MAXINE WATERS, CA
CHAIRWOMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

PATRICK MCHENRY, NC
RANKING MEMBER

February 24, 2020

Memorandum

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Subject: February 27, 2020, Full Committee Markup

The Committee on Financial Services will meet to mark up the following measures, in an order to be determined by the Chairwoman, at 9:30 a.m. on Thursday, February 27, 2020, and subsequent days if necessary, in room 2128 of the Rayburn House Office Building:

Amendment in the Nature of a Substitute to H.R. 149, Housing Fairness Act of 2020 (Green)

Summary: The Amendment in the Nature of a Substitute (ANS) to H.R. 149 would authorize increased funding for the Department of Housing and Urban Development's (HUD) Fair Housing Initiatives Program (FHIP) and make a number of reforms to FHIP. It would also establish a new competitive matching grant program at HUD to support comprehensive studies of the causes and effects of ongoing discrimination and segregation, and the implementation of pilot projects to test solutions.

Background: The Fair Housing Act of 1968 made discrimination in the housing market illegal based on race, color, sex, religion, national origin, disability, and familial status, and required that HUD enforce the law. Later, Congress went on to authorize HUD's Fair Housing Initiatives Program (FHIP) in 1987 under Section 561 of the Housing and Community Development Act to support the work of private fair housing organizations conducting local fair housing complaint intake, private investigations, and public education and outreach, among other activities.[1]

Since its inception, FHIP has become a central component of the nation's fair housing enforcement infrastructure.[2] FHIP grantee organizations processed over 75 percent of all housing discrimination complaints in 2018—three times the amount of complaints processed by all federal agencies.[3] Yet, FHIP funding levels and the activities allowed under the program constrain enforcement needs in the face of a rapidly evolving U.S. housing market,[4] increased housing

[1] Department of Housing and Urban Development, "Study of the Fair Housing Initiatives Program," 2011.
[2] *Id*.
[3] National Fair Housing Alliance, "Fair Housing Trends Report," 2019.
[4] The Economist, "Technology is poised to upend America's property market." Feb. 15, 2020.

discrimination complaints,[5] and documentation of ongoing industry practices that are in direct violation of federal Fair Housing law.[6]

The ANS to H.R. 149 authorizes a total of $735 million over 11 fiscal years to support the federal government's responsibility to enforce the Fair Housing Act. This includes: FHIP reauthorization of $665 million over 11 fiscal years,[7] authorization of $45 million for new eligible FHIP activities over 11 fiscal years, and authorization of $25 million over five fiscal years for a new competitive matching grant program.[8] These amounts were requested by NFHA and reflect their estimates of the funding levels necessary to support the activities authorized in this bill. The bill makes several reforms to FHIP that include the addition of eligible activities under a new National Testing Initiative that will allow national investigations into housing discrimination that are currently prohibited. The bill also requires HUD to fully comply with and expend all funds made available for education and outreach activities under FHIP, reinstate the 2015 Affirmatively Furthering Fair Housing Rule, and fully comply with all complaint intake, investigation, and response requirements under the Fair Housing Act. Finally, the bill creates a competitive matching grant program at HUD to support comprehensive, publicly available studies of the causes and effects of ongoing housing discrimination and segregation, as well as the implementation of pilot projects to test solutions.

This bill is supported by: the National Fair Housing Alliance, The Leadership Conference on Civil and Human Rights, the Center for Responsible Lending, the National Low Income Housing Coalition, the National Association of Realtors, the Asian Real Estate Association of America, the National Association of Real Estate Brokers, the Appraisal Institute, Americans for Financial Reform, and National CAPACD.

Amendment in the Nature of a Substitute to H.R. 4351, the Yes In My Backyard Act (Heck)

Summary: The ANS to H.R. 4351, the Yes In My Backyard Act would require localities that receive Community Development Block Grant (CDBG) funding to submit a plan to track and report on the implementation of certain land use policies that promote housing production.

