

**BUSINESS MEETING: H.R. 5305, FDLP MODERNIZA-
TION ACT OF 2018; AND H.R. 4631, ACCESS
TO CONGRESSIONALLY MANDATED REPORTS
ACT**

HEARING
BEFORE THE
**COMMITTEE ON HOUSE
ADMINISTRATION**
HOUSE OF REPRESENTATIVES
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BUSINESS MEETING: H.R. 5305, FDLP MODERNIZATION ACT OF 2018; AND H.R. 4631, ACCESS TO CONGRESSIONALLY MANDATED REPORTS ACT

THURSDAY, APRIL 12, 2018

HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Committee met, pursuant to call, at 11:05 a.m., in Room 1310, Longworth House Office Building, Hon. Gregg Harper [Chairman of the Committee] presiding.

Present: Representatives Harper, Davis, Comstock, Walker, Loudermilk, Brady, Lofgren, and Raskin.

Staff Present: Sean Moran, Staff Director; Kim Betz, Deputy Staff Director/General Counsel; Cole Felder, Deputy General Counsel; Dan Jarrell, Legislative Clerk; Erin McCracken, Communications Director; Jamie Fleet, Minority Staff Director; Khalil Abboud, Minority Deputy Staff Director; and Eddie Flaherty, Minority Chief Clerk.

The CHAIRMAN. I now call to order the Committee on House Administration for purposes of today's Committee meeting. A quorum is present, so we may proceed. The meeting record will remain open for 5 legislative days, so that Members may submit any materials they wish to be included therein.

There are two items on the docket today: H.R. 5305, the Federal Depository Library Program Modernization Act of 2018; and H.R. 4631, the Access to Congressionally Mandated Reports Act. H.R. 5305, the Federal Depository Library Program Modernization Act of 2018, reflects the Committee's work over the last year, which included holding five hearings and three bipartisan stakeholder meetings. In examining potential reforms to the Federal Depository Library Program, the Committee found the free flow of government information is fundamental to a democratic society, and members of the public have a right of access to government information. The Federal Depository Library Program, or FDLP as it is commonly known, is an essential service by which members of the public can access government information. These libraries partner with the Government Publishing Office, and offices of the Federal Government to ensure that members of the public, throughout the United States, have effective, no-fee access to government information.

Most government information currently produces an electronic format. As a result, 97 percent of new information available through FDLP is in that electronic format. The government has a

responsibility to disseminate and provide permanent public access to information to ensure that members of the public are fully aware of the activities of their government, to spur innovation and research, and to promote good government. And the sole focus of the Superintendent of Documents should be on implementing programs to ensure no-fee access to government information.

To that end, H.R. 5305 makes the following changes to the FDLP; it recognizes existence of a national collection of information dissemination products; it updates the types of depository libraries across the country that may participate in FDLP; it eliminates the problems with fugitive documents in the government; it allows the FDLP to accept work completed by the library community; it provides for greater transparency in the FDLP itself; and it removes the sales program from the purview of the superintendent of documents to allow the superintendent to focus on no-fee access to government information.

The bill is supported by the major library associations, including the American Library Association, the American Association of Law Libraries, the Association of Research Libraries, and the Chief Officers of State Library Agencies.

The second bill on the docket is H.R. 4631, the Access to Congressionally Mandated Reports Act. H.R. 4631 was introduced by our colleague, Representative Quigley from Illinois. In short, H.R. 4631 also amends Title 44 by requiring the Government Publishing Office, or GPO, to, among other things, establish and maintain a publicly available website containing copies of all congressionally mandated reports. The bill also directs the Office of Management and Budget to issue guidance to Federal agencies to assist them in submitting the reports to GPO.

The bill was marked up and reported out of the Committee on Oversight and Government Reform earlier this year. Forty-five organizations support this bipartisan legislation. I am pleased the Committee on House Administration is acting on this good government bill as well.

I will now like to recognize my colleague and the Committee's Ranking Member, Mr. Brady, for purposes of an opening statement, if he wishes.

Mr. BRADY. Thank you, Mr. Chairman, for calling this business meeting this morning. I support both proposals before us and the bipartisan work they represent.

H.R. 5305 is good for the Government Publishing Office, it is good for the taxpayers, and most important to me, it is good for Philadelphia. I was very pleased to receive a letter from Temple University supporting this legislation.

Federal Depository Library Program plays an important role in our democratic process and helps the American public stay informed and hold its government accountable. I know Committee staff on both sides of the aisle worked hard on this, and I would like to thank Khalil Abboud from my staff and Bob Tapella on the majority staff for all the efforts that went into this legislation.

Thank you.

H.R. 4631 is a positive step towards increasing transparency in how the Federal Government operates. While congressional committees emphasize oversight on the executive branch, ultimately,

we all answer to the American people, and they have a right to know how their tax dollars are being spent, what is working, and what are areas that need improvement. These reports provide a unique insight into these questions though they are not always easy to find.

This legislation will create a one-stop shop for congressional mandated reports, and I am proud to support it.

Thank you, Mr. Chairman, and I yield back the balance of my time.

The CHAIRMAN. Thank you, Mr. Brady.

I would ask if any other Member of the Committee wishes to be recognized for purposes of providing an opening statement.

Seeing none, I now call up and—oh, I am sorry.

Ms. LOFGREN. I just want to be very brief. You know, the House Administration Committee is a work-a-day Committee and doesn't always get the attention for, you know, a variety of reasons. But this is really significant, and I want to give credit to both you and Mr. Brady and all the other Committee members. Because in a democratic society, knowledge is power. And so what we are doing today is to give additional access to knowledge to the American public to enhance their authority. And I just think it is important to view this and the subsequent bill in that light. And I just wanted to note that and how significant this really is.

And I yield back.

The CHAIRMAN. Thank you, Ms. Lofgren, for your support and your comments as well.

Any other Members?

I now call up and lay before the Committee, H.R. 5305, the FDLP Modernization Act of 2018. Without objection, the bill is considered read. And the amendment in the nature of a substitute provided to each of you will serve as the base text and is considered open for amendment at any point.

[The bill follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 5305

OFFERED BY MR. HARPER

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "FDLP Modernization Act of 2018".

