GPO

THE HONORABLE HUGH NATHANIAL HALPERN
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Testimony of Government Publishing Office Director Hugh Nathanial Halpern before the Select Committee on the Modernization of Congress Hearing entitled "Modernizing the Legislative Process"

April 28, 2022
10:00 A.M.

Chair Kilmer, Vice Chair Timmons, and Members of the Select Committee, I am pleased to appear today to testify about the ways the House and its support agencies can improve the experience of Members and staff when they embark on the legislative process.

While I am appearing today in my capacity as the Director of the Government Publishing Office where I represent a team of more than 1,500 craftspeople and professionals who support Congress through the publication of Congress' work in both digital and print formats, I also bring to the table more than 30 years of experience as a House committee and leadership staff person. During my time in the House, I served half-a-dozen different committees, including spending more than a decade as the staff director of the Committee on Rules and my last few years as Speaker Ryan's Director of Floor Operations.

Introduction

Most of my roles while I was in the House included responsibility for the management of committee work product, including bills introduced by Members of the committee and the preparation of committee reports. While I worked in the House, I was literally responsible for executing the introduction of thousands of measures. At GPO, I head an agency that is responsible for processing, publishing, and printing an average of nearly 300 measures each week that Congress is in session. My experience in both environments gives me insights into where there may be "pinch points" in the process and some potential areas for change.

When I was a young committee staffer in the 1990s, the environment was different. For instance, it was common practice for staff of both parties to work with attorneys in the Office of Legislative Counsel by meeting together to discuss policy proposals and work on the legislative language, even when there wasn't complete agreement on the policy. For instance, the long-retired counsel I worked with when I was at the Energy and Commerce Committee would meet with both majority and minority staff and wasn't shy about telling any of us when he thought our ideas needed some work. Because drafting was more of a collaborative process, I learned many of my drafting skills as I reviewed draft legislation. Those skills served me well as I progressed in my career.

If someone found an error in a draft, there were usually only two options to get a correction: (1) request that Legislative Counsel make changes and produce a new draft, or (2) make conspicuous handwritten changes to the manuscript with understanding that those changes would be executed by GPO during their processing of the measure. Even as technology changed, those continue to be the primary methods that can be used by Members and staff today.

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A Brief Historical Note and the Impact on Current Operations

More than 200 years ago, when the Nation was very young, we made some bad decisions as we set up the method for drafting our national system of laws. The single biggest problem is that it doesn't scale very well, particularly when confronted by the imperatives of modern technology.

As the Federal government grew and we started to develop what is now the U.S. Code (along with the Internal Revenue Code and other bodies of U.S. law) early lawmakers made the decision that amendments to existing law are to be expressed in terms of directions to an unseen clerk. That includes things like page and line number directions and specific typographic instructions describing how certain elements should look. Additionally, as drafting styles evolved, there was a requirement to maintain older formats alongside newer conventions as certain kinds of legislation never transitioned to the newer style. A good example of this is the typographic differences between appropriations measures, drafted in a style based on the "traditional" drafting style, and most authorizing legislation, which is drafted in "OLC" style, a more modern set of typographic conventions. Amendments to the U.S. Code are another distinct set of typographic conventions.

These requirements mean that our systems are built around these drafting conventions. As those systems themselves evolve, we develop something of a feedback loop — complexity begets more complexity.

It is also critical to note that the House and Senate rely on paper manuscripts as the documents of record. Something has to be the authentic original and the House and Senate still rely on the manuscript to serve that purpose. This system is very good at ensuring that published documents match the official actions of the House and Senate. When there's a breakdown in process and someone relies on an electronic file, that's when errors occur.

This is opaque for the Members and is difficult for us to execute unless everyone is well-versed in the mechanics of the process. In my experience, fewer Members and staff are taking the time to learn the process and understand how the system works. That ultimately leads to the frustration that all of us have experienced.

I understand that the Members are frustrated by what seems like slow processing of introduced measures. They don't understand why measures cannot appear online the next day. As the House's Members background has changed to Members with either no legislative experience or State legislative experience, they have difficulty understanding the delays. Members and staff also want greater control over their own documents and bristle when they can't make changes on their own.

