

Congressional Information & the Internet

A Collaborative Examination of the
House of Representatives and Internet Technology

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Collaboratively Authored by

the  **openhouse** project

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Executive Summary

Congress can expand the impact and functioning of the full range of its work by recognizing the transformative power of simple technological reforms that can create an open, public and fully transparent institution. This in turn can create a civically empowered and meaningfully aware public and enable a connection between constituents and legislators that can deepen the national discourse.

To address the coming opportunities and challenges of an increasingly connected political environment, Congress should engage in an ongoing discourse with the public and commit to creating a truly transparent legislature.

The Open House Project—a collaborative online project of the Sunlight Foundation—has identified the following as providing opportunities for reform:

- Legislation Database—publish legislative data in structured formats
- Preserving Congressional Information—protect congressional information through archiving and distribution
- Congressional Committees—recognize committees as a public resource by making committee information available online
- Congressional Research Service—share non-partisan research beyond Congress
- Member Web-Use Restrictions—permit members to take full advantage of internet resources
- Citizen Journalism Access—grant House access to non-traditional journalists
- The Office of the Clerk of the House—serve as a source for digital disclosure information
- The Congressional Record—maintain the veracity of a historical document
- Congressional Video—create open video access to House proceedings
- Coordinating Web Standards—commit to technology reform as an administrative priority

Acknowledgments

This report is the direct result of a thoroughly collaborative effort by a broad coalition of participants from left and right with substantial backgrounds in media, government, information technology, blogging, and public policy. Each step of the report's production has been open and participatory, from choosing topics through conversations on a list-serve, to researching House institutions and reforms through blog posts and a wiki, to authoring sections of the report with collaborative documents online.

Preparing the report with the input of an entire community has informed it with the perspectives of a diverse group of contributors. In addition to simply soliciting the input of experts and stakeholders from various fields, the project has brought together technological and institutional expertise, opening a space for vital discussions and collaboration. Through the Open House Project, relationships are developing between Web developers, government information experts, Congressional staff, non-profit organizers, and Representatives. By permitting disparate fields to inform each other in creating a community report, the Open House Project will affect the technological systems and products of the House, and also the organizational capacity of the greater transparency community.

This project seeks to empower the relationship of citizens and Congress. Its recommendations are just the first step in this process. The ongoing strength and impact of the project rely on continuing community participation -- from members of Congress, congressional staff and citizens. The Open House Project welcomes feedback on its recommendations at theopenhouseproject.com.

Members of the Open House Project who specifically contributed to crafting these recommendations include David All, The David All Group; Robert Bluey, The Heritage Foundation; Paul Blumenthal, the Sunlight Foundation; James Jacobs, FreeGovInfo.org; Tim La Pira, the Center for Responsive Politics; Perla Ni, VoterWatch; Ari Schwartz, the Center for Democracy and Technology; Matt Stoller, MyDD.com; Josh Tauberer, GovTrack.us and John Wonderlich, the Sunlight Foundation.

A full list of contributors is on the Open House Project Web site at <http://www.theopenhouseproject.com/about/>. We thank them for their time and dedication.

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Open House Project

Introduction and Summary of Recommendations

Citizens have a difficult time understanding Congress.

Many institutions have evolved to connect constituents with the complex body of information essential to their democratic self-determination. Americans rely on the news media, interest groups, libraries and direct communication with lawmakers to stay informed about their legislature. While these communication channels operate quite effectively within the spheres of their function, they are not without their drawbacks.

As society's developing appetite for political information stretches these institutions to their full potential, their limitations become clearer. Traditional means of sharing congressional information are incapable of fully serving the needs of an increasingly aware society. Cost, popular appeal, equal access, comprehensiveness, timeliness and accuracy are all variables traded against one another as each news access point determines the identity of its unique service. Comprehensive coverage may be chosen at a prohibitive cost, or popular appeal may be given priority over measured analysis.

The inherent limitations of the traditional media force lawmakers to focus on controlling a narrative, often granting priority to the theatrical over the substantive. Legislative realities are only partially integrated into election politics, decreasing accountability and granting undue influence to monetary concerns. The legislative and the electoral should not be so distant from each other.

The Internet has the potential to change the way Congress and constituents interact.

Emergent forms of political technology online are leaving behind traditional constraints and redefining the role of legislative information in our society. As congressional information becomes more readily accessible online, representatives' legislative and electoral work come closer to merging. An empowered citizenry can be more confident in its federal legislature when transparent processes discourage corruption and increase accountability—politicians' work is free to be the legislative task at hand when the country better understands what politicians do.

There now exists a unique opportunity for Congress to earn the public's trust.

The transformative potential of free and open access to influential data has inspired the creative analysis and presentation of political information, now being utilized by large communities of civically engaged Web users.

The emergence of new forms of civic engagement online brings the opportunity to reconsider the manner in which the House of Representatives makes itself visible online. Internet technology has enabled Web designers to make political and legislative information available and useful to less experienced observers, and the public's capacity for meaningful oversight and awareness is increasing as a result. By embracing the promising potential of new social and

technical realities online, the House can meet halfway citizen organizers, transparency advocates and Web designers.

The Internet's potential does more than create a new set of responsibilities and expectations. If new technology will serve to better connect constituents to Congress—effectively spreading civic responsibility throughout society—it follows that the burden of designing and implementing online transparency reform will, similarly, be shared between Congress and an online community of civic technologists. Since both Congress and the Internet-using public hold an enormous stake in the unhindered flow of political and legislative information, only a discourse between the public and Congress can adequately address the situation.

It is in the spirit of this shared sense of responsibility for society's greater interest in Congressional transparency that the Open House Project has been undertaken.

Together, we are opening the House.

Bringing together participants from the right and the left, the Open House Project was formed to identify attainable technological reforms and facilitate meaningful public access to the House of Representatives. Contributors with backgrounds in media, government, information technology, blogging and public policy have converged around issues raised throughout the House.

Each step of this report's production has been collaborative, whether it has been choosing topics through conversations on a Google Group, researching house institutions and reforms through blog posts and a wiki or authoring sections of the report informed by collaboratively produced online documents. Preparing this report with the input of an entire community has informed it with the perspectives of a diverse group of contributors, and galvanized that group into a central forum for transparency advocacy.

A consensus was developed around the importance of reforms in the following areas, with a section of our report devoted to each topic. Detailed discussion of each recommendation can be found in the corresponding section.

1. Legislation Database

Congress should make available to the public a well-supported database of all bill status and summary information currently accessible through the Library of Congress. This database, as well as its supporting files, should be in a structured, non-proprietary format such as XML. Records in the database, including supporting files, should be updated in a timely manner. Such a database would enable independent Web sites to use information in new and creative ways, including educating the public about Congress and providing citizens with customized views of its proceedings. The database, being authoritative, would ensure the accuracy of the information presented to the public by independent Web sites. We also make recommendations regarding THOMAS (Library of Congress) and Government Printing Office products, the availability of bills online before they are debated and legislative language for future congressional databases.

2. Preserving Congressional Information

While it is essential that citizens have timely access to current congressional information, it is equally important for citizens to have guaranteed permanent access to the historical record of congressional activities. The provision of timely access does not, by itself, guarantee long-term access. Preservation and long-term access require specific procedures in addition to those that are necessary for short-term access. Those procedures include providing timestamps and hashes for documents, establishing policies for the inclusion of copyrighted works in public materials and distributing documents to memory institutions.

3. Congressional Committees

The House should follow the Senate's lead and adopt a rules change requiring all House committees to promptly post online substantially verbatim records of their proceedings.

Guidelines should be set standardizing the offerings on committees' Web sites, recognizing their essential legislative and oversight roles and realizing their potential as a public resource, given their central functional role. Specifically, committees should seek to:

- explain their functions
- link to relevant resources on THOMAS
- publicly post all relevant documents and information, including:
 - recorded votes (as per H. RES. 231) using XML
 - testimony and transcripts
 - hearing and meeting schedules, on individual committee sites and on a centralized site, using RSS feeds for schedules and for notification of other offerings

4. Congressional Research Service

The closed nature of Congressional Research Service (CRS) reports should be revisited. While CRS is meant to be a research arm for Congress, this does not preclude the possibility of some of its reports being made available to the public. This would let the public benefit from the nonpartisan, objective analysis that CRS performs with public funding. Although current policy is that reports are generally off-limits to the public, most reports are already readily available to those with money or influence, and thus the current policy already requires revision. Issue briefs and other categories of reports should be made available to the public, with appropriate measures put in place to ensure that public access does not hinder CRS's ability to perform its primary function as a research arm for Congress.

5. Member Web-Use Restrictions

Regulations governing members' use of Web sites and e-mail should be updated to reflect the current nature of Internet use, taking into account the differences between old and new forms of communication, not just their similarities. The Committee on House Administration should convene a special, bipartisan task force composed of members of Congress, congressional staff on the Committee on House Administration and citizens, to better identify the intent of rules and regulations that are effectively prohibiting smarter use of technology on Capitol Hill.

They should establish a new process, specific rules and new standards governing members' use of the Internet.

6. Citizen Journalism Access

The House should create an Online Media Gallery to oversee the credentialing process for news Web sites, citizen journalists and bloggers. The gallery would serve as a sister organization to existing congressional press galleries, adapting the rules of those galleries for individuals who operate exclusively on the Internet. The formation of the gallery would allow a committee of peers to establish new rules for Web sites.

7. The Office of the Clerk of the House

The clerk of the House can greatly improve government transparency and strengthen public confidence in the House of Representatives and its members by:

- improving the quality of disclosure rules by offering more guidance
- requiring disclosure reports to be filed electronically
- indexing more records
- using common identification codes for related databases
- publishing all data from disclosure reports in a structured, non-proprietary database
- making data available free of charge and in a timely manner
- enforcing the relevant House rules and statutes by conducting regular audits and evaluations of compliance

8. The Congressional Record

The Congressional Record should accurately document what occurs on the House floor, as required by law¹. While still providing space for extended remarks, the House should support an update in procedures to ensure that the Congressional Record can be used to ascertain what has actually been said on the floor. The Joint Committee on Printing should be directed (and funded) to uphold standards of accuracy, to educate members and staff about updated procedures and to publish the Record in a manner that clearly distinguishes extended remarks from words that were actually spoken.

9. Congressional Video

The ability of the public to watch the legislative proceedings of Congress—both floor debate and committee hearings—is a significant component of what makes our government open and accessible. C-SPAN's continual coverage on television and webcast video feeds from some House committees make it possible for citizens to see first-hand how Congress operates. Unfortunately, while all other records of government proceedings are a part of the public domain, C-SPAN's de facto monopoly over broadcast-quality and archived video significantly restricts the ways in which the press can use video records when reporting on Congress. The House can and should provide the media greater access to its proceedings by extending its

¹ 44 U.S.C. § 901

current recording infrastructure to cover all committee hearings, and by making live and archived access to these videos available directly to the public via the Internet.

10. Coordinating Web Standards

It is important for the House of Representatives to make a lasting commitment to using the Internet to promote transparency, regularly reevaluating the best use of technology as the Internet changes and providing coordination across House Web sites and electronic data distribution channels. Coordination can set minimal standards for the timeliness, clarity, availability and preservation of official documents on the Web. Moving to Internet communication will also reduce redundancy and promote data standards— ultimately benefiting the public, who should be treated as advisers in the coordination process.

This set of suggestions should be a first step in a developing dialogue between Congress and the American public. Just as Congress struggles to keep up with current technology, meet the demands of constituents, function within a limited budget and coordinate an array of technical systems under various jurisdictions, politically active citizens will be grappling with the immense responsibility and potential brought by developing information technology. Since members of Congress and the people they represent all stand to gain equally from transparency reform, the suggestions in this report offer an opportunity for bipartisan cooperation in developing reform.

As lawmakers work to modernize congressional information resources, a growing community of transparency advocates will be working with them to provide ongoing guidance— hoping for many opportunities to praise positive development, and looking forward to putting to good use the information acquired.

Given the possible impact of the reforms advised in this report, and the level of interest and involvement generated in the growing community of transparency advocates, this report is being released as a first step in an ongoing collaboration between Congress and a community of involved citizens.

The Open House Project report will be posted online, to encourage further discussion and collaboration. As technology develops, laws change and new information is acquired, it will be revised accordingly. This report is intended to encourage the review of reform efforts and congressional procedures and to strengthen the growing relationships between Web designers and congressional technology directors, between transparency advocates and legislators, and between Congress and its constituents.

For further information, please contact John Wonderlich, Program Director for the Sunlight Foundation at info@sunlightfoundation.com.

Legislation Database

Publishing a Structured Database of Legislative Information

Recommendation Summary

Congress should make available to the public a well-supported database of all bill status and summary information currently accessible through the Library of Congress. This database, as well as its supporting files, should be in a structured, non-proprietary format such as XML. Records in the database should be updated in a timely manner. Such a database would enable independent Web sites to use information in new and creative ways, including educating the public about Congress and providing citizens with customized views of its proceedings. The database, being authoritative, would ensure the accuracy of the information presented to the public by independent Web sites. We also make recommendations regarding THOMAS (Library of Congress) and Government Printing Office products, the availability of bills online before they are debated and legislative language for future congressional databases.

Overview of Access to Legislative Data

The Library of Congress' launch of the Web site THOMAS², the public's primary Internet source for the status of federal legislation, was a milestone for transparency in 1995. The Web has changed dramatically since then, growing from a web of static pages to a web of pages and *data*, from which information can be downloaded and integrated into a variety of customized information resources. What it means to be on the Web today—on what is informally called “Web 2.0”—involves not just creating a Web site to be browsed, but supplementing it with authoritative, structured data that facilitates the efficient reuse of information. Examples of structured data include RSS feeds, as well as XML data downloads such as the roll call vote XML files currently on the House Web site.

We recommend that the House embrace structured data by publishing the status of legislation and other information to the Web not only as it is now, but also in structured data formats.

