**Written Statement from Nicholas (Nick) Hart, Ph.D., President & CEO of the Data Foundation
For the Committee on House Administration, Subcommittee on Modernization**

**"Hearing on Legislative Proposals to Support Modernizing the
Congressional Research Service and the Use of Federal Data"**

March 20, 2024

Chair Bice, Ranking Member Kilmer, and members of the Subcommittee, thank you for the invitation to join today's hearing on the Congressional Evidence-Based Policymaking Commission Resolution. I am Nick Hart, President & CEO of the Data Foundation, a national non-profit organization that works to improve government, business, and society through open data and evidence-informed public policy.[1] Our community of partners across industry and nonprofits helps enable our efforts to encourage high-quality, accessible, and usable data and evidence that benefit the country. I am pleased to be speaking with the subcommittee about how evidence-informed policymaking can improve society and make our country better, and specifically about how to address the critical role and needs for Congress on this topic.[2]

I will start by disclosing that I never worked in the Legislative Branch. I am not a constitutional scholar. I am confident you have staff who are eminently more qualified to discuss the topics today in this hearing than I am. At times – like many Americans – I have declared my frustration with Congress. In full disclosure, I am even a strong champion of the executive authority and deference to the Executive Branch under the Constitution's Article 2 when there may be ambiguity in inferred intent from legislative actions. For years I've given advice to not over-specify legislation, and to instead articulate what you want to do with clear goals and outcomes.

So why is my experience relevant for you as Members of Congress in the conversation today? Simply put, I strongly endorse the Congressional Evidence-Based Policymaking Commission Resolution alongside the Data Foundation's community of partners and on behalf of a much broader cohort of the data and evidence community.[3] In this capacity I've learned about many of the interactions across Congress, Executive Branch agencies, industry, nonprofits, and the academic community. Among many roles, I was previously appointed by the White House Office of Management and Budget Director to the Advisory Committee on Data for Evidence Building, by the Comptroller General to the Advisory Council on Government Auditing Standards, serve as a Fellow of the National Academy of Public Administration and frequently provide advice through the congressionally-chartered organization, as a fellow at the Bipartisan Policy Center, and lead the American Evaluation Association's policy task force. From 2016 to 2017, I staffed the U.S. Commission on Evidence-Based Policymaking (Ryan-Murray Commission) created

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by Congress, which led to the most substantial legislative reforms to enable evidence-informed decision-making at the national level in my lifetime.

This collective body of experience led me to be a transparency, privacy, statistical, evidence, and evaluation advocate – and learn how these concepts are complementary not contradictory.[4] The information needs of decision-makers today are vast, varied, and evolving, which is why pushing the frontiers on data and evidence use with strong privacy protections while also promoting the openness and availability to data is increasingly relevant.

Yet, there is a far more important and relevant point for you that will frame my remarks: while I am an advocate for evidence-based policy, I also recognize we do not make decisions exclusively based on evidence because we live in a democratic republic; our value systems and how each of you represent those values are vital to our success as a country. I am an American citizen who is passionate about our government services being effective based on goals we collectively establish and articulate. I have lived here my entire life, worked a career inside and alongside federal agencies experiencing that amazing potential and considerable frustrations first-hand. Most importantly for me, my son will grow up under the rules and policies this institution establishes too. Personally, just like you, I want those policies to work for us *and* those around us in our community – our families, neighbors, and friends – and for my son. But what works might look different to each of us.

We need our legislature to be equipped to handle and navigate ambiguity, reduce risk, and minimize uncertainty in policymaking in the years ahead, just as much as we want you to support policies that we believe in and advocate for during elections. But I do not want you to support the policies and solutions that I do just because I support them or because you looked at a poll to see what was popular today. I want you to enshrine and embody principles of a democratic republic and make the best decision based on the range of evidence available to you, the value systems in our country, and other factors that are important to this institution. Using the best evidence available must be included in your decision framework as Members of this institution, and I hope every Member agrees. Ensuring Congress has the data and evidence it needs at the right time and in the right format for making decisions is a means to help achieve this end.[5] This requires planning, coordination, and humility about what we need to know.

THE PROBLEM: CONGRESS NEEDS BETTER ACCESS TO RELEVANT, HIGH-QUALITY DATA AND EVIDENCE

Data is so critical to decision-making in our country and Congress that its use was prescribed by the Founders in the U.S. Constitution. Article 1 establishing the Legislative Branch directs that periodic counts of the population be conducted to apportion representation and taxes. Since the inception of the U.S. Congress, data has been transformed into evidence and used in decision-making as a foundational component of how the institution operates. Congress needs data, is actively using evidence, and always has. But the world is rapidly changing, the country is ever-evolving, and Congress is transforming as well. Congress must ensure as an institution that it has procedures and processes to access what Members and staff need to effectively fulfill legislative and oversight functions, all while balancing the important privacy protections necessary and afforded to the American people and businesses.

