

# Areas for Future Reform

Despite the Committee’s success in passing 97 recommendations, there are still areas of reform that need to be addressed. Because the Committee’s lifespan was limited, Members chose to focus on areas where there was consensus. There were also many important issues that fell outside of the Committee’s jurisdiction. Committee Members heard many worthy ideas and encourage future select committees, as well as internal and external reformers, to pursue these issues. Some of these ideas are described below.

As detailed in this report’s previous chapters, the Committee prioritized reforms to help the legislative branch work more effectively and efficiently for all Americans. Committee Members approached their work with the understanding that recommendations to improve the People’s House should ultimately serve the people. A Congress that works better is better equipped to fulfill its obligations, as the Framers intended, to represent and legislate on behalf of the American people.

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## Select Committee on the Modernization of Congress (SCMC)

### Vision

A Congress that works better

### Mission

To identify additional areas of reform that need to be addressed

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## 1. Civic Engagement

### *Improve civic engagement*

IMPROVING CIVIC ENGAGEMENT — The Committee heard a number of ideas focused on improving civic engagement. Bringing people into the process is one way of addressing Congress' low public approval ratings and enabling the American people to be full shareholders in the legislative process. The more engaged people are in the process, the more likely they are to follow and learn about Congress. Going forward, there are opportunities to consider a variety of ideas related to enhancing civic engagement, including:

#### 1.1. CrowdLaw

##### *Embrace CrowdLaw*

Embracing CrowdLaw. The term “CrowdLaw” refers to the practice of using technology to tap into the collective intelligence and expertise of the public to improve the quality and legitimacy of lawmaking. Parliaments, legislatures and city councils around the world are experimenting with using technology to strengthen meaningful public participation in the lawmaking process. This is also sometimes referred to as the “SIDE” Framework—standing for Stakeholders, Individuals, Data, and Experience & Evidence. In 2019, the Natural Resources Committee put this into practice by “collectively drafting” an environmental justice bill with the public. There are still improvements to be made on both the technical and engagement side, but as the Natural Resources Committee illustrated, directly involving the public in the bill writing process has strong potential for encouraging greater civic participation.

#### 1.2. Disengagement

##### *Counter disengagement*

Countering disengagement with new, data-based tools for constituent outreach and communications. Public disengagement can limit the range of political perspectives Congress hears and leave the space to hyper-partisans. New models create more integrated, data based, constituent-focused conversations that raise up what we have in common rather than what drives us apart. Research has found that Members can have a skewed vision of the constituents in their district, but this discrepancy can be resolved with increased contact and conversations.<sup>336</sup> Encouraging electoral connections with constituents will benefit the American people and Members of Congress alike.

#### 1.3. Membership

##### *Diversify who serves in Congress*

Diversifying who serves in Congress. Congress should consider how to diversify the demographic representation of Congress. Despite some improvements over time, Congress remains overwhelmingly white, male, and wealthy. In addition to the perspectives demographically diverse Members bring to the table, research has shown that an increase in “descriptive representation” leads constituents to be more likely to contact and trust Congress. Further work could be done to make the process of running for office clear to members of the public and to reduce barriers to entry (including challenges related to candidate fundraising).

### 1.3.1. Candidacy

*Make the process of running for office clear to members of the public*

### 1.3.2. Barriers

*Reduce barriers to entry*

### 1.4. Voices

*Diversify the voices in Congress*

Diversifying the voices in Congress. Along the same lines, Congress should continue to undertake efforts to ensure that a diversity of views are represented in the policy making process. In December 2019, the chairs of the Congressional Hispanic Caucus, Congressional Black Caucus, and Congressional Asian Pacific American Caucus—collectively known as the Tri-Caucus—announced an initiative to track the diversity of witnesses testifying before House committees. In a letter to their House colleagues, the chairs wrote, “People of color and women are experts in their fields, but are not always called as witnesses before Congress. We hope that the Committees of the House will join us and keep diversity in the forefront of their work beginning in 2020.” Data collection efforts like these are important in helping Congress better understand and address institutional shortcomings.

### 1.5. Lobbying

*Make lobbying more transparent*

Making lobbying more transparent. While the Committee passed recommendations to make Congress more transparent (see Chapter 1), the Committee did not engage with explicit reforms to limit or regulate lobbying in Congress. While lobbying is an important part of citizen engagement, research has shown that certain organizations and industries have an outsized influence in this arena. Future select committees could consider recommendations to level the playing field for all Americans.