Background: According to Up for Growth, the United States has underproduced housing by 7.3 million homes from 2000–2015.[9] Certain local land use policies can act as barriers to producing affordable housing. For example, limitations on high density zoning, limitations on minimum lot-size requirements, and minimum-parking-space requirements. According to a survey by the

[5] *Id*.
[6] Newsday, "Long Island Divided," Nov. 17, 2019.
[7] https://nationalfairhousing.org/wp-content/uploads/2019/12/Fair-Housing-Solutions-Overcoming-Real-Estate-Sales-Discrimination-2.pdf): National Fair Housing Alliance, "Fair Housing Solutions," Dec. 2019.
[8] "These funding levels are based on the National Fair Housing Alliance's review and understanding of its membership, which consists of qualified fair housing enforcement organizations, and its expertise in conducting systemic investigations, creating new fair housing organizations, and with the consideration of scaling up fair housing enforcement and education over the next 11 years in light of the rapidly changing landscape of the housing market, including the growing online housing market footprint."

[9] Up for Growth, "Housing Unproduction in the U.S.", 2019.

National Association of Home Builders (NAHB) and the National Multifamily Housing Council (NMHC), over 30 Percent of the cost of a multifamily development is due to local regulatory constraints that drive up land costs and impede new construction.[10]

The ANS to H.R. 4351 would increase transparency on local land use policies and encourage localities to reduce barriers to housing production by requiring recipients of CDBG funding to track and report on the implementation of certain land use policies that promote housing production, such as: enacting high-density single-family and multifamily zoning, allowing manufactured homes in areas zoned primarily for single-family residential homes, and reducing minimum lot size.

The bill is supported by: the American Planning Association, Congress for New Urbanism, Council for Affordable and Rural Housing, Habitat for Humanity International, Housing Advisory Group, Leading Builders of America, Manufactured Housing Institute, Mortgage Bankers Association, National Apartment Association, National Association of REALTORS, National Leased Housing Association, National Community Stabilization Trust, National Multifamily Housing Council, Prosperity Now, Real Estate Roundtable, Smart Growth America, YIMBY Action, and Up for Growth Action.

Amendment in the Nature of a Substitute to HR 5187, the Housing Is Infrastructure Act (Waters)

Summary: The ANS to H.R. 5187 would authorize $100.6 billion in federal investments for the nation's affordable housing infrastructure, including public housing, supportive housing for seniors and people with disabilities, housing affordable to the lowest-income people, and rural and Native American housing.

Background: According to the National Low Income Housing Coalition, nationwide there is a shortage of more than 7 million rental housing units that are affordable and available to the lowest income families.[11] In fact, no state in America has an adequate supply of affordable housing for the lowest income renters. Further, our limited stock of existing affordable housing is aging and in need of repairs. For example, our public housing stock, which houses 1.9 million Americans, has an estimated capital needs backlog of $70 billion.[12]

The ANS to H.R. 5187 represents substantial new investment into our affordable housing infrastructure in order to address this ongoing affordable housing crisis. As the White House and House and Senate Leadership negotiate on an infrastructure package, this ANS is intended to propose a portion of the funding in that package that would be dedicated to affordable housing infrastructure. Like roads and bridges, affordable housing is a long-term asset that helps communities and families by connecting them to resources and opportunities. Data also shows that investing in housing infrastructure creates jobs and boosts our economy, similar to investments in other infrastructure. For example, according to the National Association of Home Builders,

[10]National Association of Home Builders and National Multifamily Housing Council, "Regulation: Over 30 Percent of the Cost of a Multifamily Development," 2018.
[11] National Low-Income Housing Coalition, "The Gap: A Shortage of Affordable Homes," March 2019.
[12] Public Housing Authority Directors Association, "The Advocate," Spring 2019.

building 100 homes generates 300 jobs, $28 million in wages and business income, and $11 million in taxes and revenue for state, local, and federal governments.[13]

The ANS to H.R. 5187 contains the following investments into our affordable housing infrastructure:

