

## **Select Committee on the Modernization of Congress**

### **Hearing: Enhancing Committee Productivity through Consensus Building**

**July 20, 2021**

Good afternoon Chairman Kilmer, Vice Chair Timmons and Members of the Committee. Thank you for the opportunity to discuss with you options for improving the bipartisan operation of the Committee system in the House. For the record, my name is Warren Payne and I am a senior advisor at the firm of Mayer Brown. The views expressed today are my own.

From 2007 to 2015 I was a member of the Republican professional staff of the Ways & Means Committee, including several years as the Committee's Policy Director. In that role I was responsible for supervising and coordinating policy work across all aspects of the Committee's jurisdiction. I also served as the lead staff liaison to the Senate and the Administration. During my time on the Committee staff the Senate had a Democratic majority, and for most of my time on Committee the Executive Branch was governed by the Obama-Biden Administration. Thus, working across the aisle and forging bipartisan consensus was a necessity.

I found that I spent nearly as much time talking and engaging with my Democratic counterparts in the Senate and the Administration as I did with my own Members and staff. Further, I found that this significant and intense engagement across the aisle to be critical for improving the operation of the Committee. We are Republicans and Democrats for a reason, we have different perspectives and views and sometimes that means we don't really understand the context that drives each other's views on policy. It was only through frequent and informal communication with my Democratic counterparts that I was able to learn and understand the context and motivations behind my counterparts' positions.

I strongly believe that the numerous legislative accomplishments that the Ways & Means Committee achieved during that period were possible in large part because we took the time to understand what was motivating the folks on the other side of the negotiating table. While I don't think I ever changed the mind of any of my Democratic counterparts, that understanding of context and motivation facilitated the ability to find successful compromises.

Two years ago, I participated in an effort by the Bipartisan Policy Center (BPC) to gather and develop recommendations on strengthening the Committee process and improving the staffing of Congress. My contributions to this project reflect my the experience I have just described to you – experience that emphasized the need for staff and Members of the Committee to engage in robust, informal and private conversations.

The recommendations developed and made by BPC were provided to the Committee in the form of two memos. I have attached copies of those memos to my written testimony. Rather than review all the recommendations in these memos, I would like to highlight a few of the recommendations that I am particularly supportive of. First, improving career development opportunities for staff and second, creating more opportunities for staff and Members to engage with each other outside of the formal Committee activities.

With regard to improvements in staffing, Congress needs to invest more in its staff. While such investment could take the form of higher salaries, other improvements such as tuition assistance or student loan forgiveness, and more opportunities for training and professional development can also be extremely useful tools to help Congress recruit and retain exceptional staff.

Providing opportunities for continuing education and professional development is particularly important for Committee staff who are expected to have an extremely high level of expertise in areas of the Committee's jurisdiction.

In particular, opportunities for "real world" education are important. The Senate has a convention called the "staff del" where Senate staff travel internationally to meet with policy makers and stakeholders relevant to such issues as international trade and foreign affairs. The House should adopt this concept and broaden it to include opportunities for domestic travel as well. Adopting this recommendation will simultaneously provide more opportunities for education and career development and also provide a significant opportunity to improve engagement across the aisle.

As an example of the potential benefits of this type of activity I look to my time in the Executive Branch. Before I joined the Ways & Means Committee I served as a senior advisor for a Commissioner at the U.S. International Trade Commission. In that capacity, I frequently traveled to visit the factories and work places of the companies involved in trade disputes before the Commission. These trips were undertaken jointly with the agency career staff and staff for other Commissioners, including and especially staff from Democratic nominated Commissioners.

These trips not only provided me with an opportunity to see how policy could impact stakeholders where they live and work but also provided opportunities to expand and deepen my relationship with my colleagues on the other side of the aisle.

The Committees would benefit tremendously from staff, and Members, having the opportunity to learn and interact with each other in these kinds of circumstances.

Similarly, Committees should be encouraged to pursue alternative activities on a bipartisan basis outside the formal activities of the Committee. The regular structure of Committee operations, formal hearings and mark ups, do not necessarily lend themselves to strengthening communication and understanding of views among staff and Members across the aisle.

The BPC memos make a number of recommendations for potential bipartisan activities but I would like to focus on two complimentary recommendations. First, Committees should ensure robust opportunities exist for bipartisan, Member discussions behind closed doors. While transparency is important and vital for Congress to operate the need for transparency must be balanced against the need to provide Members opportunities to have frank conversations where they can discuss and debate a wide range of views and policies. It is very difficult to engage in those types of discussions while they are being broadcast on CSPAN.

In my time as Policy Director at Ways & Means we conducted numerous closed door, bipartisan briefings at the Member level where both outside experts and Committee staff presented information on policies being debated by the Committee. No Member ever abandoned their views and beliefs in these settings, but they did provide Members an opportunity to discuss their different views in a less confrontational or adversarial setting.

Secondly, Committees should emphasize opportunities below the full committee level. Whether at the subcommittee level or in more ad hoc situation, smaller group activities can provide even better opportunities for Members to engage with each other.

I would like to share one example of this type of activity from my time at Ways & Means. In 2013, we established bipartisan working groups tasked with examining 11 different discrete areas of tax policy. Each working group was led by one Republican and one Democratic Member who had expressed an interest in leading that working group. Other Members were free to participate in any working group they chose. The leaders of the working group established their own agenda and were free to meet with stakeholders, hold roundtables and request assistance from Committee staff in almost any manner they wished.

This structure maximized the opportunities for bipartisan engagement and discussion among Members. Because Members were free to participate in a working group that was of interest to them it guaranteed that no matter how different or varied the backgrounds of the individual Members participating there was a commonality of interest that could serve as a foundation for discussion and debate.

I believe these working groups enabled not only a significant increase in the technical understanding of Members of parts of the Tax Code but also, and more importantly, enabled the establishment and deepening of relationships among and between Members that improved the overall operation of the Committee.

These working groups produced tangible evidence of the improvement in bipartisan cooperation when the Education Working Group, led by Congresswoman Diane Black and Congressman Danny Davis produced legislation that reformed aspects of education tax credits that was subsequently marked up by the Committee.

This is the most important recommendation I can make to you today - Committees should find more ways to have small groups of staff and Members engage on a bipartisan basis in private settings that provide the opportunity to learn more about the context and background that motivates each other's policy views and thereby fosters an environment where everyone has information and knowledge that facilitates successful bipartisan negotiations.

Again, thank you for the opportunity to speak with you today and I look forward to answering any questions you may have.