My goal today, with my colleagues representing the other relevant House support offices, is to explain how the system works, touch on some of the impediments to wide-scale change, and highlight some avenues to explore for some modest improvements.

How GPO Processes Bills Today

While this has been touched on by my colleagues, it is important to have some context. You have already heard from the offices of the Legislative Counsel and the Clerk about their roles in the legislative process. At the beginning of the process, GPO takes over after the Clerk staff have finished their work on an introduced measure. A basic diagram of GPO's process is shown as figure 1.

Figure 1. GPO's Procedures for Processing Introduced Measures
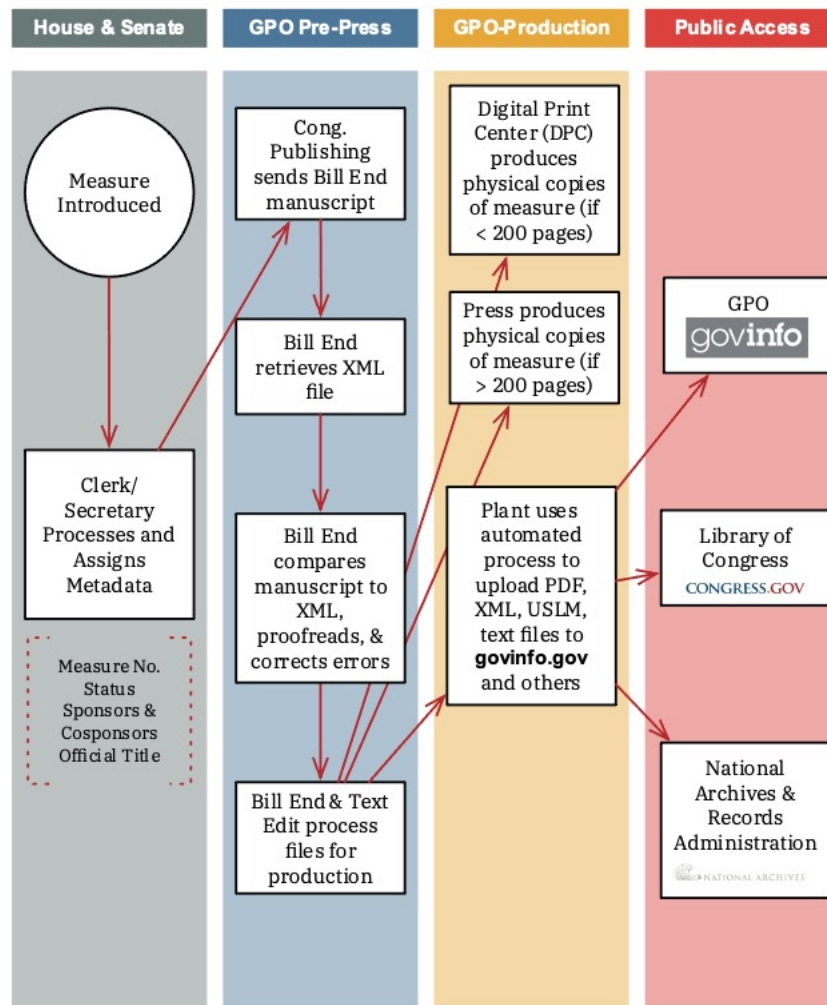
The process is still largely paper-based and is driven by the absolute requirement from our customers — the Clerk and the Secretary — that our product matches the paper manuscript introduced in either the House or the Senate, as that manuscript is the official document of record. Bills are handled by GPO's "Bill End" unit in the Proof Room. They are experienced and trained proof readers and keyboard operators who are familiar with the particular issues that can arise with legislative text.

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If there is an electronic file available (i.e., an XML file drafted by Legislative Counsel), GPO's Bill End unit proofreads the output of the electronic file to ensure it matches the manuscript introduced via the Hopper or the eHopper. If there is not an electronic file available (for instance if the manuscript is in Word or there is no electronic copy) we scan and OCR the document and our "Markup" section will manually add typesetting codes to the paper manuscript to be input later in the process.

Our proofreaders in the Bill End unit will also flag items for style, consistency, etc. If there is an issue beyond the normal spelling, style, or punctuation issues, they will generate a "query" back to the Clerk or the Secretary asking for clarification.

