

2018

Congressional Research Service Products: History, Purpose, and Availability

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Congressional Research Service Products: History, Purpose, and Availability

Charlie Amiot

July 27, 2018

Summary

Congressional Research Service (CRS) products, such as CRS Reports and Issue Briefs, are valuable reference tools that can assist reference professionals in providing service to a wide range of patrons and should not be overlooked. This paper details the history leading up to the creation of CRS beginning with the formation of the Library of Congress, the establishing of CRS's congressional agency predecessor, the Legislative Reference Service, to its present form as the Congressional Research Service; explains what kind of products CRS creates and why; and provides a brief legislative history of congressional efforts to publicly disseminate CRS products, integrated with public discourse on the subject.

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Introduction

Assuming your library provides reference assistance directly to others, when was the last time a patron—whether a legal professional, student, faculty, or member of the general public (legally trained or not)—was referred to a Congressional Research Service (CRS) product? When was the last time a CRS product was cataloged so that it could be discovered? When was the last time you personally looked at a CRS product?

Originally formed in 1914 under the name Legislative Reference Service (LRS), and operating under the larger umbrella of the Library of Congress (Library), LRS' name changed to CRS in 1970 and was given permanent departmental status within the Library. CRS, a legislative branch agency that exclusively serves Members of Congress and congressional committees, is often referred to as Congress' own personal Think Tank. CRS' core values have not changed since the department's inception: CRS services provided to Congress are “confidential, authoritative, objective and nonpartisan.”¹

At this point, if you don't already know, you may be asking, what *are* the services and products CRS provides; if they are confidential, then what good are they to me and my institution? Currently, CRS serves Congress by providing: “reports on major policy issues; tailored confidential memoranda, briefings and consultations; seminars and workshops; expert congressional testimony; [and] responses to individual [congressional] inquiries.”² While all CRS services are interesting and valuable, in that they theoretically allow Congress to better serve constituents, this paper focuses primarily on non-confidential CRS products, such as major policy issue reports (Reports) and issue briefs. These CRS products are documents prepared both proactively for Congress—when CRS

¹ Library of Congress, *Values - Congressional Research Service*, Library of Congress (Nov. 15, 2012), <http://www.loc.gov/crsinfo/about/values.html>.

² Library of Congress, *About CRS - Congressional Research Service*, Library of Congress (Apr. 19, 2018), <http://www.loc.gov/crsinfo/about/>.

identifies an issue that Congress needs or will soon need to be informed about—and when requested by a Member or committee.

Regarding confidentiality, while it is true that CRS works directly for Congress, and that CRS products are initially considered confidential, that does not mean that all of their products must *stay* confidential. Congressional members are free to release any non-confidential CRS product that they wish. Whether this means a product is shared with a lobbyist, interest group, news agency, or directly with constituents, that is the choice of each individual member of Congress; there is no prohibition on such sharing for Congress. In fact, there are private companies that sell CRS products or offer access to them via subscription, and many more websites and libraries that offer CRS products for anyone to freely download. It is CRS that may not directly and publicly release their own products, unless prior authorized to do so by Congress.

For clarity purposes, within this paper, unless explicitly stated otherwise, the term “CRS products” or “products” refers to the CRS-produced non-confidential products, which are primarily Reports and issue briefs; not CRS products that are considered confidential or are unavailable for general congressional access, or similarly considered inappropriate for wider dissemination, such as when a product relates to sensitive issues of national security. Additionally, unless explicitly stated otherwise, the term “congressional client” will be utilized as defined by CRS in a 2015 document entitled *Policy of Confidentiality*: “A Congressional client may be an individual Member, someone on a Member’s personal staff, or [either] acting in their capacity as a member of House or Senate leadership, a committee or subcommittee chair or ranking member³, or on behalf of a recognized

³ Ranking Member: “[t]he most senior (though not necessarily the longest-serving) member of the minority party on a committee (or subcommittee). The ranking member typically oversees minority committee staff and may coordinate involvement of the minority party committee members in committee activities.” *Glossary*, Congress.gov, https://www.congress.gov/help/legislative-glossary#glossary_rankingmember.

congressional commission or caucus.”⁴

For decades, various organizations and congressional members have called for Congress to publicly disseminate CRS products. As a legislative branch agency supervised by the Library of Congress, CRS and thus CRS products themselves, are paid for by taxpayers, who have not generally had equitable access to the Reports, for better or worse. That is set to change—the Consolidated Appropriations Act, 2018 (CAA18),⁵ passed on March 23.⁶ Within CAA18, Section 154, entitled *Equal Access to Congressional Research Service Reports*, provides that any new or updated CRS product, including Reports and issue briefs, will soon be publicly disseminated online in a freely accessible, indexed and “searchable, sortable, and downloadable, including downloadable in bulk” format.⁷

That potentially means, that going forward, CRS products will become an even more valuable reference tool as access becomes easier. While it is yet to be seen whether past CRS products will be made officially available, many such products are still available from other sources.

CRS products are resources that should be considered often for anyone providing reference services: they cover a multitude of often topical subjects; are written by experts in their respective fields; are non-partisan, provide facts and (when applicable) discuss possible solutions to issues, yet ultimately leave any final determinations up to the reader; and are a powerful tool used by Congress in the course of their work. Surely such products can be valuable to and utilized by library patrons as well.

⁴ Internal CRS Guidance from CRS Director, Mary B. Mazanec, CRS Policy on Confidentiality and Confidentiality Frequently Asked Questions (FAQs) (Sept. 22, 2015).

⁵ Also known as: Making further continuing appropriations for the fiscal year ending September 30, 2018, and for other purposes of 2018, 115th Cong. H.R. 1625, 115th Cong. (2nd Sess. 2018).

⁶ Consolidated Appropriations Act, 2018; Equal Access to Congressional Research Service Reports § 154 (United States 2018).

⁷ *Id.* § (b)(1)(B).

The Congressional Research Service: A Historical Overview

The intent of this section is not necessarily to provide a history lesson on the formation of the United States of America (U.S.), or the Library,⁸ yet background information in those areas is necessary to put the creation of CRS—and the Library—into context. In its early years the Library was not much more than a collection of academic materials, assigned to a caretaker, The Librarian of Congress (Librarian), whose job it was to keep track of and care for the collection, as well as to provide access to the materials for Congress, when necessary.

Contextually, it is important to recognize how libraries have evolved; the public library model only dates back to the 1850s.⁹ The American Library Association was not established until 1876, followed a decade later by the world's first library school in 1887.¹⁰ The American Association of Law Libraries did not form until 1906.¹¹ Reference services, as we know them in this day and age, were virtually non-existent until the late 1800s. Reference departments, which varied in style and services provided, did not begin appearing in libraries until around 1880, and such services would transform over the next several decades, eventually settling into a service format similar to what libraries offer today.¹²

There are multiple points in history where one could say “*That* is where CRS got its beginning.” The most obvious is when legislative reference services were officially created for Congress in 1914. But is that where CRS really began? Arguably, CRS might never have existed if

⁸ The history of the Library of Congress is a fascinating and in-depth subject, and well worth one's time, especially a librarian's. There are many fantastic books (and other materials) on the topic, and I will leave the full story to those authors and others who will follow them.

⁹ Samuel Rothstein, *The Origins of Legislative Reference Services in the United States*, 15 *Legislative Studies Quarterly* 401, 402 (1990).

¹⁰ *About Melvil Dewey (1851-1931): The Dewey Program at the Library of Congress*, Library of Congress, <https://www.loc.gov/aba/dewey/about-dewey.html>.

¹¹ Frank G. Houdek, AALL HISTORY IN BRIEF: A CHRONOLOGY (Aug. 10, 2017), https://www.aallnet.org/wp-content/uploads/2018/05/AALL-Chronology-1906-2018_MASTER.pdf.

¹² For a more detailed look at how reference services, particularly of the legislative variety, came to exist, this article provides a thorough overview: Rothstein, *supra* note 9.

the field of librarianship had not been professionalized and then later followed by the rise of reference services. However, another crucial factor was the creation of the Library itself, intended to serve the Nation's legislators. Thus, from my perspective, the history of CRS begins in 1774, with the formation and gathering of the First Continental Congress.

The First Congressional Libraries — 1774–1790

In early September of 1774, delegates gathered for the (First) Continental Congress at Carpenters' Hall in Philadelphia, which at that time was also home to the Library Company of Philadelphia's collection. Founded by Benjamin Franklin in 1731, the Library Company of Philadelphia (Library Company) was the largest public library in the British colonies at that time.¹³ Like many libraries in the late 1600s through 1800s,¹⁴ the Library Company was a subscription library, where individuals paid an initial fee and became shareholders, with continued access given in exchange for paying annual dues.¹⁵ The model allowed a library to afford materials that many individuals could not afford on their own; typically only shareholders were permitted to use such a library's collection.¹⁶

Only some of the delegates assembled were Library Company shareholders, but on August 31, 1774, the Library Company's directors ordered their librarian to provide all delegates with access to the collection, along with borrowing privileges, while the Continental Congress was sitting.¹⁷ Delegates would enjoy access throughout the entire sitting of the First Continental Congress, whenever the Second Continental Congress was in Philadelphia between 1775 and 1781, while

¹³ The Library Company of Philadelphia would remain the largest public library in America until the 1850s. *About LCP*, The Library Company of Philadelphia, <http://librarycompany.org/about-lcp/>.

¹⁴ Library of Congress, Today in History - November 14, The Library Company, <https://www.loc.gov/item/today-in-history/november-14/>.

¹⁵ *About LCP*, *supra* note 13.

¹⁶ *Id.*

¹⁷ Vol. I Journals of the Continental Congress, 1774-1789, at 27 (2005).

acting as Congress under the Articles of Confederation from 1781 through 1783,¹⁸ and during the Constitutional Convention in 1787. Congress relocated four additional times while operating under the Articles of Confederation between June 1783 and fall of 1788.¹⁹

On March 4, 1789, newly formed under the United States Constitution, the First United States Congress assembled in New York City, where they relied on the collection held by the New York Society Library, again conveniently located in the same building as Congress.²⁰ Though lacking the official title of Library of Congress, the Society's collection would serve as what many consider to be the first true congressional library, through August 12, 1790.²¹

In December of 1790, Congress would relocate back to Philadelphia, specifically Congress Hall, where they would remain through May of 1800.²² The year prior to Congress' move, the Library Company relocated to more permanent quarters,²³ conveniently across the quad from Congress Hall. While the Library Company's building would not officially open until 1791,²⁴ Congress was again given access to the large, and typically member-only, collection during their time in Philadelphia.²⁵

Recognizing a Need for an Official Congressional Library—1790–1800

As evidenced by the early Founding Fathers' actions in ensuring access to books, magazines, newspapers, maps, and other writings, congressional members recognized their need for guaranteed

¹⁸ Robert Fortenbaugh, *The Nine Capitals of the United States* 9 (1948).

¹⁹ Those relocations, along with any libraries that may have been utilized by that Congress, will not be addressed here, however further information regarding the moves can be found in: Fortenbaugh, *supra* note 18.

²⁰ Charles A. Goodrum, *The Library of Congress* 7 (Hugh Langdon Elsbree Ernest S. Griffith ed., Praeger Library of U.S. Government Departments and Agencies, No. 38, Second printing, 1975 ed. 1974).

²¹ *History of the Library*, New York Society Library, <https://www.nysoclib.org/about/history-library>.

²² Fortenbaugh, *supra* note 18, at 9.

²³ James Raven, *London Booksellers and American Customers: Transatlantic Literary Community and the Charleston Library Society, 1748-1811*, at 64 (2002).

²⁴ *Id.*

²⁵ Goodrum, *supra* note 20, at 8.

access to information. In 1822, James Madison, wrote a letter to William T. Barry, then Secretary of State of Kentucky, on the importance of education.²⁶ In the letter, championing educational systems and learned institutions, Madison penned the now-famous words:

A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives.²⁷

Despite having written the letter several decades after 1790, Madison was a well-informed and influential man who helped shape the early beginnings of America,²⁸ and was well-positioned to speak on such topics.

On April 30, 1790, Congress formed a joint committee²⁹ to draft a House of Representatives (House) report on whether a dedicated congressional library should be created.³⁰ Led by Elbridge Gerry, the resulting report enumerated multiple reasons to create a permanent, governmental library, as the committee found it undesirable to continue relying on non-governmental resources.³¹ Despite being presented to Congress, the June 23, 1790 House Report was tabled,³² for reasons left to speculation, though likely political, and the report was not printed in *The Debates and Proceedings in the Congress of the United States*.³³

²⁶ 3 James Madison, *Letters and Other Writings of James Madison, Fourth President of the United States in Four Volumes*, 276–81 (1865).

²⁷ *Id.* at 276.

²⁸ James Madison, Jr. served as a member of both Continental Congresses; helped organize and participated in the Constitutional Convention; authored numerous Federalist essays encouraging ratification of the Constitution; is considered the Father of both the Constitution and Bill of Rights, having played a large role in drafting both documents; represented Virginia in the House of Representatives on the First, Second, Third, and Fourth United States Congress; served two terms as Secretary of State, under President Thomas Jefferson; served two terms as the Fourth President of the United States; and served as an advisor to many Presidents, both before and after his presidency. *MADISON, James, Jr.*, US House of Representatives: History, Art & Archives, <http://history.house.gov/People/Detail/17381>.

