

Testimony of Molly E. Reynolds¹
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Before the Select Committee on the Modernization of Congress
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Chairman Kilmer, Vice Chairman Graves, and members of the Committee. My name is Molly Reynolds and I am a senior fellow in the Governance Studies Program at the Brookings Institution. I appreciate the opportunity to testify today about past efforts to reform congressional staffing and the lessons we should draw from that history.

While this Committee has a broad mandate covering a number of issues, I will focus today on one—congressional staffing—and will make three points about the history of reforms in this area.

First, lawmakers have long debated—and disagreed about—how Congress should be staffed.

Second, past episodes of reforming congressional staffing often reveal competing and conflicting goals.

Third, Congress's decisions about necessary staffing resources cannot be separated from the politics that shaped them.

Allow me to elaborate.

1. Congress has long debated and disagreed about how Congress should be staffed.

Since the early 20th century, Congress has undertaken several systematic efforts to reform itself. The first Joint Committee on the Organization of Congress in 1945 produced the 1946 Legislative Reorganization Act, which reduced the number of committees and laid the groundwork for increasing staff levels. A subsequent JCOC in 1965-66 served as the foundation for the 1970 Legislative Reorganization Act, which increased the transparency of the committee process and permitted recorded roll call votes in the Committee of the Whole House. Other efforts continued throughout the 1970s, including the Congressional Budget Act of 1974; the Bolling Committee (1973-74), the Obey Commission (1976-77), and the Patterson Committee (1979-80) in the House; and the Culver Commission (1975-76) and Stevenson Committee (1976-77) in the Senate. The last major reorganization effort was the 1992-93 JCOC, which foreshadowed several reforms the House would adopt after the 1994 elections.²

In each of these episodes, calls for reform from both on and off Capitol Hill have echoed similar themes. First, Congress lacks the resources to deal with its workload and the complexity of the problems it must solve. And second, Congress lacks sufficient capacity to oversee the executive branch. These issues have been raised during every major effort to reform Congress. Political scientists weighing in in advance of the Legislative Reorganization Act of 1946 argued that “the

¹ The views expressed are my own and do not necessarily reflect those of staff members, officers, or trustees of the Brookings Institution.

² Christopher J. Deering and Steven S. Smith, *Committees in Congress* (Washington, D.C.: CQ Press, 1997); Eric Schickler, *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton, N.J.: Princeton University Press, 2001); Julian E. Zelizer, *On Capitol Hill: The Struggle to Reform Congress and Its Consequences, 1948-2000* (New York: Cambridge University Press, 2004). For information on the staff-related efforts as part of each of these initiatives, see Ida Brudnick, “Congressional Staffing: The Continuity of Change and Reform,” in “The Evolving Congress,” Committee on Rules and Administration, United States Senate, S. Prt. 113-30, December 2014. A separate effort, known as the Hansen Committee, focused on reforms to the Democratic Caucus rules in the House between 1970 and 1974.

business of Congress has become huge, complicated, and technical.”³ The House report accompanying the 1970 Legislative Reorganization Act described the “quality of the staffs” as “high,” but “their numbers are insufficient to meet the increasing workload of the committees they serve.”⁴ And in 1993, a report from the Congressional Research Service for the Joint Committee on the Organization of Congress stated that “less certain is whether Congress can readily access in the information it needs, when it needs it, and in the form that will expedite and abet meeting its policy making and oversight responsibilities.”⁵

Reformers, however, have not always prescribed *more* staff to meet these challenges. In the early 1940s, some reformers doubted that congressional committees should have their own expert staffs, arguing that doing so would set up conflicts with the executive branch; “congressional staffing,” argued one scholar, “might well be more expert than it is, but to make it too expert might create difficulty. If, for example, the Committee on Banking and Currency had an economic adviser who would brief committee members to criticize proposals coming from the Treasury and frame cross examination for the Treasury’s witnesses, experts would be pitted against experts.”⁶ After a period of significant growth in staff levels in the late 1970s and early 1980s, some scholars observed that the prominence of unelected congressional staff could have both positive and negative consequences.⁷ The recommendations of the 1992-93 Joint Committee called for *reductions* in the overall size of the legislative branch staff, arguing that “Congress cannot exclude itself from efforts to make staffing structures and organizations more rational, efficient, and cost-effective. Just as congressional staffs grew in the past to balance the expertise of the executive branch, downsizing in the executive branch should be accompanied by some downsizing in the legislative branch as well.”⁸ Contemporary choices about the size and role of staff may face similar competing perspectives.

