

PREPARED STATEMENT OF THE AMERICAN ASSOCIATION OF LAW LIBRARIES

Dear Chairman Reed, Ranking Member Braun, and Members of the subcommittee:

Thank you for the opportunity to submit testimony on behalf of the American Association of Law Libraries (AALL) in support of the Fiscal Year (FY) 2023 budget requests of the U.S. Government Publishing Office (GPO) and the Library of Congress.

AALL is a national organization representing more than 3,500 law librarians and legal information professionals. AALL members work in many library settings, including law schools and law firms; federal, state, and county governments; and Federal and State courts. Law librarians and legal information professionals rely on resources and publications provided for free by the GPO, the Library of Congress, and the Law Library of Congress to support the legal research needs of students, attorneys, self-represented litigants, and members of the public.

AALL thanks the subcommittee for its support of the prior year's funding requests of the GPO and the Library of Congress. Past funding has allowed the GPO and the Library of Congress to develop innovative partnerships with Federal agencies and law libraries to digitize, preserve, and provide public access to primary legal materials, including the United States Code and the Code of Federal Regulations. Partnerships between law libraries, the GPO, and the Law Library of Congress promote access to justice by making legal materials easier for legal researchers and the public to find, understand, and use. Recent funding has also enabled the GPO and the Law Library of Congress to create new public resources including legal research guides and online trainings on a variety of government information topics that are helpful to legal researchers, such as how to find Federal legislation on Congress.gov and how to track Federal regulations.

AALL supports the FY 2023 funding requests of the GPO and the Library of Congress because this funding will allow these agencies to continue to build valuable partnerships with law libraries and other stakeholders, pursue digitization initiatives, and expand projects that provide greater access to current and historical legal information in print and online. We urge the subcommittee to approve the FY 2023 funding requests of the GPO and the Library of Congress.

FUNDING FOR THE U.S. GOVERNMENT PUBLISHING OFFICE

The GPO produces, organizes, authenticates, disseminates, and preserves official Federal legal information and government documents for the public. Approximately 200 law libraries partner with the GPO through the Federal Depository Library Program (FDLP) to provide public access to legal materials in print and online. Law librarians and legal information professionals also frequently use the govinfo website to support the legal research needs of law library patrons.

With the subcommittee's support of the GPO's past funding requests, the GPO has increased access to electronic Federal information through the FDLP; partnered with libraries to digitize, preserve, and provide public access to core legal materials and government publications; and added new public collections of primary legal materials to govinfo, including digitized historical volumes of the United States Congressional Serial Set which are now available to the public at no cost for the first time.

AALL urges the subcommittee to approve the GPO's FY 2023 funding request of \$130.9 million. The request will provide the funds the GPO needs to make Federal Government publications available to Federal depository libraries in digital and print formats. AALL is supportive of the goals of the GPO's new task force to study the feasibility of an all-digital FDLP, which comes at a time when some law libraries are updating their collection development policies to select more electronic resources because of changing patron preferences due to the COVID-19 pandemic or for other reasons.

The GPO's funding will also be used to develop the govinfo website, which provides free public access to official publications such as bills and statutes, Federal regulations, and Federal court opinions. We are excited about the GPO's plans to collaborate with Federal partners and libraries to add more information to the govinfo website. Adding information such as historical agency documents and Congressional reports and hearings to govinfo will promote the principles of open, equitable, and reliable public access to legal information that are described in the AALL Guiding Principles for Public Access to Legal Information on Government Websites (AALL Guiding Principles). AALL is proud that GPO endorsed the AALL Guiding Principles in May 2021, and we appreciate the GPO's plans to further develop govinfo.

FUNDING FOR THE LIBRARY OF CONGRESS

The Law Library of Congress provides legal research services and public access to an extensive collection of foreign, comparative, international, and United States law. Law librarians and legal information professionals at academic law libraries and public law libraries often refer patrons to the Law Library of Congress for its unique collections of legal materials in print and online, including the digitized United States Statutes at Large dating back to 1781, official foreign legal gazettes, and Spanish legal documents from the 15th to 19th centuries.

The subcommittee's approval of past funding for the Library of Congress and the Law Library of Congress has enabled the Law Library to digitize, preserve, and provide the public with access to many collections of legal materials from the United States and other countries. The Law Library of Congress' current project to digitize and ingest its legal reports on foreign, comparative, and international law topics including cryptocurrency, artificial intelligence, and data protection is especially helpful to law librarians and legal information professionals because these reports analyze laws in many countries and link to primary sources. The Law Library of Congress' extensive collections of print and online foreign official gazettes dating back to the mid-19th century are also very useful to law librarians and legal information professionals because many of these materials are not available at other law libraries.

AALL urges the subcommittee to support the Library of Congress' FY 2023 funding request of \$871.8 million, including \$17.6 million for the Law Library of Congress. This request will lead to increased access to the Law Library of Congress' collections of legal materials.

The Law Library of Congress' FY 2023 funding request will accelerate progress on the digitization of additional volumes of the United States Congressional Serial Set in partnership with the GPO and the digitization of the United States Supreme Court Records and Briefs. These publications are important to legal researchers and will become even more useful once they are digitized and available for free. The funding request will also allow the Law Library to continue to reclassify legal materials in its collection to make these materials more accessible to the public and to protect important print materials contained in storage.

CONCLUSION

AALL appreciates the opportunity to provide written testimony in support of the FY 2023 funding requests of the U.S. Government Publishing Office and the Library of Congress. Please let us know if we can provide additional information as you develop the FY 2023 Legislative Branch funding bill.

[This statement was submitted by Diane M. Rodriguez, President]

PREPARED STATEMENT OF AMERICAN BAR ASSOCIATION

Chairman Reed and Ranking Member Braun:

I am Reginald Turner, President of the American Bar Association (ABA), which is the largest voluntary association of lawyers and legal professionals in the world. I am pleased to submit this testimony on behalf of the ABA to urge your strong support for the FY 2023 budget request of the Library of Congress. As consumers of the resources of the Library and Law Library of Congress, we cannot overstate the value of these unrivaled world-class institutions to Congress, the legal profession, American business, academia, and the public. We appreciate your support for the much-needed funding increase that the Library of Congress received in FY 2022, and we respectfully request that you fund the Library's FY 2023 budget request in its entirety.

As you know, the Library of Congress is requesting a modest increase for FY 2023 over its FY 2022 enacted appropriation. That increase would, among other things, fund the completion of key projects, increase the Library's resilience against cybersecurity threats, and improve public access to the Library's physical and virtual collections, an increasingly important function as the country emerges from the COVID-19-related quarantine. The proposed increase would also help provide necessary support for the Law Library of Congress, and it would help the Copyright Office to improve its ability to manage, validate, and report on the metrics that affect its user fees that comprise half of its budget.

Founded by Congress in 1800 as its research arm, the Library of Congress is the oldest Federal cultural institution in the Nation. Over its history, the Library has grown into an unparalleled public resource of staggering proportion, housing more

than 168 million items in 90 collections, including books, periodicals, film, and audio recordings. Similarly, the Law Library of Congress, authorized by Congress in 1832, has grown from its modest beginnings to become the world's largest repository of legal materials, including more than 2.9 million legal volumes and periodicals.

The magnitude of these priceless collections in both size and significance to our Nation and to the world cannot be overstated. Their immense scope creates unique challenges, including managing their daily growth and administration. These are our National treasures, and the funding required to keep the Library of Congress and Law Library of Congress running at full capacity is a wise investment of taxpayer dollars.

We know through our 90-year collaboration with the Law Library that it supports all three branches of government with complex foreign, comparative, and international research and guidance. In addition, the executive branch's reliance on the Law Library's foreign law expertise is steadily increasing, as is the number of requests for legal opinions from Federal executive branch agencies.

The Law Library's contributions to Congress during the current pandemic have included over 550 reports on many different subjects, including many involving national security and issues of comparative law relating to government operations in emergency situations. The Law Library conducted research, prepared reports, and collaborated with Federal officials at numerous agencies including the Department of Homeland Security, Department of State, and Central Intelligence Agency (CIA). Responding quickly to the war in Ukraine, Law Library foreign law specialists provided important country-specific information to congressional and CIA staff. In addition to supporting Congress and the executive branch, the Law Library also has continued to leverage technology to increase its contributions to the judiciary, the public, and the legal profession through webinars offered through its Legal Research Institute; expanded access to digitized materials; and continued operation of services such as "Ask a Librarian," its In Custodia Legis blog, and Congress.gov.

The Law Library remains committed to fulfilling its mission of serving Congress and the Nation through the priorities outlined last year, including preserving hard copies of legal materials, further developing access to these materials online through digitization, and strengthening staff expertise in foreign law and collection stewardship. Another important priority is modernizing the Law Library's facilities by replacing its third quadrant of compact shelving, which has become dangerously unusable and houses a significant portion of the world's largest and most comprehensive collection of international, foreign, national, and comparative legal resources. The Law Library of Congress must also address the critical area of cybersecurity to protect congressional and other high-value digital assets within the Law Library. We strongly support these priorities. Because the Law Library does not have an independent line item in the Federal budget, one of the best ways to ensure adequate funding for these priorities is by fully funding the Library of Congress' overall request.

