

## The Issue Dynamics of Congressional Capacity

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One of the key questions posed in this volume is, “Congressional capacity for what?” What should we expect out of the institution and its members? In our view, Congress has two major responsibilities in the US political system. The first is making public policy, either through legislation or in conjunction with the executive branch. The second is the collective representation of the diverse array of interests in American society: paying attentions to issues the public thinks are important. When we consider the question of “congressional capacity for what,” then, we need a way to evaluate congressional capacity that incorporates the many separate activities that fall under Congress’s twin responsibilities that sometimes conflict with one another.

Congress is certainly experiencing difficulties living up to its policymaking and representational responsibilities. The government shutdown that spanned the 115th and 116th Congresses is perhaps the most vivid example of fiascos that have damaged Congress’s reputation. In the end, Republican President Donald Trump capitulated to Democratic demands and at the same time issued his emergency declaration to facilitate funding for a wall at the US-Mexico border, which led Congress to spend time reconsidering the powers it has delegated to the president and leave a host of other policy problems unaddressed.

Many observers view this example and others like it—multiple government shutdowns in the 2010s, gridlock over an international nuclear research agreement with Iran and federal assistance for the water crisis in Flint, Michigan, and disaster relief in Puerto Rico, failure to reauthorize numerous government programs in time—as symptoms of a partisan divide; we view them as information-processing capacity problems rooted in the committee system. Information processing involves translating inputs to outputs, and

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1 those outputs can range from simple issue attention to major policy changes.  
2 Thinking about Congress in terms of information processing thus incorpo-  
3 rates both of the institution's responsibilities: policy and representation. The  
4 opposing sides in the shutdown debate may have been representing their  
5 constituents views in their Twitter debates, but it was only when members  
6 consulted policy experts about the appropriate protections at the US-Mexico  
7 border that a solution began to take form.

8 We evaluate changes to information processing through committee hear-  
9 ings, which serve several functions. The public nature of hearings corre-  
10 sponds to the dissemination and transmission of information throughout the  
11 institution, and hearings themselves also serve as an output for issue atten-  
12 tion, which contributes to both the policy process and collective representa-  
13 tion (Lewallen 2018). In this chapter we explore whether changes to commit-  
14 tee information processing have occurred across a wide range of issues or  
15 been concentrated among a few policy topics, particularly those issues related  
16 to the scope of government activity and its role in the national economy that  
17 tend to divide the two parties.

18 Our chapter first discusses our explanation for a dysfunctional Congress  
19 rooted in changes to how the committees process information through their  
20 public hearings and describes the coding we derive to measure these changes.  
21 We next present data on close to 22,000 committee hearings from 1971 to  
22 2010. We find that the changes to committee information processing do not  
23 affect all issues equally; rather, some issue areas have experienced rapid de-  
24 clines in obtaining "good" information while other issue areas are much less  
25 affected. The final section concludes with some ideas for future investigation  
26 into the issue dynamics of Congress's information-processing capacity.

### 27 28 **The Information Dimension of Congressional Capacity** 29

30 In 1950, the American Political Science Association (APSA) issued a report  
31 titled "Toward a More Responsible Two-Party System." The report responded  
32 to the loose linkages between state and national party organizations that  
33 made it difficult for whichever party gained control of the federal govern-  
34 ment to establish and implement a coherent agenda. The report made several  
35 recommendations based on its diagnosis, including "a party system with suf-  
36 ficient party loyalty" and "tightening up the congressional party organiza-  
37 tion" (APSA 1950, 2–8).

38 In many ways we have the party-centered Congress today that APSA  
39 wanted (Sinclair 2003); members of the two parties in Congress are voting in  
40 patterns that are internally cohesive and distinct from each other. Further-

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more, they are doing so at higher rates than at any other time in the institution's history (Rohde and Aldrich 2010). Party leaders have more tools at their disposal to enforce discipline and structure the institution's agenda (Curry 2015; Theriault and Lewallen 2012). Such patterns were, for many decades, an ideal to which most political scientists believed Congress should aspire. Yet citizens, journalists, current and former members of Congress, and political scientists alike now lament the increase in party polarization along with the decline of comity and bipartisanship within the legislative branch and the decline in trust in government among voters (Bipartisan Policy Center 2014; Galston 2010; Mann and Ornstein 2012; Mansbridge and Martin 2013). We do not doubt that polarization and partisan warfare within Congress have contributed to increased gridlock and breakdowns in the legislative process, but we also believe that the solution to these problems is rooted in a broader concern: the committee system's capacity to process information about policy problems and solutions.

