

## **Testimony of John Richter, Director of the Congress Project at the Bipartisan Policy Center, Before the House Select Committee on the Modernization of Congress**

March 25, 2020

Chairman Kilmer, Vice Chair Timmons, members of the committee:

Thank you for the invitation to speak before you today. My name is John Richter and I am the director of the Congress Project at the Bipartisan Policy Center. Prior to joining BPC, I worked on Capitol Hill for US Senator Olympia Snowe, including nine years as her chief of staff.

BPC is a Washington, DC-based think tank that actively fosters bipartisanship by combining the best ideas from both parties to promote health, security, and opportunity for all Americans. Our policy solutions are the product of informed deliberations by former elected and appointed officials, business and labor leaders, and academics and advocates who represent both sides of the political spectrum. BPC prioritizes one thing above all else: getting things done.

The work of the Select Committee on the Modernization of Congress during the 116<sup>th</sup> Congress truly embodied that priority, getting things done. We were proud to contribute to your efforts and heartened that the committee adopted many of the recommendations we made in areas such as the budget and appropriations process, a more efficient schedule and calendar, restoring congressional science and technology capacity, re-establishing a more accountable form of congressionally directed spending, and fostering opportunities to build bipartisanship and the relationships among lawmakers that are fundamental to legislating.

BPC is confident that this committee's efforts in the 117<sup>th</sup> Congress will be equally impressive in its accomplishments, and we remain ready to work with each of you to make this institution function more effectively for the American people. Our team especially looks forward to getting to know those of you who have just joined the committee and better understanding your vision for improving the first branch of our government.

Today, I will lay out the topics we believe should be high on your priority list. Many entail picking up where the committee left off: offering new recommendations within areas the committee has previously explored, and working to implement recommendations already made. Others require new areas for consideration.

The task laid before you could not be of greater importance at this moment in our nation. This Congress began with an unprecedented assault on the very building where our representative government convenes. Your lives and safety were at risk, as were those of your staff and even some of your families. Capitol Police tells us that [threats against lawmakers](#) have more than doubled over the last three years. [Comity](#) among members appears to be at a 30-year low. And the country is still struggling to emerge from the grip of the COVID-19 pandemic and its economic fallout. Right now, we need a Congress that works.

Fortunately, you begin this Congress with the tremendous momentum of the 97 recommendations unanimously approved by the committee last Congress. As you know, these

outcomes were the product of rigorous and engaging hearings, expert input, informal discussions and roundtables, constructive dialogue, and consensus building.

How this committee went about its work was extraordinary. It rejected the common approach, which is to maximize one's own party's objectives and minimize the other party's. This is a workhorse committee, and it has proven that even with the noise of partisanship all around you, this institution can still put its head down and agree to transformational ways to make things better.

### **Bipartisanship and Relationship Building**

Our philosophy at BPC is that no one party has a monopoly on good ideas. We believe in bipartisanship because it is still the primary means for getting things done in Washington.

As political scientists James Curry, who testified before this committee, and Francis Lee conclude in their four-decade study of congressional lawmaking: "...rhetoric and position taking conceal the truth about parties' capacity to change public policy...American national lawmaking remains a process of bipartisan accommodation."<sup>1</sup> In fact, Curry and Lee find that 79 percent of party agenda items passed with the support of a majority of the opposing party in at least one chamber.<sup>2</sup>

Bipartisanship holds as a sign of effective individual lawmakers as well. The [Center for Effective Lawmaking](#), which assesses members' ability to advance their priorities through the legislative process each Congress, finds there is a strong relationship between bipartisanship and effectiveness. Related, there is an extremely high correlation between the most effective lawmakers, as they identify, and those who score high on the [Lugar Center's](#) bipartisanship index.

This committee has already adopted several substantive recommendations for improving bipartisanship and relationship building, including ones BPC offered. Most, if not all, of these recommendations have yet to be implemented, however, and we look forward to further developing them with you this Congress. Among them are opportunities for bipartisan district visits, reflecting a program pioneered by BPC through our American Congressional Exchange, and bipartisan retreats at various levels, something BPC piloted with our biennial Freshman-Sophomore class retreat.

