

December 5, 2019

Hon. Eddie Bernice Johnson, Chairwoman
Hon. Frank Lucas, Ranking Member
House Committee on Science, Space, & Technology
2321 Rayburn House Office Building
Washington, DC 20515

Re: Options for Improved Science and Technology Advice for Congress

Dear Chairwoman Johnson, Ranking Member Lucas, and Members of the Committee:

There is a welcome enthusiasm among policymakers on Capitol Hill to revitalize and strengthen Congress's internal science and technology expertise. This includes, in particular, an interest in restoring its technology assessment function—whether by reviving and modernizing the Office of Technology Assessment, or bolstering other congressional support agencies such as the Government Accountability Office's new Science, Technology Assessment, and Analytics team. We applaud these efforts, and commend your work on elevating these issues through activities such as the hearing on December 5, "Experts Needed: Options for Improved Science and Technology Advice for Congress."

While reviving OTA has become more salient in the last year—including, for instance, getting a mention in the Democratic presidential debates—we believe that making Congress smarter and more capable shouldn't be a partisan issue. Even in its day, OTA had strong Republican defenders like Sen. Chuck Grassley, who remarked in 1995: "In a very real sense, OTA is our source of objective counsel when it comes to science and technology and its interaction with public policy decision making." Former Sen. Orrin Hatch also proved prescient in arguing against OTA's defunding, remarking that, "As our economy becomes increasingly complex and technologically oriented, Congress will require, more than ever, an ability to effectively analyze technology in making policy decisions." We believe this perspective has been vindicated over the penny wise but pound foolish cuts to Congress since the 1990s. These were not just bad for OTA, but also undermined S&T expertise in committees, in GAO, and CRS.¹

Likewise, the behind the scenes work on rebuilding congressional S&T expertise over the past few years has enjoyed strong bipartisan leadership—including through your work, the Select Committee on the Modernization of Congress's recommendations, and former Rep. Kevin Yoder's initiation of the NAPA report in the last Congress. Nonetheless, from our perspective in right-leaning civil society groups, we believe this debate would benefit from a broader inclusion and elevation of conservative and libertarian perspectives. There are legitimate anxieties to overcome about the creation of new expert bureaucracies.² Yet, there is also a strong conservative case for equipping today's Congress with more and better scientific and technical expertise, pointing the way to a bipartisan consensus.

¹ To understand this capacity loss, see: Zach Graves and Daniel Schuman, "The Decline Of Congressional Expertise Explained In 10 Charts," *Techdirt*, October 18, 2018.

<https://www.techdirt.com/articles/20181018/10204640869/decline-congressional-expertise-explained-10-charts.shtml>

² Zach Graves and M. Anthony Mills, "Reviving Expertise in a Populist Age," *The New Atlantis*, Fall 2019.

<https://www.thenewatlantis.com/publications/reviving-expertise-in-a-populist-age>

Conservatives and libertarians are, by disposition, skeptical of attempts to strengthen the federal government to advance social ends. And they worry, in particular, that efforts to shore up “neutral expertise” can be cover for outfitting government with more technocratic tools with which to regulate social and economic life. But these arguments, however meritorious in and of themselves, miss the mark—at least when it comes to better equipping Congress.

First, both conservatives and progressives worry about the social and ethical implications of emerging science and technology, although they tend to emphasize different aspects. For instance, where progressives have tended to emphasize the environmental impacts of new technologies or their effects on democracy, social conservatives, increasingly, have tended to worry about the ethics of emerging technologies (the GOP is no longer the uncritical “party of Uber”). Moreover, there are a range of science and technology-related issues that preoccupy those on the right just as much as those on the left, from algorithmic bias and content moderation to genetic engineering. As originally conceived, technology assessment was not simply a matter of providing Congress with more expertise but equipping members with the tools they need to weigh the positives and negatives of emerging technologies and to deliberate about what actions to take, if any, to address harms. Such tools are needed now more than ever.

This leads to a second reason why conservatives and libertarians can and should support strengthening Congress’s S&T capacity: Unlike executive agencies staffed by experts, legislative agencies (aside from the Copyright Office) are not regulatory bodies with rulemaking power. As such, a new technology assessment office (or broader S&T capacity enhancement) need not stifle technological innovation, or feed into an unaccountable technocracy. On the contrary, by creating a forum in which a diverse set of stakeholders can grapple with challenges and opportunities posed by science and technology, legislative branch experts might even prevent government from implementing misguided policies or overly burdensome regulations.

Finally—and relatedly—increased S&T capacity in Congress would be (as OTA itself was) directly responsive to Members’ and committee’s needs. This would help Congress, not just executive agencies, grapple with technical matters and to conduct meaningful oversight of the so-called administrative state.³ In so doing, not only would this shift deliberation over science and technology-related issues back into the legislature, where it can be more democratically accountable, it would also help restore Congress’s rightful role as a coequal branch of government.

Sincerely,

M. Anthony Mills
Director of Science Policy, R Street Institute

Zach Graves
Head of Policy, Lincoln Network

³ Conservatives have long sought to limit what can be delegated to agencies, which would require a significant new investment in Congress. See, e.g. Berin Szoka, “Technical Expertise Is Just the Tip of the Iceberg,” *Cato Unbound*, June 21, 2019. <https://www.cato-unbound.org/2019/06/21/berin-szoka/technical-expertise-just-tip-iceberg>.