

Senate Rules Changes: **Sunlight's Proposals for the 113th Congress**

The United States Senate is a creature of its rules. Through its standing rules, laws and resolutions, precedents, and the consent of its members, the upper chamber carefully controls how legislation can be promulgated and debate can take place.

Unlike the House of Representatives, which must vote on its rules every Congress, the Senate rarely reconsiders its standing rules in their entirety. An opportunity may arise, however, with the current debate over changing how the filibuster works. Here are Sunlight's major recommendations for updating the Senate's rules.

AUDIT AND CREATE AN INDEX OF SENATE INFORMATION

The Senate creates and holds many documents and data sets. But with so many entities responsible for receiving and generating information, it is not clear to Members, staff, or the public what information is held by the Senate, who is responsible for it, and whether it can be made available to the public. Some thoughtful efforts have been undertaken to consider these issues. For example, legislation is pending to require GPO to create a central repository of all reports any office or Department is required to make to Congress. The Senate already compiles a list of ethics reports required to be filed in the Senate. And GPO has made efforts to compile a repository of official Senate documents, although its efforts are hindered by lack of access to the information.

The Senate should undertake an audit of the documents or other information that it holds, who is responsible for the information, the format in which it is stored, and where and how it can be obtained by the public. The House and Senate jointly undertook a related effort in 1992 as memorialized in S. Pub. 102-20. The audit should occur each congress, and be published online as an Index to Senate Information.

ADOPT A CHAMBER-WIDE PRESUMPTION IN FAVOR OF PUBLIC ACCESS

The Senate should adopt a rule creating a rebuttable presumption in favor of public access to all congressionally-held information. Members, committee and leadership offices, legislative support offices, and (when working on Senate issues) legislative support agencies should be encouraged to make information available to a requester unless there is a strong, clearly articulable reason that outweighs the public's interest in access. In addition, a response to a requester should be timely, and information should be made available to a requester in the format that is requested unless doing so is not practical.

The Senate should also require the proactive online publication of information that is already available to the public, including historical information that's stored in electronic form. The Senate should make a particular effort to make legislation, including amendments, available online in a timely fashion, perhaps adopting the successful model used by the House, docs.house.gov. The Senate should also work with the House to create open data standards for the publication of machine-readable information (including bulk access to that data).

IMPROVE SENATE ADMINISTRATIVE AND ETHICS-REPORTING TRANSPARENCY

All public documents held by the Secretary of the Senate for public review should be published online. A list of those documents is available [here](#). Currently, the documents can only be obtained by printing them during a visit to the Senate Office of Public Records on Capitol Hill. The Senate should publish a staff directory that includes each staffer's name, job title, areas of responsibility, and the main phone number and address for the office. This information is already available through pay services run by third-party vendors. It should be available to the public as well.

"Dear Colleague" letters are one way that a Senator communicates with the rest of the Senate. They're usually used to indicate support for legislation or other policy initiatives, and are often shared with the public or the press. All of these letters should be made available online on a central website by default unless an originating office decides to specifically exclude one of the letters.

Senators should be required to file their campaign finance disclosures directly and electronically with the Federal Election Commission. Currently, Senators are required to file with the Senate, which requires the FEC to go through these documents (often handwritten) and re-key the data. This is costly and causes delays in public disclosure.

The Senate should create an independent ethics watchdog along the lines of the Office of Congressional Ethics. The OCE has been an invaluable addition to the ethics process in the House, and will bring additional transparency and accountability to the Senate.

IMPROVE PUBLIC ACCESS TO LEGISLATIVE INFORMATION

Information regarding legislation pending in the Senate is made available on THOMAS and Congress.gov, but it is not made available in the way that computers can most easily process it -- in bulk. The Senate should join with the House in requiring that legislative data be made available in bulk, and should require that all amendments are online in real-time.

The Senate should publish its semi-annual reports on its internal expenditures online as a downloadable database, and not just as a PDF. Doing so would make the information more accessible to the public and facilitate reuse of the data.

IMPROVE PUBLIC UNDERSTANDING OF LEGISLATIVE ISSUES CONSIDERED BY THE SENATE

Widely-distributed Congressional Research Service reports should be made available to the public by the Secretary of the Senate's office. Thousands of CRS Reports are available online, and many more can be purchased through third party-vendors. These frequently-cited documents can help explain important policy issues to the public, and occasionally could benefit from public review for completeness and accuracy. However, they are not available to the public in a timely way, and public access is spotty. Legislation to this effect has frequently been introduced in the Senate (such as S Res 118) that addresses all the important aspects of making these reports freely available to the public. It is time to level the playing field and give everyone equal access. All reports submitted to the Senate should be made available online, except in limited circumstances. The Senate should look to the draft Access to Congressionally Mandated Reports Act for guidance on implementation.

