

A HOUSE DECAYING: RE-EMPOWERING THE LEGISLATURE AND MAKING CONGRESS GREAT AGAIN

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I. INTRODUCTION

On an evening in mid-January 2022, an Instagram handle popular with Capitol Hill staffers¹ asked its followers to share horror stories about working for congressmembers in Washington, D.C.² Even though it was a Friday night, a tidal wave of responses flooded into the account.³ The accompanying anecdotes, which poured in for months, would fill over 100 separate Instagram stories and balloon the niche account's following to over 90,000 users by the summer.⁴

Before long, these colorful, sometimes salacious stories gripped the attention of the small ecosystem that makes up Capitol Hill staff and media. Chatter among low- and mid-level staff about congressional worker unionization efforts bubbled up so loudly that Speaker Nancy Pelosi eventually placed a resolution on the House floor that would sanction unionization by non-management House staff.⁵ The measure passed on May 10, 2022,⁶ a stunning turnaround for a cause that had lain dormant for decades, spurred forward by improbable social media advocacy.⁷

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¹ See Dear White Staffers (@dear_white_staffers), INSTAGRAM, https://www.instagram.com/dear_white_staffers/?hl=EN (last visited Aug. 25, 2022).

² Ruby Cramer, *The Man Behind the Account that Blew Up Capitol Hill*, POLITICO (Apr. 29, 2022), <https://www.politico.com/news/magazine/2022/04/29/the-person-behind-the-account-that-blew-up-capitol-hill-00028270> [<https://perma.cc/DKG6-GNDR>].

³ *Id.*

⁴ See Dear White Staffers, *supra* note 1.

⁵ See Cramer, *supra* note 2.

⁶ Deepa Shivaram, *House Votes to Allow Congressional Staffers to Unionize*, NPR (May 11, 2022), <https://www.npr.org/2022/05/06/1097103804/house-vote-congressional-staffers-unionize> [<https://perma.cc/VR8T-4MP3>].

⁷ Discussion of congressional unionization goes back decades. See James J. Brudney, *Congressional Accountability and Denial: Speech or Debate Clause and Conflict of Interest Challenges to Unionization of Congressional Employees*, 36 HARV. J. ON LEGIS. 1, 5–6 (1999).

While coverage of Congress is typically focused on the nuts and bolts of legislation, hearings, nominations, and floor votes, in the weeks after the Instagram storm, the political press produced a raft of pieces on congressional staff compensation.⁸

Many Americans were likely surprised at the low pay of the thousands of men and women in our House offices. How, they may have asked themselves, could the preeminent legislature in the world pay so little to the army of workers who answer the phones, shepherd constituent tours, draft legislation, and help keep the lights on in our national Capitol?

Americans should not be surprised. For decades, Congress has watched itself atrophy from what is supposed to be the top branch in the federal system into a junior partner of the executive and the courts.⁹ And because Congress is one of the only public or private bodies anywhere that determines its own funding levels, our enfeeblement is entirely self-inflicted.

Across recent years and even decades, the trendlines are dire. Congress has plugged up the fountains of independent information that previously existed at our fingertips, often making us too reliant on the armies of lobbyists roaming the national capital pushing their narrow corporate agendas.¹⁰ Once home to probing hearings laying bare sensational corruption to spellbound national audiences,¹¹ we have ceased flexing our investigatory muscles, turning our oversight panels into punchless sleepy affairs more Olive Oyl than Popeye. Our committees, once the foremost kitchens of innovation in the democratic realm, are shells of their former selves, holding fewer hearings, hiring fewer staff members, offering less information, and producing less legislation to prepare America for the challenges of the next century.¹²

⁸ See Marianna Sotomayor, 'Dear White Staffers': Anonymous Testimonials About Workplace Culture Grip Capitol Hill, WASH. POST (Feb. 4, 2022), <https://www.washingtonpost.com/politics/2022/02/04/dear-white-staffers-congress/> [<https://perma.cc/X6KU-6YVD>]; Katherine Tully-McManus, Nancy Yu, Eleanor Mueller & Ximena Bustillo, 'Ground Up and Spit Out': Inside the Hill Staffer Instagram Rebellion, POLITICO (Feb. 4, 2022), <https://www.politico.com/news/2022/02/04/inside-congressional-staffer-instagram-rebellion-00005505> [<https://perma.cc/XC7Y-YAA6>]; Grace Segers, *Overworked, Underpaid, Traumatized, and Too White*, NEW REPUBLIC (Feb. 9, 2022), <https://newrepublic.com/article/165324/congress-staff-unionize-overworked-underpaid-traumatized-white> [<https://perma.cc/3TZW-7PZS>].

⁹ David French, *The Constitution Isn't Working*, ATLANTIC (July 12, 2022), <https://www.theatlantic.com/ideas/archive/2022/07/congress-inaction-partisanship/670486/> [<https://perma.cc/VV7W-MMNN>] ("... Congress was intended to be the most potent branch of government. It is now the most dysfunctional.").

¹⁰ Lee Drutman, *How Corporate Lobbyists Conquered American Democracy*, ATLANTIC (Apr. 20, 2015), <https://www.theatlantic.com/business/archive/2015/04/how-corporate-lobbyists-conquered-american-democracy/390822/> [<https://perma.cc/89ED-8XBM>].

¹¹ Ronald G. Shafer, *Before Jan. 6 Hearings, Most-Watched Political TV Was Watergate Probe*, WASH. POST (June 8, 2022), <https://www.washingtonpost.com/history/2022/06/08/watergate-hearings-jan-6-tv/> [<https://perma.cc/7NU8-VVAC>].

¹² See R. ERIC PETERSEN, CONG. RSCH. SERV., R43947, HOUSE OF REPRESENTATIVES STAFF LEVELS IN MEMBER, COMMITTEE, LEADERSHIP, AND OTHER OFFICES, 1977-2021, at 4 (2021), <https://crsreports.congress.gov/product/pdf/R/R43947> [<https://perma.cc/H7D8-9UPS>]; BROOKINGS INST., VITAL STATISTICS ON CONGRESS, ch. 6, at 1 tbl.6-1 (2021), <https://www.brookings.edu/wp-content/uploads/2019/03/6-1-Full.pdf> [<https://perma.cc/AM7Q-AXHP>].

In the movie *Chinatown*, water channeled to an arid Los Angeles rendered lush inland valleys into parched wastelands to benefit the city at the expense of outlying rural communities.¹³ In much the same way, we have siphoned our own member and committee power directly to our leadership offices, who dictate daily congressional experience at the expense of individual members. And we have repeatedly shrunk our underpaid, already small staffs, leading to abnormal turnover, overreliance on less experienced aides, and a devastating loss of institutional memory. This devolution has made us unable to meet the challenges of representing three-quarters-of-a-million people in our districts.

In sum, Congress has been sleepwalking towards obsolescence and irrelevance, much of it the product of our own members' misguided decisions. As our political systems slough precariously towards illiberalism with more than faint whiffs of autocracy in the air, it is bleak that the people's first branch has been rendered so low. But what is broken can be fixed. We need know only the scale of the challenge and take up the straightforward tools of rejuvenation. This article sets out the scale of the challenges and then provides a blueprint for making Congress great again.

II. WITHER CONGRESS

The mid-1960s until the late 1970s are often seen as golden years for the modern legislature. The work product of those years speaks for itself. Congress enacted a swath of legislative milestones, including the Voting Rights Act, the Civil Rights Act, the Clean Air and Water Acts, the Immigration Act of 1965, the Endangered Species Act, Title IX; and created the Environmental Protection Agency, the Peace Corps, public broadcasting, and a federal department of Housing and Urban Development, among a host of other triumphs.

On oversight, too, Congress conducted some its most probing and exhaustive investigations—investigations that came to define the branch's role as the watchdog of American values. These include the Watergate hearings, chaired by House Judiciary Chairman Peter Rodino (D-N.J.) and Senate Watergate Committee Chairman Sam Ervin (R-N.C.), and the Church Commission hearings into U.S. intelligence failures, which set a high standard for probity and diligence that helped cement public confidence in Congress just as Richard Nixon's fall flagged American assurance in our government.¹⁴

Where the 37th Congress, the first Civil War Congress, laid down a blueprint for a modern America with the passage of transcontinental rail,

¹³ See Felicity Barringer, *The Water Fight that Inspired Chinatown*, N.Y. TIMES: GREEN (Apr. 25, 2012), <https://green.blogs.nytimes.com/2012/04/25/the-water-fight-that-inspired-chinatown/> [https://perma.cc/R26M-SGRK].

¹⁴ Philip Wallach, *When Congress Won the American People's Respect: Watergate*, LEGBRANCH (Apr. 26, 2018), <https://www.legbranch.org/2018-4-25-when-congress-won-the-american-peoples-respect-watergate/> [https://perma.cc/N7JS-YVRA].

land grant universities, the first income tax, the Homestead Act, and the creation of the Department of Agriculture,¹⁵ the Congresses of the 1960s and 1970s similarly passed a map for progress that have defined postwar America. All but unthinkable now, such legislative victories, and such probes, began to disappear as early as the late 1970s. Their evaporation dovetails with Congress's declining investment in itself.

A. *Your Shrinking Congressional Representative*

To better understand Congress, allow us to sketch my own office's structure. Our North Jersey district covers three counties and thirty-five cities and towns.¹⁶ In the 118th Congress, the first following post-Census reapportionment, our district will encompass approximately 756,000 people, the same as all other districts in our union, on average. To represent our neighbors, we have long had four district offices—in Paterson, Passaic, Lyndhurst, and Englewood, New Jersey—and an office in our nation's capital. We balance two primary duties: work for our district and constituents, and efforts to keep the federal government up, running, and healthy.

Our district office staff resolves casework issues from constituents, such as how to obtain disability or unemployment benefits, problems with a local Social Security office, providing housing assistance, winning federal support to rehabilitate a children's park, and a host of other areas. Our staff includes a district director, caseworkers, field and constituent service representatives, a press staffer, and a scheduler. This structure is typical of most congressional district offices. And just as this structure is well established, so too is Congress's level of commitment to its size and effectiveness.

Over four decades, from 1977 to the present, overall House staff—the totality of House workers encompassing all member offices, committees, leadership suites, commissioners, and other non-political offices—rose from 8,831 employees in 1977 to 9,034 in 2021, representing a growth rate of 2.3% over forty-four years.¹⁷ That growth was not in a straight line, nor is it cause for celebration.