The term *information processing* refers to how organizations acquire, synthesize, distribute, and use information; how they translate inputs into outputs (Cyert and March 1963; G. Huber 1991; Simon and Newell 1964). Information and analysis are critical to governance; Congress in particular is responsible for gathering information and defining problems as a means of meeting the American public's policy needs (C. Jones 1975). As James Madison wrote in the *Federalist* in 1788 in arguing against annual elections, "No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subject on which he is to legislate" (quoted in Kramnick 1987, 328). While Republicans and Democrats in Congress may not always agree on matters of governance, more consensus should exist on the importance of obtaining good information. Without it, the parties offer the voters a distinct choice between policy positions, but the policies themselves may suffer and, in the end, frustrate the parties' efforts.

The 2017 tax revision law is a prime example of the consequences of bad information processing on public policy. For all of the tax code's complexity, Republican majorities in the House and Senate moved a bill through the institution in five weeks. Although the Senate Finance Committee had held several hearings on the idea of revising the tax code in preceding years, the specific bill that was enacted into law never received a hearing and infamously included handwritten revisions in the margins made on the Senate floor to facilitate agreement among Republicans (R. Rubin 2017). The result was a law both vague and self-contradictory: "Republicans' tax-rewrite plans are riddled with bugs, loopholes and other potential problems that could plague

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1 lawmakers long after their legislation is signed into law. . . . ‘It’s crazy,’ says one  
2 Republican lobbyist. ‘I don’t think anyone could explain it, let alone comply  
3 with it’” (Faler 2017).

4 With good information, the parties can still present voters distinct agen-  
5 das of ideologically opposed ideas, but they can do so with solutions—either  
6 from the Left or the Right—that might actually solve the problems they  
7 have identified and in turn lead to more favorable evaluation from their  
8 constituents.

9 The committee system is where Congress primarily processes the myriad  
10 information it receives. Committee hearings allow members to acquire in-  
11 formation and simultaneously signal that information to the rest of the insti-  
12 tution and to other institutions (Diermeier and Feddersen 2000; Katzmann  
13 1989). By connecting outside expertise to the members of Congress who actu-  
14 ally make the decisions, committees are critical stages in the flow of informa-  
15 tion within the institution (Krehbiel 1991; Porter 1974; Sabatier and Whiteman  
16 1985). The testimony and witness responses gathered in hearings becomes  
17 part of the public record and fosters participation in the legislative process.

18 Partisan warfare in policymaking and in committee information processing  
19 are undoubtedly related; committees often respond to the partisan environ-  
20 ment in which they operate (Fenno 1966). We further believe that breakdowns  
21 in the committee process feed back into the partisan war. If and when com-  
22 mittees restrict their attention or receive slanted testimony, then the infor-  
23 mation available to members of Congress becomes limited, which reinforces  
24 partisan cue taking and hinders effective problem solving.

25 Consider a human trafficking bill taken up in the Senate in March 2015.  
26 Just as the bill was scheduled for debate, Senate Democrats noticed a provision  
27 that limited spending on abortion services in other countries; the provision  
28 had been in the bill since its introduction two months prior, but Democrats  
29 had not asked whether the bill addressed abortion funding and Republicans  
30 did not volunteer that information. The antitrafficking bill finally passed the  
31 Senate by a 99–0 vote, but not before senators engaged in heated rhetoric and  
32 a largely partisan series of procedural votes. The debate and gridlock over this  
33 bill even spilled over into other institutional responsibilities, as it delayed a  
34 vote on Loretta Lynch’s nomination to be attorney general.

