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U.S. House Select Committee on the Modernization of Congress

Recommendations for the Committee's agenda for the 117th Congress

March 25th, 2021

Introduction

Chairman Kilmer, Vice Chairman Timmons, thank you for the opportunity to participate in today's House Select Committee on the Modernization of Congress public meeting to inform recommendations for the Committee's agenda for the 117th Congress.

I am a Professor of Technology, Culture and Society at New York University's Tandon School of Engineering, where I direct the Governance Lab, a nonprofit action research center focusing on the use of new technology to improve governance and strengthen democracy.

At the Governance Lab, we collaborate with public sector institutions to improve how they govern using technology, data and innovation.

I previously served as Deputy Chief Technology Officer of the United States and White House Director of the Open Government under President Obama.

I currently also serve as Chief Innovation Officer of the State of New Jersey and as a Member of Chancellor Angela Merkel's Digital Council.

In this submission, which reflects only my personal opinions, in order to make the case that the Modernization Committee hold a hearing on CrowdLaw in the coming session to foster public deliberation on innovations in lawmaking and their application to US lawmaking, I endeavor to:

- Explain the importance of public engagement to restore trust in government and in Congress.
- Demonstrate how legislatures, parliaments and city councils around the world are turning to new technology to engage the public efficiently and effectively at scale even in highly partisan environments.

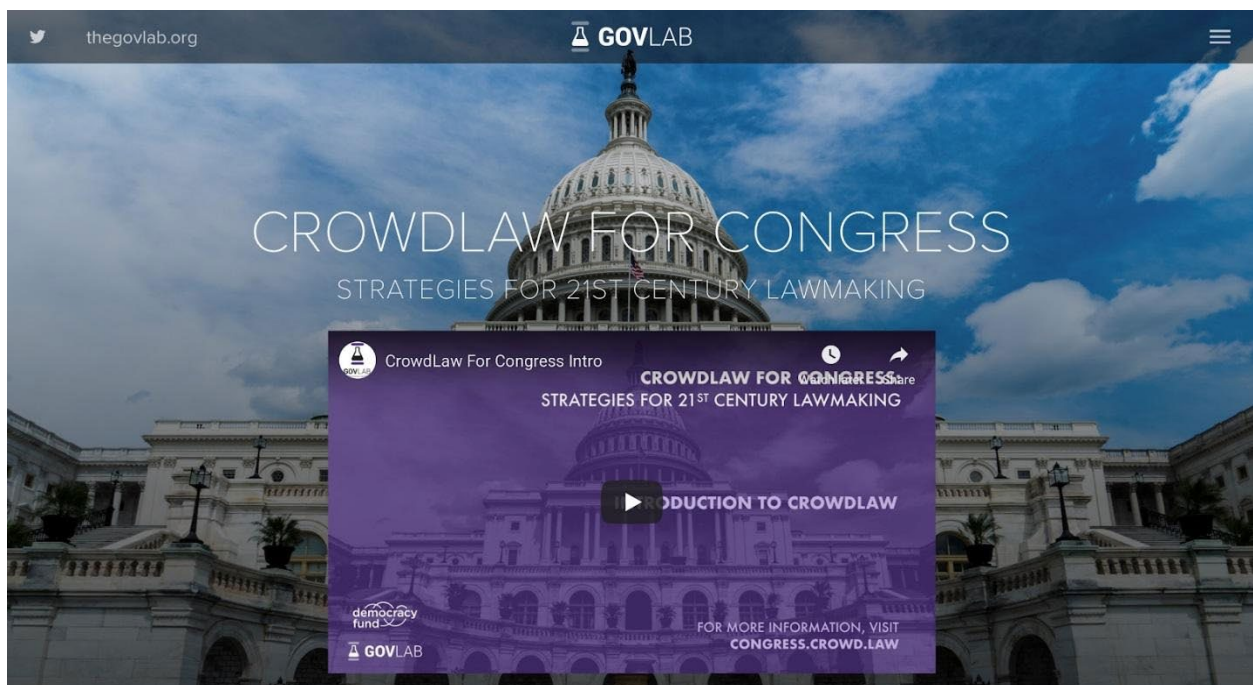
I argue that the media focus on the horse race between political parties — on politics rather than governance — obscures the fact that the way to address today's challenges is not only by changing policies but changing how we make policy, equipping our institutions and their leaders with the capacity to involve citizens in defining and solving contemporary problems.