²⁹ 2 United States. Congress, *Annals of the Congress of the United States. First Congress, 1550* (1834).

³⁰ Goodrum, *supra* note 20, at 7–8.

³¹ David C. Mearns, *The Story up to Now: The Library of Congress, 1800-1946*, at 2 (1947).

³² United States. Congress, *supra* note 29, at 1647.

³³ Mearns, *supra* note 31, at 2.

Though left out of the official record, the committee's report was covered, at least in part, by multiple newspapers, including: Federalist newspaper *The Gazette of the United States*,³⁴ Benjamin Franklin's *The Pennsylvania Gazette*,³⁵ *The New-York Magazine*,³⁶ and the Federalist *Columbian Centinel*.³⁷ According to the *Gazette* column, the joint committee had considered alternate, more frugal options but ultimately determined that establishing a congressional library was unavoidable.³⁸ The books requested within the House Report were overwhelmingly related to foreign and domestic jurisprudence,³⁹ an indication of what materials early congressmen considered important and necessary to aide Congress in their responsibilities.

After the committee's report failed to gain wide support to establish a governmental library for congressional use, there seems to be no record of Congress attempting to organize a congressional library for another ten years.⁴⁰ At that time Congress was still enjoying the free use of the Library Company's collection, which in 1789 totaled approximately 5,000 volumes.⁴¹

On January 19, 1791, both legislative chambers would refer to a letter from the Library Company's directors, that continued to extend free use of the collection to not only all of Congress, but also to the President, as though all men were paying shareholders, for as long as Congress saw necessary.⁴² It is likely that Congress was simply content to continue using the Library Company's

³⁴ *Congress. House of Representatives. Wednesday, June 23*, *Gazette of the United States*, Jun. 26, 1790, at 503, <https://chroniclingamerica.loc.gov/lccn/sn83030483/1790-06-26/ed-1/>.

³⁵ *Proceedings of Congress. House of Representatives of the United States. WEDNESDAY, June 23*, *The Pennsylvania Gazette*, Jul. 7, 1790.

³⁶ *CONGRESSIONAL AFFAIRS.: A SKETCH of the PROCEEDINGS of the Second Session of the HOUSE of REPRESENTATIVES of the UNITED STATES. JUNE 23, 1790*, *The New-York Magazine, or Literary Repository* (1790-1797); New York, Sept. 1790, at 549, <https://search.proquest.com/docview/88871900>.

³⁷ *Congress. House of Representatives. Wednesday, June 23*, *Columbian Centinel*, Jun. 30, 1790, at 128.

³⁸ *Congress. House of Representatives. Wednesday, June 23*, *supra* note 34.

³⁹ *Id.*

⁴⁰ Research methods were exhausted, and included searching digital newspaper archives, the *Annals of Congress*, and various books considered authoritative on the subject matter (many of which are cited within this paper).

⁴¹ Shelley L. Dowling, *The United States Supreme Court Library*, in *52 Law Librarianship: Historical Perspectives* 3, 13 (Laura N Gasaway & Michael G Chiorazzi eds., AALL Publication Series, 1996).

⁴² *United States. Congress*, *supra* note 29, at 1747, 1872.

collection, which resulted in no expense to them or taxpayers, rather than establish and fund a private library. Indeed, Congress would use the collection as though it was the Library of Congress, the collection only lacking such a title, until the second half of 1800.⁴³

Establishing the Library of Congress — 1800

It had already been decided that the Nation’s capital would be relocated to a federally-owned district, situated near the Potomac by December of 1800.⁴⁴ A side-effect of this move meant that Congress would be losing convenient access to the Library Company’s collection, and so \$5000 was allocated to purchase books and similar materials for the use of Congress, and to secure a singular “suitable apartment” to store the collection in.⁴⁵ The following day a joint congressional committee was formed, whose job it was to select and purchase the books necessary to serve Congress.

That committee, tasked with starting the collection, selected what would be a functional collection of working tools for Congress;⁴⁶ they placed an order with London booksellers, of 152 titles, comprised of 740 volumes, which arrived in Washington on May 2, 1801, and were placed in the office of the Clerk of the Senate.⁴⁷ Approximately one-fifth of the collection was related to jurisprudence.⁴⁸

On January 26th, 1802, Congress approved *An Act Concerning the Library for the Use of Both Houses of Congress*, legitimizing the collection that had started the Library of Congress, and forming the Joint Committee of Congress on the Library (JLC).⁴⁹ The Act also extended use of the Library

⁴³ Shelley L. Dowling, *The United States Supreme Court Library*, in 52 *Law Librarianship: Historical Perspectives* 3, 13 (Laura N Gasaway & Michael G Chiorazzi eds., AALL Publication Series, 1996).

⁴⁴ An Act for establishing the temporary and permanent seat of the Government of the United States, 1 Stat. 190 (United States 1790).

⁴⁵ An Act: To make further provision for the removal and accommodation of the government of the United States, 2 Stat. 55, 55–56 (United States 1800).

⁴⁶ Goodrum, *supra* note 20, at 11.

⁴⁷ Paul M. Angle, *The Library of Congress: An Account, Historical and Descriptive* 7 (1958).

⁴⁸ Library of Congress. et al., *The Nation’s Library: The Library of Congress*, Washington, D.C 83 (2000).

⁴⁹ *An Act Concerning the Library for the Use of Both Houses of Congress*, 2 Stat. 129 (United States 1802).

beyond Congress, to include the President and Vice-President of the United States;⁵⁰ over approximately the next fifty years, the list of who could access the Library would expand, until eventually the Library was accessible by all users. In 1811, Congress would make the JLC permanent, and today it is Congress' oldest continuing joint committee.

The collection would sit in relative obscurity, with few Americans even aware of its very existence, until near the end of the War of 1812.

A Period of Destruction, Restriction, and Proliferation — 1814-1897

On August 24, 1814, British troops invaded Washington D.C. and set fire to the Capitol building during the Burning of Washington; at that time the Library's collection was housed in the Capitol's northern wing and was entirely lost to the flames.⁵¹ Upset by the loss, Thomas Jefferson would offer his personal library to Congress as a replacement, despite his deep attachment to his laboriously collected materials.⁵² Jefferson's 6,487 volume collection was a relative bargain at \$23,950; the Senate happily accepted Jefferson's offer, though it was only narrowly approved in the House, by a margin of ten votes.⁵³

Jefferson's collection arrived at the Capitol in 1815, along with his own personal classification scheme, which would be used by the Library until 1898. The Library's original collection had primarily consisted of factual materials, well suited for reference; Jefferson's collection however had been curated by a humanist and would pave the way for a much broader subject focus than ever before seen by the Library.⁵⁴

Unfortunately, in 1825 a fire yet again struck the Library, though this time the loss was much

⁵⁰ *Id.*

⁵¹ Goodrum, *supra* note 20, at 13.

⁵² *Id.* at 13–14.

⁵³ *Id.* at 14–15.

⁵⁴ *Id.* at 15.

less devastating; the fire was caught early, with Congressmen pitching in to help extinguish it.⁵⁵ At that time, the Librarian and Assistant to the Librarian were that in title alone, both men were little more than caretakers and book retrievers, their job to aide in managing the ever expanding collection.

In 1832, Congress passed an Act that separated the jurisprudence-related books from the main collection, and used them to establish the Law Library of Congress (LLC).⁵⁶ The LLC collection was then relocated to a separate but nearby room.⁵⁷

The JLC was truly in control of how much the library could grow, and by 1845 Sen. James A. Pearce was named the chairman of JLC. Pearce believed in a very limited, purely legislative purpose for the Library;⁵⁸ during his tenure as JLC chairman, where he served until his death in 1862,⁵⁹ Pearce ensured that the Library's collection was strictly related to legislative use—any book that was not considered directly topical was not added to the collection.⁶⁰

In December 1851, the Library would face a third and most destructive fire, resulting in a loss of approximately 35,000 volumes of its 55,000 volume collection.⁶¹ Not only did the Library lose two-thirds of its overall collection, but it also lost two-thirds of Jefferson's former personal collection.⁶² The silver lining was that the LLC's collection, which was housed in a different room, was not reached by the fire.⁶³ Because the fire occurred during Pearce's tenure on the JLC, while

⁵⁵ *Id.* at 16.

⁵⁶ 2 U.S.C. 132. July 14, 1832, ch. 221, §1, 4 Stat. 579.

⁵⁷ Goodrum, *supra* note 20, at 17.

⁵⁸ PEARCE, *James Alfred*, US House of Representatives: History, Art & Archives, <http://history.house.gov/People/Detail/19476>.

⁵⁹ *Id.*

⁶⁰ John Young Cole & Jane Aikin, *Encyclopedia of the Library of Congress: For Congress, the Nation & the World* 18 (2004).

⁶¹ John Y. Cole, *America's Greatest Library: An Illustrated History of the Library of Congress* 16 (2018).

⁶² *Id.*

⁶³ Goodrum, *supra* note 20, at 18.

Congress appropriated \$168,700 to replace the collection and repair the quarters that housed it, any purchases made were limited to only replacing what had been lost.

Pearce's conservatism when it came to expanding the Library collections greatly agitated the Assistant Librarian, Ainsworth Rand Spofford, who publicly and boldly spoke out against Pearce's policies, saying in 1862 that the current state of the Library's collection was because it was "under Southern domination and as under dead men."⁶⁴ Despite being Assistant Librarian, Spofford essentially acted as Librarian.⁶⁵ By 1863, Spofford had managed to grow the Library's collection to over 79,000 volumes, the fourth largest collection in America.⁶⁶ President Abraham Lincoln appointed Spofford to the Librarian position in 1864,⁶⁷ and Spofford ensured dramatic Library expansion during his tenure.⁶⁸

One factor in the Library's expansion, in both collection and access, was the 1867 absorption of the Smithsonian's 40,000 volume collection, known as the Smithsonian Deposit.⁶⁹ A condition of the Library accepting the Deposit, was that Smithsonian's users could retain access to the collection, which opened the Library's collection up to the general public.⁷⁰

By 1869, the Library contained approximately 175,000 volumes, and was the largest library in the U.S.⁷¹ Spofford, talented at growing collection, was quickly running out of space; by the end of 1874, the Library had absorbed over two million pieces from the Smithsonian.⁷² The Library, which had begun with a relatively small collection intended for the exclusive use of Congress, had grown

⁶⁴ Cole, *supra* note 61, at 33.

⁶⁵ Erin Allen, *A Legacy of Librarians*, Library of Congress Blog (Nov. 20, 2015), blogs.loc.gov/loc/2015/11/lcm-a-legacy-of-librarians/.

⁶⁶ Goodrum, *supra* note 20, at 19.

⁶⁷ Cole, *supra* note 61, at 33.

⁶⁸ *Id.* at 243.

⁶⁹ Goodrum, *supra* note 20, at 24.

⁷⁰ *Id.*

⁷¹ Cole, *supra* note 61, at 37.

⁷² Goodrum, *supra* note 20, at 24.

alongside the nation that created it and was now open for all to access, including the taxpayers who had funded it.

A New Home and New Librarians — 1897-1899

Spofford spent his last 26 years working as Librarian on getting the Library its own building; the Library would close for three months and reopen in its first dedicated home on November 1, 1897. Having been literally crammed into nooks and crannies all over the Capitol building, the collection finally had space to breathe and expand in the building we now know as the Jefferson Building. A Harper's Weekly feature on the Library described the breathtaking space well:

Few persons have any conception of the magnitude of the new building. The Library and its connecting rooms have 111,000 square feet, or about 20,000 square feet more than the British Museum. The total floor space, not including the cellar, is almost eight acres.⁷³

Spofford had served 33 years as Librarian, and was succeeded prior to the move by the 1897 appointment of John Russell Young, who quickly rehired Spofford as Chief Assistant Librarian, a role Spofford would fill for another eleven years as until his death in 1908. Unfortunately, Young's tenure would not be as long as his predecessor, and his untimely death ended his role a short nineteen months later in 1899.⁷⁴ Young was replaced by Herbert Putnam who would serve for forty years. Charles A. Goodrum, former CRS Director of Research and Director of the Office of Planning and Development for the Library, best describes the roles these three influential Librarians of Congress filled, "Spofford built it, Young housed it, and Putnam *used* it."⁷⁵

It was Putnam that paved the way to implement research services for Congress, beyond a collection of books. While not the first Librarian who was a trained lawyer, Putnam was the first experienced librarian to occupy the position, and it would be him who later devised and

⁷³ Royal Cortissoz, *Painting and Sculpture in the New Congressional Library*, XLI Harper's Weekly, Feb. 27, 1897, at 201, 202.

⁷⁴ Goodrum, *supra* note 20, at 35.

