

**Statement of E. Wade Ballou, Jr., Legislative Counsel
Office of the Legislative Counsel
U.S. House of Representatives**

**Before the House Subcommittee on Legislative Branch Appropriations
Regarding Fiscal Year 2022 Appropriations**

Mr. Chairman and distinguished Members of the Subcommittee, thank you for the opportunity to present the fiscal year 2022 appropriation request for the Office of the Legislative Counsel (HOLC). I am pleased and honored to appear before you today in my capacity as Legislative Counsel of the House of Representatives. My staff and I greatly appreciate the ongoing support of the Subcommittee.

Mission: Established by the Revenue Act of 1918, the purpose of HOLC is to advise and assist the House of Representatives, and its committees and Members, in the achievement of a clear, faithful, and coherent expression of legislative policies. HOLC is required by statute to maintain impartiality as to issues of legislative policy and to maintain the attorney-client relationship. The mission of HOLC includes drafting bills, resolutions, and amendments during all stages of the legislative process; and providing related legal advice through individual counsel, its website, and educational outreach. HOLC develops, maintains, and posts the Statute Compilations and is working cooperatively with the Clerk of the House on the Comparative Impact Project (See Modernization Reports on the Committee on House Administration website). In addition, HOLC attends drafting conferences and hosts delegations from parliaments for the mutual exchange of ideas and practices.

HOLC has a flat management structure. It is headed by the Legislative Counsel and Deputy Legislative Counsel, and its branches are attorneys, clerk-paralegals, publications, information technology, and front office communications. The attorneys are generally organized into teams according to their subject matter portfolios and form project-based teams as needed.

HOLC Budget Request: For fiscal year 2022, I am requesting \$12,425,000 for the salaries and expenses of the Office of the Legislative Counsel. This is an increase of \$488,000 (4 percent) from fiscal year 2021 and includes an additional 2 full-time positions.

Impact of the Pandemic and Remote Working on HOLC: In mid-March 2020, HOLC pivoted to working remotely due to the COVID-19 pandemic. From a technology point of view, our Office was well prepared for remote working, having developed its capabilities beginning shortly after the September 11th and anthrax attacks of 2001. However, HOLC was not prepared for the shutting down of society. The resulting pressures on families juggling work, childcare, remote school, elder care, and general family care have been significant, with strained relationships and struggling individuals. Especially in this context, the attack on the Capitol on January 6, 2020, and events relating thereto, are of deep concern.

In addition to societal forces exerting pressure from the outside, HOLC is currently attempting to satisfy increased demand for drafting that is beyond our maximum sustainable capacity. Purpose, control, and workload are key factors in addressing burnout, a true threat to an office reliant on expertise developed over a long career. While steadfast in its purpose, HOLC has little control over its workload and schedule. Compressed scheduling results in too much work at night, on weekends, and over holidays. Staff retention is therefore a significant concern.

Response and Turnaround Time: Book IV of the explanatory statement accompanying 116 H.R. 133, the Consolidated Appropriations Act, 2021, expressed a concern of the House "... about the response time from OLC to Member offices. OLC should respond to all Member drafting requests in a timely manner." HOLC responds to all requests for drafting assistance, with an initial acknowledgement of receipt of request provided automatically by email. Thereafter, response time from the subject matter team handling the request varies based on the type of assistance requested and the workload of the team. HOLC is investigating ways to keep Members better informed about their requests without significantly impacting work on those requests.

Work for all HOLC teams is typically completed on a first-in/first-out basis. Requests relating to matters scheduled for conference, the floor, or committee consideration are addressed, in accordance with section 503 of the Legislative Reorganization Act of 1970 (2 U.S.C. 281b), before matters for introduction. Drafting is a time intensive, iterative process requiring Member engagement throughout by providing sufficiently detailed policy specifications, addressing clarifying questions, reviewing drafts, and making refinements. The greater the complexity of the law or policy, the greater the time required to produce a workable draft. Shortcuts to this process increases the risk that the draft will not achieve the desired result.

Most Members used the services of HOLC during the 116th Congress. The number of drafts prepared for Members ranges from 1 (15 Members) to more than 200 (9 Members), including 1 Member with more than 300 drafts. Notably, the output of HOLC continued to increase during the 116th Congress while the average service tenure of HOLC attorneys declined.