SEC. 2. NO-FEE PUBLIC ACCESS TO GOVERNMENT INFORMATION; REFORM OF FEDERAL DEPOSITORY LIBRARY PROGRAM.

(a) IN GENERAL.—Chapter 17 of title 44, United States Code, is amended to read as follows:

"CHAPTER 17—NO-FEE PUBLIC ACCESS TO GOVERNMENT INFORMATION

"SUBCHAPTER A—SUPERINTENDENT OF DOCUMENTS

"1701. Findings; purpose.

"1702. Superintendent of Documents.

"1703. Employees and facilities of Superintendent.

"1704. Coordination and consultation with Library of Congress.

- “1705. Coordination and consultation with other legislative branch officials.
- “1706. Definitions.

“SUBCHAPTER B—NATIONAL COLLECTION OF INFORMATION DISSEMINATION PRODUCTS

- “1721. National collection of information dissemination products.
- “1722. Responsibility of offices of Government to furnish products to Superintendent of Documents.
- “1723. Requirements for agreements to produce or procure products.
- “1724. Special requirements for electronic information dissemination products.
- “1725. Cataloging and related services for information dissemination products.
- “1726. Collection development plan.
- “1727. Replacement and removal of products from national collection.

“SUBCHAPTER C—ONLINE REPOSITORY

- “1731. Establishment and operation of online repository for no-fee access to information dissemination products.
- “1732. Authentication of products.
- “1733. Privacy of users.

“SUBCHAPTER D—FEDERAL DEPOSITORY LIBRARY PROGRAM

- “1741. No-fee access to products through Federal Depository Libraries.
- “1742. Requirements for Federal Depository Libraries.
- “1743. Services available for depository libraries.
- “1744. Selective Depository Libraries.
- “1745. Regional Depository Libraries.
- “1746. Preservation Depository Libraries.
- “1747. Procedures for designation.

“SUBCHAPTER E—SALES PROGRAM

- “1751. Sales program.
- “1752. Determination of costs of products.
- “1753. Inventory.

“SUBCHAPTER F—OTHER PROGRAMS AND AUTHORITIES

- “1761. By-law distribution program.
- “1762. International Exchange Service Program.
- “1763. Acceptance of gifts.
- “1764. Authorities of Director of the Government Publishing Office.
- “1765. Source of funds used to carry out programs and activities.
- “1766. Congressional oversight.

“SUBCHAPTER A—SUPERINTENDENT OF DOCUMENTS

“§ 1701. Findings; purpose

“(a) FINDINGS.—Congress finds the following:

“(1) The free flow of government information is fundamental to a democratic society, and members of the public have a right of access to government information.

“(2) The Federal Depository Library Program is an essential means by which members of the public access government information. These libraries partner with the Government Publishing Office and offices of the Federal Government to ensure that members of the public throughout the United States have effective, no-fee access to government information.

“(3) The majority of government information currently produced is in electronic format. As a result, 97% of new information available through the Federal Depository Library Program is in electronic format.

“(4) Government has a responsibility to disseminate and provide permanent public access to information in order to ensure that members of the public are fully aware of the activities of

their government, to spur innovation and research, and to promote good government.

“(5) The sole focus of the Superintendent of Documents should be on implementing programs to ensure no-fee access to government information.

“(b) PURPOSE.—It is the purpose of this chapter to promote the greatest possible public access to information dissemination products by authorizing the Superintendent of Documents to—

“(1) establish a national collection of information dissemination products and to provide no-fee, permanent public access to such collection through an online repository established and operated by the Director of the Government Publishing Office under subchapter C and through the Federal Depository Library Program under subchapter D;

“(2) carry out a cataloging and indexing program for the products in such national collection;

“(3) carry out a by-law distribution program and an international exchange service program under subchapter F; and

“(4) collaborate with offices of the Federal government, Federal Depository Libraries, and library associations and consortia.

“§ 1702. Superintendent of Documents

“(a) APPOINTMENT.—The Director of the Government Publishing Office shall appoint an individual to serve as the Superintendent of Documents, without regard to political affiliation and solely based on professional qualifications to perform the duties and responsibilities of the position, and who shall serve at the pleasure of the Director of the Government Publishing Office.

“(b) DUTIES.—Under the general direction of the Director of the Government Publishing Office, the Superintendent of Documents shall administer the programs of GPO which provide no-fee public access to Federal information dissemination products (IDPs) under this chapter.

“(c) QUALIFICATIONS.—The individual appointed as the Superintendent of Documents shall be an accomplished general manager and practitioner of library and information sciences, including the identification, acquisition, authentication, cataloging, dissemination, maintenance, and preservation of information dissemination products regardless of form or format.

“(d) COMPENSATION.—The Superintendent of Documents shall be compensated at an annual rate equal to level III of the Executive Schedule.

“§ 1703. Employees and facilities of Superintendent

“(a) APPOINTMENT OF EMPLOYEES; PROVISION OF FACILITIES.—The Director of the Government Publishing Office, upon the requisition of the Superintendent of Documents, shall appoint necessary assistants, furnish blanks, and do the printing and binding required by the Superintendent of Documents. The Director shall provide convenient office, storage, and distributing rooms for the use of the Superintendent of Documents.

“(b) PAY OF EMPLOYEES FOR NIGHT, SUNDAY, HOLIDAY, AND OVERTIME WORK.—Employees of the Superintendent of Documents

may be paid for night, Sunday, holiday, and overtime work at rates not in excess of the rates of additional pay for this work allowed other employees of the Government Publishing Office under section 305 of this title.

“§ 1704. Coordination and consultation with Library of Congress

“In carrying out this chapter, the Superintendent of Documents shall coordinate and consult with the Librarian of Congress, especially with respect to the provisions of this title which affect the collections of the Library of Congress and the services the Library provides to Congress.

“§ 1705. Coordination and consultation with other legislative branch officials

“In addition to the coordination and consultation required under section 1704, in carrying out this chapter, the Superintendent of Documents shall coordinate and consult with appropriate officials of the legislative branch, including the Clerk of the House of Representatives, the Secretary of the Senate, and the Librarian of Congress, with respect to the production and dissemination of information dissemination products of Congress for inclusion in the legislative information retrieval system established and operated under section 209 of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 180).