2. *When considering reforms to staffing, lawmakers’ goals often conflict.*

Previous debates have also revealed competing views about the control and purpose of congressional staff.

First, who should control the selection and deployment of congressional staff? The ability to personally select his or her own staff according to his or her preferred criteria has long been seen as a central prerogative of Members. But other reformers argue that the institution as a whole could benefit from a more regularized system of positions and pay, as well as consistency in the applicability of certain policies, across offices.

³ *The Reorganization of Congress: A Report of the Committee on Congress of the American Political Science Association* (Washington, D.C.: Public Affairs Press, 1945), p. 22.

⁴ “Report to Accompany H.R. 17654, Legislative Reorganization Act of 1970,” House Committee on Rules, H. Rpt. 91-1215, 91st Congress, 2nd sess., 1970, p. 15.

⁵ “Congressional Reorganization: Options for Change,” Report of the Congressional Research Service, Library of Congress, to the Joint Committee on the Organization of Congress, S. Prt. 103-19, 103rd Congress, 1st session, 1993, p. 60.

⁶ Lindsay Rogers, “The Staffing of Congress,” *Political Science Quarterly* 56.1 (March 1941): 1-22, pp. 21-22.

⁷ Harrison W. Fox, Jr., and Susan Webb Hammond, *Congressional Staffs: The Invisible Force in American Lawmaking* (New York: The Free Press, 1977); Michael Malbin, *Unelected Representatives: Congressional Staff and the Future of Representative Government* (New York: Basic Books, 1980).

⁸ “Organization of the Congress: Final Report of the Senate Members of the Joint Committee on the Organization of Congress Pursuant to H. Con. Res 192 (102nd Congress),” S. Rpt. 103-215, 103rd Congress, 1st session, 1993, p. 15.

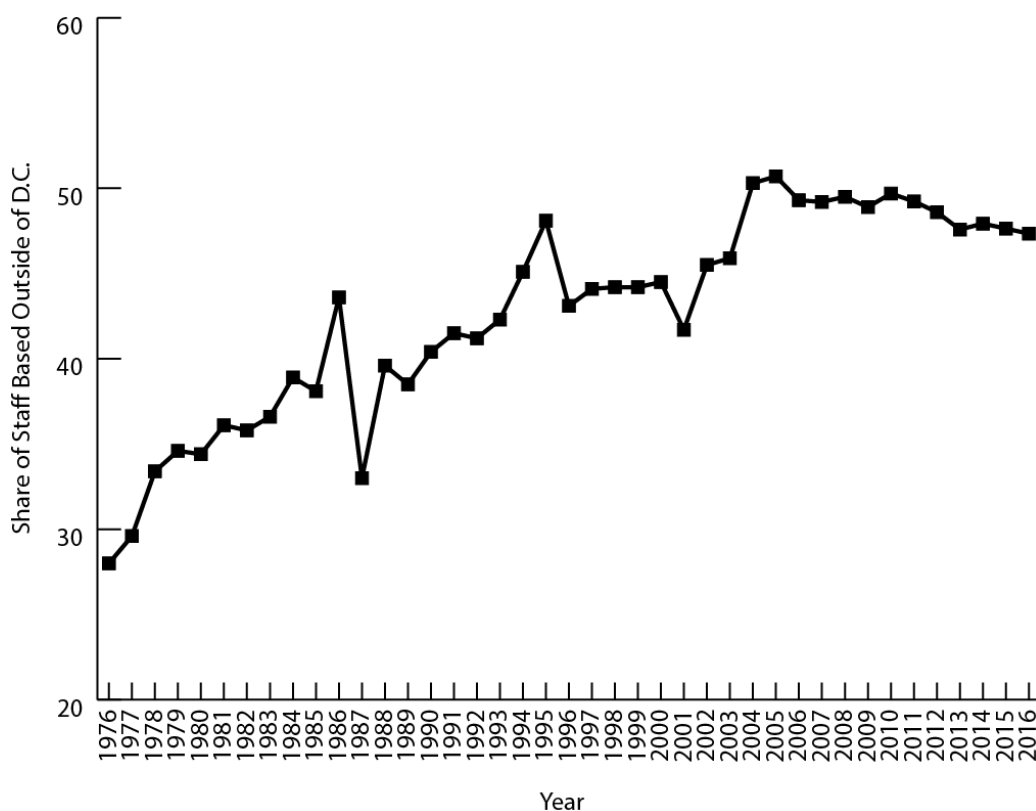
Second, who should decide how to deploy staff? Committee staff are generally viewed as a key source of substantive expertise for the policymaking process. But Congress has frequently debated how to balance the need for expertise with longstanding practices that allow the majority party to control the majority of the committee's resources. Members have also differed in their assessments of the potential value of non-partisan staff. As one senator told the 1965-66 JCOC, "I do not think a professional nonpartisan staff is adequate on any committee. I do not think it will always work or even would work a majority of the time."⁹ During the JCOC's deliberations in 1993, however, one senator argued that "it seems to me quite realistic that a portion of the functions handled by each committee could well be handled by nonpartisan permanent staff. That gives a whole different flavor to the kind of work we're on, and is much more likely to help people work together to develop common facts."¹⁰