- **$70 billion** to fully address the public housing capital backlog.[14]
- **$1 billion to** fully fund the backlog of capital needs for the Section 515 and 514 rural housing stock;[15]
- **$1 billion** to support mitigation efforts that can protect communities from future disasters and reduce post-disaster federal spending;[16]
- **$5 billion** for the Housing Trust Fund to support the creation of new units of housing that would be affordable to the lowest income households;[17]
- **$100 million** to help low income elderly households in rural areas age in place;
- **$1 billion** for the Native American Housing Block Grant Program to address substandard housing conditions on tribal lands;[18]
- **$10 billion** for a CDBG set-aside to incentivize states and cities to eliminate impact fees and responsibly streamline the process for development of affordable housing;[19]
- **$5 billion** for the HOME Investment Partnership Program to fund affordable housing activities such as building, buying, and rehabilitating affordable homes for low-income people;[20]
- **$2.5 billion** for the Supporting Housing for Elderly (Section 202 Program);[21]
- **$2.5 billion** for Supportive Housing for persons with disabilities (811 Program); and[22]

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[13] National Association of Home Builders, "The Economic Impact of Home Building in a Typical Local Area," April 2015.
[14] Public Housing Authority Directors Association, "The Advocate," Spring 2019.
[15]The National Rural Housing Coalition estimates that it would take $1 billion in Multifamily Housing Preservation & Revitalization (MPR) program funding to fully address the capital backlog for Section 515 and 514 properties, which are USDA-backed affordable multifamily properties.
[16] According to the CBO, every dollar of pre-disaster mitigation spending saves an average of $3.00 in future losses. Since the 2017 hurricane season, Congress has provided more than $25 billion in CDBG-DR funding to help people recover their losses and rebuild after natural disasters.
[17] FSC staff estimate that $5 billion in new funding for the HTF would result in nearly 60,000 new units.
[18] According to a report from the National Congress of American Indians, the Indian Housing Block Grant Program (IHBG) would have received nearly $1 billion if funding had it kept pace with inflation since 1996.
[19] According to the CDBG Coalition, every $1.00 of CDBG funding leverages another $4.09 in public and private funding. The CDBG set-aside funding in the bill includes new incentives that would help reduce the regulatory barriers and cost in producing affordable housing beyond the units that are directly funded by this bill. This responds to research from the National Home Builders Association, regulations account for 30 percent of the cost for the development of multifamily housing.
[20] According to the HOME Coalition, every $1 of HOME leverages $4.38 in additional investments. FSC staff estimate that $5 billion in new HOME funds would produce 136,653 new affordable housing units.
[21] According to a 2019 report from the Harvard Joint Center for Housing Studies, the number of cost-burdened households age 65 and over grew to a new high of nearly 10 million in 2017, an increase of 200,000 households from the year before. About half of these households are severely cost burdened, meaning they are spending more than 50 percent of their income on rent. However, only one in three seniors who are eligible for housing assistance receive it. FSC staff estimate that $2.5 billion in new funds for the Section 202 Program would produce an additional new 54,850 units.
[22] According to the Technical Assistance Collaborative, nearly five million non-elderly adults with significant and long-term disabilities have Supplemental Security Income levels equal to only 20% of AMI and cannot afford housing in the community without federal housing assistance. FSC staff estimate that $2.5 billion in new Section 811 funds would produce 27,000 new units.

- **$2.5 billion** to the Capital Magnet Fund for competitive grants to Community Development Financial Institutions to finance affordable housing and community revitalization efforts.[23]

In addition, this bill requires ten percent of nearly all funding authorized in the bill to be used for environmentally sustainable features such as energy and water efficiency retrofits, including those that reduce utility costs for residents. This bill also promotes diversity and inclusion by requiring that grantees conduct outreach to minority and women owned businesses to inform them of opportunities created through funds provided.

This bill is supported by: the Capital Magnet Fund Coalition, Consortium for Citizens With Disabilities (CCD) Housing Task Force, Corporation for Supportive Housing, Council of Large Public Housing Authorities, Council of State Community Development Agencies, Enterprise Community Partners, Housing Assistance Council, LeadingAge, Local Initiatives Support Corporation, Mayors and CEOs for U.S. Housing Investment, National Alliance on Mental Illness, National Apartment Association, National Association for County Community and Economic Development, National Association of Counties, National Association of Home Builders, National Association of Housing and Redevelopment Officials, National Coalition for Asian Pacific American Community Development, National Community Development Association, National Housing Conference, National Housing Law Project, National Housing Trust, National Low Income Housing Coalition, National Multifamily Housing Council, National Community Reinvestment Coalition, PolicyLink, Public Housing Authorities Directors Association, UnidosUS, and Up for Growth Action.