“§ 1706. Definitions

“(a) DEFINITION OF ‘PRINTING’.—

“(1) DEFINITION.—In this chapter, the term ‘printing’ includes and applies to all of the processes used to capture, process, and duplicate digital or tangible information, including—

“(A) any formatting, composition, digitization, platemaking, presswork, and binding or other finishing, or the manufacturing of related material;

“(B) the equipment and software applications used in such processes; and

“(C) the end items in any tangible or digital form produced by such processes and equipment for use by an end user.

“(2) REVIEW; UPDATES.—The Director of the Government Publishing Office shall regularly review the definition under this subsection to ensure that it is consistent with international and commercial practice, and not less frequently than every 5 years, shall submit recommendations to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate for updates to the definition so that it reflects the most current technology.

“(b) OTHER DEFINITIONS.—In this chapter, the following definitions apply:

“(1) The term ‘dissemination’ means the government-initiated distribution of information to a nongovernment entity, including the public. Such term does not include any distribution which is limited to Federal Government employees, intra- or

inter-office use or sharing of Federal information, and responses to requests for agency records under the Freedom of Information Act (section 552 of title 5) or the Privacy Act (section 552a of title 5).

“(2) The term ‘document’ means an information dissemination product.

“(3) The term ‘electronic information dissemination product’ means an information dissemination product which is created for or transmitted through an electronic communications system or network of the office in which the product originated.

“(4) The term ‘Federal information’ means information created, collected, processed, maintained, disseminated, disclosed, or disposed of by or for the Federal Government, in any medium or form.

“(5) The term ‘Federal information system’ means an information system used or operated by an office of the Federal Government or by a contractor of such an office or by another organization on behalf of such an office.

“(6) The term ‘fugitive document’ means an information dissemination product which is not cataloged or otherwise identifiable or retrievable by an end user through the online repository under section 1721 of this title.

“(7) The term ‘Government publication’ means information that is published as an individual document at Government expense, or as required by law, in any medium or form.

“(8) The term ‘graphic communication’ means electronic and traditional printing, publishing, packaging, digital imaging, computer graphics, website development, digital photography, printable electronics, and related activities.

“(9) The term ‘information’ means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, electronic, or audiovisual forms.

“(10) The term ‘information dissemination product’ or ‘IDP’ means any recorded information, regardless of physical form or characteristics, disseminated by an office of the Federal Government, or contractor thereof, to the public, and including any recorded information incorporated by reference into the Code of Federal Regulations. Notwithstanding the provisions of section 106 of title 17, it is not an infringement of any copyright that may subsist in works within an IDP to reproduce, prepare derivative works of, display, perform, distribute, or utilize (including through text or data mining) IDPs under this title.

“(11) The term ‘inter-office agreement’ means a written agreement entered into between two or more offices of the Federal Government that specifies the goods to be furnished or tasks to be accomplished by one office (the servicing office) in support of the other(s) (the requesting office), including assisted acquisitions as described in the Memorandum of the Office of Management and Budget entitled ‘Improving the Management and Use of Interagency Acquisitions’ and other cases described in part 17 of the Federal Acquisition Regulations.

“(12) The term ‘national collection’ means (subject to subchapter B) the collection of information dissemination products

produced by the Federal Government, and (as described in subchapter B) is a distributed collection accessible from the online repository under subchapter C, the Federal Depository Libraries under subchapter D, and through agreements with other entities as provided by this chapter.

“(13) The term ‘personally identifiable information’ means information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other information that is linked or linkable to a specific individual.

“(14) The term ‘public information’ means any information, regardless of form or format, that an office of the Federal Government discloses, disseminates, or makes available to the public.

“(15) The term ‘publication’ means informational matter which is published as an individual document at Federal Government expense, or as required by law.

“(16) The term ‘State’ means, except where otherwise provided, each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

“(17) The term ‘trustworthy information system’ means an information system that is believed to be capable of operating within defined levels of risk despite the environmental disruptions, human errors, structural failures, and purposeful attacks that are expected to occur in its environment of operation.

“SUBCHAPTER B—NATIONAL COLLECTION OF INFORMATION DISSEMINATION PRODUCTS

“§ 1721. National collection of information dissemination products

“(a) ESTABLISHMENT OF COLLECTION.—In order to provide permanent public access to information dissemination products that may be of public interest or educational value, in accordance with this subchapter, the Superintendent of Documents shall establish a comprehensive, national collection of information dissemination products which are determined to be appropriate for inclusion in the collection, and shall include all information dissemination products which have been incorporated by reference into the Code of Federal Regulations.

“(b) PUBLIC ACCESS TO COLLECTION.—Except as provided in subsection (c), the Superintendent shall provide permanent public access to all of the information dissemination products which are included in the national collection through each of the following means:

“(1) The online repository established and operated by the Director of the Government Publishing Office under subchapter C.

“(2) The Federal Depository Library Program under subchapter D.

“(3) Methods established for access to products in incompatible formats, as determined under section 1722(b)(2).

- “(4) Cataloging, indexing, identification, location, availability, and format designation services under section 1725.
- “(c) NO PUBLIC ACCESS FOR CERTAIN PRODUCTS.—
- “(1) PRODUCTS DESCRIBED.—The Superintendent shall not provide public access to an information dissemination product which is included in the national collection under this subchapter if any of the following apply:
- “(A) The product is a cooperative publication which must necessarily be sold in order to be self-sustaining, unless the applicable official enters into an agreement with the Superintendent to make the product accessible to the public.
- “(B) The product contains information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- “(C) Prohibiting public access to the product is necessary to comply with relevant law.
- “(2) SPECIAL RULE FOR CERTAIN PRODUCTS.—Paragraph (1) does not apply with respect to—
- “(A) an information dissemination product which an office disseminates in electronic form to the public at no cost; or
- “(B) an information dissemination product consisting of a standard which has been incorporated by reference into the Code of Federal Regulations.
- “(3) NOTIFICATION BY APPLICABLE OFFICIALS.—Each applicable official shall notify the Superintendent of each instance in which an information dissemination product is subject to paragraph (1).
- “(d) HISTORICAL COLLECTION.—In maintaining the national collection under this subchapter, the Superintendent shall oversee the maintenance of information dissemination products which were created and distributed prior to the effective date of the FDLP Modernization Act of 2018.
- “(e) APPLICABLE OFFICIAL DEFINED.—In this subchapter, the ‘applicable official’ with respect to an information dissemination product is as follows:
- “(1) In the case of an IDP originating in an office of the executive branch, the head of the office in which the IDP originated.
- “(2) In the case of an IDP originating in an office of the legislative branch, the head of the office in which the IDP originated, except that—
- “(A) if the IDP originated in an office of the House of Representatives, the ‘applicable official’ is the Clerk of the House of Representatives; and
- “(B) if the IDP originated in the Senate, the ‘applicable official’ is the Secretary of the Senate.
- “(3) In the case of an IDP originating in the judicial branch, the Director of the Administrative Office of the United States Courts or the Clerk of the United States Supreme Court (as the case may be).