What is CrowdLaw

CrowdLaw is the practice of using technology to engage the public in lawmaking, including the crafting of regulations, policies and legislation. It is the simple but powerful idea that parliaments, city councils and public institutions work better when they increase citizen engagement by using new technologies to obtain diverse sources of information, insight and expertise at each stage of the lawmaking cycle to improve the quality as well as the legitimacy of the resulting laws and policies, especially by engaging with underrepresented communities.

CrowdLaw processes use a variety of different methods and tools, each generally designed for a specific stage of policymaking, including problem identification, solution identification, drafting and oversight.

For additional information on the platforms and processes described herein, please see the videos, case studies and interviews with lawmakers from around the world on the benefits of CrowdLaw on “CrowdLaw for Congress: Strategies for 21st Century Lawmaking” freely available online at congress.crowd.law. These training materials on how to efficiently use public participation to enhance lawmaking were funded by the Democracy Fund.



The GovLab’s CrowdLaw for Congress website with cases and examples of how parliaments around the world are using technology to engage with citizens and stakeholders. Available online at congress.crowd.law

Non-Endorsement: *The technologies referenced in this document are discussed as examples of platforms supporting public participation practices in lawmaking in legislatures around the world. Their mention does not constitute an endorsement of the companies behind these technologies. I derive no financial benefit from these firms.*

CrowdLaw in Action: Innovations in Equitable Participation

vTaiwan: Identifying Problems Collaboratively and Consensually

To give just one example of “CrowdLaw” or tech-enabled participation in formal policymaking processes, the government of Taiwan has enacted 26 law informed by online and offline deliberation by 250,000 people through a four-part participation process known as the [vTaiwan](#) process.

The arc of the lawmaking process begins with defining which problems to tackle. Getting diverse input both from those with lived experience and from those with credentialed expertise helps lawmakers learn about how the public experiences problems. This is especially important for those who are most disadvantaged and may otherwise lack ways of informing the lawmaking process. Many countries already have a well-established petitioning process for ordinary people to articulate problems. Brought online, however, problem definition is an opportunity for the public to contribute expertise and information at scale and increase the likelihood of developing solutions that actually work. Engagement opportunities in this stage allow residents to identify issues of concern and to prioritize them.

vTaiwan is a four-stage process for moving from issue to legislative enactment while building consensus among diverse stakeholders. It has been used to craft 26 pieces of legislation relating to the digital economy, including the regulation of Uber, telemedicine and online alcohol sales, collaboratively between the government and the public. vTaiwan runs using a series of free open source tools (meaning they can be freely modified and customized, as needed).

As Taiwan’s Digital Minister Audrey Tang writes about the project: “vTaiwan’s scope is not limited to Taiwan or any particular government; it’s an experiment to prototype a model for consensus generation among large groups in general.” Moreover, she described it as “an experiment for a new way of working together, to unconditionally trust when collaborating, to be more open and transparent, and to gain the potential to be trusted.” Since the platform’s launch in 2015, over 80 percent of vTaiwan deliberations have led to decisive government action because the process is designed to foster consensus even among diverse groups. (Hsiao 2018)

New Jersey: Identifying Solutions at Scale

Once lawmakers have developed a shared and actionable definition of a problem, they face the challenge of devising effective and workable solutions. New technology presents a chance to obtain innovative, creative and diverse expertise from around the country and around the world. Through online tools, people can suggest, deliberate upon, and critique proposed approaches to solving a problem, broadening public input beyond that available to legislators and their staffs through occasional hearings. In particular, online engagement creates the opportunity to get good ideas from diverse sources. For example, [Parlement & Citoyens](#) in France enables citizens to submit proposals on the causes and solutions to a problem posed by a representative. Citizens’ proposals are then synthesized, debated, and incorporated into the resulting draft legislation. At this stage, online participation in developing solutions gives lawmakers the potential to enhance innovation.