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[4] For the purpose of this testimony, the terms "data," "evidence," "evaluation," and "statistical activities" are used consistent with the definitions included in the Foundations for Evidence-Based Policymaking Act (P.L. 115-435) and corresponding implementation guidance issued by the White House Office of Management and Budget (OMB).

[5] Hart, N., S. Davis, and T. Shaw. (2018). Evidence Use in Congress: Challenges for Evidence-Based Policymaking. Washington, D.C.: Bipartisan Policy Center.
https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2019/03/BPC-Evidence-Use-in-Congress.pdf

The challenges we face in using data in Congress are not new; these challenges have been long recognized and prioritized over our country's history. The first digital record for the term "data" on Congress.gov appears in legislation in the 9th Congress.[6] Since then, more than 200,000 pieces of legislation included explicit references to terms related to the key concepts in evidence-informed decision-making; 9,000 became laws. About 40 percent of legislation filed between the 6th Congress and today includes these terms – and in the 118th Congress, 51 percent of filed legislation includes key terms related to evidence-informed decision-making. Looked at another way, 55 percent of the laws enacted from the 118th Congress included references to these terms. The proliferation of uses of these terms in legislation is just one of the many signals provided by Congress about the need for information and an ongoing commitment that certain types of evidence are accessible for decision-makers. However, just because the terms are included in law is by no means an indication that the laws reflect success stories for the use of evidence or enable meaningful improvements in evidence-building or -using capacity.

One of my mentors, Bill Hoagland at the Bipartisan Policy Center and an expert in the federal budget process, is fond of saying: "***Senators and Representatives base their policy decisions on the best evidence provided to them.***" I fully agree. Given the ongoing systems change in the Congress, we must routinely discuss what is "best" (valid, reliable, and credible), what is considered policy-relevant "evidence" (e.g., research, science, data analysis and statistics, evaluation), how information is "provided" (e.g., via lobbyists, knowledge brokers, office staff, legislative support agencies, fellow Members, Executive Branch), and what constitutes a relevant "decision" (e.g., drafting bills, responding to constituents, identifying problems, defining solutions). This may sound like an academic or technocratic exercise – and an aspect may be – but the discussion about what evidence Congress needs to succeed is immensely consequential for the country and the American public because that discussion determines what processes and procedures are in place to enable the efficient use of evidence. Congress's use of data and evidence as intended by the Founders is foundational to the success and effectiveness of Article 1, including as a meaningful balance of power to Articles 2 and 3 of the Constitution.

To be clear, Congress requests and uses varying forms of evidence routinely across nearly every function and activity under Article 1. But if every Member were to objectively evaluate today whether they receive the evidence wanted or needed for policymaking in the right times, forms, and types, there are certainly gaps in the availability, processes, procedures, and use. Addressing those gaps from the intended users of policy-relevant evidence must be a priority. Writing the concepts in legislation to affect implementation or oversight, and having what the institution needs to inform problem definition, solution identification, or drafting are all distinct matters that may suggest different solution sets. How we address these recognized knowledge gaps on important and priority policy matters to support future Congresses is a problem worth solving.

A discussion about how to best use and apply information, data, and evidence for decision-making in Congress, is one that rightfully emphasizes the incredible existing expertise and talent of Members and congressional staff on policy, law, topical program matters, and American values relevant for decision-making. This is a discussion that emphasizes identifying more effective ways to use that

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[6] Based on keyword searches and word variants from Congress.gov on March 13, 2024: {"evidence-based" OR "evidence" OR "evaluation" OR "science-based" OR "science" OR "data-driven" OR "data" OR "research" OR "information" OR "outcome" OR "impact"}. The first reference to the terms "evaluation" and "outcome" were in the 82nd Congress. For a recent history of the evolution of nomenclature see Newcomer, K. and N. Hart. (2022). *Evidence Building and Evaluation in Government*. New York: Sage.

expertise in exercising Article 1 obligations. The evolution of data use across all levels of society warrants an examination into how modern data practices can best serve Congress.

Several simplified examples help illustrate the role of evidence in Congress today. Consider a meeting that every Member of Congress has inevitably had with a Chief of Staff, Legislative Director, or staff member from a committee about an important policy priority or implementation of a programmatic activity. The Member asks a question and receives a response such as we do not have that information because it did not exist, it was not available, we were not able to locate it, or the Executive Branch wouldn't share it. Now consider a different meeting where the Member's questions were answered, staff were able to provide robust analysis and evidence to support a policy action, and help the Member identify a problem, gauge the viability of a particular solution, or even leave with the knowledge that the problem may not need further action from Congress based on relevant decision criteria. Maybe you learned that a sacrosanct program was not effective for a key constituency and needed to identify new strategies to provide support. Maybe you found $1 billion in savings in the federal budget if a cost-effective program was scaled well.