There are additional, concrete steps that could be taken to engender an atmosphere conducive to consensus-building and lowering the confrontational temperature. One recommendation of BPC's [Commission on Political Reform](#) suggested that "joint party caucuses should be scheduled in both chambers at least once a month to discuss potential areas for legislative cooperation." As the recommendation described:

Providing additional opportunities for members to interact, especially with their counterparts across the aisle, will help defuse the increasingly toxic

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<sup>1</sup> James M. Curry, and Frances E. Lee. *The Limits of Party: Congress and Lawmaking in a Polarized Era* (Chicago: The University of Chicago Press, 2020), 192

<sup>2</sup> *Ibid.*, 38

discourse on Capitol Hill. It becomes harder to demonize people with whom you maintain personal and working relationships. The seeds of trust are planted when members of both parties have the opportunity to learn together. The commission recommends that the leadership in Congress sponsor informal bipartisan gatherings that would allow rank-and-file members to hear from nationally recognized experts on subjects of common interest. To strengthen institutional awareness, we suggest that the leadership promote opportunities for members to obtain a greater understanding of the significant role Congress has played in shaping U.S. history...These meetings (could also) be off-the-record discussions of pending issues...While the commission strongly supports transparency in government, allowing members to engage their colleagues in off-the-record settings, insulated from the pressures of the media and outside special interests, is often essential for effective decision-making and finding areas of agreement.

Additionally, the committee could give consideration to physical attributes of the Capitol complex that could facilitate more informal, off-the-cuff, social interactions between members. The vast majority of meetings, lunches, and other Hill events are segmented along party lines, and physical spaces such as (understandably) cloakrooms continue that separation on the floor, further cementing the less tangible but all too detrimental distances that exist between members of each party.

Thought could be given to creating inviting gathering spaces that are convenient to the House floor, reserved exclusively for members to be able to privately engage together in activities as basic – but as potentially significant to establishing bonds of trust – as sharing coffee while discussing matters ranging from policy to the personal. In a similar vein, although in a more public venue, the committee might recommend that other committees take a page from their book and seat committee members from opposite parties next to each other, in an alternating arrangement -- rather than Republicans and Democrats sitting together, across from each other.

Even seemingly small steps can build important and significant momentum in the right direction, and symbolism can feed into shifts in mentality and, subsequently, reality.

### **Calendar and Schedule**

An ongoing challenge, one that previous committees on Congress have also attempted to resolve, is the [calendar and schedule](#). I would be stating the obvious to say that both the division of your time between the Capitol and your home districts, as well as the way your time is spent here in Washington, is frenetic at best.

The calendar and schedule do not just make an already challenging job more difficult, they also hamper your ability to fully engage in the legislative process, identify common problems and solutions, and build the relationships that make legislating possible while learning about the challenges of your colleagues' constituents.

Last Congress, BPC [recommended](#) this committee focus on two areas to make Congress more efficient: 1) balancing time spent between Washington and members' districts, and 2) maximizing the use of members' time in Washington. We offered several solutions, including adopting a four or five-day workweek and [block scheduling](#). These can help bring more predictability to the back-and-forth between your districts and Washington and reduce scheduling conflicts when you are here.

We understand the 117<sup>th</sup> Congress has started off with quite a grueling schedule, and the impact of remote work and virtual hearings has yet to be fully examined. We look forward to continuing to work with you on this issue and identifying further solutions.

### **Science and Technology Capacity**

A major concern for this committee has been Congress's diminished legislative capacity, and in particular, its diminished science and technology capacity. Today, social media disinformation campaigns threaten national security and the integrity of elections. 5G, cryptocurrency, and artificial intelligence all have the potential to revolutionize instant access to life-saving information, the banking industry, and the healthcare sector. However, hearings on these subjects have revealed that Congress often has an insufficient understanding and lacks necessary resources to properly address these critical issues that will shape America's future.

