Floor and Committee Processes in the House of Representatives: Issues, Options for Reform, and Potential Consequences

A Report of the Subcommittee on Floor and Committee Processes of the American Political Science Association Presidential Task Force Project on Congressional Reform

Debates over the appropriate structure and organization of congressional committees and the optimal process for considering legislation on the floor of the House of Representatives date to the chamber’s early history. In recent years, these debates have been particularly prominent, with frequent calls from members of Congress, observers, and scholars to return to “regular order,” to re-empower committees, and to open up the chamber floor for more amendment and debate.

This memo outlines four broad issues related to committee and floor processes on which the Select Committee might take action. With each, background on the area of concern is described, and several options for possible action and their consequences are discussed. These options should not be viewed as comprehensive, but include prominent suggestions frequently discussed by political scientists and reformers.

Throughout, we draw on political science research. But none of the suggested options or likely consequences reflect consensus among the political science community, or even members of the Task Force. The intention here is to provide insight for members of the Select Committee about challenges facing the House, reform options to consider, and the likely consequences or tradeoffs related to those reforms.

Issue #1: Centralization of Power in the Bill Development Process

Background

Today, more power in the House of Representatives rests in the hands of party leaders than it did in an earlier era. We lack clear scholarly evidence on whether this centralization of power has had demonstrably negative consequences for legislative productivity and quality of legislation produced by the chamber. But even in the absence of evidence, members of Congress often articulate a belief that centralized power is, at minimum, a source of frustration in the course of their service and, at most, harmful to the legislative process.

The current distribution of power in the bill development process is the product of a long series of historical developments. Prior to the 1970s, House Democrats adhered to a strict seniority system for selecting committee chairs, providing power advantages to members from safe seats who could easily win re-election for several decades. By the early 1970s, many members holding these positions were from more conservative, Southern wing of the party, putting them out of step with much of the rest of their

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1 Subcommittee members were Molly E. Reynolds, The Brookings Institution, chair; E. Scott Adler; University of Colorado; James Curry, University of Utah; Yuval Levin, American Enterprise Institute; Michael Minta, University of Minnesota; Charles Stewart, MIT; and Steven Teles, Johns Hopkins University. All affiliations are listed for informational purposes only and the views expressed here are the authors’ own.


party. Junior members of both parties, meanwhile, had few opportunities for influence in committees.\(^4\) To address these challenges, the full House and the House Democratic Caucus adopted a series of reforms between 1970 and 1974 meant to devolve power down from committee chairs to rank-and-file members. These reform efforts also included changes that, when leveraged beginning in the 1980s, expanded the power of congressional party leaders, including increased influence over the committee assignment process.\(^5\) This trend towards centralization accelerated with additional changes made by Republicans after the switch in majority party control following the 1994 elections, including term limits on committee chairs and a reduction in committee staffs.\(^6\)

Centralization of the bill development process in the contemporary Congress also reflects an adaptation to the realities of the current partisan era, in which committee-led processes often struggle to produce legislative outcomes.\(^7\) The ability of leaders to, for example, construct a broader legislative package that cuts across the jurisdiction of several committees, can help to build broader support.\(^8\)

**Option #1: Use a strict seniority system for awarding committee chairs**

**Likely Consequences:** A return to a strict seniority system for awarding committee chairmanships would potentially strengthen committees by rewarding member investment in extended committee service. Chairs would be more likely to have long tenures on their committees and the accompanying expertise; research suggests that committee chairs with greater seniority are more effective at advancing legislation they sponsor.\(^9\) A strict seniority system also reduces the influence of various other considerations, including fundraising, in the selection of chairs. At the same time, a strict seniority system could re-introduce issues present prior to the 1970s reforms, including reducing opportunities for involvement from rank-and-file members (which could potentially be mitigated by other committee rules changes) and the selection of chairs out of step with the rest of their party or the chamber.

**Option #2: Reduce or prohibit consideration of fundraising in selection of committee chairs and/or committee assignments**

**Likely Consequences:** Prohibiting fundraising efforts from being considered as part of the committee assignment and leadership selection process could reduce the pressures members face to spend significant amounts of their time raising money; it could also strengthen committees by increasing the chance that leadership decisions are made based on criteria related to legislative capacity. Because members from certain types of districts often have difficulty bringing in large

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contributions, decoupling fundraising from committee assignments could also help allow members from a wider range of backgrounds access to chairmanships. It is difficult, however, to envision how such a rule—which would likely have to be implemented at the party caucus level—would be implemented and enforced in practice.