How do these two scenarios differ? First, recognize the gap is unlikely your staff's "fault" and may not be anyone's fault, including the agencies of the Executive Branch who might have relevant expertise, data, or even the evidence you sought. The issue at hand is not one about individual people, it is one about institutions and institutional processes that enable the capacity and culture for evidence-informed policymaking to routinely succeed. Second, consider the vast differences in ambiguity, risk, and uncertainty between the scenarios. Valid, reliable evidence can improve our decision-making capabilities and improve the quality of the policy actions conducted on behalf of the American people.

For those of us who work on data and evidence issues every day – these scenarios are not hypothetical, they are very real. In cases where we make policies with the best evidence available, we may use everything from descriptive statistics and performance metrics, to implementation studies and audits, to causal program evaluations and cost-effectiveness studies to inform decision-making. The use of evidence in this way informs a comprehensive understanding of what is happening in relevant programs and activities, whether performance is aligned with outcomes, and ultimately, whether the problem that is intended to be solved or addressed by the public sector policy action is achieved. Said another way, the evidence helps determine whether, how, when, where, and for whom policies work and also helps describe the conditions and solutions for those same characteristics. Evidence takes away or minimizes the "guess work" in policy identification, formulation, negotiation, implementation, and oversight. At the same time evidence helps to create a common framework for dialogue about the problem definition and viability of potential solutions which may be modified during implementation.

Evidence is not – or should not be – solely a tool for accountability approaches that discourage the production and use of evidence. This is not to say that evidence cannot be applied in accountability contexts, where indeed it should, but rather to say that just because a program or activity does not demonstrate desired results or outcomes is not a sufficient basis alone for determining to eliminate its funding, demonize its staff, or affect regulatory and administrative processes. The determination to eliminate funding rather than to address or correct programmatic implementation problems with, for example, increased funding is a decision based on values and other criteria specified by the decision-maker; it is not a decision based on evidence alone. However, using evidence in this context is expected, desirable, and encouraged because the allocation of resources is a major task of policymaking and prioritization. Evidence can and should also be used for continuous learning and improvement, particularly when programs and policies may need modification to achieve agreed-upon goals and

outcomes. Balancing the objectives for accountability and learning is vital as Congress considers how to better enable the use of the best available data and evidence in the Legislative Branch.

WHY ESTABLISH A CONGRESSIONAL EVIDENCE COMMISSION: THE INTERIM SOLUTION

Establishing a Congressional Evidence Commission is a low-cost, rapid mechanism for addressing the question about how Congress can establish capacity, processes, and procedures to better use data and evidence, while also considering the range of uses, users, and types of evidence available. While there may be some easy solutions, reviewing the current capacity in the Legislative Branch for this work with a broader emphasis on the opportunities for improvements will enable Congress to act on implementing potential solutions more quickly.

Consider an example of the complexities faced in decision-making and interpretation of data today with the monthly unemployment rate. Being provided the monthly unemployment rate by the highly-regarded Department of Labor's Bureau of Labor Statistics (BLS) provides the basis for a productive dialogue about the state of the American workforce. When Members receive this information each month and see 3.9 percent (Feb. 2024) as the national unemployment rate they can reach a determination about the state of the labor force, and review implications at the regional or state level.[7] Some may view unemployment as too high, and others too low based on the published estimates.

Others may delve deeper to gain additional context and consider that part of that national statistic reflects a labor force that has been unchanged over the past quarter after a 300,000 person exit from the calculation in late-2023.[8] For some subpopulations in the United States employment trends also vary, such as the Hispanic or Latino population with a 5 percent unemployment rate (Feb. 2024) or that unemployment is increasing for people with disabilities, now at 7.7 percent, an increase of 0.4 percentage points in the past year.[9] These examples highlight the important nuance about how we use trusted sources of data for real-time decision-making. In this example, we know that unemployment rates drive markets and policy. At the end of the day, these are metrics intended to describe the state of the American people, provided by the federal statistical system as public, open data. The statistics are descriptive and open to interpretation. The Bureau of Labor Statistics provides an objective, matter-of-fact analysis each month, and others offer extensive commentary about the state of the economy in turn. The information provides congressional staff and policymakers information they need to develop measurable policies and programs for their constituencies.

Unemployment rates are a relatively simple conceptual example of descriptive information frequently used in decision-making for monitoring and problem identification that help illuminate the vital importance of this discussion for Congress. In practice, there are many factors to consider about Congress as an institution for the types of data and evidence its Members and staff need, how to signal those needs, and whether there may be existing sources for addressing those needs.

