

**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 2023 Appropriations**

Mr. Chairman and distinguished Members of the Subcommittee, thank you for the opportunity to present to you the fiscal year 2023 appropriation request for the Office of the Legislative Counsel (Office).

I am pleased and honored to appear before you today in my capacity as Legislative Counsel of the House of Representatives. I appreciate the past and continuing support of the Office by Members of the Subcommittee. With that support, the Office, established on February 24, 1919, as the Legislative Drafting Service (section 1303 of the Revenue Act of 1918 (Ch. 18, 1141)), continues to fulfill its mission, now 103 years later.

Office Budget Request

For fiscal year 2023, I am requesting \$13,457,000 for the salaries and expenses of the Office.

Purpose

The purpose of the Office, as set out in statute (2 U.S.C. 281a), 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. The Office achieves its purpose by applying the significant drafting, legal, and institutional expertise of our staff to a wide variety of requests for legislative drafting assistance at all stages of the legislative process. Our work is carried out on a nonpartisan and confidential basis. It is the goal of the Office to provide each client who seeks to engage with our services the analysis, experienced counsel, and careful attention to detail necessary to develop legislative text that accurately captures the client's policy and executes into current law as intended.

Increasing Need for Services of the Office

The primary legal service offered by the Office is the advice and drafting assistance we provide to clients preparing bills, resolutions, and other legislative documents (including amendments thereto) at all stages of the legislative process.

The number of drafts prepared by the Office with respect to each of the last 5 Congresses is illustrated by the following table:

	113 th	114 th	115 th	116 th	117 th (1 st Session only)
Bills Introduced	5,893	6,535	7,401	9,067	7,193
Bill Drafts Prepared	18,486	22,131	24,736	29,414	17,717
Resolution Drafts	1,697	1,944	2,260	2,373	1,505
Amendment Drafts	12,612	14,697	15,675	16,201	10,599
Total Drafts Prepared	32,795	38,772	42,671	47,988	29,821

Bills, resolutions, and amendments range from simple to complex solutions to public policy challenges and can range from mere requests for formatting to original drafting pursuant to provided specifications. As demonstrated by the table above, the numbers for requests of all types have been increasing substantially. The Office anticipates this trend to continue.

Strategy To Meet Increasing Needs of the House

With the funding provided by this Subcommittee, the Office will meet the increasing service needs of the House through a strategy focused on expanding the staff of the Office and identifying and acting on education- and technology-based opportunities.

Staff

The Office has 76 people on its permanent staff, including 56 attorneys. The Office also retains 5 retired attorneys on contract. Its management structure is flat, with the Legislative Counsel being the only attorney without an assigned portfolio of work. The attorneys are generally organized by subject-matter teams and form project-based teams as needed. The attorneys are supported by clerk-paralegals, publications specialists, information technology specialists, human resources specialists, and front office communications specialists.

The Office is hiring, training, and seeking to retain staff in numbers that will not only satisfy current levels of drafting demand, but also allow for the development of subject-matter teams experienced and robust enough to seamlessly handle future staff retirements and further increases in drafting demand. To this end, the Office is hiring attorneys at triple the rate of previous decades. In 2022, 6 attorneys will join our permanent staff and 4 rising third year law students will join as summer associates. The Office expects to continue hiring attorneys at not less than this rate for fiscal year 2023. The Office also expects to complete its hiring process for 5 additional people to serve in clerk-paralegal, human resources, and IT support roles.

These new staff members will require a rigorous training program. Using attorney training as an example, the Office uses an apprenticeship model, which has proven to be best suited for developing skilled and career-oriented legislative drafters. Under this model, attorneys with drafting responsibilities are also the primary trainers. Our increased hiring rate (while sustainable) results in a high percentage of attorneys spending significant time as trainers (40

percent of attorneys served as trainers in 2018, 47 percent in 2019, and 48 percent in 2020). Given this fact, the number of attorneys hired must be balanced against current drafting capacity needs. By necessity, though, some current drafting capacity is sacrificed for future gains. Training that is rushed or inadequate risks producing undertrained and overwhelmed attorneys, which leads to departures from the Office and reduced return on the time invested in recruiting, on-boarding, and training. Among attorneys hired since 1980, 38 percent of those who left the Office did so during years 0 to 3. The Office expects to continue balancing hiring rates and training needs in a manner that maximizes expansion, while allowing for the development of skilled drafters who remain with the Office for substantial periods.

A rigorous training program is only one of several tools necessary to retain staff as we work toward expansion and increases in functional capacity. From 2016 to 2020, the total experience years (years of Office service) of the attorneys of the Office declined significantly due primarily to a wave of retirements by long-tenured attorneys and the failure to increase hiring pre-2015 in anticipation of that wave. Experience-year gains will lag behind attorney-number gains, of course, but the Office expects that continued increases in hiring combined with a focus on retention will result in the Office exceeding past experience level highs and expanding functional capacity.