GPO's "Text Edit" section then makes any changes/corrections or inputs the instructions from the Markup team. Proofreading then checks to make sure that all changes were executed properly.

When this process is completed, an automated process prepares the files and sends them along with the accompanying metadata to **govinfo**, Congress.gov, and the National Archives. At the same time, GPO's Plant operations unit prints the paper copies of the measure. If the measure is less than 200 pages, it is printed by the Digital Print Center on equipment similar to larger office printers. If the page length is greater than 200 pages, the measure is printed on GPO's digital inkjet presses and sent to the Bindery to be bound.

This process works on a "first-in/first-out" basis and we aim to have a new measure available online and in print within a week of receipt, though this can vary depending on the volume of work in the Proof Room. The House and Senate also can designate certain measures for priority treatment by placing them on the "Hot List." Work on those measures is generally completed overnight.

The Pandemic Highlighted Weaknesses in the System

Given the way the system operates, the volume of measures received directly affects the Agency's productivity. We have seen a historic increase in the number of bills in each Congress and, while each bill has trended shorter over the years, we have seen a historic trend of increasing page counts overall. See figures 2 through 4 on page 5 for trends.

GPO's productivity in processing bills depends on how many pages each Bill End proofreader can complete during a given shift. Given the increase in the number of pages to be proofed, GPO's ability pre-pandemic to maintain the average 1-week turnaround time points to the increased productivity of its proofreaders.

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*Figure 2. Total Measures Processed by GPO. 117th Congress estimated based on current trends as of April 21, 2022. Source: **govinfo.gov**.*
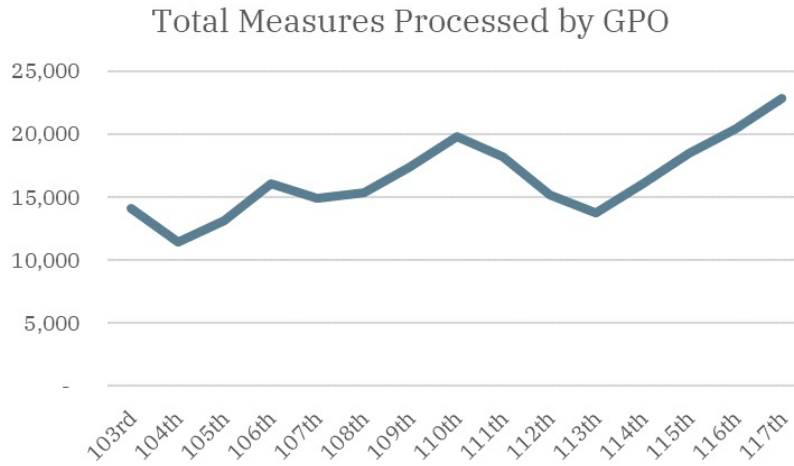
Total Measures Processed by GPO