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[7] Bureau of Labor Statistics (BLS). (2024a). Labor Force Statistics from the Current Population Survey – Seasonally Adjusted Unemployment Rate. Washington, D.C.: BLS. https://data.bls.gov/timeseries/LNS14000000
[8] BLS. (2024b). Labor Force Statistics from the Current Population Survey – Seasonally Adjusted Labor Force Participation Rate. Washington, D.C.: BLS. https://data.bls.gov/timeseries/LNS11300000
[9] See Tables A-3 and A-6. BLS. (2024c). Employment Situation Summary, February 2024. Washington, D.C.: BLS. https://www.bls.gov/news.release/empsit.toc.htm.

Existing Resources of Data and Evidence

The Executive Branch provides extensive evidence historically to the American public – and Congress -- as open data. This may include national economic indicators, geospatially-linked information, or descriptive traits about program operations. Freely and publicly-available open data are available on many other topics from the federal statistical system (e.g., Census Bureau, National Center for Health Statistics), many administrative or regulatory programs (e.g., Social Security application characteristics, the Environmental Protection Agency's Toxic Release Inventory, the Securities and Exchange Commission's EDGAR database of corporate 10-k filings), and third-party research organizations and non-profits (e.g., USA Facts), among others. Often these Executive Branch activities are conducted for implementation and administrative purposes, and even the evaluations requested by Congress may not be designed to address Congress' timing or organizational needs for decision-making. For example, open data availability often presumes the users will be aware of the accessibility, disparate data access points or systems, and able to extract the relevant insights for a particular context directly or through a trusted intermediary.

Congress institutionally has a wealth of expertise in the committees, the Government Accountability Office (GAO), Congressional Budget Office (CBO), and Library of Congress, including the Congressional Research Service (CRS). The availability of this capacity and expertise does not wholly address the evaluative question, which is -- does this capacity align with the modern congressional needs for evidence? One type of evidence Congress routinely asks for that is not produced by any of these entities is evidence on causal effectiveness to support oversight and authorization.

Congressional support offices also have limited access to restricted data assets that may be relevant for their use. Today's hearing is convened, for example, to partly discuss the Congressional Research Service's access to already-collected data. Under current law, in many instances, CRS, GAO, and CBO may apply for access to restricted Executive Branch records or negotiate with Executive Branch agencies to receive restricted access to certain non-statistical data.

Case Studies Highlighting Gaps and Benefits of Enhancing Evidence Use in Congress

In recent years there have been strong examples of where the kind of evidence described here was built and used in congressional decision-making with great effect. There are also countless examples where the evidence was largely missing even though demand for it was high.[10] Consider these two examples –

Reforming SSDI in the Bipartisan Budget Act of 2015

As the Social Security Disability Insurance (SSDI) Trust Fund faced insolvency in 2014 and 2015, Congress carefully weighed various policy proposals offered by the Administration. Over the course of months, congressional staff, agency officials, and allies reviewed information about program characteristics, improper payments, program incentives, and past demonstration projects that tested a variety of innovations in SSDI. In some cases, evidence was already available; in other cases, congressional staff needed to ask for descriptive statistics and trends that were provided by the Social Security Administration. Throughout the congressional legislative process, the majority and minority staff had productive discussions – even disagreements – about incentives for beneficiaries to exit the program.

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[10] See examples in N. Hart and M. Yohannes (eds.) *Evidence Works: Cases Where Evidence Meaningfully Informed Policy*. Washington, D.C.: Bipartisan Policy Center.

Congressional staff were even met with cases of mixed evidence and charged with deciphering its meaning.

While there were disagreements about some forms of evidence and how to interpret, the same evidence led to areas of agreement for policy formation. For example, there was bipartisan agreement about the need for SSDI beneficiaries to be able to work at their full capacity and that more information was needed to determine how to best achieve that goal in the future. Policy solutions were included in the legislation to address this. Ultimately the agreements for SSDI reforms included in the Bipartisan Budget Act of 2015 enabled the trust fund reallocation at a time that ensured short-term solvency, while also promoting continuous learning and evaluation for future reforms.[11]

In this example, the congressional staff involved were especially interested in identifying and using evidence, including because there were different perspectives about certain aspects of the proposed program reforms. The stakeholder community and Administration were eager to share and facilitate knowledge about the program, including to ensure the goal of averting insolvency was achieved.

The SSDI example provides a case that demonstrates the value of relying on administrative records collected by Executive Branch agencies, the constraints imposed when innovation and rigorous evaluation is not adequately available in time for decision-making, and the role that political value systems played in encouraging the development of new evidence rather than stifling it. Importantly, congressional staff, Administration officials, and third-party intermediaries were collectively essential to facilitating the use of evidence for Members in the iterations of the legislative process.[12]

Evaluating Tax Expenditures

Tax expenditures are a unique line in budgeting that alters the tax code to implement a policy priority. The Child Care Tax Credit, Opportunity Zones, and Earned Income Tax Credit are examples of these types of credits. For years, tax expenditures have been subjected to heightened scrutiny through bipartisan negotiations, yet there is relatively little evaluation that occurs of these expenditures.