- The number of bills introduced during the 116th Congress exceeded that of the 115th Congress by nearly 30% and of the 114th Congress by 45%.
- The number of discrete bill drafts prepared by HOLC during the 116th Congress exceeded that of the 115th Congress by 19% and of the 114th Congress by 33%.

Much of the work of HOLC during calendar year 2020 was included in the CARES Act, the many versions of the HEROES Act, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, and the Acts resulting from the appropriations process, especially the Consolidated Appropriations Act, 2021. These Acts were large in size and, especially in the short timeframes allowed, stressed the capacity of the software systems required to produce them as well as the legislative staff throughout the Congress to accurately and effectively process them.

Personnel: The services of HOLC are provided by 79 full-time staff members, of whom there are 58 attorneys, 7 clerk-paralegals, 5 publications specialists, 4 front office staff, 3 IT persons, 1 office

manager, and 1 human resources person. In addition, HOLC has 5 retired attorneys on contract and 2 persons on assignment from GPO. The further addition of attorneys and clerk-paralegals will require additional office space.

During calendar year 2020, 6 new attorneys joined HOLC and 3 law students served as summer associates. During 2021, HOLC expects to onboard 3 to 6 new attorneys and 2 to 4 summer associates. In 2016, approximately 40% of HOLC attorneys had more than 20 years of service while less than 20% had less than 5 years of service. Today, less than 20% of HOLC attorneys have more than 20 years of service and more than 40% have less than 5 years of service. During this time the average tenure decreased from 15 years to 11 years. This transition has been difficult.

HOLC uses an apprenticeship tutorial model for training new attorneys. Under the guidance of assigned senior attorneys, new attorneys progress from basic drafting to responsibility for increasingly more difficult and complex legislation and its management. It generally takes 5 to 7 years to become a superior legislative drafter. Given the retirements experienced since 2016, during 2020 approximately 50 percent of HOLC attorneys were involved in the training of approximately 25 percent of their colleagues. The amount of time required for a new attorney to learn how to draft in a complex area of Federal law is considerable. While productivity in the future will certainly be aided by this substantial effort, in the present training is an additional strain on an already overwhelmed staff.

Recruiting and retaining well-qualified attorneys is a constant challenge. HOLC is competing with the high salaries in private practice and the steppingstone opportunities of Government honors programs. Housing costs in the Washington metropolitan area are high. Real wages as measured by inflation have declined approximately 24% since 2009. On the positive side, the House student loan repayment program, especially with its increase, is helpful. HOLC recruits nationally, primarily through regional job fairs and a dedicated inbox for applicants. The process, carried out by attorneys with drafting responsibilities, is a time intensive one.

Nonpersonnel expenditures: The major nonpersonnel expenditures for HOLC are associated with the maintenance and enhancement of information technology to better serve our clients, as well as periodic

updates to hardware. HOLC operates in an Office 365 environment. It drafts with XMetal, stores legislative data in both a file system and a document management system, and relies on Teams and Sharepoint for various office functions. It faces the technological limits of VPN connectivity.

XMetal produces legislative data in a clean XML format. It is a legacy system, used throughout the House and at GPO, and is nearing the end of its useful life. Member and committee offices typically word process with MS Word, and there is no data exchange between the two formats. Thus, the iterative drafting process requires manual manipulation of data for all concerned.

A component of this legacy system is Microcomp, used for printing. HOLC is currently participating with GPO in the development of a replacement for Microcomp. Finally, HOLC has replaced its wiki intranet with a Sharepoint site and is in the early stages of building out its Member portal to better serve our clients.

I am proud of HOLC's service, at significant personal cost, to the House in these extraordinary times. During the next year, with your continued support, we will enhance our customer service by continued investment in our talented personnel, by ongoing improvements in our computer systems, and by working collaboratively within the legislative environment.

Thank you for the support of this Subcommittee. Your support has enabled us to develop and maintain the ability to provide quick, efficient, and expert drafting assistance to the Members and committees of the House. I look forward to working with you during this next year.

This completes my testimony. I am happy to answer any questions that any Member of the Subcommittee may have.

E. Wade Ballou, Jr.
Legislative Counsel