

LEGISLATIVE PROPOSALS TO SUPPORT MODERN-
IZING THE CONGRESSIONAL RESEARCH SERV-
ICES AND THE USE OF FEDERAL DATA

HEARING
BEFORE THE
SUBCOMMITTEE ON MODERNIZATION
OF THE
COMMITTEE ON HOUSE
ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

MARCH 20, 2024

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March 20, 2024

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON MODERNIZATION,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:32 a.m., in room 1310, Longworth House Office Building, Hon. Stephanie Bice [Chair of the Subcommittee] presiding.

Present: Representatives Bice, Steil, Carey, and Kilmer.

Staff present: Annemarie Cake, Professional Staff and Deputy Clerk; Marian Currinder, Senior Professional Staff; Alexander Deise, Parliamentarian; Kristen Monterroso, Director of Operations and Legislative Clerk; Michael Platt, Staff Director; Jordan Wilson, Director of Member Services.

OPENING STATEMENT OF HON. STEPHANIE BICE, CHAIRWOMAN OF THE SUBCOMMITTEE ON MODERNIZATION, A U.S. REPRESENTATIVE FROM OKLAHOMA

CHAIRWOMAN BICE. The Subcommittee on Modernization will come to order.

I note that a quorum is present. Without objection—thank you—the chair may declare a recess at any time.

The hearing record will remain open for 5 legislative days so Members may submit any materials they wish to be included therein.

Thank you, Ranking Member Kilmer—and Subcommittee Members and the chairman I think will be here shortly—as well as our witness for taking time today to be with us.

This is the Modernization Subcommittee's first legislative hearing. We will be learning more about two bills and one resolution that have been referred to the Subcommittee, and we will have the opportunity to dive into what problems these measures address and what solutions they propose.

This should go without saying, but legislative hearings like this one provide an important forum for Members to gather information, ask questions, and form opinions or positions on the legislation before us.

Legislative hearings are consistent with regular order, but we do not see a lot of them at the Subcommittee level these days, and the same is true of markups on the Subcommittee level. As the chair,

I think the Subcommittee process is important, and that is especially true here as we consider bills that directly relate to our mission to improve and modernize the institution and implement the recommendations of the Select Committee on Modernization.

Today we will hear about two measures related to the Congressional Research Service's ongoing efforts to modernize the way the agency works on behalf of Congress. We will also learn more about a resolution introduced by my colleague, Ranking Member Kilmer, and cosponsored by full Committee Member Ranking Member Morelle, that is based on a Select Committee recommendation to create a congressional commission on evidence-based policymaking.

The Modernization Subcommittee held a hearing in April of last year to examine CRS' efforts to improve their processes and products in ways that reflect how today's Congress operates. It was clear then that more work was needed, but I am pleased to say that we have seen the agency take positive steps to improve culture and modernize operations.

I fully recognize the work CRS analysts do to support Congress. That work is invaluable. I am encouraged and excited with the results recent changes have yielded, and I look forward to the continued progress and the modernization of CRS.

Robert, I want to personally thank you for your leadership. On that note, I am pleased that we are joined today by Robert Newlen, CRS' interim director, who, in addition to speaking about the two CRS-related bills on the agenda today, will update the Subcommittee on some of the agency's ongoing efforts to improve and enhance services.

Mr. Newlen will discuss the underlying problems that the two CRS bills address and explain how they will help strengthen the agency's mission to support Congress.

I would like to note that for all Members of the Subcommittee, we jointly introduced these bills as we all saw value in what they set forth to accomplish.

Access to Federal agency data is critical to CRS' mission to provide timely and accurate research and analysis to Congress. The agency's current statute, which has not been seriously modified in 50 years, needs to be updated to reflect new forums and uses of data.

The Select Committee on Modernization recognized this problem and recommended enhancing support agency access to Federal data, and the bill we are discussing today does just that.

The Select Committee also recommended examining legislative support agency authorities more broadly to determine if they need to be updated, and this bill is certainly consistent with that goal.

I will say here that our intention continues to be a larger examination of CRS' organic statute, with an eye toward developing more modern authorities and Congressional directives that better support CRS' work and more accurately reflect the needs of Congress today.

We look forward to working with you, Mr. Newlen, your successor, and your entire team in this very important endeavor.

Modernizing how CRS produces and provides access to the Constitution Annotated is also consistent with the goal of updating

how the agency serves Congress. CONAN, as this massive tome is known, has been available online since 2019.

Would you like to, you know, take a gander at this? There we go.

Mr. KILMER. Bicep work.

CHAIRWOMAN BICE. There you go, yes.

Mr. KILMER. It is an arm—

CHAIRWOMAN BICE. Let us turn that around so you can see it.

The digital version is regularly updated and has gotten millions of views since its inception, and meanwhile, producing this hard-bound version is costly. According to the most recent estimates available from CRS and the GPO, the 2012 hard-bound CONAN cost taxpayers approximately \$1 million to produce. We are waiting on estimates for the 2022 version but expect they will be nearly the same.

Getting rid of this behemoth print requirement enhances efficiency and is a very easy, cost-saving measure.

The second panel today includes three witness experts who can share additional views on Congress' access to the use of Federal agency data. They will shed light on legislative and executive branch interactions and provide perspective on some of the challenges analysts face accessing data and how the work that CRS does on behalf of Members and staff is impacted when analysts cannot get data.

Understanding the different ways that data can inform the policymaking and oversight process is another important part of the conversation and is consideration—in considering bipartisan—I am sorry—is considering partisan bias in data and how we ensure the data is accurate and reliable.

At this time, I will now recognize the Ranking Member, Mr. Kilmer, for the purpose of providing an opening statement.

[The prepared statement of Chairwoman Bice follows:]

**PREPARED STATEMENT OF HON. STEPHANIE BICE,
CHAIRWOMAN OF THE SUBCOMMITTEE ON MODERNIZATION**

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Understanding the different ways that data can inform the policymaking and oversight process is another important part of the conversation and is consideration—in considering bipartisan—I am sorry—is considering partisan bias in data and how we ensure the data is accurate and reliable.

OPENING STATEMENT OF HON. DEREK KILMER, RANKING MEMBER OF THE SUBCOMMITTEE ON MODERNIZATION, A U.S. REPRESENTATIVE FROM WASHINGTON

Mr. KILMER. Thanks, Madam Chair. Thanks to our colleague and the witnesses who are here at our inaugural legislative hearing on the Subcommittee, so way to go.

I think I am excited about the three bills that we are taking up today. I think taken collectively, they bring us closer to the Subcommittee's mission of making Congress work better for the American people. Each one of these bills harkens back to a problem that we identified on the ModCom.

The Modernizing the congressional Research Service's Access to Data Act is—speaks to recommendation 33, which states that congressional support agencies should report on challenges and potential solutions for accessing Federal data.

Director Newlen, thank you for doing just that, which paved the way forward for this bill.

CRS statute, developed in the 1970's, states that Federal agencies need to comply with data requests from Congress to serve Congressional Committees, and it mentions that CRS is responsible for otherwise assisting individual Member offices with information requests. However, given the lack of explicit statutory reference to personal offices, you have indicated that you at times have struggled to access necessary information from Federal agencies to execute your mission of serving Committees and personal offices alike.

Your customer service mission to Congress is very important. As I have mentioned before the Subcommittee previously, my team and I regularly use CRS. The amendments and bills and letter ideas we put forth are better because of CRS' involvement and support to us.

Thank you for not putting out a restraining order against my team.

It matters that you have access to the Federal data you need to do your jobs, to update reports on timely and pressing issues proactively, and in response to specific requests, that you have access that is on par with that provided to other legislative branch support agencies, like the CBO, for example.

I am a proud cosponsor of H.R. 7592 to this end, and look forward to hearing your testimony on that and that of the second panel.

Speaking of further Select Committee recs that remain open and we will touch on today, recommendation 140 states that Congressional Committees, including this one, should examine support agency authorities and determine if they need to be updated.

Thank you again, Director Newlen, for bringing the CONAN issue to our attention in the spirit. You know, this is about saving money. This is about making sure that there is continued access for information.

The American people can receive better information online, and we can save valuable CRS staff capacity and time and taxpayer dollars. Again, proud to cosponsor that bill as well.

Then, finally, want to mention the congressional evidence-based policymaking resolution. Part of what makes this Subcommittee work, and what sets us apart, is our commitment to looking at problems, collecting a common set of data and facts about them, and then respectfully negotiating the potential solutions, and then charting a path forward. Call me an optimist, but I think that this institutions and Members of both parties from every ideological persuasion could benefit from a similar approach.

Simply put, though, we need sound evidence and nonpartisan facts about the pressing problems facing the American people that would allow us to better design policies to measure their impact, to conduct oversight, and ultimately to improve outcomes for the American people.

The Select Committee on the Modernization of Congress proposed the establishment of a bipartisan, bicameral Commission on Evidence-Based Policymaking to facilitate this, which would be accomplished by this bill.

This commission approach is supported by precedent as well. Former Speaker Paul Ryan and the senior Senator from my home State, Patty Murray, previously led an effort to establish such a commission specific to the executive branch, which was an effort I was proud to support. That commission effort cleared the House under suspension of the rules and the Senate on unanimous consent. It was signed into law in 2016. It was signed into law by President Obama. The recommendations that stem from the Commission were turned into overwhelmingly bipartisan changes from the Foundations for Evidence-Based Policymaking Act, which was signed into law in 2019 by former President Trump.

The problems we face as a Nation are hard, but the idea that we will deliver more for our constituents and for our country with a common set of facts does not have to be hard.

One of our witnesses today, Nick Hart, with the Data Foundation, was involved in those past executive branch efforts and can shed some light on how the legislative branch can get this right.

Thanks again to my colleagues, thank you to Subcommittee Chair Bice, our Subcommittee colleagues, and to each of our witnesses for taking time to be here today. Look forward to your thoughts and suggestions regarding these bills, and just appreciate your partnership on this important work of trying to make Congress work better for the people we represent. With that, I yield back.

[The prepared statement of Ranking Member Kilmer follows:]

**PREPARED STATEMENT OF RANKING MEMBER OF THE
SUBCOMMITTEE ON MODERNIZATION DEREK KILMER**

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CHAIRWOMAN BICE. Thank you, Mr. Kilmer.

At this time, I would like to recognize the full Committee Chairman, Mr. Steil, for the purpose of providing opening remarks.

OPENING STATEMENT OF HON. BRYAN STEIL, CHAIRMAN OF THE COMMITTEE ON HOUSE ADMINISTRATION, A U.S. REPRESENTATIVE FROM WISCONSIN

Chairman STEIL. Thank you, Chair Bice, and thank you to the work that you and Ranking Member Kilmer are doing on the Subcommittee on Modernization. You can tell there is energy on it because we have a full room, including your daughter, Ainsley, who is here with us today, and so shout-out there.

Today's Subcommittee's first legislative hearing, where we will be focusing on two bills related to the Congressional Research Service and a resolution focused on the possibility of a new congressional commission on evidence-based policymaking is, as you said, Mrs. Bice, it is important that the legislative process, even at the Subcommittee level, be carried out to achieve our mission, and that

mission is to modernize the institution. A Congress that is modern is a Congress that can be more efficient.

Two of the bills we are looking at today will help modernize CRS and support the work of Congress, making our institution more effective. We will look into a possible evidence-based congressional commission to help ensure that Congress can successfully use agency data in its policymaking and oversight, and I look forward to seeing where these conversations take us today.

Again, thank you to you, Subcommittee Chair Bice, Ranking Member Kilmer, for your work today, and our witnesses as well. I yield back.

[The prepared statement of Chairman Steil follows:]

**PREPARED STATEMENT OF CHAIRMAN OF THE COMMITTEE
ON HOUSE ADMINISTRATION BRYAN STEIL**

Chairman STEIL. Thank you, Chair Bice, and thank you to the work that you and Ranking Member Kilmer are doing on the Subcommittee on Modernization. You can tell there is energy on it because we have a full room, including your daughter, Ainsley, who is here with us today, and so shout-out there.

Today's Subcommittee's first legislative hearing, where we will be focusing on two bills related to the Congressional Research Service and a resolution focused on the possibility of a new congressional commission on evidence-based policymaking is, as you said, Mrs. Bice, it is important that the legislative process, even at the Subcommittee level, be carried out to achieve our mission, and that mission is to modernize the institution. A Congress that is modern is a Congress that can be more efficient.

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Again, thank you to you, Subcommittee Chair Bice, Ranking Member Kilmer, for your work today, and our witnesses as well.

CHAIRWOMAN BICE. Thank you, Chairman Steil.

We now welcome Mr. Robert Newlen, the interim director of the congressional Research Service. Mr. Newlen has a 42-year career at the Library of Congress, holding leadership positions in CRS, the Law Library, and as deputy librarian of Congress.

Mr. Newlen has also held a variety of positions in the American Library Association, which include serving as a member of the executive board and senior trustee of the ALA endowment. He was the recipient of the ALA Medal of Excellence in 2016 for, quote, creative leadership of high order, particularly in library management.

He most recently served as the executive director and director of strategic initiatives of the Dwight D. Opperman Foundation in Phoenix.

We appreciate your service, Mr. Newlen, and we appreciate you being here with us today. We are grateful for all of the work you have done and continue to do at CRS.

A couple of housekeeping items. Please remember to press the button on the microphone in front of you so that the light is green. When you begin to speak, the timer in front of you will turn green. As previously agreed to by the Subcommittee Members, you will have 7 minutes for your opening statement. After 6 minutes, the light will turn yellow. When the red lights comes on, the 7 minutes

has expired, and we kindly ask that you would please conclude your remarks.

At this time, Mr. Newlen, I recognize you for 7 minutes.

**STATEMENT OF MR. ROBERT RANDOLPH NEWLEN, INTERIM
DIRECTOR, CONGRESSIONAL RESEARCH SERVICE**

Mr. NEWLEN. I am not seeing a green light.

CHAIRWOMAN BICE. You are good.

Mr. NEWLEN. I am good? Thank you. Thank you.

Chairwoman Bice, Ranking Member Kilmer, and Members of the Subcommittee, thank you for the opportunity to testify before you today, especially at your inaugural hearing, about CRS' need for legislative fixes that will support its modernization efforts and ensure access to Federal data and other information needed to effectively serve Congress.

I have three goals today. First, I will outline some of the challenges CRS faces in securing from—securing information from Federal agencies. Second, I will make the case for the savings and efficiencies to be gained by transitioning to a digital-only Constitution Annotated. Finally, I will highlight CRS' progress with modernization over the past year and the initiatives the Service has undertaken to ensure that it continues to provide exceptional service to the 21st century Congress.

It has been my honor to serve as the interim director of CRS. I have just completed 9 months, and it has been both rewarding and challenging. There is much more to be done, but I am confident that CRS is moving in the right direction, and it will be in a good place when the new director begins several months from now.

My goal has been to identify areas of CRS' operation where we can reduce costs, add value, and maximize the return on the taxpayers' investment without diminishing service to Congress. I have also closely reviewed the recommendations of the Subcommittee which have guided my activities as director, and technology has been one of our highest priorities.

I feel confident that the legislative initiatives discussed today support these goals. I believe strongly in institutional stewardship, and you might think of me as a loving critic of CRS.

I am also mindful, Chairwoman Bice, of our conversation early in my tenure when we discussed the topic of return on investment for the resources invested in CRS, and that has been a guiding mantra for me. Thank you.

CRS' mission is to provide Congress with timely, objective, non-partisan research, analysis, and information. Access to the data and other information held by Federal agencies is critical to CRS' ability to effectively carry out this important responsibility.

Generally, CRS has been successful in securing the information that it needs. However, there have been instances when the Service encountered resistance from Federal agencies. Agencies have responded with directions to CRS to file Freedom of Information Act requests, require disclosure of congressional office requesting the information, and requested confidentiality assurances.

In other instances, agencies have ignored or simply refused the request. This sort of agency resistance can delay CRS' response to congressional clients and impede the Service's ability to inform and

advise Congress utilizing the most authoritative information available.

CRS' governing statute provides limited authority to enable the Service to address these challenges. CRS is authorized to make information requests to Federal agencies and requires those agencies to provide the requested information only when the request is, quote, authorized by a Committee, unquote, and then only when CRS is acting as an agent of the Committee.

The limitation to CRS' work for Committees leaves the Service with no formal authority to acquire information it needs to support individual Member offices or to conduct anticipatory research and analysis.

CRS' current information access authority originates from a time when Congress operated primarily under a Committee-centric structure. As legislative activity has become more dispersed, CRS' workload has expanded to include more requests from individual Member offices. In Fiscal Year 2023, for example, CRS responded to over 57,000 requests from individual Member and other congressional offices.

Broader authority is required to ensure the Service's access to the information needed to effectively serve all congressional users. The authority CRS is seeking would be comparable to that currently provided to our sister agencies, CBO and GAO.

CRS is also requesting elimination of the statutory requirement to publish the Constitution Annotated in hard-bound copy. I brought my own copy. You will have—

CHAIRWOMAN BICE. These are the only two copies that exist currently? I do not—

Mr. NEWLEN. Currently, the Librarian of Congress is directed by statute to print a decennial revised edition of CONAN after every tenth term of the Supreme Court and cumulative pocket part supplements every 2 years in between the decennial edition. The cost of printing these copies are significant to both CRS and the Government Publishing Office. Production costs for the 2012 version of CONAN, as you mentioned earlier, Chairwoman Bice, totaled nearly \$1 million, primarily in GPO.

As you know, CRS, in collaboration with the Law Library of Congress and the Library's Office of the Chief Information Officer, launched a new website for CONAN in 2019. The site features a search capability and hundreds of pages of constitutional analysis and content prepared by CRS' legal staff. The website has been overwhelmingly successful since its launch, and it has received over 50 million views.

Given the success of the CONAN site, CRS has requested amendment of CONAN's authorizing statute to require its preparation in digital form only. Transition to a digital-only Constitution Annotated would provide significant savings in time, labor, and taxpayer dollars, and permit CRS to better deploy its resources toward the production of content for future enhancements of the website.

Modernization initiatives—since I have just a short amount of time, I am going to go through those. We have been very actively pursuing interactive graphics, infographics, and story map prototypes. We are exploring many projects with artificial intelligence applications. I will be happy to tell you more about those. We are

working to strengthen our data and analytics capabilities. We also feel very privileged to participate in the new Agency Connection Center in the Longworth Building. This is going to be a wonderful form of outreach, and we are very grateful for having you include that.

In conclusion, I want to express my appreciation to the Librarian of Congress, Dr. Carla Hayden, for the opportunity to once again serve alongside CRS' talented staff. A constant in CRS is the staff passion and dedication to serving the Congress.

On behalf of my—excuse me, am I hoarse—on behalf of my CRS colleagues, I want to thank the Subcommittee for its continued support, and I welcome your questions. Thank you.

[The prepared statement of Mr. Newlen follows:]

PREPARED STATEMENT OF ROBERT RANDOLPH NEWLEN

**Statement of Robert Randolph Newlen
Director, Congressional Research Service
Before the
Committee on House Administration
Subcommittee on Modernization
U.S. House of Representatives
March 20, 2024**

Chairwoman Bice, Ranking Member Kilmer, and Members of the Subcommittee,

Thank you for the opportunity to participate in this hearing regarding the Legislative Proposals to Support Modernizing the Congressional Research Service (“CRS” or “Service”) and the Use of Federal Data. Access to federal data is an issue of great importance to CRS, as access to timely, reliable information is critical to its ability to provide high quality research, analysis, information, and consultative assistance to Congress. I look forward to discussing CRS’s need for enhanced authority to obtain access to the information and data needed to carry out this important responsibility. In addition, I will briefly address CRS’s legislative request to cease hardbound printing of the Constitution of the United States: Analysis and Interpretation (“Constitution Annotated” or CONAN). I will also bring the Subcommittee up to date on several initiatives underway to ensure that CRS is fulfilling its mission in the delivery of products and services that best meet your needs.