In closing, we respectfully urge you to grant the Library of Congress' funding request for FY 2023 in its entirety. We appreciate the support you have shown for the Library of Congress and Law Library of Congress and hope you will continue to find the means to protect and enhance the value of these treasures built over the past 220 years for all Americans, now and for generations to come.

Thank you for your consideration.

PREPARED STATEMENT OF AMERICAN LIBRARY ASSOCIATION

Chair Reed, Ranking Member Braun, and Members of the subcommittee:

On behalf of the American Library Association, thank you for the opportunity to submit this testimony regarding Legislative Branch Appropriations for Fiscal Year 2023. We respectfully request the Committee's support for the Library of Congress and the Government Publishing Office, which provide important services to libraries and residents nationwide.

LIBRARY OF CONGRESS

The Library of Congress not only serves Congress, but also delivers important benefits for libraries across the country and the American public.

After several years of investment in the Library's Visitor Experience Initiative, the first phase is expected to open in fall 2023. Carrying through on these investments will highlight the Library's unique collections and inspire millions of visitors to learn, create, and innovate.

The Library's services also reach far beyond its walls through programs such as the National Library Service for the Blind and Print Disabled, which serves readers

nationwide who cannot see print or handle print materials. The service supports a network of regional libraries, such as the Rhode Island Office of Library and Information Services' Talking Books Library and the Indiana Talking Book & Braille Library, and is expanding delivery of specialized eReaders to more efficiently and effectively serve braille and talking book users.

GOVERNMENT PUBLISHING OFFICE

The Government Publishing Office provides essential information to America's businesses, legal system, and researchers.

Through the Public Information Programs of the Superintendent of Documents, the Office provides Federal publications in digital and tangible formats to 1,113 libraries nationwide through the Federal Depository Library Program, as well as cataloging and indexing of Federal publications to improve public access. The program supports Americans' access to these publications—including Federal laws, regulations, and reports—through participating libraries, such as the Indiana State Library and the Westerly Library in Rhode Island.

In addition, the Office annually collects and provides access to thousands of new Federal publications to its free online repository, govinfo.gov. To preserve these important documents of our republic, GPO manages a cooperative preservation program with libraries across the country.

CONCLUSION

Thank you for the opportunity to testify before the subcommittee in support of the Fiscal Year 2023 requests of the Library of Congress and the Government Publishing Office. We ask for the subcommittee's support in meeting the requests for these important national programs that serve Congress, libraries, and the American public.

Sincerely,

Gavin Baker
Deputy Director, Public Policy and Government Relations
American Library Association

The American Library Association ("ALA") is the foremost national organization providing resources to inspire library and information professionals to transform their communities through essential programs and services. For more than 140 years, the ALA has been the trusted voice for academic, public, school, government and special libraries, advocating for the profession and the library's role in enhancing learning and ensuring access to information for all.

PREPARED STATEMENT OF BIPARTISAN POLICY CENTER ACTION (BPC ACTION)

Dear Chairman Reed, Ranking Member Braun, and members of the subcommittee:

The Bipartisan Policy Center Action (BPC Action) and our affiliate organization Bipartisan Policy Center (BPC) have actively engaged in strengthening the capacity of our country's governing institutions and building a Congress that is responsive to a diverse nation. BPC Action and BPC believe that if Congress is to effectively govern, it must have the ability to operate effectively and efficiently. Given this challenge, we understand the critical importance of ensuring that the legislative branch has adequate resources and direction to support this mission.

BPC Action's testimony builds on our ongoing work with the Senate including our work to support the Senate subcommittee on Legislative Branch Appropriations' mission. Their work and diverse recommendations, aimed at improving the workings of the legislative branch, including administrative responsibilities, civility and collaboration, staff retention, and science and technology capabilities, are critical to improve the daily functioning of the House. Regarding Fiscal Year 2023 (FY23), we would ask that the subcommittee on Legislative Branch Appropriations consider the following recommendations to further increase congressional capacity.

Promoting civility and collaboration.—BPC Action's core mission is to foster bipartisanship and uphold the best policy proposals from both parties with a pragmatic approach. This means we must push for more ways members and staff can collaborate on legislation and policy priorities. This can be achieved in a multitude of ways, including promoting civility, collaboration, and leadership in party by directing the Architect of the Capitol to explore bipartisan co-working spaces for staff.

Expanding connectivity and technology availability.—For years, civil society organizations have worked with committees and members on Capitol Hill to foster bipar-

tisan conversations and relationships. From presenting research to best practices, these groups have been a vital source of information and have created a forum to promote policy recommendations to help the American people. To continue these efforts, resources should be used to provide information on organizations and resources members can utilize to participate in facilitated conversations with the goal of fostering common ground.

1. Establish a web portal with staff contact information for the House, Senate, and congressional support agencies to enhance the exchange of information. The portal should contain a directory with standardized indicators of issue areas and committees connected with each staff member.
2. Develop and deploy new technology tools to better enable Members and staff to identify policy areas of common interest on which to collaborate.

Focusing on engagement regarding near- and long-term advice by GAO (Government Accountability Office).—Over its history, the GAO has provided critical support through its audits, legal options, program evaluation, technology assessments, and other activities. Despite the tremendous governmental benefits, the agency's capabilities have been limited in keeping pace with the expanse of the Federal Government's programs and expenditures. The GAO's work to provide essential 'oversight, insight, and foresight' requires ongoing vigilance to support Congress' core functions.

1. GAO and other support agencies must take steps to ensure that their products, services, and outreach are designed to adapt to and meet the customer needs of an evolving Congress. This is especially true in terms of timely responses to members' and committees' enquiries to the Science, Technology Assessment, and Analytics (STAA) Team. In the near term, we urge the GAO to direct additional staff to address responses to congressional requests.
2. In the longer term, the GAO should provide additional attention to the "foresight element" when considering issues that are fundamental to impacting longer-term trends and how Congress should be prepared to respond. This horizon-scanning focus within the STAA on health, defense, information technology, climate, and other vital issues is crucial and requires more attention by the agency.

Continuing the GAO audits of congressionally directed spending from members.—The subcommittee should provide report language direction to the GAO to allow them to review and audit members' community project funding requests for FY23. If such requests are included in the appropriate, final subcommittee bills, then the GAO will likely need such approval to continue to examine these additional requests beyond FY22.

Ensuring accessibility.—Changes to the Capitol complex can be a challenging undertaking, but it is important to modernize the space just as much as the governing body. BPC Action supports removing accessibility barriers in the Capitol Complex and believes a directed study is necessary to explore what would help staff, members, and the public with accessibility needs.

Our organization looks forward to continuing to engage with the subcommittee as the FY23 process continues. BPC Action recognizes the challenges you face to ensure that funds and statutory direction is provided for the legislative branch are targeted to address a multiplicity of critical needs.

[This statement was submitted by Michele Stockwell, Executive Director]

PREPARED STATEMENT OF DEMAND PROGRESS

Dear Chair Reed, Ranking Member Braun, and Members of the Committee:

Thank you for your continuing stewardship of Senate operations during these challenging times. This testimony encourages you to further improve access to bills and amendments considered on the Senate floor. Specifically, I urge you to bolster timely access within the Senate to the full text of legislation and amendments being considered on the floor and to improve the tools through which the text can be analyzed. Furthermore, I encourage the contemporaneous publication of bills and amendments considered on the Senate floor to the public. These recommendations implicate the operations of the Secretary of the Senate, the Government Publishing Office, and others.

In making these recommendations, I am aware of the geometrically increasing responsibilities placed on the support offices and agencies that manage the legislative workflow, notably the Secretary of the Senate, Senate Office of the Legislative Counsel, the Parliamentarian of the Senate, Government Publishing Office, and the

House analogues. Efforts to improve the transparency of legislative activity should be coupled with improved workflow and efficiency that lessen the burdens placed on these offices. Accordingly, it is appropriate to consider the full processes by which legislative information is managed in the Senate and elsewhere.

The Congressional Record provides the most complete public source for information for bill text and amendments. However, it is published after the conclusion of legislative proceedings and thereby provides a retrospective look at what happened. In circumstances where bills or amendments were offered on the same day they were considered, there is no systematic concurrent public availability of the text with the deliberations.

The legislative information website Congress.gov provides a user-friendly resource for bill text for congressional staff and the public alike. For various reasons, at times it can take days or weeks for the text of legislation to be available on Congress.gov, and publication may occur after a measure has been considered by the Senate. The Government Publishing Office noted in recent testimony that, on average, it takes a week for introduced legislation to show up online, and at the height of the pandemic there was an 1,800 bill publication backlog that took several months to resolve.¹ Furthermore, Congress.gov does not include the text of Senate floor amendments, but instead provides a hyperlink to the Congressional Record, which is not as user-friendly.

The Senate maintains an internal website available only to individuals with a Senate IP address that provides significant contemporaneous information about pending bills and amendments.² This internal system publishes only the first hundred or so pages of a measure and the text is internally published as image PDFs. These practices add a level of difficulty to reviewing the entire text of a measure and searching and analyzing its contents.

By comparison, the House of Representatives, which operates under significantly different rules, publishes the full text of legislation to be considered on the floor and all proposed amendments thereto on public websites prior to consideration.³ Generally speaking, the legislation is published both as a PDF and as an XML file, the latter of which contains important bill metadata. The House-run websites provide the best official resource for timely access to this information, although in time it becomes available in the Congressional Record and on Congress.gov. In addition, the House's comparative print project uses this data to make it possible for some—and soon all—staff to see in real time how a proposed amendment would modify a bill and how a proposed bill would change the law. One limitation to the House's approach is that most users start their search for legislative information at Congress.gov, which publishes only a subset of this information.