We also see competing views about the use of staff within Members' own offices. The freedom given to Members about how to allocate their fixed staffing resources to accomplish their wide range of goals has led to greater numbers of staff members based in the states and districts. In 1979, roughly a third of Members' staff was based in the congressional districts; today, that proportion has risen to just under half, after peaking at about half in 2004 and 2005; this trend is displayed in Figure 1 below.¹¹ These non-D.C.-based staff tend to be caseworkers, constituent service representatives, grants coordinators, field representatives, and community outreach specialists. Assisting constituents with an increasingly complex federal bureaucracy is an important part of a representative's job. But these functions do not directly enhance Congress's legislative capacity.

⁹ "Organization of Congress, Part 2," Joint Committee on the Organization of the Congress, 89th Congress, 1st session, 1965, p. 214.

¹⁰ "Statement of Hon. Hank Brown, a U.S. Senator from the State of Colorado," in "Operations of the Congress: Testimony of Hon. Robert C. Byrd, Hon. Christopher S. Bond, Hon. Charles E. Grassley, and Hon. Hank Brown," Joint Committee on the Organization of Congress, S. Hrg. 103-26, 103rd Congress, 1st session, 1993, p. 48.

¹¹ Data is from The Brookings Institution, *Vital Statistics on Congress*, Table 5-3.

