

Comments for the Record

from Daniel Schuman

Policy Counsel of the Sunlight Foundation

Director of the Advisory Committee on Transparency

for the Committee on Appropriations

Subcommittee on Legislative Branch

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Chairman Alexander, Ranking Member Wasserman Schultz, and members of the Committee, thank you for the opportunity to submit comments on legislation branch priorities for fiscal year 2014. We will address how the House of Representatives can further its efforts to increase legislative transparency.

I am the Policy Counsel for the Sunlight Foundation, a non-partisan non-profit dedicated to using the power of the Internet to increase government openness and transparency, and Director of the Advisory Committee on Transparency, a project of the Sunlight Foundation that brings together organizations from across the political spectrum in support of the Congressional Transparency Caucus' mission of educating policymakers on transparency issues.

Improve Public Access to Legislative Data

In June 2012, the House's leadership declared "Our goal is to provide bulk access to legislative information to the American people without further delay."¹ The ensuing Task Force held hearings and issued its recommendations to the Legislative Branch Appropriations Subcommittee at the close of the 112th Congress on making this pledge a reality. A coalition of organizations submitted its views to the Task Force on the pledge's implementation;² the Sunlight Foundation had previously filed a comment³ on bulk data to the Committee during its hearings on appropriations for FY 2013.

Now is the time to make bulk access to legislative data a reality. We urge the Committee to direct the appropriate agencies to provide bulk access to legislative documents, bill status, summary information, and other legislative data as soon as possible, and no later than 120 days after enactment.⁴ We recommend that platforms that make information available to the public, such as Congress.gov, provide bulk access and, where appropriate, make use of APIs.

In addition, we ask for the immediate creation of an advisory committee composed of members of these agencies and members of the public that regularly meets to address the public's need for public access to this information and the means by which it is provided.

Fully Fund the Office of Congressional Ethics

The Office of Congressional Ethics is the House of Representatives' independent ethics watchdog. It came into existence in March 2008 after a series of corruption

¹ <http://www.speaker.gov/press-release/house-leaders-back-bulk-access-legislative-information>

² <http://sunlightfoundation.com/policy/documents/public-access-legislative-information-recommendati/>

³ <http://sunlightfoundation.com/blog/2012/02/09/put-thomas-on-the-fast-track/>.

⁴ We also ask that the Task Force recommendations be released to the public.

scandals prompted congressional leaders to explore creating a transparent, outside enforcement entity. While OCE is not as robust as originally contemplated, it plays a crucial role in ethics oversight. We believe that OCE should be strengthened in several ways,⁵ but at a minimum, its funding should be sustained at least at current levels after adjusting for inflation.

Publish Widely-Distributed Congressional Research Service Reports Online

Former Senator Daniel Patrick Moynihan famously said that “everyone is entitled to his own opinion, but not his own facts.” In 1914, Congress spent \$25,000 to establish a fact-finding arm whose mission was to gather “data ... bearing upon legislation, and to render such data serviceable to Congress.” A century later, the Congressional Research Service generates hundreds of analytical non-partisan reports on legislative issues each year.

CRS reports often inform public debate. However, unlike its sister agencies that investigate federal spending and analyze the budgetary effects of legislation, CRS does not release its reports to the public on a regular basis. CRS used to share some of these reports with the public, and even now CRS routinely shares its reports with officials in the executive and judicial branches and with the press upon request. (I am referring to the reports that are widely available to members of Congress, not those written in response to a specific request.) Congressional offices also act to disseminate the reports, publishing some on their websites, frequently sending others to constituents in response to requests, and giving them to reporters (often to help push a political narrative.)

But for a member of the public, it’s difficult to access reports generated by the 600-person \$100 million-a-year agency in any comprehensive way. Efforts by non-profit organizations to gather and re-publish the reports online have met with limited success. The private sector has stepped in, selling access to the reports at \$20 a copy, but the premium accentuates the gap between the elites and everyone else.

For more than a decade, organizations and members of Congress have urged that widely-distributed CRS reports be publicly available, and CRS concerns have been refuted by a former counsel to the House of Representatives.⁶ The reports are already digitized and available on Congress’s intranet; it would take a trivial effort to publish them online.

During the markup of the 2012 Appropriations Bill, Rep. Leonard Lance introduced an amendment⁷ that would have required the Clerk of the House and the Secretary of the Senate to maintain a website containing CRS Reports and Appropriation products while protecting confidential advice from CRS. Similar legislation has been introduced this Congress.⁸ We hope that House Appropriators will move to make these

⁵ <http://sunlightfoundation.com/blog/2012/03/26/will-the-houses-ethics-watchdog-be-silenced/>

⁶ <http://pogoarchives.org/m/gp/gp-Brand-1998-2001.pdf>

⁷ <http://sunlightfoundation.com/blog/2011/07/21/what-to-do-about-house-legislative-branch-appropriations/>

⁸ H. Res. 110

reports more readily available to the public, either by requiring CRS to do so or by making explicit the Committee's approval for CRS to publish the reports online.