CRS LEGISLATIVE REQUESTS BEFORE THE 118TH CONGRESS

As part of the Library of Congress’s Legislative and Appropriations Request to the 118th Congress, CRS has submitted two proposals to ensure greater access to the resources needed to effectively serve Congress and to promote more efficient utilization of its existing resources. The proposed amendments and CRS’s need for the legislation are discussed below.

CRS Access to Federal Agency Information

CRS’s access to the records, data and other information held by executive branch agencies is essential to its ability to provide Congress with timely, authoritative research and analysis. The Service’s authority to obtain such information is derived from section 203(d) of the Legislative Reorganization Act of 1946, as amended, which provides in relevant part:

“... the Service shall have the authority, when so authorized by a committee and acting as the agent of that committee, to request of any department or agency of the United States the production of such books, records, correspondence, memoranda, papers, and documents as the Service considers necessary, and such department or agency of the United States shall comply with such request...”

CRS’s authority to acquire information under this provision is limited to its work in the performance of its duty to “advise and assist [congressional committees] ... in the analysis, appraisal and evaluation of legislative proposals....”

As currently written, section 203(d) provides CRS very limited authority to acquire the information needed to fully and effectively carry out its statutory duties. Under the provision, executive branch and other federal agencies are required to provide CRS requested information only when the Service’s request is “authorized by a committee.” Consequently, section 203(d) cannot be used to obtain information needed by CRS to serve individual Members and other congressional offices or to conduct independently initiated research and analysis in fulfillment of its statutory obligation to anticipate issues of interest to Congress.

In addition, CRS’s ability to obtain information under this authority is restricted to those instances when it is “acting as an agent” of a committee. CRS’s status as an “agent” would appear to require authorization from the committee chair. As there is no provision for ranking and individual committee members to authorize CRS to request information on their behalf, the statute potentially places the Service in the position of providing services for one Member that are not available to all. Supporting all Members and congressional offices equally and regardless of party affiliation, as well as its anticipatory research on emergent issues have long been hallmarks of CRS’s service to Congress. To the extent that the application of section 203(d) conflicts with these core responsibilities, utilization of this authority in many cases becomes impractical.

The limited authority granted by section 203(d) is reflective of Congress’s committee-centric approach to legislating at the time of its enactment. Such authority was thought to be sufficient to bolster the research, analysis, and reference services then provided by CRS, which skewed heavily toward support of the legislative and oversight activities of congressional committees. As Congress

has evolved in the way that it operates however, so too has CRS adapted its product and service offerings to ensure that it continues to meet Congress's needs. Today, while CRS continues to conduct much of its research and analysis in support of congressional committees, a substantial portion of the Service's workload involves assisting individual Member offices. In fiscal 2023 for example, CRS responded to over 57,000 requests from individual Member and other congressional offices. In addition, as the issues before Congress have become more complex and the pace of legislative and oversight activity has increased, CRS's need for timely, accurate data and other information held by federal agencies has grown. Legislation broadening CRS's authority will ensure the Service's access to the information needed to effectively serve all congressional users and fully execute its statutory mission in the 21st century legislative environment.

Generally, CRS has been successful in its ability to secure the information that it needs from other federal agencies through formal agreement or by way of the many collegial relationships between CRS staff and agency officials. There have been instances, however, when the Service has encountered resistance from federal agencies in providing needed information. Among the responses to CRS information requests, agencies have directed the Service to file Freedom of Information Act (FOIA) requests; required disclosure of the congressional office for whom the research is being conducted (in violation of CRS's confidentiality obligations); sought CRS's assurance that the information will not be shared with third parties (a potential conflict with CRS obligations to Congress); restricted identification of the source of the information; and delayed the response pending the completion of lengthy administrative processes. In one notable example, CRS has been attempting to procure two data resources, critical to its research, since 2017. In other instances, information requests are simply ignored or denied, requiring the Service to inform the congressional requestor that CRS is unable to secure the information.

Enhanced authority is required to ensure that CRS has access to the most accurate, up-to-date information available in its support to Congress. In its legislative and appropriations request to the 118th Congress, CRS has proposed amendment of its information access authority that would eliminate the limitation to committee work and the need for committee authorization, enabling the Service to secure the information and resources needed to support all of its work for Congress. Broadening section 203 in this manner would place CRS on par with other legislative support agencies with respect to its ability to acquire information needed to fulfill its mission.

CONAN: Repeal of Hardbound Printing Requirement

CRS is also requesting elimination of the statutory requirement to publish the *Constitution of the United States of America: Analysis and Interpretation* (the “Constitution Annotated” or CONAN) and its supplements in hardbound copy. CONAN has served as the official record of the U.S. Constitution for Congress for over a century. By statute, the Librarian of Congress is directed to print a decennial revised edition of the Constitution Annotated after every tenth term of the Supreme Court and cumulative pocket part supplements every two years in between the decennial edition. The publication is prepared by CRS legal staff and provides a historical overview of the origins of the Constitution as well as analysis and explanation of the Supreme Court’s jurisprudence with respect to every constitutional provision. In 2019, CRS collaborated with the Library of Congress’s Office of the Chief Information Officer (OCIO) and the Law Library of Congress to introduce a new website for CONAN: constitution.congress.gov. The site features a search capability and hundreds of pages of constitutional analysis and content, which is updated regularly and presented in a concise, user-friendly format. The website has been an overwhelming success since its launch, receiving over 54 million page views. Speaking as one who is a librarian by training, I would always direct my clients to the online source instead of a hardcopy, which is outdated upon delivery.

Given the success of the CONAN site and the projected savings to be gained, CRS has requested amendment of CONAN’s authorizing statute to require the Librarian of Congress to prepare digital decennial editions and cumulative pocket parts, in place of the hardbound versions after the Supreme Court’s 2031 and 2023 terms, respectively. Elimination of the hardbound version of CONAN would provide significant savings for CRS as well as the Government Publishing Office (GPO). Production costs for the 2012 version of CONAN, including labor, paper and binding, totaled over \$960,000. In addition to the production of content for the print, time is required of CRS to coordinate formatting and pagination with GPO officials, contractors, and others and to perform other tasks to meet printing deadlines. In total, CRS estimates the time expended on production of the hardbound editions to be the equivalent of the work of three full-time employees. Transitioning CONAN to a digital-only product would enable CRS to better deploy its resources toward the timely production of CONAN’S digital content and enhancements to the website.

Modernization Initiatives

The legislative changes requested by CRS are components of a broader initiative the Service has undertaken to explore innovative approaches to enhance its products and services and to ensure that Congress has access to the highest quality research, analysis, information, and consultative support available. The following is a brief summary of CRS's progress in achieving these important objectives.

Exploring Artificial Intelligence Applications

In a full committee hearing earlier this year, Members heard about the Library of Congress's agency-wide AI Working Group (AIWG), established to facilitate discussions of the most effective and responsible use of AI technology in service to our goals and mission. In addition to our participation in the Library's AI Working Group, CRS has established a working group to identify near-, medium-, and long-term opportunities to integrate artificial intelligence (AI) applications into the day-to-day work of the Service. The objectives of CRS AIWG include making recommendations to CRS leadership on best practices and operational processes necessary for the adoption of AI technologies; improving agency awareness of the current capabilities of AI; and informing CRS staff of ongoing Library of Congress and CRS initiatives in this area. These two AI Working Groups closely collaborate to ensure that CRS activities in the field of AI are consistent with Library-wide policies and initiatives.

Under the guidance of the CRS AIWG, CRS has initiated a number of AI related activities including: the launch of an Artificial Intelligence Research Portal to provide resources for CRS staff related to the field of AI; evaluation of new, generative AI components of a commercial legal research database; the development of an internal inventory of potential use cases for incorporating AI into the work of the Service; and the issuance of guidance to CRS staff prohibiting the use of Chat GPT or other AI tools in their work for Congress without prior CRS or Library approval.

In collaboration with the Library's OCIO, CRS is also exploring the utilization of automated processes to expedite drafting, reviewing, and publishing of bill summaries and the assignment of geographic and organizational subject terms. These activities involve the evaluation of models and methods using generative AI, traditional AI/Machine Learning, and Natural Language

Processing tools, and assessment to identify baseline expectations for acceptable accuracy rates, objectivity, and performance standards for machine-generated summaries and subject terms.

Interactive Graphics and Other Visually-Based Products

CRS continues to develop new, visually-based products through the efforts of its Data Visualization and GIS Section, within the Office of Publishing (PUB), and under the guidance and oversight of the Interactive Graphics Working Group (IGWG). During the past year, the IGWG has worked to streamline the production of such products, address technical issues that arise, facilitate innovation in interactive displays, and expand interactive visual options. In addition, the Group has explored adaptation of content into interactive infographics within the CRS Insight product line; acquired additional libraries to support more options for creating interactive graphic formats; and worked closely with OCIO to ensure that CRS's IT infrastructure is more compatible with its interactive graphic needs.

As of March 2024, CRS's product line includes 44 Infographics and 25 interactive graphics. CRS is also working on the prototype of a new "storymap" product, a next-generation storytelling platform that puts together multiple visual elements to create a narrative. These innovative products present exciting possibilities for CRS to present its research, analysis and information to Congress in new, accessible and user-friendly formats.

Strengthening Data Analytics Capabilities

CRS is moving forward in its efforts to enhance the Service's quantitative data analysis capabilities. In response to the direction provided in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act, 2023 (Public Law 117-328), CRS contracted with a company to prepare a study identifying the information technology infrastructure, staffing, and analytical support required to establish and maintain a greater data analytics capability. In September 2023, CRS procured a vendor to pilot a small set of cloud based quantitative data models consistent with the guidance in the study. The Service has initiated a number of data analysis projects based on the study's recommendations including: employing a microsimulation model to make assessments and simulate policy alternatives related to low-income assistance programs; enhancing the capabilities of a student loan calculator to

model various changes to federal student loan terms and conditions; and utilizing big data sets to analyze transparency in private health insurance pricing.

For fiscal 2024, CRS has requested a program increase of just over \$3 million and two FTE to pilot and enhance the Service's capability for quantitative data analysis and policy simulation. CRS would utilize the requested amounts to contract data scientists, programmers, and digital interface designers to process data and maintain simulation models in a cloud computing environment. The funds would also be used to acquire the software, data sets, and infrastructure required to perform and maintain the data analysis and policy simulations. Of the total requested funds, \$487,000 of the amount and two FTE are requested for OCIO to design, support and implement systems, and to contract for IT security services.

IT Modernization/Integrated Research and Information Systems (IRIS)

CRS continues to work with OCIO to modernize its IT infrastructure with the deployment of new tools and software to enhance support to congressional stakeholders. The Integrated Research and Information System (IRIS) initiative is a multi-year effort to update the Service's mission-specific information technology to provide CRS staff with the best resources to create and deliver products and services to Congress.

Several applications have been successfully deployed to CRS users. The Minerva request management application was released to users in the fourth quarter of fiscal 2023; updates and enhancements continue monthly. In addition, the Text Analysis Program (TAP) for supporting bill summaries and bill comparisons was released in the second quarter of fiscal 2024. CRS and OCIO are continuing to execute several additional work streams to include a user-centered CRS.gov website redesign with an enhanced taxonomy and new search capability, authoring and document management, and content management. CRS anticipates a release of the newly redesigned CRS.gov website including an enhanced taxonomy and a new search capability before the end of fiscal 2024.

Technical solutions have been designed and adapted to maintain alignment with Library of Congress and Legislative Branch cloud strategies. Projects are currently proceeding consistent with contractual requirements, schedules, and resources. Solutions are being informed by congressional stakeholders as well as internal CRS staff. These efforts are essential to

modernizing CRS mission-critical applications, to achieve the Library’s “digital first” strategy and meet the growing needs of the Congress, in the areas of information research, policy and data analysis, content creation, and product delivery.

Congress.gov

The United States House of Representatives and Senate produce, and own, the data that is accessible to Members of Congress, legislative agencies, and the general public from Congress.gov. This fiscal year marks an historic, behind-the-scenes accomplishment for authoritative information provided by our data partners. First generation, 30–40-year-old out-of-date systems and workflows are being retired.

The Library, including CRS, has worked closely with House and Senate data owners to incorporate data standards and best practices into the new systems and workflows that produce data for Congress.gov. Along with the Library, CRS is deeply appreciative for our data partners’ initiatives to improve data quality by standardizing formats for legislative documents. The United States Legislative Markup, or USLM, is a legislative branch-wide standard that is integral to editing and publishing interoperability within the legislative ecosystem. Modernizing behind-the-scenes workflows advances our legislative data partnerships in support of better tracking legislative information and Member contributions through Congress.gov.

We are preparing for the future, and also continue to bring historical materials into Congress.gov. To date, researchers can access more than 3.2 million historical and contemporary items from Congress.gov. We remain committed to working with our data partners, including the Clerk of the House, to continually improve accuracy, timeliness, and completeness of legislative information available from Congress.gov—the official website for U.S. federal legislative information.

Conclusion

Chairwoman Bice, Ranking Member Kilmer, and Members of the Subcommittee, the initiatives outlined above illustrate CRS’s ongoing commitment to ensure that it continues to provide exceptional research, analysis, and information to a 21st century Congress. CRS greatly values its role in support of the important work of Congress and strives to make its products and services available in formats that meet Congress’s evolving needs. Of course, CRS’s most important asset

is its dedicated staff with whom I am so privileged to serve. On behalf of my colleagues at CRS, I would like to express my appreciation to the Subcommittee for your continued support.

CHAIRWOMAN BICE. Thank you, Mr. Newlen.

We will now begin questioning, and that will start with me, followed by Ranking Member Kilmer, and then we will alternate between Members. Any Member wishing to be recognized can signal their request to the chair.

At this time, I will now recognize myself for 5 minutes of questions.

Mr. Newlen, CRS has sought expanded access to agency data at least since the 112th Congress, as we can best tell, when legislation was last introduced to try to address this issue. Your testimony addresses what improved data access will do for CRS and for Congress.

Can you give a little bit of color to what CRS will not do with expanded access to this authority?

Mr. NEWLEN. Thank you for that question. We are very mindful of several things, first, security of the data and transfer of the data within the agency.

We have been working with our chief information officers here today to ensure that the data meets all the security standards of the Library of Congress which are extremely stringent. As always, we will maintain that data in a confidential manner.

CHAIRWOMAN BICE. Can you address the potential concerns about expanded access leading to, quote/unquote, fishing expeditions that could be more politically charged requests from Congress?

Mr. NEWLEN. Certainly.

Can you repeat the question, please?

CHAIRWOMAN BICE. Sure. I want to make sure that his microphone is working properly. Are you able to—great. OK. Thank you.

Would you be willing—or would you be able to address the potential concerns about expanded access to data leading to, quote/unquote, fishing expeditions or more politically charged requests from Congress?

Mr. NEWLEN. Yes. Thank you. When Members of Congress or Committees make requests, we do not ask them how they are going to use the data. We may ask them if it would help us in the research process, but—is the light not coming on?

Okay. Apologies.

CHAIRWOMAN BICE. There we go. There we go.

Mr. NEWLEN. Yes. The—

CHAIRWOMAN BICE. You said you were going to allow them to request the data without asking them what the data would be used for.

Mr. NEWLEN. If they—if we think it is important to know, then we will ask, for the research process, but generally that is not necessary. As with everything we do, it is always confidential, and we do not share the information with anyone outside of the Service or the Member or Committee office.

CHAIRWOMAN BICE. Thank you.

At this time I will recognize Ranking Member Kilmer for questions.

Mr. KILMER. Thanks, Madam Chair.

You know, this issue around data access and, you know, how to make sure CRS is getting what it wants. You know, Dr. Glassman mentioned in his written testimony that the new authority would

be more effective if it was paired with an information campaign such that the agencies understand their obligation to provide CRS with such data.

Any thoughts on how CRS might actually do that and how Congress can help you do that?

Mr. NEWLEN. Yes. Thank you. The first thing we would do if we had this authority is use it with pending requests that we have with several agencies right now where we are having a lot of problem moving forward. They set up all kinds of roadblocks.

I can give you one example of one agency. I will not say the name of the agency. I will be happy to share it with you in private, but I do not want to jeopardize our talks, but they told us at one point that they considered CRS analysts as the same thing as press. We have had substantial conversations with them to change that. It has really—it has really been very difficult.

Mr. KILMER. Yes, I wanted to—I think we can only just look at this, and it kind of makes the case for the bill. You know, I think oftentimes, you know, when something gets put on a site, it is only as valuable as its ease of search and the ability to navigate, and, you know, if it is visually interesting, and if it is accurate.

If this bill passes and CONAN moves to a digital-only format, you know, any guidance on what—on how CRS will approach that to ensure that the digital version is, you know, state-of-the-art in its presentation and its usability?

Mr. NEWLEN. Yes, absolutely. The big advantage of the digital version is, is that it is always up to date. This, the moment it came out, it was outdated. There have been Supreme Court decisions since this was printed that are not here.

Speaking as a librarian by training, most librarians would never put this book on their shelf because they would be concerned—

Mr. KILMER. There is no room for it.

Mr. NEWLEN. That is a big concern too—because they would be concerned that a patron might look at this and think this was the authoritative source, which it is not.

The advantage of the online version is, is that we can link directly to Supreme Court cases. We have embedded links.

The other thing is that we update this very quickly. If there is a court decision that impacts the Constitution, our lawyers, headed by Sanchi Jayaram, who is with us today, head of the American Law Division, updates this immediately so that we have real-time information on the data base.

We have devoted considerable assets to ensuring that the virtual version of CONAN is up to date and in good shape. We always welcome feedback from anyone. It is easy to do on the site, and we are very responsive to those concerns.

Mr. KILMER. The final thing I want to ask about, you know, this conversation around this behemoth, as the chairwoman called it, is actually a good sort of segue into another thing that we have been working on, which is the In Case Act, because it both touches on making sure that there is information that is up to date and accurate, and, two, it is an efficiency measure, you know, the In Case Act would require Federal agencies to provide better agency contacts to CRS, and CRS, in turn, could share that information with

House offices, you know, so that policy staff, so district casework staff could be able to find the people that they need.

That was built upon the existing CRS report that details some agency legislative affairs contacts which we found sometimes either lacks the needed information or has outdated information, and that means our staff and Committee staff and Member office staff are spending time trying to track down information individually, agency by agency, or even contacting someone who no longer works at the agency by mistake, you know, which can cause delays in getting technical assistance, which can delay a constituent's casework claims and more, so—and it would help us implement one of the open recommendations of the Modernization Committee.

One, just an invitation, we would love to find a way to work together on this with you, and I would love to hear if there is other thoughts that you have about ways to improve efficiencies that you are pursuing at CRS.

Mr. NEWLEN. Well, thank you. That report is—the congressional Liaison Report is our most popular report. It gets more hits than anything else. I think that you are right on target, Mr. Kilmer, because there is a huge interest in that, and we would welcome the opportunity to explore how we might do that.

We have done some preliminary thinking about it in terms of the resources that would be necessary and what—how—what the governance structure would be of it. We welcome the opportunity to sit down with you and your staff and see how we can improve on that—

Mr. KILMER. Great.

Mr. NEWLEN [continuing]. access to that kind of information.

Mr. KILMER. Thank you.

Thanks, Madam Chair. I yield back.

CHAIRWOMAN BICE. Thank you, Ranking Member.

At this time I recognize the Chair of the full Committee, Mr. Steil.

Chairman STEIL. Thank you, Chair Bice.

I have two questions I want to dive into. One, I would love you just to comment briefly about how the requests that come from Members and staff to CRS have changed over the past 20 to 30 years.