Amendment in the Nature of a Substitute to H.R. 5929, the Shareholder Political Transparency Act (Foster)

Summary: The ANS to H.R. 5929 requires public companies to submit quarterly reports to both the SEC and investors detailing the amount, date, and nature of the company's expenditures for political activities. If the political expenditure was made in support of (or opposition to) a particular candidate, or was made to a trade association, then the company must disclose the candidate and/or trade association. The bill also requires public companies to disclose in their annual reports any political expenditures over $10,000 in the previous year, as well as the nature and amount of any political expenditures the company plans to make in the upcoming year.

Background: When the Supreme Court decided *Citizens United* in 2010, it held that political spending is protected speech and therefore corporations, unions, and other groups are permitted to make political contributions. Yet, under current law, corporations are not required to disclose their political expenditures to shareholders although it can have significant effects on a company's short and long-term value. This deprives shareholders of the ability to adequately assess if these expenditures truly advance the corporations interests or to adequately assess the risks these political expenditures pose.

[23] According to the Community Development Financial Institution Fund, the Capital Magnet Fund (CMF) generated $20 of additional investment for every $1 of award funding. FSC staff estimate that $2.5 billion in new funding for CMF would produce an additional 449,615 new units. FSC staff estimate that $2.5 billion in new funding for CMF would produce an additional 449,615 new units.

In 2011, a group of legal academics filed a petition for the SEC to require corporations to disclose their political spending activities. The petition received 1.4 million comments, the most in SEC history, but has not been considered by the Commission. However, shareholders continue to introduce individual proposals that would require companies to report their political spending and adopt relevant oversight procedures.

This bill is supported by a range of investors and investor groups, including CalPERS and the Council of Institutional Investors. At the hearing on July 10, 2019, James Andrus, the Investment Manager for Financial Markets and Sustainable Investment at CalPERS said that investors "need to know how [their capital is being used], including if and when political expenditures are made." Degas Wright, the CEO of Decatur Capital Management said that based on his firm's analysis, political contributions are an "active strategy" employed by companies to address political risk, and therefore can provide valuable information to investors.

Amendment in the Nature of a Substitute to H.R. 5930, the Workforce Investment Disclosure Act (Axne)

Summary: The ANS to H.R. 5930 would require the SEC to implement petitioned rulemaking that would require public companies to disclose human capital management policies, practices, and performance.

Background: How a company invests in its workforce can affect the long-term value of the company. For example, if a company consistently fails to train its employees in the latest industry developments or if the company has a high rate of workforce turnover, it may struggle to compete long-term. At a hearing before the House Appropriations Committee in April 2018, SEC Chairman Jay Clayton emphasized the importance of this information to investors and stated that he "would like to see more disclosure from public companies on how they think about human capital."[24]

Since 1998, firms in the European Union have been required to report total human capital investments in relation to salaries, bonuses, and other benefits,[25] but because similar disclosures are not required and are thus only voluntary in the US, only 15% of S&P 500 firms do so.[26] However, according to the Embankment Project for Inclusive Capitalism (EPIC), those U.S. companies that voluntarily disclose this information outperform those that do not and receive better returns on their investment in human capital.[27]

26 institutional investors representing over $3 trillion in assets, including public pension plans, have petitioned the SEC to implement a rulemaking that would require public companies to

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[24] F*Y 2019 Budget-U.S. Securities and Exchange Commission, Hearing Before the H. Comm on Appropriations*, 115th Cong. (2018) (statement of Jay Clayton, Chairman, Securities and Exchange Commission).
[25] *International Accounting Standards Rule 19,* Employee Benefits.
[26] Letter from Dr. Anthony Hesketh, Professor, Lancaster University, to Anne Sheehan, Chairwoman, Investor Advisory Committee, U.S. Securities and Exchange Commission (Mar. 21, 2019), *available at* https://www.sec.gov/comments/265-28/26528-5180428-183533.pdf.
[27] *Id*.

disclose more information about human capital management.[28] The petition also includes many of the recommendations the SEC's Investor Advisory Committee adopted on March 28, 2019.[29]

This ANS to H.R.5930 would require the SEC to implement this petitioned rulemaking.