An example: The Illinois General Assembly maintains an FTP site for its structured legislative data in XML alongside its public access databases. The state's Legislative Information System Executive Director, Tim Rice, said making the data available was straightforward: “Since we had the data in XML, it made sense to provide it. . . . It made the data available in a useful format, and it provided access to data that kept our site from being crawled constantly by those wanting that data. . . . There really haven't been any problems with maintaining the FTP site. The data is moved there as part of our regularly scheduled processes, so it doesn't require special attention.”³

² <http://thomas.loc.gov>

³ Personal communication to Open House Project.

History of THOMAS

THOMAS was launched by the Library of Congress, at Congress' request, in January 1995 at the start of the 104th Congress. Its creation was spearheaded by then-Speaker of the House Newt Gingrich, following on the heels of a Democratic initiative to modernize the Government Printing Office (GPO)⁴. At the time, the House of Representatives, the Senate, the Library of Congress and the Library's Congressional Research Service (CRS) already had a history of sharing data for mainframe legislative information systems. The core legislative database on THOMAS is the CRS Bill Summary and Status database, which features CRS summaries of legislation and daily updates on the status of legislation. It integrates this information with selected full-text documents from GPO and links to other data, such as roll call votes on the House and Senate Web sites.

THOMAS now provides online access to authoritative legislative information from Congress, including:

- Bill Summary and Status, 93rd Congress (1973) to present
- Text of Legislation, 101st Congress (1989) to present
- Congressional Record, 101st Congress (1989) to present
- Committee Reports, 104th Congress (1995) to present
- Senate Status of Treaties and Nominations, 90th Congress (1967) to present

THOMAS has evolved over time to include helpful links from a bill to related information, such as committee Web site documents, House special rules, Congressional Budget Office cost estimates, and the Public Laws database at GPO.

The work that has gone into making the THOMAS and GPO Web sites as informative as they are is highly commendable. With recent technological advances, even more is possible. For example, today's online citizens expect stable links back to a document. THOMAS pages for some documents, including the text of a bill and pages within the Congressional Record, have temporary addresses that expire after a short period of time.⁵ These temporary links cannot be cited or e-mailed to another person, discouraging individuals and members from linking to THOMAS and limiting its effectiveness. With up-to-date Web technology, this problem could be resolved.

In a related matter, GPO fees currently discourage the use of GPO's authoritative version of legislative texts. GPO charges \$7,280 yearly for electronic receipt of its Daily Bills file, which contains the text of legislation-as-drafted in a format suitable for reuse by independent Web sites. THOMAS itself purchases this product from GPO to display the text of legislation on its own Web site. The cost is governed by 44 U.S.C. 1708, which states that documents are to be sold at cost plus 50%, and by 44 U.S.C. 4102, which states that electronic documents are to be sold to recover only the incremental cost of distribution. While the distribution of the text of legislation

⁴ In the 103rd Congress, Rep. Charlie Rose and Sen. Wendell Ford introduced H.R. 1328 and S. 564, respectively: the Government Printing Office Electronic Information Access Enhancement Act of 1993, which became P.L. 103-40.

⁵ While it is possible to construct permanent links to these pages, it is not straightforward and users often do not realize that this is necessary. (see <http://www.llsdc.org/sourcebook/establishinglinks.htm>)

may have been costly in 1995, justifying GPO's past need to charge for distributing these data files, there is virtually no cost to distribute text over the Internet today. The cost should be adjusted to reflect current costs, if not abolished, and the public should be encouraged to use this public resource.

The Library of Congress is currently working on improving THOMAS and is testing a beta version with a new search engine and a new design⁶. GPO is also working on its Future Digital System (FDsys). It is an opportune time to implement changes that will advance the availability of legislative status information from 20th century state-of-the-art to model 21st century best practices.

Structured Information in the Government

Allowing people to use computers to check the status of legislation will help them understand what Congress does day to day. With the ever-increasing amount of information that is available online, we need computers to help us organize, digest and integrate the information put out by Web sites. Webmasters who publish content in two forms—once in the way we all think of as a Web page, and again in a structured data format—make it possible for computers to transform that content in new ways, giving users new perspectives. RSS and iCal feeds, two popular examples of structured data, are used to aggregate news and blog headlines and events calendars, allowing computers to help people manage the increasing amount of information coming at them. Making legislative information available in a structured data format will provide the public with new and important views into the legislative process.

The notion of structured data is not new to the federal government. The Census Bureau, for instance, has for years not only provided a Web interface for census statistics—that is, a page where users can find simple data such as population numbers—but also the complete set of numeric data files to be downloaded and imported into database and statistics programs. The benefit of a download of the data is that with the complete data set computers can help people delve more deeply into the data and put it in new forms, such as charts and maps, that would be too time consuming to create by hand.⁷ Another example is the Securities and Exchange Commission's practice of making investment filings available to the public in XML format through its EDGAR program.⁸ Likewise, the Federal Election Commission makes campaign contribution information available in a downloadable structured data format⁹, allowing the public to absorb the information in a variety of ways.

Nor is structured data new to the legislative branch. The House has for the last several years published the results of roll call votes in XML, an advance that has made it easier for independent Web sites to put the information to new uses, such as creating visual maps for votes and e-mailing results of votes to interested citizens.¹⁰ Moreover, the House and Senate have been

⁶ <http://thomas.loc.gov/beta>

⁷ As an example, some have meshed census data with Google Maps (see <http://maps.webfoot.com>) to produce an entirely new way of exploring demographics.

⁸ <http://www.sec.gov/edgar.shtml>

⁹ http://www.fec.gov/finance/disclosure/ftp_download.shtml

¹⁰ As is done by the Web site GovTrack.us (<http://www.govtrack.us>).

drafting legislation using XML for the last several years, a use of structured data that has improved the internal bill drafting work flow.¹¹ Making structured data on legislative status available to the public would be a natural extension of Congress' efforts to make its operations more open and transparent.

Six states already publish the status of their state legislation in a structured data format: Connecticut, Illinois (as described above), Minnesota, Oregon, Texas and Virginia. The Virginia General Assembly provides a continually updated database of the status of state legislation. As a result, independent Web sites like RichmondSunlight.com can help educate the public about the activities in the legislature in creative ways, such as through graphs and "tag clouds." Virginia and these other states have shown that the goal presented here is both attainable and beneficial to the public good.

Recommendations for the Legislation Database

Making the status of legislation available in a non-proprietary structured data format, such as XML or RDF, would support the creation of Web sites that can help people—among them students, journalists, researchers, attorneys, federal employees and D.C. insiders—to understand and follow the proceedings of Congress. Citizens can track bills that interest them, follow the actions of their representatives and better understand the legislative process, furthering the goal of making Congress open and transparent. Publishing the information in a structured format allows it to be put to new, creative uses, not all of which the THOMAS staff has the mandate or resources to implement. Such uses could include:

- sending e-mails to citizens when a bill they are following moves forward in the legislative process
- creating an education-oriented Web site that presents legislative terminology on a basic level
- comparing bills and tracking changes to bills as they are amended
- providing RSS feeds of recently introduced bills for a particular subject
- creating a Web site in the style of a wiki for the public, collaborative analysis of legislation

These are just a few ideas, all of which would have significant benefits for the public. None of these applications is possible without a structured database of legislative information. It would be too time consuming and costly for any person to individually process each of the thousands of bills introduced in Congress.

The Legislation Database can be created as an adjunct to what already exists, through an addition to THOMAS, as a new product from the Library of Congress, or simply as a new FTP-based data source. Because the information that would go into the database already exists as an XML database within the Library of Congress (it is precisely what powers THOMAS and the internal Legislative Information System), there may be only a minimal cost to create a database suitable for the public.

¹¹ <http://xml.house.gov/drafting.htm>

An authoritative database of this information is sorely needed. Some of the applications mentioned above already exist in some form because entrepreneurs are independently constructing partial legislative databases of their own, but these independent databases have the potential to unknowingly spread inaccurate information. They are not long-term solutions. The only freely available source for downloading structured legislative data is created and maintained by GovTrack.us, a private, independent effort. GovTrack's database is the source for the information behind other public Web sites, such as OpenCongress.org, and as a result any errors in the original database have a wide impact. Common errors include delayed bill records, outdated cosponsor lists and incomplete committee membership listings. The errors, gaps and delays stem from the automated way in which the independent databases are reconstructed from the scattered, unstructured information that is available now. An authoritative structured database directly from Congress would provide a current, complete, accurate and reliable basis for these applications.

A database that is well-documented (including supporting files) and provides regularly updated records for download will provide its technical users with the reliable source of data that is now lacking. The importance of timeliness for the existing public legislative database has recently begun to find traction. The Sunlight Act of 2007 (H.R. 170), introduced by Rep. Steve King, would require that bills, resolutions, amendments and conference reports be made available on the Internet—in some cases at least 48 hours before their consideration. We believe the passage of this bill would be a clear signal to the public of a commitment to transparency. (S. 1, already passed by the Senate, would require the same but only of conference reports.) Supporting files for the legislative database should include a roster of Congress and of committee assignments, but other related data sets developed in the House could be included as well. This might include the database of congressional district ZIP codes that powers the “Find Your Representative” tool on the House Web site. Making that additional database available, either as a download or Web API, would widen its impact by allowing independent Web sites to help more people learn which district they live in. The increased number of data sets (beyond the status of legislation itself) and their timeliness will ensure that the public has comprehensive access to congressional information.

It is important for future bills and resolutions that establish new databases to provide for the availability of a downloadable, structured data counterpart to any searchable Web interface. For instance, H. R. 169, introduced by Rep. Dennis Moore, would require a list of earmarks in bills and amendments to “be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration.” We strongly support the consideration of this bill, and recommend amending it to ensure the availability of a downloadable, structured database of the same information.¹² Language already employed in S. 1 to improve lobbying disclosure takes into account the importance of a structured database:

“maintain, and make available to the public over the Internet, without a fee or other access charge, in a searchable, sortable, and **downloadable** manner, an electronic database”

¹² The Senate has already accepted language similar to H. R. 169 for changes to Senate rules, in S.1.

By adding “downloadable,” the bill provides for the possibility of a structured database of the information and addresses the importance of making information available in a form that encourages reuse. We strongly recommend the inclusion of such language in other bills and resolutions addressing the availability of information on the Internet.

Conclusion

As a potentially low-cost addition to Congress's Web presence, a structured database of legislative information would have innumerable benefits for an open and transparent Congress. Such a database would enable independent transformative uses of the information, which ultimately create an informed and responsible public. We recommend specifically that the following structured databases be made available:

- the status of legislation (i.e., what is on THOMAS and the Legislative Information System. Provisions for the timely inclusion of bills, resolutions, and amendments are also recommended.)
- supporting information, including the roster of Congress and committee membership
- the congressional district ZIP code database used by the House Web site

We also recommend that:

- THOMAS provide permanent links to all documents, in an obvious way, to enable Web researchers to directly refer to these documents
- GPO lower or abolish its fee for downloading the base text of legislation files (the “Daily Bills” product) to reflect today’s lower file distribution costs (as GPO’s mandate requires), thereby encouraging the use of GPO’s authoritative texts of legislation

We also suggest that legislative language in future bills and resolutions regarding “searchable and sortable” public data sets include a provision for making the data sets “downloadable” in a structured format.

Preserving Congressional Information

House Publications as Historical Documents

Recommendation Summary

While it is essential that citizens have timely access to current congressional information, it is equally important for citizens to have guaranteed permanent access to the historical record of congressional activities. The provision of timely access does not, by itself, guarantee long-term access. Preservation and long-term access require specific procedures in addition to those that are necessary for short-term access. Those procedures include providing timestamps and hashes for documents, establishing policies for the inclusion of copyrighted works in public materials and distributing documents to memory institutions.

History of the Availability of Congressional Information

Before the digital age, preservation of and long-term access to congressional information was ensured by the deposit of books and other materials into a legally defined system of federal depository libraries. To facilitate this, the United States Code establishes a Federal Depository Library Program (FDLP) of congressionally authorized libraries in virtually every congressional district. These libraries operate under rules and regulations about selecting, acquiring, organizing and preserving government publications and making them publicly accessible.¹³

With the advent of better tools for digital publishing, the Government Printing Office (GPO), which administers the FDLP, has stopped distributing most congressional information to depository libraries, in favor of providing online access to these materials through government-controlled Web servers.

This change from a “deposit” model to an “access” model significantly affects the mechanism for preservation.¹⁴ Where once the physical and financial responsibility for preservation resided in a distributed system of independent libraries operating under GPO guidelines, the current system relies on GPO alone to provide the “single authoritative source” for

¹³ 44 USC 19; http://www.access.gpo.gov/su_docs/fdlp/about.html. Accessed March 22, 2007.

¹⁴ The legislation (P.L. 106-554) that essentially established [GPO Access](#) and set the parameters for digital government information addressed this issue explicitly and favored distribution over access. The conference report on H.R. 4516 ([House Report 106-796](#), July 27, 2000) replaced the wording "on-line access" in the original bill with the word "distribution."

“permanent preservation for public access” to all federal documents.¹⁵ This puts the preservation of congressional information at risk in two significant ways.

First, because this new method relies on a single government agency (GPO) rather than a large number of distributed, separately funded, separately administered depository libraries, a change in federal policies or priorities or inadequate funding of GPO could cause loss of access or loss of information for everyone.

Second, the new system makes it more difficult, and in some cases impossible, for any memory institution¹⁶ to identify and acquire digital materials for preservation. One reason is that the government permits the deposit only of what it calls “tangible” publications, thus making most digital congressional information unavailable for preservation at FDLP libraries. This situation is further complicated by the lack of timely notices—in a machine-processable format—of the addition of digital information. This forces institutions to use inefficient and often ineffective procedures for identifying and acquiring information from government Web sites.¹⁷ Further, because the “access” model results in systems that are designed for use by individuals who access small amounts of information at a time, these systems often make it difficult for organizations to comprehensively acquire information in bulk for systematic preservation.