A graph of congressional employment over this window has the ebbs and flows of a hospital heart EKG and not the downward slope of a skier

¹⁵ See Mark Greenbaum, Opinion, *The Do-Everything Congress*, N.Y. TIMES (Aug. 5, 2011), <https://archive.nytimes.com/opinionator.blogs.nytimes.com/2011/08/05/the-do-everything-congress/> [<https://perma.cc/2KZX-CPBY>]. See generally Leonard P. Curry, BLUEPRINT FOR MODERN AMERICA: NONMILITARY LEGISLATION OF THE FIRST CIVIL WAR CONGRESS (1968).

¹⁶ *9th District*, BILL PASCRELL: 9TH DIST. OF N.J., <https://pascrell.house.gov/district/> [<https://perma.cc/E3R4-GULF>]. The Ninth District went from encompassing 35 municipalities in the 117th Congress to 34 in the 118th; for altered makeup, see Jonathan D. Salant, *Big Change, N.J.! 1.4M Shifting to Another Congressional District. Use Our Tracker Before Voting.*, NJ.COM (Oct. 31, 2022), <https://www.nj.com/politics/2022/10/big-change-nj-14m-shifting-to-another-congressional-district-use-our-tracker-before-voting.html> [<https://perma.cc/9ATD-U4TA>].

¹⁷ PETERSEN, *supra* note 12, at 4.

plunging downhill.¹⁸ Congressional staffing has seen periods of steady growth from 1977–1994 (+12%) and 1996–2011 (+14.9%), and times of equally steady decline from 1994–1996 (-12.1%) and 2011–2021 (-9.5%).¹⁹



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But the devil is in the details. In the forty-four years from 1977–2021, America’s population rose from approximately 223 million to 333 million,²¹ a jump of 49.2% and just over 100 million people. Comparatively, the size of a congressional district in the 1970s was 469,088 people.²²

Looking at the data over this period for just member offices, where the bulk of congressional work is done, the picture is stark. In 1977, the number of House staffers serving in individual representatives’ offices numbered 6,556; in 2021, that number was 6,349, a drop of 3.46%.²³ Overall, House personal office staffing levels fell fourteen percent between 2009 and 2021.²⁴ There were more House personal office staffers forty-four years ago than there are today.²⁵ We will repeat that because the statistic is startling: we have fewer member office staffers now than we did when Star Wars was first showing in multiplexes.²⁶

Given these numbers, the practical impact of this failure to fund our congressional offices is apparent. Following the most recent census, the size of each district will be 761,169 for the next Congress—a substantial rise of 62.26% per district.²⁷ And remember: the size of the House of Representatives has been unchanged for over a century at 435 members.²⁸

There is no question that lack of resources has impacted our productivity. In the 95th Congress, which met in 1977 and 1978, House offices introduced 15,587 bills, with members averaging approximately thirty-six bills

¹⁸ *Id.* at 5.

¹⁹ *Id.*

²⁰ *Id.* at Summary.

²¹ U.S. Population 1950-2022, MACROTRENDS, <https://www.macrotrends.net/countries/US/united-states/population> [https://perma.cc/ST9T-NPHJ].

²² See *Historical Apportionment Data (1910-2020)*, U.S. CENSUS BUREAU (2021), <https://www.census.gov/data/tables/time-series/dec/apportionment-data-text.html> [https://perma.cc/84F4-GYP7].

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See *Star Wars: Episode IV – A New Hope*, ROTTEN TOMATOES, https://www.rottentomatoes.com/m/star_wars_a_new_hope [https://perma.cc/M8SE-5G88].

²⁷ See U.S. CENSUS BUREAU, *supra* note 22.

²⁸ *The 1911 House Reapportionment*, HIST., ART & ARCHIVES, U.S. HOUSE OF REPRESENTATIVES (Aug. 8, 1911), <https://history.house.gov/Historical-Highlights/1901-1950/The-1911-House-reapportionment/> [https://perma.cc/2MFS-SSYJ].

each.²⁹ By the 116th Congress (2019–2020), those numbers had fallen to 9,172 bills introduced (-41.1%) and just over twenty-one per member (-41.7%).³⁰ However, as Congress was seemingly toiling less and less, we were at work in the office more: the days the House was in session between those Congresses actually rose 18.5% (324 days to 384 days).³¹ But that jump is a bit of a red herring: we have been here in Washington, D.C. in session more, but while we are here we have been doing less.

B. Crumbling Committees

Yet as bad as it has been for Congress supporting its member offices, the picture is even worse for the funding of our committees. Between 1977 and 2021, federal support for congressional committees has dropped an absurd 30.2%.³² In 2021, there were fewer staffers on congressional committees (1,320) than there were forty-four years earlier (1,891).³³

As it is with member offices, there have been fits and starts but in the same downward direction. Staff numbers fell from 1977–1981 (-9.0%), grew from 1981–1992 (+29.8%), plummeted again from 1992–1997 (-42.8%), rose from 1997–2010 (+18.1%), then fell again from 2011–2021 (-4.4%).³⁴

²⁹ BROOKINGS INST., *supra* note 12, ch. 6, at 1 tbl.6-1.

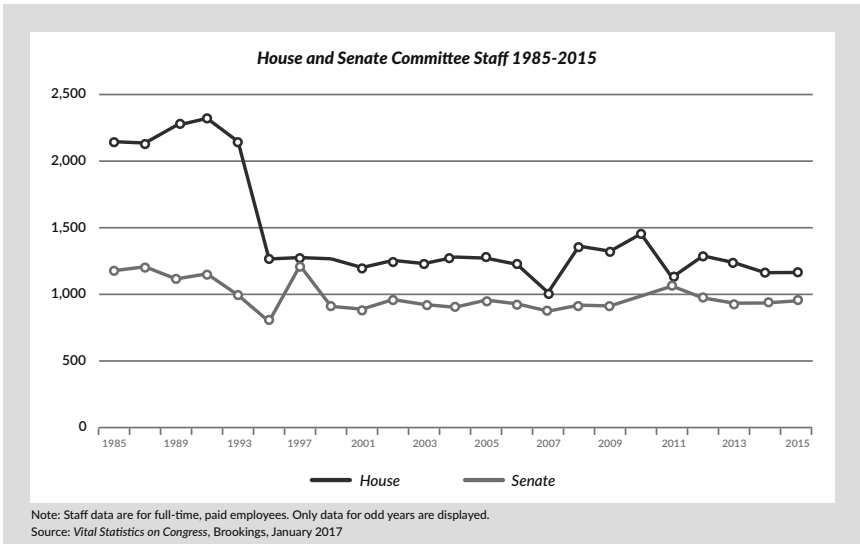
³⁰ See *Advanced Searches*, LIBR. OF CONG., <https://www.congress.gov/advanced-search/legislation> [<https://perma.cc/WU76-VE47>] (select “116 (2019-2020)” under “Congress”; “H.R.,” “H.R.J.Res.,” and “H.Amdt.” under “Legislation Types”; and “Introduced (Bills and Resolutions)” under “Quick List.” Then access data using the “Search” button).

³¹ BROOKINGS INST., *supra* note 12, ch. 6, at 1 tbl.6-1.

³² PETERSEN, *supra* note 12, at 6.

³³ *Id.*

³⁴ *Id.*



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This oscillation may reflect the priorities or non-priorities of the members and parties in charge over those periods. Collectively they show Congress has not assigned high value to consistent investment in our committee system in decades.

Committees are meant to be the factory mills, artisan workrooms, and studios of democracy all at once. Committee staff members are typically older, more experienced, and more immersed in technical policy than anyone else on Capitol Hill and therefore better able to tackle the intricate and sometimes arcane minutiae of lawmaking.³⁶ Focusing on narrower subjects, congressmembers are meant to work intensely at the committee level to study areas ripe for legislation and for oversight.

The policymaking process is straightforward. We use hearings to learn about issues from the finest experts and minds in order to guide us to make the best decisions. From these experts, we craft legislation in committee, mark it up, or amend and alter it, and then send it to the House floor where it can be considered by the full chamber's membership. Sometimes euphemistically called "regular order," doing it this way is the most complete process for producing thoughtful, incisive, comprehensive legislation befitting a large, world-leading economy.

³⁵ KATHY GOLDSCHMIDT, STATE OF THE CONGRESS: STAFF PERSPECTIVES ON INSTITUTIONAL CAPACITY IN THE HOUSE AND SENATE, CONG. MGMT. FOUND. 18 fig.7 (2017), https://www.congressfoundation.org/storage/documents/CMF_Pubs/cmf-state-of-the-congress.pdf [https://perma.cc/9WDS-8PYM].

³⁶ See Casey Burgat & Charles Hunt, *How Committee Staffers Clear the Runway for Legislative Action in Congress*, in CONGRESS OVERWHELMED: THE DECLINE IN CONGRESSIONAL CAPACITY AND PROSPECTS FOR REFORM 112, 114–15 (Timothy M. LaPira, Lee Drutman & Kevin R. Kosar eds., 2020).

The Legislative Reorganization Act of 1970 and other reforms at the dawn of the seventies were designed to challenge the Nixon White House and democratize Congress by shifting power from House leaders and chairs to rank-and-file members.³⁷ Politically, that spirit of reform toppled several segregationist or aged committee heads who had stymied Americans' national progress, sometimes for generations.³⁸ As the beginning of this essay highlighted, some of the best legislation and oversight Congress has ever done came from that period. But institutionally, the changes made Congress itself better too—and the number of hearings and laws we produced show that. We hired more staff and made investments in our capacity, and the results were excellent.³⁹

Institutional investment since the late 1970s has not been so sterling. Overall, the productivity drops by our committees are eye-popping. In the 95th Congress beginning on January 3, 1977, and ending exactly two years later, the House had an astonishing metric of productivity. It held just shy of 8,000 total committee and subcommittee hearings among some 200 separate panels.⁴⁰ By any judgment, that was a Congress of remarkable productivity. Fast forward to the 115th Congress in 2017–2018, and we held just 1,841 hearings—a drop of nearly seventy-seven percent.⁴¹ In just over one generation, House committee work nosedived by over three-quarters. Nor is that drop the product of similar fits and starts. Committee productivity has steadily fallen over that period.⁴²

³⁷ See James D'Angelo & David King, *The Legislative Reorganization Act of 1970*, CONG. RSCH. INST. (Jan. 7, 2022), <https://www.congressionalresearch.org/LRA.html> [<https://perma.cc/TBM8-QJDE>]; Mollie Reynolds, *The Decline in Congressional Capacity*, in CONGRESS OVERWHELMED: THE DECLINE IN CONGRESSIONAL CAPACITY AND PROSPECTS FOR REFORMS 34, 34–35 (Timothy LaPira, Lee Drutman & Kevin Kosar eds., 2020).