35 We can trace this breakdown in congressional problem solving back to the  
36 Senate Judiciary Committee. While we should not necessarily expect a com-  
37 mittee to search high and low for pro–human trafficking advocates, the com-  
38 mittee’s hearing featured four senators, including Democrats Barbara Mikulski  
39 and Kirsten Gillibrand, and four antitrafficking advocates, all of whom ex-  
40 pressed their support for the bill but none of whom addressed the legislation

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in much detail. Had the abortion restriction provision been identified earlier in the process and Democrats' objections been raised during the committee's hearing, a floor fight—and a lot of embarrassment—could have been avoided. Inadequate information processing in this case fed back into the partisan war and limited the institution's capacity to manage its agenda and make policy.

To understand the breakdown in information processing at a more systematic level, we have coded committee hearings based on hearing and testimony summaries of the Congressional Information Service (CIS) as well as the Policy Agendas Project's Congressional Hearings data set. In addition to the issues they address and the types of witnesses testifying, we code information gathering in committee hearings along two dimensions—what we call *purpose* and *stance*.

The first dimension we use to describe committee information processing is a hearing's *purpose*: whether it addresses a problem, policy implementation, or a proposed solution. The problems and solutions discussed in these committee hearings may not be new; what is “new” in this context is the relative attention they receive. *Problem-focused* hearings are those asking if a particular issue needs to be addressed and how. They tend to address recent studies, policy trends (such as an increase in childhood obesity), natural disasters, and national or international events. *Implementation-focused* hearings ask whether the government's current approach to addressing a particular problem is working or even appropriate. The important distinction for implementation hearings is whether the bureaucratic solution already has been adopted. If so, the hearing tends to assess how an agency is carrying out that solution, and so the “implementation” code is most appropriate. If the agency has not yet acted on a proposal, then the hearing focuses on the “solution” aspect and whether the proposal is appropriate. *Solution-focused* hearings address the benefits or costs of a particular proposal; the problem is taken as given.

The second dimension we code is a hearing's *stance*. We find that a hearing can take one of two stances: positional or exploratory. *Positional* hearings ascertain information from only one side of the debate. All of the witnesses may praise (or, alternately, criticize) a program or idea, or the hearing itself may focus only on the positive (or negative) aspects. *Exploratory* hearings, by contrast, gain testimony from more than one side of a particular debate or impart information and analysis without a witness's personal opinion.

Positional language in the CIS summary includes “objections to,” “need for,” “importance of,” “preference for,” “negative impact of,” “charged inequacy of,” and “disagreement with.” Language that would indicate an

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1 exploratory hearing or individual's testimony includes "discusses," "explana-  
2 tion of," "analysis of," "views on," "briefing on," "status of," and "differing (or  
3 conflicting) views on." According to our coding rules, only one witness needs  
4 to have provided a view that differs from other witnesses in order for a hear-  
5 ing stance to qualify as exploratory.

6 Anecdotal evidence suggests that congressional information-processing  
7 capacity has not suffered equally across all issues. Congress has struggled to  
8 reauthorize transportation agencies and programs such as the Federal Avia-  
9 tion Authority and the Highway Trust Fund, yet the two parties also have  
10 come together during such "polarized" times to enact laws on drug enforce-  
11 ment issues such as combating prescription drug abuse and reducing the dis-  
12 parity in criminal penalties for possession of powder and crack cocaine. If we  
13 ultimately wish to see congressional capacity improve, we first need to under-  
14 stand where it needs such improvement. The next section presents our data  
15 on committee hearings to assess how changes to committee information-  
16 processing capacity vary across issues.

### 17 18 19 **Data on Congressional Hearings**

20 We first obtained our sample of hearings from the Policy Agendas Project's  
21 Congressional Hearings data set, which uses a topic coding scheme to trace  
22 issue attention in Congress across time. Our own data collection efforts be-  
23 gan in the first Congress after the passage of the Legislative Reorganization  
24 Act of 1970, the 92nd Congress (1971–72) and concluded with the hearings  
25 that took place in the 111th Congress (2009–10), the most recent Congress for  
26 which the Policy Agendas Project had data when we began our coding ef-  
27 forts. We gathered data by committee, initially following Deering and Smith's  
28 (1997) findings on perceptions of conflict in different committees' environ-  
29 ments. While we did not subsequently build on their analysis, collecting data  
30 this way leaves us with a broad representation of issues (see table 11.1). Our  
31 data set includes 21,830 hearings, which represents more than one-third of the  
32 total number of hearings held by all congressional committees during this pe-  
33 riod. We have also collected data on the number of witnesses who appeared at  
34 each hearing to assess the volume of information gathered in these fora. Our  
35 data set excludes Senate hearings on nominations.