One oft-cited concern about tax expenditures is that the goals may be unstated or contradictory. Take the largely noncontroversial child tax credit expansion as an example. If the goal is to increase the number of children or to improve quality of life is not explicit, the basis on which to evaluate success is left to the discretion of those conducting the evaluation.[13]

In this example, CBO, GAO, and the Joint Committee on Taxation all provide support for understanding and analyzing tax expenditures. But the question about who conducts the program evaluation to determine whether intended impacts were achieved is less clear. A 2023 research paper by staff at the U.S. Census Bureau estimated the impact of the 2021 expansion of the Child Tax Credit in the American Rescue Plan to be substantial, lifting more than 2 million children out of poverty.[14] While the specific analysis is not cited in the FY 2025 President's Budget proposal from March 2024, a request to Congress

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[11] This example is derived from a longer explanation available in McCann, T. and N. Hart. "Disability Policy: Saving Disability Insurance with the First Reforms in a Generation." In N. Hart and M. Yohannes (eds.) *Evidence Works: Cases Where Evidence Meaningfully Informed Policy*. Washington, D.C.: Bipartisan Policy Center, pp. 28-39.

[12] McCann and Hart, 2019.

[13] Based on Harris, B.H., E. Steuerle, and C. Quakenbush. (2018). *Evaluating Tax Expenditures: Introducing Oversight into Spending Through the Tax Code.* Washington, D.C.: Results for America and Tax Policy Center.

[14] Burns, K. and L. Fox. (2022). The Impact of the 2021 Expanded Child Tax Credit on Child Poverty, Working Paper. https://www.census.gov/library/working-papers/2022/demo/SEHSD-wp2022-24.html

is posed to again expand the Child Tax Credit.[15] The ability to collect and access needed data from the Congress is affected by institutional relationships and statutory authorities for data access with the Internal Revenue Service and the Census Bureau.

These examples highlight the use of evidence, and also where the process of enabling the best available evidence in the decision-making can be affected. These uses of evidence should become more common, easier to conduct in practice, and occur with lower burden on Members and staff to identify, request, and use the evidence needed when it is most relevant to decisions. And even when highlighting these examples of high salience, both have substantial room for improvement in considering the specific informational and evidence needs of Congress as an institution. Addressing those needs can be a core benefit of the proposed Congressional Evidence Commission.

EXPERIENCE OF THE RYAN-MURRAY COMMISSION

This is not the first time an Evidence Commission has been discussed. In 2016, Congress passed the Evidence-Based Policymaking Commission Act championed by former House Speaker Paul Ryan and Senator Patty Murry. Chaired by former BLS Commissioner Katharine Abraham and co-chaired by long-time House Ways and Means staff member Ron Haskins, the Ryan-Murray Commission was charged with studying the national data infrastructure and ability to support evidence-based policymaking. That Commission's final report was produced in 18-months with a unanimous set of findings and recommendations largely focused on improvements for the Executive Branch capacity and capabilities.[16] While useful for supporting congressional evidence-informed policymaking, the recommendations did not explicitly focus on Congress as the intended user.

The 15-member Ryan-Murray Commission became a model of what evidence-based policymaking can look like in practice.[17] The Ryan-Murray Commission relied on a small support staff from across agencies, expertise from its appointed members, and high levels of engagement and participation from agencies and the stakeholder community while undertaking its work. This was accomplished with a relatively small appropriation of $2 million and the Commission did not obligate that full amount.

In the months following the submission of the Ryan-Murray Commission's report to Congress and the President, then-Speaker Ryan and Sen. Murray proposed the Foundations for Evidence-Based Policymaking Act (Evidence Act), which became law in January 2019.[18] The law included important reforms to the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), a strong privacy authority, established new statutory expectations for openness of data governmentwide through the OPEN Government Data Act, and established a government-wide expectation for evaluation. During congressional consideration of the legislation, key staff and Members worked alongside partners in the community, including the Bipartisan Policy Center which advocated for implementation of the Commission's recommendations.[19] The Evidence Act ultimately addressed half of the Ryan-Murray

[15] Department of the Treasury. (2024). Greenbook for FY 2024 Budget.
https://home.treasury.gov/system/files/131/General-Explanations-FY2025.pdf

[16] U.S. Commission on Evidence-Based Policymaking. (2017). *The Promise of Evidence-Based Policymaking: Final Report of the Commission on Evidence-Based Policymaking*. Washington, D.C.: GPO.