“§ 1722. Responsibility of offices of Government to furnish products to Superintendent of Documents

“(a) REQUIREMENT TO FURNISH PRODUCTS.—

“(1) IN GENERAL.—If an office of the Federal government produces or procures an information dissemination product, regardless of form or format, the applicable official shall furnish the product to the Superintendent of Documents for inclusion in the national collection established and maintained under this subchapter at the applicable price described in paragraph (2), not later than the date on which the product is made available to the public.

“(2) APPLICABLE PRICE DESCRIBED.—In paragraph (1), the ‘applicable price’ with respect to an information dissemination product is—

“(A) in the case of a product in electronic form which the office involved disseminates to the public at no cost, \$0; or

“(B) in the case of any other product, such price as may be appropriate, but not to exceed the actual cost to the office involved of producing an additional copy of the product.

“(b) FORM AND FORMAT.—

“(1) IN GENERAL.—In furnishing an information dissemination product to the Superintendent of Documents under this subchapter, the applicable official shall deposit with and notify the Superintendent of digital or tangible (as applicable) versions of such IDP, regardless of the form or format of the product, in such manner as will enable the Superintendent to perform cataloging, indexing, identification, location, availability, and format designation services with respect to the IDP under section 1725 and authentication with respect to the IDP under section 1722.

“(2) SPECIAL RULE FOR INCOMPATIBLE FORMATS.—

“(A) PROVIDING LOCATION AND ACCESS.—If the form or format of an IDP is not compatible with the electronic systems of the Government Publishing Office, and it is not practicable to make the form or format of the IDP compatible with such systems, the applicable official shall meet the requirements of this section by providing the Superintendent with information on where the content of the IDP is held and how the Superintendent may access the content, and by providing access to and preserving the content of the IDP.

“(B) CATALOGING, PUBLIC ACCESS, AND PRESERVATION.—The Superintendent, in consultation with the applicable official, shall determine the best method to catalog, provide public access to (including through the Federal Depository Library Program under subchapter D), and preserve an IDP which is subject to subparagraph (A).

“(c) NOTIFICATIONS REGARDING CHANGES IN PRODUCTION OR PROCUREMENT OF PRODUCTS.—

“(1) CHANGE IN PUBLIC ACCESS DESCRIBED.—For purposes of this subsection, a change in public access to an information dissemination product means any of the following:

“(A) Terminating production.

“(B) Eliminating production or availability in tangible form.

“(C) Otherwise limiting the provision of public access to only electronic means.

“(2) NOTIFICATION.—The applicable official shall immediately notify the Superintendent of the intent of an office to produce or procure, substantially modify, or make a change in public access to an information dissemination product included in the national collection under subchapter B, regardless of form or format, in order to enable the Superintendent to continue to provide public access to the product under this chapter, including access through the Federal Depository Library Program under subchapter D. Nothing in this paragraph shall be construed to affect the application of section 3506 of this title to any office or applicable official.

“(3) PUBLIC NOTICE.—The Superintendent of Documents shall publish in the Federal Register, and provide timely notice to the public and the Federal Depository Libraries under subchapter D, of notifications received under paragraph (2). In the case of notifications of a change in public access, the Superintendent of Documents shall provide such notice not later than 10 days after receiving the notification.

“(4) RESTRICTIONS ON AUTHORITY TO MAKE CHANGES IN PUBLIC ACCESS.—An office may not make a change in public access to an information dissemination product until the expiration of the 70-day period which begins on the date the head of the office notifies the Superintendent of Documents of the intent to make the change.

“(d) FAILURE TO FURNISH PRODUCT.—If an applicable official fails to furnish an IDP to the Superintendent of Documents under this section—

“(1) the Superintendent is authorized to obtain the IDP; and

“(2) the office of the applicable official shall reimburse the Superintendent for the costs incurred in obtaining and disseminating the IDP.

“(e) ADDITIONAL METHODS OF OBTAINING PRODUCTS.—

“(1) IN GENERAL.—In addition to the procedures in this section, the Superintendent of Documents may use any other means not prohibited by law to obtain an information dissemination product for inclusion in the national collection under this subchapter.

“(2) COLLECTION OF PRODUCTS IN COLLECTION OF FEDERAL DEPOSITORY LIBRARIES.—The Superintendent may enter into arrangements with a Federal Depository Library under subchapter D to obtain from such Library any IDPs in the Library’s own collection of documents and materials and the metadata associated with any such IDPs.

“(f) ROLE OF DIRECTOR OF THE GOVERNMENT PUBLISHING OFFICE.—

“(1) SUPERVISION AND OVERSIGHT.—The Superintendent of Documents shall carry out this section under the supervision of the Director of the Government Publishing Office, who shall be responsible for ensuring the compliance of offices of the Federal government with this section.

“(2) AVAILABILITY OF GPO PRODUCTS.—The Director of the Government Publishing Office shall provide the Superintendent with adequate metadata and copies, in digital and tangible form (if available) of all information dissemination products produced or procured by the Government Publishing Office.

“(g) STEPS TO ENSURE COMPLIANCE BY APPLICABLE OFFICIALS.—

“(1) REGULATIONS.—Each applicable official shall establish guidelines and procedures to ensure that the appropriate personnel of the applicable official’s office meet the requirements of this section. To the extent that the applicable official has the authority under law to promulgate regulations, the official shall establish such guidelines and procedures by regulation.

