

**TESTIMONY BEFORE THE SELECT COMMITTEE ON THE MODERNIZATION OF CONGRESS**

**U.S. HOUSE OF REPRESENTATIVES**

**“THE HOUSE CALENDAR AND SCHEDULE: EVALUATING PRACTICES AND CHALLENGES”**

**OCTOBER 16, 2019**

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Chairman Kilmer, Vice Chairman Graves, and Members of the Select Committee, I testify today as a former congressional leadership staff member with a background in the congressional calendar and weekly legislative schedule. My office was responsible for developing the House calendar of the 112<sup>th</sup> and 113<sup>th</sup> Congresses and many of the scheduling principles that remain in practice today.

In addition to running consulting practice, I serve on the Board of Advisors of the Frank Batten School of Leadership and Public Policy at the University of Virginia in Charlottesville; I am a guest lecturer of the Brookings Institution’s executive education programs; and I am the co-author of *Inside Congress: A Guide for Navigating the Politics of the House and Senate Floors*, published by Brookings Institution Press. In short, I have a strong commitment to and interest in the processes of the House.

While a staff member in Congress, I served as the Director of Floor Operations for former Republican Whips Roy Blunt of Missouri and Eric Cantor of Virginia from 2003-2010. I then became Deputy Chief of Staff to then-Majority Leader Eric Cantor, serving in that role when Republicans regained the House majority in the 2010 congressional elections.

In this last capacity, I was responsible for the management of the House’s legislative agenda and, of note to today’s hearing, developing and overseeing the annual House calendar and weekly floor schedule.

**HOUSE CALENDAR: HISTORICAL CONTEXT**

Prior to the 112<sup>th</sup> Congress (i.e., before 2011), the House operated by what I would describe as a default recess calendar. That is, legislative days in session were dictated by—and scheduled around—a combination of Federal and religious holidays, as well as the month of August:

- Martin Luther King, Jr. Day (extended weekend)
- Washington’s Birthday (one week recess)
- Easter (two week recess)
- Memorial Day (one week recess)
- Independence Day (one week recess)
- August (four-to-five week recess)
- Jewish Holidays of Yom Kippur and Rosh Hashanah
- Columbus Day (extended weekend)
- Thanksgiving (one week recess)

In between those holidays, the House was scheduled for legislative session, generally five days per week, particularly in the period from 1995 through 2010. Unlike today, the calendar did not go beyond September 30 when initially released at the end of the prior year. Instead, the Majority Leader would

indicate a target adjournment of October 1, leaving the remainder of the year unsettled. There was a presumption that each year Congress could finish its legislative business by the end of the fiscal year. Of course, Congress has not completed the appropriations process by the end of the fiscal year for some time and, as such, the target adjournment of October 1 was never met. The Majority Leader would thus release a supplemental calendar, usually in September, (and sometimes more than once during the fall) for the remainder of the year.

### **WEEKLY FLOOR SCHEDULE: HISTORICAL CONTEXT**

During the 1995 through 2010 period, the House was generally scheduled to be in legislative session a full five days per week. Long stretches of session, particularly from the Presidents' Day recess to the Easter recess, produced upwards of seven straight weeks of session, all scheduled for five days.

While the usual 6:30 p.m. first votes were utilized under the old calendar, the remaining days of the week were scheduled differently than today. The legislative day began in the morning, either at 9:00 a.m. or 10:00 a.m., usually producing floor votes before noon. Last votes tended to drag into the evening hours, frequently beyond dinner. Votes, themselves, were not "rolled" as easily as today and vote times were not able to be compressed. For example, two-minute voting did not exist nor did the ability of the Chair to shorten the voting time of a motion to recommit. Unlike today, it was nearly impossible to predict last votes for the day, much less when the next votes were to take place.

### **112TH CONGRESS REFORMS**

When Republicans won the House Majority in November of 2010, we sought to implement a number of institutional reforms—as new majorities often do—including changes to the House calendar and weekly floor schedule.

The calendar and weekly schedule, pre-112<sup>th</sup> Congress, led to a number of poor results in our opinion, which we sought to address. Most notably:

- Unpredictability;
- Overlapping floor and committee schedules;
- Lack of Member comity; and a
- Disconnection with Members' districts.

Unpredictability. The previous calendar and weekly schedule were incredibly volatile. Take, for example, the stretch of session between Presidents' Day and Easter. The Majority Leader, especially during the First Session of a Congress when committees are still constituting themselves in January and February, is unable to fill five full days of legislative session on the House floor for seven straight weeks.

As such, the practice of "giving back days" and even weeks, was regularly utilized. The Majority Leader would announce on a Wednesday, for example, that the House would no longer be in legislative session that Thursday or Friday for lack of legislative floor activity (reducing a five-day week to four or, more commonly, three days, with little to no warning). This led to Members reserving multiple flights on multiple days each week. To make certain their Member made it out of town successfully at the end of each week, schedulers would have to predict when last votes would be taken.