⁷⁵ *Id.* at 36.

implemented the Library of Congress Classification (LCC) System.⁷⁶

When the Library moved out of the Capitol Building and into its new home, it was during a congressional adjournment; when Congress returned, the Library was gone, and so too was their constant presence within the congressional halls. A small reference library was left behind in the Capitol, with new private reading rooms located in the new Library building, one for the House of Representatives and one for the Senate, however the rooms would rarely see usage.⁷⁷

The Development of Legislative Reference Divisions — 1890-1913

It was also around this time that something very important was developing, not in Washington, D.C. but rather in Albany, New York and Madison, Wisconsin. Beginning in 1890, under Melvil Dewey, the New York State Library established a legislative reference section, with the goal of improving legislation.⁷⁸ Unfortunately, Dewey's department was woefully underutilized and did not thrive.⁷⁹ It would be Charles McCarthy, who established the Wisconsin Legislative Reference Library, and implemented what McCarthy and others would call The Wisconsin Idea, that would see a real start of legislative reference bureaus (LRBs).⁸⁰

Much of the credit for the Wisconsin Legislative Reference Department's (WLRD) success is owed to McCarthy, who went above and beyond in providing library services, truly focused on serving the legislature.⁸¹ McCarthy's three-part method involved "collecting specialized information, aggressively pushing it to legislators, and neutral drafting of requested legislation."⁸² As popularity

⁷⁶ *Id.* at 36–37.

⁷⁷ Cole, *supra* note 61, at 63.

⁷⁸ Paul Healey, *Go and Tell the World: Charles R. McCarthy and the Evolution of the Legislative Reference Movement, 1901-1917*, 99 *Law Library Journal* 21, 36–37 (2007).

⁷⁹ *Id.* at 37.

⁸⁰ *Id.* at 39.

⁸¹ *Id.* at 50.

⁸² *Id.* at 40.

and usage of WLRD grew among the Wisconsin Legislature, so too would the services that McCarthy offered; by 1905 other states began taking notice, establishing similar LRBs.⁸³ The idea of a library actively providing information to one's patrons, rather than waiting for them to request the information would revolutionize the library model of the time; by 1912 twenty-five other states had already created LRBs.⁸⁴ The idea of a congressional LRB or legislative drafting bureau generated congressional interest, and Congress began seriously exploring such an idea.⁸⁵

In 1911, multiple bills were submitted in Congress, attempting to create a congressional LRB, based on the Wisconsin-model.⁸⁶ Anticipating what was coming, Putnam submitted a 36-page report to Congress that detailed: the functions of LRBs; a history of other LRBs and the laws that established them; various related public indexes; a 1902 estimation of the cost to establish a congressional LRB; discussions on preparing indexes, compilations of law, and bill drafting; statistics regarding passed legislation among the states; and a copy of the 1911 Amendment that had enabled the Library to index state material.⁸⁷

Putnam prefaced the report, stating that a LRB's "main object is the improvement of legislation," by providing good information and by hiring experts to provide the information in an easily consumable manner.⁸⁸ Putnam explained that while the Library held such information and could provide Congress with a list of where to find it, it was a LRB that took that service further, by

⁸³ *Id.*

⁸⁴ Library of Congress, *Report of the Librarian of Congress and the Report of the Superintendent of the Library Building and Grounds for the Fiscal Year Ending June 30, 1911* (Annual Report of the Librarian of Congress, Library of Congress, Government Printing Office 1911).

⁸⁵ Citations to reports, letters, and hearings can be found in Ida A. Brudnick, *The Congressional Research Service and the American Legislative Process*, RL33471 1, FN 2, 3 (Congressional Research Service), Apr. 12, 2011.

⁸⁶ The language of a selection of related bills submitted in 1911, prior to June 30, were collected within: Library of Congress, *supra* note 84, at 234–37. Brudnick, *supra* note 85, bk. 1, fn 1. **FIX** also provides references to fifteen bills submitted between 1909 and 1914.

⁸⁷ Library of Congress, *supra* note 84, at 183–237. See also 62nd Cong. S.Doc. 7, 1st Sess. (April 6, 1911).

⁸⁸ *Id.* at 183–237, 184.

quickly delivering the information in a format that could be easily utilized.⁸⁹ It was Putnam's belief that while the Library could provide such a service, they would need to establish a new division to do so, expand existing divisions, and employ experts within the LRB field, who would be also be better at indexing; all of this would require more funding.⁹⁰

Putnam assured Congress that the Library could also assist in drafting legislation, but that to do so would require employing experts, and that Congress should do so, though it was not necessarily the Library that should departmentally house such experts.⁹¹ If Congress were to move forward with a LRB, Putnam advised that costs would not be low, and based on the sheer volume of legislation introduced annually, experts should only be at the disposal of a committee and not individual Members, unless a bill would affect a group of considerable size.⁹² Organizing a congressional LRB would depend on what aforementioned tasks Congress desired performed, but either way: a congressional LRB would have to provide more material than any other state LRB; implementation would initially be experimental; and no matter what, the congressional LRB would have to be "strictly non-partisan," thus the appointing or administrative authorization should be implemented by law, to ensure non-partisanship.⁹³

Putnam, asked in 1912 about the congressional usage of the Library, found that found that out of 400 Members of Congress, only ninety-three had even used the Library in *any* way the prior year, and that the Library had only received approximately three to four phone calls a day from Congress during the session.⁹⁴

⁸⁹ *Id.* at 183–237, 184–85.

⁹⁰ *Id.* at 184–87.

⁹¹ *Id.* at 186–87.

⁹² *Id.* at 187.

⁹³ *Id.*

⁹⁴ Goodrum, *supra* note 20, at 41–42.

On January 24, 1912, Rep. John M. Nelson,⁹⁵ of Madison, Wisconsin, submitted H.R.18720, a well-researched congressional bill attempting to establish a legislative reference bureau for Congress.⁹⁶ In response to that bill and other legislation that had been submitted by that time, the House Library Committee (HLC) held hearings in February of 1913 to determine whether Congress should establish their own legislative reference bureau.⁹⁷ On behalf of 1912's H.R.18720, Nelson testified how over the last ten years he had witnessed the usefulness and at times necessity of the WLRD, and that while the Library provided great resources as is, a congressional equivalent was also necessary.⁹⁸ Nelson provided the HLC with H.R.18720's background, discussed who had assisted in its drafting, and stated his belief that such a service would "enlarge [Congress'] individual and collective capacity for legislative service, to attain a maximum of legislative efficiency."⁹⁹

The record of the 1912 hearing totaled 114 pages, and included testimony by many legislative reference providers and politicians, including then New Jersey Governor Woodrow Wilson, who thought such a service to be "indispensable."¹⁰⁰ Of particular importance was the testimony provided by Putnam and McCarthy; at Nelson's request, Putnam had provided advice during the drafting of H.R.18720, and testified that such a department within the Library could indeed assist with bill drafting, as well as create an Index to the Statutes at Large.¹⁰¹ Putnam firmly believed that if such a department was created, that they "should be truly scientific and non-

⁹⁵ Nelson also submitted a related bill in 1911: A bill to establish a legislative reference bureau in the Library of Congress of 1911, 62nd Cong. H.R. 18593, 62nd Cong. (2nd Sess. 1911).

⁹⁶ A Bill to establish a legislative reference bureau in the Library of Congress of 1912, 62nd Cong. H.R. 18720, 62nd Cong. (3rd Sess. 1912); Library of Congress, *Report of the Librarian of Congress and the Report of the Superintendent of the Library Building and Grounds for the Fiscal Year Ending June 30, 1913* (Annual Report of the Librarian of Congress, Library of Congress, Government Printing Office 1913) 247–48.

⁹⁷ *Congressional Reference Bureau Hearings Before the House of Representatives Committee on the Library: On Various Bills Proposing the Establishment of a Congressional Reference Bureau: Hearing before the Committee on the Library*, House of Representatives, 7, 33, 45 (1912).

⁹⁸ *Id.* at 3–4.

⁹⁹ *Id.* at 4.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 26.

partisan.”¹⁰² When asked if the Library did not already provide such services to Congress, Putnam responded that the Library lacked resources to be as thorough as a LRB could be, leaving a “great deal of labor of collation and concentration to be done” by congressional members.¹⁰³ Much of Putnam’s testimony simply restated or expounded upon his 1911 report, the first four pages of which were entered into the Hearing’s record.¹⁰⁴

McCarthy, having spent the last eleven years assisting in drafting legislation within WLRD, testified as to how WLRD worked for Wisconsin and how he believed LRBs should function; McCarthy believed it was essential for LRBs to be nonpartisan, producing only “high class” work product, with employees that were “servants of the legislature.”¹⁰⁵ McCarthy estimated that close to ninety-percent of Wisconsin bills were drafted by WLRD; it was his belief that a legislative body needed a ready pool of experts who could provide consumable data for the legislature as they were legislating, not afterwards.¹⁰⁶ In closing, McCarthy testified that it would be absolutely fatal to a LRB to allow in partisan politics of any kind.¹⁰⁷

Nelson concluded the two days of hearings by summarizing the three things the Committee agreed on: first, such a bureau would cut down on labor, leaving Congress to “concentrate on principals and policies;” second, that there was a need to improve the format of crafting legislation; and third, that there was a need for a system that did both of the first two things together.¹⁰⁸

At the time, multiple congressmen felt that legislative drafting should be left strictly to Congress, not another department; commenting on such an arrangement, Rep. Swagar Sherley of

¹⁰² *Id.*

¹⁰³ *Id.* at 111–12.

¹⁰⁴ *Id.* at 23–25.

¹⁰⁵ *Id.* at 44, 45.

¹⁰⁶ *Id.* at 46, 48.

¹⁰⁷ *Id.* at 56.

¹⁰⁸ *Id.* at 113.

Kentucky, said “No one desires to have Congress have some other body doing its thinking, but all of us would like to have the data collected that would enable us to arrive at better conclusions.”¹⁰⁹

Despite the submitted legislation generating enough interest on the topic to hold hearings in the House, none managed to succeed that year.

In 1913, six more pieces of legislation calling for a congressional LRB were introduced,¹¹⁰ leading to the Senate Library Committee to also hold hearings.¹¹¹ The House Library Committee recommended that such a congressional LRB should be created, but should not include bill drafting, and that the director should be appointed by the Librarian.¹¹² Later that year, in reaction to Theodore Roosevelt’s New Freedom program, the Senate Library Committee urged that a congressional LRB be established as soon as possible.¹¹³

Congress’ Official Reference Services — 1914-Today

It would not be until 1914 that legislative language,¹¹⁴ by way of a Senate amendment¹¹⁵ to the *Legislative, Executive, and Judicial Fiscal Year 1915 Appropriations Act*¹¹⁶ would finally establish a Legislative Reference service within the Library, passing in the House, 140-94.¹¹⁷ The Legislative Reference Division was statutorily founded through the simple language,

Legislative reference : To enable the Librarian of Congress to employ competent persons to prepare such indexes, digests, and compilations of law as may be required for Congress and other official use.¹¹⁸

¹⁰⁹ *Id.* at 70.

¹¹⁰ Goodrum, *supra* note 20, at 43.

¹¹¹ Senate Committee on the Library, *62nd Cong. 3rd Sess. S.Rpt. 1271* 32 Feb. 20, 1913, at 32.

¹¹² *62nd Cong. 3rd Sess., H.R.Rpt. 1533* Feb. 18, 1913.

¹¹³ Senate Committee on the Library, *63rd Cong. 1st Sess. S.Rpt. 73* Jul. 10, 1913.

¹¹⁴ The actual hand-written amendment can be viewed here: *Amendment to H.R. 15279, Legislative, Executive, and Judicial Fiscal Year 1915 Appropriations Act, June 13, 1914*, U.S. Capitol Visitor Center, <https://www.visitthecapitol.gov/exhibitions/artifact/amendment-hr-15279-legislative-executive-and-judicial-fiscal-year-1915>.

¹¹⁵ 51 Cong. Rec. 10467 (1914).

¹¹⁶ P.L. 63-127, sec. 141, July 16, 1914, 38 Stat. 454. (United States).

¹¹⁷ Amendment 33. 51 Cong. Rec. 11207 (1914).

¹¹⁸ P.L. 63-127, sec. 141, July 16, 1914, 38 Stat. 454. at 463.

Language related to such a department also drafting legislation had been eliminated, and thus the newly formed service focused on providing other reference services for Congress.¹¹⁹ The new division became the Legislative Reference Service (LRS), and would continue serving Congress as a division within the Library for the next few decades, providing congressional reference services as necessary, and publishing various indexes and written works at the order of Congress.

In 1946, LRS gained official departmental status within the Library, as well as expanded responsibilities and services to ensure that LRS evolved along with Congress.¹²⁰ LRS would get the first computer terminals ever installed in the Library in 1967, to assist in preparing the LRS publication, *Digest of Public General Bills and Reports*,¹²¹ and in 1968, LRS would begin publishing the monthly *Legislative Statute Report*, designed to inform Congress and committees of the details and status of pending litigation.¹²² Those reports would eventually be discontinued, but served as a precursor to the more modern CRS Reports now issued.

In continuing the trend of ensuring that services kept up with Congress, The Legislative Reorganization Act of 1970 was signed by President Richard M. Nixon, which changed the name of LRS to CRS, and granted CRS increased autonomy to allow for a closer relationship with Congress.¹²³ The 1970 Reorganization Act was responsible for shaping CRS into the entity as it is known today; much of the services provided by CRS directly stem from that legislation, and while

¹¹⁹ Library of Congress, *Report of the Librarian of Congress and the Report of the Superintendent of the Library Building and Grounds for the Fiscal Year Ending June 30, 1915* (Annual Report of the Librarian of Congress, Library of Congress, Government Printing Office 1915) 10–11.

¹²⁰ P.L. 79-601, ch. 753, Title II, sec. 203, Aug. 2, 1946, 60 Stat. 836 (United States).