It would be superfluous to address in this testimony the strengths and limitations for internal stakeholders of the current Senate amendment tracking system. With respect to external stakeholders, the current system creates unequal access to information, whereby those with connections to Senate offices can at times gain access to information more readily than those who do not. While some information asymmetries are inevitable, privileged access to public business that currently is the subject of floor debate should be minimized to the extent practically possible.

Congressional offices, the public, and the press need greater assistance with tracking and accessing bills and amendments being debated on the Senate floor. In our modern era, this suggests contemporaneous online availability of the text of legislation and amendments and improved archival access. I encourage the Senate to consider a multi-pronged approach.

First, I suggest a review of the current mechanisms the Senate uses to publish legislative information internally, the fitness and adaptability of technologies used in the House, and an exploration of technologies and tools currently employed inside

¹ Testimony of Government Publishing Office Director Hugh Nathaniel Halpern before the Select Committee on the Modernization of Congress Hearing entitled “Modernizing the Legislative Process” (April 2022), https://modernizecongress.house.gov/imo/media/doc/GPO_TESTIMONY_Modernizing%20the%20Legislative%20Process.pdf.

² The website is the Amendment Tracking System, available at ats.senate.gov. According to the Congressional Research Service, “ATS is a web application that displays images of submitted and proposed amendments to legislation pending before the U.S. Senate. Amendments are available on ATS approximately 15 minutes after the Bill Clerk receives them.” See Policy and Legislative Research for Congressional Staff: Finding Documents, Analysis, News, and Training (2019), Congressional Research Service (R43434), <https://www.everycrsreport.com/reports/R43434.html>.

³ The text of legislation scheduled to be considered on the House floor is published at <https://docs.house.gov/floor/> and prior notice of legislation expected to be considered is published by the House Majority Leader. The text of amendments to legislation scheduled to be considered on the floor is published by the House Rules Committee at <https://rules.house.gov/legislation>.

the Legislative branch (such as Congress.gov) as well as those in other legislatures (such as the UK Parliament).

Second, I suggest an examination of the extent to which the text of legislation and amendments printed in the Congressional Record also are contemporaneously published on Congress.gov, and an exploration of the various points in the legislative process where bill text and amendments exist in final form.

Third, I urge a review of the Senate legislative workflow to facilitate an improved understanding of whether greater efficiencies can be brought to bear on that process. In doing so, it would be productive to sound out a wide variety of perspectives from internal and external stakeholders. Establishing a working group to surface and evaluate these perspectives may yield outsized benefits to the Senate, just as the work of the Legislative Branch Bulk Data Task Force is an ongoing boon for the Legislative branch.

Taken together, this should result in a deeper, shared understanding of the current processes, ongoing efforts to address these issues, and the identification of potential improvements that are implementable in the short-term as well as possible enhancements to the system over the long-term. The perfect should not be the enemy of the good, and steady progress would be most welcome with respect to improving public availability of legislative information with an eye to its publication in interoperable, structured-data formats.⁴ We expect the Legislative Branch Bulk Data Task Force would be an invaluable sounding board concerning building a robust system that can endure and be extended over time.

I encourage you to consider inclusion of the following report language:

- Improving Accessibility of Senate Legislation: The Secretary of the Senate will create a working group to investigate and provide a report within 180 days of enactment to the Appropriations Committee and the Senate Rules Committee, which shall be published online by the Secretary within two weeks of submission, concerning potential issues and possible approaches to develop and implement a timely, centralized, publicly-available repository for Senate bills and amendments set for consideration on the Senate floor. In doing so, consideration should be given to providing that bills, amendments, and other related documents are publicly available prior to or contemporaneously with their consideration by the Senate as well as publication of that information in a structured data format such as United States Legislative Markup (USLM).
- The Senate Accessible Legislation Task Force should be led by the Secretary of the Senate and include the stakeholders she seems appropriate. In forming her recommendations, the Secretary should consult with relevant Senate leadership, committee, and member offices; relevant Senate support offices and agencies; equivalent House leadership, committee, personal, and support offices; members of the Bulk Data Task Force; members of the Legislative Branch XML Working Group; the Government Publishing Office; the National Archives and Records Administration; public stakeholders, including publishers, users, and experts on legislative data as well as repositories of legislative information; select national legislatures from around the world; and others as appropriate. The Secretary should also examine the House document repository docs.house.gov, the House Rules committee website rules.house.gov, and third party free and paid services that publish information about Senate legislation.
- The report should address the feasibility and costs of upgrading the current system used by the Senate, developing a new system inside the Senate or in collaboration with Legislative branch partners, using or extending the House's system as is or with modifications, and doing so with the focus of ensuring that Senate bills and amendments are publicly accessible online for years to come. Furthermore, the Secretary should factor in the extensibility of such a system to incorporate technology similar in purpose to the House's comparative print project as well as to potentially extend to hosting documents and media that relate to the various stages of deliberations, including in committees. The Secretary should also make recommendations concerning facilitating internal and external stakeholder engagement regarding the planning, implementation, and operation of this and successor systems, including drafting a continuing mission statement for the Senate Accessible Legislation Task Force after the delivery of the report. Finally, the Secretary should address how her recommendations improve the workflow and efficient management of legislative information.

⁴The United States Legislative Markup Schema already in use by the Congress would easily satisfy this request. See <https://github.com/usgpo/uslm>.

Thank you for the opportunity to submit this testimony.

[This statement was submitted by Daniel Schuman, Policy Director]

PREPARED STATEMENT OF LINCOLN NETWORK

Chairman Reed, Ranking Member Braun, and Members of the subcommittee:

My name is Dan Lips. I am head of policy at Lincoln Network. I respectfully urge the subcommittee to fully fund the Comptroller General's budget request of \$810 million for the U.S. Government Accountability Office (GAO) for FY2023 (an increase of \$91 million or 12.7 percent).¹ Fully funding this request would allow the Comptroller General to increase GAO's staffing by 100 FTEs. In addition to providing funding, I respectfully urge the subcommittee to consider ways to increase GAO's return-on-investment through several reporting requirements aimed to leverage its nonpartisan oversight to achieve taxpayer savings and other government improvements.

The Comptroller General estimates that GAO's annual return-on-investment has been \$158 to \$1 over the past 5 years. During that period, GAO's work resulted in more than 1,300 program and operational improvements. Overall, GAO's work has resulted in more than \$1.2 trillion in financial benefits since 2002.²

But these positive financial contributions for the Federal Government are only the tip of the iceberg of what GAO could accomplish if the nonpartisan watchdog agency had additional resources and its recommendations were implemented in a timelier manner. For example, GAO States that there are 4,681 open recommendations as of May 27, 2022, including 416 priority recommendations. The latter recommendations could "save large amounts of money" according to GAO.³

How much could be saved if GAO had more resources and agencies acted upon its recommendations in a timely manner? The answer is likely tens if not hundreds of billions of dollars. For example, my review of nonpublic data showing GAO's financial accomplishments from 2002 to 2019 found that more than 200 of GAO's recommendations have resulted in more than \$1 billion in financial benefits during that period.⁴

Fully funding the Comptroller General's FY2023 budget request will increase GAO's capacity to conduct nonpartisan oversight and improve government operations for Congress and American taxpayers. In addition, Congress should explore other ways to increase GAO's return on investment. In the report accompanying the FY2023 funding bill, the subcommittee should include reporting requirements to identify how Congress could achieve taxpayer savings and other government improvements by leveraging GAO's nonpartisan oversight.

First, the Committee should direct the Comptroller General to report to Congress about the feasibility of setting deadlines for Federal agencies to implement open recommendations. According to GAO's 2021 performance and accountability report, GAO's 4-year implementation rate for recommendations made in FY2017 was 76 percent.⁵ That is below GAO's target of 80 percent. Moreover, only 45 percent of GAO's recommendations made in FY2019 were implemented within 2 years.⁶ Improving the timeliness of this implementation rate and helping GAO to achieve its goal of 80 percent implementation within 4 years would drive significant taxpayer savings and government improvements.

In 2015, Deloitte published an analysis of past GAO reports and examined the issue of the timeliness of implementation. Authors Daniel Byler, Steve Berman, and William D. Eggers explained that,

"GAO could address this issue by setting target completion dates for implementing each recommendation and then making real-time data available to the public showing how long it is taking each agency to implement GAO recommendations."⁷

¹ U.S. Government Accountability Office, GAO-22-900396, Fiscal Year 2023 Budget Request (2021), <https://www.gao.gov/assets/gao-22-900396.pdf>.

² U.S. Government Accountability Office, GAO-22-4SP, Performance and Accountability Report Fiscal Year 2021 (2021), <https://www.gao.gov/assets/720/717654.pdf>.

³ U.S. Government Accountability Office, GAO-21-591PR, Priority Open Recommendations: Department of Transportation (2021), <https://www.gao.gov/products/gao-21-591pr>.

⁴ Dan Lips, "Reviewing the Data: How GAO Saves Taxpayer Dollars," Lincoln Network, September 2021, <https://lincolnpolicy.org/2021/how-gao-saves-taxpayer-dollars/>.