Historically, there have always been gaps in what information got into the depository system and was therefore preserved. Materials not published by GPO were rarely deposited. Audio-visual materials, such as videos of congressional hearings and House debates, were not made available to depository libraries. Databases of information were deposited sometimes as static, published documents and sometimes as applications in proprietary formats—if they were deposited at all. Technological advances have made it possible to deliver many of these “fugitive” materials in ways that were technically or financially difficult in the past.

Key Stakeholders and Political Climate

GPO and the FDLP are not the only entities preserving and providing access to congressional materials:

¹⁵ U.S. Government Printing Office, [A strategic vision for the 21st century](#). Washington, D.C.: U.S. Government Printing Office, December 1, 2004. Accessed March 22, 2007. GPO stated this explicitly in its initial digital information plan [The Electronic Federal Depository Library Program: Transition Plan, FY 1996 - FY 1998](#) (accessed March 22, 2007) in which it said “...the responsibility for ensuring long-term access shifts from the depository libraries to the Superintendent of Documents.” (The FDLP is managed by the Library Programs Service (LPS) in the Office of the Superintendent of Documents of the GPO.)

¹⁶ Memory institutions (e.g., libraries, archives, museums) are those institutions that include long-term preservation and access as a primary mission, not a secondary effect of another mission such as indexing or commercial profit.

¹⁷ GPO provides a Web page with lists of [New Titles](#) recently cataloged and an [RSS feed](#) that sends notification when those lists are updated. Much more could be done, however. See, for example, the much more useful RSS feeds of new documents, provided by the University of Alabama <http://library.ua.edu/rss/> under “Superintendent of Documents Classes.”

- The Library of Congress provides access to some legislative materials through its THOMAS Web site.¹⁸
- The National Archives and Records Administration retains legislative information, but posts little of it online.
- A variety of collections of digital government information are publicly available from private organizations, such as the Internet Archive,¹⁹ and universities such as the University of North Texas.²⁰
- C-SPAN television network provides “gavel-to-gavel proceedings of the U.S. House of Representatives and the U.S. Senate”²¹ and recently announced a “liberalized copyright policy” that will allow some copying, sharing and posting of C-SPAN video on the Internet.²² Carl Malamud, who created the first webcasts of the House and Senate floors, has recently experimented with a variety of methods and locations for hosting video on the web and has summarized his findings in an open letter to Speaker of the House Nancy Pelosi.²³ (This is covered in detail in the Congressional Video section of this report.)
- Stanford University Libraries are collaborating with GPO on a pilot project to investigate the effectiveness of using the preservation and distribution software LOCKSS (Lots of Copies Keeps Stuff Safe) for government information.²⁴
- Private sector companies offer congressional information selectively for fees.²⁵

Despite the work of all these stakeholders, there are still gaps in preservation, and barriers to preservation and access. There are at least three barriers to long-term preservation:

- Some government publications, which are not normally copyrightable, contain copyrighted information (e.g., hearings may have copyrighted materials submitted to accompany testimony).²⁶ This adds a potential legal complication to the preservation and re-

¹⁸ <http://thomas.loc.gov/>

¹⁹ <http://www.archive.org/>

²⁰ <http://govinfo.library.unt.edu/>

²¹ <http://www.c-span.org/about/company/index.asp?code=MISSION> Accessed March 27, 2007.

²² <http://www.c-span.org/about/press/release.asp?code=video> Accessed March 27, 2007. C-SPAN is, however, restricting the use of videos, implying that it still owns or controls the information.

²³ http://public.resource.org/dear_speaker.html Accessed March 27, 2007.

²⁴ <http://lockss-docs.stanford.edu/>, http://www.access.gpo.gov/su_docs/fdlp/lockss/index.html. Accessed March 27, 2007.

²⁵ For example, Gallery Watch <http://www.gallerywatch.com/>, LexisNexis <http://global.lexisnexis.com/us>, William S. Hein & Co. <http://heionline.org/>, Penny Hill Press <http://www.pennyhill.com/>. Accessed March 27, 2007.

²⁶ Even the clerk’s [Kids in the House](http://kidsinthehouse.gov) site says explicitly that “some images may be protected by the U.S. Copyright Law (Title 17, U.S.C.). Do not duplicate without permission from copyright holder. Copyright information is provided whenever possible, but it is ultimately the responsibility of the user to determine and satisfy the copyright and other restrictions.” For other examples see: [Poison Pill for Government Web-Site Archivists?](http://poisonpillfor.gov), James A. Jacobs, FreeGovInfo.info, July 25, 2005.

distribution of digital materials. The Google Books project, for example, treats the U.S. Serial Set as if it were copyrighted.²⁷

- GPO has a stated mission of distribution of electronic government information “on a cost recovery basis.”²⁸ This creates an economic obstacle for memory organizations that wish to preserve the information, opens the door for GPO to apply Digital Rights Management technologies and licensing restrictions to such information products to prevent their re-distribution and creates an economic obstacle to the public’s making direct use of government information. The effects of this policy can already be seen in the way GPO handles digital Congressional materials in a format suitable for preservation—rather than offer these materials for deposit into FDLP libraries, GPO sells them for high fees.²⁹

- When there is a change in committee leadership or in leadership of the entire Congress, the current system supports completely wiping the history of past work from house.gov. Any files not deposited before such changes are at high risk for loss.

Recommendations

To ensure guaranteed, long-term, free, public access to a comprehensive collection of government information, it is essential to provide more than timely access. The government must distribute preservable versions of the information directly to memory institutions that have as their primary mission the long-term preservation of, and free public access to, government information. To accomplish this for House publications, the House of Representatives should take the following actions:

- Create all digital content with preservation in mind. Specifically:
 - Use only open file formats (e.g., PDF/A³⁰) rather than proprietary formats (e.g., Apple Quicktime, RealMedia .rm, Microsoft .doc, .xls, .ppt).
 - Use operating-system neutral formats rather than formats that require a specific computer operating system.
 - Avoid data formats that depend on commercial software or that require commercial operating systems.

²⁷ <http://tinyurl.com/3b7of8> Accessed March 27, 2007.

²⁸ [A strategic vision for the 21st century](#). Accessed March 22, 2007. GPO also states a mission of providing “free and ready public access” to electronic documents, but that commitment is limited to “access” through FDLP libraries and does not include the deposit of preservable content into memory institutions.

²⁹ For example, Senate and House Committee Reports, \$7,820/year; Congressional Record, \$7,820/year; Daily Bills, \$7,820/year. <http://bookstore.gpo.gov/collections/eproducts.jsp>. (Accessed March 27, 2007.) See also the “Legislation Database” section of this report.

³⁰ [PDF/A](#) is “an International standard that defines the use of the Portable Document Format (PDF) for archiving and preserving documents.” Proprietary formats endanger long-term access because use of the files depends on the ability and willingness of the format creator to provide tools to read the files.

- Reject the use of Digital Rights Management technologies that restrict or limit access in any way.
- Reject licensing restrictions on the use and reuse of congressional information, including instances where copyrighted works are included in the public document and third parties may attempt to restrict distribution of the document or portions of it.
- For each discrete digital object, provide a digital hash or digital signature that can be used to verify that the object has not been modified.³¹
- For each discrete digital object, provide a time stamp and version number, or other indications of when the object was created and its relationship to other versions of the same information.
- Explore legislation that provides for the preservation and redistribution of copyrighted materials that are incorporated into government information products.
- For audio-visual information, such as videos of committee hearings and House proceedings, provide files for downloading after the fact in addition to live streaming feeds.
- Deliver content directly to GPO and to FDLP libraries using an appropriate digital deposit technology.³² Work with GPO to ensure that new procedures for deposit of digital materials are developed and enforced for FDLP libraries and that all online content is transferred to GPO before changes in committee or other leadership take place.
- Establish a centralized message system for communication among preservationists and between preservationists and the House.

Conclusion

Preservation as an institutional activity is sometimes overlooked in the age of instant access. When we see the rapid distribution and redistribution of newsworthy congressional information on the Web, it is easy to forget that information that may seem mundane or even unimportant when it is released may not get preserved without a concerted effort by memory institutions. Such information will be vital to historians, journalists, lawmakers and citizens.

Congress should not rely on the government alone (e.g., GPO, the Library of Congress, and the National Archives) to guarantee both the preservation of and long-term, free, public access to all congressional information. Nor should Congress assume that congressional information will be comprehensively preserved by others without explicit partnerships and technological planning. By relying on the existing law (44 USC 19) and ensuring the deposit of congressional information in open formats suitable for preservation, Congress can guarantee robust and reliable access to congressional information for future generations.

³¹ For example, FIPS 186 (<http://www.itl.nist.gov/fipspubs/fip186.htm>). Accessed March 27, 2007.

³² For example, LOCKSS (http://www.lockss.org/lockss/For_Publishers), File Transfer Protocol, OAI-PMH (<http://www.openarchives.org/pmh/>), the Sitemaps protocol (<http://sitemaps.org/>), or similar tools and protocols.

Congressional Committees

Committee Information as a Public Resource

Recommendation Summary

“As agenda setters, sources of expertise and policy developers, committees are the lifeblood of the congressional system,” reads the 1993 Final Report of the Joint Committee on the Organization of Congress—and we agree.³³ With new Internet technology and increased public interest, congressional committees can serve a greater role as “sources of expertise” by posting their proceedings and publications online as a public resource. Two specific reforms will help Congress respond to the public’s growing capacity for legislative information: committee proceedings should be made public through audio, video and text; and guidelines should be set to standardize the now highly varied offerings of committee Web sites.

The House should follow the Senate’s lead and adopt a rules change requiring all House committees to promptly post online substantially verbatim records of their proceedings.

Guidelines should be set standardizing the offerings on committees’ Web sites, recognizing their essential legislative and oversight roles and realizing their potential as a public resource given their central functional role. Specifically, committees should:

- explain their functions
- link to relevant resources on THOMAS
- publicly post all relevant documents and information, including:
 - recorded votes (as per H. RES. 231) using XML
 - testimony and transcripts
 - hearing and meeting schedules, on individual committee sites and on a centralized site, using RSS feeds for schedules and for notification of other offerings

Publicizing Committee Proceedings

Congressional committees are the primary locus of legislative activity. By permitting representatives to focus their skills and knowledge on specific topics, the standing committees institutionalize legislators’ expertise. Most reform efforts aimed at congressional committees have focused on their main responsibilities: drafting laws and providing oversight. Congressional reorganization efforts have targeted the jurisdiction of committees, the selection of chairs, voting methods, staff and funding. The role of the public spectator, however, has commanded comparatively little attention.

³³ <http://www.rules.house.gov/Archives/jcoc2b.htm> Accessed March 11, 2007

House Rules on Access to Committees

House rules today provide a solid foundation for using the Internet to promote transparency. The Legislative Reorganization Act of 1946 improved the public's ability to access committee documents, "requir[ing] the transcription of all public and closed session hearings by all House and Senate committees" (Congressional Information Service, Inc.). It didn't, however, require the publication or preservation of hearing transcripts.³⁴ The current rules have helped to remedy this situation. For instance, House Rule XI requires that "(e)(1)(A) Each committee shall keep a complete record of all committee action which shall include— (i) in the case of a meeting or hearing transcript, a substantially verbatim account of remarks actually made during the proceedings." Verbatim transcripts are an important resource for citizens who cannot attend meetings in person and for historical preservation.

A further improvement exists in House Rule XI, clause 2, which provides that "(4) Each committee shall make its publications available in electronic form to the maximum extent feasible." But it makes a qualification which, by being broadly applicable to all committee documents, undermines the notion of public access: "In implementing clause 2(e), committees may prescribe regulations to govern the manner of access to their records, such as requiring examination only in committee rooms." House rules should be updated to ensure that electronic publication is the norm, not the exception.

Public Access to Committee Proceedings is Considered

Emerging Internet-based forms of civic engagement are prompting a reassessment of how committee information is presented to the public. Now that committee proceedings can be posted online, at almost no cost, they can be made available to the public in a truly useful way. While in the past access was limited to those geographically near committee offices and to those with expensive subscriptions to commercial information services, the Internet can now bring committees' work to anyone who is online.

Many committees are embracing this new technology, even webcasting videos of their proceedings.³⁵ This is a step in the right direction—the public has an enormous interest in gaining timely access to *all* open committee proceedings. The topics covered in committee are as varied as the committees that hold them, and their content is central to the national debate.

Even as some committees are embracing the Internet, investing time in publishing documents and proceedings online, others are not, for a variety of reasons. Rather than leaving public access and the historic record to the variable discretion of the committee chairs, the House should require that all committees publish their proceedings online shortly after they occur.

The Senate took a step to do just that in January 2007 with S. 1³⁶, introducing the following requirement for all its committees: "Except with respect to meetings closed in accordance with this rule, each committee and subcommittee shall make publicly available through the Internet a video recording, audio recording, or transcript of any meeting not later than

³⁴ <http://www.lexisnexis.com/academic/3cis/ovwHearings.asp> Accessed March 11, 2007

³⁵ http://www.rollcall.com/issues/52_89/news/17344-1.html Accessed March 7, 2007

³⁶ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:s1:>

14 business days after the meeting occurs.” When introducing the amendment that contained this requirement, Sen. Ken Salazar remarked, “I was surprised to realize how difficult it is for constituents to figure out what goes on in our committee meetings—where the bulk of the legislative process takes place...”³⁷

This amendment is set to take effect in October 2007. Allaying fears that the requirement might be burdensome to committees, Salazar continued, “First, they have until October 1, 2007 to adjust their practices. Second, they have 3 options—audio, video, or transcript—to comply. Third, many of the committees already post this information online.”