At a May 2019 hearing before the Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets, a representative from the AFL-CIO testified that the bill's disclosures "would enable investors to make informed investment decisions based on the trends in a company's workforce, and to better assess the competitiveness and productivity of companies."

This bill is supported by Public Citizen, the Council of Institutional Investors, and AFL-CIO.

Amendment in the Nature of a Substitute to H.R. 5931, Improving FHA Support for Small Dollar Mortgages Act of 2020 (Clay-Stivers)

Summary: The ANS to H.R.5931 would require the Federal Housing Administration (FHA) to conduct a review of its policies to identify any barriers to supporting mortgages under $70,000 ("small dollar mortgages") and report to Congress within a year with a plan for removing such barriers.

Background: In a recent report, the Urban Institute found that, despite having similar performance indicators, credit profiles, loan-to-value rations, and lower debt-to-income ratios, the financing options to purchase, renovate, or refinance homes valued at or under $70,000 remain limited compared to mortgages between $70,000 and $150,000.[30] In fact, the report found that small dollar mortgage loan applications in 2017 were denied by lenders at double the rate of denial for large mortgage loans, and that these denial rates were not explained by the creditworthiness of the applicants. The Urban Institute report further revealed that FHA is disproportionately failing to serve this market despite its mission to serve underserved borrowers; specifically, the report found that FHA serves 24 percent of the overall market but only 19 percent of small dollar mortgage market.

Only a quarter of all 640,000 homes that were valued at $70,000 or less and sold in the U.S. in 2015 were financed through a home mortgage while the remainder were largely cash purchases by investors.[31] While cash-rich investors can dominate small-dollar housing inventory in low-cost markets through cash purchases, individual borrowers tend to rely on traditional mortgage products and the lack of access to such products can be a substantial barrier to homeownership. According to the Harvard Joint Center on Housing Studies, households making at least $75,000 annually who

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[28] Petition for Rulemaking from Meredith Miller, Chief Corporate Governance Officer, Human Capital Management Coalition, to William Hinman, Director, Division of Corporate Finance, U.S. Securities and Exchange Commission (Jul. 6, 2017), *available at* https://www.sec.gov/rules/petitions/2017/petn4-711.pdf.

[29] *Recommendation from the Investor-as-Owner Subcommittee on Human Capital Management*, Investor Advisory Committee, U.S. Securities and Exchange Commission (Mar. 19, 2019), *available at* https://www.sec.gov/spotlight/investor-advisory-committee-2012/iac032819-investor-as-owner-subcommittee-recommendation.pdf.

[30] Urban Institute, "Small-Dollar Mortgages: A Loan Performance Analysis," Mar. 2019

[31] *Id*.

historically would have been homeowners, accounted for 75 percent of growth in renter households between 2010 and 2018.[32] Increasing access to small dollar mortgages could be one way to help shift these households back into homeownership.

The ANS for H.R. 5931 would require HUD to review of its policies to identify any barriers to supporting these small dollar mortgages and report to Congress within a year with a plan for removing such barriers to financing for creditworthy borrowers.

This bill is supported by: the Center for Responsible Lending, the National Consumer Law Center (on behalf of its low-income clients), the National Association of Realtors, the Asian Real Estate Association of America, the Community Home Lender Association, the National Association of Real Estate Brokers, the Mortgage Bankers Association, the National Association of Federally-Insured Credit Unions, the Independent Community Bankers of America, the Affordable Homeownership Coalition, and the National Community Reinvestment Coalition.

Amendment in the Nature of a Substitute to H.R. 5932, the Ensuring Chinese Debt Transparency Act (Hill)

Summary: The ANS to H.R. 5932 mandates the Secretary of the Treasury to instruct the United States Executive Director at each international financial institution[33] (IFI) that it is the policy of the United States to use the voice and vote of the United States at the respective institution to seek to secure greater transparency with respect to the terms and conditions of financing provided by the government of the People's Republic of China (PRC or China) to any member state that is a recipient of financing from the respective institution, consistent with the rules and principles of the Paris Club.

The legislation also requires the Secretary of the Treasury to report annually to Congress on the progress made toward advancing this policy goal at the IFIs, including a discussion of financing provided by entities owned or controlled by the PRC to countries that receive financing from the international financial institutions, and any efforts or recommendations by the Secretary of the Treasury to seek greater transparency with respect to the former financing.