36 Our analysis here focuses on three measures: the average number of witnesses  
37 per hearing in a Congress, the percentage of hearings that attend to proposed  
38 solutions, and the percentage of exploratory hearings. We highlight solution-  
39 focused hearings rather than either problem-focused or implementation-focused  
40 hearings, though patterns on the three hearing purposes are connected; higher

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TABLE 11.1. Hearings coded by issue

<i>Issue</i>	<i>No. of hearings</i>
Defense	2,873
Government Operations	2,248
Banking and Commerce	1,872
Public Lands and Water	1,562
Agriculture	1,509
Health	1,476
Environment	1,364
Education	1,354
Labor and Employment	1,300
Macroeconomics	1,266
Energy	940
Law, Crime, and Family	847
Social Welfare	596
International Affairs	584
Civil Rights and Liberties	537
Transportation	406
Housing	361
Trade	343
Science and Technology	309
Immigration	83
Total hearings	21,830

Source: Policy Agendas Project Congressional Hearings data set for 92nd through 111th Congresses.

levels of solution-focused hearings mean fewer problem- and implementation-focused hearings, and vice versa. Effective problem solving (however defined) requires good information about the solution under consideration to address that problem. A decrease in attention to proposed solutions would suggest that committees no longer are “lay[ing] an intellectual and political foundation” for good problem solving (R. Kaiser 2013, 27).

Committee hearings during this period averaged eleven witnesses, while 44 percent of hearings addressed a proposed policy solution and 69 percent of hearings were exploratory (see table 11.2). We find large cross-sectional differences in committee information processing by issue. Many more witnesses have testified on hearings related to agriculture and the environment—seventeen and fifteen on average, respectively. Hearings on these two policy areas also tend to be more exploratory (78 and 75 percent, respectively) and more focused on proposed solutions (46 and 51 percent, respectively). Relatively more defense hearings have been exploratory, 81 percent, than any other policy area, while 61 percent of hearings on public lands and water issues have been devoted to proposed solutions.

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TABLE 11.2. Committee information processing by issue, 1971–2010

<i>Issue</i>	<i>Avg. no. of witnesses</i>	<i>Solution (%)</i>	<i>Exploratory (%)</i>
Average across issues	11	44	69
Macroeconomics	9	45	<b>72</b>
Civil Rights and Liberties	10	43	68
Health	10	<i>30</i>	<i>65</i>
Agriculture	<b>17</b>	<b>46</b>	<b>78</b>
Labor and Employment	12	<b>52</b>	<i>67</i>
Education	12	<b>51</b>	<i>55</i>
Environment	<b>15</b>	<b>51</b>	<i>75</i>
Energy	12	43	<i>75</i>
Immigration	8	<i>28</i>	<i>64</i>
Transportation	11	<i>41</i>	<i>67</i>
Law, Crime, and Family	9	<i>30</i>	<b>71</b>
Social Welfare	<b>15</b>	<b>55</b>	<i>61</i>
Housing	11	<i>32</i>	<i>63</i>
Banking and Commerce	9	<i>30</i>	<i>55</i>
Defense	9	<b>47</b>	<b>81</b>
Science and Technology	8	<i>31</i>	<b>71</b>
Trade	8	<i>34</i>	<i>59</i>
International Affairs	6	<i>21</i>	<b>73</b>
Government Operations	8	<b>46</b>	<i>65</i>
Public Lands and Water	11	<b>61</b>	<i>70</i>

Note: Cell entries in bold represent above-average values; cell entries in italics represent below-average values.

Hearings in other areas have focused much more on policy problems and implementation, and been more positional, over the forty-year span of our study. Just 21 percent of hearings on international affairs have focused on proposed solutions; instead, 45 percent of them have been devoted to new and emerging problems. Hearings on this topic also involve almost half as many witnesses (six) as the overall average. Commerce and education issues are 14 percentage points below the overall exploratory average at 55 percent each.

