DATA FOUNDATION

**Written Statement from Nick Hart, Ph.D., President of the Data Foundation
For the House Select Committee on the Modernization of Congress**

*"Hearing on Strengthening the Lawmaking Process:
How Data Can Inform and Improve Policy"*

October 27, 2021

Chairman Kilmer, Vice Chairman Timmons, and members of the Committee, thank you for the invitation to join today's discussion about applying evidence to inform policymaking in Congress. I am Nick Hart, President 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. The Data Foundation's research, collaborative thought leadership, and advocacy programs advance practical policies for the creation and use of accessible, trustworthy data. We focus on promoting open data, chief data officer maturity, secure data sharing, improved data standards for information quality, and program evaluation. I am pleased to be speaking with the committee on how evidence-informed policy making can improve society.

THE CONTEXT FOR EVIDENCE-BASED POLICYMAKING

In recent years the term "evidence-based policymaking" has garnered much attention in the United States, in no small part due to the activities of the U.S. Commission on Evidence-Based Policymaking (Evidence Commission). The Evidence Commission was established by Congress through the leadership of Senator Patty Murray and then-Speaker Paul Ryan. The Commission studied the challenges in our country's data infrastructure as well as research and evaluation capabilities for 18-months, issuing a unanimous set of findings and recommendations in 2017.[1]

One year later, Congress passed the final version of the bipartisan Foundations for Evidence-Based Policymaking Act, or Evidence Act, which took action on half of the Evidence Commission's recommendations.[2] Executive Branch agencies are now in the midst of implementing the Evidence Act, including expectations for openness of data, enhanced data sharing capabilities, publication of data inventories, and new leadership roles such as chief data officers and evaluation officers.

---

[1] 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.
[2] *Foundations for Evidence-Based Policymaking Act of 2018*. (2019). P.L. 115-435.

The Evidence Commission's research and recommendations that led to the Evidence Act offer an example of what evidence-based policymaking looks like in practice.[3] First, experts convened to provide evidence that was responsive to a congressional inquiry. The experts relied on existing knowledge, interviews, hearings, public feedback, and a survey of federal agencies. These methods provided a body of evidence on which the commission developed findings and then reasonable recommendations. Then, Congress relied on that body of knowledge to draft the Evidence Act. Yet, not all of the Evidence Commission's recommendations were taken literally, some were modified and others not yet acted upon. For example, while the Evidence Act established Chief Data Officers in every federal agency, the commission recommended a slightly different idea – senior agency officials for data policy. But the creation of the Evidence Act was still "informed" by the commission's work. In fact, this is exactly the goal of evidence-based policymaking, that the evidence informs policy actions and decisions.

The Evidence Commission and Evidence Act set a new floor for the Executive Branch agencies to produce evidence that is useful for policymaking. Congress' direction to agencies was clear – you expect agencies to improve the infrastructure and processes for building evidence and then that the evidence will be used. That does not mean this was not happening prior to the Evidence Act; agencies, congressional committees, and many of you are adept at using evidence to inform policy, regulations, and legislative ideas. The intent of the Evidence Act was to leverage existing strong points, and to provide new direction to change the government's culture so that the use of evidence is the norm, not the exception. Changing culture is not something that can be legislated, which is why the Evidence Act wisely established leadership roles in agencies, processes for aligning demand for evidence with a timely supply, and greater transparency for data across government.

LEVERAGING RESOURCES FROM THE EXECUTIVE BRANCH

While the Evidence Act sought to improve the availability of evidence in the Executive Branch, it was relatively silent about the needs of the Legislative Branch. This is not to say that the Evidence Act is not useful for legislators and congressional staff, it certainly is. In fact, successful implementation of the Evidence Act has major implications for Congress having access to information it needs.

First, Members and staff can work with agencies that are currently developing their evidence-building plans, or learning agendas, which are scheduled to be completed and published in early 2022 as part of quadrennial strategic planning in agencies. These plans are expected to outline key policy choices and questions, then consider what data exist, as well as what might be needed to support policymakers' decisions. A recent review of existing learning agendas identified congressional consultation was sparse.[4] Currently the Small Business Administration and the Environmental Protection Agency are accepting open, public comments on their

---

[3] Hart, N. (2018). 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. 192-203. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3766880#.

[4] Hofman-Graham, S., M. Vantine, K. Newcomer. (2021). *Evaluating Evidence-Building Plans: A Review of Five Federal Learning Agendas.* Washington, D.C.: Data Foundation. Available at: https://www.datafoundation.org/evaluating-evidence-building-plans-july-2021.

respective plans. Members and staff could be sharing priorities with agencies, who should in turn also be seeking feedback from the Legislative Branch.