Mr. NEWLEN. Certainly. Well, with the advances in technology, the first thing that I would observe is, is that we no longer have those kind of simple reference questions: population, addresses, that kind of thing. People are finding that themselves with Google and other tools. What we are experiencing is that the questions are harder, and it takes sometimes longer to answer the kinds of really detailed reference questions that Members have.

One thing that has been a constant is the continued interest in analysis and providing options to the Congress concerning legislation. That is something that has been kind of a constant throughout the history of CRS and something that we devote a lot of resources to, to ensuring that we have the right analysts in place, which is not always easy.

At the present moment, we have a number of positions that are outstanding in our resources, science, and industry section, and we look forward to filling those in the near future.

Chairman STEIL. Thank you. Let me jump into the second point. We talked a lot about getting the data and data access to you. The second side of that I think is, as Ranking Member Kilmer was referencing, is, how do we utilize the data, how do we present it?

Can you walk through just a little bit about how CRS is positioned to take advantage of the data if it arrives? I am thinking about data dashboards, presentation aspects, training, visualization, other aspects that you have spent time on or other tools that you may need in that regard.

Mr. NEWLEN. Absolutely. Well, one of the studies that gave us really, really good direction was a RAND study done several years ago. It suggested that we start looking at newer analytic methods, which we are doing, and also looking at cloud-based solutions, which of course are very expensive right now. That was one of the recommendations.

The other one was to apply newer data-science methods, and we have begun that process. We have—we have some of the, I would say, good staff that know how to manage that data, but we also have a request outstanding at the moment in an effort—for about 3 million to continue that effort so that we have the ability to manage big data.

Chairman STEIL. Thank you. Thank you very much. I appreciate the work you are doing over at CRS. It is a spectacular resource, and I appreciate the work you, Chair Bice, and Ranking Member Kilmer are doing as we look to continue to enhance the work and modernize it.

I will yield back.

CHAIRWOMAN BICE. Thank you, Mr. Chairman.

At this time I will recognize Mr. Carey for 5 minutes for questions.

Mr. CAREY. Well, thank you for being here today. I would like to focus a little bit on AI, if that is alright.

Mr. NEWLEN. Yes.

Mr. CAREY. CRS' modernization initiatives as it relates to AI, can you tell us more about the working group and particularly the work in exploring how AI might be used to expedite bill summary process?

Mr. NEWLEN. Yes, absolutely. We are very excited about artificial intelligence, but like everyone, we are taking it—we are moving cautiously to ensure that any information that we get from AI is—meets all of our standards of nonpartisanship, authoritativeness. We have a number of things in place right now.

The working group looks for opportunities in CRS processes for short-, medium-, and long-term projects that we might use. We also coordinate very closely with the Library's Office of CIO, with their AI working group.

Right now, we have dipped our toe in the water, and one of the things that we are very excited about is a process that we are looking at right now to develop five models that would help us with bill summaries. We have a huge backlog of bill summaries and analysis for Congress.gov.

We think there is potential for AI to help us with those summaries, so we are exploring these five models as we speak. We have a whole set of criteria that have to be met, and our hope is,

is that we can implement this soon so that our staff can spend more time on the analysis, which is the, you know, the really hard work, and less time on the summaries. At the same time, we have to be absolutely assured that that information is a very high quality.

You may be familiar with the effort that Politico did recently with AI, and we actually took some of the examples just to kind of see if they were accurate, and they did not pass the test. This is a good caution for us to ensure that we always have the best data available.

Mr. CAREY. I mean, it is definitely something that, you know, I think it is finding its way into Members' offices and often with the staff, but—so another question. How is CRS making Members and their staff aware of its new visually based products?

Mr. NEWLEN. We are doing several things. At the present time, we are doing new work on our CRS website for Members and staff, and we have been doing some development.

I decided that we needed to take kind of a harder look at this, do some more consultation, and one of the things that we want to feature prominently are infographics, interactive graphics, and story book maps. That is going to be one of the primary ways.

We also have a number of outreach efforts that we do through our divisions to client bases. They send out weekly information about new reports that CRS is doing in areas that they are interested in, and we feature those topics—or feature those kinds of products with infographics.

One thing that would be helpful to us is—we would like your help as well—if there is any kind of forum where we can—where CRS can be to talk about our services, to talk about the kind of innovative products that we are offering Congress, we would be very, very grateful.

Mr. CAREY. I would add to that, you know, I came in in a special election. Now, I am former staff. I was staff, and then—you know, I hate to say when I was a staff, but a long time ago—but, you know, the thing that I have—the services that you provide are remarkable.

You know, we have a number of Members that have left, and we have got a bunch of new Members that are going to be coming in as, you know, special elections. However we can work with your offices, because, you know, the thing about when you come in as a special election, all your staff is—you do not have any staff, you know. As you start getting those team members that come in and join your team, it would be great to work with your office to make sure they are well aware of the services and the things that you provide, so—

Mr. NEWLEN. Absolutely. We would be very happy to work with your office to give you a really in-depth orientation as we would give any new Member.

Mr. CAREY. Well, I am more concerned about the ones that are coming in, in the future, because I know we have talked about this—I know the chairwoman and I have—about orientation, and when you are in the special election, you do not have that. You know, it is just like, here is your hat and what is your hurry, right?

As we bring these new Members in, I would like very much to make sure they coordinate with you, so—

Mr. NEWLEN. Well, this is something at the front of our priorities right now, and that is the new Member seminar, that we work with the Committee as soon as the new Members are inducted, we take them to Williamsburg, Virginia, and have 3 days of policy seminars, discussions about legislative process and procedure, budget process.

It provides an opportunity for Members to get to know CRS staff and their capacity, and there is no one else present for distractions—no staff, no press—it is a very, very good program.

Mr. CAREY. I would be remiss if I did not ask this question, but what other areas that you guys are doing—I know you have done a lot with AI, you have done a lot with visually—but in terms of cost-savings as it relates to your organization, improved efficiency, what are some of the things that you are doing with CRS?

Mr. NEWLEN. Well, thank you for asking that question. I did not answer Mr. Kilmer's question very thoroughly, so I am glad that you have posed it.

When I came, when I started at CRS, I had 13 focus groups within the span of 5 weeks, where I met with staff in an informal situation to—and this is the question I posed to them: What is it that I can do in the short time that I am here to help you better serve the Congress? They came through with a lot of—a lot of different ideas.

For those that did not want to participate in a forum, I encouraged them to send emails, and I got 400. I took all of that information and started looking at what are low-hanging fruits in terms of efficiencies that we can get. I will give you a couple examples.

The staff were using a Zoom account, which, you know, our bread and butter is consultations with Members and staff, whether it is in person or virtually. They, unfortunately, had the lowest priority Zoom account. At 40 minutes, it would cutoff. They have to go back—well, you can imagine the embarrassment if you are doing this with a Member of Congress.

Within a week, thanks to our—the Library's technology office, everybody in the Service has a Zoom, that needs one, has a Zoom Pro account.

The other thing that I discovered was—actually, two other things. Because we have so many deadlines, and one of our, you know, hallmarks is responsiveness, there was a lot of concern about IT support in our divisions and offices and frustration with getting things resolved very quickly. Everything we do is deadline-driven. You know, if your printer is not working, your software is not working, we use all kinds of different software throughout the Service depending on the policy need.

We get a pilot where we embedded technicians in the Service unit and the offices, and I can say that it has been 100 percent successful. It has reduced the time, in terms of efficiencies, and the frustration that our analysts, attorneys, and librarians have in getting their problems resolved.

The other thing which has been wonderful, was a big complaint, was cell coverage. I will give you one example that I think is very graphic. I was walking by an office of one of our Government and

finance analysts who routinely does briefings for Members, and I saw that she had her cell phone hanging in the—like on the hinge of her door.

I said, Val, what is going on here? She said, well, that is the only place in the office that it will ring. I said, you cannot be serious. She said, yes, when I answer it, I stand there, and then I tell the person I have to go out so that I can call you back.

Well, that was ridiculous. Again, working with Judith Conklin and John Rutledge in our Office of CIO, they have done all kinds of things to upgrade that, Wi-Fi extenders, which has, again, improved efficiency and also improved morale.

Mr. CAREY. Well, and just to go back to your thing. If for some reason you are on a Zoom and you cutoff after 40 minutes, I am a firm believer that the mind can only handle what the seat can bear, so that 40-minutes timeframe is probably not a bad thing, so—

With that, I really appreciate your testimony. I had an opportunity to read through it, and thank you for being here today.

With that, Madam Chair, I yield back.

CHAIRWOMAN BICE. Thank you, Mr. Carey.

A couple of just quick comments. You mentioned the Williamsburg visit, getting the Members together and having a conversation about some of those things. I think, unfortunately, as a Member of the 117th congressional class, we unfortunately did not have that opportunity, which I think would have been fantastic.

I would also say, I think it would be helpful to have some of those things with staff, because you all, especially your analysts, are interacting with staff so much more than even the Members directly, and I think that we can hopefully try to find some ways to work with your team to find the opportunities to put you all together in person.

The second thing is, you mentioned AI, and I think that looking at whether or not we have the opportunity to utilize AI to create those bill summaries is really, I think, important. I also agree with you, that caution has to be had, though, because if we were participating or listened to the hearing yesterday, which was really about AI and the legislative process, there was a lot of conversation around inaccurate information being presented.

I think that I look at it as sort of a garbage in, garbage out, right? Whatever you put into that AI platform, if it is not, you know, sort of vetted and thorough, then it is going to come out incorrect, and the human oversight of that, not only on the front end, but also as the product is produced, is going to be really important.

I appreciate you sort of recognizing those pitfalls that have the potential to be problematic for you all.

One last final question before we wrap up this quick segment, and that is, you know, you talked a little bit about some of the agencies that have been less than forthcoming with providing data to you.

Have you had any pushback from other entities that do not want you to have this data for some reason? Have they been really forthcoming to say, we do not want to give this to you, and what was their reason for that if they did?

Mr. NEWLEN. Probably less that they—they have not been upfront about saying they do not want to give it to us, but the reality is, they do not want to give it to us. They use different ways of, you know, throwing up roadblocks, requesting MOUs. They want to know which office that we are, you know, working for. You know, often we are doing anticipatory work, so there is no office.

Often a Member, to answer a request, we need data from an agency, and we have had some negotiations that have been going on for several years. That is why I am so delighted that the Subcommittee has taken this up because this could be a huge—a huge improvement for us.

Again, it is something I heard from our analytic staff about the frustration that they have, and it impacts our service to you.

CHAIRWOMAN BICE. Sure, yes. Mr. Newlen, thank you so much for being with us this morning. We appreciate your time and your testimony, and look forward to continuing to move these initiatives forward.

At this time we will pause briefly to set for the second panel of witnesses. Thank you for your time.

Mr. NEWLEN. Thank you.

CHAIRWOMAN BICE. I will now introduce our second panel of witnesses. Our first witness is Ms. Elise Bean, the director of the Washington office of the Carl Levin Center for Oversight and Democracy at Wayne State University Law School.

Ms. Bean worked as an investigator for Senator Carl Levin for 30 years, including 15 years at the U.S. Senate Permanent Subcommittee on Investigations as staff director and chief counsel. After leaving the Senate, she helped establish the Levin Center, and now works to help legislators and staff conduct oversight investigations.

Next, we welcome Dr. Matthew Glassman, a senior fellow at the Government Affairs Institute at Georgetown University. Prior to joining GAI, Matt spent 10 years on Capitol Hill at the congressional Research Service, including 2 years as a detailee to the legislative branch Subcommittee on the House Committee on Appropriations.

Our final witness is Dr. Nicholas Hart, president and CEO of Data Foundation. Previously, Dr. Hart served as the director of the Bipartisan Policy Center's Evidence Project, building on his work as policy and research director for the U.S. Commission on Evidence-Based Policymaking.

Thank you to our second panel of witnesses for being with us this afternoon. Please remember to press the button on the microphone in front of you so the light comes on, and when you begin speaking, you will have 5 minutes. After 4, the light will turn yellow, and when the red light comes on, your 5 minutes have expired, and we would kindly ask that you please wrap up your comments.

At this time, I am delighted to recognize Ms. Bean for 5 minutes.

STATEMENTS OF MS. ELISE BEAN, DIRECTOR, WASHINGTON OFFICE, CARL LEVIN CENTER FOR OVERSIGHT & DEMOCRACY; DR. MATTHEW GLASSMAN, SENIOR FELLOW, GOVERNMENT AFFAIRS INSTITUTE, GEORGETOWN UNIVERSITY; AND DR. NICHOLAS HART, PRESIDENT AND CEO, DATA FOUNDATION

STATEMENT OF MS. ELISE BEAN

Ms. BEAN. Subcommittee Chair Bice, Ranking Member Kilmer, and the Subcommittee Members, thank you for this opportunity to support the Subcommittee's efforts to modernize and strengthen the congressional Research Service, especially because CRS strongly supports congressional oversight.

As you mentioned, I represent the Carl Levin Center for Oversight and Democracy, which is part of Wayne State University Law School in Detroit.

Senator Levin used to say, "Good Government requires good oversight." He also appreciated the fact that the Supreme Court has long recognized Congress' need for information to carry out its constitutional duties. Nearly 100 years ago in an 8-0 opinion upholding a congressional subpoena seeking information related to the Attorney General, the Supreme Court wrote, quote, "The power of inquiry, with process to enforce it, is an essential and appropriate auxiliary to the legislative function. A legislative body cannot legislate wisely or effectively in the absence of information," end quote. The Supreme Court recently explicitly reaffirmed those principles in 2020 in the Mazars case.

Investigating facts, what happened and why, and analyzing complex problems are at the heart of congressional oversight. They are critical to Congress' work to enact effective legislation, allocate Federal funds, inform the public about what its Government is doing, and act as a check on the executive branch. Sixty years ago the Supreme Court held that, quote, "it is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain facts needed for intelligent legislative action," end quote. The duty to cooperate with congressional information requests, including through CRS, applies to Federal agencies no less than others and is fundamental to the checks and balances envisioned by the Constitution.

CRS has long played a key role in helping Congress gather facts and conduct effective oversight. CRS employs hundreds of experts whose sole responsibility is to answer questions and provide research requested by Congress. CRS has also built a reputation as a source of nonpartisan, reliable information trusted by both sides of the aisle. It produces a wealth of data in service to Congress. Its latest annual report states that in fiscal 2022, CRS responded to over 73,000 congressional requests for information.

Senator Levin's staff made frequent use of CRS. To offer one example, some years ago, Senator Levin wanted to investigate how you set gasoline prices. At the time, his staff knew very little about the subject, so we called in CRS' experts who provided multiple briefings to educate both sides of the aisle at the same time on key facts: how the gasoline market worked, what factors affected price, where do you get data on gasoline prices over time, and much

more. It was invaluable assistance given our limited staff, our limited resources, and limited time. CRS was a force multiplier.

That is just one example. The CRS annual report includes a list 65 pages long of reports and other written products issued during a single year on a vast array of topics for Congress. Examples include U.S. Immigration Courts and the Pending Cases Backlog; The Dark Web: An Overview; a primer on China and Hong Kong; Cost-Benefit Analysis in Federal Agency Rulemaking.

To produce those types of reports, CRS needs access to data held by Federal agencies. For over 50 years to obtain agency information, CRS has relied on the Federal statute, 2 U.S.C., section 166, which requires Federal agencies to comply with CRS information requests when those requests are authorized by a Committee.

It is time for Congress to modernize that law. One of the bills under consideration today would do just that. For example, the bill would extend CRS' authority to obtain agency information, not only when CRS is authorized by a Committee, but also when authorized by an individual Member of Congress or when CRS itself anticipates Congress will need the information. The bill also states explicitly that agencies must produce information in, quote, "a timely manner," end quote.

The improved statutory language would not, of course, cure all of the problems that CRS faces with agencies. This Subcommittee and other House and Senate Committees will still need to lend CRS a helping hand by overseeing agency compliance with the law. At the same time, enacting a stronger statute would send a clear message to the Federal agencies that they are expected to comply with CRS requests.

CRS is one of the few institutions dedicated to supporting the work of Congress, including congressional oversight. It is also one of the few institutions trusted by both sides of the aisle. In return, Congress should support CRS. Equipping CRS with better legal authority to obtain the information to which Congress is entitled under the Constitution will benefit every Member of the House and Senate.

Thank you.

[The prepared statement of Ms. Bean follows:]

PREPARED STATEMENT OF ELISE BEAN

**Testimony of Elise J. Bean
Carl Levin Center for Oversight and Democracy
Wayne State University Law School**

Before

**Committee on House Administration
Subcommittee on Modernization**

On

**Legislative Proposals to Support Modernizing the
Congressional Research Service and the Use of Federal Data**

March 20, 2024

Subcommittee Chair Stephanie Bice, Ranking Member Derek Kilmer, and Subcommittee Members, thank you for this opportunity to support the Subcommittee’s efforts to modernize and strengthen the Congressional Research Service, especially when CRS acts to support congressional oversight efforts.

I represent the Carl Levin Center for Oversight and Democracy which is part of Wayne State University Law School in Detroit, Michigan.¹ I am director of the Center’s Washington office. Before that, I spent nearly 30 years working for Senator Levin on oversight inquiries, including the last 15 on the Senate Permanent Subcommittee on Investigations. The Center was established to honor the legacy of Senator Levin who, during his long career representing Michigan, championed fact-based, bipartisan oversight and civil discourse.

Senator Levin used to say, “Good government requires good oversight.” He also appreciated the fact that the Supreme Court has long recognized Congress’ need for information to carry out its constitutional responsibilities. Nearly 100 years ago, in an 8-0 opinion upholding a congressional subpoena seeking information related to the Attorney General, the Supreme Court wrote: “[T]he power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. ... A legislative body cannot legislate wisely or effectively in the absence of information.”² The Supreme Court explicitly reaffirmed those principles in the 2020 *Mazars* case.³

Investigating facts – what happened and why – and analyzing complex problems are at the heart of congressional oversight. They are critical to Congress’ work to enact effective legislation, allocate federal funds, review nominations, evaluate military actions, and inform the

¹ The Levin Center is affiliated with Wayne State University Law School, but our views do not necessarily present the views of either the University or the Law School.

² *McGrain v. Daugherty*, 273 U.S. 135, 174-175 (1927).

³ *Trump v. Mazars USA, LLP*, 591 U.S. ___, 140 S. Ct. 2019 (2020).

public about what its government is doing. The Supreme Court has long held that “[i]t is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action.”⁴ The duty to cooperate with congressional information requests, including when made through CRS, applies to federal agencies no less than others and is fundamental to the checks and balances envisioned by the Constitution.

When done well, congressional oversight can save taxpayer dollars, ease problems affecting communities, strengthen federal programs, and carry out Congress’ constitutional obligation to provide a check on executive or judicial branch abuses. Oversight can also help bridge political divides by providing legislators with an opportunity to develop a mutual understanding of a problem and reach consensus on the facts. Consensus on the facts can then provide the foundation needed to develop bipartisan reforms.

CRS has long played a key role in helping Congress gather facts, analyze problems, and conduct effective oversight. CRS employs hundreds of experts whose sole responsibility is to answer questions and provide research requested by Congress. CRS’ expertise and resources are vital to congressional offices pressed to handle countless tasks. CRS has also built a reputation as a source of nonpartisan, reliable information that can be trusted by both sides of the aisle. And it produces a wealth of data in service to Congress. CRS’ latest annual report states that, in fiscal 2022, CRS responded to over 73,000 congressional requests, published nearly 1,100 new written products, and performed over 1,900 updates to existing products.

Senator Levin and his staff made frequent use of CRS. To offer one example, some years ago Senator Levin directed his subcommittee staff to investigate gasoline prices. At the time, the staff knew very little about either gasoline markets or pricing. So they called on CRS experts who provided multiple oral briefings and written materials to educate both sides of the aisle on key facts – how the gasoline market worked, what factors affected price, where to get data on gasoline prices over time, which federal agencies were involved and why, and the names of respected experts who could provide more information. It was invaluable assistance, given our limited staff, limited resources, and limited time. CRS was a force multiplier.

