Dyer, founder and chief executive officer of StemExpress, LLC, in contempt of Congress for refusal to comply with subpoenas duly issued by the Select Investigative Panel on the Committee on Energy and Commerce.

[The Resolution follows:]

*****INSERT 4*****

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Mrs. Blackburn. Is there discussion of the report?

Quorum call. We will ask the clerk to call the roll.

The Clerk. Mr. Pitts?

Mr. Pitts. Madam Chair, I move to strike the last words.

Mrs. Blackburn. Just one moment, Mr. Pitts. We are doing a quorum call.

Mr. Pitts. Present. Present.

The Clerk. Mr. Pitts is present.

Mrs. Black?

[No response.]

The Clerk. Mr. Bucshon?

Mr. Bucshon. Present.

The Clerk. Mr. Bucshon is present.

Mr. Duffy?

Mr. Duffy. Present.

The Clerk. Mr. Duffy is present.

Mr. Harris?

Mr. Harris. Present.

The Clerk. Mr. Harris is present.

Mrs. Hartzler?

Mrs. Hartzler. Present.

The Clerk. Mrs. Hartzler is present.

Mrs. Love?

Mrs. Love. Present.

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The Clerk. Mrs. Love is present.

Ms. Schakowsky?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Ms. DeGette?

[No response.]

The Clerk. Ms. Speier?

[No response.]

The Clerk. Ms. DelBene?

[No response.]

The Clerk. Mrs. Watson Coleman?

[No response.]

The Clerk. Chairman Blackburn?

Mrs. Blackburn. Present.

The Clerk. Chairman Blackburn is present.

Mrs. Blackburn. Mr. Pitts, you are recognized for 5 minutes for --

Mr. Pitts. Madam Chairman, I move to strike the last word so that we can discuss the report.

Mrs. Blackburn. Mr. Chairman, Mr. Pitts, you are recognized for 5 minutes for the purpose of discussion on the report.

Mr. Pitts. Thank you, Madam Chair. I rise to speak in support of the report. I find it very credible and note that a

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number of key actions have been taken since we began. And the need to continue this investigation with information that has not been supplied by StemExpress and therefore, Madam Speaker, I speak in favor of this resolution, this effort of contempt to force the information to be submitted so that the committee can complete its work.

I yield back.

Mrs. Blackburn. The gentleman yields back.

Are there others moving to strike the last word?

At this point we are going to do a quorum call again to establish majority. The clerk will call.

The Clerk. Mr. Pitts?

Mr. Pitts. Present.

The Clerk. Mr. Pitts is present.

Mrs. Black?

Mrs. Black. Present.

The Clerk. Mrs. Black is present.

Mr. Bucshon?

Mr. Bucshon. Present.

The Clerk. Mr. Bucshon is present.

Mr. Duffy?

Mr. Duffy. Present.

The Clerk. Mr. Duffy is present.

Mr. Harris?

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Mr. Harris. Present.

The Clerk. Mr. Harris is present.

Mrs. Hartzler?

Mrs. Hartzler. Present.

The Clerk. Mrs. Hartzler is present.

Mrs. Love?

Mrs. Love. Present.

The Clerk. Mrs. Love is present.

Ms. Schakowsky?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Ms. DeGette?

[No response.]

The Clerk. Ms. Speier?

[No response.]

The Clerk. Ms. DelBene?

[No response.]

The Clerk. Mrs. Watson Coleman?

[No response.]

The Clerk. Chairman Blackburn?

Mrs. Blackburn. Present.

The Clerk. Chairman Blackburn is present.

Mrs. Blackburn. There is no further discussion. The vote

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occurs on the report.

All those in favor shall signify by saying aye.

Those opposed say no.

The clerk will call the roll.

The Clerk. Mr. Pitts?

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Black?

Mrs. Black. Aye.

The Clerk. Mrs. Black votes aye.

Mr. Bucshon?

Mr. Bucshon. Aye.

The Clerk. Mr. Bucshon votes aye.

Mr. Duffy?

Mr. Duffy. Aye.

The Clerk. Mr. Duffy votes aye.

Mr. Harris?

Mr. Harris. Aye.

The Clerk. Mr. Harris votes aye.

Mrs. Hartzler?

Mrs. Hartzler. Aye.

The Clerk. Mrs. Hartzler votes aye.

Mrs. Love?

Mrs. Love. Aye.

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The Clerk. Mrs. Love votes aye.

Ms. Schakowsky?

[No response.]

The Clerk. Mr. Nadler?

[No response.]

The Clerk. Ms. DeGette?

[No response.]

The Clerk. Ms. Speier?

[No response.]

The Clerk. Ms. DelBene?

[No response.]

The Clerk. Mrs. Watson Coleman?

[No response.]

The Clerk. Chairman Blackburn?

Mrs. Blackburn. Aye.

The Clerk. Chairman Blackburn votes aye.

Mrs. Blackburn. The clerk will report.

The Clerk. Chairman Blackburn, on that vote there were 8 ayes, 0 noes.

Mrs. Blackburn. Eight ayes, zero noes, the report is agreed to. A quorum being present, without objection, the business meeting of the Select Investigative Panel is adjourned.

[Whereupon, at 4:01 p.m., the Panel was adjourned.]