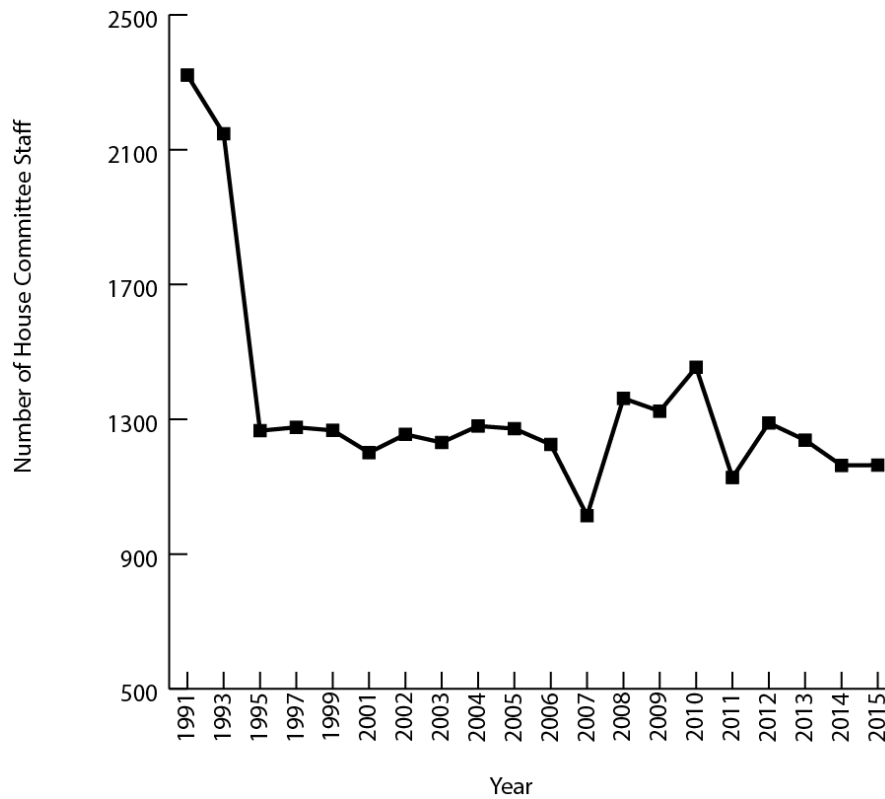
Figure 1: Share of House Staff Based in District Offices, 1976-2016

3. *The choices that produced current staffing patterns cannot be isolated from the political circumstances that motivated reform.*

The current staffing landscape on Capitol Hill results from a series of discrete choices made by Congress. These have sometimes been part of broader reform efforts; in other instances, they were made in the context of more routine legislative efforts, including the appropriations process. Each of these decisions, however, were shaped by the particular political circumstances in which they were made.

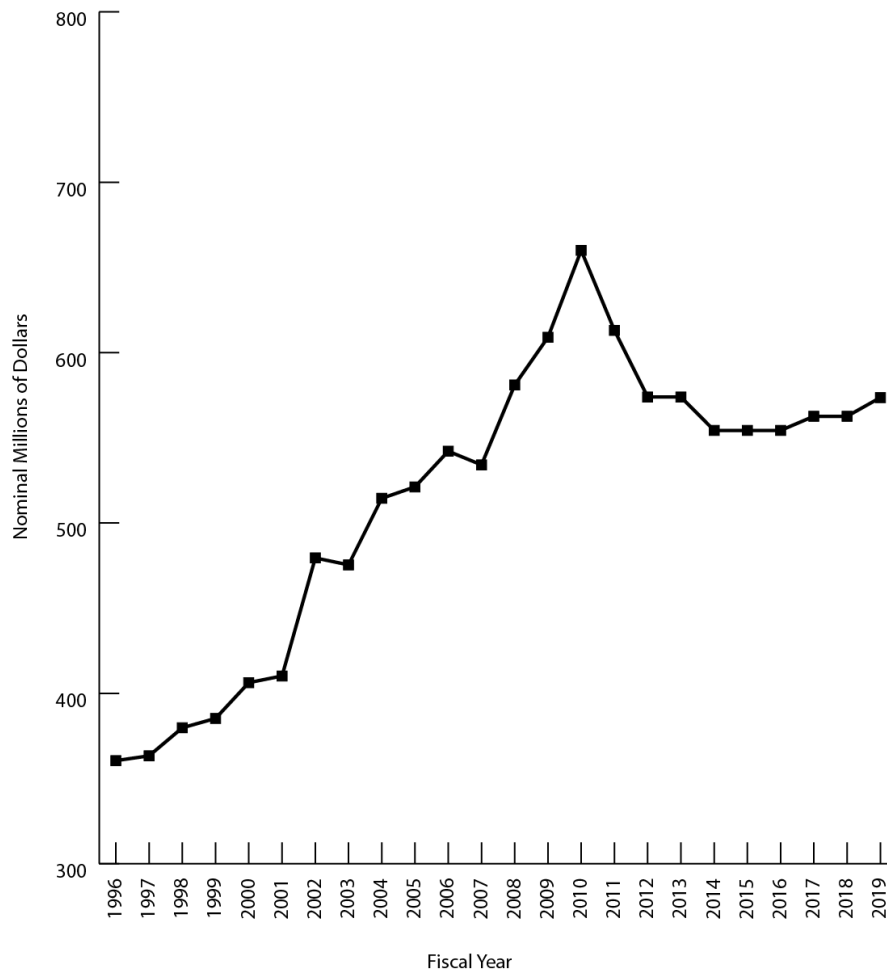
Sometimes, the relevant political context has been partisan. After Republicans assumed majorities in both chambers for the first time in 40 years in 1995, they advanced significant cuts to the legislative branch budget, including committee budgets and staff. A promise to eliminate one-third of committee staff had been part of the Contract with America platform on which Republicans had contested the 1994 elections that generally promised to reduce the size and scope of the federal government. House committee staff levels have periodically grown since the large reductions in the mid-1990s, but they remain lower than their pre-1995 levels;¹² see Figure 2 below for an illustration of this trend.