## 2. Polarization

### *Reduce political polarization in Congress*

REDUCING POLITICAL POLARIZATION IN CONGRESS — Encouraging bipartisanship in Congress was a priority of the Committee, as noted in Chapter 2, but future efforts could focus on additional opportunities to improve bipartisanship and civility in Congress.

#### 2.1. Evidence-Based Policymaking

##### *Promote evidence-based policymaking*

Promoting evidence-based policymaking. While the Committee passed some recommendations to facilitate more expertise in Congress (see Chapters 3, 9, and 10), more can arguably be done in this space. As noted by Committee Member Rep. Rob Woodall during the February 5, 2020 hearing, even committee hearing witnesses are divided along party lines. Encouraging lawmakers to begin policy negotiations with the same set of facts facilitates finding common ground. Some ideas to encourage non-partisan, evidence-based policymaking include: directing the Congressional Research Service to develop and provide a training program for congressional staff on the understanding and interpretation of evidence; establishing a fellowship program that provides a pathway for evidence experts to provide tailored, credible, and timely evidence for Congress; reinstating rules that allow offices to pool funding for personnel, allowing Members flexibility to hire evidence specialists; new guidelines to make it easier for nonpartisan research organizations to work with Member offices; creating a senior leadership role in Congress to connect researchers and evaluators outside government to appropriate individuals within the legislative branch.

##### 2.1.1. Training

*Directing the Congressional Research Service to develop and provide a training program for congressional staff on the understanding and interpretation of evidence*

###### **Stakeholder(s):**

**Congressional Research Service**

##### 2.1.2. Fellowships

*Establish a fellowship program that provides a pathway for evidence experts to provide tailored, credible, and timely evidence for Congress*

###### **Stakeholder(s):**

**Congressional Fellows**

**Evidence Experts**

### 2.1.3. Pool Funding

*Reinstitute rules that allow offices to pool funding for personnel, allowing Members flexibility to hire evidence specialists*

**Stakeholder(s):**

**Congressional Offices**

### 2.1.4. Research Organizations

*Establish new guidelines to make it easier for nonpartisan research organizations to work with Member offices*

**Stakeholder(s):**

**Nonpartisan Research Organizations**

### 2.1.5. Leadership Role

*Create a senior leadership role in Congress to connect researchers and evaluators outside government to appropriate individuals within the legislative branch*

**Stakeholder(s):**

**Researchers**

**Evaluators**

## 2.2. Member Organizations

*Support Member Organizations*

Supporting Member Organizations. Caucuses are among the few spaces left for Member collaboration outside of Committees, as well as serving as a place where diverse voices and perspectives come together to address national issues and further support the development of policy. The number of caucuses has been growing steadily in the House, from 56 in the 104th Congress (when they replaced Legislative Service Organizations) to 518 in the 115th Congress, suggesting representatives do find value in them. While the Committee made a couple recommendations governing Member Organizations, future reforms could consider allocating more resources to Congressional Member Organizations (CMOs), to further encourage bipartisan collaboration and congressional capacity. Committees have a more formal role in the policy process, but the informal role that caucuses play may be an advantage in creating a less adversarial process of knowledge generation and developing Member networks. They are also a way for Representatives to share staff on an ad-hoc basis. The Committee heard from staff leaders of congressional caucuses, and Members themselves testified to the importance of caucuses to share information and develop legislation together. To support caucuses and their staff, future reforms could be considered to ease Member offices' ability to meet their funding commitments to Member Organizations, simplify the budgeting process for Member Organizations, and provide additional administrative assistance.

**Stakeholder(s):**

**Congressional Member Organizations**

### 2.2.1. Funding

*Ease Member offices' ability to meet their funding commitments to Member Organizations*

### **2.2.2. Budgets**

*Simplify the budgeting process for Member Organizations*

### **2.2.3. Administrative Assistance**

*Provide additional administrative assistance*

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### 3. Rules & Procedures

#### *Reform Congressional rules and procedures*

REFORMING CONGRESSIONAL RULES AND PROCEDURAL CHANGES. — The Committee heard from several experts recommending substantial rules changes to congressional procedure. Below are possible recommendations for future Congresses and select committees to consider.

#### 3.1. Amendments

##### *Open up the amendment process*

Opening up the amendment process. Before the Legislative Reorganization Act of 1970, no amendment votes were subject to a roll call vote in the Committee of the Whole. While the Select Committee did not make recommendations in this space, it discussed ideas like not subjecting amendments offered in the Committee of the Whole to roll call votes, to reduce incentives for Members to offer amendments designed to score political points or force other Members to take difficult votes, and having the number of amendments offered in a Committee of the Whole be agreed upon by the Majority and Minority with each allotted an equal number of votes on amendments.