Second, Congress can provide targeted oversight of key data laws, including the Evidence Act. More than two years after the law's enactment, key guidance and regulatory actions from the White House Office of Management and Budget have not yet been developed for pieces of the Evidence Act, including the OPEN Government Data Act and Part D of the Confidential Information Protection and Statistical Efficiency Act. The provisions of the Evidence Act that require regulatory actions are understandably some of the more technically complicated in the law, but also present some of the greatest potential gains for the evidence ecosystem. Over the last decade Congress also passed the Digital Accountability and Transparency (DATA) Act, the Grant Reporting Efficiency and Agreements Transparency (GREAT) Act, the Taxpayers Right to Know Act, and other broad data laws that direct the Executive Branch to produce higher-quality, more accessible, and more useful data and evidence. Effective implementation of all of these laws can directly support congressional decision-making by making data available for use, including information on spending, awards, performance, and outcomes.

Third, the majority of recent data laws were authorized without new appropriations to support the efforts they outlined. While some agencies were able to reallocate resources or receive funding flexibilities in the appropriations process, we know there is a great need for resources and capacity in the Executive Branch to support chief data officers, evaluation officers and staff, and the Federal Statistical System. A recent survey of federal CDOs conducted by the Data Foundation identified major resource gaps across agencies, including direct appropriations and staffing.[5] The lack of clear, sustained resources can be a major impediment for implementing necessary improvements to data governance and use. Some evidence also exists that lack of clear reporting structures can be an impediment for CDOs.[6]

Fourth, interaction with the data and evaluation leaders in agencies from Members and congressional staff is an approach to staying updated about new developments, technologies, and concerns that are emerging in the rapidly-evolving data and evaluation ecosystem. For example, earlier this month the House Committee on Veterans' Affairs invited the Department of Veterans Affairs CDO to a hearing about a series of bills on data collection.[7] It is my hope that congressional staff might increasingly build relationships with chief data officers, evaluation officers, and the heads of statistical agencies who are at the intersection of the evidence producers and the users, and may be able to support your informational needs in the years ahead.

---

[5] Hart, N., T. Jones, J. Lawton, L. Sheldon, J. Willey. (2021). *CDO Insights: 2021 Survey Results on the Maturation of Data Governance in U.S. Federal Agencies*. Washington, D.C.: Data Foundation. Available at: https://www.datafoundation.org/cdo-insights-report-2021.

[6] Rowley, K. and N. Hart. (2021). Structuring the Chief Data Office for Success. Washington, D.C.: Data Foundation. Available at: https://www.datafoundation.org/structuring-the-chief-data-office-for-success.

[7] U.S. House. (2021, October 7). Legislative Hearing on the VA Electronic Health Record Transparency Act of 2021 and IT Reform and Data Collection Bills. Committee on Veterans' Affairs, Subcommittee on Technology Modernization. Available at: https://veterans.house.gov/events/hearings/legislative-hearing-on-the-va-electronic-health-record-transparency-act-of-2021-and-it-reform-and-data-collection-bills.

Finally, there are a great many enhancements to Executive Branch authorities that may still require further action by Congress to support the broader evidence ecosystem. For example, earlier this year the House passed bipartisan legislation acting on the Evidence Commission's headline recommendation, to establish a National Secure Data Service. That legislation was in large part based on a 2020 proposal from the Data Foundation that emphasized the need for congressional direction and oversight.[8] The data service stands to substantially improve researcher and evaluator secure access to linked data, potentially including for supporting analyses of inequities or disparities in government policies and conducting evaluations of education and workforce programs. Ensuring that government's secure data linkage infrastructure and privacy protections are both modern and safe supports researchers and evaluators responsibly using government data to generate insights for application in policymaking. In other words, when researchers and evaluators can access the data they need to answer policymakers' questions, the more likely we are to have reliable and valid evidence available when policymakers' need it. Considering gaps in data access and analytical capabilities is a relevant and necessary role for congressional oversight of the Executive Branch's evidence-building activities.

RECOMMENDATIONS FOR EVIDENCE CAPACITY IN CONGRESS

While the Executive Branch's evidence-building capabilities can be an asset for Congress, it is also important to recognize that there are actions that Congress can and should take to also bolster its capabilities to build or access the evidence needed for key decisions. In 2018, the Bipartisan Policy Center released a set of suggestions right here on Capitol Hill that did just that.[9] The suggestions recognized that there are real and unique challenges that Congress faces in scaling evidence-based policymaking across the institution. Those barriers include perception, institutional, and systemic barriers. The options presented generally suggest strategies for establishing institutional roles, aligning processes, and enhancing capacity in Congress.