Recommendations for the Availability of Committee Proceedings

The House should follow the Senate’s lead and adopt a rule requiring all House committees to post records of their proceedings online. The records should be timely, accurate and archived. Live webcasting is a great start, but if video isn’t archived, its impact is severely limited. (Archiving is covered in detail in the Preserving Congressional Information section of this report.) Transcripts should provide an accurate portrayal of proceedings. To guarantee this, the “substantially verbatim” requirement should be maintained.

By requiring committee proceedings to be available online, the House can enhance its role as a hub of policy expertise, broadly promoting public knowledge rather than placing levels of restriction on information privilege.

Committee Web Page Standards

Committee information gets published online through Web pages maintained separately by congressional staff, not only for each of the House’s twenty-four committees and each of their subcommittees, but also under the authority of the chair and ranking member, with separate Web pages for the majority and the minority. Standards for committee Web site content are determined by each individual chair or ranking member, subject to the restrictions set by the Franking Commission. In the absence of a clear mandate for precisely what committees should be publishing on their Web sites, the availability of committee records, including those governed by House rules, varies immensely from one committee to another.

Only about half of open committee hearings and meetings in the 109th Congress were posted online in the form of a transcript or electronic recording, with wide variation among different committees.^{38,39} By providing guidelines for committee Web pages and standards for data delivery, the leadership in the House can create better public access to important committee documents, events and actions. Committee Web site content guidelines should include the following:

³⁷ <http://salazar.senate.gov/news/releases/070110pol.htm> Accessed March 11th, 2007

³⁸ <http://www.sunlightfoundation.com/node/1617> Accessed March 11th, 2007

³⁹ <http://www.sunlightfoundation.com/node/1596> Accessed March 27th, 2007

An Explanation of the Committee's Legislative Role

Although committees play a crucial role in the legislative process, their role in shaping and filtering legislation is perhaps, to the public, the most obscure of all of Congress's activities. Committees should use their Web sites to be pro-active in explaining their legislative actions in non-parliamentary language that is accessible to the public, while at the same time articulating the legislative consequences of their actions. A press release that covers the reporting of an amendment in the nature of a substitute, for instance, should be clear: first, in its explanation of what the terminology means; second, about what substantive aspects of the bill are changed by the amendment; and third, about the reasons for the change and, as far as possible, about who suggested and supported the changes. By making these explanations, committees can help citizens to be more knowledgeable about the committee system.

Committees can also use their Web sites to help citizens follow the work being done on the bills referred to each committee. A link from committee Web pages to the legislation, amendments and reports on the THOMAS Web site is an important first step already being taken by several committees, a noteworthy example being the Committee on the Judiciary. Committees should also indicate which bills referred to them are likely to be considered in the future, as far as is known. For bills that have been considered in meetings, the progress made on each bill should be documented and explained on the committee's Web site and updated in a timely fashion.

A Record of Votes

Members' votes in committees play a crucial role in the legislative process, but they receive far less attention than they deserve because the schedule and results of committee votes are particularly inaccessible. While committee votes are documented in the public reports attached to legislation, the legislative language used in reports is too unfamiliar to the public for the reports to be considered an open or transparent means of disseminating committee voting records. Further, the delay between a vote and a report prevents timely access to the information.

The House should update its rules to incorporate technological advances in making committee votes more accessible to the public. On March 9, 2007, Rep. Pete Sessions introduced H. R. 231,⁴⁰ which would require committee votes to be published online within 48 hours of their occurrence. We strongly urge this resolution to be taken up, and also suggest that the House go a step further. For the House floor, roll call votes are posted online in (near) real-time in both a browsable and downloadable, structured data (XML) format. Committee votes should be made available to the public in the same manner.

Testimony and Transcripts

Access to the testimony of experts or witnesses at committee hearings is a valuable public resource. Testimony gives insight into legislative environment and action, and brings respected and informed individuals to the forefront of public awareness. For example, testimony to the Committee on House Administration for the 2006 Hearing on Information Technology Assessment provided essential information for this report. The unique value of testimony necessitates its timely availability for viewing on committee Web sites.

⁴⁰ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:h.res.231>:

Prepared testimony and prepared statements should not be used to replace transcripts of actual proceedings. The proceedings themselves are important legal and cultural events, so substantially verbatim transcripts must be made available for the public, and preserved for the future. While the preparation of transcripts is a time-consuming process, owing to the need for typographical and other corrections, the transcribing process should have a degree of oversight to ensure that transcriptions are timely and do not deviate substantially from the events that actually transpired.

Schedules and RSS Feeds

With all of the activities taking place in the dozens of committees and subcommittees of the House of Representatives, it can quickly become impossible for interested citizens to stay up to date on the activities in even a handful of them. The manner and consistency with which committees publicize the schedule of their hearings and meetings determine the ability of the public to attend and watch those hearings. Committee Web sites should strive to make their schedules public as far in advance as possible, and in a format that makes the schedules readily accessible to the public. The Senate, for instance, has a Web page where schedules of hearings from all committees are posted together.⁴¹ The House should provide a similar resource.

If each committee were to post its schedule in a standardized form, such as RSS (more on that below), creating a centralized listing from the current decentralized management of committee schedules would be straightforward. Moreover, announcements of meetings, hearings, markups, and the availability of new transcripts and documents should be broadcast via RSS. Feeds could then be aggregated in a centralized location, in addition to being available on individual committee pages.

The current use of RSS feeds by committees to make announcements has been a positive step. RSS (Real Simple Syndication) feeds are special files on the Web that summarize a list of news items, blog posts or other items as they are posted. This is a type of structured data format that allows people to process the growing volume of information they wish to read over the Internet. RSS feeds allow computers to automatically fetch and sort the headlines from a user's chosen news sources, eliminating the need for the user to check each Web site periodically for updates. RSS feeds can be used for a variety of purposes in the House, such as posting schedules of upcoming hearings or committee bill activity such as votes or markup sessions.

The way committees make use of RSS can affect how people navigate the information being published by committees. Effective use of RSS feeds allow them to be transformed by independent Web site programmers into other uses. RSS feed authors can pull from each feed's descriptive content information such as the date and time of a hearing or a list of related bills, and put it into separate machine-readable "tags." This makes it possible, for instance, for independent Web sites to mesh a committee markup meeting feed with bill status and summary information, or to transform a hearing schedule feed into a calendar. The technical details of best practices of RSS feeds are beyond the scope of these recommendations, but implementing such RSS feeds would involve developing a small number of data standards that, to be most useful, should be shared across committees.

⁴¹ http://www.senate.gov/pagelayout/committees/one_item_and_teasers/committee_hearings.htm
Accessed March 11, 2007

Additional Elements

Committee Web sites should include all relevant public information pertaining to their history and operations. This information includes the committee's rules, oversight plans, jurisdiction, membership, subcommittee information and other pertinent documents.

Conclusion

Committee information should be treated as a public resource. The House should amend its rules to require that committee proceedings be published online shortly after all open meetings, as the Senate did in approving the Salazar amendment. Guidelines for standardizing content and presentation should be set for committee Web sites.

Congressional Research Service

Recommendations to Publish Congressional Research Service Reports

Recommendation Summary

The closed nature of Congressional Research Service (CRS) reports should be revisited. While CRS is meant to be a research arm for Congress, this does not preclude the possibility of some of its reports being made available to the public. This would let the public benefit from the nonpartisan, objective analysis that CRS performs with public funding. Although current policy is that reports are generally off-limits to the public, most reports are already readily available to those with money or influence, and thus the current policy already requires revision. Issue briefs and other categories of reports should be made available to the public, with appropriate measures put in place to ensure that public access does not hinder CRS's ability to perform its primary function as a research arm for Congress.

Overview of the Congressional Research Service

The Congressional Research Service (CRS) is a research-based legislative branch agency within the Library of Congress. CRS's mission is to provide Congress with "its own source of nonpartisan, objective analysis and research on all legislative issues."⁴² In 2006 the cost of these services totaled \$102 million.

Currently, CRS written products are created solely for the benefit of Congress itself, and can only be released to the public by members of Congress. As CRS's director, Daniel P. Mulhollan, has stated, "Once a report is produced for the Congress, it becomes the property of the Congress... CRS itself has no public role and is prohibited by law from publishing its work."

CRS written products may be intended solely for the use of members of Congress, but a variety of stakeholders do have access to the reports. According to the Project on Government Oversight, former members of Congress, including many who have become lobbyists, have access to CRS reports. In addition, for-pay services such as Penny Hill Press, Gallery Watch, Lexis-Nexis and Westlaw offer these reports. According to Stephen Young, reference librarian at The Catholic University of America, over thirty Web sites, including OpenCRS.com, offer CRS reports at no cost, though there is no one comprehensive source. Most of these sites would welcome giving up their roles as conduits, should Congress provide a comprehensive alternative.

The consequence of the patchwork release pattern is that lobbyists and those with political connections have access to Congress' "brain" while the public at large finds these reports difficult to procure.

⁴² <http://www.loc.gov/crsinfo/whatscrs.html#about>

History of the Congressional Research Service

Since 1952, Congress has stipulated that it alone is granted access to studies, analysis and research from CRS (then known as the Legislative Reference Service). CRS is prohibited “from general public distribution of its material without prior approval by one of its two congressional oversight committees.”

In 1980, the Joint Committee on the Library recommended that “the circulation of CRS materials prepared specifically for congressional use be limited to Congress, and that the long-standing policy of confidentiality in the work of CRS for individual congressional clients should be maintained.”⁴³ Following the committee’s release of recommended guidelines, the Senate enacted a resolution stating:

“That it is the determination of the Senate that the communications of the Congressional Research Service to the members and committees of the Congress are under the custody and control of the Congress and may be released only by the Congress, its Houses, committees and members, in accordance with the rules and privileges of each House.”⁴⁴

The 1980 guidelines proposed by the Joint Committee on the Library and the Senate resolution outlined the current policy that protects the Congressional Research Service from doing any work for the general public, while leaving it to members of Congress to decide what, if any, access the public should have to CRS reports. In a 1998 report on whether CRS reports should be widely available to the public, CRS made the following observation:

“The principles of representative government and of legislative accountability hold that representatives have an obligation to provide their constituents with the information and understanding required in order to exercise democratic citizenship; that is, the democratic idea that the authority of those who govern rests on the consent of those who are governed, calls for democratic consent to be fully informed and enlightened...

Moreover, technology now enables Members and Committees to make CRS products available to constituents in electronic format through congressional Homepages.”⁴⁵

In the report, CRS expressed reservations about their products being publicly available. Their concerns included: the pressure to “address views, methods, disciplines, and expectations of non-congressional professional peers, with the result that CRS written work could shift away, or appear to shift away, from its

⁴³ [“Congressional Policy Concerning the Distribution of CRS Written Products to the Public,”](#) Congressional Research Service, January 2, 1998.

⁴⁴ S. 396, 96th Congress

⁴⁵ [“Congressional Policy Concerning the Distribution of CRS Written Products to the Public,”](#) Congressional Research Service, January 2, 1998.

current emphasis on the congressional audience”; the possibility that “outside parties may judge and question CRS papers on the basis of standards other than the standards CRS has developed to meet congressional needs (e.g., timeliness, non-partisanship, balance, objectivity)”⁴⁶; and multiple legal issues related to “copyright infringement,” “the speech and debate clause,” and “confidentiality... and...constitutional immunity.”

While these legitimate concerns merit consideration, they are not insurmountable obstacles to public access. We urge a change in thinking, as outlined below.

The Case for Public Access to Congressional Research Service Reports

There are two political institutional groups resistant to publication of CRS reports.

- 1) CRS is institutionally opposed to public review of its work.
- 2) Members of Congress consider the private distribution and production of CRS reports a valued constituent service. Senator Ted Stevens, “like many members of Congress, views CRS as an extension of his staff.”⁴⁶

However, in each Congress from the 105th to the 108th, Sen. John McCain has proposed a bill to provide for the Senate sergeant-at-arms to make CRS reports available for members of Congress and committees to post to their public Web sites at their own discretion. Both Rep. Chris Shays and then-Rep. Jim DeMint proposed similar legislation in the House of Representatives in the 104th, 105th and 108th Congresses.⁴⁷ Former Rep. Mark Green and Sen. Patrick Leahy have also provided a large amount of support for the expansion of public access to CRS reports.

The following current senators have sponsored or cosponsored legislation that would expand public access to CRS reports: McCain, Leahy, Joe Lieberman, Tom Harkin, Trent Lott, DeMint, Tom Coburn, and Mike Enzi.

Other members of Congress have expressed support for public access to CRS reports, according to the Project on Government Oversight’s report on public access to CRS:

“In 1998, then-Chairman of the Rules Committee Senator John Warner (R-VA) and Ranking Member Wendell Ford (D-KY) disseminated CRS products through the Committee’s Web site, taking the position that it is appropriate ‘for Members and Committees to use their web sites to further disseminate CRS products,’ and, in fact, encouraging them to do so. Senator Tom Daschle (D-SD) was the first to respond to this suggestion, putting almost 300 CRS products on his Web site.”⁴⁸

⁴⁶ Information, Please (http://www.washingtonpost.com/wp-dyn/content/article/2007/02/18/AR2007021801064_pf.html)

The Washington Post, February 19, 2007

⁴⁷ In the 108th Congress, H.R. 3630 (Congressional Research Accessibility Act) and S. Res. 54.

The Project on Government Oversight's report "Congressional Research Service Products: Taxpayers Should Have Easy Access"⁴⁹ suggests that the arguments against public distribution are not well founded:

- **Speech and Debate Protections:** Two other legislative branch offices that have a similar function as CRS: The Government Accountability Office and the Congressional Budget Office both provide public access through their Web sites to all reports they issue for consumption by Congress.
- **Risk from Copyright Infringement:** CRS already takes measures to avoid infringement in its documents, such as obtaining permission for use of copyrighted material. They would continue to take these steps, and could adapt them for more widespread distribution. For instance, material essential to a report, for which permission to distribute was not obtainable, could be distributed to the public in a different form.
- **Cost:** The cost of distributing documents on the Internet today is negligible.

