

## ROADMAP FOR RENEWAL

### Strengthen Congress's Capacity to Fulfill its Constitutional Role

#### **I. Restore Congressional capacity to legislate and appropriate money effectively**

The Constitution assigns Congress the power and responsibility to make laws and decide how money is spent. It's time for Congress to take back that role and restore its central place in our constitutional system.

We recommend:

- Building capacity to legislate effectively and oversee the federal government;
- Reforming the budget and appropriations process;
- Reclaiming power from the Executive Branch; and
- Returning deliberation to both chambers by allowing majorities to bypass leadership.

#### **The Problem**

In recent years, Congress has failed to fulfill its constitutional role of legislating and controlling spending, creating a vacuum at the center of our democracy. In a [2017 survey of Congressional staff](#) by the Congressional Management Foundation and the Resilient Democracy Coalition, only 11% of senior Congressional staffers were very satisfied in Congress's ability to "perform its role in our democracy."<sup>1</sup> There are several reasons for this.

**Shortage of expertise and capacity.** The staff survey also found that 81% of staff believed that access to non-partisan, high-quality expertise was important to perform their jobs, but only 24% believed that they had that access. In recent decades, Congress has either cut or failed to keep constant funding for committee staff and other legislative agencies with non-partisan expertise. The last major effort to increase Congressional capacity was the 1974 Congressional Budget and Impoundment Control Act (CBA). The Congressional Budget Office (CBO) was created to structurally give Congress more analytic power, while the impoundment procedures were specifically a response to President Nixon's abuses. This legislation, which shifted budget process power to Congress, was passed just weeks before President Nixon resigned. Congress relinquished some of this power in 1995 with new Congressional rules that reduced Congressional staff and ended the Office of Technology Assessment (OTA). Today, Congress simply does not have the tools to do its job.

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<sup>1</sup> Congressional Management Foundation, *State of the Congress: Staff Perspectives on Institutional Capacity in the House and Senate* (August 7, 2018), Available at: <http://congressfoundation.org/projects/resilient-democracy-coalition/state-of-the-congress>.

Failed budget process. It is widely understood that the Congressional budget process has completely failed, relying more and more on Continuing Resolutions (and the sequester) to set levels of spending, but rarely with the specificity that the CBA imagined. In 2018, Congress created the Joint Select Committee on Appropriations and Budget Process Reform. It is not yet clear if this will have meaningful results in time for a new Congress to be seated in 2019.

Abdication of policy-making to the executive branch. Congress has failed to respond to an increasingly complicated economy, resulting in the Executive branch regulating on top of increasingly out of date legislation, such as the Telecommunications Act of 1996, etc. Congress needs to reclaim authority by simultaneously increasing its analytic capacity and legislating more responsively to a changing economy.

Breakdown in deliberation. Finally, deliberation has ended in Congress. Votes are increasingly party-line, and are intended to protect the parties, including the President, from embarrassment. While there were many flaws in previous periods of bipartisanship, they allowed coalitions to regularly legislate against the preferences of party leadership.

## Proposed Solutions

### **Build capacity to legislate effectively and oversee the federal government**

- Increase funding for committee staff and legislative agencies (like CBO, the Government Accountability Office (GAO), the Joint Committee on Taxation (JCT) and the Congressional Research Service (CRS)) to increase staff and compensation levels. Without more human capital and in-house policy expertise, Congress will always be handicapped vis-a-vis both the Executive and non-governmental pressures.
- Restore the OTA either as a stand-alone entity or within an existing legislative agency such as GAO or CRS.

### **Reform the budget and appropriations process**

- Adopt [proposals from Bipartisan Policy Center](#) and others coming out of the Joint Select Committee on Appropriations Budget Process.<sup>2</sup> Key elements include biennial budgeting in the first session of Congress which would set the stage for authorization and oversight work in the second session, and ending the debt ceiling to prevent hostage-taking in budget negotiations.

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<sup>2</sup> Jason Grumet, *BPC Proposals for the Joint Select Committee on Budget and Appropriations Process Reform* (March 9, 2018), Bipartisan Policy Center. Available at <https://bipartisanpolicy.org/library/bpc-proposals-for-the-joint-select-committee-on-budget-and-appropriations-process-reform/>.

## Reclaim power from the Executive Branch

- Create a Congressional Regulation Office to increase Congressional understanding of agency actions and regulations and help strengthen Congress's legislative and oversight capacity.
- Across different areas of legislation, Congress should legislate with more detail and specificity, using the additional expert capacity described above, thereby limiting the breadth of Executive branch discretion in regulation and execution.

## Return deliberation to both chambers by allowing majorities to bypass leadership

- In the House, implement the [No Labels proposal](#) that would anonymize signatures on a discharge petition, weakening leadership's power to pressure members not to sign.<sup>3</sup>
- In the Senate, adopt [James Wallner's third-degree amendment proposal](#), allowing Senators to bypass leadership filling the tree, which would permit floor consideration of more substantive proposals.<sup>4</sup>

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<sup>3</sup> *The Speaker Project: A No Labels Campaign to Break the Rules and Fix Our Congress* (June 2016), No Labels. Available at [http://www.nolabels.org/wp-content/uploads/2018/06/Speaker-Project\\_Digital.pdf](http://www.nolabels.org/wp-content/uploads/2018/06/Speaker-Project_Digital.pdf).

<sup>4</sup> James Wallner, *In Defense of Third Degree Amendments* (October 20, 2017). Available at <https://www.rstreet.org/2017/10/20/in-defense-of-third-degree-amendments/>.