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P R O C E E D I N G S

MS. BINDER: Well, thanks very much. I'm Sarah Binder, a senior fellow here in Governance Studies. I have the pleasure of moderating today. I'm going to introduce our speakers. I'll say just a minute about Molly and her book, and then we'll open it up to get going.

To my left is Molly Reynolds, a fellow here in Governance Studies and the author of "Exceptions to the Rule: The Politics of Filibuster Limitations in the U.S. Senate," which will be the launching point for us in thinking about procedural politics and their implications for policy, in particular health and tax today.

Next, Norman Ornstein, a resident fellow at American Enterprise Institute and long, long time political science observer of Washington and everything in it. Then Sarah Kliff from Vox, a senior editor who specializes in healthcare coverage. And then Richard Rubin, U.S. tax policy reporter from The Wall Street Journal.

So just a very, very brief comment to get us going here. I have to say, if you've not seen Molly's book yet, you should. It strikes me as the very best of what Brookings has to offer, which I see as twofold. First, pardon me, but it is deeply rooted in political science, which I know is why you're all here today, but it takes both theory and data and consequences and significance seriously and brings them all together.

And the second dimension here, it does it in the service of explaining contemporary politics, in particular -- as we've seen these past six, seven months -- the question of reconciliation, which is itself, as Molly calls them, an exception to the rule. Meaning it's a majority procedure in a Senate that is super majoritarian.

I would say that elsewhere in the book it's more than just reconciliation. Molly looks at many ways in which the Senate over time has found ways to limit the filibuster. I would say that Molly has her eye on something that's hiding in plain sight, but as of the last six months it's now in everybody's. Judging from the overflow room today, and the presence of C-SPAN, it's in everybody's sights.

So, with that, I will start us off. Molly, you go first. The new book, of course, about the procedures that limit debate in the Senate. Perhaps you could say just a little bit about how it helps us to understand what has been happening in the Senate this year.

MS. REYNOLDS: Absolutely. Thank you, Sarah, and thank you all for coming today. So I think the biggest lesson from the book is that I have really impeccable timing. (Laughter) It turns out that when I started this project five years ago, I had no idea that it would come out in the midst of this debate. I promise to tell all of you what my next book is about, so that you'll know that five years in the future, that's what you should be paying attention to.

But in all seriousness, one of the big arguments that I make in the book is that because budget reconciliation empowers a simple majority on the floor of the Senate that whichever party holds the majority, we should expect them to use the process in a way that's going to help them stay the majority in the future.

In the book I talk a lot about how they do this by thinking about what's in the political interests of the individual senators in their party, particularly the ones who are going to be up for re-election in two years. And they make decisions about how to use the process with an eye towards whether it's going to help them keep ahold of the chamber. Obviously, this is going to change from year to year. One of the things that we know makes the Senate different from the House is that the Senate's staggered terms mean the electoral situation facing the majority party is really different from one election to the next.

At the same time, keeping the majority is not just about thinking about what's in the individual interests of your members. It's also about the party's collective interests and the collective promises that they've made to the voters. We might think that under the unified party control of the House, the Senate, and the presidency delivering on those collective promises might be particularly important. Voters look at a Washington where the same party controls the House, the Senate, and the White House and says, why can't this party do anything?

But this can create situations where the individual members of the majority party are cross-pressured, so what's best for the party's collective goals and what's best for their individual interests might not be the same. And I really think that's what's happened so far this year. So, for better or for worse, Republicans have decided that being able to say they've repealed Obamacare in some way, shape, or form is a really important shared political goal that they have.

But at the end of the day, actually writing a healthcare bill that could accomplish that

rhetorical goal that also 50 members of the Senate thought was in their individual interests just proved really difficult to do. And I think we saw this, for example, very well in what I might call the saga of Dean Heller.

So, you saw Dean Heller at the end of June, and he gives this, as things go, dramatic press conference with his state's governor where he says, I can't support what this bill does to Medicaid. And then by the time that there was that final vote on the last amendment in the Senate last week, Heller had come around to being willing to vote to keep the debate going. And so that's a real example of someone where the bill was really bad for his personal re-election chances, but also he was under this pressure to help his party achieve this goal.

A second thing that I would take away from the book that helps us think about what happened this year is the rule of committees in the reconciliation process. And I think that's gotten a little bit less attention, so I want to spend a little bit of time on it. So, if you're here with us today you probably know that the way the reconciliation process starts is with a set of reconciliation instructions that are included in the budget resolution and these tell particular congressional committees to work on proposals that would achieve some amount of budgetary change by making changes to either revenue or to mandatory spending programs in their jurisdiction.

And so one of the things that I argue in the book is that when Congress is deciding each year whether it's going to write some reconciliation instructions, it thinks about, well, what kind of reconciliation proposal might a committee produce if we tell them to do that? Are they going to produce the kind of proposal that's going to make the majority party better off or are they going to produce the kind of proposal that's not going to make the majority party better off?

And so this year one of the things we saw is McConnell in the Senate just choose to circumvent the committee part of the process with reconciliation altogether. So we had this working group, I believe it began with 13 members and then folks sort of floated in and out, but he did not use the committees in a formal way. And one of the reasons why that might be true is that the Senate HELP Committee features three of the most problematic members for McConnell over this process: Rand Paul, Lisa Murkowski, and Susan Collins.

And so if we think about how the majority party's going to anticipate what their

committees might do when they're included in the process, the fact that McConnell may have thought that HELP would be unable to produce a bill or produce a bill that was not exactly what was going to help him get to 50. I think that's another thing that some of the work in the book can help us understand about the current process.

And then the last thing I'll say, and I think we may talk more about this later, is that I also touch on in the book that reconciliation is not a magic bullet. It certainly can help a majority party do things that they want to do, but, at the end of the day, it doesn't -- if there are other challenges, it doesn't solve all of them. And in some cases, it can present challenges of its own. A great example of this is the Byrd Rule, which we know limits the content of reconciliation bills. And so I think there's reason to believe that it didn't make McConnell's life easier in that it limited some of the scope of some of the deals they could be trying to make. But, again, I think we'll come back to that question in a little, and I'll stop there.

MS. BINDER: Excellent, thank you. Norm, you've been watching Congress since -- well, for a while.

MR. ORNSTEIN: I'm old. Old is the word she's looking for. (Laughter)

MS. BINDER: Perhaps you could say a little bit about your perspective on what's happened procedurally this year compared to what we've seen in the past, particularly in the context of healthcare and reconciliation.

MR. ORNSTEIN: Thanks, Sarah. First, let me say for those of us who have known Molly since she was a very young person here at Brookings, I want to add how lucky Brookings is to have her back. This is not just a superb book, but if you've read all of her observations on the website and in other places, she has fulfilled all of the promise that we saw when she was an intern here.

Second, one of the things that I do on the side is I'm a consultant for *Veep*, the HBO series. (Laughter) And it's been a very challenging year and we have a challenging year ahead because, of course, *Veep* is satire and satire is where you take reality and then push it to a point of absurdity. When you start with absurdity, it really does become more difficult.

On the question that Sarah asked, we all know about the old saw that you should watch law or sausages being made. And I used to say when Tom Mann and I were writing *The Broken Branch* that I had a friend at the University of Iowa who went to do a tour of a meat packing plant and came back

and said Congress is much worse. (Laughter) And that's only gotten worse.

And then one observation about Dean Heller, there are two words to add to this: Steve Wynn. And we cannot ignore the impact of big money and the world we now live in and the post *Citizens United* and post *McCutcheon* and so on world. And we can't ignore a reality, as well, that this bill may have started out and was discussed in terms of healthcare, but underlying it was -- this was a way to try and get the big tax cut and pay for a sizeable portion of it through Medicaid.

And much of the pressure was coming from people who were far more concerned about getting the tax cut, even though underlying this, as well, was the promise made through those 60+ votes to repeal and replace, and the pressure from the President to fulfill some sort of pledge on health policy, without much of a concern at all about policy.