Attorneys

	2012	2014	2016	2018	2020	2022	End of 2022 (projected)
Number of Attorneys	47	46	49	46	55	56	60
Attorney Experience Years	739	784	818	687	651	676	736
Average Attorney Experience Years	15.7	17	16.7	14.9	11.8	12	12.3

Pay and benefits are a cornerstone of these retention efforts. While the recent increase provided by the Speaker’s pay order is both appreciated and helpful, if pay is to remain a positive retention factor in the future, it must continue to be adjusted annually for inflation. Flexible remote work may also provide recruiting and retention opportunities. Office policy prior to the pandemic included geographic location restrictions and limited teleworking. Today, the Office’s demonstrated ability to work well from remote settings opens real possibilities for the flexibility necessary to keep staff who might otherwise relocate to accommodate a partner’s job opportunities, meet childcare needs, or simply acquire more affordable living arrangements. Finally, the Office hopes that sustainable growth will better enable staff to meet the unexpected and sometimes conflicting surges in drafting demand that lead to frequent late night and weekend work, often without notice. Schedule uncertainty and a lack of time to draft well are factors in burnout and have been cited in exit interviews by those who have recently departed our Office. Hiring and retaining a staff properly sized to meet the drafting demand of the House will mitigate such burnout and allow for stability in staffing numbers that benefit the members of the Office and our clients.

Education

The Office has continued to expand educational offerings so that its staff and clients have the resources necessary to efficiently turn policy ideas into effective legislative text. As an example, in collaboration with the Congressional Staff Academy (CSA), the Office is currently offering a Legislative Counsel 101 (Leg Counsel and You) and a Legislative Counsel 201 (Working with Legislative Text) course. The Office has also been experimenting with short videos on discrete subjects that can be made available, on demand, to House staff (including a 5-minute video available through CSA in which one of our staff members clarifies the differences between “positive” and “non-positive” law). In addition, the Office will continue improving our House-facing website to include more information and resources designed to prepare clients to work successfully with our attorneys.

Along with these client-facing initiatives, the Office is simultaneously working to expand educational opportunities for our own staff. These initiatives include improving our partnerships with other congressional service offices, such as the Congressional Budget Office and the American Law Division of the Congressional Research Service. By strengthening these relationships we can improve the usefulness of our referrals and the subject matter research of our attorneys. Additionally, the Office will soon establish a reimbursement program for our staff to take courses to deepen their expertise in the subject matter areas in which they work. A better understanding of relevant law, particularly in relation to issues of emerging interest, will equip the Office to more effectively meet client needs. Finally, we plan to establish open house opportunities for House staff to meet with us to share questions, goals, ideas for improvement, and concerns.

Technology

The major nonpersonnel expenditures for the Office are associated with the maintenance and enhancement of existing Office software systems. We seek, in collaboration with the Office of the Clerk (Clerk), the Government Publishing Office (GPO), House Information Resources, and other stakeholders to plan, test, and place into service tools that improve our processes and allow the wider House community to better interact with legislative text. In this regard, our primary effort continues to be our collaboration with the Clerk regarding both our drafting tools (XMetal and the XML data format), and the Comparative Print Suite that will allow users to compare legislative documents, see in context the changes legislative documents make to existing law, and see in context the changes amendments make to legislative proposals. The Comparative Print Suite will provide significant self-service capabilities to our clients, allowing them to understand more quickly and conveniently the changes to, and impact of, their legislative text. The Office also works with the Clerk as well as with GPO and other stakeholders to develop and implement additional technology solutions related to legislative documents. This includes publishing the statute compilations that our staff develops and maintains (a resource previously available to few outside the Office).

Inside the Office, technology initiatives include maintaining an editable document library to make available drafting templates and other helpful information that streamlines internal

processes and eases information sharing, particularly for our large number of new staff. Further, the Office has used the remote work environment of the past 2 years to fully integrate the benefits of Microsoft Teams into our work process. From shared-screen features that make collaborative drafting and training significantly easier to chat functions that allow multiple colleagues to be effortlessly polled regarding a drafting or procedural question, the shared expertise of the Office has been harnessed in new ways through the use of MS Teams.

Conclusion

Thank you for the support this Subcommittee has given our Office. This support has enabled us to maintain the ability to provide efficient and expert drafting assistance to the Members and committees of the House. I, and all of our staff, are extremely proud of our work to consistently meet the legislative needs of the House, particularly during the exceptional circumstances of recent years.

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