#### 3.2. Recommittals

##### *Reform the Motion to Recommit*

Reforming the Motion to Recommit. Future recommendations could consider changing the rules to encourage more meaningful minority party participation. The Committee had a number of conversations highlighting that the motion to recommit is often used—by both sides of the aisle—as a political “gotcha” vote rather than as a substantive opportunity for minority participation. The Committee was not able to agree on reforms in this space but discussed a variety of options. For example, rules could allow the minority to choose between filing a motion to recommit or guaranteed floor consideration of a minority amendment. This could encourage the minority to offer a substantive policy alternative to the majority's bill.

##### 3.2.1. Options

*Allow the minority to choose between filing a motion to recommit or guaranteed floor consideration of a minority amendment*

## 4. Committees

*Consider the size and jurisdictions of committees*

CONSIDERING COMMITTEE SIZE AND JURISDICTION — Past select committees looking at congressional reform frequently looked at the number of congressional committees and at committee jurisdiction. This Committee briefly discussed the value of evaluating these issues. The Committee heard from experts that believed some committees were too large or had too broad a jurisdiction, and that overlapping jurisdictions in congress have led to conflict and inefficiencies. Cognizant that these issues were somewhat explosive in the prior reform committees, the Select Committee decided to focus attention elsewhere. However, there may be value in exploring the issue further.

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## 5. Ethics

### *Reform the Ethics Committee and Office of Congressional Ethics*

#### Stakeholder(s)

##### House Ethics Committee

##### Office of Congressional Ethics

REFORMING THE HOUSE ETHICS COMMITTEE AND OFFICE OF CONGRESSIONAL ETHICS — Some Members raised concerns about the transparency, efficiency, and potential politicization of the House Ethics Committee (“Ethics Committee”) and Office of Congressional Ethics (OCE), but the Select Committee did not pass recommendations in this space. Additionally, the Committee heard from staff through various listening sessions about the need to update the financial disclosure system. Given the extensive ethics rules and guidelines governing staff and Members, future select committees may evaluate outdated and possibly ineffective regulations in need of modernization.

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## 6. Technology

### *Improve technology in Congress*

IMPROVING TECHNOLOGY IN CONGRESS — While the Committee passed several reforms in this space (see Chapters 4 and 9), Congress can always continue to improve. Some of the technology-based reforms the Committee heard include:

#### 6.1. Technology Working Group

##### *Establish a House Technology Working Group*

Establishing a House Technology Working Group. The APSA Task Force on Congressional Reform proposed establishing such a group to identify technological improvements and collaborate on technology modernization efforts for the chamber. A House Technology Working Group made up of Members and staffers with interest and expertise in congressional technology would serve as a venue for offices to coordinate and share information about how to modernize institutional operations. This working group can identify and evaluate technology that can support lawmaking, oversight, constituent engagement and overall operations for the institution and serve as a central clearinghouse for information and expertise about technology. This group, or others, could also consider how to move Congress towards more “dynamic data”, including AI, policy modeling, and data-driven oversight. In this regard, Congress is again falling behind the executive branch.

#### 6.2. Voting

##### *Enable remote voting*

Enabling remote voting. In the midst of the COVID-19 pandemic, Congress discussed a variety of options to ensure work could continue. While the House pursued proxy voting, some, including Rep. Eric Swalwell (CA-15), have suggested the House develop procedures allowing fully remote voting. The further use of technology to enable Member participation is a subject worthy of further exploration. Beyond remote voting on the House floor, committees should consider how to implement remote voting to increase efficiency and save time. As part of its continuity of government and congressional operations recommendations, the Committee recommended that committees incorporate technology and innovative platforms, including electronic voting systems, into daily work. Future select committees could expand upon these recommendations.

#### 6.3. Translation

##### *Integrate language translation services into routine Congressional operations*

Language translation services. Members of Congress increasingly represent diverse communities of constituents who do not speak English as a first language. Communicating with these constituents should not pose challenges to Members and staff, and the burden of figuring out how to communicate with their Representatives should not fall on constituents. Some Member offices have their newsletters translated into multiple languages, provide simultaneous translation services at live and digital townhall meetings, and offer live, over-the-phone translation services to constituents. However, these efforts are the responsibility of individual offices. Congress should do more to integrate language translation services into its routine operations and make these services available to Member offices at no cost to the Member’s Representational Allowance. Language barriers should not prevent people from accessing information and services from the People’s House. The provision of such services is consistent with the Committee’s accessibility recommendations described in Chapter 5.