Now, having said all of that, we've all watched -- and those of us who have been around for any length of time -- a process that's been distorted or tilted or changed in different ways to confront the realities of increasing difficulty of passing policy. And one of the things we've seen over the last 20 or 30 years is fewer bills being passed, but bills being longer because there is always a temptation to pile on to something you know is a must pass and make it an omnibus, and throw things in because it's the one train that may get to its destination. And that means you're getting polyglot legislation and often things that are just sort of thrown together.

That's been true in the past and we've also seen outrages in the policy process. And, indeed, going back when Tom and I wrote *The Broken Branch* in 2006, we decried the decline of the regular order, which has never been a clean process or always fulfilled, but one that looked towards finding broad leadership coalitions for major policy; that tried to use the process of committees and subcommittees and expertise moving forward, having at least some level of debate on the floor, some kind of open amendment process; and then making sure that you could have an open conference committee that would reconcile differences between the two branches, the two bodies.

And that's been deteriorating for some time and we've had lots of outrages, and we've had lots of things that have been concocted largely in secret and not in an open way. But what we saw this time was different, I think, in both intent and tone and substance of process from anything that I have seen before.

So I could go back to the three-hour middle of the night vote in the House on the Medicare Prescription Drug Plan that included Tom Delay being chastised, which is all the Ethics Committee ever does -- that's as far as they will go, and we're seeing more episodes of it's fecklessness, the House Ethics Committee, this week -- but being chastised for, in effect, trying to shake down and then bribe a member on the floor to get that final vote.

We could go to the same bill in the Senate where two elected members of the conference committee in the Senate, including the Senate's Democratic leader, Tom Daschle, were basically shut out of the conference while those deliberations were going on. We could turn to the 2011 budget compromise to try and get past a disaster that both sides saw with sequesters, where Patty Murray and Paul Ryan did much of the negotiations themselves behind closed doors.

But if you look at most of those processes, they were bipartisan, and that included the conference committee where John Breaux decided that even though Daschle and another of his colleagues would be left out, he would go in there and he would negotiate. That's when he made his famous comment that "I can't be bought, but I can be rented."

And what Patty Murray and Paul Ryan did, both the chairs of the respective budget committees, was they regularly reported back to their colleagues in a process that was from the get-go thoroughly bipartisan. This was not. It was one, as Molly and Sarah both said, bypass the committee process entirely. Started with a rump group of 13 old, white men, excluding all others. It actually may have had people coming in and out, but that narrowed down. The bill was effectively put together by McConnell and his staff, not using the expertise. McConnell famously barred The March of Dimes, among other stockholders, in the healthcare process -- a man who had had polio as a child -- from being able to give any input. And then, of course, a kind of crazy process on the floor.

So I haven't seen anything quite like this and maybe this will now turn into, after the debacle, some semblance of a regular order and something that will be a little bit better. But when you have a majority intent on doing everything within its own party with narrow numbers and divisions within its own ranks, and even a Senate that now is determined to look in a different direction, you have a House of Representatives that has no desire or willingness to move in that direction.

And I think the twists and turns and debacles and attempts to damage the fundamentals

of a deliberative process and one that is designed to build broad leadership consensus is gone for a significant period of time. And that's bad not just for policy outcomes, but for the whole nature of a deliberative process in a representative democracy. And that's tragic for all of us.

MS. BINDER: Thank you, Norm, on that bright note.

MR. ORNSTEIN: Have a nice day. (Laughter)

MS. BINDER: I am reminded of a *New York Times* story from about a decade ago, where the intrepid reporter went to a sausage factory and interviewed the manager, who was thoroughly insulted by the analogy of watching sausage being made.

Sarah Kliff, perhaps you could tell us, how do you think Republicans' decision to use reconciliation to pursue repeal and replace of the Affordable Care Act has affected or might have affected the debate as it played out so far this year?

MS. KLIFF: Great. Well, thank you so much for having me. Congratulations, Molly, on the fantastic book. I will echo your amazing timing. I think holding this last week could have been a little bit challenging getting us all in one room. But you seem to have chosen the one, somewhat slow -- knock on wood -- week in Washington we've had this year, but that will probably change by the end of today.

MS. REYNOLDS: Now that you said that.

MS. KLIFF: Yes, exactly. In our newsroom, whenever we declare it a slow news day, someone gets fired from the White House it turns out. (Laughter) So I want to just comment a little bit on what we've discussed so far and then get into the role of reconciliation we've seen in 2017.

And I just want to echo what Norm was saying, that as someone who has covered, not quite as long, but has been covering this healthcare debate since 2009, when the Democrats began work on Affordable Care Act and began work with Republicans, I would say -- began a bipartisan process that lasted for a few months until it became clear they were not going to get any Republican votes and moved on. It was a very, very different process we went through this year compared to 2009/2010.

A while ago I worked with a few of our interns at Vox to count up all the different hearings that happened in 2009/2010, basically after Obama came into office and started working on healthcare. We found 44 hearings, 22 in the Senate and 22 in the House, related to the healthcare law. And, personally, I remember watching so much C-SPAN. I was actually based in New York at the time and my

routine during the Affordable Care Act debate was literally get into my cubicle, get on my headphones, and spend a full day watching C-SPAN, watching these hearings, watching this two-day meeting at the Blair House with Republicans and Democrats.

At times I was like quit it with all these hearings. It was so much to cover, but it was a process where you saw how they were getting to decisions. Where you saw the debate, you saw the pushback, you saw how this bill was coming together.

Covering this healthcare effort has been quite a different experience. So, 44 hearings in 2009/2010, 2 hearings in the process this year so far: 2 on the House, 0 on the Senate. We did have some floor debate over the past week, but no committee process, no hearings. And from a media perspective it is quite difficult to cover a bill being drafted in secret. You do the best you can to find out information about it, to talk to your sources on the Hill, but, at the end of the day, it is hard to cover a committee meeting that didn't happen.

And I think this is also true of, as Norm mentioned, the role of advocates. I was covering a lot of families who were trying to lobby their senators and they found it very difficult to lobby against a bill that they had never seen because you can go into their office and say, we really oppose these Medicaid cuts. And they say, well, we're still working on it, our draft isn't out, we can't really comment on it. It's very hard for an advocacy group to work in a world where they don't have access and they can't even comment on what is being discussed. So this felt like a very different process, from my perspective, much more secretive, much less information.

The short amount of time that we get with these bills has made it really difficult to understand what is actually in them. There was one moment that I became involved with the American Healthcare Act, the House version of Obamacare repeal and replace, where this was the second iteration, they added on these MacArthur amendments. A very smart legal observer called me and said, hey, you know there's an exemption to this whole law from Congress. If you cross-reference it and look, it turns out he was right. It was there and I wrote a story about this. And the next morning there was a debate about whether it actually existed.

And I was watching Mark Meadows, the House Freedom Caucus chair, on television saying this thing I reported on wasn't there. Other people were saying it was there, but no one has really

had much time with the bill. The heart of this problem was the fact people just hadn't had time to read it and analyze it. And I think that is really the challenge of legislating so quickly and so secretively.

Another example would be the issue of lifetime limits which the Affordable Care Act outlawed. There was a debate among analysts that, actually, a few folks here at Brookings were quite active in, about whether the House bill brought back lifetime limits. And this is a small detail for Congress, it's not the whole ballgame, but for people who rely on this provision for -- one family I covered who have a six-year-old who's had \$3 million in medical bills, this is the whole thing. What they do on this detail, it's not a footnote, it's what matters for their life, and it took a while to puzzle through that language. So that is all I'll say. There are real-world consequences to legislating so quickly and so secretively.