Lacking those resources, members and staff often rely disproportionately on lobbyists or industry experts, or the executive branch's view on these matters. This is not an optimal situation for the first branch of our government or, most importantly, the people it serves.

Last Congress, this committee recommended a restoration of the legislative branch's science and technology capacity, including through a significant overhaul of the defunct but still authorized [Office of Technology Assessment](#). BPC strongly supports this recommendation, and we encourage you to revisit this topic, especially in light of the COVID-19 pandemic, and add further detail to your vision so that Congress can fully implement it.

### **Oversight**

Equally important as Congress's lawmaking responsibilities are its oversight duties. The Supreme Court construes this function as:

"The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste."<sup>3</sup>

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<sup>3</sup> WATKINS, v. UNITED STATES. 354 U.S. 178. 77 S.Ct. 1173

Congressional observers have long been concerned that oversight activities are too focused on scoring political points and embarrassing the opposite party rather than programmatic oversight meant to improve the functioning of government.

Last Congress, this committee made a number of recommendations aimed at improving Congress's ability to oversee the federal government. They mainly focused on the legislative branch's access to executive branch information and the ability to compel witnesses to appear before Congress, both of which we heartily endorse. We encourage you to go further.

We recommend the committee dedicate more time to this topic, including a hearing discretely focused on Congress's oversight tools, resources, and capacity. While high profile scandal investigations and disagreements between the executive and legislative branches over the production of information or witnesses receive much attention, programmatic oversight must be fostered. Key questions include:

- 1) What resources and staff do committees and individual members have for conducting oversight and is it sufficient?
- 2) What is the capacity of the Government Accountability Office? Are there ways to improve its ability to serve Congress's needs?
- 3) How can Congress work better with federal inspectors general? How can the IG community be bolstered? Is the dual reporting nature of these positions, reporting both to the executive branch and to Congress, working sufficiently?

### **Evidence-Based Policymaking**

The enactment of the [Foundations for Evidence-Based Policymaking Act of 2018](#) suggests growing potential for the wider use of evidence to better inform congressional decision-making. As the executive branch implements that law, Congress will increasingly become a consumer of evidence and data, much like it is a consumer of intelligence gathered by military, national security, and law enforcement entities. BPC, in examining the legislative branch's ability to use evidence, [found](#):

"Evidence-based policymaking holds the potential to help restore elements of public trust in government and improve how government programs operate. Evidence refers to systematically collected data that have been analyzed with rigorous research methods to provide insights about how policies and programs operate. Evidence-based policymaking is the process through which evidence is applied to inform decisions about government policies and programs."

However, key challenges remain for fostering a stronger culture of evidence in Congress. They fall into three broad categories:

- **Perception** – Perception barriers occur when evidence exists on a policy, but policymakers perceive, rightly or wrongly, that the evidence is not useful, not credible, or not relevant to the decision at hand.
- **Institutional** – Institutional barriers exist when the structure of Congress, including its decision-making process and staffing structure, impede the ability of policymakers to obtain evidence or cause evidence to compete with other priorities when making a decision.

- **Systemic** – Systemic barriers describe the norms, processes, and day-to-day procedures of Congress that can affect whether relevant evidence is available and usable for policymakers when they need it. It also describes how those factors affect their incentives to use that evidence.

We strongly encourage the committee to examine ways to improve Congress's ability to use evidence and data for improved decision making. In a time of increased distrust of government and strong partisanship, identification of, and agreement on, facts and circumstances is crucial for productive lawmaking.

### **Conclusion**

This committee holds great potential for improving Congress's ability to meet the needs of the American people, as it has already demonstrated. We know that in the 117<sup>th</sup> Congress, by working collaboratively and in a bipartisan way, you will continue to find areas of agreement that will benefit the nation. Focusing both on implementation and further exploration of key areas already touched on by the committee and on new areas ripe for progress will yield great results.

The Bipartisan Policy Center stands as a ready resource to help you accomplish your goals. Thank you for the opportunity to testify before you today.