While existing concerns are clearly important, research has shown that many are molehills, not mountains, and can be resolved.

Recommendations

The House should pass a resolution directing the clerk of the House to work with CRS to create a publicly accessible database of a selection of CRS written products. Not all CRS products need be included in the database. While CRS Issue Briefs, reports generally available to members of Congress and CRS Authorization of Appropriations Products ought to be generally included, reports requested by individual members who do not wish to make the report public and reports containing confidential information certainly need not be made public. In addition, aspects of reports that may raise issues for public distribution, including the names of report authors and copyrighted material, should be addressed in any policy reforms. These concerns, however, should not prevent the other parts of the reports from being publicly distributed.

Conclusion

While the public need not be invited to scrutinize all work done by CRS, the case for complete secrecy is now weak. These reports are not confidential and are accessible to most staff members on Capitol Hill, as well as former staff members, lobbyists and anyone with political connections to those groups.

There is a realistic political worry that CRS could jeopardize its institutional independence by producing information that members find objectionable, but given that CRS reports are already widely available in a quasi-public state, this concern is not well founded.

⁴⁸ "[Congressional Research Service Products: Taxpayers Should Have Easy Access](#)," Project on Government Oversight, February 10, 2003.

⁴⁹ <http://www.pogo.org/p/government/go-030201b-crs.html>

Indeed, to the extent that the public begins to rely on CRS as a useful guide to congressional activity, this will present an additional institutional incentive for Congress to maintain CRS's nonpartisan and independent status as a respected and fully funded government service.

Restricting access to CRS reports to a narrow—if substantial—slice of the public is a needless barrier to full public access to useful, publicly produced information on how Congress makes its decisions.

Member Web-Use Restrictions

Modernizing Regulations Related to Member Web Sites and E-mail Use

Recommendation Summary

Regulations governing members' use of Web sites and e-mail should be updated to reflect the current nature of Internet use, taking into account the differences between old and new forms of communication, not just their similarities. The Committee on House Administration should convene a special, bipartisan task force composed of members of Congress, congressional staff on the Committee on House Administration and citizens, to better identify the intent of rules and regulations that are effectively prohibiting smarter use of technology on Capitol Hill. They should establish a new process, specific rules and new standards governing members' use of the Internet.

Background

"A new medium like this that makes it possible to send thousands of messages at virtually no additional cost should not be governed by the same rules as snail mail. I think there's no reason we should not be able to communicate nationwide or even planetwide for that matter."

– Rep. Vern Ehlers, July 1, 2000

In 1993, when only 15 million Americans were online⁵⁰, Congress began to adapt to the emerging world of the Internet. The chairman of the House Administration Committee, Rep. Charlie Rose, inaugurated this technological leap when, in February of that year, he set up seven offices in the House to be connected to the Internet.⁵¹ Later that year Sen. Ted Kennedy became the first member of Congress to have a Web site (hosted through MIT's servers) and Sen. Chuck Robb became the first to have e-mail. These early steps, prior to wide public acceptance of the Internet, show that Congress was quick to recognize the Internet's potential.

These first steps into the online world brought with them a need to govern members' use of e-mail and Web sites. These rules have not kept up with the fast-paced advances of the Internet, and now impede members' ability to effectively serve and communicate with their constituents. When Congress developed rules governing members' use of the Internet, it viewed the new medium as an extension of telephones, mail, radio and television, putting e-mail and member Web sites under the purview of franking regulations. Franking regulations were developed to restrict members' sending of unsolicited mailings to constituents, but today the differences between the old and new forms of communication are so great that a rethinking of franking policy over electronic communications is necessary. The rules governing members' use of the Internet reflect a 1990s concept of the Internet—they must be modernized for today.

⁵⁰ Moran, John M. "Computer links public to Congress; Computer speeds your thoughts to lawmaker," Hartford Courant, August 14, 1993.

⁵¹ The first seven members were Jay Dickey, Sam Gejdenson, Newt Gingrich, George Miller, Charlie Rose, Pete Stark, and Mel Watt.

Members' use of the frank for traditional methods of communication is subject to restrictions that set reasonable standards for utilizing a privilege. However, electronic communication differs from traditional methods. While franking privileges are only available to Congress, anyone can send an e-mail, set up a Web site, or publish a blog at virtually no cost—and many citizens do. Applying franking rules to members' electronic communication restricts the participation of members of Congress in online discourse, preventing them from communicating with their constituents in what is presently the most widely available channel for communication.

Historical Context: 1994—The principles of representative government and of legislative accountability 2006

In 1994, the House Administration Committee established the Task Force on the Internet to study the potential for Internet use in Congress and to suggest recommendations for rules governing member's use of the Internet and e-mail.

The task force viewed the Internet as a communications tool to keep in touch with constituents, and concluded that Internet use and e-mail were subject to the congressional franking rules.

When the House Administration Committee convened to adopt the task force's recommendations on October 4, 1994, they chose to use congressional franking rules in the strictest sense to regulate members' Internet and e-mail use, thus preventing abuse. (Some involved in the application of franking rules wanted to create a separate commission solely to police members' use of the Web.⁵²)

The franking policy was ultimately applied because it was well established and well understood. The policy required that all Internet use be conducted in a manner “that concerns the conduct of a Member's official or representational duties or to otherwise support the conduct of official business of the House generally.”⁵³

In an example of an early failure to foresee how the Internet would change everyday communication, the rules restricted members from sending e-mails to their family and friends, and from using the Internet to access Web sites that may be considered outside the realm of “official” business. As one House aide later complained, “Some Members say you should be able to e-mail your son, but you can't send franked mail to your son.”⁵⁴

In May 1996 the first controversy over member Web sites erupted after an Associated Press report surfaced stating that more than two dozen members of Congress were linking to “overtly political Internet sites.”

Examples included: Rep. Tom Campbell including on his Web site links to his campaign re-election committee and to the presidential committee of Sen. Bob Dole; Rep. Joseph Moakley linking to the Democratic National Committee; and Rep. John Kasich linking to the National

⁵² Love, Alice A. “GOP May Reverse Policy Set by Democrats And Allow Some Personal Use on Internet,” Roll Call, February 9, 1995.

⁵³ Communications Daily, October 11, 1994.

⁵⁴ Love, Alice A. “GOP May Reverse Policy Set by Democrats And Allow Some Personal Use on Internet,” Roll Call, February 9, 1995.

Right to Life Committee and the Christian Coalition.⁵⁵ No one seemed to know if such linking was against the rules, although when confronted by the Associated Press, Reps. Campbell and Moakley removed the links from their Web sites. A House Democratic technology aide posed a question that the House Oversight Committee was tasked with answering, “Is linking to something the same as posting the information yourself?”⁵⁶ The Oversight Committee soon decided the answer to this important question.

A leaked copy of the rules reached the pages of Roll Call on July 1, 1996, stating, “Official Web sites may not include personal, political, or campaign information.” Roll Call’s Juliet Eilperin noted at the time that “questions raised by the proposed rules underscore the difficulty in regulating an emerging technology.” The rules restricted members’ linking from their Web sites by stating that “Members must have ‘reasonable assurance’ that their official site does not link to any that includes personal, political, or campaign information.” The rules did, however, allow links to nonprofit organizations, though such links were open to debate as some non-profits were involved in political advocacy. A Senate staffer noted that “a limit on links could cripple Members’ ability to do what they do best—provide constituents with information.”⁵⁷

The official rules came down to members on July 31, 1996, in the form of a letter from Oversight Committee Chairman Bill Thomas and Ranking Member Vic Fazio. The letter read:

The creation and operation of Members’ official web sites must be in support of the Member’s official and representational duties to the district from which elected.

Office web sites may not: include personal, political, or campaign information; include advertisements or endorsements for private individuals or entities; and directly link to any web sites created or operated by campaign or partisan political organizations.⁵⁸

The letter initially placed responsibility for oversight in the hands of each individual member, but eventually set up a reviewing panel whereby oversight of member Web sites would be administered by both the Franking Commission and the House Committee on Standards of Official Conduct (the ethics committee). Committee member Vern Ehlers lamented Congress’ lack of knowledge about the newly created rules, saying, “This is a totally new field. I don’t think people are even beginning to understand what the Internet involves.”⁵⁹

⁵⁵ Meckler, Laura. “Congress Stepping Through Mine Field on World Wide Web,” Associated Press, May 1, 1996.

⁵⁶ Ibid.

⁵⁷ Eilperin, Juliet. “House Oversight to Limit Members’ Internet Links,” Roll Call, June 6, 1996.

⁵⁸ Thomas, Rep. Bill and Rep. Vic Fazio. “Dear Colleague Letter,” House Oversight Committee, July 31, 1996.

⁵⁹ Eilperin, Juliet. “House Oversight to Limit Members’ Internet Links,” Roll Call, June 6, 1996.

By the turn of the millennium every member of Congress had finally created a Web site.⁶⁰ Some even began to challenge the franking rules that restricted their use of the Internet.

Republican Conference Chairman J.C. Watts denounced the franking rules as being “in line with the stagecoach and the Pony Express.” The ranking Democrat on the House Administration Committee, Rep. Steny Hoyer, agreed that e-mail needed to be governed differently than regular mail, “Allowing members to initiate correspondence via e-mail makes sense in an era of nearly instant communication.”⁶¹

Moderate adjustments have been made to the rules governing e-mail. In 2003, the House Administration Committee lifted the 90-day pre-election ban on e-mails sent to constituents who had signed up for e-newsletters. The Committee’s chairman, Rep. Bob Ney, said at the time, “The unique nature of e-mail warrants different standards than would apply to the standard letter sent through the post office.”⁶² But regulations restricting members’ interactions on their Web sites have not been updated.

Current Jurisdiction over Members’ Web Sites and E-mail Use

Committee on House Administration: According to House Rule X, section J,⁶³ the Committee on House Administration has oversight on the following items relating to members’ use of e-mail and the Internet:

- (1) Appropriations from accounts for committee salaries and expenses (except for the Committee on Appropriations); House Information Resources; and allowance and expenses of Members, Delegates, the Resident Commissioner, officers, and administrative offices of the House
- (6) Expenditure of accounts described in subparagraph (1)
- (7) Franking Commission

Franking Commission: The House Administration Committee’s Franking Commission determines appropriate guidelines to help ensure that taxpayer dollars are not abused.

According to the committee’s Web site⁶⁴:

“Pursuant to Public Law 93-191, the bipartisan Commission on Congressional Mailing Standards or the “Franking Commission” has a three fold mandate: (1) to issue regulations governing the proper use of the franking privilege; (2) to provide guidance in connection with mailings; (3) to act as a quasi-judicial body

⁶⁰ In 2000, freshman Sen. Peter Fitzgerald became the last Senator to get a Web site and e-mail. In 2001, Rep. Joel Hefley became the last member of Congress to get a Web site and e-mail.

⁶¹ Kiely, Kathy. “House may ease e-mail limits. ‘Franking’ rules are outdated, lawmakers say,” USA Today, June 30, 2000.

⁶² McArdle, John. “Senate Eases Rules on Members’ Web Updates,” Roll Call, January 19, 2006.

⁶³ Committee on House Administration Web site, accessed March 21, 2007

⁶⁴ Committee on House Administration Web site, accessed March 21, 2007

for the disposition of formal complaints against Members of Congress who have allegedly violated franking laws or regulations.

As a result of the Legislative Branch Appropriations Act for FY 1991, Members are required to submit all mass mailings (unsolicited mailings of 500 or more pieces of the same matter) for an advisory opinion prior to mailing.

The issuance of an advisory opinion is a process; involving telephone and personal consultations with the Member's staff prior to the dispersing of a written advisory. When proposed mailings are submitted to the Commission in draft form, often changes are needed in order to comply with franking standards. Staff members routinely point out any problems and suggest the revisions that are necessary for the issuance of a favorable opinion. All material submitted to the Commission is reviewed by both the majority and minority staff before an advisory is issued.”

Existing Rules Harm All and Help None

Citizens have a significant stake in knowing and understanding the views of those who serve them. According to a report issued by the Congressional Management Foundation in 2004, citizens use e-mail and other Internet applications as their primary vehicles for communicating with their members of Congress:

“The Internet and e-mail have made it easier and cheaper than ever before for citizens to communicate with their Members of Congress. In 2004, Congress received 200 million communications, four times more than in 1995—the direct result of Internet-based communications. This increased citizen participation in the legislative process has had both positive and negative effects. Nearly 80% of congressional staff surveyed believe that the Internet has made it easier for constituents to become involved in public policy. However, neither the senders nor the receivers of congressional communications have learned how to use the new tools that the Internet has provided truly effectively.”⁶⁵

Members of Congress have an obligation to communicate as effectively as possible with their constituents. Existing rules constrain members to a degree that prevents citizen participation:

- A citizen may not engage a member of Congress in a fluid online discussion because that discussion could be considered political or personal.
- Members of Congress cannot fulfill their representational duties to their fullest potential in the online world.

⁶⁵ “Communicating with Congress: How Capitol Hill is Coping with the Surge in Citizen Advocacy,” Congressional Management Foundation, 2004, http://www.cmfweb.org/storage/cmfweb/documents/CMF_Pubs/communicatingwithcongress_report1.pdf

- Members of Congress are forced to break rules to use new technologies and services to do what their constituents ask of them: connect, listen and be held accountable.
- The House Administration Committee and its Franking Commission are saddled with the responsibility of maintaining order and applying rules that are incompatible with emerging technologies.

Changing the rules for member Web use would greatly enhance members' ability to fulfill their obligations. The online world provides a space for direct communication with constituents who have the same access to technology and communications pathways that the member has. Unlike telephones and snail mail, a member's Web site provides a place for legislators and constituents to meet and exchange information and ideas without the member having to use a privilege such as a franked piece of mail. Liberating member Web use from an old rules structure would enable members and staff to communicate in a more efficient and beneficial manner.