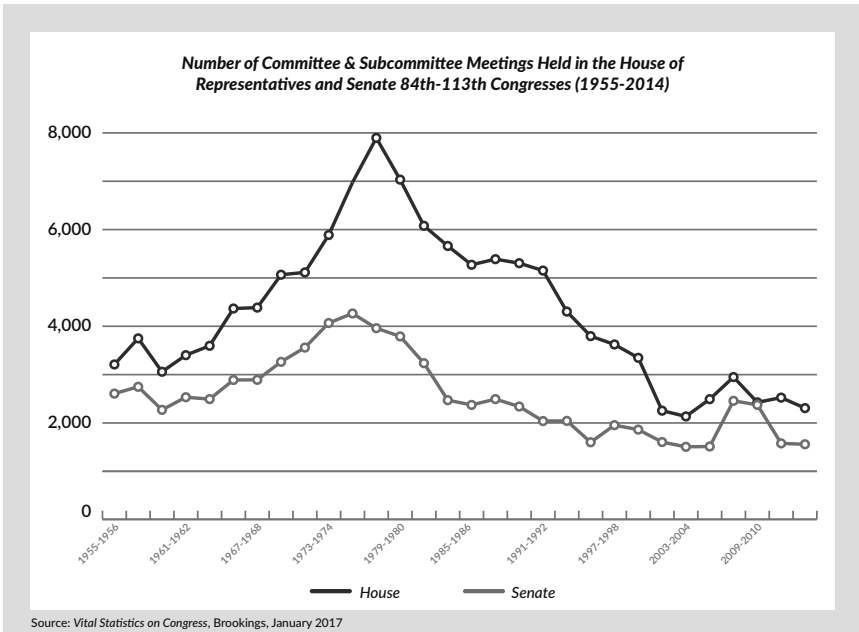
³⁸ See JOHN JACOBS, A RAGE FOR JUSTICE: THE PASSION AND POLITICS OF PHILLIP BURTON 248–79 (1995) for a history of this period in Congress.

³⁹ See Paul Glasstris & Haley Sweetland Edwards, *The Big Lobotomy*, WASH. MONTHLY (June 9, 2014), <https://washingtonmonthly.com/2014/06/09/the-big-lobotomy/> [<https://perma.cc/Z3RJ-B24H>].

⁴⁰ BROOKINGS INST., *supra* note 12, ch. 6, at 1 tbl.6-1.

⁴¹ *Id.*

⁴² See generally CHRISTINA MIRACLE FINCH, CONG. RSCH. SERV., R46376, HOUSE FULL COMMITTEE HEARINGS: 107TH–116TH CONGRESS *passim* (Sept. 3, 2021), <https://crsreports.congress.gov/product/pdf/R/R46376> [<https://perma.cc/2N33-27J3>]. Numerous committees have experienced significant periods of inactivity across our government. Between the 108th (2003–2004) and 115th Congresses (2017–2018), full House committee hearings decreased for many committees: Agriculture fell 85%; Education and Labor fell 19%; Energy and Commerce fell 63%; Foreign Affairs fell 47%; Homeland Security fell 45%; Natural Resources fell 53%; Oversight and Reform fell 50%; and Science, Space, and Technology fell 50%. See *id.*



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There are many bright spots in Congress's work today; taking our own office as an example, we can identify at least a few. In support of my position as Chairman of the Ways and Means Oversight Subcommittee, our office has worked hard to build a slate of oversight on both the Executive Branch and private sectors on areas ranging from Wall Street control of American health care,⁴⁴ to cracking down on billionaire tax shelters,⁴⁵ to reforming the broken Internal Revenue Service,⁴⁶ among others. Indeed, full committee hearings in House Ways and Means are up one-third between the 2003–2004 Congress and 2019–2020 Congress.⁴⁷

However, while congressional oversight thrives in certain areas, we can see negative trends in other ways. For example, when Congress last rewrote the federal tax code in 2017, the Ways and Means held zero hearings on the

⁴³ Goldschmidt, *supra* note 35, at 15 fig. 5.

⁴⁴ See Press Release, U.S. Rep. Bill Pascrell, 9th Dist. of N.J., Pascrell Opening Statement at Oversight Subcommittee Hearing on Private Equity's Expanded Role in the U.S. Health Care System (Mar. 25, 2021), <https://pascrell.house.gov/news/documentsingle.aspx?DocumentID=4670> [<https://perma.cc/9XE7-KL6P>].

⁴⁵ See Press Release, U.S. Rep. Bill Pascrell, 9th Dist. of N.J., Pascrell Chairs Hearing on Tax Havens in America and Hidden Wealth (Dec. 8, 2021), <https://pascrell.house.gov/news/documentsingle.aspx?DocumentID=4948> [<https://perma.cc/M3KY-RH67>].

⁴⁶ See Press Release, U.S. Rep. Bill Pascrell, 9th Dist. of N.J., Pascrell Demands Biden Fire IRS Chief Amid Massive Audit Scandal (July 8, 2022), <https://pascrell.house.gov/news/documentsingle.aspx?DocumentID=5158> [<https://perma.cc/RVW5-FENG>].

⁴⁷ See FINCH, *supra* note 42, at 19.

matter.⁴⁸ Instead, the bill was written in secret by leadership and dropped at our committee's doorstep to be rubberstamped.⁴⁹ During that same Congress, when the Committee began work to reauthorize the North American Free Trade Agreement ("NAFTA"), a momentous project with implications for millions of American workers, we brought in executive trade officials for a single public hearing.⁵⁰ When Democrats took over in the next Congress, we were more scrupulous and held six hearings on NAFTA.⁵¹

But our own panel is largely an exception. Where Congress was once fluent in the language of oversight, today we can barely speak a word of it. Dramatic oversight hearings, once a staple of Capitol Hill life, are increasingly rare. Congress's once-insatiable appetite for holding officials' feet to the fire of hot fluorescent lights has been sated. Oversight and investigatory staff have been slashed or retired and have gone unreplaced.⁵²

You did not see Republicans in charge in the 115th Congress ever much probe the staggering corruption of the Trump regime,⁵³ nor do you much see

⁴⁸ Bill Pascrell, *Why Is Congress So Dumb?*, WASH. POST (Jan. 11, 2019), <https://www.washingtonpost.com/news/posteverything/wp/2019/01/11/feature/why-is-congress-so-dumb/> [https://perma.cc/KU89-N9UH]

⁴⁹ See Seth Hanlon, *How the Tax Act Embodies the Republican Culture of Corruption*, AM. PROSPECT (June 27, 2018), <https://prospect.org/power/tax-act-embodies-republican-culture-corruption/> [https://perma.cc/5L2V-S5HR]; see also Z. Byron Wolf, *The Senate Voted on a Tax Bill Pretty Much Nobody Had Read*, CNN (Dec. 2, 2017), <https://www.cnn.com/2017/12/01/politics/senate-vote-still-writing-tax-bill/index.html> [https://perma.cc/ZA5P-4SJ4].

⁵⁰ See generally *Modernization of the North American Free Trade Agreement (NAFTA): Hearing Before the Subcomm. on Trade of the H. Comm. on Ways & Means*, 115th Cong. (2017). The U.S. Trade Representative Robert Lighthizer made annual appearances in 2017 and 2018 but did not appear specifically to discuss the NAFTA reauthorization. See *Ways and Means, U.S. Trade Representative Lighthizer Lay Out Goals for Trade Agenda*, H. COMM. ON WAYS & MEANS (June 22, 2017), <https://gop-waysandmeans.house.gov/ways-means-u-s-trade-representative-lighthizer-lay-goals-trade-agenda/> [https://perma.cc/WGS9-AJ7B]; *Hearing on U.S. Trade Policy Agenda: Hearing Before the H. Comm. on Ways & Means*, 115th Cong. 7 (2018).

⁵¹ *Hearing on Trade and Labor: Creating and Enforcing Rules to Benefit American Workers: Hearing Before the Subcomm. on Trade of the H. Comm. on Ways & Means*, 116th Cong. (Mar. 26, 2019); *Hearing on Enforcement in the New NAFTA: Hearing Before the Subcomm. on Trade of the H. Comm. on Ways & Means*, 116th Cong. (May 22, 2019); *The 2019 Trade Policy Agenda: Negotiations with China, Japan, the EU, and UK; New NAFTA/USMCA; U.S. Participation in the WTO; and Other Matters: Hearing Before the H. Comm. on Ways & Means*, 116th Cong. (June 19, 2019); *Hearing on Mexico's Labor Reform: Opportunities and Challenges for an Improved NAFTA: Hearing Before the Subcomm. on Trade of the H. Comm. on Ways & Means*, 116th Cong. (June 21, 2019); Press Release, U.S. Rep. Richard Neal, Chairman, Ways & Means Comm., Neal Opening Statement at Markup of WTO Legislation and USMCA Implementation Legislation (Dec. 17, 2019), <https://waysandmeans.house.gov/media-center/press-releases/neal-opening-statement-markup-wto-resolution-and-usmca-implementing> [https://perma.cc/66U2-C8DE]. This tally includes a hearing with Ambassador Lighthizer on June 17, 2020 to discuss the larger trade agenda with heavy focus on NAFTA. *The 2020 Trade Policy Agenda: Hearing Before the H. Comm. on Ways & Means*, 116th Cong. (June 17, 2020).

⁵² See Glasstris & Edwards, *supra* note 39; see also PETERSEN, *supra* note 12, at 17.