⁵ GAO, Performance and Accountability Report Fiscal Year 2021, op. cit.

⁶ Ibid.

⁷ Daniel Byler, Steve Berman, and William D. Eggers, "Accountability quantified: What 26 years of GAO reports can teach us about government management," Deloitte Insights, February

Congress should require the Comptroller General to study and report on the feasibility of establishing target completion dates for open recommendations and publicly tracking the status of agencies' implementation to improve transparency and government accountability.

Second, the Committee should instruct the Comptroller General to report to Congress recommendations for curbing improper payments by establishing a "permanent analytics center of excellence" within the oversight community. In March 2022 testimony, Comptroller General Gene Dodaro explained that Federal agencies reported making \$281 billion in improper payments in FY2021.⁸ This was an increase of \$75 billion in improper payments made compared to the prior fiscal year.

GAO has issued several recommendations for how Congress and Federal agencies could curb improper payments. In addition, GAO's Science, Technology Assessment, and Analytics team has been developing technology solutions to improve payment integrity. The Comptroller General recently described "10 ways to improve oversight of emergency relief funds and future Federal spending."⁹ He recommended that Congress establish "a permanent analytics center of excellence to help the oversight community better identify improper payments and fraud." To help address the annual \$271 billion and growing problem of improper payments, the Committee should require the Comptroller General to provide a report to Congress with specific recommendations to curb improper payments including by establishing a permanent analytic center of excellence within the oversight community.

Third, the Committee should ask the Comptroller General to provide a report to Congress with a blueprint for how the Government Accountability Office could use a more substantial funding increase to expand its oversight, enhance GAO's technical capabilities and create additional taxpayer savings and other government benefits. While the Committee and Congress have provided GAO with funding increases in recent years, the Government Accountability Office continues to operate below its historic funding and staffing levels. Specifically, budget reductions in the 1990s resulted in significant staffing and budget cuts to GAO's operations. If GAO was funded at the same percentage of discretionary spending as it was in the early 1990s, its budget would be more than \$1 billion today.

In 2022 and beyond, additional funding for GAO could be used to enhance the agency's information technology systems and capabilities. Such investments could serve as a force multiplier for the entire organization's work by improving productivity, expanding the work of GAO's Innovation Lab, and protecting sensitive information.

Since GAO routinely returns more than \$150 in financial benefits to taxpayers for each dollar that it is provided, Congress should recognize the substantial taxpayer savings and other government improvements that could be made if GAO fully recovered from the 1990s era budget and staffing reductions. In its FY2023 report, the subcommittee should require the Comptroller General to describe how GAO would expand its staffing and operations if its budget was increased to more than \$1 billion, or more. Specifically, it should explain what it could accomplish and its estimated return on investment should its funding be increased by \$100 million, \$200 million, \$300 million, or more, and the annual rate at which it could absorb such an increase. This report should include a description of how a larger GAO could improve oversight and governance, achieve taxpayer savings, and deepen its responsiveness to members of Congress. GAO should also explore whether there are alternative funding models that might be appropriate to support its work.

CONCLUSION

The funds that Congress appropriates to the Government Accountability Office are among the best tax dollars that the government spends on behalf of the American people. GAO regularly reports a return-on-investment of more than \$150 to \$1. In FY2023, the Committee should fully fund the Comptroller General's budget request and require the Comptroller General to report to Congress on new ways that

2015, <https://www2.deloitte.com/us/en/insights/topics/analytics/text-analytics-and-gao-reports.html>.

⁸U.S. Government Accountability Office, Emergency Relief Funds Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond (2022), <https://www.gao.gov/assets/gao-22-105715.pdf>.

⁹U.S. Government Accountability Office, "GAO Urges Action: 10 Ways to Improve Oversight of Emergency Relief Funds and Future Federal Spending," March 2022, <https://www.gao.gov/press-release/gao-urges-action-10-ways-improve-oversight-emergency-relief-funds-and-future-federal-spending>.

the Legislative Branch can leverage GAO's nonpartisan oversight to make the Federal Government work more efficiently for taxpayers.

PREPARED STATEMENT OF NATIONAL ASSOCIATION OF LATINO ELECTED AND
APPOINTED OFFICIALS (NALEO)

Dear Chair Reed, Ranking Member Braun, and Members of the Legislative Branch Appropriations subcommittee:

Thank you for the opportunity to submit testimony concerning our request for the creation of a Senate Office of Diversity and Inclusion. We are a cross-partisan coalition of organizations concerned about strengthening the diversity of staff that support the work of the United States Senate.

When the 117th Congress was sworn in, it made history as the most diverse congressional class our Nation has ever seen. Despite this historic moment in our country's history, top Senate staffers do not often reflect the makeup of the constituencies they serve, including staffers of racial and ethnic minority groups, veterans, and people with disabilities. An August 2020 report from the Joint Center for Political and Economic Studies revealed that people of color account for nearly 40 percent of the population of the United States, but only 11 percent of top Senate personal office staff.¹

This shortfall reflects a fundamental problem our government has with ensuring that the full spectrum of America's backgrounds and experiences is represented by congressional staff. These discrepancies are particularly troublesome in the wake of an increasing number of elections that continue to produce diverse congressional makeup. In addition, research has found that inclusive staffing is associated with many positive benefits, including creativity, innovation, objectivity, productivity and positive working environments.²

Congressional staff provide indispensable assistance and irreplaceable institutional knowledge to senators as they conduct their legislative, oversight, and constituent services duties. Nevertheless, low staff pay is a barrier to entry into the senatorial hiring pipeline, inadvertently biasing the hiring pool towards those individuals with sufficient financial resources to supplement their salaries. In addition, low pay creates incentives for experienced staff to depart the Senate to the Executive branch and private sector, which have significantly higher average salaries. These two factors, working in tandem, impact staff diversity.

In 2019, the House of Representatives took a major step toward addressing diversity and created its Office of Diversity and Inclusion (OD&I) in its Rules package at the start of the 116th Congress,³ which may serve as a useful model for the Senate. House Rules required the OD&I to develop a diversity plan,⁴ which addresses:

1. policies to direct and guide House offices to recruit, hire, train, develop, advance, promote and retain a diverse workforce;
2. the development of a survey to evaluate diversity in House offices;
3. a framework for the House of Representatives diversity report; and
4. a proposal for the composition of an Advisory Council to inform the work of the Office.

House Rules also require the OD&I to submit an annual demographic and diversity report. The study involves surveying House staffers to determine their demographic characteristics (e.g., race/ethnicity, gender, military status), and analyze how demographic diversity within the House of Representatives compares to that of private sector organizations and the broader Federal Government. Furthermore, the OD&I proposed it oversee the undertaking of the House's annual compensation

¹ See, "Racial Diversity Among Top Staff In Senate Personal Offices" p. 2. The Joint Center for Political and Economic Studies (August 2020). https://jointcenter.org/wp-content/uploads/2020/08/2020-Senate-Report-Draft_08-21-20-5AM.pdf.

² Dutton, Jane E. and Robert B. Duncan, "Strategic Issue Diagnosis and Creation of Momentum for Change." *Strategic Management Journal* 8, no. 3 (1987): 279-295; Wiersma, Margaret F. and Karen A. Bantel, "Top Management Team Demography and Corporate Strategic Change." *The Academy of Management Journal* 35, no. 1 (March 1992): 91-121; Maddock, Su. "Change You Can Believe In: The Leadership of Innovation." *The Whitehall Innovation Hub*, Sunningdale Institute, National School of Government. (April 2009) https://www.researchgate.net/publication/264541467_Change_you_can_believe_in_the_leadership_of_innovation.

³ See, H. Res 6 (116th), section 104(d) (p. 40), <https://www.govinfo.gov/content/pkg/BILLS-116hres6eh/pdf/BILLS-116hres6eh.pdf>.

⁴ See, Section by Section Analysis of H. Res 6 (116th Congress), House Rules Committee p. 11 at <https://docs.house.gov/billsthisweek/20181231/116-HRes6-SxS-U1.pdf>.

and diversity study, in part to record staff job satisfaction, benefits and compensation satisfaction, and perceptions of their workplace diversity climate. These suggestions are reasonable, and we commend them to you.

The purpose of gathering and publishing this information on staff diversity is to strengthen the pipeline of capable and diverse staff hired and retained by the Senate by providing information about the current state of play. This will let us know how the Senate is doing as an institution and suggest where further improvements can be made. It is not intended to draw public attention to the operations of any particular office, nor should it intrude upon the privacy of any individual.

We urge the committee to appropriate funds for the creation of its own OD&I Office. The House established the OD&I as an independent office, reporting directly to the authorizing committee, and has seen immense success in its operations and information gathering. We do not have a perspective on where to situate a Senate OD&I, although there is value in having it be more visible and independent because that would assist with its mission of supporting the hiring and retention of capable, expert, diverse staff.

Thank you for the opportunity to submit testimony to the committee.

PREPARED STATEMENT OF NATIONAL SECURITY COUNSELORS

Chairman Reed, Ranking Member Braun, and members of the Legislative Branch Appropriations Subcommittee, thank you for the opportunity to submit this written testimony.