What is your greater concern about the impact of technology on lifelong learning and skill building?

Online training programs, which are becoming more popular, are not as effective as in-person programs.

Private, for-profit certificate programs typically do not increase worker earnings.

I can't decide

26 votes on 51 ideas

Add your own concern here (Character limit 140 characters)...

The user interface for voting in the AllOurIdeas tool. Users can pick between the two options or add their own in the text box.

In late 2019, [AARP](#), the largest nonprofit in the United States used [All Our Ideas](#) to engage over 6,000 members in developing policy about big health data. On March 22, 2021, the New Jersey Department of Education launched a state-wide online citizen engagement using All Our Ideas to ask students, parents and caregivers, and educators about education in 2021. The New Jersey consultation will run in parallel to and in support of a nationwide All Our Ideas consultation organized as part of Your Education, Your Voice, a four phase community engagement initiative supported by a grant from the Bill and Melinda Gates Foundation that aims to amplify the voices and views of communities typically underrepresented in education institutions. The results from the consultation will be openly published and developed into recommendations targeted at policymakers and philanthropic leaders working in education.

The platform is very scalable —and avoids partisan disagreement — because the tool presents respondents with a question and then a randomized set of two answer choices, rather than a long list of questions and answers. People select the response they prefer (or “I can’t decide” as a third answer) or they may submit their own response. They repeat the task of choosing between two responses as many or as few times as they wish. This pairwise selection is faster and easier than responding to a traditional survey. With enough people participating, the resulting list is a rank

ordered list of the answer choices. (The Governance Lab 2020b) The Brazilian State of Rio do Sul used it for an engagement with over 100,000 participants.

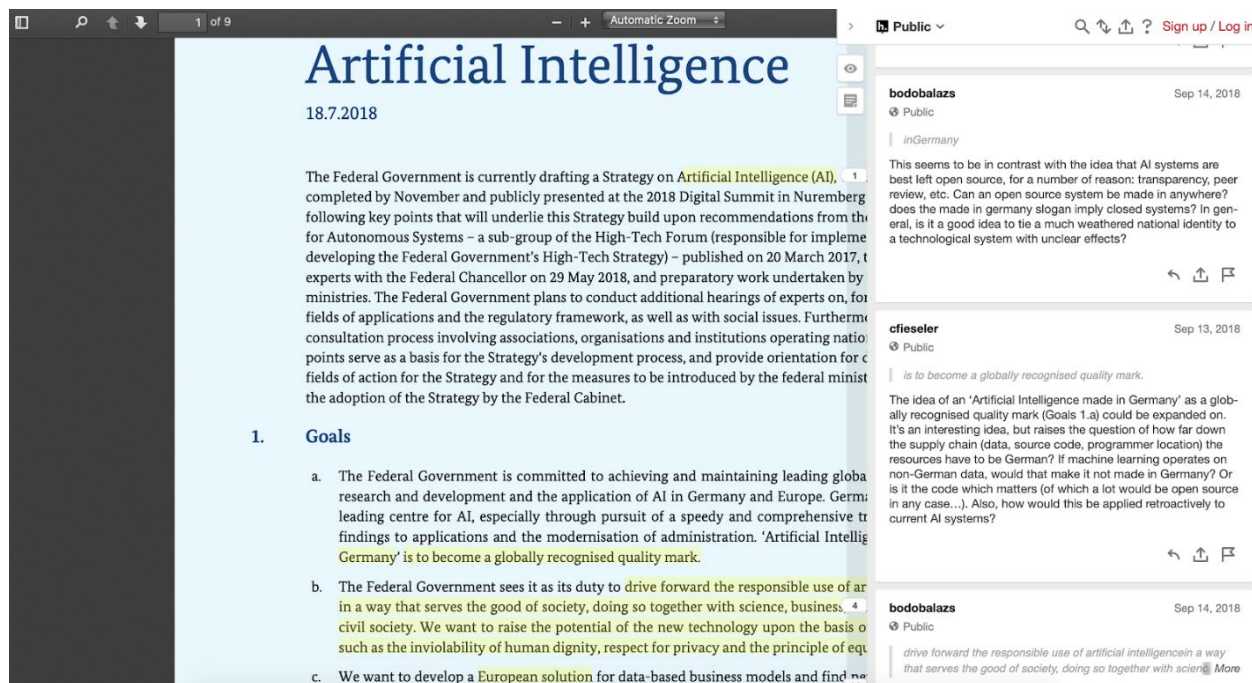
The education engagement with All Our Ideas will be followed by a 1,000-person representative sample of students and parents discussing solutions in greater depth using an AI-based platform that makes such conversations easy to organize.