[17] Hart, N. "Entering the Evidence Promised Land: Making the Evidence Act a Law." In N. Hart and M. Yohannes (eds.) *Evidence Works: Cases Where Evidence Meaningfully Informed Policy*. Washington, D.C.: Bipartisan Policy Center, pp. 192-205.

[18] *Foundations for Evidence-Based Policymaking Act of 2018*. (2019). P.L. 115-435.

[19] Bipartisan Policy Center. Commission on Evidence-Based Policymaking. Washington, D.C.
https://bipartisanpolicy.org/commission-evidence-based-policymaking/

Commission's recommendations and established the basis for a coherent framework to use data for producing useful evidence that can be used, which has become a model around the world.[20]

Impacts of the Evidence Act After 5 Years

As we mark the 5-year anniversary of the Evidence Act this year, a substantial amount has changed across government to support executive and legislative decision-making. Federal agencies tapped senior leaders to serve in the roles of chief data officer, evaluation officer, and statistical official. The largest agencies developed and published evaluation policies, multi-year learning agendas, and annual evaluation plans based on guidance from the White House Office of Management and Budget (OMB) that designated evaluation as a critical function of government.[21] Examples of these resources are available on the public website www.evaluation.gov. There are also ongoing efforts to address longstanding procurement and workforce barriers that inhibit evidence-building activities in agencies.[22]

The CDOs established a growing community of practice, including by leaning in on long-overlooked data governance and agency data strategy issues that are vital for successful uses of data in agencies and deployment of artificial intelligence tools.[23] While OMB has yet to issue implementation guidance on the OPEN Government Data Act, individual agency CDOs have excelled. Examples and resources from the CDO community are now available at www.cdo.gov.

The federal statistical community led an advisory committee to address important considerations that extended perspectives about data sharing in context with strong privacy protections based on the work of the Ryan-Murray Commission, including the key roles of state and local data and the need for improved communication and engagement.[24] The federal statistical system also coordinated among agencies to launch a new single access portal for researchers to apply to use restricted data assets and is developing new resources to support bolstering public trust in government data.[25]

Still yet more progress is inevitable as the Evidence Act's implementation proceeds. The core capacity and process improvements within the Executive Branch because of the Evidence Act that was based on the Ryan-Murray Commission's recommendations are undeniable. Because of the Evidence Act there is a growing culture and capacity for producing and using evidence in the Executive Branch.

With the Evidence Act framework in place, Congress also acted on the headline recommendation from the Ryan-Murray Commission in the CHIPS and Science Act, authorizing the National Science Foundation (NSF) to establish the National Secure Data Service Demonstration Project.[26]

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[20] Hart, 2019.

[21] OMB. (2021). Evidence-Based Policymaking: Learning Agendas and Annual Evaluation Plans (M-21-27). Washington, D.C.: The White House. https://www.whitehouse.gov/wp-content/uploads/2021/06/M-21-27.pdf

[22] OMB. (2024a). "Building and Using Evidence to Improve Government Effectiveness." *FY 2025 President's Budget Analytical Perspectives*. Washington, D.C.: The White House, pp. 139-148. https://www.whitehouse.gov/wp-content/uploads/2024/03/ap_13_evidence_fy2025.pdf

[23] O'Toole, K. (2023). *Enabling Mission Success: A 2023 Survey of Federal Chief Data Officers.* Washington, D.C.: Data Foundation and Deloitte Development LLC. https://www.datafoundation.org/2023-cdo-survey-report

[24] Advisory Committee on Data for Evidence Building. (2022). Year 2 Report. Washington, D.C. https://www.bea.gov/system/files/2022-10/acdeb-year-2-report.pdf

[25] OMB. (2024b). "Leveraging Federal Statistics to Strengthen Evidence-Based Decision-Making." *FY 2025 President's Budget Analytical Perspectives*. Washington, D.C.: The White House, pp. 139-148. https://www.whitehouse.gov/wp-content/uploads/2024/03/ap_10_statistics_fy2025.pdf

[26] NSF. (2024). National Secure Data Service Demo. Washington, D.C.: NCSES. https://ncses.nsf.gov/about/national-secure-data-service-demo

Effect of the Ryan-Murray Commission on the Evidence Landscape

Enablement and implementation of the Ryan-Murray Commission recommendations by Congress and the Executive Branch demonstrate clear effects that improved the data and evidence landscape for the next generation in the United States.[27]

First, there has been progress in understanding what "evidence" is and how to use it across disciplinary and organizational silos. While it may seem unlikely that terminology and nomenclature can be a barrier to effective implementation, the increasing collaboration across units and disciplines for accomplishing shared knowledge-production goals enables more effective use of resources to answer questions across the policymaking community. For example, OMB's implementation guidance on the use of evidence provided a more consistent basis for agencies to assess and recognize where evidence-building capacity could be better leveraged.