In terms of reconciliation, it really did shape the healthcare process very, very significantly in terms of what Republicans could and could not do. One of the big goals that conservatives had going into this effort was to deregulate the insurance market, to make it more of a free market where insurance companies could choose what benefits they sell, choose how much they charge people. The Affordable Care Act, it did regulate the insurance industry. It required coverage of essential health benefits, it required charging women and men the same premium, not charging sick people more than healthy people. It changed the insurance market and undeniably made it much more regulated. And that was something Republicans really wanted to take down, and the reconciliation rules really prevented a lot of that work.

They weren't limited to things related to the budget. They certainly tried to push the limits of this, I would say. You saw them do things like change how much you could charge the oldest members in your plan compared to the youngest. That was struck down by the parliamentarian as not relating to the budget. Planned Parenthood was another key goal that got caught up in reconciliation. So they really were hamstrung trying to repeal a bill that was passed through regular order, passed with 60 votes, with just 52 votes in their caucus.

That being said, one of the things that surprised me a little bit was how much Republicans were willing to change process, break from regular order, but stuck to the reconciliation rules. That they did not -- one of the things, as you know, that I've learned from my many conversations with Sarah, is that the Senate Republicans, they could overrule the parliamentarian. They could say we

disagree with you and we're going a different direction. Senator Mike Lee from Utah, a conservative, was a key advocate of this approach, saying let's use that power, let's overrule the parliamentarian.

The fact that they didn't do that, the fact that they broke all of these other rules about committees and did so many things out of order, but kept to the reconciliation rules, it raised the question in my mind of how much they actually wanted this bill to pass, given what we know about its popularity, about how many people will lose coverage, and how much they actually like the restriction of reconciliation; how much it is something they can blame the lack of forward progress on and say, well, we have these complex Senate rules and that's why we can't pass something. That's the reason we can't do this.

There was an option to overrule them and I think it's telling that they did not take that option, given how much they've been willing to break from Senate traditions in the debate that we've seen.

MS. BINDER: Sausage. (Laughter) Richard, we've heard a lot about, of course, how now that Congress in theory, we hope, perhaps has finished work on healthcare or not, that next on the Republican agenda is to move on to taxes. Perhaps you could talk a little bit about what you see as major procedural issues or institutional hurdles to watch for as they try to develop either tax reform or tax cuts.

MR. RUBIN: Yeah. Thanks for having me. I want to start by talking a bit about Molly's book, which I've read mostly. And what I really liked about it is that it puts an intellectual framework around what Sarah and I have experienced, and Norm's experienced for even longer, in watching how the Senate works. And even in the title it's setting up these things as exceptions to the rule and it creates the reminder that the Senate is a super majoritarian body and, as an institution, values that, but has recognized over the years the limitations of that.

And so the book does a really nice job of setting out -- categorizing reasons why the Senate has carved out simple majority thresholds for things, and when the partisan pressures are there to do that and when the partisan pressures are not. And I think that leads directly to what Sarah just finished with, which is one of the reasons why maybe the Republicans decided they didn't really want to enact this bill, but the other thing is that they know the power of having the supermajority threshold still

exist for the inevitable time when they're not in charge, which will be -- could it be 2019? 2021? -- at some point down the road. And so it's very much a defensive ploy against what they know the other side might do in the future.

And I think even the Byrd Rule itself is a great example. There's a part of Molly's book where she talks about why it was created. It wasn't part of the initial reconciliation procedures. There was a reconciliation bill in the -- correct me if I'm wrong here -- early '80s that kind of went too far in the view of the Senate. They passed it, it had a bunch of things in there that were not purely fiscal, and then they all looked at each other and said, wait a minute. No, we want this to be an exception to the rule and not the rule.

And so they created the Byrd Rule to hem themselves in, and now we all divine the understandings of what the Byrd Rule means and how it works. And we'll spend a bunch of time doing that in tax reform.

So, looking ahead to tax reform, it is the saga of Dean Heller, volume 2, which is what I took from Molly's book. Because Molly talks about people to watch. When you go from the regular procedures to the simple majority procedures under reconciliation, the people to watch are the median member of the chamber, right? You could make the case that Senator Heller, the median member of the committee. Well, who's the median member of the Finance Committee? We'll see, but I'd make a pretty strong case that it's Senator Heller, and the senator is under the most immediate electoral pressure. And that's Senator Heller, so congrats. (Laughter)

And that may shift, right? He obviously didn't end up being the median senator or the pivotal vote. And, in fact, it was Senator McCain who had different electoral -- in fact, no electoral pressure. So we'll see how this shakes out, but I think Senator Heller is one to watch. Look for the equivalent of that speech he gave on healthcare on tax reform. What are the things he cares about most? Is it small things like geothermal energy, which is important in Nevada. Is it things that are important to the gambling industry? Is it things outside of the tax code? So it's that institution what I'll be looking for -- and are there other senators who raise their hands and want to be the pivotal senator and sort of hold their vote out for things that they might want.

You know, the Finance Committee is 14 to 12, and so the commitment this time to move,

if not through regular order, at least through committee, gives every single one of those Republicans the ability to try and create some leverage. And let me go back to what Molly said before, we'll see the same cross-pressure politically. You know, you've got the end of what Norm said, too. For Senator Heller, he needs -- he's a one-term senator, maybe a little more than a single term, but he needs a lot of money to run a very expensive race in Nevada. And that's going to cause him to be more aligned with the Senate majority leader and the Senate leadership than you might think from just looking at what the state wants, what the electoral pressures are in the state, what his personal views might be.

He can't distance himself all that far from the leadership. Someone like Senator Murkowski has already demonstrated she can win by distancing herself from leadership. Senator Collins has demonstrated that. Senator Heller hasn't, and so he's going to be a key person to watch.

And then in that framework, to watch if there are other Senate Republicans who feel the way electorally, either going into '18 or '20, the way that Collins and Murkowski and McCain did, where they felt they could safely distance themselves from where the Senate leadership wanted to be.

MS. BINDER: I have a couple more questions and then we'll open it up. I thought, Norm, maybe -- I could imagine the answer, but I'm going to ask it -- we've talked about the ways in which reconciliation itself has hamstrung Republicans on healthcare, plus slim majorities. Could a different Republican President or White House or HHS Secretary, could a different scenario -- could we have seen success on ACA repeal where we didn't see it this time?

MR. ORNSTEIN: I've got to be a little skeptical, although I do think a different President and a different Senate majority leader would have approached this in a very different way. And, of course, as Sarah Kliff has written, I think extraordinarily persuasively, and anybody who's followed this issue knows the Affordable Care Act is not in a death spiral, it is not broken, and, in fact, could be repaired relatively easily and there's bargaining power for Republicans with a President and congressional majority, but a narrow one, to be able to tilt it more in a direction that they would like: easing up on some regulation, adding in their malpractice reform, maybe making it a little more market-friendly. Some of the things that we see now that are being discussed by the problem solvers caucus that in the past has not solved any problems, and is not likely to be viewed with great favor by Speaker Ryan.

But the frustrating thing for anybody who follows health policy at all is how easy it would

be to actually put this back on a reasonable path. But we're in a tribal environment and we have a Republican Party, as Jeff Flake -- who is one of the most conservative people I know, and I've known him pretty well since he was in the House. Anybody who thinks that he's a moderate, he's not. He's a very conservative guy, but he's a guy who values the deliberative process, compromise, and the institutions, and would make it pretty clear that you don't have a Republican Party that has a large group of moderates, or even a small group of moderates, and then a larger group of conservatives.

The people who now are being called moderates over and over again by reporters, and you can't get them to stop despite the craziness of doing so, would have 25 years ago been at the right end of their party. Now it's conservatives and radicals. And if you decide that -- and they all have seen the fate of Speaker Boehner -- that you're going to reach more broadly to find a center, you're not going to be speaker for very long. And you can make that work as a majority leader in the Senate, but you're not going to find the right kind of cooperation to pull it all together in the House.