In a more radical development, in the Brussels Capital Region, its parliamentary committees have 45 citizen representatives serving on each committee proposing and deliberating on solutions.

From Brazil to Germany: CrowdLaw Engages the Public in Annotating its Own Laws

In addition to new ways of running the commenting process, other countries are turning to online collaborative drafting processes and platforms to write rules with the public, especially with expert members of the public. Instead of a hearing with a handful of experts, online collaborative annotation makes it possible to hear from a broader and deeper range of experts.

Designed well, processes that invite the public to participate in drafting help raise new issues for legislators and ensure that drafts more effectively reflect the concerns of the people who will be impacted by them. Here, engagement opportunities allow residents to collaboratively write, comment on, and document draft legislations or regulations. In 2018 the German federal government invited a group of experts to discuss and annotate the draft of its artificial intelligence policy as a complement to traditional policymaking. It put the draft on [Hypothes.is](https://www.hypothes.is/), a free and open source annotation tool. The German Chancellor's Office, working in collaboration with Harvard University's Berkman Klein Center for Internet and Society and the New York University Governance Lab, was able to solicit the input of global legal, technology and policy experts. Using an annotation platform also made it possible for people to see one another's feedback and create a robust dialogue, instead of a series of disconnected comments. Hypothes.is can be used on any webpage. It offers the ability to highlight, mark up or respond to other people's comments, and it offers both public and private annotations on the same page.



The Hypothes.is tool overlaid on the webpage of the draft artificial intelligence policy (2018)

Public participation in annotation and drafting offers key advantages. It provides an opportunity to obtain meaningful expert review. It raises issues policymakers don't know about and ensures that drafts more effectively reflect the concerns of the people impacted by them. It is much faster and easier to organize online expert review using an annotation platform, making it efficient to organize, while providing the means to get balanced and thoughtful reactions to draft rules.

To take another example, [WikiLegis](#) enables Brazilians to edit draft legislative text in a manner analogous to collaboratively working in a Google Doc. At this stage, giving the public insight into the drafting process through online participation gives lawmakers the potential to enhance transparency.

[Mudamos](#) is another Brazilian application that enables Brazil's residents to write their own bills and sign onto one another's proposals using verified electronic signatures. In 2017-2018, over 700,000 people signed up and drafted 800 new bills.

Any citizen with a smartphone (Android or iOS) can download the app and register with his or her electoral ID, name and address, which Mudamos keeps secure and verifies with Brazil's Electoral Court. The app issues what is known as a cryptographic key pair, a small piece of digital code used for verification. One half of the key is stored on the user's phone and the other with Mudamos, which makes it possible to authenticate a person's signature and verify their identity and citizenship. In this way, members of the public can draft and sign petitions in a way that is secure and authenticated.

