

The Public Check on Congress

A Proposed Constitutional Amendment



Restoring the Consent of the Governed By Holding Members of Congress Collectively Accountable

Our political system is under great stress. The warning signs are ominous.

- ✓ A self-evident truth is that Congress has long been the broken branch of American politics. The American public has never, in living memory, felt so alienated from our legislators in Washington.
- ✓ Politicians of both parties have become supremely adept exploiters of this alienation for their own purposes. Their routine use of obstruction, blame-gamesmanship, and demonization of the other party have largely supplanted the bi-partisan compromise upon which our system depends.
- ✓ The amount of money in politics has become increasingly obscene. Moneyed interests are now brazenly transparent in their efforts to tilt the system in their favor. While 90% of the public believe this is among the top problems with our political system, members of Congress continue to dodge this problem.
- ✓ These trends highlight the fact that a critical missing piece of our political system is our ability to hold members of Congress adequately accountable for their overall performance. Even in the “wave” election of November, 2018, this “accountability gap” was stark: although the national approval rate for Congress was at 20%, the reelection rate for running incumbents was 90%.
- ✓ Most disturbing of all these warning signals is that many Americans who had gradually been losing faith in our politicians over the years, are now losing faith in our system of government itself. This is particularly true among our younger generations. We have reached the point where more than a quarter of millennials recently responded that it is “unimportant” that we are free to elect our own leaders. Take a deep breath and ask yourself: How long can a democracy survive that level of indifference?

61% of Americans say “significant changes” are needed in the fundamental “design and structure” of American government to make it work for current times.

Pew Research

What do we mean by “collective accountability” for Congress?

Let’s look at it this way. Each member of Congress has two major responsibilities: first, an individual responsibility to the local district or state constituency which elected him or her; and second, a collective responsibility shared with the other members of Congress to act in the best interests of the country as a whole.

Although each member of Congress has both individual and collective responsibilities, they are held accountable through the election process only for meeting the first responsibility, to represent their individual district or state. The nation as a whole has no opportunity for holding members of Congress accountable for meeting their collective responsibility to the nation. The Public Check on Congress (PCC) would be the mechanism by which the American public could fill that accountability gap. Although such a significant structural change to our political system would require an amendment to the Constitution, a rapidly growing majority of Americans are now ready to consider such changes (see p. 1 box).

What are the benefits of the Public Check on Congress (PCC)?

- ✓ A properly constructed PCC would establish a significant penalty for the excessive partisan gridlock, gratuitous obstructionism, toxic demonization and relentless blame-gamesmanship which have become the default behaviors of members of Congress over the past several decades. In their place would be a new strong incentive for Congress to compromise on legislation consistent with the national interest.
- ✓ Among the issues that would be taken up with some urgency by the newly responsive Congress would be reducing the money and special interest influence in politics; establishing immigration policies which combine effective border security with treatment of undocumented immigrants in the country with respect and dignity; striking a reasonable balance between gun rights and gun control; returning to long-forsaken principles of fiscal responsibility; reforming social security and healthcare entitlement programs consistent with long-term affordability and intergenerational fairness; and delivering responsible policies on the environment, defense spending, authorization for use of military force, executive oversight, etc.
- ✓ PCC would be constitutionally designed to occur at infrequent intervals (every 8 years in the formulation shown on p. 3.) Thus, it would oblige members of Congress to think more strategically over a much longer time horizon as they develop their legislation. They would also have to anticipate that many younger citizens who can’t vote in the next local election will be able to vote in the next national PCC referendum on Congress.
- ✓ PCC would reduce the polarization in both Congress and the country. Voters would focus on issues – where we are much less divided – than on personalities where negative advertising exploits the “lesser of evils” nature of all of our current national elections.
- ✓ Here is a scenario you can imagine with PCC: the Leaders of the House and Senate – Nancy and Mitch and Chuck and Kevin – standing together at the end of a PCC cycle to defend their collective record and to lay out their plans for the next cycle.

One Formulation for PCC

The concept of collective accountability for Congress is new. A consensus will have to be built in support of a particular formulation to be inserted into the Constitution. Here is one formulation which can serve as a starting point for that consensus-building effort.

The Public Check on Congress Constitutional Amendment (Draft)

- ✓ ***A nationwide referendum on Congress's overall performance is held once every eight years. Congress needs a 35% approval rating to "pass". If this occurs, there are no further PCC procedures until the next referendum eight years later.***
- ✓ ***If the approval rating is less than 35%, a second, "recall" nationwide vote is held two years later.***
- ✓ ***If, again, the support for Congress is below 35%, then one-third of the members of each house of Congress – the most senior third in terms of total tenure in Congress – are to be replaced by elections held in their home districts and states by no later than the next general congressional election. They cannot run again for either house for ten years. Anyone having left Congress at any time during the prior five years is also ineligible for ten years.***
- ✓ ***Eight years after the replacements are selected, the next PCC referendum is held.***

There are many advantages to this version of PCC:

- ✓ Its effectiveness is based on something near and dear to the heart of most politicians: retention of their jobs.
- ✓ It is totally non-partisan: leaders of both parties are equally at risk.
- ✓ The incentive will be broadly shared – far beyond the one-third on the bubble at the end of the cycle.
- ✓ The focus on the most senior members of Congress assures that those with the most power for the longest period will exercise that power in service to the country.
- ✓ Although the consequences of recall are severe, the PCC hurdle would be a fairly easy one for Congress to cross with adequate performance. It would take two supermajority votes – separated by a two-year grace period – to recall senior members of Congress.
- ✓ Thus, PCC would be far more carrot than stick. The positive vote Congress can routinely expect would strengthen its institutional bond with the public, and provide a nationwide mandate to help it regain "first branch" status as intended by the Founders.
- ✓ There are many reasons for members of Congress themselves to support PCC. In particular, the long period before the first vote – due to the time required for ratification as well as the PCC cycle itself – is a virtual grandfathering of current members. Nonetheless, we should see a dramatic improvement in Congress early in the amendment process.

Next steps.

The Public Check on Congress collective accountability amendment is still in concept form. Much work will have to be done by political scientists, constitutional scholars, and other ahead-of-the-curve thought leaders to find the best formulation.

Once a consensus version starts to take shape, it is easy to imagine PCC quickly gathering public support. For example, three quarters of the public already support a constitutional amendment establishing term limits for members of Congress. PCC would be an improvement on that reform – a credible threat of term limits (i.e., the recall of senior members) with the outcome tied directly to the public’s appraisal of Congress’s performance. Congress, too, would certainly prefer PCC with its contingency on performance, to outright term limits.

The biggest loser with PCC, and thus the source of greatest resistance, is likely to be the moneyed special interest groups and fringe partisan factions which will be forced to surrender much of their influence to the public at large.

Compatibility with other reform proposals.

PCC is highly compatible with most other non-partisan reform proposals. Many of these ideas are intended to improve the current election processes for Senators and Representatives. Open primaries, Ranked Choice Voting, non-partisan redistricting commissions, reforms to expand voter registration and access to the ballot box – all are useful complements to PCC. In the event that the PCC recall trigger is pulled, all replacement members of Congress would be chosen in local elections incorporating whatever reforms that have been implemented.

More information.

The Public Check on Congress is a concept that becomes more compelling the longer one thinks it through. After all, for virtually any other dysfunctional organization or institution that needs a bit more teamwork in order to function properly, you would look for a judicious modification of its incentive and accountability framework. For more information, please contact:



The Public Check on Congress

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Restoring the Consent of the Governed:

The Public Check on Congress Would Hold It

More Accountable for Serving the National Interest



PROUD MEMBER