The Reorganization Act of 1946 expands LRS, and establishes it as a permanent and separate Library department, via 60 Stat. 812. 82?

¹²¹ Library of Congress, *Report of the Librarian of Congress and the Report of the Superintendent of the Library Building and Grounds for the Fiscal Year Ending June 30, 1968* (Annual Report of the Librarian of Congress, Library of Congress, Government Printing Office 1968) 6.

¹²² *Id.* at 33.

¹²³ P.L. 91-510, Title III, sec. 321(a), Oct. 26, 1970, 84 Stat. 1181; 2 U.S.C. 166. (United States).

CRS has modernized over the years, incorporating digital services, reorganizing and consolidating departments, and the like, not much has fundamentally changed.

Despite the initial legislative efforts that founded what is now CRS, it never came to pass that the division would actually draft legislation for Congress. While CRS has assisted congressional clients with drafting legislation, they do so without actually doing any of the drafting themselves, as evidenced in the following sections.

CRS Products: Form and Function

To recommend a CRS product, a librarian does not have to be intimately familiar with the information contained in each and every product, though it is helpful to know what type of information and for what purpose it is generally included in a product, and in what format that information is provided.

For an excellent introduction to subject, I highly recommend reading the short 2011 CRS Report: *The Congressional Research Service and the American Legislative Process*.¹²⁴ CRS serves Congress at nearly every stage of the legislative process by: providing background information and analysis throughout; consulting with individuals drafting legislation;¹²⁵ assessing and comparing proposed legislation; assisting legislative committees with bills assigned to the committee; attending committee meetings in an expert capacity; assisting committees in drafting written reports for legislation that succeeded at the committee stage; clarifying the legal effects of proposed legislation at the floor stage, providing analysis for proposed and submitted amendments, and helping Members prepare for the debate stage; and assisting during conference committees.¹²⁶ However, CRS cannot conduct research on a sitting or living former Member of Congress, except in two situations: the affected

¹²⁴ Brudnick, *supra* note 85.

¹²⁵ CRS does not draft legislation though they can directly advise and be consulted by those who do.

¹²⁶ Brudnick, *supra* note 85, at 6–8.

Member explicitly grants CRS permission to do so, or the President nominated the affected Member for a different office.¹²⁷

CRS written work products are researched and written by CRS staff, which includes analysts, legislative attorneys, reference librarians, economists, and social, natural, and physical scientists, among others; products may be created in response to congressional request or in anticipation of or in response to a developing issue.¹²⁸

CRS currently has five research divisions: “American Law, Domestic Social Policy; Foreign Affairs, Defense and Trade; Government and Finance; [and] Resources, Science and Industry,” which are supported by the Knowledge Services Group.¹²⁹ Each division is staffed by analysts who are leading experts in their respective fields; historically, these divisions have evolved through the years, and thus historic references may be found relating to divisions that no longer exist or have been absorbed into one of the current divisions.

While CRS produces many different types of written work products, the three dominant types are CRS Reports, CRS general distribution memoranda, and CRS memoranda.¹³⁰ Reports are the most common publicly available CRS product, are neither classified nor confidential, and are always published on the internal CRS website for congressional use.¹³¹ General distribution memoranda also do not contain classified or confidential material, but are not published on the CRS website, and instead must be requested by congressional members.¹³² CRS memoranda are written by CRS upon request of a Member of Congress, or their staff, and are confidential; they do not

¹²⁷ *Id.* at 8–9.

¹²⁸ Stephen W. Stathis, *CRS at 100: Informing the Legislative Debate Since 1914*, at 44 (Cory V Langley ed., 2014).

¹²⁹ [Library of Congress, *Areas of Research - Congressional Research Service, Library of Congress*, <http://www.loc.gov/crsinfo/research/>.](http://www.loc.gov/crsinfo/research/)

¹³⁰ What is a CRS Report?, <https://www.everycrsreport.com/what-is-a-crs-report.html>.

¹³¹ *Id.*

¹³² *Id.*

contain classified information, but they may only be released to others by the requesting Member.¹³³

CRS Reports are designed to “clearly define the issue in the legislative context,” and come in many forms, including “policy analysis, economic studies, statistical reviews, and legal analyses.”¹³⁴ There are also different types of Reports, which can be quickly identified based on the abbreviations that preface the Report number: Short Reports (RS), which are often under seven pages, Long Reports (RL), “which can include major studies on a particular topic,” Issue Briefs (IB), which are often under sixteen pages, and provide “issue definitions, background and policy analyses, legislation passed and pending, a bibliography of hearings, reports and documents and other congressional actions, a chronology of events, and reference sources,” Appropriations Reports, which are typically issued as Long Reports, and Research Memos (RM).¹³⁵

Additionally, CRS offers more than just written work products, such as courses on various legislative processes, an orientation seminar at the beginning of each Congress for new Members, and on rare occasions, field research.¹³⁶ Some congressional responses are also delivered via customized presentations, digitally recorded presentations, and in-person or telephone consultations.¹³⁷

Subject Matter Coverage

CRS products cover a wide range of subject matter, despite being produced by only a handful of research divisions. CRS does not officially provide the public with a list of subjects covered,¹³⁸ and thus websites that publish the Reports have often created their own categories in an

¹³³ *Id.*

¹³⁴ Stephen Young, Guide to CRS Reports on the Web (Sept. 17, 2006), <https://www.llrx.com/2006/09/guide-to-crs-reports-on-the-web/>.

¹³⁵ *Id.*

¹³⁶ Brudnick, *supra* note 85, at 9.

¹³⁷ *Id.* at 2.

¹³⁸ *Areas of Research - Congressional Research Service*, Library of Congress, <http://www.loc.gov/crsinfo/research/>.

attempt to make Reports more accessible. A handful of such websites are discussed below.

EveryCRSReport.com¹³⁹ organizes their collection of over 14,500 Reports into 31 distinct categories, plus a 32nd “Uncategorized” category.¹⁴⁰ University of North Texas’ Digital Library collection contains over 41,000 Reports, organized into 78 subject areas.¹⁴¹ The Federation of American Scientists have a more discriminate collection of Reports, primarily relating directly to national security-related topics, thus their collection is organized into ten general topic areas, and an eleventh “Miscellaneous Topics” category.¹⁴² CRSReports.com, which boasts “the Internet’s largest free and public collection of Congressional Research Service Reports,” does not provide a subject index for users, and instead provides a search box that allows users to locate reports.¹⁴³ HeinOnline also does not provide a subject index for users, and instead lists all reports alphabetically by title, within their U.S. Congressional Documents database. Lexis also provides access to Reports via their database, Congressional Research Service Reports.

In searching for Reports, you may find references to OpenCRS.com, which operated from 2005 through 2013, but was fully taken offline in 2014.¹⁴⁴

¹³⁹ EveryCRSReport.com is an open source website, built by Dr. Josh Tauberer of Govtrack, and “was intended as a model for Congress.” *Congressional Research Service (CRS) Reports To Become Publicly Available*, Demand Progress (Mar. 0, 2018), <https://demandprogress.org/congressional-research-service-crs-reports-become-publicly-available/>.

EveryCRSReport.com has a very responsive search interface, works well with mobile devices, allows users to download Reports as epub files for use with e-Readers, as well as in HTML and PDF formats, and provides track-changes to show the history of a Report. For those that are very tech savvy, Reports can also be downloaded in bulk. *Bulk Download / Developer Documentation*, EveryCRSReport.com, <https://www.everycrsreport.com/download.html>.

¹⁴⁰ CRS Report Topic Areas, <https://www.everycrsreport.com/topics.html>.

¹⁴¹ *Congressional Research Service Reports - Digital Library*, University of North Texas - Digital Library, <https://digital.library.unt.edu/explore/collections/CRSR/>.

¹⁴² Congressional Research Service Reports, <https://fas.org/sgp/crs/index.html>.

¹⁴³ Congressional Research Service Reports, <https://crsreports.com/>.

¹⁴⁴ @openncrs tweet (Oct. 31, 2014), <https://twitter.com/openncrs/status/520340857455910912>.

Dissemination and Public Availability of CRS Reports and Related Dialogue

Modernly—Rise of the Internet through 2017

Historically, many CRS products were not publicly disseminated, in large part due to the high printing and physical distribution costs associated with doing so. However, that concern lessened with the introduction of the Internet. As Internet popularity and usage began to rise, naturally so did Congressional and constituent usage of the Internet, both independently, and as a method of communicating with one another. Beginning with the 105th Congress in 1998, language was submitted in Congress advocating for the public dissemination of CRS written work products via the Internet. Since then, with the exception of 2002, 2004-06, and 2008, there have been multiple legislative efforts, in many instances bipartisan and bicameral, to achieve public dissemination of not only Reports, but also other CRS written work products and various congressional documents.

Members of Congress have released statements both for and against such efforts, as have various interest groups and former CRS employees, via press releases, spokespeople, news columns, open letters, and other public statements. The Library and CRS were not to be left out of the dialogue either, contributing to the general discourse through internal CRS documents and open letters. Through the late 90s and early 2000s, CRS' position was fairly simple, with an overarching theme that public dissemination of Reports was for Congress to decide.

The following is a chronological summary of some of the various positions that have been taken over the years, by the many interested parties including CRS, and all congressional attempts at dissemination. Unless otherwise stated, all congressional bills and resolutions¹⁴⁵ died in the

¹⁴⁵ As a refresher, unlike a congressional bill, congressional resolutions only need to be passed by the legislative body they are introduced in.

committee stages.¹⁴⁶

1998

On January 14, the American Library Association (ALA) issued a resolution urging the Joint Committee on the Library, the Senate Rules and Administration Committee, and the House Oversight Committee to take action to publicly disseminate Reports and other CRS information products through the Federal Depository Library Program and online.¹⁴⁷ While somewhat unclear, it appears that the information products ALA referred to went beyond the Reports, but included semi-publicly disseminated to non-congressional individuals and groups.

On January 28, H.R.3131,¹⁴⁸ and the identical companion bill, S.1578,¹⁴⁹ were submitted and called for the CRS Director to make available via a publicly accessible website, non-confidential CRS Issue Briefs, Reports, Authorization of Appropriations Products, and Appropriations Products (CRS products).¹⁵⁰ While both bills died in committee, unpublished hearings were held on March 4, regarding S.1578.¹⁵¹

Rep. Christopher Shays, commenting on the introduction of the bill, believed that the H.R.3131's language preserved CRS' "primary statutory duty of informing Congress," and stated he had "yet to hear of a strong policy reason why [Congress] should not allow the public to access" the

¹⁴⁶ The attached Tables contain more information regarding legislative efforts from 1998 to 2018, including which Members of Congress were introducing sponsors, and which committees such efforts were referred to.

¹⁴⁷ Council of the American Library Association, Resolution on Congressional Research Service Publications (1998).

¹⁴⁸ To make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site, H.R. 3131, 105th Cong. (1st Sess. 1998).

¹⁴⁹ A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site, S. 1578, 105th Cong. (1st Sess. 1998).

¹⁵⁰ Note: Early bills, in referring to which CRS products should be disseminated, pointed to non-confidential CRS Issue Briefs, Reports, Authorization of Appropriations Products, and Appropriations Products. This paper will collectively referred to those as "CRS products."

¹⁵¹ A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site of 1998, S. 1578, 105th Cong. (1st Sess. 1998).

CRS products.¹⁵² Shays believed that public dissemination would allow for greater public engagement with “the legislative process and fulfill one of [Congress’] missions as legislators to educate our constituents about the issues that affect our times.”¹⁵³

Sen. John McCain made a much longer statement when introducing S.1578, where he stressed the importance of the information contained in CRS products, the influence such products had on congressional decision making, and how Members often provided them to constituents to aid in constituent understanding of the legislative process and important issues.¹⁵⁴ McCain believed permitting public dissemination would serve two important functions: first, increased governmental transparency, and second, by promoting an informed, educated public, because an “educated voter is best able to make decisions and petition [Congress] to do the right things.”¹⁵⁵ McCain believed that the medium of the Internet was the vehicle best able to fulfil those functions, while also protecting CRS’ primary mission of serving Congress and decreasing CRS’ need to provide responses, through Congress, to constituent requests.¹⁵⁶

Addressing concerns related to the potential loss of CRS Speech or Debate Clause protections, McCain pointed to S.1578’s language that permitted CRS to withhold products that contained confidential information, and submitted a letter from Stanley M. Brand, former General Counsel to the House of Representatives, who believed the language in S.1578 would not weaken such protections.¹⁵⁷ Regarding potential copyright concerns, McCain believed that an equitable solution could be reached to solve any issues that would potentially prevent CRS product

¹⁵² 144 Cong. Rec. E29 (daily ed. Jan. 28, 1998).

¹⁵³ *Id.*

¹⁵⁴ 144 Cong. Rec. S123-7 (daily ed. Jan. 28, 1998).

¹⁵⁵ 144 Cong. Rec. S129 (daily ed. Jan. 28, 1998).

¹⁵⁶ 144 Cong. Rec. S123 (daily ed. Jan. 28, 1998).