To address the volume and quality of submissions, Mudamos's creators have established a volunteer lawyer program to assist in the analysis of the proposals. The Mudamos volunteer legal team performs a legal analysis to verify whether the draft bill has all the constitutional

requirements to be framed as a citizens' initiative bill. If it has all the constitutional requirements, the bill is uploaded on the platform and it is published for signature gathering immediately. If it has not, the bill's author receives a feedback report based on the analysis recommending changes or explaining why the proposal cannot be accepted as a citizens' initiative bill.

UK: Collaborative Oversight - Enhancing Accountability by Evaluating Laws and Policies Together

Evaluation and oversight examine how a law is working, for whom, and at what cost. Public participation in this stage of the legislative process is usually quite limited. With new technology, however, a watchful community can improve the outcomes of lawmaking by collectively monitoring the outcomes and impact of legislation. This participatory evaluation approach is also referred to as "[social auditing](#)" or "civic auditing." Resident engagement in this stage is used to monitor the outcomes and evaluate the impact of laws on the overall well-being of the community. At this stage, online participation gives lawmakers the potential to enhance accountability.

In the United Kingdom, the public is helping to evaluate evidence submitted to certain parliamentary committees, enhancing accountability. The UK Parliament uses online Evidence Checks to invite members of the public to comment on the rigor of evidence on which a policy is based. This process allows a large and diverse group of people with relevant experience and expertise to identify gaps in evidence that require further review and aids in oversight. (The Governance Lab 2020a)

In the UK House of Commons there is a Select Committee conducting oversight for each government department, examining spending, policies and administration. In an Evidence Check, government departments and agencies supply information to the Committee about an issue. Committee staff publish that information at parliament.uk and share the task of scrutinizing it with a wider pool of experts, stakeholders, and members of the public. Typically, the Committee uploads the government statement as a publicly viewable PDF and frames the request with specific questions and problems that they would like participants to address.

The process comprises three steps: First, the Committee asks a government department to supply information about a policy, and the evidence on which the policy is based. Second, the Committee publishes the departmental submission and adds a page to their website to collect comments over a period of about a month, inviting academics, stakeholders, practitioners and members of the public affected by the policy to comment on the departmental advice. They might comment on the strength of the evidence provided by the department, highlighting contrasting evidence, selection biases and gaps. The web forum is public, but committee staff may choose to review comments before and after users post them to ensure that they are not defamatory, abusive, or otherwise inappropriate.

Finally, the Committee assesses comments and uses them to guide further investigation of the policy and/or integrates the commentary into its final report, which is supplied to the relevant government Minister for response. For example, in 2016, the [Science and Technology Select](#)

[Committee](#) published seven government statements on policy areas, including driverless cars, smart cities, digital government, smart meters and flexible working arrangements. It sought comments that aligned with a framework that the Institute for Government developed in partnership with the Alliance for Useful Evidence and Sense About Science. The framework covered diagnosis of the issue, evidence-based action by government, implementation method, value for money, and testing and evaluation.

Department for Education
'Evidence check' memorandum
Universal infant free school meals (UIFSM)

Policy?

- From September 2014, all children in reception, year 1 and year 2 attending state-funded schools in England are eligible for free school meals. This includes pupils attending academies, free schools, maintained special schools, pupil referral units, and day pupils in non-maintained special schools. The headline effect of this policy will be to extend free school meal entitlement to an additional 1.55 million children.
- The policy is designed to:
 - improve educational attainment and children's social skills and behaviour;
 - ensure that children have access to at least one healthy meal each day, and support the development of long term healthy eating habits;
 - help families with the cost of living, and remove disincentives to work.