“(2) REPORTS TO DIRECTOR OF THE GOVERNMENT PUBLISHING OFFICE.—Not later than 180 days after the date of the enactment of the FDLP Modernization Act of 2018 and every 3 years thereafter, each applicable official shall submit a report to the Director of the Government Publishing Office setting forth a plan to ensure the official’s compliance with the requirements of this section, including steps to sanction employees of the official’s office for failure to comply with such requirements.

“(h) EFFECTIVE DATE; TRANSITION RULE FOR ELECTRONIC PRODUCTS FURNISHED TO DEPOSITORY LIBRARIES.—

“(1) IN GENERAL.—This section shall apply with respect to any information dissemination product produced or procured on or after the effective date of the FDLP Modernization Act of 2018.

“(2) FURNISHING ELECTRONIC PRODUCTS TO FEDERAL DEPOSITORY LIBRARIES DURING TRANSITION.—

“(A) INVENTORY OF PRODUCTS.—Not later than 2 years after the date of the enactment of the FDLP Modernization Act of 2018, the applicable official of each office shall provide the Superintendent of Documents with an inventory of, and access to, all electronic information dissemination products (as defined in section 1724) which originated in the office prior to the effective date of such Act.

“(B) FURNISHING OF PRODUCTS TO LIBRARIES.—If, in the same manner applicable to information dissemination products under section 1721, the Superintendent determines that a product in the inventory provided under subparagraph (A) would be appropriate for inclusion in the national collection under this subchapter (if the product were procured or produced after the effective date of the FDLP Modernization Act of 2018), the applicable official shall furnish the product to the Superintendent for distribution to Federal Depository Libraries under subchapter D, as determined by the Superintendent.

“(C) COSTS.—The cost of furnishing an IDP to a Federal Depository Library under this paragraph shall be paid by the Superintendent of Documents.

“§ 1723. Requirements for agreements to produce or procure products

“(a) NOTIFICATION TO SUPERINTENDENT OF DOCUMENTS.—An office of the Federal government may not enter into a contract for the procurement or production of an information dissemination product by any entity other than the Director of the Government Publishing Office, regardless of form or format, unless each of the following requirements is met:

“(1) Prior to entering into the contract, the applicable official notifies the Superintendent of Documents.

“(2) The contract includes a requirement that the office shall ensure that the product will be furnished to the Superintendent in accordance with the requirements of this chapter, including any requirement regarding the number, type, and format of copies of the product.

“(3) The contract includes a requirement that the office shall meet such conditions as the Superintendent may require to ensure no-fee public access to the product in accordance with this chapter.

“(b) PRIOR CERTIFICATION OF NOTICE TO SUPERINTENDENT.—No production or procurement of an IDP may take place under a contract described in subsection (a) until the applicable official verifies that notice of the contract was provided to the Superintendent of Documents.

“(c) ROLE OF DIRECTOR OF THE GOVERNMENT PUBLISHING OFFICE.—The Superintendent of Documents shall carry out this section under the supervision of the Director of the Government Publishing Office, who shall be responsible for ensuring the compliance of offices of the Federal government with this section.

“§ 1724. Special requirements for electronic information dissemination products

“(a) TYPES OF MATERIAL REQUIRED TO BE FURNISHED TO SUPERINTENDENT OF DOCUMENTS.—For purposes of section 1722, upon request of the Superintendent of Documents, the applicable official shall promptly provide the Superintendent with copies of, or access to, electronic files and metadata or other digital descriptive material associated with an electronic information dissemination product (including any relevant material necessary for the Superintendent to comply with section 1725) which will enable the Superintendent to provide permanent public access to the IDP through the online repository under subchapter C and through the Federal Depository Library Program under subchapter D.

“(b) SPECIAL RULES FOR PRODUCTS MADE AVAILABLE ON WEBSITES OF ORIGINATING OFFICES.—

“(1) SHARING OF METADATA WITH DIRECTOR OF THE GOVERNMENT PUBLISHING OFFICE.—If an office of the Government makes an electronic information dissemination product of the office available to the public through the office’s website, the head of the office shall ensure that the Director of the Government Publishing Office (acting through the Superintendent of Documents) has the appropriate metadata associated with the product to enable the Director of the Government Publishing Office to provide a link to the product through the online re-

pository under subchapter C and to otherwise provide permanent public access to the product for purposes of this chapter.

“(2) TREATMENT OF ONLINE FEE-FOR-SERVICE PROGRAMS.—If an office of the Government makes IDPs available to the public online under a fee-for-service program, the office shall ensure that the Superintendent of Documents has access to such services, at a cost no greater than the applicable price described in section 1722(a)(2), so that the Superintendent may make such services available to Federal Depository Libraries under subchapter D.

“(c) ONLINE PUBLIC ACCESS DURING TRANSITION TO ONLINE REPOSITORY.—If, at any time after the effective date of the FDLP Modernization Act of 2018, the online repository under subchapter C is not in operation, each office in which an electronic information dissemination product originates shall provide permanent public access to the IDP through an electronic communications system or network.

“§ 1725. Cataloging and related services for information dissemination products

“(a) CATALOGING, INDEXING, IDENTIFICATION, LOCATION, AVAILABILITY, AND FORMAT DESIGNATION SERVICES.—

“(1) SERVICES DESCRIBED.—The Superintendent of Documents shall—

“(A) perform cataloging, indexing, identification, location, availability, and format designation services with respect to the information dissemination products included in the national collection under this subchapter;

“(B) perform cataloging, indexing, identification, location, availability, and format designation services with respect to any information dissemination products which are included in the historical collection under section 1721(d); and

“(C) make the resulting cataloging, indexing, identification, location, availability, and format designation information available for no-fee public access under the program described in subsection (b), and as part of the national collection under this subchapter.

“(2) ENSURING INCORPORATION OF CURRENT METHODOLOGIES AND PRACTICES.—The Superintendent shall periodically review and revise the methods by which the Superintendent performs the services required under paragraph (1) to ensure that such methods incorporate contemporary library and information management methodologies and practices.

