

Written Testimony to The Rules Committee of the United States House of Representatives on “Article I: Effective Oversight and the Power of the Purse”

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Chairman Sessions, Ranking Member Slaughter, and honorable members of the committee, it is a pleasure to address you today.

This discussion does not address the problem of unbalanced budgets, the scourge of national debt, or the appropriate size of the federal government. This discussion is important, though, because it is a first step in restoring the Article I responsibilities of Congress. Just as we must never allow the disgraceful practice of “earmarks” to return to Congress, we must work together to bring more transparency and accountability to the spending of the taxpayers’ money by the federal government.

My organization, Empower Texans, was formed to help citizens engage in their government. Our principle project, Texans for Fiscal Responsibility, promotes the responsible use of the taxpayers’ dollars through greater efficiency and transparency. We started with an emphasis on state and local government. Along the way, we have seen how the federal bureaucracy can dominate the decision-making of elected officials at all levels of government. That’s why Empower Texans has begun watching the federal government, and why I am here today.

The answer to reining in the federal bureaucracy involves Congress exercising more of its constitutionally dedicated authority. But that is not exactly a reassuring thought to your countrymen.

The honorific assigned to all elected officials in the United States – “the honorable” – is offered as an expectation, if not an actual valuation. Quite frankly, though, your fellow countrymen do not hold you in the esteem assumed by that honorific. Not you, personally or individually, but you as the body of 535 senators and representatives.

The job approval rating of Congress is 17 percent, according to the Dec. 4-11, 2017, Gallup Survey. In contrast, Gallup says President Trump currently enjoys a wildly lofty 38 percent job approval rating for his term thus far.

Suffice it to say the American people are displeased with their federal government, and have been. But that is not unexpected; frustration with distant rulers is written in the DNA of the American patriot.

But as recently as 1975 Gallup listed Congress’ job approval at 30 percent. And, let’s face it, each of you individually likely has a high job approval among your electorate back home or else you probably wouldn’t be here.

The problem the American people seem to have is with you all together. I recall a poster from several years ago that read "Government: If you think the problems we create are bad, just wait until you see our solutions."

None of this is meant to be a criticism of you, personally or even collectively. It is, perhaps, a criticism of all of us.

We have grown accustomed to treating the art of governance as a circus, yet we feign surprise when confronted with peanut shells and elephant dung.

This hearing today could well be the start of changing our expectations for Congress and the federal government, at least in a small part. Whether you change those expectations for better or worse remains to be seen.

But it is important that you get this right. The distrust our fellow Americans have for Congress is found in the abuse they witnessed in the bad old days of earmarks, where dollars were assigned behind closed doors for personal political benefit. We cannot return to that.

What taxpayers need and deserve is for you to assert your constitutional authority over the federal bureaucracy in ways that serves your constituents and the nation.

With the federal government spending \$4 Trillion a year, Americans assume waste, fraud, corruption, patronage, and cronyism. They assume it because they have seen it and read about it.

Let's be very clear: the budget won't be balanced simply by Congress exercising its Article I powers directing spending. Ferreting out waste won't magically bridge the gulf of priorities between the political parties. But you can begin the process by bringing spending decisions into the cleansing light of day. It is important that you – elected leaders who voters can hold accountable – make spending decisions, not unelected and unaccountable Washington bureaucrats.

This is not a Republican issue or a Democratic issue, it is a constitutional issue.

Our founding fathers put control of the purse strings in the hands of Congress. As each of you know so well, Article I, Sections VII and VIII provide a template for the manner in which Congress should spend money.

It is abundantly clear to me that Article I of the Constitution creates the expectation that Congress will direct the spending of the federal government. Yes, a president executes the plan, but Congress directs it.

As the government has grown larger and more complex, Congress has begun shifting responsibility for specific spending decisions to the executive bureaucracy. How and where to allocate dollars for projects and programs has been entrusted to the “professionals” in government’s executive branch. Regardless of their intentions, they have not always done a very good job.

This is nothing new.

In 1986, the LA Times’ columnist Jack Smith derided the Pentagon’s purchase of every day items at highly inflated rates as reported by a book helpfully entitled “The Pentagon Catalog.” That was the heady days of \$640 toilet seats and a \$435 claw hammer.

While congressional budgets probably should not detail where to buy hammers and toilet seats, it must set the tone for oversight and accountability.

The situation has gotten worse, not better, as I’ll describe in a moment.

We have seen too many instances where dollars have been allocated outside of the open, transparent budgeting process of Congress. We have seen dollars allocated by the executive branch for political reasons – during the tenure of presidents of both parties. We have excused it as though we live in some sort of “spoils of war” system where it is permissible for states and regions to be shorted federal spending because they voted wrong in the last election. Too bad their candidate for king didn’t get the nod, eh?

That’s a wrong-headed view of our Republic.

The current system of trusting too many decisions to the administrative state, to the executive bureaucracy, is failing too many states and too many people.