Option #3: Allow committees, rather than party entities, to select their own chairs

Likely Consequences: Giving individual committees the ability to select their own chairs potentially strengthens committees by giving them more power to determine their own needs. In addition, the need for a chair candidate to build a power base within the committee might have the effect of strengthening the panel. It is possible, even likely, that a committee-based process would become captured by party leaders. Adhering to a strict seniority norm would potentially reduce the influence of party leaders, but would make it more difficult for committees to reap possible benefits of selecting chairs that meets their needs. In addition, if the intra-committee selection process includes members of the minority party, deadlock or the selection of a minority party chair is a possibility.

For additional options that bear on this issue, see Issue #3: Committee Capacity and Expertise below.

Issue #2: Centralization of Power at the Bill Passage Stage

Background

In the House of Representatives, the Speaker of the House controls which bills are scheduled for floor debate. Rarely, then, do bills that a majority of the majority party opposes come up for a recorded vote.10 Some research suggests party leaders have become more aggressive in keeping bipartisan proposals off the floor,11 but other evidence suggests that bills with bipartisan support do come to the floor and overall congressional enactments are roughly as bipartisan as they were in the 1970s.12

When bills come to the floor, there are fewer opportunities for amending them than in earlier periods, as more bills come to the floor under structured or closed rules.13 Evidence suggests that moderate members of the majority party are advantaged by the Rules Committee in obtaining chances to offer their amendments.14 In addition, there are ample high-profile examples of the minority party using amendment opportunities as partisan efforts to embarrass their majority party colleagues, such as the recent experience with the motion to recommit at the start of the 116th Congress;15 the majority party sometimes responds to this behavior by limiting amendment opportunities further.16 While many criticize the rise in

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10 Since 2007, less than one percent of all measures that have passed the House have done so with a majority of the majority party voting in opposition.
16 For examples of both parties limiting amendment opportunities after partisan conflict, see Sarah Ferris, “Ryan Changes Rules for Spending Bills,” *The Hill*, June 8, 2016 and Peter C. Hanson, “The Endurance of Non-
restrictive rules as depriving rank-and-file members of a role in the deliberative process, others note that bringing measures to the floor protected from amendment may increase the incentive of committees to report out legislation with the knowledge that their work is unlikely to be undone on the floor.  

Finally, in an earlier era of less polarized parties, scholars criticized congressional parties for not offering clear, competing sets of positions to the electorate. While the more apparent ideological divide between today’s parties may mean that party-line show votes are not necessary to educate the public about party differences, centralized floor processes do facilitate messaging opportunities that allow parties to draw clear distinctions between them.

**Option #1:** Alter the discharge petition rule to make co-sponsoring a bill equivalent to signing a petition

*Likely Consequences:* This reform is aimed at making it easier for bills with broad support via co-sponsorship to be brought to the floor without the support of the majority party leadership. Co-sponsorship is generally seen as a low cost way for members to take positions on issues; signing a discharge petition, on the other hand, is a costly move for members of the majority party, who generally resist doing so even on bills they have co-sponsored. Members, particularly of the majority party, would likely respond by choosing to co-sponsor fewer minority party bills.

**Option #2:** Make signatures on discharge petitions secret until the 218 threshold is reached

*Likely Consequences:* Meant to make it more likely that members would sign discharge petitions, the House followed this practice until 1993. Arguments offered at that time in favor of making signatures public as they were registered generally centered on a desire to increase transparency. The case for continued secrecy involved concerns that if signatures were made public, members would face pressure from interest groups and/or the public to sign on to petitions, making petitions more effective as an agenda setting tool. Data indicates that there has not been a major difference in the number of successful petitions before and after the rule change. In addition, it is unclear how successful members would be at keeping information about the identity of signatories secret from majority party leaders, who would still pressure majority party members not to sign.