Evidence that the rules have been too restrictive: According to staff on the Franking Commission, not a single complaint has ever been filed by a constituent against a member of Congress for inappropriate use of e-mail or the Internet within the member's congressional district.

Recommendations

The changing nature of the Internet requires Congress to constantly reexamine its relationship with this technology. It has been over a decade since Congress has altered its concept of the Internet and since it established rules governing the content and use of member Web sites.

It's time for Congress not only to re-evaluate the member Web site rules and restrictions on that prevent members from connecting with their constituents online, but also to revisit the entire structure with which the Committee on House Administration addresses members' use of e-mail and the Internet.

Given that not a single complaint has ever been filed against a member of Congress with regard to Internet use, it's clear that citizens see a member's Web site more like a "bulletin board," where they are free to come and go as they please, and, hopefully, take part in the discussion. In contrast, a member's use of traditional forms of communication, including print and phone calls, require a tremendous amount of taxpayer dollars, and are perceived as a congressional privilege requiring deeper oversight.

It is therefore our recommendation that guidelines governing members' use of Web sites and e-mail be updated to reflect the current nature of Internet use, taking into account the differences between old and new forms of communication, not just their similarities.

Citizen Journalism Access

Accommodating the Developing World of Citizen Journalism

Recommendation Summary

The House should create an Online Media Gallery to oversee the credentialing process for news Web sites, citizen journalists and bloggers. The gallery would serve as a sister organization to existing congressional press galleries, adapting the rules of those galleries for individuals who operate exclusively on the Internet. The formation of the gallery would allow a committee of peers to establish new rules for Web sites.

Overview

As the Internet has grown in popularity and prominence, bloggers and online journalists have engaged in high-profile clashes with congressional press galleries. Two notable examples are the clashes between WorldNetDaily and the Senate Press Gallery in 2001 and 2002⁶⁶ and David Sirota's conflict in 2007⁶⁷.

As Web sites and blogs have grown to become significant players in the media world, the existing galleries have taken on the responsibility of credentialing these entities and individuals. It has proven to be an unnatural fit, given the rigid rules that are better suited to traditional media outlets than to those operating on the Internet.

Just as the existing galleries are overseen by a committee of correspondents—peers of those who belong to the gallery—so should the Online Media Gallery be overseen by a committee of peers. This committee would be responsible for establishing the gallery's rules for membership, and subsequently, the credentialing process for news Web sites, citizen journalists and bloggers.

Background on Journalists' Access to Congress

Established in the rules of the U.S. House of Representatives (clause 2 of Rule 6)⁶⁸ are three media galleries, which oversee the membership, rules and standards for journalists covering

⁶⁶ David Kupelian, "WND denied congressional pass," WorldNetDaily, February 13, 2002, at http://www.wnd.com/news/article.asp?ARTICLE_ID=26441

⁶⁷ David Sirota, "Capitol Hill Junior High School, Or How the Media Kool Kidz Try to Bar Access to Your Government," Sirota Blog, February 12, 2007, at <http://davidsirota.com/index.php/2007/02/12/capitol-hill-junior-high-school-or-how-the-media-bars-access-to-your-government/>

⁶⁸ Karen L. Haas, "Rules of the House of Representatives," Clerk of the House of Representatives, January 24, 2007, at <http://www.rules.house.gov/ruleprec/110th.pdf>

Congress. The Standing Committee of Correspondents for the Press Gallery, the Executive Committee of Correspondents for the Periodical Press Gallery and the Executive Committee of the Radio–Television Correspondents’ Gallery were created by the speaker of the House and the Rules Committee to credential and monitor the hundreds of reporters and photographers who gather news in the Capitol.

The oldest gallery, the House Press Gallery, has been under the stewardship of the Standing Committee of Correspondents since 1879. It is responsible for approving applications for membership and enforcing rules for newspaper reporters. Its sister galleries function in much the same way. The Periodical Press Gallery oversees magazine, newsletter and online reporters, and the Radio–Television Correspondents’ Gallery caters to broadcast news organizations. (The Senate has three corresponding galleries, plus a Press Photographers’ Gallery.)

The role of each media gallery is to establish rules and standards for correspondents who are credentialed to cover Congress. While the rules of each gallery may differ slightly, the overarching requirement for membership is that the news organizations must cover Congress on a daily or otherwise regular basis. Each gallery has a staff of between three and six full-time employees and has office space in the U.S. Capitol in which journalists can work. Once a journalist is admitted into one gallery, he or she can enter another to gather news. (Such is often the case with the TV studio in the Radio–TV Correspondents’ Gallery, where members of Congress often hold press conferences.)

In the mid-1990s, as Internet-based publications grew in popularity and prominence, the galleries altered their rules and began to include such outfits. At the time, the Periodical Press Gallery was considered the best fit because many Web sites didn’t publish daily (as do members of the Press Gallery) or broadcast audio or video (as does the Radio–Television Gallery). However, exceptions have been made. For example, WorldNetDaily, after a high-profile fight and a lawsuit⁶⁹ against the Senate Daily Press Gallery, secured admission to that gallery. Cybercast News Service, an Internet news wire, belongs to the Radio–TV Gallery. Meanwhile, Salon and Slate are both members of the Periodical Press Gallery.

The rules for membership⁷⁰ are strict—and were crafted that way to ensure that only journalists who are “principally engaged in the gathering and reporting of news” and are independent from outside interests can become members. The House Periodical Press Gallery’s Web site states, “There are five rules and six regulations that govern the Periodical Press Galleries. Journalists must meet all criteria of the rules and operated within the regulations for admission into the gallery.”

The first rule states that applicants “...will not act as an agent in the prosecution of claims, and will not become engaged or assist, directly or indirectly, in any lobbying, promotion, advertising, or publicity activity intended to influence legislation or any other action of Congress, nor any matter before any independent agency, or any department or other instrumentality of the

⁶⁹ "WND to sue Press Gallery," WorldNetDaily, September 3, 2002, at http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=28807

⁷⁰ "Rules and Regulations," House Periodical Press Gallery, at <http://periodical.house.gov/rules.shtml>

Executive branch; and that they will not act as an agent for, or be employed by the Federal, or any State, local or foreign government or representatives thereof....”

Another rule stipulates that applicants must work for periodicals that are “owned and operated independently of any government, industry, institution, association, or lobbying organization. Applicants must also be employed by a periodical that is published for profit and is supported chiefly by advertising or by subscription....”

These rules are administered by the Executive Committee of Correspondents for the Periodical Press Gallery, a group of journalists from media companies that include Business Week, Tax Notes, National Journal, Roll Call, Time, U.S. News & World Report, and BNA News. This seven-member committee, which is elected by its peers at the start of each Congress, is responsible for admitting organizations to the Periodical Press Gallery.⁷¹

No citizen journalist or blogger has ever been rejected by the Periodical Press Gallery. Several applicants have failed to finish the necessary paperwork for membership—a process that can take between six months and one year. Just one application from a blogger is currently pending.

Recommendation and Benefits for Transparency

The Periodical Press Gallery should be commended for recognizing the importance of online media and overseeing the credentialing process for applicants. However, given its history of dealing primarily with magazines and newsletters, the gallery’s rules are not for well suited to news Web sites, citizen journalists or bloggers.

Therefore, it is our recommendation that the speaker of the House and the Rules Committee create an Online Media Gallery, which would be responsible for establishing rules that are pertinent and applicable to its members. While we will not suggest specific reforms in this report, we feel that the current Periodical Press Gallery rules are too restrictive, given the differences between a citizen journalist and a major news organization. One hurdle currently facing bloggers in the application process is that they must provide daily coverage of Congress—a requirement that would be burdensome for any one-person operation. The rule banning from the gallery those who work for nonprofits also severely limits the number of bloggers who could currently be considered.

The Online Media Gallery would also correct what we view as a major obstacle that exists at the Periodical Press Gallery: the Executive Committee of Correspondents does not include a single member from an online media outlet. The new gallery would be governed by a committee of the applicants’ peers, who understand the dynamics of online media and blogging. This group would be elected at the start of each Congress.

The Online Media Gallery would also alleviate the current problem with access to lawmakers. At present, bloggers seeking to gain access to events in the U.S. Capitol must secure approval from a congressional office, severely limiting the number of bloggers invited to press

⁷¹“New Applicant Instructions,” House Periodical Press Gallery, at <http://periodical.house.gov/app-new.shtml>

conferences or other events that take place there. Allowing members' offices, rather than an impartial committee, to control the credentialing process permits members of Congress to discriminate against those whom they would like to exclude.

Given the space and budgetary concerns likely to be raised by the creation of the Online Media Gallery, we propose housing the gallery in temporary space until the completion of the Capitol Visitors Center. This new building will more than double the office space available at the U.S. Capitol and create ample room in which these citizen journalists can work.

Creating the Online Media Gallery would do wonders for transparency and open government. Citizen journalists and bloggers have shown a devotion to covering their representatives and the legislation produced by members of Congress. Whether they are analyzing the numbers in a budget bill or parsing the language of a resolution, these individuals display a resiliency and determination for discovering the truth. Rewarding them with access to the U.S. Capitol would undoubtedly broaden and deepen the knowledge of American citizens about their government.

The Office of the Clerk of the House

Publishing Public Disclosure Reports in a Structured Format

Recommendation Summary

The clerk of the House can greatly improve government transparency and strengthen public confidence in the House of Representatives and its members by:

- improving the quality of disclosure rules by offering more guidance
- requiring disclosure reports to be filed electronically
- indexing more records
- using common identification codes for related databases
- publishing all data from disclosure reports in a structured, non-proprietary database
- making data available free of charge and in a timely manner
- enforcing the relevant House rules and statutes by conducting regular audits and evaluations of compliance

Overview of the Office of the Clerk of the House

Under the rules of the House of Representatives, the clerk is an administrative officer of the House, elected by the members every two years. The clerk's jurisdiction includes nine offices that provide various services to members and to the public. With respect to transparency in the House, the primary offices of interest, other than the main Office of the Clerk, are the Office of Legislative Operations (OLO) and the Legislative Resource Center (LRC). According to the Web site of the Office of the Clerk:

The Office of Legislative Operations provides support pertaining to the Clerk's legislative duties. Among the duties of this office are receiving and processing official papers; compiling and publishing the daily minutes of House proceedings; operating the electronic voting system and overseeing the recording of votes... The Office...also prepares the summaries and schedules of House activities published in the Daily Digest section of the Congressional Record.⁷²

These legislative responsibilities are important for transparency because the public needs access to the records of the House, including schedules, bill numbers, the official Journal and roll call tallies. The OLO does an exceptional job of handling these myriad duties on behalf of the members and the public, as evidenced by the smooth functioning of one of the most complex, active and professional legislative chambers in the world. The OLO's responsibilities allow the public to stay apprised of the House's activities, primarily through the office's coordination with the Library of Congress in publication of legislative information on the THOMAS Web site.

⁷² http://clerk.house.gov/about/offices_legis.html

Whereas the OLO primarily serves the members in their legislative duties, the LRC effectively serves the public as the House’s liaison:

The Legislative Resource Center (LRC) assists with the retrieval of legislative information and records of the House for congressional offices and the public. The Legislative Resource Center provides centralized access to all published documents originated and produced by the House and its committees, to the historical records of the House, and to public disclosure documents.⁷³

The LRC is the most important office for open government initiatives, particularly because it is responsible for making public disclosure reports for members and their staff, for candidates for election to the House of Representatives and for professional lobbyists who are compensated for directly contacting “covered officials” in the federal government.

The three primary reporting systems—for lobbying activities, candidate’s personal finances and for privately funded, “officially connected” travel—were originally envisioned by the members of the House as information depositories that the public could access. However, technological advances since the adoption of the House rules and statutes that govern these reporting processes have rendered them antiquated and, for the purpose of government transparency, useless to the public. As Frank Baumgartner, distinguished professor of political science at Penn State University and leading authority on the study of interest group politics, puts it plainly, “The level of public access to this information is just absolutely shameful. There is no reason, if people are interested in openness, that there should not be a fully searchable database available over the web, with the data downloadable in its integrity.”⁷⁴ If a reputable national expert on interest group politics and disclosure detects excessive barriers to accessing this information, the average American, without know-how or resources, could hardly be expected to overcome them.

As outlined below, Congress’s constituents would greatly benefit from improving the reporting processes for lobbying, personal financial disclosures and sponsored travel. Many of these changes can simply be accomplished within the existing jurisdiction of the clerk of the House. However, several recommendations may require official guidance from the House Committee on Administration, and a few—particularly those addressing the Lobbying Disclosure Act of 1995 (LDA)⁷⁵—compel legislative action by amending existing House rules and statutes.

Improving Lobbying Disclosure

The legislative intent behind the LDA is “to strengthen public confidence in government by replacing the existing patchwork of lobbying disclosure laws with a single, uniform statute which covers the activities of all professional lobbyists.”⁷⁶ Moreover, the LDA was intended to

⁷³ http://clerk.house.gov/about/offices_lrc.html

⁷⁴ Personal communication between Baumgartner and Tim La Pira of Lobbying Research at the Center for Responsive Politics, on March 12, 2007

⁷⁵ As amended by the Lobbying Disclosure Technical Amendments Act of 1998

⁷⁶ H.Rept. 104-339

develop “a more effective and equitable system for administering and enforcing the disclosure requirements” of lobbyists. Although passage of the LDA represented an enormous advance in the public’s ability to know about private interests’ efforts to influence policy in Washington, the administration of the lobbying reports and enforcement of the statute need to be greatly improved to meet Congress’s objective. In particular, the House should consider increasing electronic accessibility to the lobbying data in a structured format and improving the reporting system so that it is “user-friendly,” not simply “filer-friendly.”

The House should do the following:

- **Increase Electronic Accessibility**

Problem: As of 2006, House rules require the clerk of the House to obtain all filings electronically. However, the clerk has yet to make these reports available online in a searchable format.

Solution: Make all data electronically downloadable, with separate data fields for each piece of information that is electronically filed.