⁵³ See The Editorial Board, *Congress, Do Your Job*, N.Y. TIMES (Aug. 22, 2018), <https://www.nytimes.com/2018/08/22/opinion/congress-trump-corruption.html> [https://perma.cc/66QN-B3KC]. Perusing House committee activity, the House Committee on Oversight and Reform did not hold a single full committee or subcommittee hearing specifically dedicated to

majority Democrats in the 117th Congress hauling in Biden administration officials to explain problems at the Departments of Justice, Health and Human Services, and Transportation, or the U.S. Postal Service.⁵⁴ A lot of that can be explained by partisanship: when your party controls the White House, you typically do not like using Congress to weaken it, even at the expense of Congress's own Article I power. But it is also about an aversion to management itself and the type of probing oversight that has gone out of style in the same way the sacrifice bunt has disappeared from Major League Baseball.⁵⁵

Where one does see congressional oversight of the Executive Branch, the results are often mixed. We speak from personal experience. For example, for over five years now, our office has led efforts in the House to access the business and personal tax records of former President Donald Trump. Under 26 U.S.C. § 6103,⁵⁶ the House Ways and Means Committee can receive the tax returns of any American, a sitting or former president included, simply upon written request; for over a century, that power had not previously been questioned.⁵⁷ Nevertheless, our April 3, 2019 demand⁵⁸ for Trump's records has been blocked and held up in the courts for, as of our writing, over 1,300 days, a duration almost as long as the American Civil War.⁵⁹ And even where the Supreme Court has sided with Congress's oversight authority over the president, it has impeded Congress with roadblocks and exceptions found nowhere in the Constitution.⁶⁰

any allegations of corruption in the Trump administration in the 115th Congress. *See Past Hearings of the Oversight and Government Reform Committee of the 115th Congress*, H. COMM. ON OVERSIGHT & REFORM, https://oversight.house.gov/legislation/hearings?subcommittee=All&congress_number=773 [<https://perma.cc/35FU-MENF>] (search for past hearings with the subcommittee field set to "Oversight and Government Reform (115th Congress)" and Congress field set to "115th Congress").

⁵⁴ The author wishes to point out that he was the first member of Congress to demand the firing of the heads of the U.S. Postal Service, the Social Security Administration, and the Internal Revenue Service by the Biden administration, the latter two of whom have been so far removed, as well as clean up other departments under his party's watch.

⁵⁵ *See* Michael Pastuovic, *Is the Bunt Dying?*, NW. SPORTS ANALYTICS GRP. (Apr. 2, 2021), <https://sites.northwestern.edu/nusportsanalytics/2021/04/02/is-the-bunt-dying/> [<https://perma.cc/8ZT4-AY7B>].

⁵⁶ *Trump's Tax Returns*, BILL PASCRELL: 9TH DIST. OF N.J., <https://pascrell.house.gov/issues/issue/?IssueID=14897> [<https://perma.cc/HTR5-XE6F>].

⁵⁷ Bill Pascrell, *Scrutinizing Trump's Taxes Is in Congress's Power*, YALE J. ON REGUL.: NOTICE & COMMENT (Nov. 16, 2018), <https://www.yalejreg.com/nc/response-to-grewal-post-by-u-s-rep-bill-pascrell-jr/> [<https://perma.cc/AF4V-YLQ4>].

⁵⁸ *See generally* Letter from Richard E. Neal, Chairman, H.R. Comm. on Ways & Means, to Hon. Charles P. Rettig, Comm'r, Internal Revenue Serv. (Apr. 3, 2019), [https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Neal%20Letter%20to%20Rettig%20\(signed\)%20-%202019.04.03.pdf](https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Neal%20Letter%20to%20Rettig%20(signed)%20-%202019.04.03.pdf) [<https://perma.cc/W9J5-RC8T>].

⁵⁹ Jess Bravin & Richard Rubin, *Chief Justice John Roberts Temporarily Blocks House Access to Trump's Tax Returns*, WALL ST. J. (Nov. 1, 2022), https://www.wsj.com/articles/chief-justice-temporarily-blocks-house-access-to-trumps-tax-returns-11667313023?mod=Search_results_pos2&page=1 [<https://perma.cc/V5EB-AD6F>].

⁶⁰ *See* Jonathan S. Gould & Olatunde C.A. Johnson, *SCOTUS Doesn't Trust Congress—And That's a Problem for American Government*, ATLANTIC (July 21, 2020), <https://>

C. Powerful Leadership

Yet while personal and committee offices' staff sizes tumbled, leadership staff skyrocketed. Between 1977 and 2021, House leadership office staff rose from 62 staffers to 238—a jump of nearly 300%,⁶¹ and a strong statement of where Congress has placed its institutional growth priorities over the last two generations. Indeed, even as we have recently expanded funding to personal offices, House leadership staff size in 2021 was just about at its all-time high.⁶²

The Speaker's office sets Congress's course. Legislation is not grown organically but comes from the Speaker and faces fewer alterations from committee analysis or hearings. Amendments are blocked in the Rules Committee, whose members are appointed by the Speaker, and so what comes to the floor is what the Speaker's office permits.⁶³ Regular member input is often minimized in the drafting process.⁶⁴

On our steering committee, the Speaker has enormous power both to elevate and to punish chairs and rank-and-file members. Often chairs do not hold hearings, mark up bills, or take substantive action without implicit approval by the Speaker. The implications for this shift in power are important. Some scholars have made the case that centralized power is necessary in an era of hyper-partisanship that makes lawmaking all but impossible.⁶⁵ They argue that Congress's membership is too diverse, members' attentions too divided, and outside influences too pervasive to the legislating process to make regular order efficient anymore.⁶⁶ Conversely, a Speaker has a freer hand to act decisively.⁶⁷ While we question that conclusion, there is no debate that the consistent transfer of power from members' offices and their committees to the Speaker's office limits individual members' autonomy.

Take the experience of the pandemic in 2020. The explosion of COVID-19 shut down most of American society. Congress was no exception; physical offices were closed to the public and much of our work be-

www.theatlantic.com/ideas/archive/2020/07/scotus-congress-trust/614380/ [<https://perma.cc/D8SE-7UWG>].

⁶¹ PETERSEN, *supra* note 12, at 6.

⁶² *Id.*

⁶³ See Derek Willis & Paul Kane, *How Congress Stopped Working*, PROPUBLICA (Nov. 5, 2018), <https://www.propublica.org/article/how-congress-stopped-working> [<https://perma.cc/9FLG-JC46>].

⁶⁴ See Lee Drutman, *Op-Ed: How a Too-Strong Presidency and a Too-Weak Congress are Destroying the American Experiment*, L.A. TIMES (Mar. 5, 2017), <https://www.latimes.com/opinion/op-ed/la-oe-drutman-can-our-institutions-survive-our-divided-politics-20170305-story.html> [<https://perma.cc/G59Y-LBLV>].

⁶⁵ See James M. Curry & Frances E. Lee, *Capacity in a Centralized Congress, in CONGRESS OVERWHELMED, THE DECLINE IN CONGRESSIONAL CAPACITY AND PROSPECTS FOR REFORM* 225, 237 (Timothy M. LaPira, Lee Drutman & Kevin R. Kosar eds., 2020) (“Centralization may be helping Congress maintain some of its lawmaking capacity, rather than weaken it further.”).

⁶⁶ See *id.* at 237–38.

⁶⁷ See *id.* at 237.

came remote. Therefore, the three principal pieces of emergency legislation we passed—the Coronavirus Preparedness and Response Supplemental Appropriations Act,⁶⁸ the Families First Coronavirus Response Act,⁶⁹ and the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act⁷⁰—went through virtually no committee hearings or much internal dialogue. The bills were largely drafted by the Speaker’s office and brought to us as finished projects. The pandemic was a once-in-a-century event, and so we managed it as best we could as we learned more about the virus, and our full lack of capacity dictated that necessity. In the process, individual members were disempowered to conduct oversight or participate in our national response to the crisis.

D. *Swarming Lobbyists*

In addition to our leadership, there is another obvious group that has taken power from Congress in governing America: corporate lobbyists. Lobbyists flood Congress with information: information about the lobbyists’ industries, about issues, about regulation (or why regulation is bad), information to shape how legislators and staff think about the entire world.⁷¹ As a result, much of what transpires in Congress is the product of the wide hand of corporate lobbyists who blanket Capitol Hill.

When people invoke lobbying influence on Washington, they think about the cartoonish corruption portrayed in *Veep*, *Mr. Smith Goes to Washington*, *The Distinguished Gentleman*, and other popular media. But the negative influence of lobbyists, while sometimes nefarious, is more typically a corruption of information.

Very often, lobbyists have legislative draft text before our own office does. Individual member offices, committee staffs, and the leadership suites work closely with lobbyists to grasp technical areas that could take a lifetime to understand but which strained staffs have but days or sometimes hours to wrap their minds around. As a result, lobbyists generally have more opportunity to amend legislation that Congress considers than do individual House members.⁷²

Illustrations of lobbyist influence are many, but there is a revealing one rarely seen by Americans outside of Capitol Hill. Every two years, the House turns over. In this biennial ritual, you can walk through our office

⁶⁸ Coronavirus Preparedness and Response Supplemental Appropriations Act, Pub. L. No. 116-123, 134 Stat. 146 (2020).

⁶⁹ Families First Coronavirus Response Act, Pub. L. No. 116-127, 138 Stat. 178 (2020).

⁷⁰ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

⁷¹ Lee Drutman & Steven M. Teles, *Why Congress Relies on Lobbyists Instead of Thinking for Itself*, ATLANTIC (Mar. 10, 2015), <https://www.theatlantic.com/politics/archive/2015/03/when-congress-cant-think-for-itself-it-turns-to-lobbyists/387295/> [https://perma.cc/EJ7W-SQTS].

⁷² *Id.*

buildings and see which members have lost or are retiring by the dumpsters parked outside of their offices, overflowing with files, records, pamphlets, binders, white papers, cherry-picked data, and other junk invariably provided by lobbyists.