Option #3: Expand use of “consensus calendar” under which legislation with a certain number of co-sponsors (currently, 290) but not reported by its committee of jurisdiction is placed on a special calendar from which the Speaker is required to call at least one bill most weeks the House is in session

Likely Consequences: This proposal also seeks to ease the path of bills with broad bipartisan support to the floor. Relatively few bills obtain at least 290 co-sponsors, however; between the 113th and 116th Congresses (2013-2019), a total of 61 measures reached that threshold. Of these, roughly half (31) received floor consideration anyway and of the 30 that did not, 11 were commemorative. This suggests that, for example, requiring more than one bill per week to be called from the consensus calendar would have a relatively limited effect. It is possible, however, that a more robust consensus calendar would increase members’ incentives to co-sponsor legislation by making the act of co-sponsorship potentially more meaningful. In addition, the current consensus calendar rules allow a committee of jurisdiction to render a measure ineligible for placement on the consensus calendar by reporting it out. As a result, if majority party leaders strongly prefer a measure to not reach the consensus calendar, they can pressure the committee to take action on it as a way of heading off potential floor action.

Option #4: Give committees more say over special rules to protect their proposals

Likely Consequences: Allowing standing committees to have more input on the terms of debate for the bills they report would potentially incentivize committee action by giving committees assurance that their work would not be undone on the floor. (For more on how to incentivize committee action, see Issue #4 below.) It is unclear, however, how often the Rules Committee approves amendments for floor consideration to which the committee of jurisdiction actively objects. In addition, it is difficult to conceive of an approach which the Rules Committee could not simply disregard if it, acting as an arm of the majority party leadership, strongly preferred a particular amendment be made in order; limiting the Rules Committee’s ability to ignore a new rule would likely require other reforms to its authority.

Option #5: Ban roll call votes on amendments in the Committee of the Whole, but enable members to call a roll call on anything adopted in the COW after the bill is reported back to the floor

Likely Consequences: Prior to 1971, this was the practice followed in the House, with COW amendments disposed of via voice or teller vote. Adopted amendments could get roll call votes later; failed amendments could not. This change would potentially dis-incentivize the offering of pure messaging amendments whose sole purpose is to make other members take difficult votes, as the value of so-called “gotcha” votes is lessened when the vote is not publicly recorded. The majority leadership could, then, allow a more open amending process. Restoring this approach would, however, reduce transparency in the House. In addition, it is unclear if the majority party leadership would remain committed to allowing a more open process if politically embarrassing amendments are getting adopted via the non-recorded votes in the COW.

Issue #3: Committee Capacity and Expertise

Background

House committee staff levels have declined over time, in part thanks to a promise to eliminate one-third of committee staff that was included in the Contract for America platform on which Republicans had contested the 1994 elections. Committee staff levels have periodically grown since these large reductions
in the mid-1990s, but they remain lower than their pre-1995 levels. It is unclear how significant declining staff levels have been as a cause of committee dysfunction, but scholars have argued that smaller, less experienced staffs are more likely to rely on outside expertise from lobbyists and interest groups. Other work suggests that when committee chairs have more experienced staff in their personal offices, the chairs are more effective at advancing legislation they sponsor. In addition, research on what leads committee staff to depart Capitol Hill indicates that when staff have credible outside options from lobbying shops, law firms, corporations, and other well-resourced interest groups, retaining them and their expertise is difficult. The maximum salary for House committee staff, which has not increased from $172,500 since 2009, is a part of this dynamic.

In addition, data on the allocation of members’ personal office staff suggests that if resources were used to increase the number of these employees, it would not necessarily translate into increased legislative capacity. In 1979, roughly a third of Members’ staff was based in the congressional districts; today, that proportion has risen to just under half. These non-D.C.-based staff tend to be caseworkers, constituent service representatives, grants coordinators, field representatives, and community outreach specialists. Investment in district staff is often related to a member’s electoral prospects, with more vulnerable legislators allocating more resources to employees outside of Washington. In a world of constrained resources in which members would likely be resistant to mandates about where to locate their staff, committees may be a more fruitful target for building legislative expertise.

Option #1: Increase committee staff levels and/or pay

*Likely Consequences:* Providing committees with additional funds to hire staff or to pay existing staff more could build additional policy expertise in committees, as could raising the maximum amount committee staff are able to be paid. We might expect that pay adjustments, in particular, would increase staff retention. Members may find themselves relying more on larger, better-paid committee staffs for important information about bills coming to the floor, which could intensify members’ existing tendency to turn to committees and committee staff for information. Adopting such a change, however, could be politically difficult.