The policy and reporting requirements in the legislation would sunset 7 years after the date of the enactment of this Act or 30 days after the date that the Secretary reports to Congress that China is in substantial compliance with the rules and principles of the Paris Club, whichever occurs first.

Background: Debt distress is quickly rising in Africa and elsewhere. The IMF has articulated its concerns about the rising sovereign debt of many developing countries,[34] fueled in part by opaque loans from China's many lending institutions, especially those associated with China's Belt and

[32] Harvard Joint Center for Housing Studies, "America's Rental Housing Report," 2020.
[33] Defined as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation.

[34] "*Macroeconomic Developments and Prospects in Low-Income Developing Countries—2018,*" IMF Policy Paper, March 2018.

Road Initiative.[35] The lack of transparency in China's lending arrangements complicates the IMF's capacity to monitor global financial risks for many emerging markets and developing countries.

Last year, a study by a team of World Bank Group economists found that the risks associated with China's Belt and Road Initiative (BRI) infrastructure projects are exacerbated by the limited transparency and openness of the initiative and the weak economic fundamentals and governance of many of the participating countries. In order to benefit from the ambitious goals of BRI, according to Bank economists, participating countries would need to adopt deep policy reforms, including improvements in data reporting and transparency—especially around debt—implement anti-corruption reforms, such as open government procurement, and adopt measures to mitigate environmental and social risks. The study found that among the 43 corridor economies for which detailed data is available, twelve—most of which already face elevated debt levels—could suffer a further deterioration in their outlook for debt sustainability.[36]

The Center for Global Development has identified eight countries that are at risk of sovereign debt distress in large part because of China's lending to them for BRI projects—Djibouti, Kyrgyzstan, Laos, the Maldives, Mongolia, Montenegro, Pakistan, and Tajikistan.[37]

For decades, IMF programs designed to deal with members' external debt problems have required the rescheduling of debts to foreign official creditors. These rescheduling operations normally are conducted under the auspices of the Paris Club. The Paris Club was established in 1956 in order to effectively coordinate among sovereign creditors on comparable treatment for the official claims on countries in financial distress. China has declined to participate in the Paris Club, nor will it provide the relevant information on its claims to OECD's Development Advisory Committee, the keeper of data on official development aid and assistance.

China has shown little interest in joining established multilateral mechanisms to coordinate forces on bilateral debt practices, let alone write them down if needed as the major advanced economies have done for years.

If there is to be an American-led pushback, it is likely to be most effective if pursued with the support of other countries through the international financial institutions.

Views and Estimates for the Fiscal Year 2021 Budget Resolution

Clause 4(f) of Rule X of the Rules of the House of Representatives and section 301(d) of the Congressional Budget Act of 1974 require each standing committee to submit to the Committee on the Budget their views and estimates on programs within their jurisdiction. These views and estimates are required to include a detailed list of planned legislative initiatives and their financing.

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[35] The Belt and Road Initiative (BRI), announced by President Xi Jinping of China in 2013, is a China-led effort to improve connectivity and regional cooperation on a transcontinental scale through large-scale infrastructure investments of up to US$1 trillion, mainly in Asia, Europe, and Africa.
[36] World Bank. *Belt and Road Economics: Opportunities and Risks of Transport Corridors*. Washington, D.C. June 18, 2019.
[37] "*Examining the Debt Implications of the Belt and Road Initiative from a Policy Perspective,*" by John Hurley, Scott Morris and Gailyn Portelance, March 4, 2018.

The views and estimates are submitted to the Committee on the Budget for its consideration to formulate a budget resolution, which by statute is to be completed by April 15th of each year. Under section 4(f) of Rule X, the views and estimates must be submitted within six weeks of the submission of the President’s budget, or at such time as the Committee on Budget may request. The President’s budget was submitted on February 10, 2020. The committee print circulated with this memo constitutes the Committee’s proposed views and estimates.

Resolution Electing a Minority Member to Subcommittees

Because of Mr. King’s (R-NY) departure from the Committee, a resolution reappointing Republican member to subcommittees will be considered. A revised resolution will be noticed prior to the markup.