And I doubt very much if you had, say, a President Jeb Bush who would look at this perhaps in a different way, that you'd still be able to find that kind of common ground. And now I do think that what we're seeing as Lamar Alexander is moving towards trying to create some semblance of regular order in the Senate, and they might be able to come up with the kinds of things that all of us would see as a reasonable balance, maybe they're going to be able to get the one year just to keep this going, to stabilize insurance markets. But whatever they're able to come up with, I just don't see it working in the House the way the House is now constituted.

MS. BINDER: This is for Sarah and Richard. I think you'll like the question, we'll see. So I have been impressed in both of your reporting that you're always keeping an eye on sort of institutional constraints that are affecting the policy choices and potential of policy outcomes. My sense, having been in Washington not as long as Norm, but long enough, that this appreciation for procedure is relatively new? Relatively new. We used to have to scour CQ to really find it.

I'm sort of curious about whether you have to convince editors that this is important, how you go about it. What's your own perspective on the importance or how much one should pay attention to this? Or is this something readers don't really want to know about?

MS. KLIFF: We have found readers of Vox at least are quite interested in Senate policy.

This is not something I have to convince my editors on. It's more of a thing that they say, hey, we didn't explain our own reconciliation.

So I think there's certainly because it is so key to the process, and I think because of, also, you know, the news website that Vox is, we focus a lot on explanation and kind of helping bring a bigger picture to the news, that it's something that our readers are interested in, our editors are interested in.

And I think it kind of grows out -- you know, I've worked with our editor-in-chief, Ezra Klein, for about five or six years now. We worked together at Wonk Blog at the Washington Post and now work together at Vox. And I think both of us agree that for a while politics was considered like the exciting, fun part and policy was almost like the vegetables that you had to eat. But lately, I think policy's actually become really interesting and exciting to people if they can understand it and understand why it's going the way it is. But a lot of that requires explaining a lot of really complex policy things, procedural things, talking to experts like Sarah, talking to experts like Molly, so that as journalists we can understand it.

But I think there is a desire because our readers are understanding how important procedure is to shaping politics, we have found that people are hungry for this. A good example is that we saw going viral, I'm sure a lot of you, this screenshot about how McCain's vote had, you know, quietly ended the entire healthcare effort because of this kind of wrinkle and reconciliation process. And it seems like a guy who had just a little bit of information and decided he was an expert, and we had a lot of our readers asking, you know, is this true? Is healthcare over? I want to understand this.

So we wrote a long story about that and that was something that came to us from our readers, where people wanted to know, like, hey, is this thing right? So I find that it's very -- you know, my editors are readers. They are quite interested in process in a way that is, as a policy nerd, exciting and gratifying to me.

MR. RUBIN: Well, my first job in Washington was three and a half years at CQ, so I'm -- and that was a very instructive experience and learning about procedure because everything is about the procedure is inextricably tied to the outcome. And so spending -- I mean, that's where I was during ACA. That's where I was during TARP, like I watched all that happen from that vantage point of trying to learn

and understand those rules.

And so I'm not sure that I -- you know, we don't write a lot of reconciliation explainers. I'm sure we'll have to do one at some point, this fall maybe, that we can -- the great thing with the Internet is you can just resurface these things and, you know, they're there all the time.

But I find it important because knowing the procedure helps you know where the sort of important hurdles are. Right? You know like what -- so I keep writing in every story, like before they can pass a tax bill, they have to agree on a budget and the budget has to say how big a tax cut inside the budget window has to be. And it can't raise long-term -- I mean, I don't sort of frame it in terms of the -- first of all, I try and limit the jargon as much as I can because we're writing for a really big, general audience. But I try and frame it to make sure people understand the structural procedural barriers that are there because those are the things that are going to drive the policymaking.

So Republicans need to decide on tax reform. Is it is going -- how much revenue the government should collect over the next decade, that's a threshold question that they need to decide that they haven't decided yet. And until they decide that, they can talk about all the details and the rates and whatever, but we're just not there. And they can backfill it, but they've got to make that decision first. So I approach my job with that procedural knowledge in mind.

And the other thing that I always try and remember is that when you think you know everything about reconciliation, you don't. And so --

MR. ORNSTEIN: That's when you call Molly.

MR. RUBIN: Right. No, no, so even Reddit man's little bit of knowledge is dangerous, but even a lot of knowledge is dangerous on reconciliation.

MS. BINDER: Let me just say I see at least one super reconciliation expert in the audience, so in case you're wondering where I get my knowledge from.

So here's a question for Molly. We've talked a little bit and your book goes into quite detailed modeling of the conditions under which Congress has considered not just reconciliation, but also other exemptions from majority rule and putting those limitations into statute, whether it's Iran sanctions or this week the Russia sanctions, the ability of the President to list those without congressional consent.

Perhaps you could say a little bit about what you see as going forward for the Byrd Rule,

for Congressional Budget Act. I know we've talked about senators' frustration with vote-a-rama, which, unfortunately, we didn't get this time around, from a political science, unfortunate perspective. Perhaps you could say a little bit about whether or not you see the prospects for change here, how it might come about or not.

MS. REYNOLDS: Yeah, it's a great question. And I do think that probably the only people in Washington other than senators themselves who were sad not to get to watch a vote-a-rama last week might have been us.

So I think, and this comes back to something that Sarah Kliff said earlier and Richard touched on a little bit, which is the idea that sometimes the rules are convenient ways for senators to blame the process for what they can't get done on a policy perspective. And Sarah Binder has been writing since the beginning of this healthcare fight about the degree to which the choice to use the reconciliation process deprived Republicans of one of their most effective tools for getting themselves to agree with each other, which is blaming Democrats for not cooperating. And so once they went down the route where they didn't need Democratic help, they could not credibly say that the reason they weren't getting anything done was because Democrats weren't willing to work with them.

And so in that sense, I think to the -- and this is consistent with the argument I make in the book is that to the degree that the rules help them, either by facilitating policy changes or help them by giving them a scapegoat for policy changes that they can't agree on, I think we'll continue to have the rules and procedures that we do. I think that's just kind of generally how I think about the question of what dictates the procedures we get out of Congress, that I think about them in the context of what policy change do they allow us to do or, you know, in this case, allow us not to do.

On the question of the vote-a-rama specifically, one thing that'll be really interesting to watch is, as Sarah pointed out, senators complain about the vote-a-rama a lot. They complain about it in the context of the budget resolution. They complain about it in the context of reconciliation bills.

But I've also done some other work that shows that even while they're complaining about it, they're using it to their advantage. They're using it to offer amendments that are good for themselves individually. They're using it to offer amendments that seek to embarrass the other party. So it's a real sort of balance that they have to strike. It's this thing that they complain about publicly, but, at the same

time, use it to their advantage.

And so I think going forward, as we consider the Byrd Rule specifically, other rules under the Budget Act, some of which are relevant for tax reform, the thing to keep in mind is do the rules help them do what they want to do or do they -- if they don't help them do what they want to do, do they also provide a source of blame for what they can't do because they don't agree on policy?

MR. ORNSTEIN: Just I want to make an additional point here about what's happened to a deliberative process. We had a very telling moment when John Thune was asked why they were just kind of slapping this bill together. And he said, well, we really didn't think Donald Trump would be President. And, you know, what he was saying was we don't have to come up with an alternative because if Hillary Clinton's President, we can just vote 60 more times to repeal and replace.

And you go back to, also, a kind of confessional that Eric Cantor just did very recently. And one of the things that had become a favorite ongoing Tweet of mine, Eric Cantor eight years ago said our alternative to the then nascent Affordable Care Act is weeks away. And I would do a Tweet, we're 100 weeks and counting. We're 200 weeks and counting. And we got to 400 weeks.

And what's happened is if you have tribal politics and you're in the minority and you make a tactical decision for electoral gain that no matter what the majority proposes you're going to oppose it, and that's what they did through the entire Obama administration, you're capacity to come up with policy alternatives atrophies. There's no interest or desire to do it because it's a hard thing to do and you've got to do a lot of heavy lifting and you're going to get a lot of opposition. And now they're confronted with something that's very different.