Lobbyists control this flow of information because of their resources. From 1980–2006, the number of organizations with lobbying presences more than doubled.⁷³ Between 1983 and 2021, lobbyist spending expanded from \$200 million to \$3.7 billion—a more than seventeen-fold increase between the first Reagan administration and the Biden administration.⁷⁴

Especially daunting is lobbying from the biggest corporations. In 2021, the big five tech goliaths—Amazon, Apple, Facebook, Google, and Microsoft—spent over \$65 million lobbying the federal government, a jump of fifty percent in just one year.⁷⁵ For years, spending by defense, pharmaceutical, energy, insurance, and hospital industry giants, among others, has risen off the charts.⁷⁶ As corporate concentration continues to strangle competition in sectors across our economy, America’s loudest corporate voices are often the only ones that can be heard at the Capitol.⁷⁷ Indeed, a 2015 study found that corporations now devote more resources to lobby Congress than Congress spends to fund itself.⁷⁸

Lobbyist influence was on display during the accelerated push by Republicans to pass their tax reform package in 2017. Our office never saw the bill until it was ready for passage because most of the text was still being finalized by lobbyists.⁷⁹ Just hours before the bill was passed in the Senate, one senator posted on social media a list of amendments to be included in the final bill that she had obtained from a lobbying firm well before Senate leadership had provided her or her colleagues the final text or a summary.⁸⁰ After the bill’s fast passage and enactment, one independent group counted

⁷³ *Id.*

⁷⁴ *Id.*; Jonathan O’Connell & Anu Narayanswamy, *Lobbying Broke All-Time Mark in 2021 amid Flurry of Government Spending*, WASH. POST (Mar. 12, 2022), <https://www.washingtonpost.com/business/2022/03/12/lobbying-record-government-spending/> [<https://perma.cc/TLM2-HMBU>].

⁷⁵ See Emily Birnbaum, *Tech Spent Big on Lobbying Last Year*, POLITICO (Jan. 24, 2022), <https://www.politico.com/newsletters/morning-tech/2022/01/24/tech-spent-big-on-lobbying-last-year-00001144> [<https://perma.cc/6K2L-UVXA>].

⁷⁶ See Megan R. Wilson, *Lobbying’s Top 50: Who’s Spending Big*, THE HILL (Feb. 7, 2017), <https://thehill.com/business-a-lobbying/business-a-lobbying/318177-lobbyings-top-50-whos-spending-big/> [<https://perma.cc/QY6F-L3MZ>].

⁷⁷ David Leonhardt, Opinion, *The Monopolization of America*, N.Y. TIMES (Nov. 25, 2018), <https://www.nytimes.com/2018/11/25/opinion/monopolies-in-the-us.html> [<https://perma.cc/AM3G-DV7Q>].

⁷⁸ Ezra Klein, *Corporations Now Spend More Lobbying Congress than Taxpayers Spend Funding Congress*, VOX (July 15, 2015), <https://www.vox.com/2015/4/20/8455235/congress-lobbying-money-statistic> [<https://perma.cc/8L8W-CESA>].

⁷⁹ See Z. Byron Wolf, *The Senate Voted on a Tax Bill Pretty Much Nobody Had Read*, CNN (Dec. 2, 2017) <https://www.cnn.com/2017/12/01/politics/senate-vote-still-writing-tax-bill> [<https://perma.cc/Y9SZ-UPUT>].

⁸⁰ See Claire McCaskill (@clairecmc), TWITTER (Dec. 1, 2017, 2:29 PM), <https://twitter.com/clairecmc/status/936678750577623041?lang=en> [<https://perma.cc/W4XZ-3ARJ>].

the number of tax lobbyists in Washington at over 6,200;⁸¹ conversely, the number of staff on the Senate Finance Committee, House Ways and Means Committee, and Joint Committee on Taxation combined at that time was just over 200—outnumbered thirty-to-one.⁸² With congressional staff as skilled in tax policy as the Spartans of 480 B.C. were in combat, 2017 had largely the same outcome as the Battle of Thermopylae: total domination by superior numbers.⁸³

III. CONGRESS'S 1994 LOBOTOMY AND LEGISLATIVE SUPPORT AGENCIES

The movement of congressional investment has had temporary reversals, but the downward trend in the House has been unmistakable for over forty years. While we cannot attribute Congress's atrophy to just one event or one person, if we had to identify the single primary driving event it would be the Republican Revolution of 1994 and its leader, former House Speaker Newt Gingrich.

In the sixty-four years between 1931 and 1995, Republicans held a House majority for just four years. By 1989, exhausted by seemingly endless Democratic rule, House Republicans empowered longtime rabble-rouser and conservative leader Gingrich as their second-in-command.⁸⁴ Gingrich would manage his party's messaging and recruitment relentlessly, and in 1994 he led his party's once-unthinkable takeover of the House. For years, Gingrich ran against Congress itself and what he called its waste and corruption. Beginning in January 1995, he turned his words into actions against the institution.⁸⁵

In his first days in the Speaker's chair, Gingrich cut staff from a number of key congressional offices. He took his cleaver directly to Congress's brain

⁸¹ PUBLIC CITIZEN, SWAMPED: MORE THAN HALF THE MEMBERS OF WASHINGTON'S LOBBYING CORPS HAVE PLUNGED INTO THE TAX DEBATE 3 (2017), <https://www.citizen.org/wp-content/uploads/migration/swamped-tax-lobbying-report.pdf> [https://perma.cc/4UZ9-L5RZ].

⁸² See *House Ways and Means Committee*, LEGISTORM, https://www.legistorm.com/office/House_Ways_and_Means_Committee/1438/215.html [https://perma.cc/6D8Q-66GW]; *Senate Finance Committee*, LEGISTORM, https://www.legistorm.com/office/Senate_Finance_Committee/682/218.html [https://perma.cc/7L7A-AQ94]; *Joint Committee on Taxation*, LEGISTORM, https://www.legistorm.com/office/Joint_Committee_on_Taxation/110/215.html [https://perma.cc/67D4-WNKE].

⁸³ See Nathaniel Scharping, *The Epic Battle of Thermopylae Remains One of the Most Stirring Defeats of All Time*, DISCOVER MAG. (Dec. 19, 2020), <https://www.discovermagazine.com/planet-earth/the-epic-battle-of-thermopylae-remains-one-of-the-most-stirring-defeats-of> [https://perma.cc/DYU4-CQVT].

⁸⁴ See *House GOP Elects Militant Minority Whip by 2 Votes: Vote Hints at War with Democrats*, L.A. TIMES (Mar. 22, 1989), <https://www.latimes.com/archives/la-xpm-1989-03-22-mn-381-story.html> [https://perma.cc/8MF3-B8H3]; Thomas B. Edsall, *The Great Divider*, WASH. POST (Mar. 23, 1989), <https://www.washingtonpost.com/archive/opinions/1989/03/23/the-great-divider/d764932d-70b2-4906-898c-4aa4689f2285/> [https://perma.cc/R2D5-A6TJ].

⁸⁵ See Glastris & Edwards, *supra* note 39.

by axing one-third of the staff at the Government Accountability Office (“GAO”), the Congressional Research Service (“CRS”), and the Congressional Budget Office (“CBO”).⁸⁶ Going even further, he fully eliminated the storied Office of Technology Assessment (“OTA”),⁸⁷ Congress’s own think tank focused on tech policy. He took greater control of committee hearings, running their operations through his own office.⁸⁸ The gruesome math bears out the scope of the immediate revolution. Between 1994 and 1995—just one year—House member office staff was lopped by 10% and committee staff was slashed 35%, while leadership staff grew 11%.⁸⁹

Gingrich understood that access to expertise is itself a form of authority. By targeting the pipeline of tenured technical staff on the committees and elsewhere for elimination, he was gunning directly at the power of Congress and its members to think for themselves.⁹⁰ He thought that without that power, members would turn to their leaders for a voice—and they did.

That these offices are pivotal to Congress’s operations cannot be understated. Congress relies on lobbyists so much because our channel of information in the institution is so small compared to the Executive Branch and the outside world generally. These support offices, while minuscule in size compared to what the President has access to, make up the parietal lobes of congressional capacity.

Opened first as a unit of the Library of Congress in 1914, the CRS provides studies spanning American law, defense and trade, sciences and industry, and other subjects from outstanding experts. The agency helps train congressional staff and members themselves and provides reports and answers questions on legislation and governmental operations. In Fiscal Year 2016, the CRS provided nearly 4,440 in-person briefings; issued over 10,000 reports, memoranda, and bill summaries; and replied to over 52,000 individual requests for questions from congressional offices.⁹¹ Some of our greatest oversight successes—Watergate, the Iran-Contra probe, the enactment of the Freedom of Information Act—were achieved with the CRS’s support.⁹² Great

⁸⁶ See *id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ PETERSEN, *supra* note 12, at 9 tbl.1.

⁹⁰ See Andrew Prokop, *The Political Scientist Who Saw Trump’s Rise Coming*, Vox (May 6, 2016), <https://www.vox.com/2016/5/6/11598838/donald-trump-predictions-norm-ornstein> [<https://perma.cc/6QUG-LKPU>]; Norman J. Ornstein & Thomas E. Mann, *The Republicans Waged a 3-Decade War on Government. They Got Trump.*, Vox (July 18, 2016), <https://www.vox.com/2016/7/18/12210500/diagnosed-dysfunction-republican-party> [<https://perma.cc/G949-HTCY>]; Ed O’Keefe, *When Congress Wiped an Agency Off the Map*, WASH. POST (Nov. 29, 2011), https://www.washingtonpost.com/blogs/federal-eye/post/when-congress-wiped-an-agency-off-the-map/2011/11/29/gIQAIt0J9N_blog.html [<https://perma.cc/HMP6-V6B8>]; Glastris & Edwards, *supra* note 39.

⁹¹ Kevin Kosar, *Legislative Branch Support Agencies: What They Are, What They Do, and Their Uneasy Position in Our System of Government*, in CONGRESS OVERWHELMED 128, 136 (Timothy M. LaPira, Lee Drutman & Kevin R. Kosar eds., 2020).

⁹² Kevin R. Kosar, *The Atrophying of the Congressional Research Service’s Role in Supporting Committee Oversight*, 64 WAYNE L. REV. 149, 149 (2014).

nations build libraries. So appropriately, much of the CRS is housed in the Library of Congress's Madison Building, constructed from the reforms of the 1970s. Congress's staffs rely heavily on CRS expertise for information, and it is fair to say that the CRS is the glue of daily Capitol Hill life.