- **Make Reporting “User-Friendly,” not just “Filer-Friendly”**

Problem: The design of the Semi-Annual Lobbying Report (Form LD-2) technically meets the requirements of the statute but does not solicit information in a “user-friendly” manner. Questions that cause confusion both for filers and for those who use the reports include:

Item #12 and #13 in conjunction with Item #24: Expenses/Income per issue area: The LDA requires registrants to file an overall estimate of money spent on lobbying only for a six-month period. The LDA also requires filers to update the issue areas. However, most users are concerned with the amount of money spent/earned for each issue area, especially when data are aggregated.

Solution: Require filers to provide good faith estimates, by percentage or by amount, of how much money they earned, if they are a firm, or spent, if they are a client, for each self-selected issue area.

Item #15: “General issue area code”: The question calls for responses on an attached list of general issue areas. However, these responses are neither clear nor mutually exclusive, leading to redundant, muddled and often misleading responses.

Solution: Develop a logical categorizing system with mutually exclusive, non-redundant response options. Specifically, the clerk should adopt the Policy

Agendas Project Policy Topic coding scheme already developed for federal funds.⁷⁷

Item #16: “Specific lobbying issues”: The question calls for an open-ended response about the specific issues that the client lobbied on for the “general issue area code” identified in Item #15. The open-ended quality of the question causes filers to respond with vague and uninformative language.

Solution: Direct the clerk of the House, Senate secretary or the proposed Office of Public Integrity, to instruct filers to identify specific legislation by committee report, bill or amendment numbers, by titles assigned by the House and Senate or identified by the Library of Congress, by specific regulation proposals assigned by GPO, or by other identifying characteristics that allow the public to unequivocally determine the “specific lobbying issue.”

Item #17: “Houses of Congress...contacted”: The statute defines a “lobbying contact” as “Any oral, written or electronic communication to a covered official that is made on behalf of a client,” but the question does not require filers to specify the covered official to whom the communication was made. Rather, the question asks more generally about Congress or a federal agency.

Solution: Require all filers to identify each covered official contacted on behalf of a client, not simply the chamber of Congress or federal agency for which the official is employed. Assign identification codes to each covered official contacted.

Item #12: “Lobbying Firms: Income”: Although the directions state that filers should report “all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client,” lobbying firms that act as subcontractors to another firm most often list the general contracting firm as their client. In practice, this question leads many subcontractors to hide the true client of the general contracting firm.

Solution: Require subcontracting firms to report both the general contracting firm on whose behalf they are lobbying and the general contractor’s client.

Item #14: “Reporting Method”: Organizations may choose among three options to report expenses: one defined by the Lobbying Disclosure Act and two defined

⁷⁷ Bryan D. Jones (professor of political science, and director, Center for American Politics and Public Policy at the University of Washington), John Wilkerson (associate professor of political science and associate director of the Center for American Politics and Public Policy at the University of Washington), Frank Baumgartner and their colleagues have collaborated on several multi-year projects funded by the National Science Foundation to develop and apply the Policy Topic coding scheme across several types of data. See <http://www.policyagendas.org/index.html>

by the Internal Revenue Code. This method leads to reporting inconsistencies because the statutory definition of “lobbying activities” varies among the three methods.

Solution: Require all filers to use a single reporting method for expenses, based on a single statutory definition of “lobbying activities” drawn from sound Generally Accepted Accounting Principles.

Item #18: “Name of each individual...”: Many individual lobbyists use multiple variations of their names, or have names that closely match those of other lobbyists, making it difficult to accurately identify a particular lobbyist.

Solution: Assign each lobbyist an identification number and require that number to appear with every mention of that lobbyist in a report.

Item #25: “Add the following affiliated organization”: The statutory definition of “affiliated organization” is unclear, so responses to this question are not uniform or reliable. This problem results in what many members and observers have criticized as “stealth lobbying” by ad hoc coalitions whose true members are unknown simply because they don’t independently contribute at least \$10,000 to the coalition’s activities.

Solution: Eliminate this reporting loophole by statutorily defining “affiliated organization” to prohibit “stealth lobbying” by ad hoc coalitions.

Several state legislatures have accomplished these and other objectives for their lobbying disclosure processes, so there should be no reason that the United States House of Representatives cannot achieve similar or better results if there is the political will to do so.

Improving Personal Financial Disclosure

Unfortunately, the LRC only makes personal financial disclosure reports for candidates to the House of Representatives available by printing paper copies, for a fee of \$0.10 per page, from a database kiosk located at B106 Cannon House Office Building. Not only are these reports unavailable electronically to the public, but their design and administration leads to inconsistent reports and useless findings. To address these flaws in financial disclosure, the Committee on House Administration should do the following:

- Eliminate the option of providing broad ranges for the amount of reported assets, liabilities and outside income. Request precise dollar amounts, or, at a minimum, good faith estimates rounded to a reasonable increment, such as \$10,000.
- Adopt a single, uniform standard of reporting that does not simply include account statements in lieu of a complete report.
- Require disclosure to be completed and filed by a certified public accountant who has access to detailed guidance on reporting standards.

- Publicize new reports or amendments as they are filed.
- Conduct rigorous audits and investigations, and promptly and publicly report non-compliance to the Committee on Standards of Official Conduct.

Improving Privately Sponsored, Officially Connected Travel Disclosure

The LRC provides extremely limited access to information disclosed about privately funded, “officially connected” travel. Travel reports are not even organized in a database; rather, paper copies are simply stored in three-ring binders. The binders organize the reports only by the date LRC receives them, and they are not indexed to help users locate reports by traveler, members’ offices, sponsor, destination or any other logical criteria. If the House has determined that it is necessary, for ethical purposes, for its members and staff to report travel, then the fact that the clerk does not make this information available in any electronic format is unacceptable. The reports also include vague and meaningless responses, such as stating “fact-finding” or “education” as the purpose of a trip. Just as all legislative activities are recorded when they are conducted on the Capitol grounds, so too should officially connected activities be recorded when they occur outside the District of Columbia.

To address these flaws in financial disclosure, the Committee on House Administration should:

- Enforce standards for the travel report form, including requiring a detailed itinerary, documentation of attendance at meetings and social events and descriptions of official activities.
- Require disclosure to be certified and filed by the member’s or Committee’s designated senior staff member.
- Publicize new reports or amendments as they are filed.
- Conduct rigorous audits and investigations, and promptly and publicly report non-compliance to the Committee on Standards of Official Conduct.

Structuring Disclosure Information in an Electronically Accessible Format

All raw data contained in these reports should be made available in a non-proprietary, structured, downloadable format, and should be published online for public consumption with industry-standard features for searching, browsing, filtering and organizing data. Additionally, important data such as names of members and their staffs, lobbyists, travel sponsors and private organizations should be assigned identification codes. These unique identification codes should be developed in cooperation with the secretary of the Senate, the Library of Congress, the Federal Election Commission, the Office of Management and Budget and the Department of Justice Registration Unit, which oversees registration under the Foreign Agents Registration Act. These and other stakeholders in the legislative and executive branches should cooperate to link disclosure databases because all of these activities represent activities where the private sector interacts with government. Members and the public alike would be able to better understand how and why the federal government works with the private sector.

Recommendations for the Office of the Clerk of the House

The clerk of the House would greatly improve government transparency and strengthen public confidence in the House of Representatives and its members by:

- improving the quality of disclosure rules by offering more guidance, reducing reporting loopholes and eliminating vague questions that lead to unintelligible responses
- requiring disclosure reports—including reports filed by members and staff—to be filed electronically
- indexing with identification codes all relevant data regarding members' personal offices, committee offices, federal agencies, covered federal officials, registered lobbyists and private entities, including lobbying registrants, clients and “officially connected” travel sponsors
- linking identification codes to legislative activities databases organized by the Library of Congress, campaign finances databases administered by the Federal Election Commission and government contract databases maintained by the Office of Management and Budget and other relevant federal agencies in the Executive Branch
- publishing all data from disclosure reports in a structured, non-proprietary Internet database that is both searchable and downloadable in its entirety and includes a master list of identification codes and links to relevant databases
- making data available free of charge as soon after its collection as is technologically feasible
- enforcing the relevant House rules and statutes by conducting regular audits and investigations for compliance, and immediately referring any violations to either the Committee on Standards of Official Conduct or the Department of Justice, depending on the appropriate jurisdiction

The Congressional Record

Maintaining the Veracity of a Historical Document

Recommendation Summary

The Congressional Record should accurately document what occurs on the House floor, as required by law⁷⁸. While still providing space for extended remarks, the House should support an update in procedures to ensure that the Congressional Record can be used to ascertain what has actually been said on the floor. The Joint Committee on Printing should be directed (and funded) to uphold standards of accuracy, to educate members and staff about updated procedures and to publish the Record in a manner that clearly distinguishes extended remarks from words that were actually spoken.

Background on the Congressional Record

The Congressional Record is the constitutionally provisioned official record of the proceedings and debates of the United States Congress. It is published under the supervision of the Joint Committee on Printing (JCP) and printed and issued by the United States Government Printing Office.

In order to get the Record printed and available to members for the next day of business, a daily Record is produced. By custom and by the rules of each House, members can “revise and extend” the remarks they actually made on the floor before the debates are published in the daily Record and in the final Congressional Record. The final, paper-bound Record takes several years to be published.

The practice of allowing the Record to be revised led to the appearance in the Record of speeches never actually delivered on the floor of the House or the Senate, including in the sections purported to be verbatim reports of debates. Most notably, a speech made by the late Rep. Hale Boggs was included in the Record as if he were actually on the floor debating the issue—two days after he was killed in a plane crash in Alaska.⁷⁹

The Boggs incident was publicized in a letter published in Reader's Digest in the early 1980s. Sen. Charles McC. Mathias Jr., chairman of the Joint Committee on Printing, who had been campaigning for the televising of the floor debate, seized upon this letter to persuade the Joint Committee on Printing to adopt a rule whereby any revised remarks should be preceded by a bullet symbol or marked in some other way. Mathias was chairman of the Joint Committee on Printing (97th and 99th Congresses), member of the Joint Committee on the Library (98th and

⁷⁸ 44 U.S.C. § 901

⁷⁹ Boggs was killed on Oct. 16, 1972. He appears in the Congressional Record in the entry for Oct. 18, 1972. See <http://bioguide.congress.gov/scripts/biodisplay.pl?index=b000594>

99th Congresses) and chairman of the U.S. Senate Committee on Rules and Administration (97th to 99th Congresses).

The code stipulating that the Congressional Record be “substantially a verbatim report of proceedings” was revised to state that:

The Joint Committee on Printing shall control the arrangement and style of the Congressional Record, and while providing that it shall be substantially a verbatim report of proceedings, shall take all needed action for the reduction of unnecessary bulk.⁸⁰

The Joint Committee on Printing, which was tasked with the independent duty to enforce the rules of the Congressional Record, had roughly 22 full-time staff members until 1995. In 1995 the Joint Committee on Printing staff was reduced to just two people—one staffer on the Senate Committee on Rules and Administration and another on the Committee on House Administration—to oversee the accurate editing of the Congressional Record.

There have been serious lapses in enforcing the “substantially verbatim” rule for the Congressional Record. Comparing actual video footage of floor proceedings with the Congressional Record has revealed widespread disregard for the “substantially verbatim” requirement spelled out in the U.S. Code. Most recently, Reason magazine featured an article titled “The Imaginary Adventures of the US Senate”⁸¹ detailing the phantom speeches that appear in the Congressional Record but that were never delivered on the floor.

The Importance of an Accurate Congressional Record

Promoting a Congressional Record that accurately distinguishes between words actually spoken and those appended is more than a matter of truthful historical preservation. The Congressional Record is a central cultural, legal and political document. Standards regarding the Congressional Record’s production should be accorded the same respect as the institutions and traditions governing speaking on the House floor. Beyond holding the reality of statements made on the House floor in special regard, the public also has an interest in maintaining an accurate Congressional Record.

The Congressional Record serves to inform people of the actual spoken comments by their elected officials. Citizens should be able to determine if their elected representatives, after seeing the votes of their colleagues, went back to the Congressional Record and edited what they said about a proposed legislation. The public should also be able to determine whether or not their elected members participated in a given debate.

The Congressional Record also provides guidance to courts that use it to discern legislative intent. Courts often look to legislative intent to interpret ambiguous or incomplete legislation. For example, the principle that courts should not interpret a statute to produce absurd or unintended results will often be informed by evidence of what the proponents of a bill stated

⁸⁰ 44 U.S.C. § 901

⁸¹ <http://www.reason.com/news/show/119028.html>

about the objectives to be achieved by the statute. If the proponents of a bill did not actually state the objectives during the floor debate, and only later inserted them, then these statements could not have affected the vote on the legislation, and thus the courts may choose to disregard them.

A further use of an accurately transcribed Congressional Record would be to provide a source for text to be coupled with video of the House floor. With access to a reliable transcript of what is spoken on the floor—labeled and indexed by speaker—new video technology can enable constituents to search through floor statements by topic or keyword. By linking sections of the Congressional Record to floor video, a useful and accessible presentation of floor speeches can be created. ClickTV and MetaVid are working to develop the technology that makes this video-with-text presentation possible.⁸²

Recommendations for the Congressional Record

To ensure a substantially verbatim Congressional Record:

- The Joint Committee on Printing should be adequately staffed and funded to properly oversee the revision process, and have its own offices to ensure that it can fulfill their increased responsibilities.
- The committee should distribute a booklet to all staffs of senators and representatives explaining guidelines regarding the Congressional Record and showing examples of proper procedure for correcting misattributions and typographical errors.
- Alternate methods for denoting extensions of remarks should be investigated. Instead of changes in font or the addition of a dot, the meaning of which may be opaque to the reader, notations that are clearly readable and searchable in electronic format should be utilized. Making the Congressional Record machine-readable could be achieved through XML, or by using clear, standardized tags such as [INSERTED COMMENTS] or [EXTENSIONS OF COMMENTS].
- The Joint Committee on Printing should notify senators and representatives who have had speeches in the Congressional Record that were not actually delivered on the floor and that were not denoted with a dot or any other font change, to make them aware of the rule that inserted speeches either need to be clearly marked or should be in the Extended Remarks section of the Congressional Record.