That’s one example. The CRS annual report presents a list 65 pages long of reports and other written products issued during a single year on a vast array of topics, many of which support congressional oversight. They include background primers on complex issues, overviews of agency operations, legal analyses, and factfinding updates. Consider just a few examples:

- U.S. Immigration Courts and the Pending Cases Backlog
- The Dark Web: An Overview
- Russia’s Invasion of Ukraine: Implications for Global Food Prices and Food Security
- Undersea Telecommunication Cables: Technology Overview and Issues for Congress
- Hurricane Outlook and Review of 2020 Hurricane Season
- China Primer: Hong Kong
- Strategic Petroleum Reserve Oil Releases: October 2021 Through October 2022
- Cost-Benefit Analysis in Federal Agency Rulemaking

⁴ *Watkins v. United States*, 354 U.S. 178, 187–88 (1957).

To produce the reports needed by Congress, CRS often needs timely access to data held by federal agencies. For over 50 years, to obtain that agency information, CRS has relied on a federal statute, 2 U.S.C. § 166, which requires federal agencies to comply with CRS information requests when those requests are authorized by a committee. The statute states explicitly that CRS can ask federal agencies for books, records, correspondence, memoranda, papers, and other documents that CRS deems necessary to perform its work.

For the most part, the law has worked well. But in recent years, a few agencies have made it difficult for CRS to secure the information Congress needs. For example, a few agencies have refused to provide information to CRS unless CRS discloses the congressional office behind the request, even though Congress expects CRS to keep that confidential. Some agencies have asked CRS to promise not to share any agency information with a third party, even though the whole point of CRS is to share information with Congress. A few agencies have told CRS that it can obtain information only by making a Freedom of Information Act request even though FOIA doesn't apply to Congress. One agency has insisted that CRS enter into an agency Memorandum of Understanding before it will produce any information but has since refused for over five years to finalize that memorandum.

The bottom line is that Congress needs to reinvigorate the law undergirding CRS' authority to obtain agency information. One of the bills under consideration today would do just that by clarifying, strengthening, and modernizing Section 166. For example, the bill would extend CRS' authority to obtain agency information not only when CRS is authorized by a committee to make a request, but also when authorized by an individual Member of Congress or when CRS itself anticipates Congress will need the information. The bill also makes clear that CRS may request agency data in any form and states explicitly that agencies must produce requested information "in a timely manner." Those provisions would give CRS the same authority to access agency information that the Congressional Budget Office already exercises under 2 U.S.C. § 601. It would provide the two congressional support agencies with equivalent legal status to obtain the information needed by Congress.

The improved statutory language would not, however, cure all of the agency intransigence confronting CRS. This Subcommittee and other House and Senate committees will still need to lend CRS a helping hand by overseeing agency compliance with the law. At the same time, enactment of new and improved statutory language would send a clear message to federal agencies that they are expected to comply with CRS information requests.

CRS is one of the few institutions dedicated to supporting the work of Congress, including congressional inquiries and investigations. It is also one of the few institutions trusted by both sides of the aisle to produce information that is both reliable and nonpartisan. In return, Congress should support CRS by enacting modernizing legislation that will clarify and strengthen CRS' ability to obtain information from federal agencies. Effective congressional oversight is virtually impossible without timely and useful information from the executive branch, so equipping CRS with better legal authority to obtain the information to which Congress is entitled under the Constitution will benefit every Member of the House and Senate.

Thank you again for this opportunity. I am ready to answer any questions.

CHAIRWOMAN BICE. Thank you, Ms. Bean.
At this time, I recognize Dr. Glassman for 5 minutes.

STATEMENT OF MATTHEW GLASSMAN

Mr. GLASSMAN. Chairwoman Bice, Ranking Member Kilmer, Congressman Carey, thank you for the opportunity to testify today.

As you mentioned, I am a senior fellow at the Government Affairs Institute at Georgetown University. I am also an alum of the congressional Research Service where my portfolio consisted of institutional issues in Congress, including congressional operations, budget and appropriations process, and separation of powers.

I am a legislative branch patriot and committed to the goal of a modern, capable, and powerful legislature. I strongly support the proposed legislation to expand CRS' access to data from the executive branch.

I want to make four points today: First, access to data is vital for CRS. CRS' mission is to provide Members and staff non-partisan, objective, authoritative, and timely research and analysis. To do this, CRS analysts use data from a wide variety of Government, academic, and private sector sources. There is simply no way to do high quality research and policy analysis without data.

During my time at CRS, I do not think there was a single day where I did not make use of the vast data collections available to me at CRS or in the Library of Congress.

More than once, I held my breath while looking for what I needed within CRS, knowing that if I did not find it there, I was going to have to head to sources outside the library where the wait would be longer and the results unknown.

Second, during my time at CRS, I often experienced frustrating difficulties obtaining data from the executive branch. In rare cases, I was simply told by a Federal agency I could not have the data. More often, my point of contact was not sure whether they should share the data with me.

In many cases, they were not even familiar with CRS. Where are you calling from? Is that a Government agency? was a very common response. Many of these contacts, quite reasonably told me they would have to check with their supervisors.

My data request, presumably a pretty low priority on their busy agenda, was often forgotten until I called back 3 days later, only to have the entire process start over again.

For data that I would be requesting on an ongoing basis, my usual strategy was collegial. I would try to make a friend at the agency. In this sense, I often felt like I imagined journalists feel writing stories. I always felt like I was asking someone to do me a favor.

To be clear, in most cases where I sought data from the executive branch, I eventually was able to get it, but the time it could take, the hassle of the process, and the possibility of ultimately not getting the data often led to a worse CRS response for Congress.

Third, the proposed legislation we have here today will improve the situation, especially if it is well-implemented.

I fully support H.R. 7593. Requiring executive branch agencies to share information for all requests, not just Committee requests,

will give CRS analysts and management a firm leg to stand on when requesting this data from the agencies.

For high-profile data requests that management gets involved in negotiating, the new authority will be extremely helpful on its own, and it will be great for a CRS analyst to be able to politely point to statutory language in emails and phone calls requesting data.

That said, I do not believe the statutory authority alone will fully solve the problem. As noted earlier, the stumbling block for me was often timeliness due to agency unfamiliarity with or uncertainty about their obligations.

Consequently, for many analyst-to-agency simple data requests, the new authority would be most effective if it is paired with an information campaign. Perhaps starting with the leg affairs shops at the agencies, such that the agencies understand their updated obligations to provide CRS with data.

Finally, the need for these data access authorities should be seen as a first step toward broader statutory reform for CRS. The CRS organic statute was last substantially revised in 1970. The reforms under consideration today suggest the entire statute could use review.

Congress has changed significantly in the last 50 years. Two quick examples: First, in 1970, policymaking was strongly centered in the Committee system controlled by powerful old bull chairs and built on top of a strict seniority system. In that atmosphere, it was natural to organize a support agency like CRS around the Committees.

Times have changed. The relative power of the Committees has weakened, and policymaking roles have expanded far outside the Committee system.

CRS requests for analysis now routinely come from all corners of the Hill: Member offices, leadership, CMOs, even informal working groups.

Second, technology. The 1970 Act could not have foreseen the explosion of digital information and communications available to Members and staff, all on computers carried in their pockets. This has made some of CRS' statutory mission seem plain anachronistic, such as providing Committees at the beginning of Congress with lists of policy areas they may want to study, while also in some ways, making CRS more distant from the Hill as emails and pdf reports have replaced face-to-face briefings and physical information delivery.

Updating the CRS statute to adjust to these realities will better focus the mission of the service and allow it to better serve the Members.

Thanks for having me here today, and I look forward to your questions.

[The prepared statement of Mr. Glassman follows:]

PREPARED STATEMENT OF MATTHEW GLASSMAN

Testimony before the Committee on House Administration,
Subcommittee on Modernization,
United States House of Representatives

Matthew Glassman
Senior Fellow, Government Affairs Institute at Georgetown University

"Legislative Proposals to Support Modernizing
the Congressional Research Service and the use of Federal Data"

March 20, 2024

Chairwoman Bice, Ranking Member Kilmer, and Members of the Subcommittee: thank you for the opportunity to testify today. My name is Matt Glassman. I'm a Senior Fellow at the Government Affairs Institute at Georgetown University, where I conduct programs that educate executive branch officials about the workings of Congress.

I am also an alum of the Congressional Research Service (CRS), where I was an analyst for over a decade. While at CRS, my portfolio consisted of institutional issues in congress, including congressional operations, budget and appropriations process, separation of powers, congressional history and development, and congressional- presidential relations. I also spent two fiscal cycles (FY2010 and FY2011) on loan to the House Committee on Appropriation Subcommittee on the Legislative Branch..

Both in my work and in personal beliefs, I am a legislative branch patriot and strongly committed to the goal of a modern, capable, and powerful legislature. The Congressional Research Service is a vital component of this. The non-partisan and objective expertise CRS provides to the legislative process is unmatched, and making sure that CRS continues to provide the best possible service to Congress is a priority of mine. As we work toward the collective goal of modernizing Congress, it is imperative that we also modernize CRS.

I strongly support the proposed legislation to expand the ability of CRS to access data from the executive branch. I will make four main points today in my testimony:

1. Access to data is vital to the core mission of CRS;

2. During my time at CRS, I often experienced frustrating difficulties obtaining data;
3. Providing CRS with new statutory data access authorities would improve the ability of analysts to support the legislative process, especially if well-implemented; and
4. CRS statutory authority is generally outdated; the need for these data access authorities should be seen as a first step toward broader statutory reform for CRS.

First, access to data is vital to the core mission of the CRS

The core mission of the Congressional Research Service is to provide Members and staff non-partisan, objective, authoritative, and timely research and analysis across all aspects of the legislative process, including lawmaking, representation, and oversight. In order to fulfill this mission, it is vital that CRS have access to data from a wide variety of government, academic, and private-sector sources. There is simply no way to do high-quality research and policy analysis without data. The CRS mission—and its service to Congress—relies on it.

During my time at CRS, I don't think there was a single day where I did not make use of the vast array of data collections available to me. Whether it was researching the legislative history of bills online at LIS.gov; combing through the massive volumes of the Statutes at Large in the CRS reference library in the Madison building; checking out old books from the Library of Congress or combing through old bills in the basement on a relevant topic to trace a history; using proprietary datasets I built from primary source information about trends in the legislative branch or the wider government; or building such datasets myself from appropriations data; I was always surrounded by, and making use of, data.

For me, a large amount of that data was available either in-house at CRS, at the Library of Congress, on LIS.gov, or within the House, Senate, or legislative branch agencies. After all, my focus at CRS was on legislative branch activities. So most of my work—and most of my search for data—didn't take me very far from my office. I felt fortunate in this respect, because the further you got away from CRS, the more time-consuming and difficult it was to obtain the necessary data. More than once I held my breath while looking for what I needed within the confines of

CRS, knowing that if I didn't find it there, I was going to have to head to academic, private-sector, or other government sources, where the wait would be longer and the results unknown.

But this cannot be emphasized enough: high-quality policy research and analysis requires data. It is the lifeblood of objective consideration and the basis of informed analysis. An institution such as CRS can only be as good as its ability to access the necessary data to conduct its mission.

Second, during my time at CRS, I often experienced frustrating difficulties obtaining data from the executive branch

Given the vital role that data plays in policy analysis at CRS, the ability of individual analysts to *acquire* necessary data is mission-critical. And yet, during my time at CRS, one of my frustrations was that it routinely felt like a struggle to get the data sets that I needed. This was particularly true when dealing with federal agencies. It might seem like, "I'm writing from the Congressional Research Service on Capitol Hill to request some data for the purpose of fulfilling a request made by a Member of Congress" would be a strong opening to an e-mail communication, but in my experience it rarely was itself enough to acquire the relevant data, and often simply went unanswered.

In some cases, I was simply told point-blank by a federal agency that I could not have the data. But that was *not* the most common situation I experienced. More often, the career civil servant I was in contact with simply wasn't sure whether they should share data with me; in many cases, they were not even familiar with CRS. "Where are you calling from? Is that government?" was a very common response. Faced with a communication from an unknown entity, asking for data they weren't sure if it was ok to share and/or who they could share it with, many executive branch employees quite rationally told me they would have to check with their supervisor, and that they would get back to me. My request, presumably given low-priority on their busy

agenda, was often forgotten until I called back a week later, only to have the entire process start over.

One specific instance illustrates the confusion variety of responses well. I was working with a staffer who was interested in structuring the rules of procedure for the meetings and hearings of a temporary advisory commission that was being proposed in legislation. They wanted to see what previous similar advisory bodies had done. It was easy enough to look through past statutes, but these sorts of rules of procedure are typically not embedded in statute; they are usually written by the advisory bodies themselves. So I began calling up existing temporary commissions to talk to their executive directors. Some were friendly and immediately emailed over their rules. Others were skeptical. Some flat-out refused. Many never even answered my inquiries. The congressional requester had a pretty short deadline, so we made do with what we got. But the work product was not as good as it could have been. And this was about *rules of procedure for hearings*, not some dataset of proprietary information.

In many cases, the ultimate solution was to go back to the requesting staffer or Member of Congress, and have them intervene directly with the agency to get the data. This was frustrating, both for me and for the requester. For one, it was just a waste of time. Many staff were annoyed that the agencies would deal with them but not CRS, but didn't see much they could do about it. But more importantly, it was sometimes contrary to their entire purpose. One reason staff and Members go to CRS for information is so they can remain anonymous; sometimes they would have me try to get data from an agency *specifically* so that the agency wouldn't know what they were up to, or even who was looking into something.

For recurring data that I would routinely be requesting, my primary data acquisition strategy with the executive branch was to try to make a friend at the agency and hopefully set up a precedent that I could get the data on a recurring basis. In this sense, I often felt like I imagine journalists feel when they are working on a story; I always felt like I was asking someone to do me a favor. Early in my CRS career I needed some postal service data on congressional mailings.

After several weeks of work, I was able to reach someone who was happy to provide me with the data once I was able to explain the need and the purpose. I was super relieved, but also knew that I was going to have to maintain the relationship carefully, as I was going to need the data on an indefinite ongoing basis. When they moved on from their position, I immediately got in touch with their replacement, in order to build a relationship and make it clear that their predecessor had been routinely providing me with data for years. I did this, of course, with my fingers crossed.

To be clear, in most cases where I sought data from the executive branch I eventually was able to acquire it. But the time it could take, the hassle of the acquisition process, and the possibility of ultimately not getting the data often led me to not even try, and to seek other avenues for information and data to fulfill the congressional request and support the legislative process. For anticipatory reports, it occasionally killed entire ideas. “Wouldn’t it be great if we could do X?” would often be met with, “yeah, but we’d need to have Y and Z data, and that’s just going to be impossible to get.” This preemptive scuttling of potential analytical products is a pernicious and mostly invisible second-order problem with data access.

Third, providing CRS with new statutory data access authorities would improve the ability of analysts to support the legislative process, especially if well-implemented

I fully support this legislation being discussed here today. Providing CRS with statutory authority that requires executive branch agencies to share information for *all* requests would give analysts and management at the service a firm leg to stand on when requesting data from the agencies. The current arrangement—in which executive branch agencies have specific obligation to share information with CRS only when requested on behalf of a committee—simply does not reflect the contemporary landscape of requests to CRS. If analysts at CRS could rely on being able to get data from agencies in a timely manner, the work products CRS provides to Congress to support the legislative process would improve, both in quality and scope.

That said, I do not believe statutory authority alone would fully solve the basic executive branch data acquisition problem at CRS, or at least it would not have solved it for me. When I had trouble acquiring data, it wouldn't have helped much for me to say "well, I'm calling on behalf of a committee in Congress, and you have a statutory obligation to give me the data in this situation." That might even have closed the door on me.

In fact, I never bothered to differentiate my data requests for the times it was covered by the existing statute and the times it was not; it's not even clear to me that most analysts at CRS know CRS has stronger statutory authority to make data requests when they are working on behalf of committees. As an analyst, a congressional request felt like a request, whether it was from a committee, a Member personal office, a leadership office, a caucus, or just for an anticipatory report I was writing. As discussed above, most of the people I was requesting data from had only vaguely heard of CRS, weren't experts in Title 2 of the U.S. Code, and I don't think ever gave me the data *because* they understood they were statutorily required to do so.

For some high-profile data requests that CRS management gets involved in negotiating, the new statutory authority will be extremely helpful on its own. And it will be nice for CRS analysts to be able to politely point to statutory language in emails requesting data. But for most analyst-to-agency simple data requests, the new authority would be more effective if it was paired with an information campaign such that the agencies understand their obligation to provide CRS with such data.

Fourth, CRS statutory authority is generally outdated; the need for these data access authorities should be seen as a first step toward broader statutory reform for CRS.

At the core of this data access issue is a broader problem: the CRS organic statute is outdated, having last been substantially updated in 1970 as part of the Congressional Reorganization Act.

Updating the statute to eliminate the difference between a data request on behalf of a committee and a data request on behalf of a CRS product being produced for any other requester—or no requester at all—conforms to the modern reality of Congress. But it also suggests that the entire CRS organic statute could use a review and an overhaul.

Congress has changed significantly since 1970. At the time, policymaking was structured through the committee system, which was still controlled by the powerful “Old Bull” Chairs and built on top of an almost inviolable seniority system. Partisanship was at historically low levels, with liberals and conservatives well-represented in both major parties; committees wrote policy on a bipartisan or cross-partisan basis as often as not. Younger Members tended to their districts, enhanced their policy knowledge on the committees they were assigned to, and patiently waited their turn to rise in seniority and access policymaking positions. In this atmosphere, it was natural to organize a policy analysis support agency such as CRS around the committee system. And, indeed, that’s what the 1970 Act did.

Times have changed on the Hill. The relative power of committees has weakened, and the policymaking roles have expanded far outside of the committee system. CRS requests for policy analysis now routinely come from all corners of the Hill outside of the committee system: individual Member offices, Congressional Member Organizations, informal working groups, leadership offices. Committees continue to play an important role in policy development and the legislative process, of course, but their near-monopoly of the 60s-era Congress is long gone. Updating the CRS statute to reflect this reality would better-focus the mission of the service, and allow it to better serve the Members.

A second obvious change to the Hill that has altered the mission of CRS is technological. While there are a variety of issues to discuss in this regard, the most important one for the present discussion is the cataloging and organization of data within CRS. During my time there, CRS (and the Hill more generally) was in transition; computers and cloud storage had come to the Hill, but information was often still stored in decentralized, unorganized ways among analysts. This often

led to duplicative work, datasets that CRS was in possession of that relevant analysts were sometimes unaware of, and a general difficulty in passing along datasets to new analysts as older ones retired or left the service. As this legislation seeks to provide CRS with better access to vital data, I would encourage CRS to simultaneously strengthen their systems for management of acquired data, such that its use across analysts can be optimized.

CHAIRWOMAN BICE. Thank you, Dr. Glassman.

Finally, Dr. Hart, you are recognized for 5 minutes for an opening statement.

STATEMENT OF NICHOLAS HART

Mr. HART. Thank you.

As someone who has spent most of their career in the executive branch, I am happy to say I know what CRS is.

Thank you for the invitation to join today's hearing. As you noted, I lead the Data Foundation, which is a nonpartisan national nonprofit that works to improve Government, business, and society through open data and evidence-informed policy.

I am really pleased to be here to share perspectives about the use of data and evidence to support Congress. I get to zoom out of it.

Because Congress needs data, it is actively using evidence and really always has. As the world, country, and Congress change, Congress really needs to review, as an institution, whether it is actually receiving the right kinds of data and evidence to support effective oversight and decisionmaking.