¹² Data is from The Brookings Institution, *Vital Statistics on Congress*, Table 5-1. Congressional Research Service calculations show a similar trend.

Figure 2: House Committee Staff, 1991-2015

Recent changes in the size of the Members’ Representational Allowance—which declined in nominal terms by roughly 13 percent between 2010 and 2019, as displayed in Figure 3 below—have similarly been a side effect of broader partisan conflict around the size of the discretionary federal budget.¹³

¹³ Data for 1996-2017 from the Justification of the Budget Estimates submitted to the House Legislative Branch Appropriations subcommittee and for 2018 and 2019 from Ida A. Brudnick, “Members’ Representational Allowance: History and Usage,” *Congressional Research Service* 8 January 2019.

Figure 3: Members' Representational Allowance, Nominal Dollars, FY1996-FY2019

Separation of powers conflicts and concerns have also shaped staffing reforms. The creation of the Congressional Budget Office to provide Congress with its own internal capacity to produce budgetary information came as part of the 1974 Congressional Budget and Impoundment Control Act—a law that was enacted in response to what Congress viewed as executive overreach by President Richard Nixon in the form of impoundments of congressionally-appropriated spending. CBO persists to the present as a key source of expertise on Capitol Hill. In addition, one of the larger increases in the MRA illustrated in figure 3—between 2001 and 2002—came, according to reports at the time, “amid indications that GOP lawmakers could face a staff exodus to the incoming administration of President-elect George W. Bush. One senior [Speaker] Hastert aide said Members have expressed strong concerns about losing employees to the executive branch, where the pay is far better for comparable assignments.”¹⁴

CBO also provides an illustration of how other legislative choices not explicitly related to reform efforts can have consequences for congressional capacity. In 1995, for example, the Unfunded Mandates Reform Act required CBO to provide analyses of whether pending legislation would

¹⁴ Ethan Wallison, “House Staffers Getting Big Salary Increases,” *Roll Call* 4 January 2001.

impose mandates on state, local, and tribal governments and if they did, what those requirements would cost. In the first year of the law was in effect, CBO provided roughly 1400 mandate cost statements, which took an estimated 24 work-years of staff time. Existing resources at the time, however, only allowed for 13 additional staff positions, requiring diversion of staff resources away from other work.¹⁵ What Congress is capable of doing with the resources it has, then, depends heavily on the workload expected of it.

As you begin the important work of this Select Committee, you will face many of these same challenges, but I encourage you to draw useful lessons from these and other historical episodes of reform. Decisions about altering staff resources inevitably require debate and consensus about the purpose and impact of congressional staff.

¹⁵ “Testimony of June E. O’Neill, Director, Congressional Budget Office on CBO’s Appropriation Request for Fiscal Year 1998,” Subcommittee on the Legislative Branch, Committee on Appropriations, United States Senate, 105th Congress, 1st sess., May 20, 1997.