We now turn to longitudinal trends in committee information processing by issue with slope coefficients from regressing a given issue's witness, solution, and exploratory measures on a time trend. A positive coefficient indicates that the relevant indicator increased over time for a particular issue, while a negative coefficient indicates that an indicator decreased over time. Comparing the slope coefficients across issues reveals the relative magnitude of those changes.<sup>1</sup>

The average number of witnesses at a given hearing has decreased for sixteen out of the nineteen issues we analyze; only science and technology, international affairs, and environment issues have seen no statistically significant

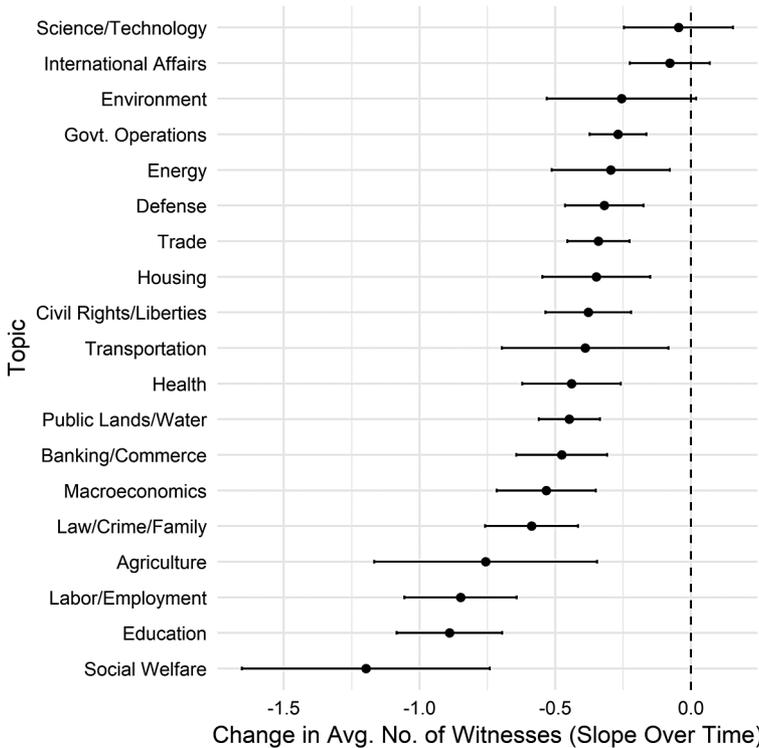


FIGURE 11.1. Changes in average number of hearing witnesses, 1971–2010

Note: The data represent the slope coefficient estimates with standard errors for a series of OLS regression equations  $Y_i = \beta_0 + \beta_{1x} + \epsilon$ , where  $Y$  represents the average number of witnesses called to hearings on a given issue  $i$  in Congress  $t$  and  $X$  represents a time trend counter. Immigration hearings have been excluded from this analysis due to a small number of hearings.

change in the number of witnesses called per hearing between 1971 and 2010 (see figure 11.1). The largest decreases in witnesses have been in hearings devoted to social welfare, with a little more than one fewer witness per hearing with each successive Congress. Education, labor, and agriculture issues exhibit the next-largest decreases.

Nearly two-thirds of the issues we analyze saw significant decreases in their attention to proposed solutions (see figure 11.2). Put another way, twelve out of nineteen topics have seen significant shifts away from hearings that help members learn about proposed government action, either bills or regulations. Science and technology hearings exhibit the largest shift by far—a 4 percentage point decrease in solution-focused hearings with each successive Congress—followed by defense, education, agriculture, and government operations (which includes multiagency appropriations measures along with