Second, the new leadership roles – CDOs, evaluation officers, and statistical officials – are greatly improving coordination across leaders, including with positions that pre-existed such as privacy officers, performance improvement officers, and others.

Third, countless new data sharing projects and evaluations launched because of the Evidence Act. But so too did smaller-scale analytical projects that address real-time informational needs in agencies. A gap in scaling this capacity has been a lack of resources allocated and prioritized for these purposes. The lack of resources may sometimes reflect where administrative mechanisms for funding flexibilities to enable this work may be useful to provide further incentives to agencies.[28]

Finally, the Evidence Act encapsulated key recommendations of the Ryan-Murray Commission about using data while also improving privacy simultaneously. The shift from a binary view of data protection to envision and enable risk-based privacy capabilities and access frameworks cannot be understated. Earlier this year the National Academy of Sciences Committee on National Statistics further expanded this in a consensus report and developed a framework for how to improve decision-making when using data combined across multiple sources to ensure the policy and technical approaches facilitate balancing trade-offs between risk and the usefulness of the data.[29]

While much has changed to advance evidence-informed policymaking in the United States for the better since the Ryan-Murray Commission issued its recommendations, there is still room for continued progress. A review and consideration of the unimplemented recommendations from the Ryan-Murray Commission – including related to the delayed provisions of the Evidence Act – is needed as a starting point.[30] In addition, an intentional exploration of the specific needs of Congress will help ensure that as these activities proceed, Congress can leverage this capacity effectively and extend the momentum within the Legislative Branch.

[27] Hart, N. and S. Stefanik. (2022). *Evidence Commission After 5 Years: A Progress Report on the Promise for a More Evidence-Informed Society.* Washington, D.C.: Data Foundation. https://www.datafoundation.org/evidence-commission-after-5-years
[28] Fatherree, K. and N. Hart. (2019). *Funding the Evidence Act: Options for Allocating Resources to Meet Emerging Data and Evidence Needs in the Federal Government*. Washington, D.C.: Data Foundation. https://www.datafoundation.org/funding-the-evidence-act-paper-2019
[29] National Academy of Science. (2024). *Toward a 21st Century National Data Infrastructure – Managing Privacy and Confidentiality Risks with Blended Data.* Washington, D.C.: NAS Committee on National Statistics. https://nap.nationalacademies.org/catalog/27335/toward-a-21st-century-national-data-infrastructure-managing-privacy-and-confidentiality-risks-with-blended-data
[30] Hart and Stefanik, 2022.

SUGGESTIONS FOR A CONGRESSIONAL EVIDENCE COMMISSION

A Congressional Evidence Commission could spend years reviewing the topic of how Congress can improve the use of evidence in decision-making and oversight responsibilities. Specifying clear direction at the outset and establishing a scope for priorities will help focus recommendations. There is also a body of work that pre-dates the current discussion which may support the Congressional Evidence Commission in its initial phases. In 2018, for example, the Bipartisan Policy Center explored both the challenges present at the time across the institution and different types of users, then proposed creative options for process, structural, and capacity changes to facilitate access and use.[31]

Dating even further back, in the late-1970s Congress discussed what a comprehensive evaluation framework could look like. Spurred by discussions on the proposed Federal Spending Control Act of 1977 and the Program Evaluation Act of 1977, GAO developed an extensive series of resources, including a Report to Congress entitled "Finding Out How Programs Are Working: Suggestions for Congressional Oversight" with a framework that may still be substantially applicable today.

There are many other resources available between the points in time of these two examples to support a Congressional Evidence Commission rapidly beginning its work. Here are several other considerations and suggestions that may be useful for the initial planning of a commission and determining its priorities.

Assessing Current Capacity for Evidence

The congressional support agency infrastructure is largely based on a design that occurred 50-years ago. GAO, CBO, and CRS offer incredible expertise directly to Members and congressional staff, yet a starting point for the Congressional Evidence Commission could reasonably include an examination of whether institutionally there are capacity gaps in the existing support framework and how those might be addressed. One aspect may be examining Congress's own data governance practices. For example, Congress does not have a Chief Data Officer though it requires every federal agency to establish this role as part of the Evidence Act. Another consideration could be, for example, while GAO conducts financial and performance audits using the Yellow Books standards, GAO does not conduct impact evaluations that may often be requested to understand long-term outcomes of federal programs. Determining whether this is an appropriate role for an existing support agency, a new function, or the legislative branch at all is an important question related to effective congressional oversight.