Importantly, our value systems are actually part of how each of you, as Members, represent the values in our Democratic Republic, and that is actually vital to decisionmaking and our success as a country. That is a very important input that we should not miss.

Evidence must have a seat at the table. It must be a key seat. Congress, as an institution, needs to have procedures and processes to access what Members and staff actually need to fulfill effective legislative and oversight functions. In a sense, we are aspiring to align the best available evidence in decisionmaking for the legislative process.

Ensuring Congress has the data and evidence it needs at the right time and in the right format for decisions requires planning and coordination, and even a sense of humility about what we want and need to know.

Evidence helps determine, as Mr. Kilmer was alluding to, whether, how, when, where, and for whom policies work and also helps describe the conditions and solutions that we want.

We have seen lots of bipartisan examples over the years. I alluded to some in my written statement, including things like the bipartisan negotiations that achieves solvency for the social security disability trust fund back in 2015, along with major reforms for the program.

We are talking right now about the child tax credit expansions and improved evaluations for tax expenditures. A major point of discussion that we desperately need, and we know from the CTC that it has impacts on reducing child poverty.

Using evidence should be easy for decisionmakers and not challenged by institutional processes and barriers to access.

This is why I strongly endorse the congressional Evidence-Based Policymaking Commission resolution—a mouthful. A broader cohort of the data and evidence community will also agree with us.

Establishing this Commission is a low-cost, rapid mechanism for addressing the question of how Congress can establish capacity, process and procedure to better use data and evidence. There are so many resources today that already exist to do this, and the question is, how can we better achieve this goal through congressional support agencies and executive branch agencies?

A prior evidence commission back in 2017, established by then-Speaker Paul Ryan and Senator Patty Murray, focused on ways to drastically improve executive branch capabilities through data infrastructure and evidence capacity. They achieved unanimous recommendations.

Because of the Ryan-Murray Commission and those unanimous recommendations, Congress passed the Evidence Act, the foundations for Evidence-Based Policymaking Act. It includes Congressman Kilmer’s Open Government Data Act, and Congress later passed the National Secure Data Service Authority.

The Ryan-Murray Commission directly led to an improved understanding of what evidence is, established new leadership roles, like the chief data officers and evaluation officers to coordinate with senior leaders, new data strategies and data governance in agencies, new data sharing projects and evaluation, advanced data governance with privacy improvements, and planning for evidence through learning agendas resulting in OMB defining evaluations, a core function of Government. There is even an expectation of open data by default in the executive branch.

This is a lot, and all of that happened over the last 5 years, but did not necessarily align with the congressional support function and the timing of decisions in Congress. That means there is a lot to think about for this institution and in Congress.

Congress still needs to think about its capacity and what infrastructure it needs, noting the 50 years—50-year-old design and gaps that currently exist.

Should Congress have a CEO, like it mandated for executive branch agencies, how do we think about CRS data access noting that the executive branch is building out a standard access portal for data access? How do we think about engagement and transparency?

There are so many other issues that a congressionally focused commission can think about. The Commission offers an opportunity to support Member and congressional staff in the endeavor to produce and encourage good policy outcomes for the American people.

Congress needs a coherent, depoliticized discussion about the process and accountability of evidence, specifically, what it wants to function better as an institution and using knowledge starting with the question.

I encourage Members to advance this congressional Evidence Commission to support this discussion and planning for ways to strengthen Congress in the years ahead.

Thank you.

[The prepared statement of Mr. Hart follows:]

PREPARED STATEMENT OF NICHOLAS HART

RE: Hart Written Statement for March 20, 2024 House Modernization Subcommittee Hearing



Written Statement from Nicholas (Nick) Hart, Ph.D., President & CEO of the Data Foundation
For the Committee on House Administration, Subcommittee on Modernization

**"Hearing on Legislative Proposals to Support Modernizing the
Congressional Research Service and the Use of Federal Data"**

March 20, 2024

Chair Bice, Ranking Member Kilmer, and members of the Subcommittee, thank you for the invitation to join today's hearing on the Congressional Evidence-Based Policymaking Commission Resolution. I am Nick Hart, President & CEO of the Data Foundation, a national non-profit organization that works to improve government, business, and society through open data and evidence-informed public policy.¹ Our community of partners across industry and nonprofits helps enable our efforts to encourage high-quality, accessible, and usable data and evidence that benefit the country. I am pleased to be speaking with the subcommittee about how evidence-informed policymaking can improve society and make our country better, and specifically about how to address the critical role and needs for Congress on this topic.²

I will start by disclosing that I never worked in the Legislative Branch. I am not a constitutional scholar. I am confident you have staff who are eminently more qualified to discuss the topics today in this hearing than I am. At times — like many Americans — I have declared my frustration with Congress. In full disclosure, I am even a strong champion of the executive authority and deference to the Executive Branch under the Constitution's Article 2 when there may be ambiguity in inferred intent from legislative actions. For years I've given advice to not over-specify legislation, and to instead articulate what you want to do with clear goals and outcomes.

So why is my experience relevant for you as Members of Congress in the conversation today? Simply put, I strongly endorse the Congressional Evidence-Based Policymaking Commission Resolution alongside the Data Foundation's community of partners and on behalf of a much broader cohort of the data and evidence community.³ In this capacity I've learned about many of the interactions across Congress, Executive Branch agencies, industry, nonprofits, and the academic community. Among many roles, I was previously appointed by the White House Office of Management and Budget Director to the Advisory Committee on Data for Evidence Building, by the Comptroller General to the Advisory Council on Government Auditing Standards, serve as a Fellow of the National Academy of Public Administration and frequently provide advice through the congressionally-chartered organization, as a fellow at the Bipartisan Policy Center, and lead the American Evaluation Association's policy task force. From 2016 to 2017, I staffed the U.S. Commission on Evidence-Based Policymaking (Ryan-Murray Commission) created

¹ For more information about the Data Foundation, see www.datafoundation.org.

² This testimony reinforces and builds on testimony provided to the House Select Committee on the Modernization of Congress in 2021: Hart, N. Written Statement from Nick Hart on the Hearing on Strengthening the Lawmaking Process: How Data Can Inform and Improve Policy, October 27, 2021. <https://docs.house.gov/meetings/MH/MH00/20211027/114191/HHRG-117-MH00-Wstate-HartN-20211027.pdf>

³ Data Foundation. (2023). Data Foundation Support for Congressional Evidence Commission. Washington, D.C. <https://www.datafoundation.org/press-releases/data-foundation-support-for-congressional-evidence-commission/2023>

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by Congress, which led to the most substantial legislative reforms to enable evidence-informed decision-making at the national level in my lifetime.

This collective body of experience led me to be a transparency, privacy, statistical, evidence, and evaluation advocate – and learn how these concepts are complementary not contradictory.⁴ The information needs of decision-makers today are vast, varied, and evolving, which is why pushing the frontiers on data and evidence use with strong privacy protections while also promoting the openness and availability to data is increasingly relevant.

Yet, there is a far more important and relevant point for you that will frame my remarks: while I am an advocate for evidence-based policy, I also recognize we do not make decisions exclusively based on evidence because we live in a democratic republic; our value systems and how each of you represent those values are vital to our success as a country. I am an American citizen who is passionate about our government services being effective based on goals we collectively establish and articulate. I have lived here my entire life, worked a career inside and alongside federal agencies experiencing that amazing potential and considerable frustrations first-hand. Most importantly for me, my son will grow up under the rules and policies this institution establishes too. Personally, just like you, I want those policies to work for us *and* those around us in our community – our families, neighbors, and friends – and for my son. But what works might look different to each of us.

We need our legislature to be equipped to handle and navigate ambiguity, reduce risk, and minimize uncertainty in policymaking in the years ahead, just as much as we want you to support policies that we believe in and advocate for during elections. But I do not want you to support the policies and solutions that I do just because I support them or because you looked at a poll to see what was popular today. I want you to enshrine and embody principles of a democratic republic and make the best decision based on the range of evidence available to you, the value systems in our country, and other factors that are important to this institution. Using the best evidence available must be included in your decision framework as Members of this institution, and I hope every Member agrees. Ensuring Congress has the data and evidence it needs at the right time and in the right format for making decisions is a means to help achieve this end.⁵ This requires planning, coordination, and humility about what we need to know.

THE PROBLEM: CONGRESS NEEDS BETTER ACCESS TO RELEVANT, HIGH-QUALITY DATA AND EVIDENCE

Data is so critical to decision-making in our country and Congress that its use was prescribed by the Founders in the U.S. Constitution. Article 1 establishing the Legislative Branch directs that periodic counts of the population be conducted to apportion representation and taxes. Since the inception of the U.S. Congress, data has been transformed into evidence and used in decision-making as a foundational component of how the institution operates. Congress needs data, is actively using evidence, and always has. But the world is rapidly changing, the country is ever-evolving, and Congress is transforming as well. Congress must ensure as an institution that it has procedures and processes to access what Members and staff need to effectively fulfill legislative and oversight functions, all while balancing the important privacy protections necessary and afforded to the American people and businesses.

⁴ For the purpose of this testimony, the terms “data,” “evidence,” “evaluation,” and “statistical activities” are used consistent with the definitions included in the Foundations for Evidence-Based Policymaking Act (P.L. 115-435) and corresponding implementation guidance issued by the White House Office of Management and Budget (OMB).

⁵ Hart, N., S. Davis, and T. Shaw. (2018). *Evidence Use in Congress: Challenges for Evidence-Based Policymaking*. Washington, D.C.: Bipartisan Policy Center.

<https://bipartisanpolicy.org/download/?file=wp-content/uploads/2019/03/BPC-Evidence-Use-in-Congress.pdf>

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The challenges we face in using data in Congress are not new; these challenges have been long recognized and prioritized over our country's history. The first digital record for the term "data" on Congress.gov appears in legislation in the 9th Congress.⁶ Since then, more than 200,000 pieces of legislation included explicit references to terms related to the key concepts in evidence-informed decision-making; 9,000 became laws. About 40 percent of legislation filed between the 6th Congress and today includes these terms – and in the 118th Congress, 51 percent of filed legislation includes key terms related to evidence-informed decision-making. Looked at another way, 55 percent of the laws enacted from the 118th Congress included references to these terms. The proliferation of uses of these terms in legislation is just one of the many signals provided by Congress about the need for information and an ongoing commitment that certain types of evidence are accessible for decision-makers. However, just because the terms are included in law is by no means an indication that the laws reflect success stories for the use of evidence or enable meaningful improvements in evidence-building or -using capacity.

One of my mentors, Bill Hoagland at the Bipartisan Policy Center and an expert in the federal budget process, is fond of saying: ***"Senators and Representatives base their policy decisions on the best evidence provided to them."*** I fully agree. Given the ongoing systems change in the Congress, we must routinely discuss what is "best" (valid, reliable, and credible), what is considered policy-relevant "evidence" (e.g., research, science, data analysis and statistics, evaluation), how information is "provided" (e.g., via lobbyists, knowledge brokers, office staff, legislative support agencies, fellow Members, Executive Branch), and what constitutes a relevant "decision" (e.g., drafting bills, responding to constituents, identifying problems, defining solutions). This may sound like an academic or technocratic exercise – and an aspect may be – but the discussion about what evidence Congress needs to succeed is immensely consequential for the country and the American public because that discussion determines what processes and procedures are in place to enable the efficient use of evidence. Congress's use of data and evidence as intended by the Founders is foundational to the success and effectiveness of Article 1, including as a meaningful balance of power to Articles 2 and 3 of the Constitution.

To be clear, Congress requests and uses varying forms of evidence routinely across nearly every function and activity under Article 1. But if every Member were to objectively evaluate today whether they receive the evidence wanted or needed for policymaking in the right times, forms, and types, there are certainly gaps in the availability, processes, procedures, and use. Addressing those gaps from the intended users of policy-relevant evidence must be a priority. Writing the concepts in legislation to affect implementation or oversight, and having what the institution needs to inform problem definition, solution identification, or drafting are all distinct matters that may suggest different solution sets. How we address these recognized knowledge gaps on important and priority policy matters to support future Congresses is a problem worth solving.

A discussion about how to best use and apply information, data, and evidence for decision-making in Congress, is one that rightfully emphasizes the incredible existing expertise and talent of Members and congressional staff on policy, law, topical program matters, and American values relevant for decision-making. This is a discussion that emphasizes identifying more effective ways to use that

⁶ Based on keyword searches and word variants from Congress.gov on March 13, 2024: {"evidence-based" OR "evidence" OR "evaluation" OR "science-based" OR "science" OR "data-driven" OR "data" OR "research" OR "information" OR "outcome" OR "impact"}. The first reference to the terms "evaluation" and "outcome" were in the 82nd Congress. For a recent history of the evolution of nomenclature see Newcomer, K. and N. Hart. (2022). *Evidence Building and Evaluation in Government*. New York: Sage.

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expertise in exercising Article 1 obligations. The evolution of data use across all levels of society warrants an examination into how modern data practices can best serve Congress.

Several simplified examples help illustrate the role of evidence in Congress today. Consider a meeting that every Member of Congress has inevitably had with a Chief of Staff, Legislative Director, or staff member from a committee about an important policy priority or implementation of a programmatic activity. The Member asks a question and receives a response such as we do not have that information because it did not exist, it was not available, we were not able to locate it, or the Executive Branch wouldn't share it. Now consider a different meeting where the Member's questions were answered, staff were able to provide robust analysis and evidence to support a policy action, and help the Member identify a problem, gauge the viability of a particular solution, or even leave with the knowledge that the problem may not need further action from Congress based on relevant decision criteria. Maybe you learned that a sacrosanct program was not effective for a key constituency and needed to identify new strategies to provide support. Maybe you found \$1 billion in savings in the federal budget if a cost-effective program was scaled well.

How do these two scenarios differ? First, recognize the gap is unlikely your staff's "fault" and may not be anyone's fault, including the agencies of the Executive Branch who might have relevant expertise, data, or even the evidence you sought. The issue at hand is not one about individual people, it is one about institutions and institutional processes that enable the capacity and culture for evidence-informed policymaking to routinely succeed. Second, consider the vast differences in ambiguity, risk, and uncertainty between the scenarios. Valid, reliable evidence can improve our decision-making capabilities and improve the quality of the policy actions conducted on behalf of the American people.

For those of us who work on data and evidence issues every day – these scenarios are not hypothetical, they are very real. In cases where we make policies with the best evidence available, we may use everything from descriptive statistics and performance metrics, to implementation studies and audits, to causal program evaluations and cost-effectiveness studies to inform decision-making. The use of evidence in this way informs a comprehensive understanding of what is happening in relevant programs and activities, whether performance is aligned with outcomes, and ultimately, whether the problem that is intended to be solved or addressed by the public sector policy action is achieved. Said another way, the evidence helps determine whether, how, when, where, and for whom policies work and also helps describe the conditions and solutions for those same characteristics. Evidence takes away or minimizes the "guess work" in policy identification, formulation, negotiation, implementation, and oversight. At the same time evidence helps to create a common framework for dialogue about the problem definition and viability of potential solutions which may be modified during implementation.

Evidence is not – or should not be – solely a tool for accountability approaches that discourage the production and use of evidence. This is not to say that evidence cannot be applied in accountability contexts, where indeed it should, but rather to say that just because a program or activity does not demonstrate desired results or outcomes is not a sufficient basis alone for determining to eliminate its funding, demonize its staff, or affect regulatory and administrative processes. The determination to eliminate funding rather than to address or correct programmatic implementation problems with, for example, increased funding is a decision based on values and other criteria specified by the decision-maker; it is not a decision based on evidence alone. However, using evidence in this context is expected, desirable, and encouraged because the allocation of resources is a major task of policymaking and prioritization. Evidence can and should also be used for continuous learning and improvement, particularly when programs and policies may need modification to achieve agreed-upon goals and

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outcomes. Balancing the objectives for accountability and learning is vital as Congress considers how to better enable the use of the best available data and evidence in the Legislative Branch.

WHY ESTABLISH A CONGRESSIONAL EVIDENCE COMMISSION: THE INTERIM SOLUTION

Establishing a Congressional Evidence Commission is a low-cost, rapid mechanism for addressing the question about how Congress can establish capacity, processes, and procedures to better use data and evidence, while also considering the range of uses, users, and types of evidence available. While there may be some easy solutions, reviewing the current capacity in the Legislative Branch for this work with a broader emphasis on the opportunities for improvements will enable Congress to act on implementing potential solutions more quickly.

Consider an example of the complexities faced in decision-making and interpretation of data today with the monthly unemployment rate. Being provided the monthly unemployment rate by the highly-regarded Department of Labor's Bureau of Labor Statistics (BLS) provides the basis for a productive dialogue about the state of the American workforce. When Members receive this information each month and see 3.9 percent (Feb. 2024) as the national unemployment rate they can reach a determination about the state of the labor force, and review implications at the regional or state level.⁷ Some may view unemployment as too high, and others too low based on the published estimates.

Others may delve deeper to gain additional context and consider that part of that national statistic reflects a labor force that has been unchanged over the past quarter after a 300,000 person exit from the calculation in late-2023.⁸ For some subpopulations in the United States employment trends also vary, such as the Hispanic or Latino population with a 5 percent unemployment rate (Feb. 2024) or that unemployment is increasing for people with disabilities, now at 7.7 percent, an increase of 0.4 percentage points in the past year.⁹ These examples highlight the important nuance about how we use trusted sources of data for real-time decision-making. In this example, we know that unemployment rates drive markets and policy. At the end of the day, these are metrics intended to describe the state of the American people, provided by the federal statistical system as public, open data. The statistics are descriptive and open to interpretation. The Bureau of Labor Statistics provides an objective, matter-of-fact analysis each month, and others offer extensive commentary about the state of the economy in turn. The information provides congressional staff and policymakers information they need to develop measurable policies and programs for their constituencies.

Unemployment rates are a relatively simple conceptual example of descriptive information frequently used in decision-making for monitoring and problem identification that help illuminate the vital importance of this discussion for Congress. In practice, there are many factors to consider about Congress as an institution for the types of data and evidence its Members and staff need, how to signal those needs, and whether there may be existing sources for addressing those needs.

⁷ Bureau of Labor Statistics (BLS). (2024a). Labor Force Statistics from the Current Population Survey – Seasonally Adjusted Unemployment Rate. Washington, D.C.: BLS. <https://data.bls.gov/timeseries/INS14000000>

⁸ BLS. (2024b). Labor Force Statistics from the Current Population Survey – Seasonally Adjusted Labor Force Participation Rate. Washington, D.C.: BLS. <https://data.bls.gov/timeseries/INS11300000>

⁹ See Tables A-3 and A-6. BLS. (2024c). Employment Situation Summary, February 2024. Washington, D.C.: BLS. <https://www.bls.gov/news.release/empsit.toc.htm>

Existing Resources of Data and Evidence

The Executive Branch provides extensive evidence historically to the American public – and Congress – as open data. This may include national economic indicators, geospatially-linked information, or descriptive traits about program operations. Freely and publicly-available open data are available on many other topics from the federal statistical system (e.g., Census Bureau, National Center for Health Statistics), many administrative or regulatory programs (e.g., Social Security application characteristics, the Environmental Protection Agency's Toxic Release Inventory, the Securities and Exchange Commission's EDGAR database of corporate 10-k filings), and third-party research organizations and non-profits (e.g., USA Facts), among others. Often these Executive Branch activities are conducted for implementation and administrative purposes, and even the evaluations requested by Congress may not be designed to address Congress' timing or organizational needs for decision-making. For example, open data availability often presumes the users will be aware of the accessibility, disparate data access points or systems, and able to extract the relevant insights for a particular context directly or through a trusted intermediary.

Congress institutionally has a wealth of expertise in the committees, the Government Accountability Office (GAO), Congressional Budget Office (CBO), and Library of Congress, including the Congressional Research Service (CRS). The availability of this capacity and expertise does not wholly address the evaluative question, which is – does this capacity align with the modern congressional needs for evidence? One type of evidence Congress routinely asks for that is not produced by any of these entities is evidence on causal effectiveness to support oversight and authorization.