¹⁵⁷ 144 Cong. Rec. S123, S124-5 (daily ed. Jan. 28, 1998).

dissemination on those grounds, though he did not provide specifics.¹⁵⁸

Additionally, McCain stated his own belief that taxpayers had a right to see what they had paid for, named various newspapers that had requested public dissemination of the CRS products, and included in the Record a letter of support for the legislation, signed by 51 groups, companies, and leaders, that included: AOL, Electronic Frontier Foundation, Fairness and Accuracy in Reporting, Federation of American Scientists, IBM, Intel, Public Citizen, Taxpayers for Common Sense, and U.S. Public Interest Research Group (PIRG).¹⁵⁹

On July 20, following the defeat of S.1578, an amendment to H.R.4112, *Legislative Branch Appropriations Act, 1999*, was introduced in the form of S.Amdt.3225;¹⁶⁰ S.Amdt.3225 added new language to S.1578/H.R.3131, which would have directly authorized the CRS Director to redact information prior to public dissemination, and stated that CRS product dissemination would be via the Library-maintained THOMAS website,¹⁶¹ with maintenance and updating responsibility falling on the CRS director.¹⁶² S.Amdt.3225 was considered by the Senate on July 21, but was ruled non-germane by the chair, and thus failed to be included in H.R.4112.

1999

On February 9, H.R.654 was submitted, and would have disseminated CRS products through websites maintained by the Members and committees of the House of Representatives, in coordination with the CRS director.¹⁶³ Also on February 9, S.393 was submitted, and included

¹⁵⁸ 144 Cong. Rec. S123 (daily ed. Jan. 28, 1998).

¹⁵⁹ 144 Cong. Rec. S123-4 (daily ed. Jan. 28, 1998).

¹⁶⁰ 105th Cong. S.Amdt.3225, 105th Cong. (2nd Sess. 1998).

¹⁶¹ THOMAS, <http://thomas.loc.gov>, was introduced on Jan. 5, 1995 and retired on July 5, 2016, superseded by <https://www.congress.gov/>.

¹⁶² 105th Cong. S.Amdt.3225.

¹⁶³ Congressional Research Accessibility Act of 1999, H.R. 654, 106th Cong. (1st Sess. 1999).

language that would have disseminated CRS products through websites maintained by Members and committees of the Senate.¹⁶⁴ Unlike previously introduced bills, S.393 contained a Findings and Purpose section that included the belief that “an informed electorate is the most precious asset of any democracy” and that enacting S.393 would help “foster democracy.”¹⁶⁵

On September 3, Librarian James H. Billington,¹⁶⁶ wrote a letter¹⁶⁷ reiterating the position that CRS was prohibited from publishing anything without explicit permission from Congress.¹⁶⁸ Billington stated that Congressional Members were however free to disseminate Reports as they saw fit, with some Members beginning to put Reports on their personal congressional websites, and that the Senate Rules Committee encouraged Senate Members who utilized such a method to continue to do so; it was Billington’s opinion that such a method of dissemination struck a good balance between informing the public, CRS’ role in dissemination, and allowing Members to exercise their own choice in providing a Report or not.¹⁶⁹

2000

On June 6, H.R.4582 was submitted, and called for CRS product dissemination through websites maintained by Members and committees of Congress; H.R.4582 was the first bill to explicitly state that the bill’s language was not to be construed in any way that would alter CRS’ singular role of service to Congress or impair the constitutional protections afforded to CRS

¹⁶⁴ Congressional Openness Act of 1999, S. 393, 106th Cong. (1st Sess. 1999).

¹⁶⁵ Congressional Openness Act of 1999, S. 393, 106th Cong. § 2 (1st Sess. 1999).

¹⁶⁶ Billington served as the 13th Librarian of Congress from September 14, 1987 until January 1, 2016. *James H. Billington to Retire as Librarian Effective Jan. 1, 2016*, Library of Congress Blog (Jun. 10, 2015), <https://www.loc.gov/item/prn-15-104/james-h-billington-to-retire-as-librarian-effective-jan-1-2016/2015-06-10/>.

¹⁶⁷ The letter was written in response to an August 17, 1999 letter Billington had received from Ari Schwanz, Center for Democracy and Technology, and Rick Blum, OMB Watch, requesting that the Library publicly disseminate CRS Reports and issue briefs.

¹⁶⁸ Letter from James H. Billington, Billington Response to August 17, 1999 Letter from Schwanz and Blum (Sept. 3, 1999).

¹⁶⁹ *Id.*

product.¹⁷⁰ Within H.R.4582's findings and purpose section, one enumerated purpose of the act was to "further enhance the education of citizens and encourage their participation in the government of their country."¹⁷¹

Rep. DeMint, commenting on the introduction of the bill, stated that a "well-informed citizenry is the most important asset of any democracy," and expressed the belief that the Internet was a powerful tool with which to publicly disseminate important information and increase governmental transparency, and did not feel that doing so would take away from CRS's service to Congress.¹⁷²

2001

On June 6, S.Res.21 was submitted, containing language that would have created public access to many government records, not just CRS products; S.Res.21's introduction pointed to the then-current online public availability of select government records, the difficulties citizens faced in obtaining others, and emphasized that the Internet should be further utilized to improve public access to government documents, and encourage an informed electorate.¹⁷³ Dissemination would have been through a publicly accessible, centralized website, maintained by Members and Committees of the Senate, and unlike previous bills, S.Res.21 included language that would have required the Government Accounting Office (GAO), to determine the costs of the program after implementation and identify ways costs could be reduced.¹⁷⁴

¹⁷⁰ Citizen Legislature Empowerment through Access to Resources (CLEAR) Act of 2000, 106th Cong. H.R. 4582, 106th Cong. (2nd Sess. 2000).

¹⁷¹ *Id.*

¹⁷² 146 Cong. Rec. H3895 (daily ed. Jun. 6, 2000).

¹⁷³ A resolution directing the Sergeant-at-Arms to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and Joint Committee documents of 2001, 107th Cong. S.Res.21, 107th Cong. (1st Sess. 2001).

¹⁷⁴ *Id.*

2003

On February 11, S.Res.54 was submitted and was nearly identical to 2001's S.Res.21;¹⁷⁵ referring to the website that would provide access to the materials, the term “database” was dropped in favor of “system,” and language was removed that had existed in all previous bills and resolutions that prohibited such a website from allowing publicly submitted comments.¹⁷⁶

Commenting on the resolution's submission, McCain praised CRS, stating that CRS was “well-known for producing high quality reports and issue briefs that are concise, factual, and unbiased—a rarity in Washington,” and again stressed congressional reliance on their written work products, and the routine congressional sharing of Reports with constituents.¹⁷⁷ Citing to the non-confidential manner of the Reports, McCain believed they would well-serve to educate constituents, and highlighted the inequality of those who could access Reports in comparison to the general public, particularly that taxpayers essentially fund the Reports, yet to access timely Reports, they must purchase copies from third-parties.¹⁷⁸ McCain stressed that under S.Res.54, the public would only be able to access Reports through Senator or Senate Committee websites, allowing those congressional members to choose what they disseminated; regarding costs, McCain pointed to language that placed the burden of website operation and maintenance not on CRS but rather on the Senate Sergeant-at-Arms, as well as the requirement of GAO evaluation.¹⁷⁹

McCain also cited letters of public support for the resolution, which were printed in the Record and signed by 30 organizations, including:

¹⁷⁵ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/ccCqKnYncGbN>.

¹⁷⁶ A resolution to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, certain Senate gift reports, and Senate and Joint Committee documents of 2003, 108th Cong. S.Res.54, 108th Cong. (1st Sess. 2003).

¹⁷⁷ 149 Cong. Rec. S2224-5 (daily ed Feb 11, 2003).

¹⁷⁸ *Id.* at S2225.

¹⁷⁹ *Id.*

American Association of Law Libraries, American Library Association, Association of Research Libraries, Congressional Accountability Project; Electronic Frontier Foundation, Federation of American Scientists, Medical Library Association, and Project on Government Oversight (PGO).¹⁸⁰

Sen. Leahy also commented on S.Res.54's submission, praising the expansive work of CRS, and stating that the "goal of our bipartisan legislation is to allow every citizen the same access to the wealth of CRS information as a Member of Congress enjoys today."¹⁸¹ Speaking to the inequality of access, Leahy pointed to a PGO report that stated over 150 former congressional members who were registered lobbyists received automatic access to CRS products, whereas average citizens had to purchase copies.¹⁸²

On November 21, H.R.3630 was submitted and contained nearly identical language to that of 1999's H.R.654¹⁸³, with the exception of a new requirement that such a website should be searchable; H.R.3630 did not mention providing an index of the site's material.¹⁸⁴

CRS, while still maintaining their previous positions on the subject, expanded their rhetoric on public dissemination via an internal memo.¹⁸⁵ By then all Members had the ability to selectively disseminate online official versions of certain non-confidential CRS products to non-congressional users; CRS discouraged wholesale online public dissemination of Reports, concerned that doing so might put CRS in a position where they would have to directly answer constituents, against CRS' mission.¹⁸⁶ The memo also expressed concerns that included a loss of protection under the Speech Or Debate Clause, a potential shift in CRS' mission of directly serving Congress with the

¹⁸⁰ *Id.*

¹⁸¹ *Id.* at S2225, S2226.

¹⁸² *Id.* at S2226.

¹⁸³ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/DitXtPjkgvYn>.

¹⁸⁴ Congressional Research Accessibility Act of 2003, 108th Cong. H.R. 3630, 108th Cong. (1st Sess. 2003).

¹⁸⁵ Public Access to Congressional Research Service Products (Internal CRS Memo on Publication Policy) (Federation of American Scientists 2003).

¹⁸⁶ *Id.*

introduction of a public audience, and that widespread public dissemination could potentially generate significant public input, burdening both Congress and requiring further CRS response through Congress, consuming both groups' finite resources.¹⁸⁷

2007

On March 30, then-CRS Director Daniel P. Mulhollan released an in-depth internal CRS memo, thoroughly laying out CRS concerns regarding public dissemination.¹⁸⁸ The memo began by informing CRS staff that approval was required prior to distributing any CRS material to non-congressional users, as dissemination was statutorily controlled; to clear up any past inconsistencies and increase accountability, all staff going forward would be required to obtain approval prior to disseminating any work materials.¹⁸⁹ Attached to the memo was a policy statement for CRS staff, explaining situations in which exceptions may be approved, on the basis that dissemination would enhance CRS service to Congress in various enumerated ways.¹⁹⁰

On May 24, H.R.2545 was submitted and contained language directing dissemination via the House of Representative's website, in a searchable format.¹⁹¹

On December 11, S.Res.401 was submitted and contained language that would have disseminated CRS products through the CRS website but via access provided on websites maintained by Senate Members and committees; no mention was made regarding an index or search capabilities.¹⁹²

¹⁸⁷ *Id.*

¹⁸⁸ Daniel P. Mulhollan, Distribution of CRS Products to Non-Congressional (Sunlight Foundation 2007).

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ Congressional Research Accessibility Act of 2007, 110th Cong. H.R. 2545, 110th Cong. (1st Sess. 2007).

¹⁹² A resolution to provide Internet access to certain Congressional Research Service publications. of 2007, 110th Cong. S.Res.401, 110th Cong. (1st Sess. 2007).

2009

On April 29, S.Res.118 was submitted and was nearly identical¹⁹³ to 2007's S.Res.401, but with the addition of language requiring an index of all materials available on such a website, and ensuring that any search capabilities provided on the CRS website would also be provided on the websites maintained by Senate Members and committees.¹⁹⁴

On May 28, another CRS internal memorandum was issued, providing an even more in-depth discussion of CRS concerns over widespread dissemination of Reports.¹⁹⁵ The memo cited over fifty years of restrictive precedent and legislative language, dating back to the 1952 House language, prohibiting Library dissemination of publications created using LRS funding, and the statutorily cemented 1954 language permitting dissemination only with the approval of the oversight committee.¹⁹⁶ The memo also clarified that a “publication” included all manner of communicating information to the public, and that there was no difference between paper and digital publication of such information.¹⁹⁷

Overall, the CRS' concerns focused on three areas:

[1] erosion of speech or debate protections, [2] heightened potential for unmet citizen expectations, [3] and dilution of a dedicated, reliable source of analysis used to help navigate decision making in an increasingly complex policy environment.¹⁹⁸

Outside of the those areas of focus, additional remarks included a rebuttal to the argument that despite GAO products typically being disseminated, that CRS did not produce similar products, nor in similar ways: whereas CRS guarantees that their services are confidential, GAO makes no

¹⁹³ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/GnamXkdkngQJ>.

¹⁹⁴ A resolution to provide Internet access to certain Congressional Research Service publications. of 2009, 111th Cong. S.Res.118, 111th Cong. (1st Sess. 2009).

¹⁹⁵ Discussion of the Implications of Direct Public Access to All CRS Reports (Sunlight Foundation 2009).

¹⁹⁶ *Id.*

¹⁹⁷ *Id.* at 3.

¹⁹⁸ *Id.* at 11.

such guarantees; where GAO's long-term projects do not require ongoing consulting relationship with congressional staff, CRS' does; and where GAO's work is mostly evaluative, CRS' products often identify the likely effects of various legislative decisions.¹⁹⁹

The memo also warned that the cost of public dissemination could potentially be serious, and rebutted the argument that taxpayers should have access to what they pay for, asserting that when Congress appropriates money to CRS, they look for the most economical way to fund the agency; thus restricting public access would mean that "Congress and the American taxpayer gets the most for their investment" under the current system.²⁰⁰

On October 8, H.R.3762 was submitted and contained language within a Findings section that stated public dissemination would enhance democracy by providing citizens with "access to unbiased and accurate CRS documents on legislation and other critical issues before Congress" as well as "empower citizens and enable Members of Congress to become even more effective 'representatives' of the public's concerns and goals."²⁰¹ Dissemination under the bill would have taken place as a joint effort between the two legislative chambers and the CRS Director, providing the public with access to all non-confidential CRS material available to CRS' congressional clients, plus an index to the available material, through Member and committee websites.²⁰² The bill also specified that it should not be interpreted in a way that would require CRS to respond to any public inquiries regarding the database or information therein.²⁰³

¹⁹⁹ *Id.* at 3.

