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Changing Conceptions of a Legislator's Role

For Americans, an elected official is someone whose job is to make thoughtful and responsible policy decisions based on their district's best interests. In this capacity, most expect their Senators and Representative to thoroughly read each bill coming up for vote and they expect him or her to sit and think through each vote carefully. Upon hearing that that is not how a member spends all their time, many Americans become disillusioned with the institution as a whole. Recall the controversy after many Senators admitted to not having read the Patriot Act before voting on it, a blasphemy still used against them in some forums. Or consider stories told of a Member receiving a thumbs-up or –down telling them how to vote on the way to the floor, perhaps without even knowing what they will be voting on.

After experiences in two district offices, I began to count myself among these Americans. I watched the staff do what felt like all the work while I saw the Senator and Representative only for what seemed like public appearances and campaign purposes. Considering that Representatives run for re-election every two years, I began to wonder how much time they actually spend legislating versus campaigning. With so much time spent on public actions, I wondered when a Senator had time to make legislative contributions. Accordingly, I entered this summer seeing Members purely as faces; they were a public relations and campaign mechanism for a staff that did the lawmaking. I wondered if we elect the official or if we actually elect a legislative director and his supporting staff. Over the course of this summer however, my admiration grew for my boss, a prominent and high-ranking committee chairman who I discovered to be remarkably brilliant, unimaginably hard working, and impeccably in command of his office, his staff, and his policies.

According to staffers in the Senator's office, issues come to their desks both from the Senator's personal concerns and from their own research. In the former case, the Senator will raise an issue with the legislative director, who moves on it with the staff. In the latter, a staffer will see an issue arise and try to sell an action to the legislative director and eventually the Senator, who will approve or reject it. In either case, staffers put together options for the Senator to evaluate based on an organic process of research, synthesis, coalition building, and their own assessments. They meet with interest groups and expert parties, conduct their own research, have interns conduct research, and synthesize practical and political ramifications of each possible action. One of these options eventually evolves into a recommendation for the Senator, but this recommendation is only the way they will proceed about half the time. Though this may vary depending on the office, my boss was deeply involved and vocal in every meeting, on every issue, and with every perspective that emerges from his office. Staffers repeatedly stressed how consistently the Senator impresses them with his understanding of even the most obscure issues and with his strong participation in every legislative meeting. Moreover, they stressed that whatever the recommendation or opinion of the staffer, the Senator does not hesitate to choose a different path; he is, in fact, the boss.

Without a doubt, the biggest legislative agenda facing Congress this summer was the beginnings of the healthcare reform package. One little understood or talked about piece of this agenda has been an approval pathway for biosimilar drugs. Biosimilars are essentially generic versions of biologic drugs, which are complex macromolecules manufactured in living cells. But because biologics are so complex, it is impossible for a biosimilar to have the exact pharmacological profile as its predecessor. Accordingly, "Big Pharma" demands a 10-12 year data exclusivity period for the original with two main arguments. First, they assert that patient safety requires extensive clinical trials to ensure there are no harmful effects. Second, they argue

that this period is a strong research, development, and investment incentive so manufacturers can keep innovating and producing newer and more successful drugs. On the other hand, more progressive opponents demand a limited exclusivity period arguing for competition to drive down prices and more drugs to increase accessibility. They also argue that a more accessible market would create significant savings in the healthcare system that could help to pay for the health reform.

As healthcare began to heat up, staffers in the Senator's office began to see more biologics-related mail, competing bills introduced in both the House and the Senate, more briefings scheduled by interest groups, and knew that it may be debated for inclusion in the larger health reform. Their first steps were to learn the ins-and-outs of the issues. I was able to research the sides of the debate, current legislation, main arguments, and eventually its inclusion in The Affordable Health Choices Act as it emerged from the Senate HELP Committee. I and other interns attended interest group briefings, researched the Obama Administration's position, the party's position, and any other strong opinions that could influence eventual actions. Ultimately, we found Congress and the Democratic Members to be fairly split. Democratic Representatives (Waxman and Eshoo) introduced bills with strongly competing perspectives in the House, and Senator Schumer's bill with a 5-year exclusivity period contrasted strongly with the 10-12 year period of The Affordable Health Choices Act.

The Senator's Legislative Director described his job to the interns as "handling all of the Senator's domestic policy." He elaborated that he coordinates staff action, keeps watch on the floor, and essentially keeps track of the issues that they are working on, should be working on, or will be working on. At first glance, this sounds like someone who follows, formulates, and makes decisions on policies—it sounds like the public's conception of a Senator. But with more explanation, he proved that he is actually an organizational and implementation tool. He may

decide how they move forward on a policy, but he does not decide what they want to accomplish with their actions; the Senator sets a goal and the legislative director coordinates what the office does to get that goal accomplished. The Senator is the decision-making body, just as our elections would suggest, while the legislative director keeps track of the votes and the bills so the Senator doesn't have to.

After pages of biologics research, the above circumstances were presented to the legislative director, and eventually to the Senator with a short 2-page memo, explanation, and discussion. From this, he responded with an inclination toward compromise of a 7-8 year exclusivity period. The staff's next steps are to make this compromise viable. While I was still with the office, we began research on practical and political ramifications, particularly in our home state to assess who would be willing to support this compromise. Using such information, the office will continue to build arguments and look for the most promising way to turn this compromise into law. They will weigh the viability of amendments on each bill, perhaps lobby for the compromise in other emerging healthcare bills, and present these options and consequences to the Senator once again. Then the legislative director will ensure that the Senator does what he needs to do and votes how he wants to, perhaps even with a thumbs-up or -down on the way to the floor.

Fortunately I was able to follow and be a part of almost every piece of this issue as it moved through the office and I was able to see exactly how the Senator's job relates to his staff. He is the decision-making body, and his staff is the body that makes his decisions happen. The American public worries that if the Senator himself doesn't read the bill or if he himself can't keep track of what every vote will mean, he is ill informed, reckless, and incapable of making policy. However, the staff is the group that makes sure he is well informed when he makes his

decisions and makes sure that his decisions are carried out, even if he can't follow them through personally.

But it remains up to the Senator to make the tough choices and grasp important arguments with very little time. Even with an issue as obscure and complex as biosimilars, he must quickly weigh his options and proceed responsibly in the best way he can. He is not merely a public relations robot used to get his staff elected as I began the summer believing, but neither is he a one-man legislation mill, as much of the public believes he should be. He is responsible for deciding which policy is best for his state and for the American people, and his staff is responsible for implementing that decision and helping him defend it. This summer, I discovered that my Senator, one of the busiest Members of Congress, has an astounding intellectual capacity to grasp an issue and evaluate the right course of action and this experience taught me just how much admiration he deserves.