Evidence


Attainment, social skills and behaviour

- The Department for Education and Department for Health ran pilots of universal free school meals in two local authorities – Newham and Durham – between 2009 and 2011. The pilot evaluation¹ showed that there were benefits for all children – those who would have been entitled previously to a free school meal under the existing entitlement criteria as well as those that became newly-entitled during the pilots. The pilots found:
 - Improved performance in the classroom.* The universal FSM pilot had a significant positive impact on attainment for primary school pupils, with pupils in the pilot areas making between four and eight weeks' more progress in English and mathematics than similar pupils in comparison areas. Improvements in attainment were strongest amongst pupils from less affluent families and amongst those with lower prior attainment.
 - Increased take-up of meals amongst children from low-income families, who were already entitled to, but not taking free meals, under the existing rules* – at least partly because universal entitlement removes the perceived stigma attached to receiving free school meals.
 - Higher take-up of school lunches amongst other children* – which is important. A study by academics from the University of Leeds showed that only 1% of packed lunches brought to school by children met the School Food Standards (Evans et al, 2010), whereas estimates from a 2012 School Food Trust survey (Nelson et al, 2012) suggest that 99% of primary meals catered by local authorities are compliant with food-based standards.

Commons Select Committee

- Committees
- All committees A-Z
- Commons Select
- Education Committee
- 'Evidence check' web forum**
- Phonics
- Teaching Assistants
- Professional Measurement Metrics
- National College of Teaching and Leadership
- Summer Born Children
- Universal Infant Free School Meals**
- Impact of Raising the Participation Age
- Music Education
- School Starting Age
- Department's use of evidence

Education Committee web forum: Universal Infant Free School Meals



The Education Committee invites views on the strength of the evidence in relation to the current policy on the effect of nutrition on students and how implementable Universal Infant Free School Meals is.

Thank you for all comments submitted to the 'Evidence Check' forum. The forum is now closed. Comments received will help the Committee evaluate the evidence received from the Department for Education.

The Committee will use the comments to select topics for one-off oral evidence sessions in early 2015.

Evidence

Please read the Department's evidence on Universal Infant Free School Meals:

- Department for Education 'Evidence check' memorandum - Universal Infant Free School Meals (UIFSM) (PDF 55 KB)
- Back to the 'Evidence check' web forum homepage

Image: iStockphoto

19 Responses to Universal Infant Free School Meals

Claire Crawford, Lorraine Dearden and Ellen Greaves says:
December 15, 2014 at 09:49 AM

Comments on School Starting Age

Claire Crawford, Lorraine Dearden and Ellen Greaves, Institute for Fiscal Studies

We think that the evidence presented in the DfE document is

An example of the UK Evidence Checks forum: The Committee posts a public PDF with the policy proposal and the evidence on which it is based (left). The forum allows participants to scrutinize the evidence and add their own comments (right).

The Promise of New Technology to Improve Lawmaking

City councils and parliaments at both the local and national level, from Iceland to Ireland to India, are turning to CrowdLaw practices to improve the quality and legitimacy of lawmaking and, thanks to new technology, are able to do so at scale and at low cost.

The proliferation of big data, machine learning and collective intelligence technologies create hopeful new opportunities for innovation in governing because they make it possible for public institutions to develop a more detailed, accurate and, above all, equitable understanding of on the ground conditions through engagement with a more diverse public. Such participatory democratic practices help to improve the quality and legitimacy of decisionmaking because they tap the intelligence and expertise of a broader public to develop more informed policies.

People are hungry for meaningful opportunities to participate. Half of respondents surveyed by Pew Research said they had participated in a civic activity in the past year. (Smith/Pew 2013) But more want to do so and about three-quarters of those surveyed by the Public Agenda in 2019

said they would participate under two circumstances: namely, if they knew that participation was relevant and if they could contribute their skills and experiences. (Public Agenda 2019)

Not only do people want to get involved in the life of their democracy, their involvement has the potential to bring more diverse voices into the governing process. Surveys undertaken by Pew in both 2008 and 2012 found that civic engagement is overwhelmingly the province of the wealthy, white and educated. To enhance public participation, especially by underrepresented communities, Members can look to the way international jurisdictions are turning to new technology to engage citizens in every stage of lawmaking.

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Further Reading

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