The Government Accountability Office plays a critical role in Congressional oversight of the Executive Branch. Unfortunately, that role may be stymied when it comes to the Intelligence Community (“IC”). Despite the fact that, by statute, GAO already has the purview to conduct oversight of all Federal agencies¹ and has since its creation in 1921,² the IC has, with a few exceptions, insisted that it is not subject to such audits since its inception. This effectively deprives Congress of one of the most effective tools in its arsenal, especially at a time when the activities of the IC present some of the most pressing needs for robust oversight in the Executive Branch. I respectfully recommend that Congress take steps to conclusively validate GAO’s jurisdiction in such matters.

In response to the IC’s recalcitrance, some Members of Congress have periodically attempted to resolve the matter over the past few decades. For instance, then-Congressman Leon Panetta introduced a bill in 1987 called the CIA Accountability Act to officially clarify GAO’s authority vis-à-vis the Central Intelligence Agency (“CIA”) and the IC as a whole.³ Unfortunately, it was not enacted. In 1988, GAO attempted to conduct an investigation “[i]n order to evaluate whether ‘information about illegal activities by high level officials of other nations may not be adequately considered in U.S. foreign policy decisions,’” leading the National Security Council to request an opinion from the Department of Justice Office of Legal Counsel which has been cited ever since:

We therefore conclude based on the nature of the GAO request that the subject of the GAO investigation is the Executive’s discharge of its constitutional foreign policy responsibilities, not its statutory responsibilities. The subject is thus not “a program or activity the Government carries out under existing law,” and it is beyond GAO’s authority under 31 U.S.C. § 717(b) . . .

In addition to the infirmity in GAO’s statutory authority to pursue this investigation, we believe that GAO is specifically precluded by statute from access to intelligence information. In establishing by law the oversight relationship between the intelligence committees and the executive branch, Congress indicated that such oversight would be the exclusive means for Congress to gain access to confidential intelligence information in the possession of the executive branch.

¹ See 31 U.S.C. §§ 712, 717, 3523(a) (GAO has authority to investigate each “department, agency, or instrumentality of the United States Government.”).

² Budget and Accounting Act, Public Law 67–13, 42 Stat. 26, June 10, 1921 (“All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them.”).

³ H.R. 3603, available at <https://fas.org/irp/eprint/panetta-1987.pdf>.

This intelligence oversight system has been codified at 50 U.S.C. § 413. That section sets forth requirements for the Director of Central Intelligence, the heads of all other Federal agencies involved in intelligence activities, and the President to inform the Congress through the intelligence committees (and in some circumstances the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate) of intelligence activities.⁴

Over two decades later, this fight was still underway. When an amendment to the FY2010 Intelligence Authorization Act (“IAA”) sought to reaffirm GAO authority, it prompted a veto threat in the form of a letter from Director of the Office of Management and Budget Peter Orszag,⁵ which Acting Comptroller General Gene Dodaro thoroughly refuted, demonstrating that “[n]either the language of section 413 nor its legislative history provides support for this position” and that the IC’s resistance “has greatly impeded GAO’s work for the intelligence committees and also jeopardizes some of GAO’s work for other committees of jurisdiction, including Armed Services, Appropriations, Judiciary, and Foreign Relations, among others.”⁶

Despite Mr. Dodaro’s testimony, the enacted law took a middle-of-the-road approach, stating that clarification was necessary but deferring to the Executive for that clarification, instructing the Director of National Intelligence (“DNI”) to “issue a written directive governing the access of the Comptroller General to information in the possession of an element of the intelligence community.”⁷ The DNI, for his part, issued Intelligence Community Directive 114 the following year, which reluctantly admitted that GAO had some authority to investigate the IC, but adopted a severely restrictive interpretation of the scope of that authority:

Information that falls within the purview of the congressional intelligence oversight committees generally shall not be made available to GAO to support a GAO audit or review of core national intelligence capabilities and activities, which include intelligence collection operations, intelligence analyses and analytical techniques, counterintelligence operations, and intelligence funding. IC elements may on a case-by-case basis provide information in response to any GAO requests not related to GAO audits or reviews of core national intelligence capabilities and activities.⁸

In other words, GAO can investigate anything involving the IC that the Intelligence Committees cannot, which amounts to basically nothing. Moreover, this is not an academic dispute: in response to a question about this matter from Congressman Yoder in 2018, Mr. Dodaro explained that this remained an ongoing controversy, although the situation is minimally better than it was before 2010:

Mr. YODER. Do you need additional support from Congress—

Mr. DODARO. Yes.

Mr. YODER [continuing]. Or direction to the intel agencies to make sure they are aware that this is an authority you have?

Mr. DODARO. Yes, that would be helpful.⁹

When Mr. Dodaro testified before the House subcommittee in 2019 regarding GAO’s FY2020 budget, Chairman Ryan again asked him about this matter, and Mr. Dodaro again remarked that GAO needs “the cooperation of the Intelligence Community” because GAO “ha[s] more difficulties when the request comes from non-intelligence committees,” concluding, “I think we could do more, particularly in the management area, and in the investments that are made, in that area, whether there’s good return on the investments in all cases.”¹⁰ And in his testimony before

⁴Investigative Authority of the General Accounting Office, 12 Op. Off. Legal Counsel 171 (1988).

⁵Letter from Orszag to Feinstein of 3/15/10, available at <https://fas.org/irp/news/2010/03/omb031610.pdf>.

⁶Letter from Dodaro to Feinstein of 3/18/10, available at <http://www.pogoarchives.org/m/co/dodaro-letter-to-intel-committees-20100318.pdf>. Mr. Dodaro concluded that reaffirming GAO’s authority in this area “would prove beneficial both to the conduct of oversight by the intelligence committees and to the efficiency and effectiveness of IC operations.”

⁷50 U.S.C. § 3308.

⁸ICD 114(D)(4)(b), available at https://www.dni.gov/files/documents/ICD/ICD_114.pdf.

⁹Legislative Branch Appropriations for 2019: Part 2, Fiscal Year 2019 Legislative Branch Appropriations Requests, Hearings before the Subcomm. on the Legislative Branch of the House Comm. on Appropriations, 115th Cong., 2d Sess. 310 (Apr. 25, 2018) (testimony of Comp. Gen. Gene Dodaro) (testifying that GAO has been able to investigate peripheral matters in the IC such as “a facilities area” and contract management in the last few years).

¹⁰Available at <https://www.youtube.com/watch?v=G3WU2uZMlyk>.

that subcommittee in 2020, Mr. Dodaro testified, “It’s the same status as it was last year. Congress could work with the Intelligence Committees to provide better direction to the intelligence agencies to cooperate with us.”¹¹

In fact, however, even the involvement of the Intelligence Committees is not sufficient to overcome the IC’s reliance on ICD 114 to obstruct meaningful GAO access. In a meeting in 2019 with staffers from the House Legislative Branch and Defense Appropriations subcommittees, a member of the Defense subcommittee’s staff dismissed the need for reform, arguing that IC components do not refuse GAO requests for information if GAO was acting pursuant to an Intelligence Committee request. That presumption is unfortunately false. One need only consider the example of AR 13–5, the internal CIA regulation which implements ICD 114. This regulation directly addresses the question of how the Agency should respond to a GAO request for information when GAO is acting under the direction of an Intelligence Committee:

As a general rule, if GAO makes a request on behalf of or to obtain information responsive to a tasking by an intelligence oversight committee, the [Point of Contact (“POC”)] will ensure that the CIA response to GAO does not contain information prohibited in paragraph b.(2)(c)(3) above.¹² The response to GAO shall indicate that information responsive to the tasking, but not authorized for release to GAO under the provisions of ICD 114, shall be made directly available to the requesting intelligence oversight committee. The POC shall prepare an additional response for the intelligence oversight committee that contains information responsive to the committee request, but not authorized for GAO access.¹³

In other words, if GAO asks CIA for any information which would fall under the jurisdiction of an Intelligence Committee, CIA will simply refuse to cooperate, but if an Intelligence Committee tasks GAO to make the request, CIA will still refuse to provide the information to GAO, but instead will send the information directly to the relevant Intelligence Committee. In neither situation does GAO receive the requested information.

GAO possesses significantly more resources and institutional expertise in certain kinds of Executive Branch investigations than even the most robust committee staff, and there is frankly no reason for this arbitrary restriction on its authority. Congress gave the Executive Branch a chance to establish reasonable limitations which balanced the Executive’s legitimate interests with one of the most important functions of Congress-effective oversight. Instead of crafting a reasonable policy, the DNI memorialized the IC’s original hard-line position.

I recommend this subcommittee include language to remove any doubt concerning GAO’s audit power over the IC by advancing a measure that reStates Section 335 of the FY2010 IAA, as engrossed by the House of Representatives in February 2010.¹⁴

Not only would taking such a measure resolve a longstanding problem, but it would be revenue neutral, since it would not require GAO to take on any more responsibilities than it already has; it would only open the universe of matters it may investigate. When one considers the fact that the number of GAO employees with Top Secret/Sensitive Compartmented Information (“TS/SCI”) clearances is higher than the combined number of staffers employed by both Intelligence Committees, it is clear that these artificial restrictions on GAO’s authority are causing Congress to expend more financial and manpower resources to accomplish less oversight over a significant portion of the Executive Branch. In a time of crisis, when agencies across the Government are spending vast amounts of time, money, and resources to combat a once-in-a-century threat, it is more important than ever that GAO be able to investigate allegations of governmental waste, fraud, abuse, and violations

¹¹ Available at <https://www.youtube.com/watch?v=uaRnD62qun4>. Mr. Dodaro’s testimony last year reiterated the same point, see <https://www.youtube.com/watch?v=-PQWaMSJG7Y>.