But it's atrophied enough that I'm not sure it can come back and that's, again, a tragedy for the political process. If you don't have even competing alternatives where you can then work out some kinds of compromises, and if you conditioned an audience into believing that everything that the other side was so awful and evil that you can't keep any of it, you're really left with nothing.

MS. BINDER: So, Norm, do you think that's limited to healthcare because of the history of it? Should we expect dysfunction going forward on taxes or is there -- because it's an issue Republicans might, at least in the past, have had some expertise on? Is there hope going forward for that?

MR. ORNSTEIN: I think it's something that we're going to confront with almost every major issue going forward. It may not work for some of those things that are a little bit below the radar. And you do have at least some members who are developing a level of expertise. And there are some areas where they are finding, if they're not ones that are going to be picked up by Laura Ingraham or Mark Levin or Sean Hannity, that you can actually get them through in a bipartisan way. But on the big issues I think it becomes increasingly difficult.

And it also means that you are now driven more by, because you've excited a tribal media and a base, you're driven more by their demands than you are by working out nuances of policy. And that's true with tax policy, as well.

When you look at some of the things that have been on their wish list, the simplistic element of just wiping out the estate tax, wiping out some of these other areas of taxation, and basically following, in this case, a wish list of their billionaire backers -- that brings us back to the money issue -- even the kind of sausage-making that we've seen with tax bills and tax reform in the past, as in 1986, which still had some desire to try and make it work so that it would actually improve the economy, goes away. It becomes more mindless, and that's what I see and I see it with infrastructure, as well.

MS. BINDER: Picking up from that, Richard, maybe you could sketch for us some potential pathways we might or might not see on tax reform or tax cuts, particularly given the heavy load of other things they have for the fall on their plate.

MR. RUBIN: Yeah. So I'm struggling to reconcile the significant optimism that you hear from the White House and the House and the Senate leadership that they sort of have the principles figured out and they're just going to march right ahead and it's going to be done by mid-November, like reconciling that optimism with everything else that I know, which is that as you get further into the details, this gets harder. There's tradeoffs. There's tradeoffs between different income groups. There's tradeoff between different kinds of companies. There's tradeoffs between deficits now and deficits and spending cuts later. There's all of those things. They've just scratched a little bit, but the party's not really grappled with it.

And I think we've seen this come up repeatedly where, you know, if you talk to Ways and Means Republicans, they've spent, especially the ones who have been on the committee for a long time,

they've spent now five years working on proposals. They worked on Dave Camp's draft from 2014. They've been working on -- they're working off the House blueprint that came out in 2016. They've spent a lot of time in it and they're familiar with the tradeoffs. And they're the ones who when they hear simplistic sounding things, bang their head on the desk because they're like no. They know what it takes to make the numbers work and the sort of big picture principles just aren't enough.

So yeah, I just think they have a lot of figuring out of where they want to be beyond the general we want to, you know, cut tax rates and promote growth and double the standard deduction. It's going to have to be more complicated than that, and they haven't engaged in the internal tradeoffs yet. That's not to say they won't and can't do it.

But I also come back to something, jumping off of what Norm said, I try and think about what the governing majority in Congress is. And since the Budget Control Act, the governing majority has been a bipartisan group, especially when there's things like must-pass bills, bipartisan majority of senators and a handful to a couple handfuls of House Republicans with House Democrats. That's what it's come down to. That's what it looked like on the fiscal cliff. That's what it looked like on the spending bill earlier this year.

So this group of Republicans -- Republican Senate, Republican House, and now with a Republican President -- I guess with the exception of the 2015 repeal bill that was vetoed, hasn't produced a ton of legislation. They haven't figured out how to work within the majorities they have. And that's taking that into a really complicated -- taking that lack of having gotten a lot of experience of working with that majority into a complicated issue, like tax reform, I mean, you know, look out.

And they'll get to the real hard decisions after they've tried to deal with the budget and the debt limit and the CR and any other number of deadlines. So, you know, maybe they'll -- I've made this joke before, but I'll make it again. I may well end up eating a MAGA hat in the Rose Garden in mid-November. (Laughter) I mean, it may happen. I'm not going to rule it out. There's a lot of desire to really get something big done and they have the electoral imperative to get there. But, you know, it's hard for me to see all the steps to it from today to there.

MS. BINDER: Luckily, Rose Garden ceremonies are not just for bill signings into law.

(Laughter)

So I have one more for Molly. As I said at the outset, many of these exceptions to majority rule we think of as sort of hiding in plain sight, except for reconciliation. I thought maybe you could just say a little bit about some of these other ways in which Congress has decided that they're going to limit 60 votes, maybe say a little bit about why that might happen. Right? Why would senators tie their hands? And then maybe bring it up to some of the recent examples we've seen and what it portends.

MS. REYNOLDS: Thanks, Sarah. I mean, I know that all of you have come because you're suddenly super interested in reconciliation, but, as Sarah says, much of the book is actually about these class of procedures in the Senate more generally where Congress has periodically said we think that particular pieces of legislation should have limitations on debate and that means that they can't be filibustered.

In the book I sort of sketch out two principal reasons why Congress does this. In some cases, it's to avoid blame. There's some change, some policy change that they think is worth making, but they want to take some of their fingerprints off of the actual process. And so they'll give the power to come up with a proposal to someone else, whether it is a special group of members within the chamber.

So here we can think about something like the Super Committee, which ultimately failed, but the plan there was that they were supposed to come up with this proposal for deficit reduction. And then that proposal would come back to the chambers with -- it couldn't be amended and then it couldn't be filibustered.

It's also how we might think about the procedures we've used in the past to close military bases, where a special group of actors are charged with coming up with that proposal and then that comes back for an up or down vote. So there are situations where Congress thinks, and particularly the majority party thinks, it might be a good idea to make some sort of change, but, ultimately, they want to be able to avoid some of the blame for actually making the hard choices.

The other case, and Sarah alluded to this earlier in the context of a couple of recent pieces of sanctions legislation, is that sometimes Congress wants to increase its ability to check what the President is doing. And one way to do that is to make some executive actions reviewable by Congress. And then in exchange, Congress speeds up the process for how it would consider those review

measures. Again, this has happened on some sanctions bills and that sort of thing.

So these are really targeted choices that Congress makes in particular situations. It's part of why the question that I often get after people find out what I wrote this book about is like, oh, is this the solution to gridlock in Congress? And I'm not terribly optimistic about that. I think that one thing I demonstrate in the book is that they've been pretty careful and pretty targeted when they think particular situations really warrant these kinds of special procedures.

MS. BINDER: Well, I have one more question for Sarah and then we'll open it up. If it's the case that reconciliation is dead, understanding it could come back if they wanted to get it -- if they could get it off the calendar, can you think -- if they're freed from reconciliation and the limits, do you see progress on any element of Affordable Care Act repair, perhaps on those insurance subsidies? Should we expect to see some sort of HELP Committee action going forward?

MS. KLIFF: Yeah, that's a fantastic question. And it does seem like at the moment, although I've learned this year never to say never, there is not a clear path forward, particularly over the next month, for example. It would be very, very hard to see any sort of healthcare legislation coming back with the House in recess, with Senator McCain back in Arizona receiving treatment. There just is not the people here to get anything done.

So it seems like for the next month or so it really -- and I think one thing that might have been lost a little bit in the shuffle of last week, it's not just that this one last skinny repeal bill went down in the Senate. There are actually four different bills that were considered by the Senate, either not voted on, voted against. They rejected four different healthcare bills last week.

There is one that is still hanging around proposed by Senators Cassidy and Graham. I wrote a story about it yesterday. I do not think it is a compromise solution. I think it's actually more disruptive and more radical than the other bills that were considered, so I don't really see that one going forward. It's a really big Medicaid cut.