While the CRS is a nonpartisan body, it has nonetheless become a target for political extremists in our chamber. In 2012, a CRS report finding that tax cuts do not generate revenue enraged several Republican representatives. The members had the report pulled, and many of them began publicly criticizing CRS experts.⁹³

Attacks have also converged on the CBO and the GAO. With 235 staff members, the CBO provides nonpartisan budget projections and cost estimates of bills and presidential budgets and reports on matters before Congress.⁹⁴

Unfortunately, the CBO's data is often ignored or, worse, maligned for partisan purposes. In 2018, when the CBO refuted claims by some GOP members that their tax plan would create jobs and raise wages,⁹⁵ instead of improving their tax plan, the members savaged the agency and voted unsuccessfully to defund the CBO.⁹⁶ These baseless attacks channeled the classic *Simpsons* episode in which Springfield residents, miraculously rescued from a hurtling comet, resolve to raze the town observatory.⁹⁷

The GAO is the largest of the troika of congressional support agencies. In federal Fiscal Year 2022, GAO had a budget of \$719.2 million, funding 3,400 full-time equivalents to help audit our federal government at the request of our offices, reporting on management, effectiveness, oversight, and cost savings.⁹⁸

The GAO furnishes rich information to Congress on virtually any subject. Several years ago, our office was besieged with complaints by constituents unable to purchase tickets to concerts for our state's favorite son, Bruce

⁹³ Jonathan Weisman, *Nonpartisan Tax Report Withdrawn After G.O.P. Protest*, N.Y. TIMES (Nov. 1, 2012), <https://www.nytimes.com/2012/11/02/business/questions-raised-on-withdrawal-of-congressional-research-services-report-on-tax-rates.html> [<https://perma.cc/CV7N-MXEB>].

⁹⁴ Kosar, *supra* note 91, at 135.

⁹⁵ Despite Republicans' assurances at the time, the 2017 tax law did not raise wages. See Christian Weller, *The 2017 Tax Cuts Didn't Work, The Data Prove It*, FORBES (May 30, 2019), <https://www.forbes.com/sites/christianweller/2019/05/30/the-2017-tax-cuts-didnt-work-the-data-prove-it/?sh=45cd070258c1> [<https://perma.cc/R74D-DSLN>].

⁹⁶ Niv Elis, *GOP Dismisses Report that Tax Law Will Add \$1.9 Trillion to Debt*, THE HILL (Apr. 10, 2018), <https://thehill.com/policy/finance/382493-gop-dismisses-report-that-tax-law-will-add-19-trillion-to-debt> [<https://perma.cc/9V3B-THRU>]; Al Weaver, *House Rejects GOP Proposals to Cut CBO Funding*, WASH. EXAMINER (July 26, 2017), <https://www.washingtonexaminer.com/house-rejects-gop-proposals-to-cut-cbo-funding> [<https://perma.cc/4345-RZ4V>].

⁹⁷ Jim Himes (@jahimes), TWITTER (July 26, 2017, 11:52 PM), <https://twitter.com/jahimes/status/890419519931518976> [<https://perma.cc/N4YS-DCHP>].

⁹⁸ U.S. GOV'T ACCOUNTABILITY OFF., GAO-22-900396, FISCAL YEAR 2023 BUDGET REQUEST: U.S. GOVERNMENT ACCOUNTABILITY OFFICE 3 (2022), <https://www.gao.gov/assets/gao-22-900396.pdf> [<https://perma.cc/H6MN-T95Z>].

Springsteen.⁹⁹ When we probed a bit deeper, we discovered the extent of the unregulated nature of the live events ticket market.¹⁰⁰ To learn more about how to better regulate the freight tickets market, our office requested and obtained a comprehensive GAO study of the live events market¹⁰¹ that helped focus the entire issue as we crafted our proposal for overarching market reform.¹⁰²

The size, scope, and reach of the GAO's capacity is enormous. The GAO's website boasts that the agency saves \$158 of taxpayer money for every \$1 Congress invests in it.¹⁰³ Members of Congress know we have no better ally in holding the executive accountable and uncovering government waste. Yet for over a generation until 2018, the GAO saw its staffing cut significantly.¹⁰⁴

And while the OTA has been defunct for nearly thirty years, its reputation is legion. Like the GAO, it operated as a think tank for Congress, tasked with studying scientific and technology issues. The OTA was Congress's only agency for conducting scholarly work on complex issues before Gingrich dismembered it. Its reports, still preserved, cover an impressive gamut, including cancer care, climate change, computer technology, criminal justice, pharmaceutical labeling, disability policy, banking, and biotechnology.¹⁰⁵ Today, few members of Congress know the OTA ever existed.¹⁰⁶

IV. BLUEPRINT FOR A WORKING CONGRESS

Our office in the District of Columbia has a small legislative and communications staff to handle portfolios blanketing the entire federal government. This work includes writing bills and amendments; compiling memos on varying subjects; composing talking points, hearing remarks, and some-

⁹⁹ For history, see Peggy McGlone, *Bill Pascrell Wants Answers About Springsteen Ticket Sales*, NJ.COM (Feb. 4, 2009), https://www.nj.com/entertainment/music/2009/02/bill-pascrell_wants_answers_ab.html [<https://perma.cc/6997-8TPU>].

¹⁰⁰ *Id.*

¹⁰¹ See U.S. GOV'T ACCOUNTABILITY OFF., GAO-18-347, EVENT TICKET SALES: MARKET CHARACTERISTICS AND CONSUMER PROTECTION ISSUES 1-2 (2018), <https://www.gao.gov/assets/gao-18-347.pdf> [<https://perma.cc/HL4B-JHPR>].

¹⁰² See Press Release, U.S. Rep. Bill Pascrell, 9th Dist. of N.J., Pascrell, Pallone, Blumenthal Reintroduce BOSS Act (June 13, 2019), <https://pascrell.house.gov/news/documentsingle.aspx?DocumentID=3931#> [<https://perma.cc/JV6X-VKP7>].

¹⁰³ See Press Release, U.S. GOV'T ACCOUNTABILITY OFF., GAO's Work Led to \$66.2 Billion in Financial Benefits for Congress and the American People (Nov. 15, 2021), <https://www.gao.gov/press-release/gaos-work-led-66.2-billion-financial-benefits-congress-and-american-people> [<https://perma.cc/3D2P-NB6W>].

¹⁰⁴ See Goldschmidt, *supra* note 35, at 17.

¹⁰⁵ See *Reports by Topic*, OFF. OF TECH. ASSESSMENT ARCHIVE, <https://ota.fas.org/otareports/topic/> [<https://perma.cc/FY3G-YLSY>].

¹⁰⁶ For a comprehensive history of the OTA, see JOHN F. SARGENT, CONG. RSCH. SERV., R46327, THE OFFICE OF TECHNOLOGY ASSESSMENT: HISTORY, AUTHORITIES, ISSUES, AND OPTIONS (2020), <https://crsreports.congress.gov/product/pdf/R/R46327/6> [<https://perma.cc/P6Y4-8KL3>]; see also BRUCE BIMBER, THE POLITICS OF EXPERTISE IN CONGRESS: THE RISE AND FALL OF THE OFFICE OF TECHNOLOGY ASSESSMENT (1996).

times formal speeches; and meeting with constituent groups, union leaders, and other representatives for every interest that can be imagined. As a member of the House Ways and Means Committee, our office has a heavy focus on tax, health care, and Social Security policy. However, our staff also must be versed in all areas of the Government. This encompasses the Executive Branch, including not just the White House but also the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Justice, Labor, State, Interior, Treasury, Transportation, and Veterans Affairs, plus dozens of boards, commissions, and independent agencies;¹⁰⁷ the federal judiciary, including district and circuit courts, the Supreme Court, and the U.S. Sentencing Commission; and the administration of Congress itself. To handle that universe of areas, our Washington office usually employs a chief of staff, legislative director, two legislative assistants, a communications director, and a staff assistant. This structure is typical of House Washington offices.¹⁰⁸

The federal government of which we are a part is large and complex on a massive scale. Take the U.S. Post Office (“USPS”). One of the bedrocks of our democracy, the post office impacts every American almost every day¹⁰⁹ and employs over 600,000 workers.¹¹⁰ It is critically important. But the truth is that even if our office hired a seasoned professional to work on USPS issues and nothing else, that person still would not be able to master every detail of the USPS top to bottom. Now consider that our staff member who handles the USPS also works on a large portfolio of other departments. That is a quandary of Congress: we have limited resources to manage the largest, most advanced democratic government in human history.

Let us take one more straightforward example: citizen correspondence. Back in the old days you would write your congressperson a letter to ask a question, seek help, or just gripe. Today, the primary way for our constituents or other Americans to reach our office is by calling us, emailing our office, or sending us the old-fashioned stamped letter. Our staff collectively handles all this outreach in addition to their day-to-day duties and we seek to reply to every single constituent message we receive—and our offices get a lot of mail. From 2002–2011, House office mail volume went up 158% and Senate office mail volume jumped 548%, with congressional mail some-

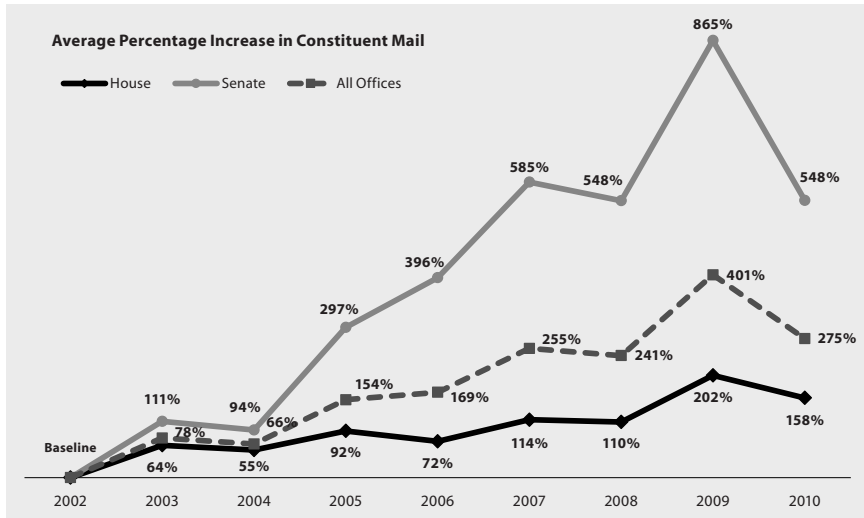
¹⁰⁷ For a list of agencies, see *Agencies*, FED. REG., <https://www.federalregister.gov/agencies> [https://perma.cc/4NRF-CAJ8].

¹⁰⁸ See generally R. ERIC PETERSEN, CONG. RSCH. SERV., R46262, CONGRESSIONAL STAFF: DUTIES, QUALIFICATIONS, AND SKILLS IDENTIFIED BY MEMBERS OF CONGRESS FOR SELECTED POSITIONS (2021), <https://sgp.fas.org/hrs/misc/R46262.pdf> [https://perma.cc/PM2E-4AEH].