⁸²<http://www.click.tv/>, <http://metavid.ucsc.edu/>

Congressional Video

Ensuring Open Access to Video of Congressional Proceedings

Recommendation Summary

The ability of the public to watch the legislative proceedings of Congress—both floor debate and committee hearings—is a significant component of what makes our government open and accessible. C-SPAN’s continual coverage on television and webcast video feeds from some House committees make it possible for citizens to see first-hand how Congress operates. Unfortunately, while all other records of government proceedings are a part of the public domain, C-SPAN’s de facto monopoly over broadcast-quality and archived video significantly restricts the ways in which the press can use video records when reporting on Congress. The House can and should provide the media greater access to its proceedings by extending its current recording infrastructure to cover all committee hearings, and by making live and archived access to these videos available directly to the public via the Internet.

Current State of Congressional Video Availability

Video records of Congress’s proceedings can be divided into two parts: records of House and Senate floor proceedings and records of committee hearings. The former are recorded by Capitol cameras and are provided to a small number of members of the press galleries. While these records are in the public domain, the public’s only comprehensive window into congressional proceedings is C-SPAN, which brands the video feed with its trademarked name and thus subjects use of the video to legal concerns. Committee proceedings have begun to be available from committee Web sites, although only in an ad-hoc manner and at low quality.

Public access to video is undercut by copyright and trademark restrictions. While C-SPAN has recently made an important step forward in granting use of their materials (more on that below), other considerations, such as financial and business considerations, continually put the public’s access to these videos in jeopardy. C-SPAN General Counsel Bruce Collins told *The New York Times*:

“What I think a lot of people don’t understand—C-SPAN is a business, just like CNN is. If we don’t have a revenue stream, we wouldn’t have six crews ready to cover Congressional hearings.”⁸³

While we recognize C-SPAN’s legitimate fiscal responsibilities, it is unacceptable that, given technology currently available, the only way for the public to obtain video records of Congressional proceedings is to buy them on outdated VHS tapes for roughly \$90 per video.⁸⁴

⁸³ *The New York Times*, February 26, 2007, “Which Videos Are Protected? Lawmakers Get a Lesson”

When C-SPAN contacted the office of Speaker of the House Nancy Pelosi in February 2007, asking that C-SPAN-owned footage on her Web site be removed, the speaker's office was in a unique position. Unlike the public, the speaker's office had access to footage recorded by committee staff, and substituted that footage for C-SPAN's on the speaker's Web site.⁸⁵ The public, libraries, the press and citizen journalists only have access to the "old media," and this hinders the public's ability to be fully aware of the activities of its government. The House should expand and improve its own video services to ensure that the public has unrestricted access to records of its government's proceedings.

The public does have access to congressional video through the Library of Congress. However, the Library of Congress receives its copy of the footage from the audio/video departments of the House and Senate in a physical, rather than electronic, medium (in DVC-PRO format, which is only playable on DVC-PRO video players), sometimes months after the proceedings. The public can watch the videos if they go to the Library of Congress's reading room to use its DVC-PRO video tape player. Or, for a fee, the Library will make physical copies of specific videos and mail them to individuals and institutions.

Committees are beginning to webcast hearings through their Web sites, and set their own policies in this regard. Most committees currently do not webcast hearings. The Library of Congress has no videos of committee hearings.

Other western countries make videos of their government proceedings directly available to the public on their governmental Web sites. Among the legislative bodies that make all floor proceedings and committee hearings available in live and archived form are the Canadian Parliament, the German Bundestag, the U.K. Parliament, the Parliament of Australia, and the Riigikogu of Estonia.⁸⁶

C-SPAN's Recent Policy Changes

In March 2007, C-SPAN liberalized its copyright policy. It announced that "noncommercial copying, sharing and posting" on the Internet of footage of Congressional hearings and other official proceedings for which it owns a copyright would be permitted without a license, provided attribution to C-SPAN was provided.⁸⁷ While this was a positive step, it is still highly restrictive, given that governmental proceedings are traditionally considered to have public domain status. As we know from the offline world, the media are seldom "noncommercial"—they generally operate with an advertising-driven business model. C-SPAN's license thus covers only the most casual of bloggers, and does not truly extend to journalists in the online world. It

⁸⁴ This refers to videos recorded prior to 30 days in the past, see http://www.c-spanstore.org/shop/index.php?main_page=index&cPath=6_12

⁸⁵ The New York Times, February 26, 2007, "Which Videos Are Protected? Lawmakers Get a Lesson"

⁸⁶ <http://senparlvu.parl.gc.ca/>; http://www.bundestag.de/htdocs_e/live/tv/index.html; <http://www.parliamentlive.tv/> (U.K.); <http://webcast.aph.gov.au/livebroadcasting/>; <http://www.riigikogu.ee/?id=34580>

⁸⁷ The Associated Press, March 8, 2007, "C-SPAN alters copyright policy after Pelosi flap over it"

explicitly does not extend to journalists in the offline world. Among the uses of C-SPAN footage explicitly prohibited without permission is the use of their footage in “documentaries, films or television programs.”⁸⁸ Even the most noncommercial of documentary, if sold to recover costs, cannot make use of videos of committee hearings except at the whim of C-SPAN executives. C-SPAN is to be commended for their revised policy, but it does not convey the spirit of promoting an open and transparent government.

Solution

It is our recommendation that all Congressional videos, floor proceedings and committee hearings be made available to the public over the Internet. There are three components to comprehensive video availability:

- live and archived video streams downloadable, in high- and low-quality format, for reuse and remixing by the public
- video metadata, including transcripts, timestamps at regular intervals, and, potentially, additional coding of speakers, segments, and subjects
- user-friendly video players for live and archived videos on congressional Web sites for web users

These components should be available as a public domain work. High-quality streams would be used for digital libraries and public archival projects (we recommend streams encoded at 3 to 6MBs at 720x480 resolution), while low-quality webcasts would be available for casual citizen viewers. High-quality recordings should be archived, indexed (much like the Congressional Record is indexed) to enable the public to find relevant portions in long videos and made available for download. Along with the video, a transcript should be made available in a structured data format that ties speech segments in the transcript to the corresponding points in the video feed.

It is important to consider carefully the video data formats used for distribution. Proprietary and patented data formats may be the most commonly used, but they bring with them several important concerns, including locking citizens into using the products of a particular commercial provider and introducing economic obstacles to use of the feeds. They also exclude users of free software, for whom a third-party has control over how the video may be accessed. What’s more, future generations’ access to the information will be jeopardized if these data formats cease to exist. For these reasons, video produced and distributed by the House, especially the low-quality streams, should be made available in several formats, such as MPEG-4, which, while patent-encumbered, is nevertheless an open format that is generally accessible to software developers, and Flash Video (FLV), which is becoming more widely used. (Other data formats, while also proprietary or covered by patents, are less open and more egregiously embody the concerns above.) In the future, House staff should also consider the adoption of open, non-proprietary, patent-free formats, such as Ogg Theora, as they mature.

Carl Malamud, creator of the first webcasts of the House and Senate floors, has investigated the feasibility of providing over the Internet live, broadcast-quality video feeds of

⁸⁸ C-SPAN Web site, http://www.c-spanstore.org/shop/index.php?main_page=specialuse, accessed April 13, 2007.

floor activity and of all committee hearings. Such feeds would create 3.6 gigabytes of data per hour of video, Malamud estimates, and while distributing this large amount of data will indeed incur a significant cost, it must be weighed against the significant benefit to the public. Malamud began collecting feeds from committee hearings that were available and noted the following advantages:

“For example, users are able to annotate hearings with ratings and reviews. The site allows users to both download and stream video, and the video has been converted to a non-proprietary standard that works across all different operating systems and players. And, because I am drawing on hearings from several different committees, it offers a degree of unification not available from the house.gov sites, which are all administered seperately [sic].”⁸⁹

For floor proceedings and committees that already have cameras in place, the signal need only be split off and provided either to an accredited press gallery member to upload onto the Internet, or, as we hope, uploaded directly to the Internet by House staff. Cameras must be placed in any committee meetings that don't yet have them.

⁸⁹ Open letter from Carl Malamud to Speaker of the House Nancy Pelosi, March 13, 2007, http://public.resource.org/dear_speaker.html

Coordinating Web Standards

Coordinating House Web Use and Making a Lasting Commitment

Recommendation Summary

It is important for the House of Representatives to make a lasting commitment to using the Internet to promote transparency, regularly reevaluating the best use of technology as the Internet changes and providing coordination across House Web sites and electronic data distribution channels. Coordination can set minimal standards for the timeliness, clarity, availability and preservation of official documents on the Web. Moving to Internet communication will also reduce redundancy and promote data standards—ultimately benefiting the public, who should be treated as advisers in the coordination process.

Coordinating Web Standards and Making a Lasting Commitment

While the recommendations presented in this report cover some of the most important changes that Congress can make in its Web presence to make itself more open and informative, in the coming years the Internet is bound to evolve in ways that no one can foresee today. For this reason and others presented below, it is important for the House of Representatives to make a lasting commitment to using the Internet to promote transparency. We are not in a position to say what such a lasting commitment should look like—it may take the form of a new mandate for an existing office or the creation of a special task force.⁹⁰ The 1993 report of the Joint Committee on the Organization of Congress, for instance, recommended the creation of a Joint Committee on Information Management, in order to:

- (1) coordinate information management for Congress;
- (2) establish standards and applications policies for Congress and its support agencies for information technologies, including telecommunications, electronic files and indexing, publishing, and information dissemination within Congress and to the public⁹¹

If the need was clear nearly 15 years ago, it is all the more relevant today. Whatever form this lasting commitment takes, it should have the following goals:

⁹⁰ It might parallel the executive branch's Chief Information Officer's Council. See <http://www.cio.gov/>

⁹¹ <http://www.rules.house.gov/Archives/JointComm.htm>, accessed March 28, 2007, and see H.R. 3801 in the 103rd Congress, section 372.

Staying ahead of Technology

In last decade the Internet has changed dramatically, and the next ten years are bound to be even more exciting. As the Internet makes new opportunities for transparency possible, it will be important to continually reevaluate Congress's use of the web and set new goals and directions to be adopted by the many Web sites that make up house.gov. If and when "Web 3.0"—the "semantic Web"—emerges, we may find at our disposal entirely new methods of fostering civic engagement, disseminating information, creating accountability and maintaining ethical standards. The House must not only be ready to make changes, but should become a world leader in using the Internet to bring a new level of transparency to the American public.

Coordinating Web Standards

Because a number of Web sites fall under the umbrella of the House, some degree of coordination among them would benefit both the public and the House itself. Minimal standards for House documents and Web sites should be established to address their accuracy, timeliness, completeness, clarity, availability and preservation. We have shown earlier in this report that committee Web sites vary widely in these regards. As committees move forward with digital information, coordination will prevent redundancy in the development of data standards and software to manage electronic publications. Such coordination also will help the public digest the information. Completing and duplicative data standards makes it more difficult for tools to integrate data across sources, such as in aggregating hearing notices from all committees. Coordination has been proposed before,⁹² and there is an opportunity now to make the needed changes.

The House should also be proactive in coordinating standards with related data sets maintained outside of the House, such as those created by the Senate, the Federal Election Commission and, of course, the Library of Congress. The overlap in each organization's data sets suggests that coordination between the organizations will again reduce redundancy, promote technological advancements and allow the public to mesh the data sets together in new, creative ways.

Additionally, document formats and metadata protocols should be standardized through centralizing jurisdiction in the House. All documents should have permanent and human-readable Web addresses, and be made available in source XML. Standards for metadata use could be codified through the creation of a centralized tag dictionary, permitting further coordination with state legislatures, standards organizations, private companies and other interested parties.

A Congressional Internet Library

As Congress raises the bar for itself by mandating the creation of new databases, such as lobbying disclosure databases, travel and gift databases and earmark databases, it becomes far too easy for the public to be overwhelmed by the number and diversity of information sources.

⁹² Besides by The Joint Committee on the Organization of Congress in 1993, most recently in testimony in the September 2006 House Administration hearing "The IT Assessment: A Ten-Year Vision for Information Technology in the House." <http://cha.house.gov/hearings/hearing.aspx?NewsID=1386>, accessed March 28, 2007.

Coordination at the level of distribution will also be of value. Modernizing the Legislative Resource Center or creating a Congressional Internet Library could make distribution and documentation more efficient and uniform, provide a location for the databases to be preserved historically and ensure the technical database users among the public can find and understand the information that has been assembled for them.

Reexamining Institutional Barriers

Constituents are not the only ones suffering from an information overload. The web of rules governing members' use of the Internet, in the jurisdiction of administration, franking, appropriations and ethics rules causes confusion, reducing the capacity of members to participate in a vibrant Internet-enabled public sphere. A permanent body charged with reexamining and removing the institutional barriers to members' participation in the online public sphere would be useful.

Treating the Public as Advisers

Finally, because the data sets on legislation are often produced for the benefit of the public, it is important to have an ongoing dialogue with the technical users of the data about the most effective means of publishing the data. Throughout this report we have provided examples of how new uses of technology can benefit the House and the public alike, and in doing so we hope it is evident that treating the public as advisers on how best to use technology is a benefit to all.

Making a Lasting Commitment

History has shown us that in the past the speaker's office has been a leader in using the Internet to promote transparency. We urge the speaker to come together with other leaders in the House and Senate and with those who are responsible for the publication and distribution of official documents to coordinate the continuing development of Congress's use of the Web, to implement the ideas mentioned throughout this report, and to prepare for the changes to come.