Senator Heller has mysteriously signed on to this bill, which is very surprising to me after actually reading the language. So I don't think that is moving forward.

So yesterday, we had an announcement from the HELP Committee, from Senator Alexander from Tennessee, Senator Murray from Washington, that beginning September 4th they are

going to start holding some bipartisan hearings on fixing the individual market. They are working on a very tight timeline. On August 16th, insurance companies have to submit their final insurance rates to healthcare.gov and, on September 27th, they have to kind of make the decision are we in or are we out. Are we selling on this marketplace given that open enrollment is starting in November?

So you're looking at a very, very small window of actually doing something with hearings September 4th, this September 27th deadline looming in the future. I think the announcement of hearings is probably bringing some comfort to insurance companies who have been really nervous about all this uncertainty. It gives them a little more confidence that help might be on the way, but, you know, they have some real-world decisions to make. They have to decide -- so I think all this is to say there's a very short timeline if you are going to do things to make the marketplaces work better in 2018. They need to happen very, very quickly.

And I think that things are pretty clear. You know, there are two top ones when I talk to insurance companies that are constantly at the top of their list. One is fund the cost-sharing reduction subsidies. This is about an \$8 billion fund that helps pay the deductibles, co-payments of the low-income Obamacare enrollees.

One of the things that actually surprised me was this is something a lot of Republican legislators in key leadership positions support. I believe Representative Brady with Ways and Means, Lamar Alexander on HELP, they've all said we think we should appropriate this money.

There was some chatter about it getting done in the budget deal a few months ago, and it was left out, which actually surprised me a little bit that Democrats didn't go a little harder on that provision. But for whatever reason, it wasn't included. So that's a key one and it's one where we have seen some bipartisan support already.

Another is creating some sort of reinsurance fund that would help offset the cost of really expensive patients. If you look at a state like Iowa, for example, we know there's one patient there who has over a million dollars in medical bills each year. And it becomes -- this is someone with hemophilia, which requires quite expensive drugs, it becomes a bit of a game of hot potato. Like who's going to end up with this really expensive patient? Insurance companies would like a reinsurance fund that would essentially say if you get the really high bills, we'll backstop you, so you don't need to jack up premiums.

We're going to help you out on the back end.

So the demands are clear. I think the question is whether this process that has been very divided, very partisan is going to lead to those demands getting met.

MR. ORNSTEIN: I just want to add we have left out the sociopath in the room. (Laughter) And that is the President of the United States, who is intent on blowing everything up, intimidating insurance companies and punishing them for this failure, and taking subsidies away from congressional staff, Senate staff, to show them who's really boss. So where many of the things that Sarah's talking about could be done relatively easily and you could find pretty broad majorities for them, and I don't think you're going to find even many of the more radical members of the House who really want to see the whole thing blown up because most of them understand they'll be blamed for it. They're in charge now.

But when you have a President intent on thwarting all of this, it becomes an additional challenge. This goes way beyond just simply the problems of Congress. And, of course, we should also add that if the congressional Republicans have difficulty making policy in a sane administration filled with people who care and know something about policy, you might be able to fill the vacuum a little bit more, but that's absent.

MS. BINDER: Okay, we have time for questions. I believe there are a microphones mysteriously coming around. Excellent, great.

You want to come here? If you could tell us who you are and wait for the mic.

MR. DYNE: My name is Tom Dyne and I have been in and around Capitol Hill for 55 years. So my question is institutional since I was part of the creation of the Budget Act in the mid-'70s.

The effort then was to give strength to the congressional institution. Nobody knew what the whole budget was about, et cetera, et cetera. So it was to bring clarity of thought and activity. Does this panel of experts believe that the institution of Congress has been strengthened or weakened by the Budget Act?

And I'll race forward and say the only part of the institution that looked like it had come into its own during this whole debate was the CBO. It came from nowhere. And the rest of it has been, well, the keyword used this morning that I heard was defensive.

MS. REYNOLDS: So I think when you posed your question by bringing up the CBO, I think that that as an institutional question is absolutely the right place to go. And the CBO was created as part of the Budget Act to stand as Congress' own source of expertise on budgetary matters. And so it's part of why some of the criticism we've seen leveled against that institution of late has been so troubling, is because its job is to make Congress better at its job.

And so I think thinking more broadly about the question of the Budget Act, and you're correct that what got us the Budget Act was executive overreach in the budget area, so I think that there are sorts of things that are wrong with the budget process that we could make work better. But I'm not a person who thinks that we should scrap it entirely and start over. I think the question is, how do we make it work with the current political incentives that members of Congress face?

So something I spend a lot of time thinking about, both in the context of reconciliation, but in the context of the budget process more broadly, is the fact that in our contemporary environment, in a lot of years the only thing that really moves are appropriations bills and other -- these sort of big budget deals. And so if you're a member of Congress and you have some fight that you want to get out into the open, that's where you go.

I sometimes talk about Congress as a giant game of Whack-a-Mole. So members have these goals they want to achieve, they have both political and policy aims, and if you start whacking down some opportunities for them to achieve them, their goals aren't going to go away. They're just going to pop back up on the things that are moving, which now increasingly are just budgetary matters and appropriations bills.

And so you end up having so many fights on those measures because we don't have places to have them anymore. And so for me, that's a real challenge that we have to confront. And how do we have a budget process that accommodates that political reality?

MR. ORNSTEIN: I want to give a real shout-out and props to Alice Rivlin, who was the first director of the Congressional Budget Office. And, you know, it's not much of an exaggeration to say that she was like the George Washington, who established the body and, you know, for well over 200 years we had a presidency where everybody coming into the office had a certain set of expectations and veneration for it and all of that, up until recently. And what Alice did was to create a culture of expertise

and of professional pride. And every CBO director that followed, including the current one, has continued that, and it's a jewel as a consequence.

Now, Newt Gingrich blew up the Office of Technology Assessment so he could basically damage expertise in science and move more towards ideology. And now he's tried to do the same thing from the outside with CBO. And it's at least to some credit of all of the members, including the leaders, that they haven't let that happen. If CBO goes, god help us.

MR. HENDRICKSON: Hi. My name's Steven Hendrickson. First, I'd just like to commend your excellent coverage of these issues. I think it's really heartening to see how much people care about these policy issues and that's an important public service you provide.

My question is on procedure. My understanding is that there can only be one set of reconciliation instructions in place at a time, so that if Congress does include tax reform instructions in an FY '18 budget resolution, that would supersede the healthcare instructions.

So, you know, this week we've heard some discussion of the White House still wants to focus on healthcare, the Congress is moving to tax reform, that that would kind of create a clean break where the reconciliation path for healthcare reform wouldn't be in place if Congress really was pursuing that for tax reform. Is that true or is there some other way that I should be thinking about that tradeoff?

MS. BINDER: Who would like expiration of reconciliation bills for 100?

MR. RUBIN: All right, let me take a crack at this. So the existing reconciliation instructions are generated from the FY '17 budget. Fiscal Year 2017 ends on September 30th. It is an open question whether those instructions turn into a pumpkin on September 30th or not. Congress has never enacted a reconciliation bill beyond the fiscal year of the budget for which it was created, but they've never tried. So that's out there. Some people will tell you it expires and some people say don't.

Going to the second point, it's pretty clear that once Congress adopts an FY '18 budget -- and by "adopt," I mean House and Senate agree on the same version of the budget resolution -- that that budget then supersedes the FY '17 budget and the instructions vanish. And the instructions are important because the instructions are what provide the procedural protection, so even to the point of a conference report coming to the Senate floor without needing 60 votes.

But -- and I think you've heard the White House legislative affairs director, Marc Short,

make his point Monday, they can do a lot of work on the tax bill and on the FY '18 budget all the way up until that point. So you could have a budget resolution get through the House. You could have one get through the Senate. You could have a tax bill written. You could have a tax -- you know, in both chambers, they could be working on it. And the instructions would still -- the '17 instructions would still survive until that last moment.

