

Congressman David Price

Testimony regarding proposed changes to House Rule XXI

April 14, 2016

Good afternoon Chairman Sessions, Chairman Stivers, Ranking Member Slaughter, and other Members of the Committee. Thank you for inviting me to testify this morning in opposition to the proposals to change House Rule XXI offered by Mr. McClintock and Mr. Griffith. While I am here primarily as a representative of the House Appropriations Committee minority, it is fair to say that the concerns I will raise are shared by many appropriators in both parties.

I want to begin, however, by acknowledging something on which I think we can all agree: in recent years, the congressional budget and appropriations process has broken down to the point of dysfunction. Budget resolutions are adopted late or not at all; appropriations bills are stitched together into omnibuses, usually after a series of continuing resolutions, necessary to avoid a government shutdown; and, as the authors of these proposals highlight, far too many federal agencies and programs languish without proper congressional authorization.

In this context, it is understandable that that the idea of radical reforms to the House Appropriations process would hold some appeal for Members in search of solutions to our current woes. But this is truly a case in which the proposed remedy would be worse than the disease.

The rule changes before us today would weaken Congress's power of the purse by undermining its authority to enact mandatory spending and while prohibiting appropriations for unauthorized programs.

They would further politicize and immobilize the once-bipartisan appropriations process by opening the floodgates to mandatory spending changes in the annual appropriations process.

And to top it off, they would punish federal employees for carrying out directives under the law.

In short, the changes would only exacerbate our current dysfunction, not relieve it.

The set of rules comprising House Rule XXI predates the states of Florida, California, and Texas joining the Union. They've survived the Civil War, the abolition of slavery, two world wars, the new deal, and the great society. They most certainly predate the current dysfunction in Congress, which is presumably the problem the proposals before us attempts to address.

Of course, long-standing rules do not automatically have merit. However, in this case, time has proven the 25th Congress correct in adopting rule XXI to “prevent delay of appropriation bills because of contention over propositions of legislation.”

Nothing in rule XXI has prevented us from enacting balanced budgets over the past 179 years. Instead, such failure is has resulted from an unwillingness to compromise on revenues and expenditures. Many of us in the room today were here for the multi-year budget agreements in 1990, 1993, and 1997, which, coupled with a growing economy, produced several years of balanced budgets and allowed us to pay down more than \$400 billion of the national debt.

I would contend the consequences of the George W. Bush Administration's fiscal policies—which plunged us back into deficit financing through trillions of dollars in lost tax revenue, two unpaid-for wars, and a necessary but expensive countercyclical response to the Great Recession, have contributed to the past five

years of extremely partisan and largely dysfunctional congressional budgetary process. The members offering the proposals before us today are attempting to scapegoat House Rule XXI for the problems of partisan dysfunction, driven largely by right-wing budgetary ideology. They are trying to change House Rules in order to enact longtime right-wing priorities that are too politically unpopular to pass through regular order; namely cuts to America's safety net.

I want to focus on the major changes proposed by the McClintock and Griffith amendments to rule XXI. Both would affect the authorizing and appropriations processes in significant ways, to the detriment of both.

As I mentioned earlier, Rule XXI was set up by the 25th Congress to avoid the delay of appropriations because of conflicts and debates inherent to the establishment of new policy unrelated to the annual budget. The proposal before you today offered by Mr. McClintock would, among other changes, enable a point of order against unauthorized appropriations and allow reductions in mandatory spending to be enacted through appropriations bills.

Let me start with the first. Ostensibly, the provision aimed at unauthorized appropriations is put forth as a way to force Congress, under threat of shutdown, to review unauthorized programs. Let me be clear: the solution to the problem of unauthorized appropriations is for the authorizing committees to do their job and reauthorize or eliminate unauthorized programs. To hold annual appropriations legislation - must pass legislation that funds critical authorized and unauthorized government function - hostage to the inaction of the authorizing committees would only serve to create even more brinksmanship and manufactured crisis and allow for the manufacture of regular national crisis.

What are the practical implications of this measure? Proponents of this change cite CBO estimates that in Fiscal Year 2016, Congress appropriated approximately \$310 billion in funding for programs operating under expired authorizations as evidence that rule XXI needs reform. What that number highlights is the breakdown of the authorization process, but it's certainly not an indictment of the appropriations process or evidence that unauthorized programs lack broad, bipartisan or bicameral support.

To eliminate such funding through a point of order on the House floor would force such entities as the National Institutes of Health, National Weather Service, and NASA to shut down immediately, pending action of the authorizing committees. Further, a number of agencies and programs **critical** to our national security would be forced to put up a "closed" sign – namely, the U.S. Coast Guard, Immigration and Customs Enforcement (ICE), the Federal Prison System, the Secret Service, Customs and Border Protection (CBP), along with federal grants to state and local law enforcement agencies. We would also have to close a little known and rarely discussed agency known as the U.S. State Department.