Annual, semi-annual and other regularly recurring reports from the legislative support offices (e.g. the Secretary of the Senate, Sergeant at Arms, Parliamentarian) all should be made available online as they are issued. While some legislative support offices do an excellent job of publishing their reports online, other offices have further to go. Access to this information makes it possible for the public to have confidence that the Senate is being operated effectively and efficiently, and also for academics, journalists, and others to make recommendations for improvement.

The Senate publication "The Constitution of the United States: Analysis and Interpretation," available on the Senate's intranet but not available to the public except in a printed format, should be made available online as it is updated. This legal treatise that explains the US Constitution as it has been interpreted by the US Supreme Court is an invaluable resource and should be more widely available to the public.

IMPROVE ACCESS TO INFORMATION ABOUT SENATE PROCEEDINGS AND LEGISLATION

All proposed amendments in the Senate should be available online in a useful format. Unfortunately, while the House releases this information to the public via the THOMAS/ Congress.gov website, the Senate only makes amendments available through the Congressional Record, which is more difficult to access and parse. This information shouldn't be buried. All information on presidential nominations filed with the Senate should be available online, except for personally identifiable information (such as home addresses, phone numbers, and social security numbers.)

The US House has incrementally moved toward having all legislation available online before floor consideration (even if the House sometimes waives these rules). The Senate, however, has made little to no progress. Legislation, including final committee reports, should be available online for 72 hour prior to a final Senate vote. While forcing the Senate to consider legislation in a particular way will necessarily be tricky (especially in a chamber that functions through unanimous consent), far more should be done to improve public access to legislation prior to votes.

IMPROVE COMMITTEE ACTIVITY DISCLOSURE

All committee and subcommittee hearings and meetings should be webcast except when logistically impossible.

All markups should be available to the public at least 24 hours prior to consideration by the committee or subcommittee. To be considered as "publicly available," they should be online. Senate committees should write and publish oversight plans, with annually update reports. The House already has this requirement and it works well. See House Rule XI(d).

CREATE MECHANISMS TO COORDINATE TRANSPARENCY EFFORTS

Like many large institutions, responsibility for work on a particular issue is often spread out over many offices on the hill. This is particularly true for transparency issues, where leadership, committees, personal offices, and legislative support offices and agencies each have a small part. Unsurprisingly, efforts to coordinate among these offices are difficult, and institution-wide awareness of what's going on is hard to come by. To improve coordination and awareness, we suggest the Senate consider the following steps.

Transparency Ombudsman

The Senate has key staff responsible for the needs of the chamber. Helping to make the Senate more transparent is a task that spans several of these offices, and is also the responsibility of leadership and several committees. But like most institutions, this diffusion of responsibility means that there is no central point of contact for congressional offices trying to be more transparent, or for those outside the institution to figure out who to contact.

We suggest that the Senate consider creating a transparency ombudsman. The Ombudsman's responsibilities would include encouraging collaboration and information sharing among those responsible for different transparency efforts inside the Senate, to serve as a resource for those inside the Senate who wish to adopt best practices, to be a primary point of contact for those

seeking information from the Senate, and generally to facilitate a more open and transparent Congress.

Advisory Committee on Public Access to Information

The Senate's efforts to improve transparency are intended to be of benefit to other offices within Congress, co-equal branches of government, the public at large, journalists, academics, and others. There is no regular forum, however, where interested parties can get together and talk with representatives of congress about how to best meet everyone's needs in the most efficient and effective manner.

We suggest that the Senate create an advisory committee (along the lines of the Advisory Committee on the Records of Congress) that provides advice and recommendations to the Senate regarding public access to information.

Fix Oversight of Legislative Support Agencies

The Joint Committee on the Library and the Joint Committee on Printing are responsible for coordinating oversight with the House over the Library of Congress and the Government Printing Office. Unfortunately, JCP and JCL only met once for 5 minutes in the 112th Congress, no longer have their own websites, and from a public perspective are effectively moribund. In the past, these committees provided effective guidance and oversight for legislative support agencies, which are responsible for making much of the work of Congress (and the government as a whole) available to the American people. Now, much of the public-facing oversight work is performed by the Legislative Branch Appropriations Subcommittee. In addition, we have found that different messages are sometimes communicated by the legislative support agencies to their respective House and Senate oversight committees, which apparently impedes the ability to effectively oversee and direct their functions.

We recommend that the Senate explore ways to reinvigorate oversight of the Library of Congress and the Government Printing Office. It should particularly focus on making sure that Congress has sufficient capacity to effectively ensure that these agencies are properly performing their roles of making information available to the public, and that the oversight process is performed in a way that the public can be properly engaged.

It also may be wise to look more broadly about creating a Chief Technology Officer for the United States Senate, whose office would look at campus-wide issues, including technology needs within the Senate as well as the legislative support agencies.



APPENDIX

We have more recommendations for improving Senate activities, but they are best accomplished through means other than Senate rules changes. For our recommendations in the House for the 113th Congress, please go [here](#).