“(3) RULE OF CONSTRUCTION RELATING TO PRODUCTS NOT SUBJECT TO PUBLIC ACCESS.—Nothing in this subchapter may be construed to waive the requirement that the Superintendent perform services under subparagraph (A) of paragraph (1) with respect to an information dissemination product which is included in the national collection under this subchapter but for which the Superintendent does not provide public access to the product under section 1721(c).

“(b) CATALOG OF GOVERNMENT PRODUCTS.—

“(1) ESTABLISHMENT OF CATALOG.—The Superintendent of Documents shall establish and maintain a Catalog of Government Products consisting of a comprehensive set of metadata, including the digital object identifier, associated with information dissemination products, including existing products which are not yet catalogued, and may make the records of such Catalog available in other bibliographic utilities that support widely available record sharing.

“(2) NATIONAL BIBLIOGRAPHIC RECORDS INVENTORY.—The Superintendent shall carry out a program to bring fugitive documents under bibliographic control and to make records associated with such documents available through the Catalog established and maintained under paragraph (1) and other appropriate bibliographic utilities.

“(c) DIGITIZATION.—

“(1) IN GENERAL.—The Superintendent of Documents is authorized to digitize, to the greatest extent practicable, all information dissemination products created at any time, and to include such products in digitized form in the national collection under this subchapter.

“(2) AUTHENTICATION.—To the greatest extent practicable, the Superintendent shall identify the chain of custody or other provenance of IDPs in the national collection under this subchapter which are in digitized form, and shall verify that such IDPs are complete and unaltered.

“(d) AUTHORIZING ACTIVITIES TO BE CARRIED OUT BY OTHER ENTITIES.—

“(1) AUTHORIZATION.—The Superintendent of Documents may enter into an agreement with another entity (including a Federal Depository Library under subchapter D) to carry out any of the activities authorized under this section, in accordance with regulations promulgated under this subchapter.

“(2) TREATMENT OF WORK PRODUCT AS WORK OF UNITED STATES GOVERNMENT FOR PURPOSES OF COPYRIGHT.—For purposes of section 105 of title 17, any work product produced under an agreement entered into under paragraph (1) shall be considered a work of the United States Government.

“(e) COORDINATION WITH OTHER LEGISLATIVE BRANCH OFFICIALS.—In carrying out this section, the Superintendent shall coordinate and consult with appropriate officials of the legislative branch, including the Clerk of the House of Representatives, the Secretary of the Senate, and the Librarian of Congress, with respect to the dissemination of information dissemination products under this subchapter for inclusion in the legislative information retrieval system established and operated under section 209 of the Legislative Branch Appropriations Act, 1996 (2 U.S.C. 180).

“§ 1726. Collection development plan

“(a) PLAN.—The Superintendent of Documents shall establish a collection development plan for the national collection of information dissemination products under this subchapter, taking into consideration the requirements of the online repository under subchapter C and the needs of the Federal Depository Library Program under subchapter D.

“(b) REGULATIONS.—The collection development plan under this section shall be carried out in accordance with regulations promulgated under this subchapter.

“§ 1727. Replacement and removal of products from national collection

“(a) LIMITATION ON REPLACEMENT AND REMOVAL.—An information dissemination product may not be replaced or removed from the national collection under this subchapter except as provided under the policies described in subsection (b).

“(b) POLICIES.—

“(1) IN GENERAL.—The Superintendent of Documents shall carry out each of the following policies with respect to the information dissemination products, regardless of form or format, which are included in the national collection under this subchapter:

“(A) A policy for the replacement of an IDP in case of error.

“(B) A policy for the removal of an IDP when required to comply with relevant law.

“(2) REQUIREMENTS.—The policies described in paragraph (1) shall provide for—

“(A) notification of the replacement or removal to the public and the Federal Depository Libraries; and

“(B) compliance with relevant law, including the need for the preservation of materials for archival purposes with the National Archives and Records Administration.

“(c) REGULATIONS.—Each of the policies under this section shall be carried out in accordance with regulations promulgated under this subchapter.

“SUBCHAPTER C—ONLINE REPOSITORY

“§ 1731. Establishment and operation of online repository for no-fee access to information dissemination products

“(a) ONLINE REPOSITORY.—The Director of the Government Publishing Office shall establish and operate a trustworthy information system and online repository through which members of the public may obtain, at no charge, information dissemination products which are included in the national collection established and maintained under subchapter B.

“(b) OPEN AND BULK FORMATS.—To the greatest extent practicable, the online repository shall provide users with access to IDPs in open, machine-readable, and nonproprietary formats, and be available for bulk download with the relevant metadata incorporated.

“(c) PRESERVATION OF PRODUCTS.—The Director of the Government Publishing Office shall ensure the preservation for permanent public access of information dissemination products included in the online repository, including through a program providing for the permanent retention of digital materials.

“§ 1732. Authentication of products

“(a) **REQUIRING AUTHENTICATION.**—To the greatest extent practicable, the Director of the Government Publishing Office shall ensure that each information dissemination product made available on the online repository under this subchapter is authenticated, identify the product’s chain of custody or other provenance, and verify that the product is complete and unaltered.

“(b) **IDENTIFICATION OF NON-AUTHENTICATED PRODUCTS.**—The Director of the Government Publishing Office shall ensure that if any IDP in the online repository is not authenticated, the lack of authentication shall be noted within the IDP.

“§ 1733. Privacy of users

“(a) **PROTECTING USER PRIVACY.**—Not later than 180 days after the date of the enactment of the FDLP Modernization Act of 2018, the Superintendent of Documents shall implement measures to protect the privacy of individuals using the online repository under this subchapter, and shall ensure that such measures provide users with at least the same level of privacy as provided under section 552a of title 5 (commonly known as the Privacy Act of 1974) and section 208 of the E–Government Act of 2002 (Public Law 107–347; set out as a note under section 3501 of this title).

“(b) **REGULATIONS.**—This section shall be carried out in accordance with regulations promulgated under this subchapter.