Adopting this proposed rule change would **require** us to shut down each of these core government functions, and the list goes on and on, unless the authorizing committees acted to reauthorize every aspect of these departments or agencies, a process itself fraught with longstanding partisan divisions unrelated to funding, all before the end of the fiscal year - it's a recipe for chaos and a threat to our national security. We regularly pass the defense authorization act *after* the DOD appropriations bill. The proposal before us would jeopardize our national defense by tying critical annual funding to the NDAA process.

Further, if a member wants to eliminate an unauthorized program or department, like the Department of State, for example, they are welcome to introduce an amendment on the House floor doing so and put it to a vote. There is nothing, I repeat nothing, stopping a member from coming to the floor during debate on an Appropriations bill to attempt to strip out funding for a program or agency in that bill.

As a senior appropriator, I am naturally sensitive to major changes in the appropriations process. But the annual work of appropriations serves the entire institution and its place in the constitutional balance of power, regardless of who is President. That is why appropriations has historically been relatively bipartisan, and it is why the Congress's place in the constitutional order is compromised to the extent appropriations is swamped by partisan maneuvers—whether they be poison-pill riders, ideological budget resolutions, or politically divisive cuts to unauthorized programs or entitlements that distract from the work of crafting workable annual funding bills

Now, let me take a moment to address the proposal before us to allow reductions in mandatory spending in appropriations bills. It should be clear to all political observers that conservative Republicans are pushing this proposal as a means of catering to their most right-wing supporters who are unrelenting in their desire to slash entitlements and savage our nation's social safety net. It's not like this effort is rooted in any new ideas: we've seen numerous Ryan Budgets that voucherize Medicare, block-grant Medicaid, and slash nutrition assistance to low-income Americans. And we remember President George W. Bush's efforts to practically privatize Social Security This is just another effort to placate the most conservative elements of the Republican Party.

I want to be clear, there is nothing wrong with scrutinizing our fiscal situation, reviewing spending and tax expenditures, including appropriated and mandatory spending – in fact, it is our basic responsibility. All elements of the federal budget should be considered as part of a comprehensive budget deal – BUT we should **not** simply single out entitlements, much less use them to gum up appropriations bills. Today's effort has more to do with conservative idealogy than any clear-eyed and balanced approach to budgeting.

Again, I'd simply like to make clear that the only thing currently preventing Congress from reducing or increasing mandatory spending is political will. Any one of the authorizing committees that meet down the hall could gavel into session today and report a bill with changes to entitlement programs. The reason they will not is not because of Rule XXI, but because Members of Congress lack the courage to compromise on long-term spending priorities.

This rule change will not solve that problem; it would only raise the stakes of partisan impasse by attaching such debate to legislation needed to prevent a shut down.

Mandatory spending programs such as Social Security, Medicare, Medicaid, veterans' benefits, federal employee retirement and disability, and food and income security programs are a lifeline for millions of American families, many of whom have earned their benefits through years of paying into these programs and through federal service. When Congress originally created these retirement and social safety net programs, it explicitly decided that beneficiaries should **not** be subject to the vagaries of the annual appropriations process.

Further, this provision is biased in favor of *reducing* mandatory, or entitlement spending, allowing only *reductions* in such spending, not increases, to be included

in Appropriations legislation. Why should we tie the hands of future Congresses to increase entitlement spending on behalf of the American people? After all, entitlement programs exist to provide for the most vulnerable members of society – this rule jeopardizes long-term and future assistance for the poor and elderly by favoring cuts over increases and tying long-term and sensitive entitlement funding like Medicare to the annual budgets of agencies like the Departments of Education and Labor.

To put it plainly – if the majority wants to cut entitlements, they should put a bill on the floor and hold a straight up or down vote. Everyone in this room knows such an effort would fail because it would be at odds with the will of the overwhelming majority of the American public. Instead of honoring the public’s preference in a straightforward manner, we are instead, entertaining an effort to end-run the House budget process through a rules gimmick. It’s as if the conservative wing of the majority is admitting they can’t win the debate straight up, so they now want to change the rules of the game. It’s no wonder our politics are filled with cynicism.

Finally, I just want to touch on the provision before us today that would allow appropriators to explicitly reduce or eliminate a number of federal employees or their pay. We already allow for the withholding of funding for specific activity. It’s unnecessary to further savage the federal workforce, which has borne the brunt of sequestration and flat lined budgets. Further, indiscriminately eliminating federal staff would degrade an agency’s ability to function in areas unrelated to the activities subject to Congressional defunding efforts. Maybe degrading federal capacity in areas affected by indiscriminate staff cuts is the ultimate goal of this measure, but a country like ours, that values good governance, should not do so in such an indirect manner.

It's clear the existing congressional budget process has broken down. We've passed ideological and unrealistic budget resolutions that make passing appropriations bills nearly impossible. The proposed changes before us today would fix none of this and will assuredly make it worse. What we must do is muster the political will to make difficult and politically costly decisions, including a comprehensive budget plan that addresses the main drivers of our deficits and debt: tax expenditures and entitlement spending.

I urge my colleagues to reject the proposed changes to Rule XXI and redouble their efforts to address the underlying causes of our long-term fiscal challenges.