Congressional support offices also have limited access to restricted data assets that may be relevant for their use. Today's hearing is convened, for example, to partly discuss the Congressional Research Service's access to already-collected data. Under current law, in many instances, CRS, GAO, and CBO may apply for access to restricted Executive Branch records or negotiate with Executive Branch agencies to receive restricted access to certain non-statistical data.

Case Studies Highlighting Gaps and Benefits of Enhancing Evidence Use in Congress

In recent years there have been strong examples of where the kind of evidence described here was built and used in congressional decision-making with great effect. There are also countless examples where the evidence was largely missing even though demand for it was high.¹⁰ Consider these two examples –

Reforming SSDI in the Bipartisan Budget Act of 2015

As the Social Security Disability Insurance (SSDI) Trust Fund faced insolvency in 2014 and 2015, Congress carefully weighed various policy proposals offered by the Administration. Over the course of months, congressional staff, agency officials, and allies reviewed information about program characteristics, improper payments, program incentives, and past demonstration projects that tested a variety of innovations in SSDI. In some cases, evidence was already available; in other cases, congressional staff needed to ask for descriptive statistics and trends that were provided by the Social Security Administration. Throughout the congressional legislative process, the majority and minority staff had productive discussions – even disagreements – about incentives for beneficiaries to exit the program.

¹⁰ See examples in N. Hart and M. Yohannes (eds.), *Evidence Works: Cases Where Evidence Meaningfully Informed Policy*. Washington, D.C.: Bipartisan Policy Center.

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Congressional staff were even met with cases of mixed evidence and charged with deciphering its meaning.

While there were disagreements about some forms of evidence and how to interpret, the same evidence led to areas of agreement for policy formation. For example, there was bipartisan agreement about the need for SSDI beneficiaries to be able to work at their full capacity and that more information was needed to determine how to best achieve that goal in the future. Policy solutions were included in the legislation to address this. Ultimately the agreements for SSDI reforms included in the Bipartisan Budget Act of 2015 enabled the trust fund reallocation at a time that ensured short-term solvency, while also promoting continuous learning and evaluation for future reforms.¹¹

In this example, the congressional staff involved were especially interested in identifying and using evidence, including because there were different perspectives about certain aspects of the proposed program reforms. The stakeholder community and Administration were eager to share and facilitate knowledge about the program, including to ensure the goal of averting insolvency was achieved.

The SSDI example provides a case that demonstrates the value of relying on administrative records collected by Executive Branch agencies, the constraints imposed when innovation and rigorous evaluation is not adequately available in time for decision-making, and the role that political value systems played in encouraging the development of new evidence rather than stifling it. Importantly, congressional staff, Administration officials, and third-party intermediaries were collectively essential to facilitating the use of evidence for Members in the iterations of the legislative process.¹²

Evaluating Tax Expenditures

Tax expenditures are a unique line in budgeting that alters the tax code to implement a policy priority. The Child Care Tax Credit, Opportunity Zones, and Earned Income Tax Credit are examples of these types of credits. For years, tax expenditures have been subjected to heightened scrutiny through bipartisan negotiations, yet there is relatively little evaluation that occurs of these expenditures.

One oft-cited concern about tax expenditures is that the goals may be unstated or contradictory. Take the largely noncontroversial child tax credit expansion as an example. If the goal is to increase the number of children or to improve quality of life is not explicit, the basis on which to evaluate success is left to the discretion of those conducting the evaluation.¹³

In this example, CBO, GAO, and the Joint Committee on Taxation all provide support for understanding and analyzing tax expenditures. But the question about who conducts the program evaluation to determine whether intended impacts were achieved is less clear. A 2023 research paper by staff at the U.S. Census Bureau estimated the impact of the 2021 expansion of the Child Tax Credit in the American Rescue Plan to be substantial, lifting more than 2 million children out of poverty.¹⁴ While the specific analysis is not cited in the FY 2025 President's Budget proposal from March 2024, a request to Congress

¹¹ This example is derived from a longer explanation available in McCann, T. and N. Hart. "Disability Policy: Saving Disability Insurance with the First Reforms in a Generation." In N. Hart and M. Yohannes (eds.) *Evidence Works: Cases Where Evidence Meaningfully Informed Policy*. Washington, D.C.: Bipartisan Policy Center, pp. 28-39.

¹² McCann and Hart, 2019.

¹³ Based on Harris, B.H., E. Steuerle, and C. Quakenbush. (2018). *Evaluating Tax Expenditures: Introducing Oversight into Spending Through the Tax Code*. Washington, D.C.: Results for America and Tax Policy Center.

¹⁴ Burns, K. and L. Fox. (2022). The Impact of the 2021 Expanded Child Tax Credit on Child Poverty, Working Paper. <https://www.census.gov/library/working-papers/2022/demo/SFHS-D-WP2022-24.html>

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is posed to again expand the Child Tax Credit.¹⁵ The ability to collect and access needed data from the Congress is affected by institutional relationships and statutory authorities for data access with the Internal Revenue Service and the Census Bureau.

These examples highlight the use of evidence, and also where the process of enabling the best available evidence in the decision-making can be affected. These uses of evidence should become more common, easier to conduct in practice, and occur with lower burden on Members and staff to identify, request, and use the evidence needed when it is most relevant to decisions. And even when highlighting these examples of high salience, both have substantial room for improvement in considering the specific informational and evidence needs of Congress as an institution. Addressing those needs can be a core benefit of the proposed Congressional Evidence Commission.

EXPERIENCE OF THE RYAN-MURRAY COMMISSION

This is not the first time an Evidence Commission has been discussed. In 2016, Congress passed the Evidence-Based Policymaking Commission Act championed by former House Speaker Paul Ryan and Senator Patty Murray. Chaired by former BLS Commissioner Katharine Abraham and co-chaired by long-time House Ways and Means staff member Ron Haskins, the Ryan-Murray Commission was charged with studying the national data infrastructure and ability to support evidence-based policymaking. That Commission's final report was produced in 18-months with a unanimous set of findings and recommendations largely focused on improvements for the Executive Branch capacity and capabilities.¹⁶ While useful for supporting congressional evidence-informed policymaking, the recommendations did not explicitly focus on Congress as the intended user.

The 15-member Ryan-Murray Commission became a model of what evidence-based policymaking can look like in practice.¹⁷ The Ryan-Murray Commission relied on a small support staff from across agencies, expertise from its appointed members, and high levels of engagement and participation from agencies and the stakeholder community while undertaking its work. This was accomplished with a relatively small appropriation of \$2 million and the Commission did not obligate that full amount.

In the months following the submission of the Ryan-Murray Commission's report to Congress and the President, then-Speaker Ryan and Sen. Murray proposed the Foundations for Evidence-Based Policymaking Act (Evidence Act), which became law in January 2019.¹⁸ The law included important reforms to the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), a strong privacy authority, established new statutory expectations for openness of data governmentwide through the OPEN Government Data Act, and established a government-wide expectation for evaluation. During congressional consideration of the legislation, key staff and Members worked alongside partners in the community, including the Bipartisan Policy Center which advocated for implementation of the Commission's recommendations.¹⁹ The Evidence Act ultimately addressed half of the Ryan-Murray

¹⁵ Department of the Treasury. (2024). Greenbook for FY 2024 Budget.

<https://home.treasury.gov/system/files/131/General-Explanations-FY2025.pdf>

¹⁶ U.S. Commission on Evidence-Based Policymaking. (2017). *The Promise of Evidence-Based Policymaking: Final Report of the Commission on Evidence-Based Policymaking*. Washington, D.C.: GPO.

¹⁷ Hart, N. "Entering the Evidence Promised Land: Making the Evidence Act a Law." In N. Hart and M. Yohannes (eds.) *Evidence Works: Cases Where Evidence Meaningfully Informed Policy*. Washington, D.C.: Bipartisan Policy Center, pp. 192-205.

¹⁸ *Foundations for Evidence-Based Policymaking Act of 2018*. (2019). P.L. 115-435.

¹⁹ Bipartisan Policy Center. *Commission on Evidence-Based Policymaking*. Washington, D.C.

<https://bipartisanpolicy.org/commission-evidence-based-policymaking/>

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Commission's recommendations and established the basis for a coherent framework to use data for producing useful evidence that can be used, which has become a model around the world.²⁰

Impacts of the Evidence Act After 5 Years

As we mark the 5-year anniversary of the Evidence Act this year, a substantial amount has changed across government to support executive and legislative decision-making. Federal agencies tapped senior leaders to serve in the roles of chief data officer, evaluation officer, and statistical official. The largest agencies developed and published evaluation policies, multi-year learning agendas, and annual evaluation plans based on guidance from the White House Office of Management and Budget (OMB) that designated evaluation as a critical function of government.²¹ Examples of these resources are available on the public website www.evaluation.gov. There are also ongoing efforts to address longstanding procurement and workforce barriers that inhibit evidence-building activities in agencies.²²

The CDOs established a growing community of practice, including by leaning in on long-overlooked data governance and agency data strategy issues that are vital for successful uses of data in agencies and deployment of artificial intelligence tools.²³ While OMB has yet to issue implementation guidance on the OPEN Government Data Act, individual agency CDOs have excelled. Examples and resources from the CDO community are now available at www.cdo.gov.

The federal statistical community led an advisory committee to address important considerations that extended perspectives about data sharing in context with strong privacy protections based on the work of the Ryan-Murray Commission, including the key roles of state and local data and the need for improved communication and engagement.²⁴ The federal statistical system also coordinated among agencies to launch a new single access portal for researchers to apply to use restricted data assets and is developing new resources to support bolstering public trust in government data.²⁵

Still yet more progress is inevitable as the Evidence Act's implementation proceeds. The core capacity and process improvements within the Executive Branch because of the Evidence Act that was based on the Ryan-Murray Commission's recommendations are undeniable. Because of the Evidence Act there is a growing culture and capacity for producing and using evidence in the Executive Branch.

With the Evidence Act framework in place, Congress also acted on the headline recommendation from the Ryan-Murray Commission in the CHIPS and Science Act, authorizing the National Science Foundation (NSF) to establish the National Secure Data Service Demonstration Project.²⁶

²⁰ Hart, 2019.

²¹ OMB. (2021). Evidence-Based Policymaking: Learning Agendas and Annual Evaluation Plans (M-21-27). Washington, D.C.: The White House. <https://www.whitehouse.gov/wp-content/uploads/2021/06/M-21-27.pdf>

²² OMB. (2024a). "Building and Using Evidence to Improve Government Effectiveness." *FY 2025 President's Budget Analytical Perspectives*. Washington, D.C.: The White House, pp. 139-148.

https://www.whitehouse.gov/wp-content/uploads/2024/03/ap_13_evidence_fy2025.pdf

²³ O'Toole, K. (2023). *Enabling Mission Success: A 2023 Survey of Federal Chief Data Officers*. Washington, D.C.: Data Foundation and Deloitte Development LLC. <https://www.datafoundation.org/2023-cdo-survey-report>

²⁴ Advisory Committee on Data for Evidence Building. (2022). Year 2 Report. Washington, D.C.

<https://www.bea.gov/system/files/2022-10/acdeb-year-2-report.pdf>

²⁵ OMB. (2024b). "Leveraging Federal Statistics to Strengthen Evidence-Based Decision-Making." *FY 2025 President's Budget Analytical Perspectives*. Washington, D.C.: The White House, pp. 139-148.

https://www.whitehouse.gov/wp-content/uploads/2024/03/ap_10_statistics_fy2025.pdf

²⁶ NSF. (2024). National Secure Data Service Demo. Washington, D.C.: NCSES.

<https://ncses.nsf.gov/about/national-secure-data-service-demo>

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Effect of the Ryan-Murray Commission on the Evidence Landscape

Enablement and implementation of the Ryan-Murray Commission recommendations by Congress and the Executive Branch demonstrate clear effects that improved the data and evidence landscape for the next generation in the United States.²⁷

First, there has been progress in understanding what “evidence” is and how to use it across disciplinary and organizational silos. While it may seem unlikely that terminology and nomenclature can be a barrier to effective implementation, the increasing collaboration across units and disciplines for accomplishing shared knowledge-production goals enables more effective use of resources to answer questions across the policymaking community. For example, OMB’s implementation guidance on the use of evidence provided a more consistent basis for agencies to assess and recognize where evidence-building capacity could be better leveraged.

Second, the new leadership roles – CDOs, evaluation officers, and statistical officials – are greatly improving coordination across leaders, including with positions that pre-existed such as privacy officers, performance improvement officers, and others.

Third, countless new data sharing projects and evaluations launched because of the Evidence Act. But so too did smaller-scale analytical projects that address real-time informational needs in agencies. A gap in scaling this capacity has been a lack of resources allocated and prioritized for these purposes. The lack of resources may sometimes reflect where administrative mechanisms for funding flexibilities to enable this work may be useful to provide further incentives to agencies.²⁸

Finally, the Evidence Act encapsulated key recommendations of the Ryan-Murray Commission about using data while also improving privacy simultaneously. The shift from a binary view of data protection to envision and enable risk-based privacy capabilities and access frameworks cannot be understated. Earlier this year the National Academy of Sciences Committee on National Statistics further expanded this in a consensus report and developed a framework for how to improve decision-making when using data combined across multiple sources to ensure the policy and technical approaches facilitate balancing trade-offs between risk and the usefulness of the data.²⁹

While much has changed to advance evidence-informed policymaking in the United States for the better since the Ryan-Murray Commission issued its recommendations, there is still room for continued progress. A review and consideration of the unimplemented recommendations from the Ryan-Murray Commission – including related to the delayed provisions of the Evidence Act – is needed as a starting point.³⁰ In addition, an intentional exploration of the specific needs of Congress will help ensure that as these activities proceed, Congress can leverage this capacity effectively and extend the momentum within the Legislative Branch.

²⁷ Hart, N. and S. Stefanik. (2022). *Evidence Commission After 5 Years: A Progress Report on the Promise for a More Evidence-Informed Society*. Washington, D.C.: Data Foundation.
<https://www.datafoundation.org/evidence-commission-after-5-years>

²⁸ Fatherree, K. and N. Hart. (2019). *Funding the Evidence Act: Options for Allocating Resources to Meet Emerging Data and Evidence Needs in the Federal Government*. Washington, D.C.: Data Foundation.
<https://www.datafoundation.org/funding-the-evidence-act-paper-2019>

²⁹ National Academy of Science. (2024). *Toward a 21st Century National Data Infrastructure – Managing Privacy and Confidentiality Risks with Blended Data*. Washington, D.C.: NAS Committee on National Statistics.
<https://nap.nationalacademies.org/catalog/27335/toward-a-21st-century-national-data-infrastructure-managing-privacy-and-confidentiality-risks-with-blended-data>

³⁰ Hart and Stefanik, 2022.

SUGGESTIONS FOR A CONGRESSIONAL EVIDENCE COMMISSION

A Congressional Evidence Commission could spend years reviewing the topic of how Congress can improve the use of evidence in decision-making and oversight responsibilities. Specifying clear direction at the outset and establishing a scope for priorities will help focus recommendations. There is also a body of work that pre-dates the current discussion which may support the Congressional Evidence Commission in its initial phases. In 2018, for example, the Bipartisan Policy Center explored both the challenges present at the time across the institution and different types of users, then proposed creative options for process, structural, and capacity changes to facilitate access and use.³¹

Dating even further back, in the late-1970s Congress discussed what a comprehensive evaluation framework could look like. Spurred by discussions on the proposed Federal Spending Control Act of 1977 and the Program Evaluation Act of 1977, GAO developed an extensive series of resources, including a Report to Congress entitled “Finding Out How Programs Are Working: Suggestions for Congressional Oversight” with a framework that may still be substantially applicable today.

There are many other resources available between the points in time of these two examples to support a Congressional Evidence Commission rapidly beginning its work. Here are several other considerations and suggestions that may be useful for the initial planning of a commission and determining its priorities.

Assessing Current Capacity for Evidence

The congressional support agency infrastructure is largely based on a design that occurred 50-years ago. GAO, CBO, and CRS offer incredible expertise directly to Members and congressional staff, yet a starting point for the Congressional Evidence Commission could reasonably include an examination of whether institutionally there are capacity gaps in the existing support framework and how those might be addressed. One aspect may be examining Congress’s own data governance practices. For example, Congress does not have a Chief Data Officer though it requires every federal agency to establish this role as part of the Evidence Act. Another consideration could be, for example, while GAO conducts financial and performance audits using the Yellow Books standards, GAO does not conduct impact evaluations that may often be requested to understand long-term outcomes of federal programs. Determining whether this is an appropriate role for an existing support agency, a new function, or the legislative branch at all is an important question related to effective congressional oversight.

As is discussed in today’s hearing, there are also ongoing questions about access from congressional support agencies to statistical data and administrative records held by the Executive Branch. One aspect of this type of access is ensuring congressional support staff are adequately situated to employ modern privacy and confidentiality protections, while also providing expertise relevant for legislative drafting on emerging technologies and applications.

Determining Data and Evidence Needs for Priority Activities

Over the past four years under the Evidence Act, Executive Branch agencies developed multi-year learning agendas as part of the quadrennial strategic planning process. The plans emphasize key

³¹ Davis, S., T. Shaw, N. Hart, G.W. Hoagland. (2018). *Evidence Use in Congress: Options for Charting a New Direction*. Washington, D.C.: Bipartisan Policy Center. <https://bipartisanpolicy.org/report/evidence-use-in-congress/>

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questions and data assets the Executive Branch prioritizes to address those questions. Congressional participation in this process was relatively limited. Whether through this process in collaboration with Executive Branch agencies, or a parallel process that similarly identifies key issues and needs, the alignment of these tools to connect producers of evidence with the intended users is a strategy for also ensuring the data are available and accessible to produce the evidence needed for key decisions.

Congress also previously directed Executive Branch agencies to develop data inventories and other data governance practices in conjunction with agency Chief Data Officers. Information that the Congress may be interested in using to support an enhanced infrastructure may already be collected by Executive Branch agencies, states, local governments, or tribes. These types of reviews for key priorities may illuminate where existing laws need to be changed to address access, strategies for promoting greater openness of existing data assets, or where third-party, independent data collection or evidence production may be necessary. Importantly, these findings may also result in changes to oversight for existing data laws.

Addressing Program Designs and Theories of Change

When drafting legislation for congressional priorities, goals may sometimes be unclear or even conflicting. Devising improved strategies for routinely incorporating the principles of evidence-building activities useful to legislative decision-making in designs will help ensure when Congress wants to know what works, when, where, and for whom, those questions can be addressed for priority topics. For years the emphasis on performance and monitoring has supported this framework, but stopped short in much of the federal government in connecting requirements under the Government Performance and Results Act (GPRA) and GPRA Modernization of 2010 with the desired impacts and outcomes. Enabling improved program design could result in increased evaluative thinking and capacity across the institution. It could result in more clearly drafted legislation or documentation for the record that aligns inputs, activities, outputs, and outcomes with the intended impacts of a program or policy.

Enabling Engagement and Brokering

Realistically, Congress will never be alone in its journey to seek-out evidence; interested parties will always approach Members and congressional staff with facts, studies, memos, and research. Identifying how to strengthen the “information brokering” or “knowledge brokering” function among trusted intermediaries is a long-overdue discussion. An aspect of this may also involve democratization of evidence, and engagement with the American public on key data and evidence questions.³² For example, the Senate Health, Education, Labor, and Pensions Committee sought out feedback on how to improve evidence capacity as part of the recent proposal for reauthorizing the Education Sciences Reform Act (ESRA). In the SSDI example mentioned previously, Senate Finance and House Ways and Means staff sought out evidence from trusted intermediaries. Easing the burden and complexity of this process for those who are actively seeking to use evidence could be a priority of the Congressional Evidence Commission.