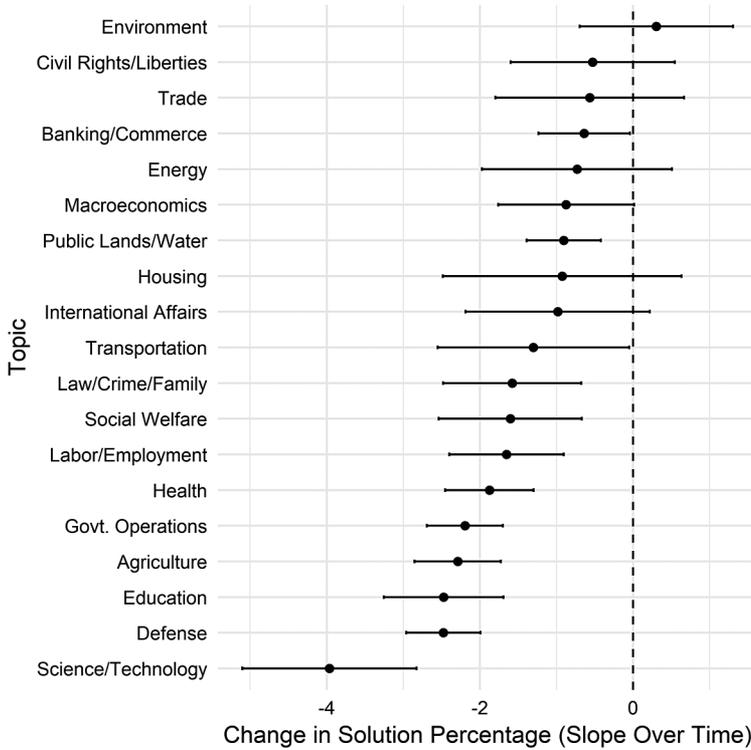


FIGURE 11.2. Changes in percentage of hearings devoted to policy solutions, 1971–2010  
 Note: The data represent the slope coefficient estimates with standard errors for a series of OLS regression equations  $Y_t = \beta_0 + \beta_{1t} + \varepsilon$ , where  $Y$  represents the average number of witnesses called to hearings on a given issue  $i$  in Congress  $t$  and  $X$  represents a time trend counter. Immigration hearings have been excluded from this analysis due to a small number of hearings.

matters related to government employees, tax administration and enforcement, and electoral campaign regulation).

Finally, hearings on five of the nineteen issues we analyze have become more one-sided over time. Once again social welfare shows the biggest increase in positional hearings, followed by trade, housing, public lands and water, and health (see figure 11.3). The percentage of exploratory hearings has increased over time for science and technology and defense, and in the former case the change appears to be quite large, an increase of about 2 percentage points with each successive Congress. The time trend has positive slope coefficient estimates for four additional issues—transportation, international affairs, macroeconomics, and government operations—although they are not statistically significant.

To summarize our findings, three issues have seen significant decreases in all three of our capacity indicators: health, social welfare, and public lands and water (see table 11.3). During the forty-year period between 1971 and 2010, these issues all have seen fewer witnesses called to testify (and thus fewer sources of information), fewer hearings devoted to learning about proposed solutions, and fewer exploratory, analytical hearings. Social welfare issues saw the largest decrease of any issue in two of our three measures. Health hearings were consistently below average in their attention to proposed solutions throughout this period but dropped even lower in the 1990s and the first decade of the twenty-first century and fell to just 12 percent solution-focused in 2009–10. Health hearings were consistently average or above average in our exploratory measure throughout the 1980s but similarly became more