¹² That paragraph reads: Information that falls within the purview of the congressional intelligence oversight committees generally shall not be made available to GAO to support an audit or review of intelligence collection operations; covert action; intelligence capabilities related to national intelligence activities; counterintelligence operations; intelligence analysis and analytical techniques; intelligence sources and methods; or intelligence budgets or funding; (including records or expenditures made under the authority of 22 U.S.C. 2396(a)(8) or 10 U.S.C. 127, 7231 and 50 U.S.C. 403j(b)).

¹³ CIA, AR 13–5: Comptroller General Access to Information in the Possession of the CIA, §(b)(3), available at <http://docs.house.gov/meetings/AP/AP24/20200304/110517/HHRG-116-AP24-Wstate-McClanahanK-20200304-SD001.pdf>.

¹⁴ Available at <https://www.gpo.gov/fdsys/pkg/BILLS-111hr2701eh/pdf/BILLS-111hr2701eh.pdf>.

of law wherever they may be found. It is time for Congress to assert its prerogatives to protect its oversight capabilities over all agencies.

[This statement was submitted by LiKel McClanahan, Executive Director]

PREPARED STATEMENT OF PRESERVATION TECHNOLOGIES, L.P.

ISSUE

The Fiscal 2022 budget for the Library of Congress included language regarding the mass deacidification program budget request: "Preservation of the Collection.-The Committees recognize the Library currently has over \$2,000,000 available through September 30, 2022, for the purposes of the de-acidification preservation program. Upon the exhaustion or expiration of those funds, whichever comes first, the Committees will evaluate the need for the continuation of the program." The funds allocated for the mass deacidification program will be exhausted before the end of this September. This testimony is a request to continue funding for this program for fiscal 2023.

REQUEST TO CONGRESS

We respectfully encourage Congress for Fiscal Year 2023 to reinstate the mass deacidification line item as was included in Fiscal Year 2021 for \$3.0 million with the intention to focus on the preservation of the remaining high value acidic titles expected to stay in the Library's collections and for newly acquired acidic material upon receipt by the Library.

JUSTIFICATION

The Library of Congress has been a world leader in the development and use of mass deacidification for preventive preservation of acidic collections. The Library has used mass deacidification to preserve more than five million acidic books and nearly 20 million acidic documents in the past 22 years as part of a 30-year plan to preserve up to 7.5 million books identified as candidates for treatment. Acidic books have pages that contain residual acid from the paper making process. The acid turns the paper brittle, sometimes in just a matter of decades. Deacidification is a chemical process that neutralizes the acid in paper, thereby extending the useful life of books and documents by hundreds of years. Institutions across the country benefit by using this technology to preserve their collections.

The focus of the deacidification program has been to preserve important book collections documenting American history, family genealogy, literature, law, science, rare foreign titles, and nearly all sections of the Library. Documents preserved from the Library's Gold Manuscript collections include the NAACP archives including Martin Luther King, Jr.'s papers and also the Federal Writers Project, part of the depression era Works Progress Administration (WPA) featuring authors like Eudora Welty and William Faulkner.

The Library proposed for FY 2021 to stop the deacidification program and reassign the budget to other activities. The Library is stopping the program too suddenly when there are still several hundred thousand high value books and millions of manuscript pages considered as top priority for preservation, and in a way that will ultimately hurt the preservation programs of other important institutions. Concluding the program by a controlled reduction is in the best interest of the Library and its collections. Stopping the program could jeopardize collections, jobs, and the long term preservation of books and archives across the Nation.

As justification for closing the program, the Library has asserted that storage at Fort Meade is more cost effective than deacidification. This plan is flawed for several reasons:

Reduced temperature storage is not the same as deacidification.

- Reduced temperature storage slows but does not stop the chemical reaction between acid and paper. The acidic paper will still age much quicker than alkaline paper no matter how it is stored and at any temperature. Deacidified paper will last 3–5 times longer than acidic paper under all storage temperatures, and the benefit of deacidification is further enhanced if stored at lower temperatures.
- All modern paper is produced in an alkaline process. Deacidification turns the older, acidic paper into alkaline paper. To achieve the life extension equivalent to alkaline paper, whether stored in the current stacks on the Hill or in new storage at reduced temperatures, the acidic paper still needs to be deacidified.

Cold storage is not a practical solution.

- The Library has consistently reported on the significant quantity of important acidic material remaining in their collections—more than 2 million books and millions of documents—that would benefit from deacidification. Paper is acidic because of the method of production, and acidic materials are distributed throughout the collections in the Library. To send the remaining millions of acidic books to cold storage requires the Library to do what we are already doing—search for these books one by one to extract them from the collections. Then they must send them to perpetual cold storage instead of deacidifying and returning them to stay with their collections.
- The other method would be to send entire collections into cold storage as a way to make sure the acidic books are protected. The projected cold storage capacity will not have nearly enough space to allow this option.
- Neither method is practical. The Library has not indicated how to deal with the remaining millions of acidic books and over what time schedule. It should be clear that a significant quantity will remain on the Hill for the foreseeable future continuing to weaken from acidic attack.

Cold storage is not a guaranteed solution.

- There are cost and energy policies to consider. Using cold storage to slow the rate of deterioration only works if the paper is stored in cold conditions forever, incurring higher energy and maintenance costs. It is easy to envision a future situation when the temperature in the storage facility will be increased either to save costs and/or to reduce energy consumption driven by climate change, energy policy, or simple budget requirements. The point is that deacidification fixes the problem today for life. Cold storage reduces the problem only as long as the storage temperature is cold.

The Library needs to continue the Fort Meade storage module program because it is out of space for proper storage of its collections. Reducing the temperature is better for all paper, but cold storage is not a “quick fix” to eliminate the need to deacidify the collections.

The current modules at Fort Meade are already near their storage capacity and still the stacks in the Capitol Hill complex are full. Construction of new modules has been delayed by budget concerns. The Library has testified that the rate of construction of new modules at Fort Meade is unable to keep up with the acquisition rate of new materials. This means the collections stored on the Hill will continue to exist in roughly the same quantity and storage conditions for the foreseeable future. Those acidic materials kept in the storage on Capitol Hill for the next 20 years will be losing 100 years or more of usable condition.

Recommendations to Congress:

Preservation of the most critical acidic books and unique manuscript materials via deacidification should remain a priority for the Library. Mass deacidification is the most effective and lowest cost program for preserving the Library’s acidic materials. For the past 20 years, Congress and the Library of Congress have been making the financially responsible decision to use deacidification as the primary method of preservation for our acidic collections. The best policy would be to finish the program as originally envisioned. Recognizing that the Library has other priorities, and it desires to retire the program, we believe the best course is to allow for a controlled ramp down rather than a hard stop to the program.

1. We respectfully request Congress reaffirm its strong support for mass deacidification and direct the Library of Congress to continue the program of mass deacidification to preserve the Library’s unique manuscript collections and the remaining high value acidic books.
2. We respectfully request Congress restore the line item for mass deacidification and appropriate an amount of \$3.0 million to fund this program of mass deacidification for one additional year with the intention to preserve the remaining “Top Priority” books as quickly as possible to give maximum benefit to the collection before retiring the program.
3. We respectfully request Congress to consider that cancelling the deacidification program now would have a significant negative impact on research institutions outside the Library. The Library is the largest customer for deacidification services and establishes the standards and the market for this technology for other institutions. Current estimates are that 90 percent of culturally important materials held outside the Library on acidic paper are at risk of loss and not available in digital or other means of access. Programs to preserve these materials are underway but not yet sufficiently developed. Cancelling the Li-

brary's program effectively eliminates the availability of the service to other institutions.

WHO WE ARE

Preservation Technologies, L.P. is the recognized worldwide leader in this field with the only technology capable of meeting the standards for preservation by deacidification set by the Library of Congress. From its headquarters location just north of Pittsburgh, Pennsylvania, Preservation Technologies provides preservation services, equipment, and supplies to institutions throughout the U.S. and internationally. In 2017, the company won the President's "E" Award for Export Service presented by the U.S. Department of Commerce.

[This statement was submitted by James Burd, CEO]

PREPARED STATEMENT OF PROJECT ON GOVERNMENT OVERSIGHT

Chairman Reed, Ranking Member Braun, and Members of the Senate Appropriations subcommittee on the Legislative Branch, thank you for the opportunity to submit testimony on closing the gaps in legislative branch inspectors general coverage and coordination. I am Liz Hempowicz, director of public policy at the Project On Government Oversight (POGO). POGO is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. We champion reforms to achieve a more effective, ethical, and accountable Federal Government that safeguards constitutional principles.

Inspectors general (IGs) provide independent, professional, and nonpartisan oversight over various government operations, helping to uncover evidence of waste, fraud, abuse, and malfeasance. The inspector general system that was established for the executive branch in 1978 has largely been a success. Similarly independent watchdogs are also uniquely positioned to provide objective oversight of legislative branch components.