Then there's the other sort of possibility out there that one might repurpose the '17 instructions for tax reform. You hear people talking about that. That's limited by the pumpkin thing, potentially, and by the fact that that budget doesn't call for deficit -- for tax cuts inside the window, inside the budget window, so that would be tricky to do.

One could amend the FY '17 budget resolution and you hear people talk about that. That requires the House and Senate to vote. It's hard for me to see why you'd do that instead of just writing an FY '18.

You could do an -- while we're down the procedural rabbit holes, you hear people talk about doing an FY '18 shell budget instead of sort of a real budget, which would be like the one they did for FY '17 that many Republicans on the House side in particular don't want to do that because they want to adopt a budget that balances within the budget window or claims to balance within the budget window. So you'll all sorts of cross pressures on all that.

Did I cover the waterfront on that one?

MS. REYNOLDS: Yeah, did a great job. I want to provide two sort of pieces of context to what Richard just said. So one of them is that I think it's really helpful to remember that we are at what I might call a reconciliation edge case here. So all of these -- so Richard just laid out a whole number of open questions. And these are open questions because we're trying to take the process and places that it hasn't really been before.

And so that's a source of uncertainty, both for folks like us, for other people who follow this process pretty closely, and obviously also for just average Americans who are trying to understand what the possibilities are. And so I think that, for me, I often bring myself to the idea that, like, we're operating on sort of the edges of what we know about what's possible here.

The other thing I will say, and this has come up a couple of times in responses to

different questions here, is that we can sort of play fantasy congressional procedure all we want. I know Sarah and I enjoy this as an office topic of conversation. But at the end of the day, what matters is whether they agree on what they want to do policy-wise.

And Sarah Kliff was saying before that she doesn't see a way forward from where we are right now on health reform. And so that's still true whether or not the procedures would let us keep going down that road after September 30th or not. And so talking about procedure is great. Obviously, it's part of how we all make our living. But at the end of the day, there are real policy challenges here. And until Republicans can come up with ways to solve those, I think that that's kind of what we should be thinking about while keeping the procedures in the back of our minds, too.

MR. ORNSTEIN: It's also important to note that getting a 2018 budget resolution is going to be a very heavy lift. The Freedom Caucus wants to return to sequester numbers for defense and for discretionary domestic spending. The kind of budget that Paul Ryan might be able to get through the House with Republican votes alone is going to have one hell of a time getting adequate votes in the Senate. And then if they do end up in a conference reconciling things that tilts more in a Senate direction, it's not clear that the votes will be there in the House.

And any kind of budget resolution that they pass is not going to be one that's going to go back to the old Boehner model of getting a smaller number of Republicans joined with Democrats because no Democrat is going to support the kind of budget resolution that they'll put forward.

MS. BINDER: Let's mix it up. Somebody's in the way back.

MR. SKINNER: Hi. I'm Richard Skinner. Was Mitch McConnell playing 13-dimensional chess and trying to make it look like he was trying to pass a bill, but really hoping the bill would fail and then hoping to avoid blame? Or was it just a more straightforward case where he actually did really want to pass ACA repeal in some form and failed for some pretty obvious reasons?

MS. KLIFF: I think it is challenging to get inside Mitch McConnell's head and what his goal was with this whole effort. I think at the end of the day I kind of order the options he saw on the table and his preference is this. I think the first would have been to actually pass something, to get something out. You kind of saw him sticking with it, pulling out the skinny repeal at the very end of the process as the way forward, which suggests to me there was a sincere desire to actually pass something through the

Senate to show not just the House got something done, we got it done, too. So I think that was certainly there.

I think if that was unachievable, the second best thing was showing its caucus it was unachievable. My colleague, Dylan Scott, who covers healthcare with me at Vox, he talked to a lobbyist who kind of called it the "show them a body" theory of healthcare; that you need to just take the vote, show that it's going to fail, and really demonstrate we did all we could.

And I think that's also what you saw play out last week, that they went through vote after vote, rejected bill after bill. And then this very -- you know, for any of us who were up at 2 a.m. last Friday night watching C-SPAN 2 -- and apparently C-SPAN was so overloaded, I know some people who could not even get on to watch it -- for the many of us who watched it, we watched that drama play out where it really was the "show them the body" theory of healthcare, that they tried.

And, you know, you've seen a lot of remarks from leadership in the days since saying something really stunning from Mitch McConnell, even though we knew it was true, but to hear it from his mouth, he told reporters yesterday the problem isn't the Democrats. The problem is getting 50 Republicans.

So I still believe from everything I've seen that the goal was to pass something. But if not to pass something, then at least show the fact that they couldn't do it.

But I think one of the things I've learned from this whole process is I have consistently underestimated the drive of the Republican Party to repeal the Affordable Care Act. I had thought back in March, when Paul Ryan declared the Affordable Care Act the law of the land after the first failed vote, that we were going to move on to something else and I would write about some other -- I'd find other things to write about. And I was completely wrong. I think the drive in the rank and file is quite strong and can overcome leadership's desires to move on, to do different things. So we'll see if that comes back.

But I think throughout the goal has been sincere to actually pass something.

MR. RUBIN: Let me just add to that. Senator McConnell's very careful about what he says, almost always. And so if you go back to that March time period, his phrase at the time was, you know, when it looked like the House was going to pass that first bill, he said something like and we'll dispose of this next week, which is not we'll pass it. And if you listen -- no, it's really important. And it's

like -- which to me signaled at the time that they knew the dead cat might land on their doorstep and they wouldn't be able to do anything about it. Like he knew -- no one knew where the votes were on this more than he did.

Now, did he always say what he knew? No, of course not. But go back and look at his statements. There was really only maybe a week or so in July where he started saying things like we're going to pass it. Otherwise, it was we're going to vote, we're going to call it up, you know. So his verbs matter and so I'll be watching that as we get into tax reform.

MS. O'CONNELL: Thank you very much. June O'Connell. I'd like to follow up on something Mr. Ornstein suggested about the role of non-think tank advocacy groups, like Club for Growth or whatever. I hear you refer to the Republican Party gearing in after the House vote in March, but it seemed to me that wasn't rank and file. That was Club for Growth and Heritage Fund strong-arming their captives on the House side. Perhaps that's wrong; you can disagree. But the role of those groups on Congress, on both sides, I'd like you discuss.

MR. ORNSTEIN: I would say here, again, is something I've never seen before where you're pushing to pass a bill that is widely rejected by all of the stakeholder groups, including the ones that you have been allied with in the past in the health world, but also by a large share of your own voters. And, of course, you know, the sort of bizarre thing of having senators and House members go back home and go into the effectively witness protection programs to keep away from their own constituents was really kind of weird. So you have to ask yourself why do they keep pushing this?

One part of it is, I think as Sarah suggested, if you say over and over again for seven years this is the worst thing that we can imagine, and you have one of your prominent presidential candidates, now a cabinet member, saying the Affordable Care Act is the worst thing since slavery -- that's Ben Carson -- if you vote to repeal it root and branch 60 times, you've got a burden on you. And you feel that burden even if your constituents don't. But the bottom line here is that the real pressure and push came from big-moneyed ideological interests, as you suggest, and from a tribal media pushing them very hard.

And you cannot underestimate the level of intimidation that members feel if they are going to be singled out and attacked by Laura Ingraham, Mark Levin, Rush Limbaugh, Sean Hannity, and

a whole host of others in the blog world and in the tribal media world more generally. That drives a lot of this as does the money.

MS. KLIFF: I think one of the things that surprised me in this process is how little Republicans cared about healthcare interest groups. There was a pretty pervasive view within the Obama administration that if you are going to pass a major healthcare bill, you need the American Medical Association on board, you need pharma on board. I think they took this from the Clintoncare and the "Harry and Louise" ads, that if we don't get all these players lined up behind us, they're going to sink us.