*Figure 3. Average Length of Measures in Pages. Source: **govinfo.gov**.*

Average Measure Length in Pages

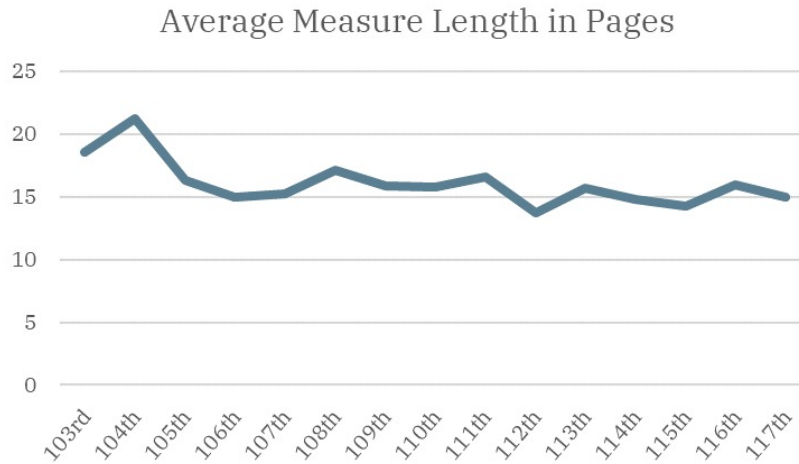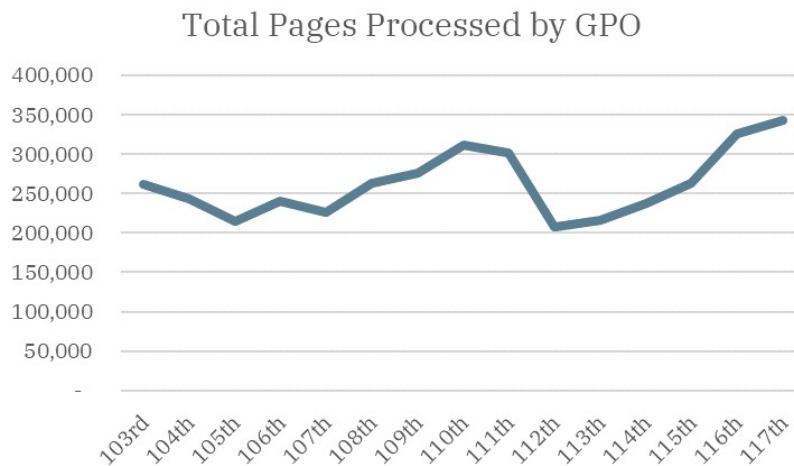*Figure 4. Total Measure Pages Processed by GPO. 117th Congress figures estimated based on current trends as of April 21, 2022. Source: **govinfo.gov**.*

Total Pages Processed by GPO

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The pandemic required the Agency to take severe steps to protect its personnel and its resiliency in the face of potential infections. GPO responded to the conditions of the pandemic by instituting "team" staffing throughout its operations. Under this arrangement, only one-half of each shift would report to work during a given week. This would allow for social distancing and the ability to bring in the other half of the team in the event of an infection that required the team that was working to be isolated.

While this procedure allowed GPO to provide for the continuity of its operations in support of Congress, it also resulted in a significant decrease in productivity and a major backlog in the processing of measures in the Bill End. As figure 5 shows, the backlog reached its height in May of 2021 with nearly 1,800 measures waiting to be proofed in the Bill End. When the Proof Room returned to full staffing in mid-May 2021, they were able to eliminate the backlog by September while continuing to process record numbers of introduced measures. Since the beginning of 2022, there has been an average of only 75 measures awaiting processing in the Bill End at the end of each week.

Figure 5. Measures Waiting to be Processed in GPO's Bill End. Source: GPO.
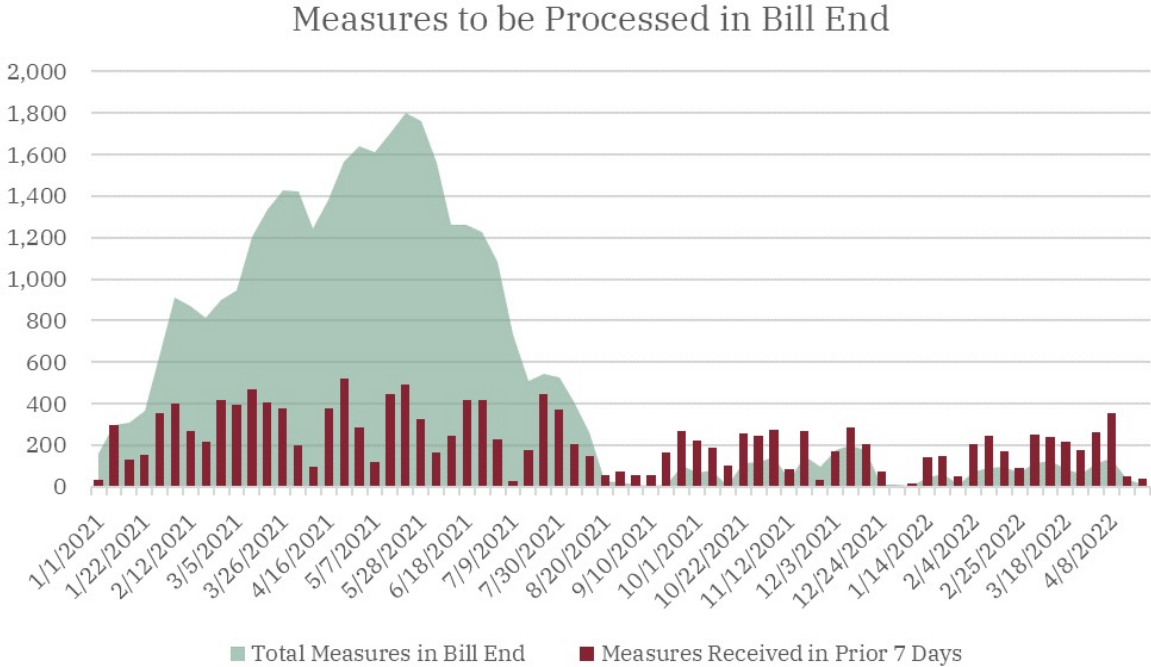
Additionally, during the same time period, GPO's proofreaders were discovering that some offices were using commercially available PDF editing software to make changes to the PDF used to introduce the bill, while the XML file used to generate the PDF and used by GPO to generate press-ready copy remained unchanged. Since GPO's service level agreement with the House and Senate is to maintain the fidelity of the introduced manuscript, GPO's proof readers were forced to essentially read each introduced measure character-by-character rather than the more basic proofing that was the regular practice. While GPO's proof readers were only finding differences in about one percent of the manuscripts, it was enough that it required detailed reading of each introduced measure. While the use of this technique was based on a misunderstanding on the part of the introducing Member's office that GPO printed from the PDF, it required significantly more time to proof and further exacerbated the backlog.