**“SUBCHAPTER D—FEDERAL DEPOSITORY LIBRARY
PROGRAM**

“§ 1741. No-fee access to products through Federal Depository Libraries

“(a) **FEDERAL DEPOSITORY LIBRARY PROGRAM.**—The Director of the Government Publishing Office, acting through the Superintendent of Documents, shall operate a program under which, in accordance with this subchapter—

“(1) the Superintendent of Documents shall designate libraries as Federal Depository Libraries, including Selective Depository Libraries, Regional Depository Libraries, and Preservation Depository Libraries;

“(2) the Superintendent shall furnish, at no cost, to each library designated as a Federal Depository Library under this subchapter access to the national collection of information dissemination products under subchapter B, including—

“(A) complete access to cataloging, indexing, identification, location, availability, and format designation services under section 1725;

“(B) complete access to the online repository under subchapter C; and

“(C) such information dissemination products as are provided for in this subchapter; and

“(3) each such Federal Depository Library shall provide no-fee access to the collection to members of the public.

“(b) **SPECIAL RULE FOR COPIES OF CONGRESSIONAL DOCUMENTS.**—

“(1) **REPORTS OR OTHER DOCUMENTS OF CONGRESS.**—

“(A) IN GENERAL.—Notwithstanding section 701 of this title, the Director of the Government Publishing Office shall print and provide such number of copies of each report or other document of Congress as the Superintendent of Documents may establish for purposes of furnishing such reports and documents for the Federal Depository Library Program under this subchapter.

“(B) FORMAT; BINDING.—The Director shall provide the Superintendent of Documents with the copies required under this paragraph in unbound form as soon as practicable after printing is completed, except that any report or other document of sufficient size on any one subject (as established by the Superintendent) shall be bound separately and receive the title suggested by the subject of the volume. The Director shall provide that the bound sets of such reports or other documents are arranged in volumes and bound in a practical and economical manner as established by the Superintendent.

“(2) CONGRESSIONAL RECORD.—Notwithstanding section 906 of this title, the Director of the Government Publishing Office shall print and provide such number of copies of the Congressional Record as the Superintendent of Documents may establish for purposes of furnishing the Congressional Record for the Federal Depository Library Program under this subchapter.

“§ 1742. Requirements for Federal Depository Libraries

“(a) MINIMUM REQUIREMENTS DESCRIBED.—Each library designated as a Federal Depository Library under this subchapter shall meet the following requirements:

“(1) The library shall provide members of the public with no-fee access to all of the information dissemination products furnished to the library by the Superintendent of Documents under this chapter—

“(A) in electronic format by providing internet access to the online repository under subchapter C and to cataloging, indexing, identification, location, availability, and format designation services under section 1725; and

“(B) in any format deposited under this subchapter.

“(2) The library shall ensure that a member of the library’s staff who is knowledgeable about the services described in paragraph (1) is reasonably available to assist patrons with the provision of such services.

“(3) The library shall meet such other additional requirements as the Superintendent may establish by regulations promulgated under this subchapter.

“(b) MAINTENANCE AND REMOVAL OF DEPOSITED IDPs.—In addition to the requirements described in subsection (a), each library designated as a Federal Depository Library under this subchapter shall maintain the information dissemination products furnished to the library by the Superintendent under this chapter (regardless of form or format) in accordance with such policies as the Superintendent may establish, and may remove any such products only in accordance with such policies as the Superintendent may establish (consistent with the requirements of section 1744 in the case

of Selective Depository Libraries and the requirements of section 1745 in the case of Regional Depository Libraries).

“(c) MANAGEMENT OF IDPS IN TANGIBLE FORM.—Any information dissemination product which is deposited with a Federal Depository Library under this subchapter in tangible form remains the property of the United States Government unless the IDP is donated to the Library under section 1743(b).

“(d) REGULATIONS.—The Superintendent shall establish the requirements of this section in accordance with regulations promulgated under this subchapter. Such regulations shall encourage participation by a broad and diverse group of libraries, and may not establish a limit on the number of libraries which may be designated under this section.

“§ 1743. Services available for depository libraries

“(a) OPTIONAL DIGITAL DEPOSIT.—

“(1) IN GENERAL.—At the option of the Library, a Federal Depository Library may receive directly from the Superintendent of Documents deposits in electronic format of information dissemination products included in the national collection, unless impracticable, in accordance with regulations promulgated under this subchapter.

“(2) PROTECTING PRIVACY OF USERS.—If the Library permits individuals to seek access to IDPs which are hosted on its own server in accordance with this subsection, the Library shall comply to the extent practicable with the same measures implemented by the Superintendent of Documents to protect the privacy of individuals who seek access to IDPs through the use of online repository under subchapter C.

“(b) DONATION OF IDPS.—If an information dissemination product deposited with a Federal Depository Library is no longer needed for purposes of this subchapter, the Superintendent may donate the product to the Library, in accordance with regulations promulgated under this subchapter.

“(c) AVAILABILITY OF TRAINING PROGRAM FOR USE OF LIBRARIES.—

“(1) DEVELOPMENT OF PROGRAM.—The Superintendent shall develop a training and continuing education program which may be used by Federal Depository Libraries to promote the ability of the Libraries to understand the operation of the program under this subchapter and the content of the materials furnished to the Libraries under the program.

“(2) OPTIONAL USE OF PROGRAM.—The use by any Federal Depository Library of the program developed under paragraph (1) shall be optional for the Library.

“(3) AVAILABILITY TO PUBLIC.—Nothing in this subsection may be construed to prohibit the Superintendent from making the program developed under paragraph (1) or any materials developed as part of such program available to the public, as the Superintendent considers appropriate.

“§ 1744. Selective Depository Libraries

“(a) SELECTIVE DEPOSITORY LIBRARIES DESCRIBED.—A library which is designated as a Federal Depository Library may, at its re-

quest, be designated as a Selective Depository Library if the Library meets the following requirements:

“(1) The Library provides access to selected information dissemination products in tangible form as provided by the Superintendent of Documents, under regulations promulgated under this subchapter.

“(2) The Library agrees to maintain its collection of such IDPs in tangible form for a minimum of 5 years after receipt, unless the Superintendent authorizes earlier withdrawal.

“(3) The Library collaborates with a Regional Depository Library (as designated under section 1745) on the maintenance of a regional collection of such IDPs in tangible form.

“(4) A Member of Congress makes a recommendation to the Superintendent that the Library should be designated as a Selective Depository Library.