## 7. Continuity

### *Ensure the continuity of Congress*

ENSURING THE CONTINUITY OF CONGRESS — While the Committee passed continuity reforms to directly respond to the remote work period (see Chapter 9), it did not address the actual procedures for continuity of government. Prior select committees, most notably the 9/11 Commission, have sought to address this issue as well, but given the contentious nature of thinking about a large number of Members being incapacitated, specific recommendations have been few.

#### 7.1. Analysis

##### *Analyze continuity issues*

Analyzing continuity issues. Congress needs to engage in a thorough analysis of continuity issues and develop a continuity of operations plan for the continuation of government.

#### 7.2. Mass Vacancies

##### *Consider how elections will proceed in the case of mass vacancies*

Recommendations should consider how elections will proceed in the case of mass vacancies. Given the differences of state laws regarding special elections and the extensive cost and preparation required to hold an election, a disaster in which the majority of congressional seats need to be filled simultaneously holds grave consequences for our democracy.

## 8. Oversight

### *Improve Congressional oversight*

**IMPROVING CONGRESSIONAL OVERSIGHT** — In addition to the Article One reforms detailed in Chapter 10 and the budget and appropriations reforms of Chapter 11, more could be done to address the discrepancy between executive budgets and congressional oversight. Future select committees could study how to fund oversight as a line item in executive budgets, or consider rules and principles to ensure Congress can perform oversight of the executive branch expenditures.

#### **8.1. Budgets**

*Study how to fund oversight as a line item in executive budgets*

#### **8.2. Rules & Principles**

*Consider rules and principles to ensure Congress can perform oversight of the executive branch expenditures.*

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## 9. Shared Staff

*Explore ways to strengthen standards, training, information sharing and accountability of shared staff*

**SHARED STAFF** — Shared staff are staff who are paid by more than one congressional office or entity. They typically support multiple offices with a range of administrative operations, finance, technology, systems and casework functions. While the Committee gathered information from staff who serve in a shared capacity, and explored ways to strengthen standards, training, information sharing and accountability, it ultimately did not make recommendations specific to this category of staff.

### 9.1. Rules

*Ensure consistent application of the rules that apply to shared staff*

The Committee, however, recognized that steps might be taken to ensure consistent application of the rules that apply to shared staff and effective communication of those rules, as well as administrative reforms to make it easier for offices to employ shared staff. Meaningful change can be realized without wholesale reorganization of the systems that are currently in place.

### 9.2. Shared Employment

*Make it easier for offices to employ shared staff*

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## 10. Out-of-Scope Issues

*Highlight issues outside the scope of the Committee's mandate*

RECOMMENDATIONS OUTSIDE THE SCOPE OF THE COMMITTEE'S MANDATE — While the Committee focused on issues within its mandate, Committee Members were cognizant of the many factors that affect Congress' ability to uphold its Article One obligations and that contribute to dysfunction.

### 10.1. Campaign Finance

*Reform the campaign finance system*

Reforming the campaign finance system. This area drew widespread discussion from Committee Members but was ultimately considered outside of the Committee's mandate. Members expressed, on a bipartisan basis, frustrations regarding the role of fundraising and the extent to which it takes time away from their legislative and representational responsibilities.

### 10.2. Gerrymandering

*Address Gerrymandering*

Addressing partisan Gerrymandering. Discussions with Members and political scientists during the Select Committee's work highlighted the fact that polarization in Congress was related to polarization in member districts. This dynamic has been exacerbated by the means in which district boundaries are drawn, with red districts becoming redder and blue districts becoming bluer. While these issues were considered outside of the scope of the Committee's mandate, they may warrant further analysis.

### 10.3. Districts

*Create multi-member districts or expand the size of the House*

Creating multi-member districts/expanding the size of the House. When Congress set its membership at 435 Members in 1912, there was one representative for every 211,000 constituents. Following the 2020 census, it is expected that the average U.S. House member will represent roughly 765,000 constituents. This report has noted the challenges of congressional capacity in the face of growing district size, and pundits and political scientists alike have documented the perils of overly-large districts. Similarly, multi-member districts (MMDs) are electoral districts that send two or more Members to a legislative chamber. Ten U.S. states have at least one legislative chamber with MMDs. Proponents of multi-member districts argue that they are more representative of district voters; for example, if 60% of the vote goes to one party and 40% goes to another party, a multi-member district would distribute seats accordingly. In a single-member district system, the winner takes all. The Constitution does not prescribe the method for electing representatives to Congress nor the number of Members, but increasing the number of Members raises all kinds of other issues (space/additional pay for more Members, staff, etc.). While the Select Committee discussed such out-of-the-box ideas, it was felt that far more analysis would be needed.

## Administrative Information

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