³² See NAS 2024 and Data Foundation. Stakeholder Engagement Toolkit for Evidence Building. Washington, D.C. <https://www.datafoundation.org/stakeholder-engagement-toolkit-for-evidence-building-introduction>

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CONCLUSION

Using evidence should be easy for decision-makers, not challenged by institutional processes and barriers to access. The Congressional Evidence Commission offers an opportunity to support Members and congressional staff in the endeavor to produce or encourage good policy outcomes for the American people.

There will always be politics involved when we use information, data, and evidence to make decisions – that is because we all have values to bring to these important discussions. In our democratic republic, using values is critical for evidence-informed decision-making to succeed. Values drive decisions about what data to collect, how we prioritize the objectives and goals of programs, and even inform decisions in valid, reliable research and evaluation. Providing mechanisms to encourage more data and evidence to inform your decisions also helps us have transparent, open discussions about the best available evidence in reaching decisions.

Congress needs a coherent, depoliticized discussion about the processes and accessibility of evidence, specifically about what it wants to function better as an institution in using knowledge. This is not to assert that Congress fails to be a good steward of data and evidence, or that Members shirk responsibilities in making the best possible decisions for constituents. The claim is the opposite, that to ensure for a body as diverse in representation, interests, and oversight responsibilities that the mechanisms and procedures exist to best fulfill the Article 1, Section 8 powers of the Congress.

The question about whether there should be a Congressional Evidence Commission is not the right one – Members should ask, how soon can we launch a Congressional Evidence Commission to strengthen the institution and our decision-making capabilities, and how do we enable it to succeed with clear priorities, goals, and outcomes? I strongly encourage swift passage of the Congressional Evidence-Based Policymaking Resolution.

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CHAIRWOMAN BICE. Thank you, Dr. Hart.

Ranking Member Kilmer is, as we often are, floating between Committees right now, so he will return shortly.

We will start with questions, myself first, and then we will try to move around.

First of all, thank you all again for being here this morning/afternoon. We appreciate your time.

I want to start—you mentioned something toward the end of your testimony that I think ties in perfectly with the question I have here, and I will open it up to everyone on the witness panel, and that is, Dr. Hart, your testimony calls for depoliticized discussion of how Congress can use evidence to better function as an institution using the knowledge being gained.

Certainly, that is a very admirable goal, but how do you get around the fact that data can be used to promote sort of partisan aims? How can we be certain that the data being presented is not biased, especially when both sides point to data in these policy debates?

Mr. HART. A major component of this is thinking about how we transparently share the information evidence that we are using, and this is actually one of the pillars of Evidence Commission, the Ryan-Murray Commission when we talked about evidence-based policymaking.

Transparency was one of the five pillars, and in the executive branch, this is something that we have encouraged, promoted as we are talking about sharing more information from the American public. It is one of the reasons that we promote openness of data.

It is not to say that we will never have different views about what data mean and what data analysis means, but the more that we are able to share and have open and honest dialogs about the information that is in front of us, the more we can have a productive discussion about what problems are really there and how to solve them.

This is one of the reasons that the Open Government Data Act is such a powerful piece of legislation that should be something that Congress is interested in providing oversight of and we should be moving forward with.

It is a topic in front of us.

CHAIRWOMAN BICE. Thank you.

Ms. Bean, you mentioned in your testimony the 65 reports that are done annually by CRS that provide an, I think, incredible amount of information to us, and it is one of the things I think is maybe most overlooked, as Members and staff, that these reports are done and are out there for our viewing pleasure, but also to gain insight for.

My question to you really revolves around why do support agencies have their data access authorities detailed in statute?

Ms. BEAN. Well, I think there are two reasons: First, we are a Nation of laws, and so it is very helpful for an agency to have a very clear, strong law that it can point to that enables it to get the information that Congress needs. I think that is sort of one reason it is important to have that kind of statutory foundation.

Another reason is that Congress, you know, needs information for virtually all of the things that it does, whether it is enacting

legislation, spending taxpayer dollars, overseeing the executive branch. It needs that information.

We want to provide that strong foundation for its support agencies to act as those force multipliers to help the staffs that have limited resources and limited time get the information they need.

CHAIRWOMAN BICE. Excellent.

Dr. Glassman, understanding that you were actually at CRS a while ago, my question to you is, may be a little more technical, and that is: Do confidentiality agreements between analysts and their congressional clients prevent analysts from sharing those raw datasets that they may be given by the executive branch?

Mr. GLASSMAN. You mean, confidentiality between an analyst like myself and a congressional requester, such as you?

CHAIRWOMAN BICE. Correct.

Mr. GLASSMAN. You know, confidentiality at CRS is airtight between CRS, the agency, and the office of the Member or the staff requesting. I always thought about it as that was the baseline. I would never tell anyone outside the office I was working for or CRS what was going on.

I would certainly talk to other analysts and ask them to help me on something. Unless the requester specifically said do not talk to anyone else in my office, I would think it would be sort of fair game to talk to someone in their office.

In terms of data coming from the executive branch, when I had it, I never used it in terms of handing over raw datasets. In fact, often, when I was dealing with the executive branch, that.

Would be the one condition they would want on the data, I would say. Well, we will give it to you, but you are just using this to write a report with analysis, right? I would say, yes, and then I would do that. Then I would have the data, and I would continue to use it for that purpose.

I would never transfer sort of large-scale data to Congress. I think I would probably be very weary of doing that without sort of getting my supervisor involved or discussing it further with the agency, the requester.

Now, I often wrote things, analysis pieces that were confidential to Members who I then went back later and said, Hey, I have another client who might be interested in similar things. Is it OK if I share that with them?

That happened routinely, and I almost never had anyone say no to that. I would think that that would be how I would handle these sort of data things.

You know, I think it is understandable if you are taking massive raw datasets from the executive branch agencies. I think they would be concerned about this, and I think I would be, too.

CHAIRWOMAN BICE. I think for many looking at this issue, they want to make sure that that information may not be shared specifically or directly with, you know, either Members or staff, but still the information that is provided there within is given to you all and then you all can sort of translate that, put it into those papers, and provide us the data that we are asking for.

Yes, perfect. Thank you for that.

Since Mr. Kilmer has not returned yet, I am going to move over to Mr. Carey for 5 minutes of questioning.

Mr. CAREY. I appreciate that, Chairwoman.

You know, one of the things that—it is interesting being former staff. Ms. Bean, you worked for Senator Levin for a number of years.

Ms. BEAN. Thirty years.

Mr. CAREY. Thirty years?

Ms. BEAN. Yes.

Mr. CAREY. See, you know, that is where AI should do a better job when they ask the questions because they said decades of experience. I would not have gone there, but.

As somebody who watched his career, I mean, everybody knows about his service on the Armed Services Committee and all the things that he did, but truly was a champion for pensions and healthcare for retirees, a rare gift these days. Glad you are continuing his legacy.

With your decades of experience and oversight and managing, can you lay out for us, in straightforward terms, what Congress is legally entitled to obtain from the executive branch? I know you worked on this with agencies and departments.

Ms. BEAN. Well, the Supreme Court has been very clear that as long as Congress has a legislative purpose, Congress has broad authority to obtain information. The Supreme Court first affirmed Congress' authority to conduct oversight of the executive branch nearly 100 years ago in *McGrain vs. Daugherty*, and it reaffirmed that authority in 2020 in the *Mazars* case.

Here are some direct quotes from the Supreme Court in *Mazars*: Quote, "congressional power to obtain information is broad and indispensable," end quote.

Quote, "It is the proper duty of a representative body to look diligently into every affair of Government," end quote.

Quote, "Unless Congress have and use every means of acquainting itself with the acts and disposition of the administrative agents of the Government, the country must be helpless to learn how it is being served," end quote.

The Supreme Court could not have been more clear about Congress' right to obtain information for a legislative purpose from the executive branch, and that includes when Congress is enacting legislation, overseeing the executive branch, and it includes information requests from its support agencies since the only reason they are asking is to assist Congress.

Mr. CAREY. Let me go into that. Given the reality of the executive legislative relations, do you think that changing CRS' statute would make a difference?

Ms. BEAN. I do. I mentioned before that we are a Nation of laws, and one of the first things executive branch agencies like to know is, Well, what is your legislative authority? What is your statutory authority.

Having that strong, clear, statute would make a difference. A strong Congress needs a strong CRS operating under strong statutory authority.

Mr. CAREY. I cannot remember whether it was you, Dr. Glassman, or Dr. Hart. In reading your bios, I know we have a real—we have a very educated body that we are asking questions to.

What is it that we can do as Members of Congress that can help CRS be—help the agencies understand the role of CRS? Because that is—you know, you get young staff that comes in, and whether it is, you know, here in the Capitol or whether it is in an agency, and they just do not really understand the role.

What could we be doing? I am going to go to you, Dr. Glassman. What could we do better as a Congress to make sure the agencies know your role?

Mr. GLASSMAN. Sure. I mean, I think, you know, one of the biggest frustrations I would have, that I would often have with staffers when we were both working on something together, was that the agencies did not see CRS as an extension of, say, Committee staff, right.

Making sure the agencies knew that when CRS was requesting something, it was no different than if a Committee staffer was requesting something. At least bringing it up on that plane would be extremely helpful.

In part, because, you know, there were a fair amount of times I would have a request where I would be working with a Committee staffer, and the reason I was requesting the data is because they wanted to remain anonymous, and they did not want the agency to know that this Committee was looking at this or that they were looking at this.

I would go to the agency, and they would sort of just, you know, not answer my thing. I would go back to the staffer and be, like, Can you call? They would, you know, throw their hands up in the air because that was exactly what they did not want to do.

Making sure the agencies know that CRS should be treated as the equivalent of Committee staff when they are dealing with legal affairs shops, or when they are dealing with program managers would be great.

I can imagine writing lines in Committee reports and appropriations bills just reminding them of that, right, when they get their funding. Yes, that would be the most beneficial thing I think.

CHAIRWOMAN BICE. Perfect.

Mr. CAREY. I will go to Dr. Hart. I mean, the same type of question. What do you think that we could be doing a better job of as Member of Congress to make sure the agencies understand the role of CRS?

Mr. HART. I think there is a lot, actually, that sort of fits in this conversation about the access of CRS to executive branch data, including some very important privacy discourse.

CRS does not necessarily need unfettered access to executive branch information. For example, the Census Bureau collects a lot of information from the American public that we place very important privacy protections on. We are not necessarily talking about CRS getting access to the confidential records of the Census Bureau.

We are having a conversation about aggregate information, I think, is largely what CRS is looking for and ensuring that aggregated administrative records. I think there is an important starting point that CRS is going to need to understand about what it actually needs.

Then there is a second level of this about the executive branch has an expectation of transparency in communicating when it is using data. CRS does not have that same expectation. You are just talking a little bit about a veil of secrecy in a sense between the communications that CRS has with Members.

However, when we talk about evidence production in the executive branch, we are often encouraging transparency. I think we are going to have to reconcile that.

Congress actually told the executive branch agencies to have more transparency as it is producing evidence. That to me seems like a bit of a conflict.

I think if CRS is going to have this legislation move forward, that communication—maybe this is part of the information campaign that you are describing—will have to figure that out.

CHAIRWOMAN BICE. Thank you.

Mr. CAREY. Well, listen, I thank the witnesses, and I thank the Chairwoman for being indulgent with her time.

With that, I yield back.

CHAIRWOMAN BICE. Thank you, Mr. Carey.

At this time, I recognize Ranking Member Kilmer.

Mr. KILMER. Thanks, Madam Chair.

First, I want to speak in support of the Committee deconfliction tool, which my clone did not arrive at work today.

CHAIRWOMAN BICE. Second.

Mr. KILMER. First, I wanted to ask Dr. Hart, you know, for folks who maybe are less familiar with the history of the U.S. Commission on Evidence-Based Policymaking and the work it did, I was just hoping you would share a little bit about the nuts and bolts of how the Commission was staffed, how its agenda was set, what it did on a day-to-day basis.

You know, assuming the work was driven by trying to arrive at a set of recommendations, were there predetermined categories or areas of jurisdiction that the Commission used as guideposts? Were there competing priorities? How were those resolved?

Mr. HART. Yes. The Evidence Commission from Ryan and Murray had about 18 months to do its work. It was a very fast timeline and was charged with, essentially, studying the whole of Government, the whole of the executive branch.

Its initial charge was to answer a question about whether there should be a clearinghouse for data in the executive branch. That was a pretty wicked question, in essence. The answer was very quickly no, by the way.

It had a staff of 10, so it was not a large staff. It largely came from executive branch agencies and 15 politically appointed Members, five of which were appointed for their expertise in privacy, which was very important in the final recommendation formulation.

In addition to the focus on that data clearinghouse question, it had priorities that were very specifically around data access, the theme of much of the conversation around CRS, privacy protections, and the capacity of the executive branch to actually do this work.

All of the recommendations from that Ryan-Murray Commission, essentially, focused on those priorities. The way that the Commis-

sion converged on those priorities I think was something that is actually very relevant to the congressional Evidence Commission. Some of it came from the Members, the sponsors.

In the very first meeting of the Commission, the staff of those Members presented and had some conversation with the Members, but all of the individual Members went around the table and said what one of their priorities was.

I still remember the co-chair, Ron Haskins, a former Ways and Means staffer said if I get nothing else from this Commission, I want there to be chief evaluation officers in Government. By God, that was one of the recommendations of the Commission.

One of the reasons that we have an evaluation function in Government today that is across Government is largely a credit to Ron Haskins.

I would say it was a very noncontroversial commission behind the scenes. The Members really collaborated, much a testament to good leadership from the chair, Katherine Abraham, and the co-chair, Ron Haskins, but also to a very savvy executive director, Shelley Martinez, who knew a lot about the functioning of Government. She came from the Federal statistical system over in the leadership office at OMB.

Good leadership, savvy first meetings, some good planning, but it was a very efficient and fast mechanism to get to recommendations.

Mr. KILMER. You know, one of the issues that the Modernization Committee looked at was just congressional capacity. One of the things I sort of grapple with is if Congress, if the institution were to have better access to data and evidence, does the institution have the capacity to actually use it and to incorporate it?

Are Members in their offices sufficiently trained in how to actually use evidence for the purposes of public policymaking?

I would love to get your take on that, and if you do not think we have the capacity, what do we do to develop that capacity within the institution?

Ms. BEAN. I will just say that I do think Congress has the capacity to use it, but I think it depends on how it is set up. For example, if you had an evidence-based policy commission, perhaps they could work on developing what I would call oversight dashboard for each Committee. Each Committee would decide what is the information that they want that would help them to do effective oversight.

For example, you might say for this agency—several agencies that we oversee, improper payments. What is the information out there on that? What are key lawsuits? Maybe what are the high risks identified by GAO.

There are all kinds of ways to avoid being biased information by using entities like GAO or IG or something like that, and a way to focus. You are not going to get everything about an agency, but what are the things that we would want that would help us do evidence-based policymaking.

I think that is a way. You are going to have to set priorities. You are going to have to focus. Yes, I think Committees would love to have an oversight dashboard that gave them certain kinds of information in a very easy way to access and digest.

Mr. KILMER. Anyone else want to swing at that pitch, or should I yield back?

Mr. GLASSMAN. I mean, I think that everyone is concerned about sort of congressional capacity generally here. We have had two broad periods of expansion of commercial capacity in the 1940's and then again in 1970. Each followed a major expansion of the executive branch.

We have had a third major expansion of the executive branch after 9–11 in the last 20 years, we have had no sort of corresponding increase from Congress.

You can see this from a CRS perspective. The number of requests have exploded. The population is getting bigger. There are more and more constituents communicating with Congress. The number of staffers in those House offices remains at 18. I think there is no doubt this is a challenge.

In regard to data, from my perspective at CRS, I do not really envision a world where CRS had unfettered access to executive branch data, which I do not necessarily think should be the case, where a CRS analyst would be sort of, like, digging through personally identified information or grabbing terabytes of data from the Census Bureau in doing that.

In my experience, getting data from the executive branch was almost always an on-demand sort of thing from Congress. There were anticipatory reports I wrote where I needed some data from the executive branch, but that was not where sort of the bottlenecks were. The bottlenecks were when I was responding to specific requests from specific requesters for timely things.

I am not wholly concerned about sort of a flood of data coming in if CRS were given sort of expanded data authorities in that sense and having the capacity to deal with that.

That said, the broader issue of having a capable legislative branch that can handle sort of the modern responsibilities of this incredibly complex policymaking requires increased capacity, not only of its workforce but of the training and tools to use the data that is now out there.

Mr. KILMER. Thanks.

I will mention the Modernization Committee does have a recommendation to increase the staff cap, too.

CHAIRWOMAN BICE. Parking. Parking is an issue for that, certainly.

I would also just throw out there, Ranking Member Kilmer and I have also been working on a provision that would allow for itemized—what am I trying to say here—anonymized casework data, so that we can actually see almost real time what is happening from a casework standpoint.

I use the example of the issues of passports. Certainly, after COVID, people wanted to travel again, and all of our offices were absolutely bludgeoned with people's request for new passports because many—and oftentimes their passports had expired, and they were rushing to try to get new passports.

Had we known that that was coming, we would have been able to maybe prepare accordingly or differently. That sort of provision I think could be helpful in trying to address some of the concerns.

Mr. Kilmer, any additional questions?

Mr. KILMER. I yield back. Thanks.

CHAIRWOMAN BICE. Alright, fantastic.

Well, again, I want to thank our second panel of witnesses for being with us today.

The Members of the Subcommittee may have additional questions for you, and we ask that you would please respond to those questions in writing should they be sent your way.

If there is no further business to be had, I thank the Members for their participation.

Without objection, the Subcommittee stands adjourned.

[Whereupon, at 11:59 a.m., the Subcommittee was adjourned.]

QUESTIONS FOR THE RECORD

Subcommittee on Modernization Hearing

“Legislative Proposals to Support Modernizing the Congressional Research Service and the Use of Federal Data”

March 20, 2024

Questions for the Record

Mr. Robert Newlen, Interim Director, CRS

Expanding CRS’s Data Access Authority

- 1) Can you explain why CRS’s data access authorities are weaker than CBO’s and GAO’s?
 - a. Why were CRS’s data access authorities limited to committees when its original statute was drafted? Was it an oversight or did it reflect how Congress operated then? What has changed in the way CRS operates and serves Congress today that argues for revisiting those authorities?

CRS’s statutory authority predates the authorizing statutes of CBO and GAO and is reflective of Congress’s committee-centric operating structure at the time of its enactment. At that time, CRS’s authority was apparently thought to be sufficient to bolster the research, analysis, and reference services then provided by the Service, which were geared significantly toward the work of congressional committees. As legislative activity has become more dispersed in the modern Congress, CRS’s workload has evolved to include significantly more requests from individual Member and other non-committee offices. In FY23 for example, CRS responded to over 57,000 requests from individual Member and other congressional offices.

In addition, as the pace of congressional activity has increased and the issues Congress faces have grown more complex, CRS is in greater need of authority that will ensure timely access to the data and other information held by the Executive Branch, without the limitations and procedural hurdles required under its current statute.

Improving Data Management and Sharing Systems

- 2) In order for CRS to really take advantage of the benefits that improved access to data will offer, the agency needs to first address some of the issues that were raised in the Modernization Subcommittee’s hearing last April. For example, the Subcommittee heard about lags in technology upgrades and an overall lack of technological innovation, which we understand CRS is working to address. If CRS gets improved data access, it needs to have systems in place that can manage large data transfers, keep data secure, and be capable

of processing and manipulating large data sets. In addition to making sure that CRS has the necessary infrastructure and updated statistical software in place, please explain how CRS plans to address the following:

- a. Will CRS encourage secure data sharing among analysts?
- b. Will CRS create and use data dashboards and other tools for presenting data in innovative and interactive formats?
- c. Will CRS provide analysts with regular training on data visualization, or match analysts with data specialists who can assist with data displays for reports?