¹⁰⁹ See Bill Pascrell (@BillPascrell), TWITTER (Apr. 12, 2020, 8:19 PM), <https://twitter.com/BillPascrell/status/1249492244836515849> [https://perma.cc/AVT8-JKME].

¹¹⁰ Tyler Powell & David Wessel, *How Is the U.S. Postal Service Governed and Funded?*, BROOKINGS INST. (Aug. 26, 2020), <https://www.brookings.edu/blog/up-front/2020/08/26/how-is-the-u-s-postal-service-governed-and-funded/> [https://perma.cc/42AR-GMW6].

times increasing over 1,000% for some offices in some years.¹¹¹ Given the stagnant size of Congress, we have reason to believe that the volume of citizen outreach per office has only grown.



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Yet despite this workload, and the number of Americans who rely on congressional offices to handle these responsibilities, Congress itself does not prioritize competitive salaries for many of our positions. Between 2005 and 2019, the median pay for House staff positions fell across the board. Chief of staff median pay fell approximately 9%; communications directors 9%; district directors 13%; legislative directors 8%; press secretaries 23%; and staff assistants, the lowest paid colleagues in most offices, over 13%.¹¹³ In sum, just one staff position over this period saw an increase in median pay while thirteen positions saw a decrease.¹¹⁴

¹¹¹ CONG. MGMT. FOUND., COMMUNICATING WITH CONGRESS: HOW CITIZEN ADVOCACY IS CHANGING MAIL OPERATIONS ON CAPITOL HILL 2 fig.1 (2011), https://www.congressfoundation.org/storage/documents/CMF_Pubs/cwc-mail-operations.pdf [<https://perma.cc/8X8N-PTT2>].

¹¹² *Id.*

¹¹³ R. ERIC PETERSEN, CONG. RSCH. SERV., R44323, STAFF PAY LEVELS FOR SELECTED POSITIONS IN HOUSE MEMBER OFFICES, 2001-2019, at 5 tbl.2 (10th ed. 2020), <https://crsreports.congress.gov/product/pdf/R/R44323/10> [<https://perma.cc/DUU6-NM5S>].

¹¹⁴ *Id.*

Table 2. Change in Median Pay for Selected Staff In House Members' Offices, Selected Periods

Change Based on Constant 2020 Dollars

| | 2018-2019 | 2015-2019 | 2010-2019 | 2005-2019 | 2001-2019 |
|-------------------------------------|-----------|-----------|-----------|-----------|-----------|
| Caseworker | -8.66% | 6.56% | -0.85% | -4.70% | 0.58% |
| Chief of Staff | -2.04% | -1.81% | -9.93% | -8.79% | 3.15% |
| Communications Director | 6.96% | 8.26% | -8.37% | -9.47% | -13.36% |
| Constituent Services Representative | -5.74% | -0.62% | -3.16% | -6.41% | -0.36% |
| District Director | 1.08% | -6.77% | -11.79% | -12.86% | -8.99% |
| Executive Assistant | -3.03% | 2.13% | -20.00% | -15.72% | -21.13% |
| Field Representative | 1.82% | -1.40% | -12.10% | -7.21% | -3.41% |
| Legislative Assistant | 2.65% | 5.15% | -8.27% | -6.55% | -6.77% |
| Legislative Correspondent | -3.92% | 7.70% | 2.83% | 0.70% | 2.80% |
| Legislative Director | -4.52% | -6.76% | -13.88% | -7.78% | -9.03% |
| Office Manager | -1.21% | -6.60% | -12.31% | -11.37% | -24.41% |
| Press Secretary | -6.16% | -6.64% | -19.76% | -22.85% | -19.26% |
| Scheduler | 6.97% | 6.41% | -0.19% | -4.71% | -9.90% |
| Senior Legislative Assistant | -2.47% | — | — | — | — |
| Staff Assistant | -6.32% | 4.07% | -16.04% | -13.04% | -12.56% |

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In 2022, pursuant to the omnibus appropriations package signed by President Biden, House offices saw an across-the-board twenty-one percent raise¹¹⁶ to our Members' Representational Allowance ("MRA"),¹¹⁷ which is used to fund individual offices—the largest such raise in at least twenty-six years.¹¹⁸ But the increase applied only to House personal offices. Committees were exempt from the raise, and Senate offices declined to ratify the MRA hike for the upper chamber.¹¹⁹

Raising office MRAs was a big shift. Increased investment allows staff to keep up with the high cost of living in an expensive region and helps offices retain workers from fleeing to the corporate sector.¹²⁰ As the well-

¹¹⁵ *Id.*

¹¹⁶ See Press Release, Majority Leader Steny Hoyer, Hoyer, Jeffries Applaud 21% Boost to MRA Funds in the Omnibus Allowing for Increases to House Staff Pay (Mar. 9, 2022), <https://www.majorityleader.gov/content/hoyer-jeffries-applaud-21-boost-mra-funds-omnibus-allowing-increases-house-staff-pay> [https://perma.cc/DF3D-PP5W].

¹¹⁷ IDA A. BRUDNICK, CONG. RSCH. SERV., R40962, MEMBERS' REPRESENTATIONAL ALLOWANCE: HISTORY AND USAGE 1 (2022), <https://sgp.fas.org/crs/misc/R40962.pdf> [https://perma.cc/E3UD-X3FQ].

¹¹⁸ See *id.* at 7 tbl.1. Importantly, it did not raise the salaries of congressmembers. Brea Jones, *Spending Bill Includes Pay Raise for Staffers, Not Members of Congress*, FACTCHECK.ORG (May 6, 2022) <https://www.factcheck.org/2022/03/spending-bill-includes-pay-raise-for-staffers-not-members-of-congress/> [https://perma.cc/8Z4C-FBC4].

¹¹⁹ See BRUDNICK, *supra* note 117, at 1.

¹²⁰ Cristina Marcos, *House Staff Turnover Highest in 20 Years: Study*, THE HILL (Mar. 21, 2022), <https://thehill.com/homenews/house/599093-house-staff-turnover-highest-in-20-years-study/> [https://perma.cc/XX7N-QYTE].

spring of complaints from staffers on Instagram attested, investment is the essential element to reinvigorating the Article I branch. The MRA raises should be applied across the board for Congress, and those investments must be maintained and elevated to keep up with inflation and higher costs of living over time. The chance that the raise could simply be cut back down by the next Congress is significant.

The practical impacts of this lack of investment are clear. House staff turnover is at its highest levels in twenty years.¹²¹ Part of that can be tied to burnout from the pandemic and the January 6, 2021 insurrection that ransacked the Capitol.¹²² But a larger part of that turnover is that congressional staff leave to make more money, commensurate with their abilities, skills, and experience.¹²³ Substandard professional salaries breed higher turnover, and higher turnover badly hampers any large organization from retaining institutional knowledge and history to guide work going forward. This constant brain drain makes it harder for Congress to perform optimally.

Our offices are constrained not just by lack of investment but by limits on our ability to hire staff. Since 1975, a span of nearly fifty years, congressional office staffs have been capped at eighteen total full-time workers per member, distributed between the member's Washington and district offices.¹²⁴ Having to accommodate dual focuses on constituent service and attention to national issues under this cap, along with existing salary constraints, badly impairs the service congressmembers can offer their communities and the country. This cap should be raised or removed entirely.

There is no question that given the sizes of our mandates and districts, congressional offices could and should be funded at higher levels. The current funding levels, even after the 2021 MRA increase, do not meet the challenges our offices face every day to keep the government running and do what our constituents demand. That entails larger legislative staffs, to juggle a portfolio of hundreds of federal agencies, and larger district staffs, to manage more requests from districts that are growing ever bigger.

If told that workers in Congress are underpaid, some Americans might rejoice. But supporting underfunding Congress is a classic case of cutting off your nose to spite your face. Congress is the people's direct representative and the foremost guardian of a functioning, efficient, and effective federal government. If we cannot hire the most talented staff or retain staffers to amass institutional memory, then government itself is incapable of functioning at its best. Investing in Congress is investing in democracy. Of course,

¹²¹ *Id.*

¹²² See Emily Cochrane, *Pelosi Increases Pay Scale for House Staff, Setting a New Wage Floor*, N.Y. TIMES (May 6, 2022), <https://www.nytimes.com/2022/05/06/us/politics/pelosi-pay-increase-house-union.html> [<https://perma.cc/L9DE-C4GF>].

¹²³ See *id.*; Joshua McCrain, *Congress Is Bumping Up Its Top Staffers' Salaries. But Its Real Problem Is the Underpayment of Junior Staffers*, WASH. POST (Aug. 20, 2021), <https://www.washingtonpost.com/politics/2021/08/20/congress-is-bumping-up-its-top-staffers-salaries-its-real-problem-is-how-it-underpays-junior-staff/> [<https://perma.cc/CZ4J-HEWB>].

¹²⁴ PETERSEN, *supra* note 12, at 3.

Congress must also use the tools at its disposal. As of early September 2022, just 15% of House members had utilized their MRA increases enacted to help keep staff talent.¹²⁵ That rate must drastically increase.

Addressing staff investment would bulk up Congress's arms and legs, but we cannot forget to bulk up our brains too. Despite virtually every member of Congress relying on the Congressional Research Service, often daily,¹²⁶ the CRS's budget level barely moved between 2009 and 2017,¹²⁷ and it has gone up only a small amount in recent years. The CRS's entire staff of approximately 650 people is almost one-third below what it was in 1980, when the world was smaller and less complex.¹²⁸ Similarly, from 1985–2018, the GAO saw its staffing cut by forty-one percent,¹²⁹ and the CBO is almost identical in size to what it was over forty years ago.¹³⁰

The CRS, CBO, and GAO should be funded at higher levels to hire more experts who can advise congressmembers and their staffs. More in-house information means we need less information from outside lobbyists. Enhanced quality and quantity of support for the agencies can aid individual offices in crafting bills and amendments, committees in their hearings and drafting processes, and leadership in shaping their agendas—the agencies have multiple levels of positive reach. All three support agencies, too, must be free from political intimidation by those who would be afraid of facts. Our members should value the superb work of our experts more than scoring cheap political points or a quick press hit.