²⁰⁰ *Id.* at 9, 11.

²⁰¹ Congressional Research Service Electronic Accessibility Act of 2009, 111th Cong. H.R. 3762, 111th Cong. § 1 (1st Sess. 2009).

²⁰² 111th Cong. H.R. 3762.

²⁰³ *Id.* § 4.

2010

On March 25, H.R.4983 was submitted and contained language seeking to disseminate a wide range of congressional information, including non-confidential CRS products.²⁰⁴ The majority of the language in H.R.4983, Sec. 301 repeated previous legislative attempts at dissemination, but would have required dissemination through a link to the CRS database provided via House Members and standing committees websites.²⁰⁵

2011

On June 23, H.R.2340 was submitted²⁰⁶ and was similar to 2010's H.R.4983, with the language pertaining to CRS product dissemination being virtually identical.²⁰⁷

2012

On July 10, H.R.727 was submitted and contained language very similar to 2010's H.R.3762,²⁰⁸ with a few notable additions, including requiring bulk downloading capabilities, language that would have also included materials “intended or available for general congressional distribution that are the same or substantially similar in content to CRS Reports, Issue Briefs, and Appropriations Products,” and called for sparing redactions when required.²⁰⁹ Additionally, a new section was added that detailed a contemporaneous searchable and sortable index of material, organized by material titles, identification numbers, dates of initial releases and updates, and the CRS

²⁰⁴ Transparency in Government Act of 2010, 111th Cong. H.R. 4983, 111th Cong. § 301 (2nd Sess. 2010).

²⁰⁵ *Id.* § 301 (e).

²⁰⁶ Transparency in Government Act of 2011, 112th Cong. H.R. 2340, 112th Cong. (1st Sess. 2011).

²⁰⁷ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/lhKCgGYAWzzi>.

²⁰⁸ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/nEHDIgzYByQs>.

²⁰⁹ Public Access to Congressional Research Service Reports Resolution of 2012, 112th Cong. H.R. 727, 112th Cong. § (a)(2)(D) (2nd Sess. 2012).

division(s) that produced the material, in both human- and machine-readable formats.²¹⁰

In a November 28 article, a former CRS Legislative Attorney, Daniel Schuman,²¹¹ was quoted, stating that CRS management “tried to push everyone to not just be even-handed but to engage more in a survey of what people think as opposed to an analysis of what the options are.”²¹²

A CRS Report issued that year, written by CRS analyst Thomas L. Hungerford, addressed the question of whether there was “an association between top tax rates and economic growth” and was withdrawn from the internal CRS website later in the year, amid congressional disagreement with the Report’s results.²¹³ CRS’ response, penned by CRS spokeswoman Janin D’Addario, denied that the Report was withdrawn for political reasons, but rather stated that the reason for withdrawal was because

CRS’ mission is to ensure Congress has available the best possible research and analysis on which to base its decisions and that [CRS] is aware of the options and consequences that may surround a particular issue. [CRS] action in temporarily withdrawing the report was motivated by this and not the result of political pressure.²¹⁴

2013

On March 12, H.R. 110 was submitted²¹⁵ and contained language virtually identical to 2012’s H.R.727.²¹⁶

²¹⁰ *Id.* § (b).

²¹¹ Daniel Schuman worked at CRS as a Legislative Attorney from September 2006 through June 2007, where his areas of focus included “telecommunications law, national security and civil liberties, and church/state issues.” Daniel Schuman, Daniel Schuman’s LinkedIn Profile, <https://www.linkedin.com/in/daniel-schuman-a41792/>. Schuman is, as of this writing, Policy Director at Demand Progress, a 501(c)4 social welfare organization that “seek[s] to protect the democratic character of the Internet — and wield it to make government accountable and contest concentrated corporate power.” *About Demand Progress*, Demand Progress, <https://demandprogress.org/about/>. Schuman has also worked with various other advocacy groups over the years, and runs the website, EveryCRSReport.com.

²¹² Emma Dumain, At Congressional Research Service, A Long History of Pointed Questions (Nov. 28, 2012), https://www.rollcall.com/news/at_congressional_research_service_a_long_history_of_pointed_questions-219130-1.html.

²¹³ *Id.*

²¹⁴ *Id.*

²¹⁵ Congressional Research Service Electronic Accessibility Resolution of 2013, 113th Cong. H.R. 110, 113th Cong. (1st Sess. 2013).

²¹⁶ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/VQXqZnPjZlt>.

2014

On March 13, H.R.4245 was submitted and like 2011's H.R.2340, contained language seeking to disseminate a wide range of congressional information, with Title III, *Public Access to Congressional Research Service Reports Resolution of 2014*, pertaining to CRS products.²¹⁷ For all intents and purposes, the language in H.R.4245 Title III and 2011's H.R.2340 was identical.²¹⁸

2015

On Jan 4, an article by Kevin Kosar,²¹⁹ former CRS analyst, was published in which he discussed his experience working at CRS.²²⁰ Kosar described his time at CRS as radically different from when he had started; according to Kosar, it was commonplace in 2014 for an analyst to respond to 200-300 congressional requests annually, stating that in one year he personally wrote 660 responses.²²¹

Kosar believed that CRS staff spent more time answering constituent questions that had been routed to CRS through their congressional members, than they did addressing public policy; when CRS did perform research, Kosar was of the belief that Congress ignored the resulting work, or if they disagreed with it, would trash the work.²²² Briefly detailing the early history and initial purpose of CRS, Kosar recognized the CRS belief that “objectivity is next to godliness,” but

²¹⁷ Transparency in Government Act of 2014, 113th Cong. H.R. 4245, 113th Cong. (2nd Sess. 2014).

²¹⁸ For a side-by-side comparison of the two bills, see <https://draftable.com/compare/d'TuoCVgVzDnd>. Note, due to the differences in formatting of the two bills, it will appear that segments are vastly different; a closer look will show that they are not.

²¹⁹ Kevin Kosar is a former CRS analyst and research manager who worked at CRS from 2003 to 2014. *About Me*, Kevin R. Kosar, <http://kevinrkosar.com/wordpress/about/>. He currently works at R Street Institute, a Washington, D.C. “nonprofit, nonpartisan, public policy research organization,” where, as of this writing, he serves as vice president of policy. *About R Street*, R Street, <https://www.rstreet.org/about-r-street/>; Kevin Kosar, <https://www.rstreet.org/team/kevin-kosar/>.

²²⁰ Kevin R. Kosar, *Why I Quit the Congressional Research Service: How Congress's Dysfunction Has Degraded Its Own in-House Think Tank*, *Washington Monthly*, Jan. 4, 2015.

²²¹ *Id.*

²²² *Id.*

lamented the direction that he believed CRS had taken modernly.²²³

Kosar pointed to various incidents in which congressional members disagreed with CRS staff statements or memorandum that had resulted in CRS staff being blamed for failed legislation, transferred, fired, quitting, and generally closing ranks.²²⁴ It was Kosar's opinion that such incidents had resulted in CRS management denying analysts the ability to speak to media, distributing reports for external peer review, and resulted in outside, non-CRS publishing by an analyst rare.²²⁵ Kosar's most serious charge was that congressional partisanship effectively punished objective Reports and charged Reports with being biased or flawed, rather than providing unbiased analysis; Kosar stated that there was even a period in which Reports were not to end with a section labeled "conclusion," but instead "observations."²²⁶ Kosar advanced the position that CRS as an entity was being used as a political pawn, and that CRS products were compromised as a result; it was his belief that "[m]aybe a stronger CRS can help Congress fix itself."²²⁷

On January 14, H.Res.35 was submitted²²⁸ and again contained language virtually identical to 2014's H.R.4245 Title III and 2011's H.R.2340.²²⁹

On March 16, H.R.1381 was submitted and like several previous bills, contained language seeking to disseminate a wide range of congressional information.²³⁰ H.R.1381 was largely identical to 2014's H.R.4245, and the language in both bill's Title III, pertaining to CRS products, was virtually identical.²³¹

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ Congressional Research Service Electronic Accessibility Resolution of 2013, 113th Cong. H.R. 110, 113th Cong. (1st Sess. 2013).

²²⁹ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/tLrXCFFqyVqc>.

²³⁰ Transparency in Government Act of 2015, 114th Cong. H.R. 1381, 114th Cong. (1st Sess. 2015).

²³¹ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/WBdQQUFLPoby>.

In April, a CRS internal memorandum was issued that simplified CRS' positions in the 2009 internal memo and evaluated the potential impact of dissemination, which included: losing Speech or Debate protections and confidentiality, a change in CRS's mission and focus, impairment of Member communication with constituents, and an increase in requests for CRS to release products considered confidential.²³² Likely impacts were also listed, which included dissemination costs and concerns that partisan and special interest pressures could increase. CRS also believed their software would have to be modified for redaction and that an office would have to be created to address public inquiry.²³³

On September 22, an internal CRS guidance document was released reminding staff of their duty of confidentiality in relation to their work for congressional clients, and covered many forms of written work product.²³⁴ Regarding Reports, the document acknowledged that there was a "less restrictive level of confidentiality" in comparison to other written work products, and that staff members could discuss Report contents without violating the confidentiality policy, however Reports were still unable to be disseminated outside of CRS without congressional permission.²³⁵ The document also reminded CRS staff that they were viewed as Congress' extended staff under the Constitution's Speech or Debate Clause, and stressed the importance of maintaining that distinction.²³⁶

In an attached Frequently Asked Questions section of the guidance document, staff was reminded that draft language for a CRS report should never be shared prior to publication, even with the requesting congressional client, as such language "is not negotiated with, or divulged" prior

²³² Considerations Arising from the Public Dissemination of CRS Products (Federation of American Scientists 2015).

²³³ *Id.*

²³⁴ Internal CRS Guidance from CRS Director, Mary B. Mazanec, *supra* note 4.

²³⁵ *Id.* at 2.

²³⁶ *Id.* at 3.

to publishing.²³⁷ Should a requesting congressional client insist on guiding a Report, staff must first get management approval and the Report would then be considered directed writing, and stated as such within the Report.²³⁸

On June 17, *The New York Times*' Editorial Board published an Opinion summarizing and addressing an inequality in obtaining Reports, and then-recent congressional attempts to publicly disseminate Reports.²³⁹ The Opinion praised the intellectual accessibility of the Reports, and pointed to “extreme partisanship” and a desire for an “informed electorate,” concluding that having Reports within the public domain would be an “important step” towards fixing both issues.²⁴⁰

On July 2, in response to the *Times*' Opinion, Bob Lyke, a retired CRS analyst who had served for 34 years, wrote a letter to the *Times*' Editors, questioning whether public dissemination would actually produce a greater benefit over the status quo.²⁴¹ Lyke expressed concern that public dissemination could result in a change in both focus and scope, lead to a conscious or unconscious shift in audience away from CRS' congressional clients, and result in longer writing times.²⁴² While Lyke stressed the impartiality of CRS, he also acknowledged that there were times in which CRS was “too cautious and risk-averse” in writing Reports, knowing that Congress funds CRS; still, Lyke believed that one should primarily look to the preservation of CRS' relationship with Congress when determining if public dissemination was in the best interest of all.²⁴³

²³⁷ *Id.* at 4.

²³⁸ *Id.*

²³⁹ The Editorial Board, *Opinion | Congressional Research Belongs to the Public*, *The New York Times*, Jun. 17, 2015, <https://www.nytimes.com/2015/06/17/opinion/congressional-research-belongs-to-the-public.html>.

²⁴⁰ The Editorial Board, *Opinion | Congressional Research Belongs to the Public*, *The New York Times*, Jun. 17, 2015, <https://www.nytimes.com/2015/06/17/opinion/congressional-research-belongs-to-the-public.html>.

²⁴¹ Bob Lyke, *Opinion | Making Congressional Research Service Reports Public*, *The New York Times*, Jul. 2, 2015, <https://www.nytimes.com/2015/07/02/opinion/making-congressional-research-service-reports-public.html>.

²⁴² *Id.*

²⁴³ *Id.*

2016

On February 29, a coalition of thirteen conservative, free market organizations wrote a letter urging congressional members to arrange for public dissemination of Reports, reasoning that Reports were taxpayer funded, an inequality in access existed, and public dissemination would both increase government transparency and serve to better educate American citizens.²⁴⁴

On March 3, H.R.4702 was submitted,²⁴⁵ along with the identical²⁴⁶ Senate companion bill, S.2639.²⁴⁷ The bills, referred to as the Open CRS Act, dropped language specifically referring to CRS Issue Briefs, but included language that would have included “written CRS product containing CRS research or CRS analysis which is available for general congressional access on the CRS Congressional Intranet.”²⁴⁸ Public dissemination would have been through a freely accessible GPO website, that provided search, sort, and downloading (including in bulk) capabilities for any document therein published; language related to an index was the same as 2012’s H.R.727’s, and included the ability for the GPO Director, in consultation with the CRS Director, to include any other indexable information considered appropriate.²⁴⁹ Reports would be required to contain a disclaimer identifying the Reports as a CRS product and not that of congressional members, and that the Reports “should not be relied upon for purposes other than public understanding of information that has been provided by CRS to Members of Congress in connection with CRS’ institutional role.”²⁵⁰ The bills also addressed protections under the Speech or Debate Clause, stating

²⁴⁴ Letter from Phil Kerpin et al., Letter to Candice Miller, et al. (Feb. 29, 2016).

