

Testimony before the Select Committee on the Modernization of Congress

United States House of Representatives

“Pathways to Congressional Service”

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Chairman Kilmer, Vice Chairman Timmons, and Members of the Select Committee, Thank you for inviting me to appear today to testify at this hearing on “Pathways to Congressional Service”.

Serving in the United States House of Representatives is the greatest honor thus far in my life, and I consider myself an institutionalist that treasures the history of the House and will endeavor to make it the strongest it can be now, and in the future.

There are many barriers to running and to ultimately serving, from family to finances. Every Member has a different view on what it will take to serve. Will he or she have enough money, or will they be able to afford a place to live off of the Congressional salary? What about one’s family? Do you move your family to Washington, DC or leave them in the district? If you move them to DC, what do you do with them when you have to travel back home? What if the children are very young? With inflation, how do you afford to fly the family back and forth? All of these questions have to be answered, and the answer may vary significantly among the Members.

One question we have to ask as a body is do we only want wealthy people to be able to hold this amazing office? Regrettably, we are approaching the point that only independently wealthy individuals will be able to serve. Yes, \$174,000 per year looks like a great deal of money, but not when you have to pay for a second home. Combine that now with a high inflation rate, which at 7% will reduce the purchasing power of that amount by more than \$1,000 per month.

Another issue is that anyone who comes from a profession that involves a fiduciary responsibility, such as a doctor or lawyer, can receive no compensation for their services once they take office. For me, once I was sworn in on January 6, 2009, I had a number of cases that still had to be resolved and because of that rule, I forfeited more than \$350,000 in legal fees that I otherwise would have been entitled to receive. Basically, that meant I gave up the equivalent of my Congressional pay for my first term. In fairness, why not

allow a Member who is an attorney a window of six months or a year to conclude existing files they had prior to being elected and keep those fees? It's an unnecessary barrier that could easily be removed.

Congressional salaries haven't changed since 2009. In 2022, most Senators and Representatives collect an annual salary of \$174,000. Leadership positions pay more, with the Speaker of the House receiving \$223,500 per year.

Just as one must consider the various obstacles and barriers to begin serving, the decision to retire from Congress is even more difficult and many factors contribute to the timing of when to leave the House. For my wife, Sidney, and I, the process was impacted by the fact that we have a precious adult son, Livingston, who has Fragile X Syndrome. You know him because the Intern Program you run for students with intellectual disabilities is named after him. He's never been prouder than when that honor was bestowed upon him. This is the first time that I've said this publicly, but I knew that if I stayed where I had not received an increase in pay in 10 years, with no prospects of when that might change, I could not provide for his future.

There's an easy solution to make this more equitable. First, change the Member Handbook so that Members only have one duty station, not two, thereby allowing a per diem.

Second, while there is no constitutional or statutory requirement that Members of Congress and the federal judiciary be paid the same, there is a history of that being the case, until everyone was denied a cost-of-living adjustment. Beer v. United States, 696 F.3d 1174 (Fed. Cir. 2012), cert. denied, 133 S.Ct. 1997, held that the denial of certain cost-of-living adjustments for judges was unconstitutional and violated the Compensation Clause and that a 2001 amendment that kept judges from receiving additional compensation except as Congress specifically authorized did not override the provisions of the Ethics Reform Act of 1989, Pub. L. No. 101-194. In an order filed on December 10, 2013, in Barker v. United States, No. 12-826 (Fed. Cl. filed Nov. 30, 2012), this finding was applied to other Article III judges, effective that date. As directed by these decisions, the judicial salaries were reset to include the missed adjustments, and those salary levels have been increased by subsequent cost-of-living adjustments.

Today, Members of Congress make \$174,000 per year, while Federal District Judges make \$223,400 per year and Judges for the Court of Appeals make \$236,900 per year, and those judges only have one duty station. This is not complicated; the House of Representatives and the Senate should pass legislation making the salaries the same and allowing for future cost of living adjustments.

Thank you for allowing me to appear before you today, and I look forward to answering your questions.