At a minimum, the Committee should amend language used in its committee reports since 1952 that purportedly restricts the Library of Congress' ability to pay for publishing costs.⁹ This 61-year-old publishing rule was likely intended as a cost-savings measure, a leftover from a bygone era of expensive layout, printing, and distribution costs. It precedes CRS's creation by nearly two decades, and was focused on the concern about meeting the cost of distributing the reports to women's groups. It has no application in the Internet era, and the Committee should be made clear that this rule does not pertain to online publication.

Publish the House Expenditure Reports Online in a data-friendly format

The quarterly House Expenditure Reports contain all spending by the House of Representatives and are currently published online as a PDF. They should be published as data files, such as CSV or XLS, to allow for the public to easily analyze the information. The online publication that started in 2009 was a significant step forward in making the information more widely available, as they had only been published in giant books. Unfortunately, printing columns of data in a PDF does not allow for the data to be analyzed.

To address the problem, the Sunlight Foundation undertakes a significant effort to scrape the data from the PDFs and make them available online as computer-friendly data files.¹⁰ No matter how careful we are, the possibility always exists that we may make a mistake. It's best that the public be able to directly access the data generated by the House in these common computer-friendly formats to guarantee data accuracy and timeliness.

Publish House Support Office and Support Agency Reports Online

The legislative offices and agencies that support of the work of the House of Representatives issue annual or semi-annual reports on their work. These reports are of interest to the public, as they help explain legislative operations and often can help ensure public accountability. While some offices, such as the Chief Administrative Office,¹¹ routinely publish their reports online, others do not, or do not do so in a timely fashion. We urge that the Committee to require all legislative support offices and agencies that regularly issue reports that summarize their activities to publish those reports online in a timely fashion, including back issues.

⁹ For a more in-depth explanation, see my testimony before this Committee in 2011. <http://sunlightfoundation.com/blog/2011/05/11/sunlight-testimony-bulk-access-to-thomas-and-access-to-crs-products/>

¹⁰ <http://sunlightfoundation.com/projects/expenditures/>

¹¹ <http://cao.house.gov/semiannual-reports>

Publish the Constitution Annotated Online

The Constitution Annotated (or CONAN) is a continuously-updated 100-year-old legal treatise that explains the Constitution as it has been interpreted by Supreme Court. Maintained by CRS and printed by GPO, a hard copy is published (and put online) only once a decade, with printed updates every two years. However, CONAN is updated frequently, with those updates available on Congress' internal website. In November 2010, the Joint Committee on Printing directed that the continuously-updated version of CONAN be made available online as a searchable PDF, but it still is not¹². Many organizations have asked that the underlying document be published online in its original (XML) format, which is more user friendly than a PDF, and would take minimal effort to release.¹³

We urge that the web version that is already made available to congressional offices also be made available to the American people in its web friendly format. While publishing the document as a PDF would be a small step forward, the best use of taxpayer dollars to maximize usability would be to publish it in the web-friendly XML format provided to congressional offices.

Restore Funding for Committee and Personal Office Staff and Legislative Support Agencies

A fully-functioning Congress is the best watchdog to spot government waste, fraud, and abuse. Yet, from the late 1970s to the mid-2000s, the total number of House committee staff shrunk by 62 percent, and the number of personal office staff in policymaking roles decreased by 69 percent.¹⁴ GAO is down 2,000 staffers and CRS more than 160. While more recent numbers are unavailable, it's likely that this trend has accelerated with the 11% budget cut over the last 2 years and the Sequester. This is dangerous for democracy, and likely has weakened policymakers' ability to do their jobs while making them more susceptible to special interests. We urge that the House reconsider this perilous path and restore the oxygen that allows Congress to function.

Conclusion

Thank you for the opportunity to submit these comments for the Committee's consideration. We would welcome the opportunity to discuss them further. Please do not hesitate to contact me at dschuman@sunlightfoundation.com or 202-742-1520 x 273.

¹² <http://sunlightfoundation.com/blog/2011/02/14/jcp-directs-enhanced-access-to-3-of-our-nations-vital-legislative-and-legal-documents/>

¹³ <http://sunlightfoundation.com/blog/2010/09/17/20-orgs-ask-for-better-access-to-the-%E2%80%9Cconstitution-annotated%E2%80%9D/>

¹⁴ <http://sunlightfoundation.com/blog/2010/12/21/keeping-congress-competent-staff-pay-turnover-and-what-it-means-for-democracy/>