²⁴⁵ Equal Access to Congressional Research Service Reports Act - House of 2016, 114th Cong. H.R. 4702, 114th Cong. (2nd Sess. 2016).

²⁴⁶ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/AjLoqbGbHcoj>.

²⁴⁷ Equal Access to Congressional Research Service Reports Act - Senate of 2016, 114th Cong. S. 2639, 114th Cong. (2nd Sess. 2016).

²⁴⁸ 114th Cong. H.R. 4702 § (b)(1)(C).

²⁴⁹ *Id.* § 4.

²⁵⁰ *Id.* § 4(a)(2)(B).

that dissemination under the Open CRS Act could not be construed to disturb such protections.²⁵¹

The four congressmen responsible for introducing the bills expressed their support for the bills and the public dissemination of CRS products, stating that public access to the information would better serve and educate constituents.²⁵²

On March 9, nineteen organizations signed a public letter to Rep. Quigley expressing support for H.R.4702 and offering assistance in advancing the bill; those organizations included:

American Association of Law Libraries, American Library Association, American Society of News Editors, Association of Alternative Newsmedia, Association of Research Libraries, Bill of Rights Defense Committee, Center for Science and Democracy – Union of Concerned Scientists, Citizens for Responsibility and Ethics in Washington, Common Cause, Data Coalition, Defending Dissent Foundation, Demand Progress, Free Government Information, Government Accountability Project, OpenTheGovernment.org, Project On Government Oversight, R Street Institute, Society of American Archivists, and the Sunlight Foundation.²⁵³

In May, attempting to pass the bill's language, Rep. Quigley offered it as an amendment to the Fiscal Year 2017 Legislative Branch Appropriations bill, under the Committee on House Appropriations, but that amendment failed, 18-31.²⁵⁴ Quigley offered a second amendment that would have instead published a list of Report names online, but that amendment also failed.²⁵⁵

While the Open CRS Act was introduced with bipartisan support, obviously not all congressional members supported the Act. In June, Rep. Tom Graves (R-Georgia), then (and now) Legislative Branch Appropriations Subcommittee chairman, through an aide to news source

²⁵¹ *Id.* § 6(a).

²⁵² Sens. Leahy and McCain and Reps. Lance and Quigley Introduce Bipartisan, Bicameral Bill To Open Taxpayer-Funded Congressional Research Reports To The Public | U.S. Senator Patrick Leahy of Vermont (Mar. 3, 2016), https://www.leahy.senate.gov/press/sens-leahy-and-mccain-and-reps-lance-and-quigley_introduce-bipartisan-bicameral-bill-to-open-taxpayer-funded-congressional-research-reports-to-the-public.

²⁵³ (American Association of Law Libraries, et al. 2016)

²⁵⁴ *Quigley: Elevate Public Debate with Open CRS Reports*, Congressman Mike Quigley (May 17, 2016), <https://quigley.house.gov/media-center/press-releases/quigley-elevate-public-debate-open-crs-reports>.

²⁵⁵ Matt Fuller, *House Panel Votes To Keep Congressional Reports Private*, Huffington Post, May 18, 2016, https://www.huffingtonpost.com/entry/appropriations-crs-reports-private_us_573c832ae4b0ef86171ccdb1.

Government Executive, advanced the position that CRS should “answer first and foremost to Congress” who could then continue to choose whether and how to disseminate individual Reports, and that public dissemination would alter the nonpartisanship of the Reports.²⁵⁶ Rep. Debbie Wasserman Schultz, (D-Florida), then (and now) a ranking member of the House Committee on Appropriations subcommittee, also commented through an aide the position that public dissemination would slow Reports, and result in increased costs related to publication; Wasserman Schultz was also expressed concern that if Reports were disseminated then other CRS written work products would be targeted for publication, and worried that dissemination could cause a “culture change at CRS.”²⁵⁷

The Open CRS Act prompted support from former CRS employees who favored public dissemination of Reports. Louis Fisher, a former analyst from 1970 to 2006, pointed to the fact that CRS employees were long aware that Reports were published by non-congressional entities; Fisher believed such publishing had no effect on the Reports, and that public dissemination would actually decrease Congress’ need to respond to constituents.²⁵⁸ John Collins, a specialist from 1972 to 1996, believed that “[o]pen publication of CRS reports could significantly improve public understanding of important issues without degrading support for Congress.”²⁵⁹

On October 19, Daniel Schuman, again writing about his experiences working at CRS from September 2006 through June 2007, stated that during his time with CRS, the culture, which he had largely accepted, was one where the “thought of public access [...] was heresy.”²⁶⁰ Upon leaving

²⁵⁶ Charles S. Clark, *Should Congressional Research Service Reports Be Kept Secret?*, *Government Executive* (Jun. 20, 2016), <https://www.govexec.com/oversight/2016/06/should-congressional-research-service-reports-be-kept-secret/129227/>.

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ *Id.*

²⁶⁰ Daniel Schuman, *Why I Came To Believe CRS Reports Should be Publicly Available (and Built a Website to Make it...)* (Oct. 19, 2016), <https://medium.com/demand-progress/why-i-came-to-believe-crs-reports-should-be-publicly-available-and-built-a-website-to-make-it-77b4b0f6233e>.

CRS, Schuman began reflecting on CRS policies and the public availability of Reports; Schuman too points to the 1990s as a time when CRS began culturally shifting, seemingly in response to congressional influence.²⁶¹ Schuman, who has spent much of the last decade lobbying for public dissemination of Reports, advocated that Reports could be used to educate the general public and create support for CRS.²⁶² Schuman did not point to the public as a threat to CRS, but rather believed the two biggest threats to CRS were congressional members, who had the power to act should they disagree with CRS, and CRS leadership, responding fearfully to congressional displeasure, or the anticipation thereof, in ways that could ultimately do more harm to CRS than congressional action could.²⁶³

2017

On April 28, two letters were publicly sent to various congressional members,²⁶⁴ asking for their support for public access to Reports; the letters were coordinated by Daniel Schuman at Demand Progress, and Kevin Kosar at R Street Institute.²⁶⁵ The first letter, alleged an inequality in public access to Reports and advocated for their wide dissemination, and was signed by more than 45 individuals, and 40 organizations, including the American Association of Law Libraries and the

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ *Id.*

²⁶⁴ Chairman Gregg Harper, Committee on House Administration; Chairman Richard Shelby, Senate Committee on Rules and Administration Chairman; Kevin Yoder, House Appropriations Committee, Legislative Branch Subcommittee; Chairman James Lankford, Senate Appropriations Committee, Legislative Branch Subcommittee; Ranking Member Robert Brady, Committee on House Administration; Ranking Member Amy Klobuchar, Senate Committee on Rules and Administration; Ranking Member Tim Ryan, House Appropriations Committee, Legislative Branch Subcommittee Ranking Member; and Chris Murphy, Senate Appropriations Committee Legislative Branch Subcommittee.

²⁶⁵ Daniel Schuman, 40 Orgs & 25 CRS Alums Call on Congress to Release Congressional Research Service Reports - Demand Progress (Apr. 28, 2017), <https://demandprogress.org/518706-2/>.

American Library Association.²⁶⁶ A second letter, written by 25 former CRS employees with a collective 570 years of service among them, also advocated for the timely release of Reports.²⁶⁷

The writers of the first letter addressed the known CRS concerns, pointing out that the group was not proposing placing publishing responsibilities on CRS, nor did the writers desire public access to CRS products considered confidential; the writers further advanced the opinion that CRS had failed to demonstrate how the status quo of Report availability had harmed CRS, nor had CRS addressed any potential benefits of public availability.²⁶⁸ The letter continued, succinctly addressing and dismissing CRS's arguments regarding issues of copyright, constituent communications, CRS mission and partisan perspectives, confidential memoranda, public engagement, authorial information, and loss of Speech or Debate Clause protections and confidentiality.²⁶⁹ The main argument advanced by the writers, across all issues, was that solutions existed in relation to concerns surrounding public dissemination, and that most, if not all, adjustments had already been made in the last few decades as Reports became more widely available online, and via print beginning in the 1970s.

The second letter, written by former CRS employees, argued that while nothing, including Congress, should be allowed to impair CRS' service to Congress, Reports are considered non-confidential and widely though erratically disseminated, with the general public being placed in the most disadvantaged position regarding access.²⁷⁰ The writers also opined that Congress should

²⁶⁶ Letter from American Association of Law Libraries, et al., Letter to Chairman Harper, Chairman Shelby, Chairman Yoder, Chairman Lankford, Ranking Member Brady, Ranking Member Klobuchar, Ranking Member Ryan, and Ranking Member Murphy, RE: Public Access to Congressional Research Service Reports (Apr. 28, 2017).

²⁶⁷ Letter from Henry Cohen, et al., Letter to Chairman Harper, Chairman Shelby, Chairman Yoder, Chairman Lankford, Ranking Member Brady, Ranking Member Klobuchar, Ranking Member Ryan, and Ranking Member Murphy, from CRS Employees Call[ing] for Public Access to CRS Reports (Apr. 28, 2017).

²⁶⁸ Letter from American Association of Law Libraries, et al., *supra* note 266, at 3.

²⁶⁹ *Id.* at 3–6.

²⁷⁰ Letter from Henry Cohen, et al., *supra* note 267.

provide the public with a centralized source for authenticated Reports, which in turn would decrease CRS' workload of answering Congressional requests for constituents and ensure that the public received timely and accurate information.²⁷¹

On May 3, H.R.2335 was submitted²⁷² and contained virtually identical language to 2016's H.R.4702.²⁷³

On November 30, H.R.4504 was submitted and, like past efforts, contained language seeking to disseminate a wide range of congressional information.²⁷⁴ Title III of that bill, *Equal Access to Congressional Research Service Reports*, was virtually identical to H.R.2335.²⁷⁵

Present and Near Future— 2018 and Beyond

While the rise of the Internet did give rise to some new or deeper concerns for CRS, CRS' position stayed fairly consistent over the years, with some expanded or only lightly covered, always coming down to the legal reality that public dissemination of CRS products was for Congress to decide in all aspects: statutorily, CRS could not publicly disseminate their products. CRS firmly placed the responsibility within Congress' hands to decide the fate of public dissemination.

2018

While the previous 20 years saw many bills, resolutions, and amendments get submitted to Congress only to ultimately fail, much of 2017's H.R.4504 Title III's language (and that of previously submitted legislation) made its way into H.R.1625,²⁷⁶ and was a late amendment to the 2018

²⁷¹ *Id.*

²⁷² Equal Access to Congressional Research Service Reports Act of 2017, 115th Cong. H.R. 2335, 115th Cong. (1st Sess. 2017).

²⁷³ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/xmsWtECQKaqH>.

²⁷⁴ Transparency in Government Act of 2017, 115th Cong. H.R. 4504, 115th Cong. (1st Sess. 2017).

²⁷⁵ For a quick side-by-side comparison of the two bills, see <https://draftable.com/compare/cTcszMiPJmNB>.

²⁷⁶ Making further continuing appropriations for the fiscal year ending September 30, 2018, and for other purposes of 2018, 115th Cong. H.R. 1625, 115th Cong. § 154 (2nd Sess. 2018).

Consolidated Appropriations Act, which passed and was signed into law on March 23 (Pub. L. No. 115-141). The law requires the Library to disseminate the material within 90 days of the law's enactment, though that could be extended to a total of 180 days.

The majority of Rep. Quigley's efforts at public dissemination of Reports would have seen CRS products published through the GPO, on what is now govinfo.gov.²⁷⁷ The new law instead will disseminate CRS products, and any other information the Librarian deems appropriate, through a Library-run website, in coordination with the CRS Director; the Librarian and CRS Director were also authorized to disseminate CRS products in other manners, not inconsistent with the law.²⁷⁸

On May 21, Dr. Carla Hayden, Librarian of Congress, released the Library's 20-page Public Access to Congressional Research Service Reports Implementation Plan detailing how the Library planned to address public dissemination, with a projected date of September 18.²⁷⁹ That Implementation Plan, as well as a CRS Document, *Public Release of CRS Reports: FAQ for Congressional Staff*,²⁸⁰ has generated a lot of public discussion, none of which will be discussed in this paper.²⁸¹

Conclusion

My purpose writing this paper was primarily to inform reference providers of the existence of the CRS products available that can be used as a reference tool. My purpose was not to criticize or commend congressional efforts to establish a Library, or departments within that Library, designed to serve Congress. It was also not my intent to discuss the viability of the language

²⁷⁷ Quigley: Elevate Public Debate with Open CRS Reports (May 17, 2016), <https://quigley.house.gov/media-center/press-releases/quigley-elevate-public-debate-open-crs-reports>.

²⁷⁸ 115th Cong. H.R. 1625 § 154(b).