Option #2: Make some or all committee staff non-partisan

*Likely Consequences:* If the employment prospects of expert committee staff are not tied to a specific person or party, retention—and by extension, expertise and capacity—may increase. A hybrid approach, whereby some staff are partisan but are hired into a civil service-type system, might similarly grow expertise by reducing the degree to which an individual’s employment is tied to a specific chair. At the same time, designating staff as non-partisan raises important questions about to whom staff are accountable and what kind of relationships non-partisan staff

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29 Data is from The Brookings Institution, *Vital Statistics on Congress*, Table 5-3.
30 Curry 2015.
may have with members. If the members and leaders of committees do not have the authority to hire and fire staff, legislators may be less likely to trust them. Committee members in other legislatures, such as those in the European Parliament and those handling oversight functions in the UK House of Commons, follow a more non-partisan model.

Option #3: Have committee and subcommittee clerks be hired jointly by majority and minority

Likely Consequences: The Senate follows this approach, which has the potential to strengthen committees by saving money and to encouraging bipartisanship.

Issue #4: Incentivizing Committee Activity

Background

Committees routinely fail to reauthorize the federal programs under their jurisdictions, which also means they are potentially forgoing some oversight opportunities and, as a result, ceding power to the executive branch. This behavior is encouraged by expectations of gridlock; why, in the view of committees, should they spend time constructing legislation that may not come to the floor and may not pass even if it is brought up for consideration? In addition, committees who do attempt to work on legislation sometimes find it difficult to reach agreement on proposals that are capable of passing both chambers without leadership support.

Option #1: Increase opportunities for member credit claiming in bills, such as additional amending opportunities in markup or the inclusion of member requests in a committee report

Likely Consequences: Providing more opportunities for members to explicitly claim credit for specific provisions they added to legislation worked on in committee could increase members’ feelings of efficacy in the legislative process and willingness to support the final product; this, in turn, could make committees more likely to work on legislation. Using amendments in markup, however, would require members to commit to spending more of their scarce time in markups rather than on other work.

Option #2: Guarantee a staff member for each subcommittee

Likely Consequences: Ensuring that each subcommittee is guaranteed a staff person could increase the legislative capacity of subcommittees and, in turn, provide members with an additional venue to pursue policy goals. In a regime of fixed resources, however, increased subcommittee staffing could result in staffing or other funding cuts elsewhere.

Option #3: Guarantee in the rules that a subcommittee can hold hearings without permission of the full committee chair

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Likely Consequences: Allowing subcommittees to meet without permission of the full committee chair could increase their ability to engage in legislative work and would likely increase the number of subcommittee hearings. While members might find additional hearings to be useful arenas in which to pursue their policy goals, more meetings would also place additional time burden on members.

Option #4: Guarantee that full committees cannot meet during times subcommittees meet (reserve time on the calendar each week for subcommittees to meet, if they so choose), except with the consent of the subcommittee chairs

Likely Consequences: This reform, aimed at incentivizing subcommittee work, would, like the previous option, likely increase the number of subcommittee hearings and could have similar benefits. At the same time, it could create tension between the full committee chair and subcommittee chairs; it could also reduce the time available for full committee meetings, which are also important venues for committee work.

Option #5: Eliminate or dramatically curtail the ability of lawmakers to waive the rules on unauthorized appropriations.

Likely Consequences: Restricting the ability to appropriate unauthorized funds could encourage committees and the chamber to work on authorization bills. At the same time, this approach could advantage members who prefer to cut federal spending and/or eliminate specific federal programs; by not taking up the reauthorization of a program, its opponents could more easily eliminate it without having to explicitly vote on cutting its funding; grouping many programs and agencies (such as entire departments) into single authorization bills in order to raise the costs of inaction could help address this issue. In addition, it would be difficult to prevent this rule from being waived in the House routinely.

Option #6: For some federal programs or groups of programs, move to annual authorizations similar to the National Defense Authorization Act.

Likely Consequences: An annual authorization process could regularize committee operations, helping members and staff build effective working relationships. Annual authorizations would also provide additional opportunities for oversight. It is unclear, however, if committees would actually feel compelled to undertake annual authorizations and whether leaders would be willing to devote sufficient floor time to consider an increased number of bills in this vein.