Thus, heading into 2011, we sought to put guardrails on voting times and hold firm to the days outlined in the calendar. We decided on a model of two weeks of legislative session in Washington, followed by

one week for Members to be working in their districts (“two on, one off”). During these two weeks of session, the House rotated between a Monday through Thursday schedule and a Tuesday through Friday schedule. This “staggering” of weeks would either produce a long weekend between the two weeks of session (facilitating more time in the district) or a shortened weekend that then produced a longer district week on either end of the two week stretch. We matched the two weeks in session and one week off with the existing Federal and religious holidays for which Members had come to expect being out of Washington. As this did not always line up perfectly, there were occasions of only one week of session and occasions of three. In all cases, however, we avoided scheduling the House beyond three weeks of session at a time.

Inside of the work week, we sought to provide as much predictability as possible. Floor votes were confined to between the hours of 1:00 p.m. and 7:00 p.m. This protected both the lunch hour and the dinner hour. After being presented with the scheduling problem of open rules on appropriations bills, particularly during consideration of an omnibus in February of 2011, we created an exception for late night voting whenever an appropriations bill was on the floor. Finally, we created a backstop at the end of each week of no votes beyond 3:00 p.m. on “fly away” days. This guaranteed that nearly all Members, regardless of their district, would be able to fly—and arrive home—on the same day as last votes.

But the biggest element of creating predictability came with setting a calendar and living by it. Regardless of the workflow during a given week, we rarely deviated from the released calendar. If scheduled to be in session Monday through Thursday, we were in session Monday through Thursday, even if there was not enough available legislation to fill the House floor schedule. Our theory was that there was still plenty to keep Members busy in committees to justify sticking to the calendar and remaining in Washington. Moreover, it took the notion of “giving days back” completely out of the Member lexicon. This, too, extended to the period of the year beyond September 30. Unlike previous Congresses, we calendared the entire year, seeking to create as much predictability for Members in the months of October, November, and December, as we had for the earlier months of the year.

Overlapping Floor and Committee Schedules. When the House begins legislative session at 9:00 a.m. and works until some undefined time in the evening, the opportunity for the interruption of committee schedules is elevated. Interruption of committee work was a constant complaint we heard, especially from the staff. As we consulted with committee staff and incoming chairmen, the concept of bifurcating the day began to popularize itself. During the middle two days of the week, we reserved the morning hours for committee work, not bringing the House into legislative session until noon. That ensured that committees could work uninterrupted for at least the hours of 9:00 a.m. until 1:00 p.m., with first votes guaranteed not to occur before that time. We also encouraged committees to utilize the first day of the week whenever possible. While first votes did not start until 6:30 p.m., committees could—in theory—bring their Members back beforehand for a hearing or markup.

Lack of Member Comity. Though the calendar and schedule is limited in terms of what it can do to solve partisanship, we did believe we could at least decrease volatile and emotional situations on the House floor. We saw two causes. The first were long stretches of legislative session, particularly the Presidents’ Day through Easter work period. Seven weeks in session would often lead to individual Member (and staff) frustration or worse. By breaking the calendar up into two-week legislative stretches, we sought to proactively cool Member and staff tension. Moreover, it provided a regular

week of recess whereby staff could catch up on work and committees could prepare more thoroughly for another stretch of session.

The other area where this was needed—in our opinion—was the daily schedule, most notably late night voting. There were multiple occasions, pre-112<sup>th</sup> Congress, of Member altercations on the House floor, both physical and verbal and often at night. By scheduling daily House votes no later than 7:00 p.m., we avoided a lot of late night activity that had previously been commonplace in the House.

District Disconnect. By only utilizing Federal and religious holidays for recesses, we were promoting a culture whereby Members would use the recesses for family vacation, CODELs, and perfunctory district events (e.g., Fourth of July parades). One complaint we heard from Members was that they were only in their districts during the weekends and could not spend time visiting workplaces during the work week. We wanted to foster an environment in the district where Members had more time to actually work in the district.

By having a recess during a non-holiday period, Members could schedule site visits, meet with employers and employees during the work week, host roundtables, and organize town halls. Constituents and businesses often do not want to give up their weekends to interact with their Member of Congress. Thus, we sought to fit the Members into their constituents' schedules and not the other way around. In short, we wanted to make Members more accessible to their constituents while in the district.

## **RECOMMENDATIONS**

Before I get to a few recommendations for the Select Committee to consider, I would offer a word of caution. I do not believe that the House calendar or weekly schedule is the best tool for altering legislative outcomes. Just like the high school student who will finish his or her homework precisely before it is due, so too will Congress. Both chambers operate on deadlines and are often forced into action because of the threat of a legislative cliff. That will not change with a new calendar or weekly schedule. While there are good reasons to implement a two-year budget cycle, for example, I would not assume that modernizations to the House's calendar can or will change long-held human tendencies.

Instead, I view reforms of the House calendar as a way to improve the health of Member and staff life and thereby the quality of legislation and debate they produce.

