To provide for Federal agencies to develop public access policies relating to research conducted by employees of that agency or from funds administered by that agency.

IN THE SENATE OF THE UNITED STATES
JUNE 25, 2009

Mr. LIEBERMAN (for himself and Mr. CORNYN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL
To provide for Federal agencies to develop public access policies relating to research conducted by employees of that agency or from funds administered by that agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Research Public Access Act of 2009”.

SECTION 2. FINDINGS.

Congress finds that—

(1) the Federal Government funds basic and applied research with the expectation that new ideas
and discoveries that result from the research, if shared and effectively disseminated, will advance science and improve the lives and welfare of people of the United States and around the world; and 

(2) the Internet makes it possible for this information to be promptly available to every scientist, physician, educator, and citizen at home, in school, or in a library.

SEC. 3. DEFINITION.

In this Act the term “Federal agency” means an Executive agency defined under section 105 of title 5, United States Code.

SEC. 4. FEDERAL RESEARCH PUBLIC ACCESS POLICY.

(a) In General.—Not later than 1 year after the date of enactment of this Act, each Federal agency with extramural research expenditures of over $100,000,000 shall develop a Federal research public access policy that is consistent with and advances purposes of the Federal agency.

(b) Content.—Each Federal research public access policy shall provide for—

(1) submission to the Federal agency of an electronic version of the author’s final manuscript of original research papers that have been accepted for publication in peer-reviewed journals and result from
research supported, in whole or in part, from funding by the Federal Government;

(2) the incorporation of all changes resulting from the peer review publication process in the manuscript described under paragraph (1);

(3) the replacement of the final manuscript with the final published version if—

(A) the publisher consents to the replacement; and

(B) the goals of the Federal agency for functionality and interoperability are retained;

(4) free online public access to such final peer-reviewed manuscripts or published versions as soon as practicable, but not later than 6 months after publication in peer-reviewed journals;

(5) production of an online bibliography of all research papers that are publicly accessible under the policy, with each entry linking to the corresponding free online full text; and

(6) long-term preservation of, and free public access to, published research findings—

(A) in a stable digital repository maintained by the Federal agency; or

(B) if consistent with the purposes of the Federal agency, in any repository meeting con-
ditions determined favorable by the Federal agency, including free public access, interoperability, and long-term preservation.

(c) Application of Policy.—Each Federal research public access policy shall—

(1) apply to—

(A) researchers employed by the Federal agency whose works remain in the public domain; and

(B) researchers funded by the Federal agency;

(2) provide that works described under paragraph (1)(A) shall be—

(A) marked as being public domain material when published; and

(B) made immediately available under subsection (b)(4); and

(3) make effective use of any law or guidance relating to the creation and reservation of a Government license that provides for the reproduction, publication, release, or other uses of a final manuscript for Federal purposes.

(d) Exclusions.—Each Federal research public access policy shall not apply to—
(1) research progress reports presented at professional meetings or conferences;

(2) laboratory notes, preliminary data analyses, notes of the author, phone logs, or other information used to produce final manuscripts;

(3) classified research, research resulting in works that generate revenue or royalties for authors (such as books) or patentable discoveries, to the extent necessary to protect a copyright or patent; or

(4) authors who do not submit their work to a journal or works that are rejected by journals.

(e) PATENT OR COPYRIGHT LAW.—Nothing in this Act shall be construed to affect any right under the provisions of title 17 or 35, United States Code.

(f) REPORT.—

(1) IN GENERAL.—Not later than October 1, of each year, the head of each Federal agency shall submit a report on the Federal research public access policy of that agency to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives;
(C) the Committee on Science and Technology of the House of Representatives;
(D) the Committee on Commerce, Science, and Transportation of the Senate;
(E) the Committee on Health, Education, Labor, and Pensions of the Senate; and
(F) any other committee of Congress of appropriate jurisdiction.

(2) CONTENT.—Each report under this subsection shall include—

(A) a statement of the effectiveness of the Federal research public access policy in providing the public with free online access to papers on research funded by the Federal agency;
(B) a list of papers published in peer-reviewed journals that report on research funded by the Federal agency;
(C) a corresponding list of papers made available by the Federal agency as a result of the Federal research public access policy; and
(D) a summary of the periods of time between public availability of each paper in a journal and in the online repository of the Federal agency.
(3) Public Availability.—The Federal agency shall make the statement under paragraph (2)(A) and the lists of papers under subparagraphs (B) and (C) of paragraph (2) available to the public by posting such statement and lists on the website of the Federal agency.