Institutionally, actions that could be taken in Congress include creating a chief data officer role for the Congress as a designated leader to promote training and data fluency for staff, as well as improvements to this branch's data infrastructure. Opening access to information means that data can be used and we can learn about how to improve the data while also using them to generate new insights. Congress could also establish an ombudsman or senior staff role who can support aligning evidence needs from members and staff with the research and evaluation community. Notably this is different from relying on the Government Accountability Office (GAO) or the Congressional Research Service (CRS) for expertise, which I know was the topic of a recent hearing from this committee. The idea of an ombudsman is that there would be a clear intermediary to provide expertise in connecting researchers and potential evidence users.

---

[8] Hart, N. and N. Potok. (2020). Modernizing U.S. Data Infrastructure: Design Considerations for Implementing a National Secure Data Service to Improve Statistics and Evidence Building. Washington, D.C.: Data Foundation. Available at: https://www.datafoundation.org/modernizing-us-data-infrastructure-2020.

[9] Davis, E., T. Shaw, N. Hart, and G.W. Hoagland. *Evidence Use in Congress: Options for Charting a New Direction.* Washington, D.C.: Bipartisan Policy Center. Available at: https://bipartisanpolicy.org/download/?file=/wp-content/uploads/2019/03/BPC-Evidence-Use-in-Congress-Volume-2.pdf.

With regards to the congressional support agencies, both GAO and CRS are central resources for Congress when it comes to evidence-informed policymaking. While exploring areas for potential improvements, it may be relevant to consider how CRS could also support more robust systematic reviews which bring together a body of evidence when addressing major policy questions. The value of a legislative support agency also developing these reviews, rather than the Executive Branch or researchers in general, is that the reviews can be better tailored to the legislative process and informational needs of legislators. Similar to CRS, an increased focus on building capacity for using modern evaluation approaches in GAO and with Inspectors General could provide yet another resource for Congress in assessing whether program goals and outcomes are being realized.

When it comes to congressional processes, there is also room for improvement. If committees and staff are unable to tap into the Executive Branch learning agenda process, they could instead establish similar plans for their committees based on known or expected reauthorizations. Rarely can evidence be generated on-demand to meet needs in the rapid and dynamic legislative process, so planning and investing in advance will ensure you have the evidence ready when it is needed. Similarly, planning reauthorization schedules to align with the timeframe needed to build evidence can also ensure new information is available to consider how or whether to modify a program's or policy's design in statute. Programs like Social Security Disability Insurance have operated this way, in part, for recent actions on the program's funding through the use of demonstration projects and congressionally-directed program evaluations. Then, of course, we can think big about time allocations and consider whether biennial budgeting might better align to evidence production and use, as was presented by BPC as an option in its 2018 report.

Perhaps the easiest recommendations to implement are strategies for bolstering overall capacity for evidence-based policymaking through congressional actions. Major new programs and reauthorizations alike should require the production of evidence on effectiveness, including the evaluation of whether and to what extent program goals are achieved. We have seen such requirements in many bills, like the Second Chance Act and the Family First Act, though the expectation for evaluation is not always included. Congress can specifically encourage (or require) agencies to complete studies on goal achievement. Care must be taken to not overprescribe the type of study or the research approach that agencies should employ, but the recognition of the need for data collection and evaluation provides encouragement for those in agencies seeking to build evaluation capacity in order to produce useful evidence.

CONCLUSION

In sum, new technologies and data analysis capabilities – paired with authorities such as the Evidence Act – are now in place to increase the availability of useful evidence for policymaking. Ensuring the evidence informs policy decisions can be a difficult task in Congress and our society. I am encouraged that in recent years the calls for building more evidence and using it have been bipartisan. While every member of Congress may not agree on the meaning of a

particular form of evidence or how to solve an identified problem, starting from a common set of facts forms the basis for healthy democratic debate.

With intentional efforts from Congress, Executive Branch agencies, and the evidence-building community, I am confident that evidence-informed policymaking is one approach to establishing greater trust between the American people and their government. I am also encouraged that this committee is taking a thoughtful, deliberate approach to strengthening this institution while recognizing the important role evidence plays in your decision-making.

Thank you for your leadership on these important issues and for the invitation to join you today.

<div align="center">###</div>

Nick Hart, Ph.D. is President 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. He is a fellow at the Bipartisan Policy Center and with the National Academy of Public Administration. Dr. Hart previously served as the Policy and Research Director for the U.S. Commission on Evidence-Based Policymaking and worked at the White House Office of Management and Budget. He has a doctorate from George Washington University's Trachtenberg School of Public Policy and Public Administration, a Master of Science degree in Environmental Science and Master of Public Affairs degree from Indiana University, and a Bachelor of Science degree from Truman State University.