CRS and OCIO continue to work collaboratively to ensure CRS has the necessary information technology infrastructure and tools to effectively serve Congress. Together, OCIO and CRS have investigated the possibility of technology updates to support a larger data infrastructure, which resulted in OCIO's request for additional funding in FY24 to explore several use cases leveraging cloud resources. This funding request was not included in the enacted FY24 appropriation, which impacts the Library's ability to explore several use cases leveraging cloud resources to provide the necessary technology and tools that would directly support CRS's mission. OCIO will consider making subsequent funding requests to address these needs. Additional resources would also enable us to implement additional IT security controls for transporting and storing data.

CRS currently uses a variety of formats to convey data analysis, including infographics and interactive graphics, and will continue to do so. CRS uses existing software to create dashboards for internal uses. Access to professional licenses for software specific to generating dashboards based on policy data analysis would allow for enhanced use of dashboards. CRS offers regular training to staff. For example, CRS has offered training on statistics and visualization in Excel and other data visualization tools. CRS analysts also work with data visualization experts to provide enhanced graphics. Future training opportunities will be dependent on available resources.

- 3) Can you share some examples of how CRS will be prepared to really take advantage of enhanced data access?

The FY24 funding request, which was not included in the enacted FY24 appropriation and was the result of CRS's and OCIO's joint investigation into possible big data tools, identified several potential use cases, including synthetic population, education, and text analysis. OCIO will consider making subsequent funding requests as needed. In addition to the analysis of large data sets, enhanced authority for CRS access to executive branch information will also enable the Service to provide more timely responses to congressional requests.

Eliminating CONAN Print Requirement

- 4) Can you break down the costs of producing the hardbound version of CONAN, for both GPO and CRS? How many CRS attorneys contribute to the production of CONAN and what are the associated costs?

The costs borne by GPO for production of the 2012 hardbound edition of CONAN, as conveyed to CRS, were \$962,508. According to GPO, that amount includes labor, paper, and binding, in 2012 dollars. GPO printed 2,687 copies of the book in 2012, totaling \$358.21 of labor, paper, and binding costs to GPO per copy.

The costs borne by GPO for production of the 2022 hardbound edition of CONAN, as conveyed to CRS, are estimated to be \$765,716 for 1,401 copies, totaling \$546.55 of costs to GPO per copy. CRS notes that the 2022 numbers provided by GPO only noted that the total cost was for printing and binding. GPO is currently conducting an internal financial audit to determine if that number should also specify labor, as is the case for the 2012 costs.

Today, five CRS employees spend a significant amount of their time supporting CONAN functions, although historically, other attorneys, support staff, and operations employees have contributed portions of their time to CONAN work. The estimated cost to CRS for hardbound production, based on work for the 2022 hardbound copy, is \$770,000 or the equivalent of the work of three full-time American Law Division employees together with contract costs for formatting. CRS has not included the estimated cost of performing core CONAN functions, which include research, writing, and presenting on constitutional developments contemporaneous with the Supreme Court's issuance of new decisions so as to ensure that CONAN is always current.

- 5) Can you provide information on any discussions CRS has had with GPO about eliminating the CONAN print requirement and whether GPO anticipates the bill (H.R. 7592) causing any problems or issues? Will they still be able to distribute hardbound copies that they have in stock?

CRS discussions with GPO have been limited to inquiring about the print requirement for CONAN in the context of requesting information about the costs to GPO of the exercise.

CRS is unaware of distribution issues associated with this potential change.

- 6) Are there proponents of keeping the hardbound version of CONAN that we should be aware of?
 - a. Is the hardbound copy a useful reference for libraries and schools?
 - b. Has CRS done any outreach to various library organizations and other interested groups? If so, what feedback have you received?
 - c. If the hardbound version of CONAN is eliminated, will there be a PDF version available for anyone who may want that? Will it be archived?

GPO maintains the hardbound CONAN distribution lists. CRS has been informed by GPO that the majority of the most recent copy printing went to the House and Senate. CRS respectfully suggests that the hardbound version is an inferior research tool to the web version because the web version is updated on a real-time basis in response to new Supreme Court decisions. Unfortunately, because of the time required to produce the print version, there will always be a lag between when the Supreme Court issues a decision and

when that decision will be available in a print format. For the most reliable and up-to-date information on the Constitution, CRS recommends that researchers always check the CONAN website. The website has received millions of clicks, and the Library is aware of the importance of the web version to the public, including schools, libraries, and Congress.

Because neither CRS, nor the Library, has any role in distribution of the hardbound CONAN and because the majority of hardbound CONAN copies go to Congress, CRS has assisted the Law Library with limited Library outreach, such as Constitution Day celebrations. Outreach suggests strong support for the CONAN website. CRS respectfully suggests that efficiency gained and time saved by eliminating the print requirement outweighs the time and money spent on producing even one hardbound version.

The Library's OCIO is responsible for ensuring that the CONAN website complies with existing Library requirements for archiving Library websites. CONAN content may currently be printed from the CONAN website, which allows users more flexibility in consuming the content in the manner they choose.

- 7) What steps will CRS take to ensure that the digital version of CONAN is “state of the art” in its presentation and usability?

OCIO and CRS work together on CONAN using Agile development techniques, with regular releases of the CONAN software to address bugs, make useability improvements, and implement enhancements. The OCIO User Experience team provides design and accessibility expertise to make regular refinements based on user feedback and site usage metrics. The CONAN web site is based on open-source technology in wide use within the Library, ensuring that the site won't be restricted by proprietary software constraints or dependent on outside vendor expertise. The modernized CONAN website has been extremely successful, receiving more than 28 million visits and 55 million page views since its 2019 release. Here are some other key features that make the web version the better research tool:

- *Allows keyword searches and hyperlinked constitutional index;*
- *Provides links to Supreme Court decisions so that users can read the underlying cases;*
- *Contains real-time updates, allowing users to understand the ramifications of new Supreme Court decisions quickly;*
- *Includes accessibility for mobile device use; and*
- *Includes additional material, including news of breaking constitutional developments and links to other Library resources on the Constitution*

CRS and the components of the Library, including the Law Library and OCIO, will continue to work together as appropriate to fulfill the Library's mandate for this resource and to improve the website experience for all users, including Congress and the public.



April 9, 2024

Chair Stephanie Bice
 Ranking Member Derek Kilmer
 Committee on House Administration
 Subcommittee on Modernization
 Washington, D.C. 20515

Dear Chair Bice and Ranking Member Kilmer:

Thank you for giving the Levin Center for Oversight and Democracy the opportunity to testify at the March 20th hearing on “Legislative Proposals to Support Modernizing the Congressional Research Service and the Use of Federal Data.”

The Subcommittee has asked me to answer the following question for the record:

Your written testimony states that “the duty to cooperate with congressional information requests, including when made through CRS, applies to federal agencies no less than to others...” Can you explain this statement in more detail, specifically as it applies to CRS working in support of and on behalf of Congress? Does CRS have the authority to request and receive information and data on Congress’s behalf and in anticipation of Congress’s needs?

A good place to start when analyzing CRS’ authority to obtain information on behalf of Congress is the nearly century-long chain of Supreme Court precedents recognizing the authority of Congress itself to gather information. The seminal case is *McGrain v. Daugherty*, 273 U.S. 135, 174-175 (1927), an 8-0 opinion in which the Supreme Court held that “the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function. . . . A legislative body cannot legislate wisely or effectively in the absence of information.” The Supreme Court has also held that “[t]he power of Congress to conduct investigations is inherent in the legislative process,” the congressional power to obtain information is “broad” and “indispensable,” and “[i]t is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action.” *Watkins v. United States*, 354 U.S. 178, 187-188, 215 (1957). In 2020, the Supreme Court not only reaffirmed those principles, but also cited precedent in holding:

‘It is the proper duty of a representative body to look diligently into every affair of government and to talk much about what it sees. It is meant to be the eyes and the voice, and to embody the wisdom and will of its constituents. Unless Congress have and use every means of acquainting itself with the acts and the disposition of the administrative agents of the government, the country must be helpless to learn how it is being served.’ *United States v. Rumely*, 345 U. S. 41, 43 (1953) (internal quotation marks omitted).

Trump v. Mazars USA, LLP, 591 U.S. ___, 140 S. Ct. 2019, 2031, 2033 (2020).

The 2020 *Mazars* opinion speaks approvingly of Congress' using "every means" to acquaint itself "with the acts and the disposition of the administrative agents of the government" to learn how the country is being served. A common-sense interpretation of that language supports congressional use of a body like CRS to obtain information from "the administrative agents of the government." That interpretation is also consistent with Supreme Court and lower court precedents upholding the authority of another body within the legislative branch, the Government Accountability Office, to obtain information on behalf of Congress when acting pursuant to an enabling statute. See, e.g., *Bowsher v. Merck & Co., Inc.*, 460 U.S. 824 (1983)(upholding – though narrowing – a GAO information demand which was encouraged by two Senators and initiated under statute to determine whether the government paid a fair price under certain pharmaceutical contracts); *United States v. McDonnell Douglas Corp.*, 751 F.2d 220, 224-225 (8th Cir. 1984)(finding that GAO "serves as an investigative and auditing arm of Congress" and upholding a GAO subpoena, authorized by statute, to "gather information [from a contractor] that would help Congress decide whether public money has been used and expended economically and efficiently" by the Department of Defense).

Like GAO, CRS is authorized by statute to obtain information to advance Congress' legislative functions. The relevant statute, 2 U.S.C. § 166, states that it is the "duty" of CRS "without partisan bias" to "advise and assist" congressional committees to analyze legislative proposals and provide "other research and analytical services" as the committees consider "appropriate." The statute states that, "in the performance of this duty," CRS "shall have authority," when acting as the agent of a congressional committee, "to request of any department or agency of the United States" documents that CRS "considers necessary," and that "such department or agency of the United States shall comply with such request." Another provision of the statute directs CRS "upon request, or upon its own initiative in anticipation of requests," to collect and analyze "data having a bearing on legislation, and to make such data available and serviceable to committees and Members of the Senate and House." In addition, the statute directs CRS to "develop and maintain an information and research capability ... to perform the functions provided for" in the statute.

Given Supreme Court precedent affirming Congress' authority to obtain information, supporting Congress' use of "every means" to acquaint itself with actions taken by the government, and upholding efforts by another legislative branch entity, GAO, to obtain information on Congress' behalf when acting pursuant to statute, it follows that a statute authorizing CRS to obtain information on Congress' behalf from U.S. departments or agencies is also constitutional. In addition, the precedents suggest that it would be constitutional for a statute to authorize CRS to obtain information from U.S. departments and agencies not only when requested to do so by a congressional committee, but also when requested by a Member of Congress or when animated by CRS itself – as its existing statute puts it – "upon its own initiative in anticipation of [receiving congressional] requests."

Please let the Levin Center know if you require any additional information.

Sincerely,

Elise J. Bean

**Responses to Questions for the Record from the Committee on House
Administration's Subcommittee on Modernization**

Matt Glassman
Government Affairs Institute at Georgetown University¹
Matthew.Glassman@georgetown.edu

April 3, 2024

Please find below my answers to your questions, which came subsequent to my written statement and in-person testimony at the March 20, 2024 hearing, "Legislative Proposals to Support Modernizing the Congressional Research Service and the use of Federal Data."

1. Do you have suggestions for how CRS might make better use of the data that analysts obtain from agencies?

a. Do confidentiality agreements between analysts and their congressional clients prevent analysts from sharing raw data sets with each other?

I never read the CRS confidentiality practices as precluding one CRS analyst from discussing a request with another CRS analyst, unless the requester had *specifically* requested I not discuss the request with anyone else at CRS, in which case I would honor that request. But that was extremely rare, it might have happened 2 or 3 times in 10 years.

It is completely normal at CRS to share raw data among analysts, which comports with the culture of collegial teamwork on congressional requests. I routinely sought advice and help from other CRS analysts for individual requests I was working on, and I was routinely called in by other analysts to help them on requests they were working on.

In that environment, it's pretty natural to share *raw* datasets that might be of use to other analysts handling other requests for other congressional clients. During my time at CRS, I acquired many academic/government datasets and also produced a fair number of proprietary datasets of my own. Many of these were originally acquired or built in order to respond to a specific congressional request. There was no general expectation, either at CRS or among clients, that such raw datasets would be confidential.

¹ The observations here are the author's. The Government Affairs Institute takes no position on policy issues.

For example, I routinely got requests asking me about the average length of a congressional career now vs. historically, or House vs. Senate, or other things related to patterns of congressional service for Members. In order to easily answer such questions, I acquired and then personally updated a large academic dataset of all historical Members and their service dates in each Congress. This dataset could be used to answer a wide variety of questions about historical patterns of congressional service, and I routinely used it to answer questions from many different clients. If another analyst wanted to use it for a request, I would share the dataset with them.

That said, any downstream analytical products produced from such datasets for specific client requests I considered 100% confidential. If I used a raw dataset I had acquired or developed in order to produce, for example, a table and some written analysis in a confidential member, I considered that table and analysis to be confidential. If I or another analyst wanted to share that table and analysis in a subsequent product to another client, or share the entire confidential memorandum (with the original requester anonymous), I would have considered it necessary to get the approval of the original requester before doing so. In almost all cases, congressional clients were happy to provide such approval. But in my view, they had the right to refuse.

b. Does CRS have any sort of central data repository that analysts can access if they're looking for data to inform or support the work they're doing?

With the caveat that I left CRS in September of 2017, during my time there CRS had no central repository where the agency kept data that had been acquired by individual analysts, where other analysts could search for datasets.

I kept my datasets—both acquired ones, and proprietary ones that I built—on my CRS computer in files associated with the products I use them to produce, and I was always happy to share them with other analysts, but there wasn't a general way to search all such constructed data sets.

I cannot stress this enough: the best way for CRS to make better use of datasets acquired by analyst would be to make sure analysts can easily understand what datasets exist at CRS. As noted in my written testimony, during my time at CRS there was very little digital infrastructure for sharing data among analysts. We have repositories of *products* that had been sent to clients, and those were very helpful and reasonably easy to search, but there was no real effort to make the pre-product work of the analysts available to share, or even know about.

This reflected the somewhat decentralized nature of CRS; analysts are often working on many things, and it's not possible for any one analyst to possibly know what everyone else in their section is up to, nevermind analysts in other sections or entire other divisions. The collegial nature of the CRS analysts meant that you could usually figure out if the data you needed was

already at CRS; asking around about something routinely showed off the depth of knowledge and data held by the organization. But that sort of word-of-mouth discovery process, while incredibly helpful, should not be the basis of data management.

Now, I'm sure there have been improvements on this front since I left CRS six years ago. But data management and cataloging has only gotten tougher in recent years, as the amount of data collectively held by an organization like CRS has exploded in size and scope. Even if the data is available for all analysts to access, knowing *what* exists or being able to easily search it is an entirely separate matter.

c. Are there protocols for making sure that multiple analysts aren't making the same data requests of agencies?

Not when I was there.

2. In what ways is CRS's statute out of tune with today's Congress? Aside from the two bills discussed at the Modernization Subcommittee's March 20 hearing, what additional changes to the statute do you recommend? In addition to updating what is there, are there new authorities or responsibilities you would suggest adding to the statute?

Congress in 1970 was a very different place. Policymaking was centered in a committee system that was still very much a dominant veto-player—unless you could get it out of committee it was unlikely to get to the floor—and run on an almost inviolable seniority system, with the Old Bull full committee Chairs at the top. Younger members generally tended to their districts, biding their time until they had enough seniority to become policy players. Leadership was relatively weak, there as much to coordinate between factions and Chairs as it was to drive policy.

At the same time, partisanship was at historic lows in the post-war era, with both parties containing liberals and conservatives. This created cross-party ideological coalitions and less reflexive partisan animosity. Furthermore, the Democrats were in the middle of controlling the House for 40 straight years and the Senate for 25, which made the electoral competition very local, rather than national, in character. Incumbent reelection rates were very high, with many members enjoying support in their district from voters of both parties.

This was a very friendly environment for a policy-analysis support agency like CRS. The mission could be tailored around the obvious channels of policy development—the committee system—and while the analysis might be well-received or not well-received by any individual Member or group at any point, there wasn't much danger that the agency would be seen as working for the majority, due to the ideological diversity.

Congress is very different today, in ways both obvious and less obvious. Everyone is aware that the parties have sorted ideologically. And electoral competition for the chambers is much higher. That raises the stakes and the danger for a place like CRS, that relies on a non-partisan reputation and isn't (and shouldn't be) responsive to partisan pressure. Unfortunately, it has also had the effect of making CRS feel more distant from the Hill, and less a part of the Hill.

Less obvious is the huge increase in size and scope of federal government activities, as well as the huge increase in the population of the United States. Paired with little or no growth in legislative branch staff, and zero growth in the number of members, and you have a situation where every congressional office is handling casework and constituent inquiry loads far beyond what they were doing two generations ago. And that's before you factor in email and electronic communications.

As a result, CRS' mission has *necessarily expanded* into these areas, helping Members and staff by responding to tens of thousands of requests that were ultimately generated by constituent inquiries. That wasn't really envisioned in 1970.

Simultaneously, younger members of Congress are no longer content to tend to their districts and anonymously bide their time as they gain seniority. Armed with national policy networks and decentralized media, every member of Congress now has the opportunity to be a major player in policy and politics, if they want, especially in the public sphere. That was almost impossible in 1970. As a result, the number of potential clients seeking in-depth policy analysis has expanded well beyond the committee system.

Beyond the basic idea of adjusting the CRS statute away from a committee-centric focus, my belief is that Congress should consider revising the statute to rethink the distance between CRS and the Hill. For a lot of reasons—many of them out of CRS's control—the analysts are further away from congressional staff now—both physically and culturally—than they used to be. Integrating CRS closer to the Hill would be a great priority, in my view.

A few ways this might be done:

- **Promote the detailing/embedding of CRS analysts in the House and Senate** - a tour of duty on the Hill would be incredibly beneficial for CRS analysts in understanding the work patterns and needs of staffers *and* it would benefit congressional staff in understanding the capabilities and services of CRS.
- **Create a customer-service driven culture and approach to CRS products** - CRS experts and products are an amazing resource; the marketing for them, less so. The search

engine is still weak. The format of products is outdated. Products are still largely released passively. Reshaping the mission of CRS to aggressively place its services in the hands of customers in ways they would actually use would be highly beneficial.

- **Encourage, rather than discourage, analysts to become public experts in their field -**
There has been a trend at CRS away from public engagement of analysts, in order to avoid controversy and maintain strict neutrality. While well-intentioned, I believe this has been, on balance, a mistake. Having CRS analyst attending academic conferences, speaking at think tanks, and publishing research in their fields of expertise would both keep them on the cutting edge of their policy areas and push back against the sometimes monastic, insular culture of the organization.

None of these things would *require* changes to the CRS statute; they could be implemented administratively by CRS leadership. In my view, however, they should be included in an updated statute as part of a broad statement of Congress's view for the mission of the service in the 21st century.

A more dramatic set of revisions to CRS, which *would* require statutory changes, would be to rethink the entire way the agency fits into the legislative branch. This might include;

- Taking CRS out of the Library and make it an independent entity in the legislative branch, perhaps closer to the CBO model;
- Converting the director to a termed appointment, selected by Congressional leaders, rather than mediated through the Librarian;
- Converting the employment terms of analysts and other staff at CRS to more closely resemble CBO staff, rather than the current arrangement, which makes them statutorily more like Title 5 executive branch employees.

Dramatic changes like these, of course, should not be undertaken without careful consideration, and I am not currently advocating specifically for or against them. But I think they are worth further consideration and deliberation among Members and stakeholders.