The COVID-19 pandemic and the January 6 attack on the U.S. Capitol laid bare the urgent need to increase coordination across Congress and its agencies related to cyber security and information sharing. Currently, congressional information and technology is too often managed on an ad-hoc basis and in multiple silos. The legislative inspector general community is not immune to those challenges.

Within the legislative branch, there are a number of information, technology, and cybersecurity gaps in inspector general coverage. There are currently five inspectors general situated within legislative branch agencies: the inspector general for the Library of Congress, the inspector general for the United States Capitol Police, the inspector general for the Government Accountability Office, the inspector general for the Government Publishing Office, and the inspector general for the Architect of the Capitol.¹

However, significant offices remain without oversight, including the Office of Congressional Workplace Rights, Office of Attending Physician, and others. Additionally, while the rules of the House establish an inspector general for the House of Representatives, there is no similar inspector general overseeing the work of the Senate.²

And even when individual watchdogs are in place, gaps in the legislative inspector general system can limit their efficacy. There is no coordinating council for legislative branch inspectors general that enables information sharing and the creation of best practices standards, as the Council of the Inspectors General on Integrity and Efficiency (CIGIE) does for executive branch IGs.³ Perhaps most importantly, current legislative IGs may lack sufficient independence to best enable rigorous oversight.⁴

¹ Ben Wilhelm, Congressional Research Service, Appointment Methods for Legislative Branch Inspectors General, IN11763 (September 28, 2021), 2, https://www.everycrsreport.com/files/2021-09-28_IN11763_00e696b72ee4f22f53ad6b5af75c55e7e2721847.pdf.

² Rules of the House of Representatives, 117th Cong., Rules II–III (February 2, 2021), <https://rules.house.gov/sites/democrats.rules.house.gov/files/117-House-Rules-Clerk.pdf>.

³ 5 U.S.C. App. § 11 (2022), <https://www.law.cornell.edu/uscode/text/5a/compiledact-95-452/section-11>.

⁴ To give executive branch inspectors general the requisite independence, the Inspector General Act of 1978 includes a requirement that inspector general nominees are selected "without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations"; a prohibition against the head of an agency from interfering in IG investiga-

With all of this in mind, I urge the Appropriations Committee to request the Government Accountability Office to produce a report examining the gaps in independent oversight within the legislative branch inspector general system. Specifically, the report shall determine these gaps, identify conflict areas and offices that are not covered, and make recommendations around structures and best practices to properly protect IG independence within the legislative branch, using the executive branch as a model where it may be helpful. In doing so, I would encourage the GAO to consult with CIGIE and other internal and external stakeholders with expertise around inspectors general. Given the urgency around these issues, I would recommend the committee ask for such a report to be published no later than 180 days after the passage of the Fiscal Year 2023 Appropriations Bill.

Thank you again for the opportunity to submit this testimony.

[This statement was submitted by Liz Hempowicz, Director of Public Policy]

PREPARED STATEMENT OF THOMAS SUSMAN

Introduction. Chairman Reed, Ranking Member Braun, and Members of the Committee, thank you for the opportunity to submit testimony addressing the need to enhance public access to Legislative Branch information. My name is Thomas Susman, and I am testifying today in my personal capacity. I'm no stranger to either the Legislative Branch or to transparency: I served on the Senate Judiciary Committee and various subcommittee staffs for over 12 years and am currently on the boards of a number of organizations whose mission is to enhance public access to government information, including Open The Government, the National Freedom of Information Coalition, and the D.C. Open Government Coalition. By way of background, as a Senate staffer I helped shepherd through the post-Watergate amendments to the Freedom of Information Act in 1974 that largely created the law we know today and have been involved in access-to-information matters ever since.

BACKGROUND

The Federal Advisory Committee on the Freedom of Information Act, appointed by the Archivist of the United States and comprised of an equal number of government and private sector representatives, adopted the following recommendation¹ by unanimous vote in November 2020:

Congress should adopt rules or enact legislation to establish procedures for effecting public access to legislative branch records in the possession of congressional support offices and agencies modeled after those procedures contained in the Freedom of Information Act. These should include requirements for proactive disclosure of certain information, procedures governing public requests for records, time limits for responding to requests, exemptions to be narrowly applied, and an appeal from any initial decision to deny access.

Congress has, in many ways, historically been the most transparent of the branches and in recent decades has taken additional steps to increase public access to its work. Every congressional committee has a website that contains bills and hearing transcripts, and every House and Senate member has a website replete with information about the member's positions, speeches, activities, and bills. Congressional leadership offices publish details of the legislative agendas, and Congress.gov provides online access to bills and legislative histories. Congress has in many ways already taken steps to embrace transparency in recognition of its importance to the public.

The legislatures of many States and foreign countries have long been fully subject to the requirements of their access-to-information laws. However, you will note that

tions; and a dual reporting structure where an inspector general reports to both the agency head and to Congress. 5 U.S.C. App. §3 (2022), <https://www.law.cornell.edu/uscode/text/5a/compiledact-95-452/section-3>; Kathryn A. Francis and Michael Green, Congressional Research Service, Federal Inspectors General: History, Characteristics, and Recent Congressional Actions, R43814 (July 20, 2016), 5, 7, https://www.everycrsreport.com/files/20160720_R43814_c8b393d645313cc24a2b7a1bb8c1cb4abe072ccd.pdf; Restoring Independence: Rebuilding the Federal Offices of Inspectors General: Hearing before the House Oversight and Reform Committee subcommittee on Government Operations, 117th Cong. 1, (April 20, 2021) (testimony of Liz Hempowicz, director of public policy, Project On Government Oversight, <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Hempowicz%20Testimony.pdf>).

¹Recommendation 2021-01 available from the National Archives Office of Government Information Services (OGIS) at <https://www.archives.gov/files/ogis/assets/fac-rec-2021-01.pdf>.

the recommendation quoted above does not propose that the U.S. Congress be subject to the Federal Freedom of Information Act (FOIA); it recognizes and respects unique features of the Legislative Branch and the special relationships that members have with each other, with staff, and with constituents, as well as the potential constitutional issues that application of the FOIA might implicate. There are still, however, a number of steps that Congress should take to enhance public understanding of legislation and the legislative process, to improve accountability of some of its offices, and to make its records more readily available to the public and media.

The case for greater transparency.—There is no principled reason why the public's right to know should not apply to support offices and agencies of the Congress, discussed in greater detail below. Most of those offices perform functions similar or even identical to those performed by executive branch entities that are fully covered by FOIA, such as law enforcement (Capitol Police); auditing, buildings and grounds maintenance (Architect of the Capitol); inspecting and adjudicating (Government Accountability Office); budgeting (Congressional Budget Office); publishing (Government Publishing Office); enforcing rights (Office of Congressional Workplace Rights); maintaining the library (Library of Congress); and performing research and drafting reports (Congressional Research Service and Law Library of Congress).

It is not just their functions that these legislative branch entities have in common with their executive branch counterparts; they are funded by the same taxpayer dollars that pay for executive agencies, and they often have the same or greater impact on the lives of individuals, the viability and profitability of businesses, and the activities of all levels of government and all the political subdivisions in our Nation. While confidential aspects of the lawmaking process may merit special consideration, the routine work of government does not.

Some of the congressional offices and support agencies understand this message. The Government Accountability Office, although not legally subject to FOIA, has adopted "FOIA-like" regulations. GAO acknowledges that "While GAO is not subject to the [FOIA] . . . GAO's disclosure policy follows the spirit of the act consistent with its duties and functions and responsibility to the Congress." GAO reports and an array of other GAO resources are available online. And the U.S. Copyright Office is fully subject to the FOIA and has adopted regulations implementing the procedures for administering its requirements.

I'd like to highlight two support agencies where Congress has expressed concern in the past regarding public access to information and where this Committee should press forward toward requiring that information be more readily available to the public.

U.S. Capitol Police.—A call for greater transparency of the U.S. Capitol Police (USCP) began before the events of January 6, 2021. Congressional appropriators inserted language in the House report on the 2021 Legislative Branch Appropriations Bill calling for "USCP Information Sharing" as follows:

While the USCP is not subject to the [FOIA] . . . the Committee encourages the USCP to develop a policy and procedure for the sharing of information that follows the spirit of the Freedom of Information Act. This policy should be consistent with, and not interfere with, USCP's primary function of protecting the Congress.

The Joint Explanatory Statement echoed this refrain:

USCP Information Sharing.—The Department is encouraged to continue increasing its efforts to communicate with Members of Congress, congressional employees, and the public about events occurring around the Capitol complex in a manner that is consistent with and does not interfere with its primary mission of protecting the Congress and the legislative process.

After January 6, 2021, the calls for greater public access to USCP information increased, and last year congressional appropriators once again, this time in more forceful terms, included language in the House report of the 2022 Legislative Branch Appropriations Bills, which directed:

USCP Information Sharing: While the USCP is not subject to the Freedom of Information Act (FOIA) (5 USC 552), the Committee directs the USCP to develop a policy and procedure for the sharing of information that follows the spirit of the Freedom of Information Act. This policy should be consistent with, and not interfere with, USCP's primary function of protecting the Congress.

The Joint Explanatory Statement repeated the call for information sharing:

USCP Information Sharing.—The Department is encouraged to continue increasing its efforts to communicate with Members of Congress, congressional employees, and the public about events occurring around the Capitol complex in a manner that is consistent with and does not interfere with its primary mission of protecting the Congress and the legislative process.