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Members and staff were rightly concerned about this backlog, as were all of us involved in supporting these functions. While GPO was able to meet the immediate needs of the House and Senate through management of the Hot List, individual Members introducing measures had to wait a month or longer for the official version of the measure to be posted on **govinfo** or Congress.gov. While Members had alternatives, such as posting the draft version of a measure on the Member or committee's website, it was not easily searchable or discoverable through the regular methods. Now that the Proof Room is fully staffed and GPO's turnaround time is back to normal, there is less urgency to find alternatives to GPO's regular process, though we continue to get questions about the process and the length of time required to process introduced measures.

Future Options for Processing Legislative Measures

In the wake of this backlog, GPO has discussed with our oversight committees, individual Members, and other stakeholders, various options to reduce the time that measures spend in the Proof Room in an effort to speed up availability of legislative text through the usual online channels. While we present the following two ideas as options, it is important to note that GPO is not endorsing these approaches at this time. While each may speed up the process to some extent, they also have potential risks. Ultimately, GPO will meet the level of service that its customers demand, making clear any tradeoffs involved.

Providing the Option to Skip the Proof-Reading Step

Given that the proofreading process is largely manual, some have suggested that Members be given the option to waive the proofreading process for measures drafted by Legislative Counsel. This would essentially end the primacy of the introduced paper manuscript and instruct GPO to rely on the House's prepared XML file. That means that, for that subset of introduced measures, GPO would not catch any handwritten changes on the introduced manuscript nor would it do the usual proofing for grammar, spelling, style, and other similar issues. The measure would be processed electronically, posted on **govinfo** and Congress.gov, and sent to the Plant for physical printing without any of the usual quality assurance checks. While GPO usually only has queries with the House or Senate on 10 to 20 measures at any given time, providing this option would likely result in errors that would otherwise be caught during GPO's proofing process. It could also result in Members introducing measures just to correct errors or demanding expensive reprints when they discover errors after the measures are processed.

Enabling Members to Produce Legislative Drafts on their Own

As described previously, Members have long sought the ability to draft or modify legislation on their own without the use of Legislative Counsel as an intermediary. The argument is that there is a large subset of introduced measures that are relatively simple and don't require the expertise of Legislative Counsel's attorneys.

Giving offices full access to the same editor and drafting tools used by Legislative Counsel is cost-prohibitive and would require extensive training on the part of users. Even experienced committee counsel have difficulty using XMetal with the House customizations.