As is discussed in today's hearing, there are also ongoing questions about access from congressional support agencies to statistical data and administrative records held by the Executive Branch. One aspect of this type of access is ensuring congressional support staff are adequately situated to employ modern privacy and confidentiality protections, while also providing expertise relevant for legislative drafting on emerging technologies and applications.

Determining Data and Evidence Needs for Priority Activities

Over the past four years under the Evidence Act, Executive Branch agencies developed multi-year learning agendas as part of the quadrennial strategic planning process. The plans emphasize key

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[31] Davis, S., T. Shaw, N. Hart, G.W. Hoagland. (2018). *Evidence Use in Congress: Options for Charting a New Direction*. Washington, D.C.: Bipartisan Policy Center. https://bipartisanpolicy.org/report/evidence-use-in-congress/

questions and data assets the Executive Branch prioritizes to address those questions. Congressional participation in this process was relatively limited. Whether through this process in collaboration with Executive Branch agencies, or a parallel process that similarly identifies key issues and needs, the alignment of these tools to connect producers of evidence with the intended users is a strategy for also ensuring the data are available and accessible to produce the evidence needed for key decisions.

Congress also previously directed Executive Branch agencies to develop data inventories and other data governance practices in conjunction with agency Chief Data Officers. Information that the Congress may be interested in using to support an enhanced infrastructure may already be collected by Executive Branch agencies, states, local governments, or tribes. These types of reviews for key priorities may illuminate where existing laws need to be changed to address access, strategies for promoting greater openness of existing data assets, or where third-party, independent data collection or evidence production may be necessary. Importantly, these findings may also result in changes to oversight for existing data laws.

Addressing Program Designs and Theories of Change

When drafting legislation for congressional priorities, goals may sometimes be unclear or even conflicting. Devising improved strategies for routinely incorporating the principles of evidence-building activities useful to legislative decision-making in designs will help ensure when Congress wants to know what works, when, where, and for whom, those questions can be addressed for priority topics. For years the emphasis on performance and monitoring has supported this framework, but stopped short in much of the federal government in connecting requirements under the Government Performance and Results Act (GPRA) and GPRA Modernization of 2010 with the desired impacts and outcomes. Enabling improved program design could result in increased evaluative thinking and capacity across the institution. It could result in more clearly drafted legislation or documentation for the record that aligns inputs, activities, outputs, and outcomes with the intended impacts of a program or policy.

Enabling Engagement and Brokering

Realistically, Congress will never be alone in its journey to seek-out evidence; interested parties will always approach Members and congressional staff with facts, studies, memos, and research. Identifying how to strengthen the "information brokering" or "knowledge brokering" function among trusted intermediaries is a long-overdue discussion. An aspect of this may also involve democratization of evidence, and engagement with the American public on key data and evidence questions.[32] For example, the Senate Health, Education, Labor, and Pensions Committee sought out feedback on how to improve evidence capacity as part of the recent proposal for reauthorizing the Education Sciences Reform Act (ESRA). In the SSDI example mentioned previously, Senate Finance and House Ways and Means staff sought out evidence from trusted intermediaries. Easing the burden and complexity of this process for those who are actively seeking to use evidence could be a priority of the Congressional Evidence Commission.

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[32] See NAS 2024 and Data Foundation. Stakeholder Engagement Toolkit for Evidence Building. Washington, D.C. https://www.datafoundation.org/stakeholder-engagement-toolkit-for-evidence-building-introduction

CONCLUSION

Using evidence should be easy for decision-makers, not challenged by institutional processes and barriers to access. The Congressional Evidence Commission offers an opportunity to support Members and congressional staff in the endeavor to produce or encourage good policy outcomes for the American people.

There will always be politics involved when we use information, data, and evidence to make decisions – that is because we all have values to bring to these important discussions. In our democratic republic, using values is critical for evidence-informed decision-making to succeed. Values drive decisions about what data to collect, how we prioritize the objectives and goals of programs, and even inform decisions in valid, reliable research and evaluation. Providing mechanisms to encourage more data and evidence to inform your decisions also helps us have transparent, open discussions about the best available evidence in reaching decisions.

Congress needs a coherent, depoliticized discussion about the processes and accessibility of evidence, specifically about what it wants to function better as an institution in using knowledge. This is not to assert that Congress fails to be a good steward of data and evidence, or that Members shirk responsibilities in making the best possible decisions for constituents. The claim is the opposite, that to ensure for a body as diverse in representation, interests, and oversight responsibilities that the mechanisms and procedures exist to best fulfill the Article 1, Section 8 powers of the Congress.

The question about whether there should be a Congressional Evidence Commission is not the right one – Members should ask, how soon can we launch a Congressional Evidence Commission to strengthen the institution and our decision-making capabilities, and how do we enable it to succeed with clear priorities, goals, and outcomes? I strongly encourage swift passage of the Congressional Evidence-Based Policymaking Resolution.

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