Police departments across the country are waking up to the value of increasing transparency; it may be time for a wake-up call for the USCP in next year's appropriations bill with clearer and even stronger direction to USCP to move forward with a FOIA-like information access regime.

Congressional Research Service.—The Congressional Research Service (CRS) of the Library of Congress has been producing informative reports for decades. And the public—also for decades—has been denied direct, full access to that body of taxpayer-funded knowledge. Yes, there has been significant progress, made at the direction and encouragement of this committee. But there is still a long way to go. Historical CRS reports need to be proactively available to the public online. They are already digitized by-and-large, so the next step of providing the public access to all these reports is but an easy one—and one that Congress should mandate. This is not a call for public availability of confidential CRS reports, but rather the ones that already can be shared with any staffer who asks. For a model of what can be accomplished, look to the Law Library of Congress, which undertook a digitization and online publication effort for its Legal Reports, with thousands of reports now online from the 1940s forward and with efforts to publish additional historical reports on the internet that continue on a rolling basis.

Proactive disclosure.—Beyond CRS reports, there are other sets of records that should routinely be made available to the public without the need for a request. Examples include the following: Legislative Branch inspectors general reports; Congressional Budget Office conflicts-of-interest disclosure forms; Legislative Branch budget justifications and semiannual reports; and unclassified reports from agencies to Congress. Some of these documents are already published online, but that practice should be consistent and universal.

Conclusion and recommendations.—In proposing to expand access to Legislative Branch records—both through FOIA-like procedures and through proactive disclosure on a congressional website—I am mindful that there may be a need for redaction of specific information that may involve disclosing classified matters, revealing ongoing criminal investigations, or constituting a clearly unwarranted invasion of personal privacy. Every access regime respects the need to protect certain categories of information. In addition, there may be circumstances that are unique to the legislative branch that would require further investigation prior to implementation.

Accordingly, I encourage the Committee to charge the GAO, which has the most robust FOIA-like process, to make recommendations for applying a FOIA-like process to congressional support offices and agencies. This analysis should exclude the personal, committee, and leadership offices in the House and Senate. I recommend the following report language:

Public Records Information Sharing for Legislative Agencies Based on FOIA Advisory Committee Recommendations.—Within 180 days, the Government Accountability Office shall make recommendations to the House and Senate Legislative Branch Appropriations committees, the Committee on House Administration, the Senate Rules Committee, and publish on its website recommendations concerning the creation and implementation of a uniform public records request process for congressional support offices and agencies modeled after the Freedom of Information Act and inspired by the recommendations of the FOIA Advisory Committee. In constructing an implementation plan, the GAO shall consult with the FOIA Advisory Committee, experts on the Freedom of Information Act, representatives of civil society and the press, affected congressional offices and agencies, and others as it deems fit. The GAO shall recommend statutory language and regulations to implement a public records request-and-appeals process that vindicates the public's right to know to the maximum extent practicable, sets standards for information that an agency should proactively disclose, establishes uniform processes and standards to all congressional support offices and agencies, and provides for independent review of agency determinations consistent with our constitutional framework.

Congress has come a long way in opening its proceedings and records to access by the public. But its work is not complete, and this subcommittee has the jurisdiction and authority to press forward to the next level of legislative transparency.

I appreciate the opportunity to present this testimony.

PREPARED STATEMENT OF VERDANCE LLC

Chair Reed, Chair Leahy, Ranking Member Braun, Vice Chair Shelby, and Members of the Committee, thank you for the opportunity to submit testimony on establishing a Task Force to study how and whether Congress should create a Congressional Digital Service.

My name is Alex Prokop, and I am a public interest technologist. I was a software engineer on the team that rebuilt HealthCare.gov in the wake of its technology failure. In 2020 and 2021, I had the opportunity to serve the House Select Committee for the Modernization of Congress as a digital service fellow under Chairman Kilmer and Ranking Member Graves. Last year, I founded a company called Verdance to pursue the mission of making government digital services more adaptable, efficient, and effective.

Over the past 2 years, Congress has made laudable technology improvements. The Senate Sergeant At Arms developed the e-signature tool Quill that now is successfully deployed in both chambers, making digital signatures on sign-on letters commonplace. Additionally, the Senate has successfully implemented remote and hybrid hearings. The Senate should build on this progress and position legislative branch technology for transformational change.

I urge the committee to establish a Congressional Digital Service Task Force, which also has been recommended by the House Select Committee on the Modernization of Congress.¹ The purpose of this task force would be to assess and evaluate the technology challenges across the entirety of the Legislative branch, to evaluate the various approaches to ensuring Congressional technology evolves at a healthy pace and meets Congress's institutional challenges, and to make recommendations on how best to constitute a Congressional Digital Service that serves the entirety of the Legislative branch.

The list of potential challenges for a digital service team is long, but here are a few:

A Congressional Digital Service could act as a bridge to create software tools shared by chambers and offices.

The Senate, House, and support office and agency technology ecosystems are almost completely fractured. Even for broadly comparable needs, the Senate and House develop their own solutions. The rollout of Quill was one bright moment of successful technology collaboration. A properly empowered Congressional Digital Service would ensure that Quill is an exemplar of things to come, and that Congress can share and co-develop technology between the chambers and offices where appropriate, creating cost savings and increasing productivity.

A Congressional Digital Service could develop a unified cloud services strategy for the Congressional technology ecosystem.

The Legislative branch currently lacks a consistent and mature approach to cloud hosting of software systems. Cloud hosting offers many cost and efficiency savings over on-premise services and will unlock the development of new, productivity-increasing tools, which is why the private sector and many executive branch agencies have long ago moved many of their systems to the cloud. Despite some progress, Legislative branch offices and agencies have yet to widely adopt cloud hosting services as a leading choice for new systems. A Congressional Digital Service could consult with offices and develop a unified cloud strategy—it is unlikely that one will come to exist otherwise.

A Congressional Digital Service could assess unserved committee technology needs.

Committees have inconsistent support concerning putting together their technology toolset. While there are bespoke projects, so far there is not yet a comprehensive look across committee needs to discover where the biggest common pain points and potential solutions are. A Congressional Digital Service could spearhead such an effort and uncover tools to save taxpayer dollars and streamline committee operations.

A Congressional Digital Service could help fill gaps in legislative processes that are currently unsupported by digital tools.

The absence of digital tools supporting some Congressional processes wastes valuable staff time and causes avoidable errors. House Majority Leader Hoyer and Leader McCarthy sponsored a Congressional Hackathon in April 2022. At the hackathon, a team of Congressional staff and technologists outlined a list of technology gaps.

¹The Select Committee on the Modernization of Congress—116th Congress Recommendations, 95th recommendation <https://modernizecongress.house.gov/116th-recommendations>.

A Congressional Digital Service could identify those gaps on an ongoing basis, and ensure that the right bridges are built between offices to handle them.

A Congressional Digital Service could create a standing, high level technology capacity to support Congress in times of crisis.

Investment in a modern digital service organization will give the Legislative branch needed standing capacity to solve urgent technological needs as they arise. The U.S. Digital Service was established in the wake of the HealthCare.gov crisis, and serves as a non-partisan home for expert technologists in the executive branch. The injection of talent it provided has kept many tech issues from reaching front-page status across both Democratic and Republican administrations. Last year, many compared the launch of CovidTests.gov to the launch of HealthCare.gov. Where the latter was famously unusable for weeks after launch, the former delivered on its promises from day one, and did not suffer downtime or major glitches. When the urgent need arose, expert U.S. Digital Service staff was already in place to connect the dots between organizations to handle it. Congress will face such moments in the future, and a Congressional Digital Service would bolster this branch with needed high-level technology capacity.

Since the U.S. Digital Service was started in 2014, many States and cities have started their own digital service offices. These digital service organizations are not cure-alls, but on balance and over the long term we have seen government technology capacity increase dramatically since 2014 as a result of digital service offices and initiatives. If properly constituted, empowered, and funded, a Congressional Digital Service could play the same role in the Legislative branch. We believe the committee should create a task force composed of internal and external stakeholders to study how to properly constitute a Congressional Digital Service and make recommendations to you.

We recommend the following report language to accomplish this purpose:

Congressional Digital Service Task Force.—Congressional operations depend upon technology, but the Legislative branch is often insufficiently empowered and coordinated when it comes to purchasing technology and providing technological services. The Executive branch responded to similar operational challenges by creating the U.S. Digital Service, which hires technologists to build tools that make government work better for the American people. We note with favor the recent creation of the Congressional Digital Service within the House's Chief Administrative Office. A more expansive, sophisticated, and coordinated approach to the provision of technology and technological services across the Legislative branch would help members better serve their constituents.

To address these and other questions, the committee directs the establishment of a Congressional Digital Services Task Force composed of staff representatives of the Secretary of the Senate; the Senate Sergeant at Arms; Member, Committee, and Leadership offices; the Library of Congress; the Congressional Research Service; the Government Publishing Office; the Government Accountability Office; and such other congressional offices as may be appropriate and invites the participation of public stakeholders and representatives from appropriate offices in the House to examine these and any additional issues it considers relevant and to provide a report to the committee within 180 days that also shall be made publicly available.

Thank you once again for the opportunity to provide testimony to the Committee.

[This statement was submitted by LiAlex Prokop, Founder]