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We are involved in ongoing discussions with the House Office of Legislative Counsel and the Clerk's office regarding the development of relatively easy-to-use Word templates that could be used by staff for simple drafting tasks and could be ingested into GPO's typesetting system through a web interface. As part of GPO's development of XPub, its next generation composition system, GPO has been testing Word templates for committee reports and hearings with some success. However, the structure of legislative documents is significantly more complicated than committee reports and hearings. If the measure contained amendatory language, it would be difficult to create a general-purpose Word template that could account for all the possible variations of amendatory drafting styles. We are continuing to pursue this as an option, but it is at least several years away before we would have something that could be put into production.

It is also important to note that if a Member drafts a measure using Word or another piece of software today, GPO will still process it, but we will likely just scan and OCR the manuscript, manually insert the typesetting codes, and manually review the resulting document for accuracy. This process will take longer than it would if we were working with electronic files from the House.

Lastly, based on my experience as a staff person, I want to urge caution about taking Legislative Counsel out of the equation. It is difficult to replace their knowledge and expertise and even I, an experienced drafter, learn something from each of my discussions with the attorneys of Legislative Counsel that I didn't know previously. Taking them out of the process will inevitably lead to lower quality legislative measures.

Conclusion

Ultimately, the House will have to decide on the tradeoffs between the current systems for processing introduced measures which deliver high quality and the alternatives which may speed up processing but will ultimately result in lower quality legislative measures. The availability of resources for Legislative Counsel, the Clerk, and GPO will all be factors in that decision. Regardless of which way the House decides to go, GPO is ready to be an active partner to meet our customers' requirements.

Thank you again for the opportunity to testify. I stand ready to answer any questions you may have.

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Hugh Nathanial Halpern, *GPO Director*

Hugh Nathanial Halpern is the U.S. Government Publishing Office (GPO) Director, the agency's chief executive officer. The agency is responsible for publishing and printing information for the three branches of the Federal Government. Halpern is the 28th person to lead GPO since the agency opened its doors for business on March 4, 1861, the same day Abraham Lincoln was inaugurated as the 16th President of the United States. President Donald Trump nominated Halpern to be GPO Director on October 17, 2019, and the U.S. Senate confirmed him on December 4, 2019.

Biography

Prior to coming to GPO, Halpern held a succession of leadership positions during his 30 years on Capitol Hill. He served as the Director of Floor Operations for the Speaker of the U.S. House of Representatives. In that role, Halpern was the highest-ranking floor staffer in the House and served as Speaker Paul Ryan's Chief Advisor on all procedural matters. He managed the daily floor operations of the House, served as the liaison to all leadership offices, and oversaw legislative interactions between The White House, House and Senate. In 2018, he received the John W. McCormack Award of Excellence, the highest award given to a staff member in the House. The award recognizes a lifetime of bipartisan service to the House.

In addition to his position in the Speaker's Office, Halpern has more than a decade of experience serving on the senior leadership staff. He has a proven track record of successfully leading teams to achieve results.

During his career, he served half a dozen different committees in both policy development and procedural roles. During his 11 years on the House Committee on Rules, Halpern served as Staff Director leading the management and terms of debate on the House floor. In 2001, he was named General Counsel by Chairman Mike Oxley for the newly established House Committee on Financial Services. During his tenure, the committee provided legislation addressing terrorist financing and money laundering, improving investor confidence in the wake of the Enron and WorldCom scandals and granting consumers important new tools to fight identity theft. During the 1990s, Halpern served on the House Committee on Energy and Commerce, where he handled a variety of legislative issues, including automobile safety, insurance, FTC consumer protection and tobacco regulation. Halpern began his career in Congress as an intern for Rep. E.G. "Bud" Shuster in 1987.

Halpern served a number of temporary positions during his time on Capitol Hill. He was the Parliamentarian to the First Select Committee on Homeland Security, which created the Department of Homeland Security, General Counsel to the Select Committee to investigate the voting irregularities of August 2, 2007, and Assistant Parliamentarian to the 2008, 2012, and 2016 Republican National Conventions.

A native of Hollidaysburg, PA, Halpern received bachelor's and master's degrees in Political Science from American University in 1991 and 1992, respectively. He also received a law degree from George Mason University in 1997. Halpern has been included in Roll Call's list of 50 most powerful Congressional staffers 14 times and featured in a National Journal profile as one of "The New Power Players" on Capitol Hill.