²⁷⁹ **Dr. Carla Hayden, Librarian of Congress, Library Implementation Plan for CRS Reports (Demand Progress 2018)**.

²⁸⁰ Congressional Research Service, *Public Release of CRS Reports: FAQ for Congressional Staff* (Federation of American Scientists 2018).

²⁸¹ Look for a late-2019 paper by this author, discussing the execution of such a website, public dissemination, and the surrounding dialogue.

contained in the various attempts at public dissemination of CRS products, or to provide an opinion as to the wisdom of such a decision.

Rather the purpose of this paper is to show not only the history, including legislative, of CRS and the dissemination of CRS products, but also to provide details as to the complexity of the issue. CRS products can be a valuable research tool that I suspect are often overlooked or forgotten by those of us in a position to recommend them to individuals who could use them. This is a disservice that I would like to see corrected. For those of you who regularly recommend such products, I commend and thank you.

I am certainly not an advocate for frequent and untried changes in laws and constitutions. I think moderate imperfections had better be borne with; because, when once known, we accommodate ourselves to them, and find practical means of correcting their ill effects. But I know also, that laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed, and manners and opinions change with the change of circumstances, institutions must advance also, and keep pace with the times. We might as well require a man to wear still the coat which fitted him when a boy, as civilized society to remain ever under the regimen of their barbarous ancestors.

—Thomas Jefferson²⁸²

²⁸² 10: 1 May 1816 to 18 January 1817 Thomas Jefferson, *The Papers of Thomas Jefferson: Retirement Series*, 226–27 (J. Jefferson Looney ed., 2004).

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51 Cong. Rec. 10467 (1914).

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Tables

Table 1: The Introducing Members of Congress and Original Sponsors of the Modern Legislative Congressional Attempts to Publicly Disseminate CRS Products, with party affiliation and state:

House of Representatives:	Senate:
<ul style="list-style-type: none"> • Boehlert, Sherwood L. (R-NY) • Campbell, Tom (R-CA) • Canady, Charles T. (R-FL) • Chenoweth-Hage, Helen (R-ID) • Coburn, Tom (R-OK) • Cooper, Jim (D-TN) • Green, Mark (R-WI) • Grijalva, Raul M. (D-AZ) • Hill, Rick (R-MT) • Inslee, Jay (D-WA) • Johnson, Timothy V. (R-IL) • Kratovil, Frank Jr. (D-MD) • Lance, Leonard (R-NJ) • McHale, Paul (D-PA) • Meehan, Martin T. (D-MA) • Metcalf, Jack (R-WA) • Morella, Constance A. (R-MD) • Polis, Jared (D-CO) • Price, David E. (D-NC) • Quigley, Mike (D-IL) • Salmon, Matt (R-AZ) • Sanford, Marshall (Mark)(R-SC) • Schiff, Adam B. (D-CA) • Shays, Christopher (R-CT) • Sinema, Kyrsten (D-AZ) • Tancredo, Thomas G. (R-CO) • Toomey, Patrick J. (R-PA) • White, Rick (R-WA) 	<ul style="list-style-type: none"> • Abraham, Spencer (R-MI) • Ashcroft, John (R-MO) • Coats, Daniel (R-IN) • Collins, Susan M. (R-ME) • Cornyn, John (R-TX) • Enzi, Michael B. (R-WY) • Faircloth, Lauch (R-NC) • Feingold, Russell D. (D-WI) • Feingold, Russell D. (D-WI) • Harkin, Tom (D-IA) • Kerrey, J. Robert (D-NE) • Leahy, Patrick J. (D-VT) • Lott, Trent (R-MS) • Lugar, Richard G. (R-IN) • McCain, John (R-AZ) • Robb, Charles S. (D-VA) • Speier, Jackie (D-CA) • Wyden, Ron (D-OR)

Table 2: Modern Legislative History of Congressional Attempts to Publicly Disseminate CRS Products

Year	Date	Congress	Reference	Title	Introducing Member and Original Sponsors	Bipartisan Support?
1998	28-Jan	105th, 2nd Sess.	H.R.3131	To make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site	Shays, Price, Morella, McHale, Mechan, White.	Yes.
1998	28-Jan	105th, 2nd Sess.	S.1578	A bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site	McCain, Coats, Faircloth, Ashcroft.	Yes.
1998	20-Jul	105th, 2nd Sess.	S.Amdt.3225 to H.R.4112	Legislative Branch Appropriations Act, 1999	McCain, Coats, Faircloth, Leahy, Kerrey, Enzi, Wyden, Feingold, Abraham, Robb.	Yes.
1999	9-Feb	106th, 1st Sess.	H.R.654	Congressional Research Accessibility Act	Shays, Price, Boehlert, Salmon, Campbell.	Yes.
1999	9-Feb	106th, 1st Sess.	S.393	Congressional Openness Act	McCain, Leahy, Abraham, Enzi, Robb, Lott.	Yes.
2000	6-Jun	106th, 2nd Sess.	H.R.4582	Citizen Legislature Empowerment through Access to Resources (CLEAR) Act	Canady, Chenoweth-Hage, Coburn, Hill, Metcalf, Salmon, Sanford, Tancredo, Toomey.	No.
2001	14-Feb	107th, 1st Sess.	S.Res.21	A resolution directing the Sergeant-at-Arms to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, Senate lobbying and gift report filings, and Senate and Joint Committee documents.	McCain, Leahy, Lott, Lieberman.	Yes.
2003	11-Feb	108th, 1st Sess.	S.Res.54	A resolution to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, certain Senate gift reports, and Senate and Joint Committee documents.	McCain, Leahy, Lieberman, Harkin.	Yes.

2003	21-Nov	108th, 1st Sess.	H.R.3630	Congressional Research Accessibility Act	Shays, Price, Inslee, Green.	Yes.
2007	24-May	110th, 1st Sess.	H.R.2545	Congressional Research Accessibility Act	Shays, Inslee, Price.	Yes.
2007	11-Dec	110th, 1st Sess.	S.Res.401	A resolution to provide Internet access to certain Congressional Research Service publications	Lieberman, McCain, Leahy, Harkin, Collins, Cornyn.	Yes.
2009	29-Apr	111th, 1st Sess.	S.Res.118	A resolution to provide Internet access to certain Congressional Research Service publications	Lieberman, McCain, Harkin, Collins, Leahy, Lugar, Feingold.	Yes.
2009	8-Oct	111th, 1st Sess.	H.R.3762	Congressional Research Service Electronic Accessibility Act of 2009	Kratovil, Lance, Polis.	Yes.
2010	25-Mar	111th, 2nd Sess.	H.R.4983	Transparency in Government Act of 2010	Quigley.	No.
2011	23-Jun	112th, 1st Sess.	H.R.2340	Transparency in Government Act of 2011	Quigley, Speier.	Yes.
2012	10-Jul	112th, 2nd Sess.	H.R.727	Congressional Research Service Electronic Accessibility Resolution of 2012	Lance, Quigley, Johnson, Cooper, Schiff.	Yes.
2013	12-Mar	113th, 1st Sess.	H.R.110	Congressional Research Service Electronic Accessibility Resolution of 2013	Lance, Quigley, Cooper, Polis, Schiff, Grijalva.	Yes.
2014	13-Mar	113th, 2nd Sess.	H.R.4245	Transparency in Government Act of 2014	Quigley.	No.
2015	14-Jan	114th, 1st Sess.	H.Res.34	Congressional Research Service Electronic Accessibility Resolution of 2015	Lance, Quigley, Cooper, Polis.	Yes.
2015	16-Mar	114th, 1st Sess.	H.R.1381	Transparency in Government Act of 2015	Quigley, Speier, Sinema.	No.
2016	3-Mar	114th, 2nd Sess.	H.R.4702	Equal Access to Congressional Research Service Reports Act of 2016	Lance, Quigley.	Yes.
2016	3-Mar	114th, 2nd Sess.	S.2639	Equal Access to Congressional Research Service Reports Act of 2016	Leahy, McCain.	Yes.

2016		114th	Quigley amendment to:	FY 2017 Legislative Branch Appropriations	Quigley.	
2016		114th	Quigley amendment		Quigley.	
2017	3-May	115th, 1st Sess.	H.R.2335	Equal Access to Congressional Research Service Reports Act of 2017	Lance, Quigley.	Yes.
2017	30-Nov	115th, 1st Sess.	H.R.4504	Transparency in Government Act of 2017	Quigley.	No.
2018		115th, 2nd Sess.	Amendment to H.R.1625	Consolidated Appropriations Act, 2018	Became Public Law No: 115-141 on March 23, 2018.	

Table 3: The Modern Legislative History of Congressional Attempts to Publicly Disseminate CRS Products, Committees Referred To

Year	Congress	Reference	Referred to:
1998	105th, 2nd Sess.	H.R.3131	House Committee on House Oversight.
1998	105th, 2nd Sess.	S.1578	Senate Committee on Rules and Administration, where hearings were held.
1998	105th, 2nd Sess.	S.Amdt.3225 to H.R.4112	Amendment was ruled non-germane by the chair.
1999	106th, 1st Sess.	H.R.654	House Committee on House Administration.
1999	106th, 1st Sess.	S.393	Senate Committee on Rules and Administration.
2000	106th, 2nd Sess.	H.R.4582	House Committee on House Administration.
2001	107th, 1st Sess.	S.Res.21	Senate Committee on Rules and Administration.
2003	108th, 1st Sess.	S.Res.54	Senate Committee on Rules and Administration.
2003	108th, 1st Sess.	H.R.3630	House Committee on House Administration.
2007	110th, 1st Sess.	H.R.2545	House Committee on House Administration.
2007	110th, 1st Sess.	S.Res.401	Senate Committee on Rules and Administration.
2009	111th, 1st Sess.	S.Res.118	Senate Committee on Rules and Administration.
2009	111th, 1st Sess.	H.R.3762	House Committee on House Administration.
2010	111th, 2nd Sess.	H.R.4983	House Committee on Oversight and Government Reform, and the House Committees on Rules, Administration, Judiciary (who later referred it to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties), and Standards of Official Conduct.
2011	112th, 1st Sess.	H.R.2340	House Committee on Oversight and Government Reform (who later referred it to the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform), and the House Committees on Rules, Administration, Judiciary (who later referred it to the Subcommittee on the Constitution), and Ethics.
2012	112th, 2nd Sess.	H.R.727	House Committee on House Administration.
2013	113th, 1st Sess.	H.R.110	House Committee on House Administration.
2014	113th, 2nd Sess.	H.R.4245	Committees on Rules, Administration, Judiciary (who later referred it to the Subcommittee on Courts, Intellectual Property, and the Internet), Ethics, and Ways and Means.
2015	114th, 1st Sess.	H.Res.34	House Committee on House Administration.

2015	114th, 1st Sess.	H.R.1381	Committees on Rules, Administration, Judiciary (who later referred it to the Subcommittee on Courts, Intellectual Property, and the Internet), Ethics, and Ways and Means.
2016	114th, 2nd Sess.	H.R.4702	House Committee on House Administration.
2016	114th, 2nd Sess.	S.2639	Senate Committee on Rules and Administration.
2016	114th	Quigley amendment to:	via Committee on House Appropriations
2016	114th	Quigley amendment	
2017	115th, 1st Sess.	H.R.2335	House Committee on House Administration.
2017	115th, 1st Sess.	H.R.4504	House Committee on Oversight and Government Reform, and House Committees on Rules, Administration, Judiciary, Ethics, Ways and Means, and Financial Services.
2018	115th, 2nd Sess.	Amendment to H.R.1625	

Contact and Acknowledgments

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I would to thank my wife, Jacqueline Pack, who not only agreed to move over 2000 miles so that I could get an MLIS, but who also ever so gracefully put up with me while I researched and wrote this paper, and my two dogs, who less gracefully put up with the lack of attention they received, and walks that got shorter and shorter as the deadline approached. I would also like to thank the rest of my friends and family who provided me with support and encouragement throughout the process, and understood that this too shall pass, and that they would see me or hear from me when it was all over.

A big thank you to all the other librarians and faculty that supported me as a person, and pointed me towards resources as a student; you know who you are, and I am truly grateful. But I especially owe a deep amount of gratitude to Peggy Roebuck Jarrett, Gallagher Law Library's Head of Collection Development, and Cassandra Hartnett, UW's U.S. Documents Librarian, without both of whom I would not be where I am today, or where I plan to go in the future. They helped me find my passion, and encouraged it to grow; I will forever be indebted to them. Especially Peggy, who planted the seed for this paper, was so supportive during the writing process, by providing a willing ear to talk ideas out with, and always giving invaluable feedback that I know I did not properly incorporate, despite my best efforts.

A special thanks also to Emily Feltren, AALL's Director of Government Relations, who took the time to speak with me and pointed me towards some invaluable resources that made my research so much easier. And to Georgetown Law's Associate Dean, David Mao, who has a long and prestigious history with the Library, and was also kind enough to speak with me about the subject, giving me some great ideas on how to structure the paper, which I'm sure I also failed to properly incorporate, but which really pointed me in the organizational direction I wanted to go with this paper.

I was lucky enough to research and write a large portion of this paper in Washington, D.C. I hope to never forget my first visit to the Library of Congress, and my awe over the buildings and all that they contained. It is truly a wonderful institution that I encourage everyone to visit if they get the opportunity.