Too many important projects for the public good and national welfare that would otherwise be funded have in the past been left to flounder because a state’s voters weren’t savvy enough to vote for the guy who won the White House. Or, at least, that is the perception because the decisions are made outside the public view.

The unelected bureaucracy has been given wide latitude in spending the taxpayers’ dollars with very little real transparency or accountability.

The Government Accountability Office recently wrote, “in fiscal year 2016, federal agencies awarded over \$666 billion in grants, about \$56 billion of which was awarded by the Department of Transportation.” The GAO’s review of just DOT’s spending found instances where a “Senior Review Team” – bureaucrats from around the the department – was able to “potentially advance large projects that did not initially meet certain statutory requirements.”

The GAO “was unable to determine the rationale for selecting the 18 awarded projects.” And what little documentation was available “did not otherwise provide insight into why some projects were selected for awards over others.”

That lack of transparency is disturbing.

We can wag a disapproving finger at the Department of Transportation, but it was Congress that gave the agency such broad discretion in the first place. The bureaucrats were given an inch but took a mile.

But the excessive reliance on the executive branch to make bad spending decisions without transparency is matched only by Congress’ own abuses in the past.

Mr. Chairman, this initiative should not return us to the bad old days of congressional earmarks. That process by which senior lawmakers most friendly with the legislative leadership were able to bypass public hearings to fund their pet projects.

Both parties share responsibility.

Republicans Don Young and Ted Stevens in 2005 gave us Alaska’s “bridge to nowhere” debacle. In 2009, Mr. Stevens was able to name a different bridge after himself in a rider to an appropriations bill.

In 2009, then-Senator Hillary Clinton parlayed her standing among Democrats to get \$2.3 billion in projects for New York inserted in the budget report. Not the bill, the report. That’s \$2.3 billion in spending without a single hearing, witness statement, or vote.

I believe I mentioned already how little our fellow countrymen respect the work of Congress. This is why.

No one approves of patronage and cronyism, except the crony receiving the goodies.

If this effort to see Congress direct more of the federal spending becomes a vehicle to restore the bad old days of unaccountable earmarks, then this committee will have succeeded in further eroding the trust and confidence of the American people in their governing institutions. I don’t know how much lower it can go, but going backwards will most certainly plumb those depths.

If this process devolves into a squabble over what earmarks are and which ones are preferable, then this is an exercise in futility. The American people expect something better. They deserve something better.

Mr. Chairman, regardless of the substance of this policy proposal, it will fail if you and your colleagues fail to recognize – and acknowledge – that much of what has been done in the past

was foolish. Simply shifting pork-barrel spending between branches of government, or giving it new branding, won't withstand the scrutiny of an American public that has grown weary of such antics.

The political confidence of the American people remains at stake.

As an aside, I would suggest it is the lack of confidence the American people have in their federal government that has led to the historic effort of citizens in the several states to organize an Article V convention of the states. My organization and I strongly support that effort.

Just last year, Mr. Chairman, our home state of Texas became the eleventh to issue such a call.

And the worse Congress – any Congress – performs, the worse the executive branch – any president – performs on matters of governance, the louder and more insistent will be the push for the states to take aggressive action.

And they will be right.

The federal government in the past has provided ample evidence that it cannot be trusted with the power, money and debt it has amassed to itself.

As the political commentator P.J. O'Rourke once suggested, "Giving money and power to government is like giving whiskey and car keys to teenage boys."

But we need Congress to be in the driver's seat, not the bureaucrats. That means you all have to act your age.

Perhaps the walls of the Capitol are thick enough to block the growing chorus of Americans who want to substantially reform a federal government they see as refusing to reform itself. But I guarantee you that your colleagues in the legislatures of the several states hear it, and are happy to lean into it.

I am not suggesting that adopting this rule related to congressionally-directed spending will curtail that nationwide call, but I am suggesting that it might encourage your fellow citizens to know that a future Congress might not squander its constitutional powers, responsibilities, and obligations as previous Congresses did.

Mr. Chairman, as a fellow Texan and an Eagle Scout, I intend to hold you politically accountable for the results of this proposal. As you and I have discussed at various times in the past, governments and individuals alike benefit from, and are improved by, accountability.

Our founding fathers recognized this through the intricate system of checks and balances, including in our budget.

But Mr. Chairman, I am sure you and Ranking Member Slaughter – separated by party as you are but bound in your oath to uphold the Constitution – both agree that the best check of all is found in Congress making decisions in the full light of day.

There is no political controversy or public issue that doesn't benefit from a dose of sunlight.

I appreciate very much that the idea under discussion would require congressionally directed spending to be contained in the text of the legislation for all to see. I hope that means that you and your colleagues are committed to fully debating the relative merits of competing proposals in a way that allows your countrymen to speak out and bring their own expertise and knowledge to bear through letters, emails, and testimony.

There should be more eyes brought onto the projects and programs of the federal government. There is great wisdom found in the 300 million Americans that goes beyond simply electing you in even-numbered years.

By opening the windows even more on the federal budget process, and placing more spending under the direct, visible control of Congress, you can begin to honorably restore the confidence of the American people.