And one of the things that surprised me is that Republicans got very, very far with none of these groups behind them. And I will say I was also surprised how little we saw from healthcare groups speaking up. The insurance industry, which, you know, stands to not do great under a lot of the Republican plans, were relatively quiet. They were not really a strong lobby. Even the hospitals, which stand to lose a lot of money, they certainly put out their strongly worded letters, but it wasn't kind of like the scorched earth TV ads. It wasn't -- we've seen big lobbying campaigns and it certainly wasn't that.

So I'm curious if one lesson Democrats take from this is maybe some of those theories they had about that other side of groups, the kind of healthcare advocacy groups, whether those theories were wrong. And one thing I'm very curious is if there's any Democrats kind of in back rooms somewhere thinking about how they can pass -- you know, if they don't need those groups, if they can write off the insurance industry, write off pharma. You know, if they're thinking about, well, if we're going to use reconciliation, how do we pass a single-payer system through reconciliation if we're willing to kind of say we don't need your support on our side?

I think as Molly suggested, when you test the bounds of reconciliation and you explore how far you can get with it, it gives the other side some ideas about what they could do when they were in power.

MR. MASSAM: Hi. I'm Jason Massam, a journalist. So you guys talked a lot about sort of the closed-off process, the 13 senators for the healthcare bill, the Gang of Six that are on the tax reform bill. But at the same time, you have this very closed-off process.

You have the President who is saying a lot of things to the media at times. Yesterday

there was an interview from the *Washington Journal* published in *POLITICO* where he talked about tax reform in ways that didn't fully align with what Ryan and others have said. So how does that interact in terms of you have this closed-off process, but we also have a President who has talked openly at times?

MS. REYNOLDS: So for me, the thing that I think about most often in the context of the President and these big intra-party legislative fights that Republicans are having is the degree to which Trump is not well-suited to help solve those intra-party problems in a way that another President might be. And I mean this in two different ways. One, just in sort of the substance of the policy, like being able to say to members and make an affirmative case as to why they should or should not do something. And then also, in the context of his political standing.

So one thing that we know from a fair amount of political science research is that when a President is more popular, he has the ability to go to members and say, look, I want you to do this and I can give you some political cover for doing so because I have the political capital that comes with popularity. And we can talk about sort of Trump's relative standing with Republican voters versus not with Republican voters and where he's more popular and where he's not more popular, but to the degree that he has low approval ratings, he does not have the ability to say to members I want you to take this thing for the team and I'll be able to help you overcome the political costs of doing so.

So for me, those are the things that I think about in the context of Trump and these fights within his own party.

MR. RUBIN: And I add to that this is a case where campaign policy plans matter. Right? So if we look back at the Bush campaign in 2000, they were pretty clear about what they wanted their -- what their first legislative priority was -- the tax bill -- what the theory behind it was, and what a fair amount of the details of that plan were going to be. And so when they came into office, even with the delay from the 2000 election, they were able to move pretty quickly to -- and they had buy-in from a large segment of the party on that plan. It was easier fiscally because they had big surpluses at the time to advance that forward and it was enacted by May.

If you look at the Affordable Care Act, like, you know, there was a lot of work done both from the Obama campaign and go look at the whitepaper that Senator Baucus, who was the Finance Committee chairman, put out in the fall of 2008. It was right after the election. The amount of work that

had gone on before the election in a coordinated way between the campaign of the incoming President and the majority party in the Congress of the same party was intense on both the Bush tax cuts and the Affordable Care Act.

And so even though the Affordable Care Act took 14 months to get done from the get-go, there was a ton of work that had been done in advance. And the distance that President Trump had from the party and the fact that many of them didn't think he would win has basically prevented that from happening this time around.

MS. KLIFF: And I think kind of echoing Molly's points, one of the things I imagine became very difficult in these negotiations, it was very clear in a number of interviews he gave, that President Trump had no grasp on a lot of the policy concepts in the healthcare law or the healthcare bill that Republicans were debating. And I think, you know, I remember covering the Affordable Care Act's drafting and you could see things happening with the White House making suggestions responsive to specific members' concerns, where a Democrat can go and say, well, I'm concerned about how this Medicaid provision will affect my state, and then the White House kind of like thinks through some things and offers them something. And it's hard to see that process happening here.

There were two interviews where President Trump estimated that health insurance should cost in one interview \$15 a month, in another interview \$12 a year. It is just so far from the realm of numbers that anyone who has ever interacted with the health -- when I interview Obamacare enrollees, I ask them how much do you think it's fair to pay? A lot of them say \$50 to \$100 a month. They get that health insurance costs money.

But that lack of policy engagement, it matters. How do you get Lisa Murkowski on board when she says, well, I have these very specific Medicaid concerns, and you're not actually engaged with the actual policies? I think that is certainly a roadblock and, you know, speaks to an early question, could another Republican administration have gotten this done? I think it certainly would have helped if you had an executive and a President that was really engaged on the actual details of what was happening.

MR. ORNSTEIN: And don't forget, we had a President who did a Rose Garden ceremony exulting and high-fiving all of his members when the House bill passed and then told senators it was mean. I was just hoping that in one of the meetings with senators one of them would ask Trump a

substantive or a technical question about health policy, but they all wimped out.

MR. MOLLER: Hi, thank you so much. My name is Zach Moller. I am a former Senate Budget Committee staffer and currently with the Committee for a Responsible Federal Budget.

I'm wondering, when we talk about tax reform and reconciliation we're going to have a lot of Byrd Rule problems. In addition to just the long-term deficit issue, do you guys see any regulatory sorts of issues in tax reform that are going to get Byrded out? And, you know, this was a big issue, whether or not the House was going to even be able to pass BCRA after the "Byrd bath" issues. Thank you.

MS. REYNOLDS: I'll say that's the right thing to -- or it's a right thing to be paying attention to. In part because of the level of detail with which I have been following the healthcare fight. I've been following the coming tax fight in a little bit less detail.

But what I would say generally is that, again, what -- we should look first at where are the policy disagreements? And until, as Richard pointed out earlier, until they figure out some of those, the idea of kind of what are these more ancillary questions about the Byrd Rule.

One thing I'll say about the Byrd Rule that I think is important and hasn't come up yet is the degree to which it injected more uncertainty into what was already an uncertain process around healthcare reform. And so it'll be interesting to see if something similar happens with taxes.

So it's, at this point, sometimes hard to think back to even just last week in the timeline of things that happened, but if I'm remembering correctly, it was not until Friday, the Friday prior to the vote on the motion to proceed, that we started to get publicly a sense from -- courtesy of the Democrats on the Senate Budget Committee of what the parliamentarian was advising on the Byrd Rule. And that was, again, just days before we came up for the motion to proceed.

And so the degree to which we were already moving at a really fast pace, and if they want to keep up to anything close to what the White House was saying yesterday about what they're looking at on a pace for tax reform, the degree to which there's uncertainty in the process more generally, like the Byrd Rule is a really important source of that uncertainty in the specific case of reconciliation. That's what I'd say.

MR. ORNSTEIN:

MR. RUBIN: Yeah, but I think things like changing the structure of the IRS are unlikely to be able -- I'm not a parliamentarian, are not likely to survive the sort of "Byrd bath" situation. I think some Republicans have sort of already conceded that, that that would have to move on a separate track because it's not primarily fiscal and budgetary in nature. But in general, I think they'll be fewer issues because you don't have the kind of regulatory regime trying to be change in quite the same way.

That said, I'll echo Molly's point, we just don't know what the bill looks like yet. If it's straight up, you know, if it ends up being much more rates and dates, then, yeah, the Presidents were pretty clear from 2001 and 2003 that you can do that. When you start writing more complex policy, I just don't think it's been tested at all.

MS. BINDER: Excellent. Well, reconciliation gets 20 hours of debate, but we only get 90 minutes and no vote-a-rama. (Laughter) So thank you very much to all the panelists and to all of you for your questions. (Applause)

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