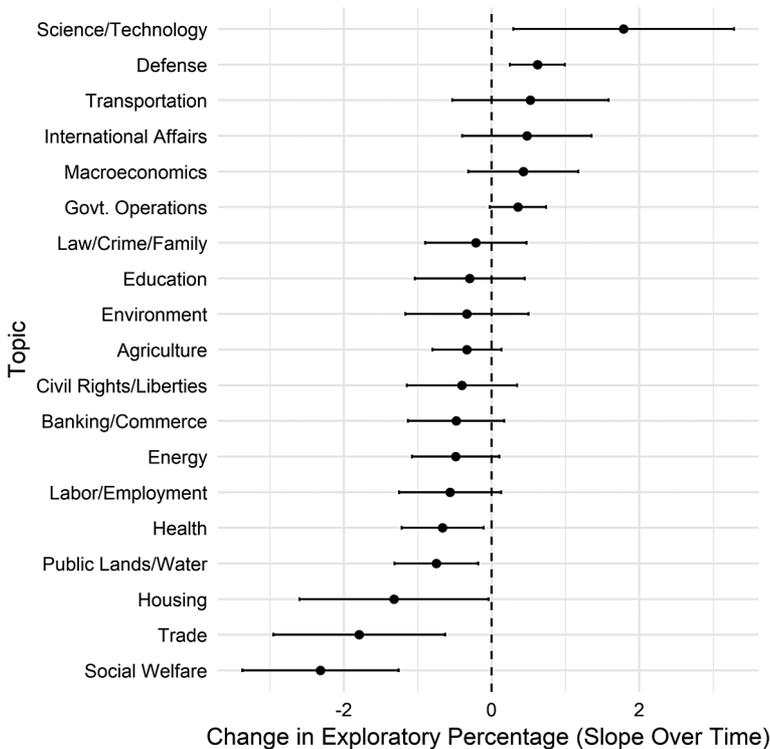


FIGURE 11.3. Changes in percentage of exploratory hearings, 1971–2010  
 Note: The data represent the slope coefficient estimates with standard errors for a series of OLS regression equations  $Y_t = \beta_0 + \beta_1 X_t + \epsilon_t$ , where  $Y$  represents the average number of witnesses called to hearings on a given issue  $i$  in Congress  $t$  and  $X$  represents a time trend counter. Immigration hearings have been excluded from this analysis due to a small number of hearings.

TABLE 11.3. Summary of changes to committee information processing by issue

	<i>Witnesses</i>	<i>Solution percentage</i>	<i>Exploratory percentage</i>
Increase	None	None	Defense Science and Technology
No change	Environment Science and Technology International Affairs	Macroeconomics Civil Rights and Liberties Environment Energy Housing Trade International Affairs	Microeconomics Civil Rights and Liberties Agriculture Labor and Employment Education Environment Energy Transportation Law, Crime, and Family Banking and Commerce International Affairs Govt. Operations
Decrease	Macroeconomics Civil Rights and Liberties Health Agriculture Labor and Employment Education Energy Transportation Law, Crime, and Family Social Welfare Housing Banking and Commerce Defense Trade Govt. Operations Public Lands and Water	Health Agriculture Labor and Employment Education Transportation Law, Crime, and Family Social Welfare Banking and Commerce Defense Science and Technology Govt. Operations Public Lands and Water	Health Social Welfare Housing Trade Public Lands and Water

Note: Policy areas in each cell are listed in the order of their Policy Agendas Project major topic code.

positional in the late 1990s and the early part of the first decade of the twenty-first century.

Two additional issues consistently have exhibited no significant change in committee information-processing capacity: international affairs and the environment. Recall from table 11.2 that international affairs exhibited the lowest witness average and the lowest percentage of solution-oriented hearings of all twenty issues. While these patterns have stayed relatively consistent over time, data from the most recent congresses in our data set suggest they are declining even further, with just three witnesses called on average and only 8 percent of those hearings being devoted to proposed solutions in 2009–10.

### An Issue-Focused Approach to Congressional Capacity

Many proposed solutions for increasing congressional capacity are universal, aimed at the institution as a whole. We first need to understand the problem better, which our systematic study of committee information processing sets out to do. Our findings suggest that more targeted remedies that speak to differences in how the institution addresses different issues may be more appropriate.

We are cognizant that change does not always imply worsening conditions; the decline in solution-focused hearings is not in itself negative, as it may simply reflect a change in Congress’s view of what information it needs to fulfill its responsibilities, which include monitoring emerging policy problems and exercising oversight of the executive branch. But the combination of changes we find gives us reason to believe that Congress’s capacity to make policy and represent the views of diverse groups in society has declined. Fewer committee hearings and fewer witnesses at those hearings may not directly produce worse policy. But they undoubtedly reduce the scope and volume of information available to members of Congress as they make their decisions and the scope and volume of viewpoints and societal groups that participate in the legislative process, which contributes to a decline in Congress’s capacity for pluralist representation.

As the 2017 tax bill example shows, such a decline can have negative consequences for Congress’s ability to do what it wants to do well, even if the majority party wants to find something on which it can claim credit or highlight differences with the minority party. As committees spend less time learning about proposed bills and regulations, members of Congress increasingly turn to party leaders about the effect of those proposed solutions, which reinforces partisan warfare and creates downstream problems for policy implementation and judicial interpretation. Spending so much Senate floor time debating one provision of a human trafficking bill held up consideration of other measures and reduced Congress’s agenda capacity.