In 2019, we included \$6 million in seed money for a revived OTA in the House's annual legislation branch appropriations.¹³¹ It did not become law, but even if it had, it would have been a very small start. We should allocate enough money to bring the office back and fund it with real support to hire top-flight staff. Additionally, we should dust off the OTA's original authorizing legislation and modernize the language itself for the modern world. It would be an investment well worth the cost. A revived OTA would

¹²⁵ *85% of Representatives Haven't Touched Their MRA Increase, LegiStorm Data Shows*, LEGISTORM (Sept. 6, 2022), https://www.legistorm.com/pro_news/2983/85-of-representatives-havent-touched-their-mra-increase-legistorm-data-shows.html [<https://perma.cc/JF2R-NHQT>]. Early evidence shows that rate is rising, with one analysis by the House Chief Administrative Office showing uniform staff salary increases averaging twenty-three percent between the third quarter of 2021 and 2022. See *Member Office Staff Salary Analysis 2022 v. 2021*, OFF. CHIEF ADMIN. OFFICER (Oct. 11, 2022), https://s3.amazonaws.com/demandprogress/documents/House-Salary-Analysis_2022_vs._2021.pdf [<https://perma.cc/BG66-HL4H>].

¹²⁶ See CONG. RSCH. SERV., CRS ANNUAL REPORT FISCAL YEAR 2020, at 7 (2020), https://www.loc.gov/crsinfo/about/crs20_annrpt.pdf [<https://perma.cc/W7LT-455V>] (reporting that “99% Member/standing committee offices received custom CRS services”).

¹²⁷ For a year-by-year breakdown, see *About CRS*, LIBR. OF CONG. (last updated Feb. 7, 2022), <https://www.loc.gov/crsinfo/about/> [<https://perma.cc/FEZ9-AUPU>].

¹²⁸ Kosar, *supra* note 91, at 131.

¹²⁹ Goldschmidt, *supra* note 35, at 17.

¹³⁰ Kosar, *supra* note 91, at 134.

¹³¹ SARGENT, *supra* note 1066, at 36.

be invaluable to giving Congress a new brain center to wrap our arms around the changing world and ready America for what is to come.¹³²

At the start of the 116th Congress, House leadership created the Select Committee on the Modernization of Congress¹³³ “to make Congress more effective, efficient, and transparent.”¹³⁴ The recommendations offered thus far by the partisan-balanced modernization committee, particularly on strengthening transparency to improve public knowledge of Congress’s activities, are good. The House has ratified over two dozen of them.¹³⁵ But ultimately the panel’s commendable work is only a small step toward the larger reforms demanded. We cannot be content with nibbles. Fixing Congress must come from Congress itself through the appropriations process.

Congress stands atop the largest economy in world history. The federal government numbers over 2 million civilian employees.¹³⁶ Just 535 representatives and senators, supported by only 20,000 staffers, serve as a board of directors for the largest national corporation ever created. The budget we approve funds hundreds of executive departments, agencies, commissions, and other federal bodies,¹³⁷ along with the more than 2 million employees that keep them humming 365 days a year for a nation of 333 million men, women, and children.¹³⁸ The government budget for Fiscal Year 2020 was \$4.79 trillion¹³⁹—about one-quarter of our entire GDP.¹⁴⁰

In our most recent ratified legislative branch appropriation for Fiscal Year 2022, \$5.9 billion was allocated to run Congress,¹⁴¹ an increase of

¹³² See Darrell M. West, *It Is Time to Restore the US Office of Technology Assessment*, BROOKINGS INST. (Feb. 10, 2021), <https://www.brookings.edu/research/it-is-time-to-restore-the-us-office-of-technology-assessment/> [<https://perma.cc/TNU6-S2BY>].

¹³³ H.R. Res. 6, 116th Cong. (2019).

¹³⁴ SELECT COMM. ON THE MODERNIZATION OF CONG., <https://modernizecongress.house.gov/> [<https://perma.cc/36VD-T98S>].

¹³⁵ See Press Release, Select Committee on the Modernization of Congress, Legislation to Reform Congress Passes House (Mar. 10, 2020), <https://modernizecongress.house.gov/news/press-releases/legislation-to-reform-congress-passes-house> [<https://perma.cc/PM36-Z9US>].

¹³⁶ JARED C. NAGEL & CAROL WILSON, CONG. RSCH. SERV., R43590, FEDERAL WORKFORCE STATISTICS SOURCES: OPM AND OMB 1 (2022), <https://crsreports.congress.gov/product/pdf/R/R43590/20> [<https://perma.cc/435P-97W2>].

¹³⁷ See generally BUREAU OF FISCAL SERVS., FINAL MONTHLY TREASURY STATEMENT: RECEIPTS AND OUTLAYS OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2022 THROUGH SEPTEMBER 30, 2022, AND OTHER PERIODS (2022), <https://www.fiscal.treasury.gov/files/reports-statements/mts/mts0922.pdf> [<https://perma.cc/CE4P-B9DN>].

¹³⁸ *U.S. and World Population Clock*, U.S. CENSUS BUREAU, <https://www.census.gov/popclock/> [<https://perma.cc/M3DK-A7BS>].

¹³⁹ *Federal Budget Charts and Graphs*, UP TO US (June 3, 2020), <https://www.itsuptous.org/blog/breaking-down-us-federal-budget-charts-and-graphs> [<https://perma.cc/ZBB4-Q37V>].

¹⁴⁰ BUREAU OF ECON. ANALYSIS, BEA 22-36, GROSS DOMESTIC PRODUCT, SECOND QUARTER 2022 (Advance Estimate) 2 (2022), https://www.bea.gov/sites/default/files/2022-07/gdp2q22_adv.pdf [<https://perma.cc/4RK6-N96A>].

¹⁴¹ IDA A. BRUDNICK, CONG. RSCH. SERV., R46936, LEGISLATIVE BRANCH: FY2022 UPDATED APPROPRIATIONS 7 (2022), <https://crsreports.congress.gov/product/pdf/R/R46936/4> [<https://perma.cc/6MTS-TEAW>]. For our latest bill Fiscal Year 2022, see Consolidated Appropriations Act, 2022, Pub. L. No. 117-103, 136 Stat. 49.

11.7% over Fiscal Year 2011.¹⁴² That still represented less than 0.087% of the total Fiscal Year 2021 budget for the entire federal government.¹⁴³ Funding for Congress makes up just 0.2%¹⁴⁴ of all federal discretionary spending. For every \$3,000 the U.S. spends per American on government programs, “we spend only \$6 to oversee the other \$2,994.”¹⁴⁵ Would you run a small business in the same way?

Every day our government grapples with questions and ideas the likes of which our ancestors could have only imagined in science fiction. Modern America is endlessly complex; Congress is designed for a Flintstones age but exists in a Jetsons world. You cannot use an abacus to decipher string theory. Fully tapping the mRNA technology that gave us COVID-19 vaccines and larger biomedical research, pushing forward the next generation of space exploration technology to follow the Webb Telescope, marshalling the genius of Silicon Valley effectively and fairly for all Americans, and devising how to best combat climate change, as well as myriad other areas, are matters for Congress. And Congress cannot be prepared to meet these challenges unless we invest in ourselves.

V. CONCLUSION

Representative John Dingell (D-Mich.) is known best for being the longest-serving member in congressional history. The man who stood on the House floor for Franklin Roosevelt’s Day of Infamy speech¹⁴⁶ later became a Twitter star.¹⁴⁷ It was quite an adaption. But Dingell is less known for his tenure as the powerful chairman of the House Energy and Commerce Committee. When he helmed the panel, Dingell had a picture of Earth on his wall, which he referred to puzzled guests as reflecting his jurisdiction.¹⁴⁸ His goal of using committees, and by extension Congress itself, as engines of democracy was commonplace before 1995. We should recapture that same ambition. Increasing our investments to retain and nurture staff, hire more experts, and craft legislative proposals free of lobbying interference would go a long way in restoring our government’s health and making America more ready for the next century.

¹⁴² BRUDNICK, *supra* note 141, at 7.

¹⁴³ See U.S. DEP’T OF THE TREASURY, *How Much Has the U.S. Government Spent This Year?*, <https://fiscaldata.treasury.gov/federal-spending/> [<https://perma.cc/LY8X-9C22>].

¹⁴⁴ Drutman & Teles, *supra* note 71.

¹⁴⁵ *Id.*

¹⁴⁶ Alex Brown, *Dingell Recounts Up-Close View of ‘Day of Infamy’ Speech*, ATLANTIC (Dec. 6, 2013), <https://www.theatlantic.com/politics/archive/2013/12/dingell-recounts-up-close-view-of-day-of-infamy-speech/441546/> [<https://perma.cc/MCA2-RYNV>].

¹⁴⁷ Brian Manzullo, *John Dingell Was a Twitter Superstar. Here Are His Greatest Hits.*, DETROIT FREE PRESS (Feb. 7, 2019), <https://www.freep.com/story/news/politics/2019/02/07/john-dingell-twitter-greatest-hits/2789261002/> [<https://perma.cc/BK8H-CHTJ>].

¹⁴⁸ Ashley Parker, *From ‘a Child of the House’ to Longest-Serving Member*, N.Y. TIMES (June 5, 2013), <https://www.nytimes.com/2013/06/06/us/politics/dingell-becoming-longest-serving-congressman.html> [<https://perma.cc/5BCK-6HYR>].

We cannot ignore how congressional dysfunction impacts our entire federal system. Congress's systemic weakness unsettles the delicate separation of powers in our Constitution, which in turn destabilizes the nation. As the only branch directly elected and changed over every two and six years, Congress is the branch closest to the American people and so the best single instrument of their will. If Congress cannot carry out what the public wants, no other branch is appropriately situated to step up. Our habitual sluggishness has allowed both the President and the Supreme Court to take actions that have restricted Congress's powers beyond what was intended by the constitutional balance. And arguably, these other branches are simply filling a vacuum that has been left by our inactivity. Consequently, the failure of Congress is allowing democracy itself to fade. The connection is clear. We must view fixing Congress as essential to protecting democracy in America.

Whether or not the House of Representatives switches control in the fall of 2022¹⁴⁹ makes the issues discussed here no less applicable: a working Congress serves both parties. But if the current majority does not pursue congressional reform, or even turns back some of the modest growth measures we have recently made, the need for our action will remain. Our hope is this article will then be a roadmap that a future Congress can pick up and act upon.

¹⁴⁹ The editors would like to note that this policy essay was sent to press before November 8, 2022.