The House's current Majority Leader, Steny Hoyer, has kept many of the same reforms and scheduling principles we adopted in the 112<sup>th</sup> Congress. I had the opportunity to work with both the Leader and his staff in the majority and the minority, and I commend them for their commitment to the Members on this issue.

While I do believe there are still areas for improvement in the calendar, it is important for the Select Committee to reflect upon how much improved the calendar and schedule are by viewing the broader historical context.

And finally, whatever recommendations the Select Committee intends to put forward, they should be done so with bipartisan Member buy-in. Leaders Cantor, McCarthy, and now Hoyer have all sought input from various Members and groups when crafting the calendar. It is crucial that the calendar remain institutionally bipartisan and not become a partisan tool.

Five-Day Work Week. Our original concept for the 112<sup>th</sup> Congress House calendar was a one week in session followed by a one week out of session model (“one week on, one week off”). The idea was to force as many five-day work weeks on the House as possible. Given how tall of a task that is, we thought the only way to get Member buy-in would be to then immediately allow a week in the district. For a variety of reasons, this concept did not survive. I do believe, however, that a five-day work week is still more desirable than a four-day work week, particularly for the committees. There is simply too much to do in the committees to limit them to effectively two full days each week (the first and last days scheduled during a week are necessarily truncated to allow for travel time). The key to a five-day week, however, is a) sticking by it, regardless of what’s available to schedule on the House floor; and b) giving Members sufficient time in the district on the back end. Truly, the five-day week on a consistent basis is difficult to achieve, so I caution this recommendation as it would necessitate widescale Member buy-in.

Bipartisan Legislation. It is impossible to solve partisanship via the congressional calendar or weekly schedule, but small improvements can be made. One reform we wanted to achieve but regrettably did not, was the scheduling of minority bills under a rule. Currently, the only outlet for minority legislation is the suspension calendar, or parliamentary devices like the motion to recommit. Rightly so, the House is a majority-ruled body and the calendar must remain consistent with the Constitution. The Select Committee could recommend a calendaring accommodation be made within House Rules to allow for certain days to consider substantive minority legislation. Of course, there are few substantive bills authored by the minority that the majority party will agree with. But, they do exist. Again, a word of caution: Do not place overly burdensome demands, like quotas or specific days, on the role of the Majority Leader. The position juggles endless Member requests. Rather, seek to encourage another tool for filling gaps in the weekly schedule.

Member and Committee Days. Filling the daily schedule of the House can be difficult, especially early in a session. Suspensions are often stretched between days to help ensure that the House sticks to the calendar. The Select Committee could consider ways to both help the Majority Leader in that regard and promote committee work, individual Members, and bipartisanship by allowing Member Days, Committee Days, or bipartisan conferences on the House floor. Certain guiderails should be created so that partisanship or individual Members don’t dominate the debate (as special orders and one minutes often fall prey to).

Calendar Input. Members would be impressed to know just how much historical and institutional knowledge goes into developing the House calendar and weekly schedule. The Majority Leader’s floor staff is aware of nearly every significant event occurring inside and outside of Washington and it takes a Herculean effort to balance it all. As well-developed as that knowledge is, however, things can be missed. I paid my own heavy price for not accommodating the congressional spouse luncheon one year. Many staff and outside entities know whom to reach out to in order to protect or facilitate events (consider: National Prayer Breakfast, Selma March, etc.). But many do not. The Select Committee could consider instituting a formal advising channel for the Majority Leader, whether it’s an internal platform that congressional staff have access to or a House entity that outside groups can contact and then funnels the information to the Majority Leader. Again, the Leader has traditionally been quite good about active outreach, but making this process more accessible to a wider group has some merit (while still protecting the institutional prerogatives of the Majority Leader).

Committee Overlap. One problem area of the weekly schedule we were not able to address during the transition to the 112<sup>th</sup> Congress was overlapping committee schedules. A number of Member ideas exist in this area and I would encourage the Select Committee to solicit and consider them. While the schedule of an “A” committee is relatively easy to manage for a Member office, the schedule for a Member who sits on two or three committees is nearly impossible to manage. Reform needs to be made in that area for the sake of non-A committees and the work product for which they are responsible. Without some effort there, the gap in relevance (and jurisdiction) between A committees and all others will continue to widen.

## **CONCLUSION**

In conclusion, I commend Speaker Pelosi for the formation of the Select Committee and the bipartisan Members who recommended it to her. The work of modernizing Congress is necessary on a periodic basis, perhaps once a decade, and institutionalizing this work sends a strong message.

I also want to thank Majority Leader Hoyer and Minority Leader McCarthy for the job they do—and have done—to make the House a more efficient and predictable legislative body. Leader Hoyer could have discarded the changes made during the 112<sup>th</sup> Congress at the outset of this new Democratic majority, but instead his staff held fast to the idea of a predictable calendar and weekly floor schedule.

Finally, I thank Chairman Kilmer and Vice Chairman Graves for the invitation to address the Select Committee. I have been—and remain—passionate about the processes of the House and I appreciate the opportunity to help inform your work in whatever small way I can. I look forward to answering your questions. Thank you.