Jochim and Jones (2013) previously examined the extent to which voting on various issues has become structured to polarize the two parties. They find that six issues became significantly more amenable to party polarization over time: education, science and technology, public lands and water, transportation, health, and domestic commerce. All six of those issues also saw decreases in the percentage of solution-focused hearings in our data, which suggests a connection between committee information processing and how party leaders structure members’ voting choices; how Congress attempts to solve public problems.

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1 Congress cannot simply rely on its previous record of information process-  
2 ing to guide it. The nature of policy problems changes over time, requiring  
3 political institutions to update their understanding and develop new combina-  
4 tions of solutions. Turnover within Congress, among both elected member-  
5 ship and staff, depletes institutional memory and brings new participants into  
6 different issue environments with which they may not have experience. At the  
7 same time, the trends we uncover in issues such as science and technology  
8 and the environment may hold answers for increasing Congress's problem-  
9 solving capacity in the policy areas that have seen the biggest declines, such  
10 as health, social welfare, and public lands and water.

11 In closing, we stress that good information processing and solution search  
12 can be carried out in a partisan environment. But in such an era, a robust  
13 committee process becomes even more vital for exploring effective policy so-  
14 lutions. High-quality information through and from the committee system  
15 should render more effective Congress's ability to solve problems regardless  
16 of the solution, partisan or otherwise, which would render American repre-  
17 sentative government more effective as well.

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genre on Congress that has shaped how we think about congressional dysfunction today. See Mann and Ornstein 2006.

2. Contrast the Congress of 2019 with the institution described by James Madison in the *Federalist*. Madison writes, “The legislative department is every where extending the sphere of its activity, and drawing all power into its impetuous vortex” (Madison 1999, 281).

3. This is not to suggest that some forms of congressional organization are not better than others.

4. For an argument about the evolution of Senate rules in response to efforts to maintain the institution’s productivity, see Wawro and Schickler 2006. For a contrary argument—that the Senate’s procedures did not evolve in response to a growing workload, see Binder and Smith 1997.

5. This does not exclude chamber-imposed hierarchies.

6. According to the Senate’s precedents, “Decisions of the Chair are subject to appeal and by a majority vote the Senate may reverse or overrule any decision by the Chair” (Riddick and Frumin 1992, 146).

7. Letter to Senator David Vitter, April 10, 2014, in the author’s possession. The leaders of several advocacy groups signed the letter, including American Conservative Union, Americans for Prosperity, Concerned Women for America, Family Research Council, and Heritage Action for America.

8. 114 Cong. Rec. S5675 (July 24, 2015).

9. 114 Cong. Rec. S5706 (July 26, 2015) (statement of Sen. Alexander).

10. 114 Cong. Rec. S5706 (July 26, 2015) (statement of Sen. Alexander).

11. 114 Cong. Rec. S5708 (July 26, 2015) (statement of Sen. Cornyn).

12. 114 Cong. Rec. S5708 (July 26, 2015) (statement of Sen. Cruz).

13. It can be inferred from the past voting behavior of Republican senators then serving in the 114th Congress that appealing the ruling of the chair, in itself, is not perceived to be synonymous with the nuclear option as used by Senate Democrats in November 2013. For example, during the period between 1987 and 2014, forty-two Republicans serving in the 114th Congress voted to overturn the chair’s ruling (or against a motion to table an appeal of the chair’s ruling) at least two times. Of these, thirty-seven members voted to overturn the chair’s ruling (or against a tabling motion) three or more times. Seven members voted against the chair nine or more times, four did so ten or more times, and two voted to overturn the chair (or against a motion to table an appeal) fourteen times. Alexander voted to overturn the ruling of the chair (or against a tabling motion) four times. Cornyn and McConnell did so five and fourteen times, respectively.

14. 114 Cong. Rec. S5708 (July 26, 2015) (statement of Sen. Cruz).

## Chapter Eleven

1. We have excluded immigration hearings from this analysis due to the low number of hearings in our data set.

## Chapter Twelve

1. For a sample of such congressional indicators, see the Bipartisan Policy Center’s Healthy Congress Index (Bipartisan Policy Center, n.d.) or the Pew Research Center’s occasional accounting of the public law productivity (Desilver 2017).

2. House Rule XXI, clause 2; House Rule XXII, clause 5; and Senate Rule XVI prohibit the inclusion of legislative provisions in appropriations measures (Saturno, Tollestrup, and Lynch 2016).

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