“(b) REGULATIONS; LIMITATION ON NUMBER.—The Superintendent shall carry out this section in accordance with regulations promulgated under this subchapter. Such regulations shall provide for an adequate number and distribution of Selective Depository Libraries in order to meet the information needs of the public, and shall not prevent the designation of at least one Selective Depository Library in each congressional district.

“§ 1745. Regional Depository Libraries

“(a) REGIONAL DEPOSITORY LIBRARIES DESCRIBED.—A library which is designated as a Federal Depository Library may, at its request, be designated as a Regional Depository Library if the Library meets the following requirements:

“(1) The Library agrees to receive its information dissemination products from the Superintendent of Documents for purposes of this subchapter in tangible form, except that the Library may decline to receive an IDP in tangible form if the authenticated IDP is available through the online repository under subchapter C.

“(2) The Library provides access to all IDPs under this subchapter regardless of form or format.

“(3) The Library coordinates and collaborates with Selective Depository Libraries to maintain access to the collection of IDPs available within the region, including IDPs deposited prior to the library’s designation as a Federal Depository Library under this subchapter, and may do so by housing some of its collection at one or more Selective Depository Libraries pursuant to an agreement with such Selective Depository Library.

“(4) The Library agrees to provide services under this subchapter to Selective Depository Libraries under agreements facilitated by the Superintendent of Documents, in accordance with regulations promulgated under this subchapter.

“(5) A Senator (or, in the case of a Library in the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, a Delegate or Resident Commissioner to the Congress) makes a recommenda-

tion to the Superintendent that the Library should be designated as a Regional Depository Library.

“(b) WITHDRAWAL OF COLLECTION OF TANGIBLE IDPs.—A Regional Depository Library may withdraw from its collection an IDP which is in tangible form if—

“(1) the authenticated IDP is available through the online repository under subchapter C; and

“(2) the Superintendent has identified for preservation an appropriate number of copies of the IDP in tangible form in a sufficient number of Federal Depository Libraries.

“(c) RELOCATION OF COLLECTION OF TANGIBLE IDPs.—If a collection of information dissemination products in tangible form is relocated from a Regional Depository Library to another Federal Depository Library under this subchapter (including relocation resulting from the selective discarding of such products and the acceptance of such discarded products by another Federal Depository Library), the Director of the Government Publishing Office may pay the costs of the relocation, including related cataloging and transportation costs.

“(d) REGULATIONS; CONTENTS.—

“(1) IN GENERAL.—The Superintendent shall carry out this section in accordance with regulations promulgated under this subchapter. Such regulations shall—

“(A) in establishing criteria for agreements between Regional Depository Libraries and Selective Depository Libraries (as described in paragraph (4) of subsection (a)), give preference to any consortia and similar collaborative efforts in effect between such Libraries, without regard to geographic restrictions;

“(B) limit the number of Regional Depository Libraries located in any State to 2; and

“(C) unless impracticable, provide for the designation of at least 2 Regional Depository Libraries in each census region.

“(2) CONSULTATION.—In establishing regulations under paragraph (1), the Superintendent shall consult with Selective Depository Libraries and Regional Depository Libraries.

“§ 1746. Preservation Depository Libraries

“(a) PRESERVATION DEPOSITORY LIBRARIES DESCRIBED.—A library which is designated as a Federal Depository Library may, at its request, be designated as a Preservation Depository Library if the Library enters into an agreement with the Superintendent of Documents to assist the Superintendent with the preservation of information dissemination products in the national collection under subchapter B.

“(b) LOCATION OF PRODUCTS.—Under an agreement under this section, a Preservation Depository Library may preserve IDPs (regardless of form or format) by housing them at its own location or by coordinating and managing all or part of collections of IDPs which are housed at other Federal Depository Libraries.

“(c) PRESERVATION AGREEMENTS WITH OTHER ENTITIES.—In addition to designating Preservation Depository Libraries under this section, the Superintendent may enter in agreements with other

entities to assist the Superintendent with the preservation of information dissemination products in the national collection under subchapter B.

“(d) REGULATIONS.—The Superintendent shall carry out this section in accordance with regulations promulgated under this subchapter. Under such regulations, the Superintendent shall seek to designate Preservation Depository Libraries in a manner which promotes geographic diversity.

“§ 1747. Procedures for designation

“(a) IN GENERAL.—The Superintendent of Documents may designate a library as a Federal Depository Library under this subchapter if the Library provides the Superintendent (at such time and in such form as the Superintendent may require) such information and assurances as the Superintendent may require to determine that the library will meet the applicable requirements of this subchapter, in accordance with regulations promulgated under this subchapter.

“(b) TERMINATION OF DESIGNATION.—

“(1) TERMINATION.—The designation of a library as a Federal Depository Library, Selective Depository Library, Regional Depository Library, or Preservation Depository Library under this subchapter may be terminated by the Superintendent only—

“(A) if the Superintendent determines that the library does not meet the applicable requirements for designation under this subchapter; or

“(B) at the request of the library.

“(2) CRITERIA FOR DETERMINATION.—The determination by the Superintendent under subparagraph (A) of paragraph (1) shall be made in accordance with regulations promulgated under this subchapter which shall provide for a reasonable opportunity for remediation.

“SUBCHAPTER E—SALES PROGRAM

“§ 1751. Sales program

“(a) AUTHORIZATION OF SALES PROGRAM.—

“(1) IN GENERAL.—The Director of the Government Publishing Office may operate a program for the sale of information dissemination products to the public.

“(2) FORMAT OF PRODUCTS OFFERED.—The Director may offer products for sale under the program in any form or format (including tangible and electronic), except that if the Director makes alterations to the product by reformatting or otherwise manipulating the original form or format of the content of the product to prepare it for sale, the Director must disclose such alterations on the product.

“(3) EXCLUSION OF CONFIDENTIAL MATERIALS.—The Director may not offer any product for sale under the program if the product is confidential in nature.

“(b) ACQUISITION OF PRODUCTS.—

“(1) AUTHORIZATION OF ADDITIONAL PRODUCTION OR PROCUREMENT.—The Director of the Government Publishing Office may produce or procure additional copies of IDPs for the use

of the sales program, so long as such production or procurement does not interfere with the prompt execution of IDP production or procurement for the Government.

“(2) REPRINTING OF DOCUMENTS.—In the case of an IDP which consists of a document, the Director may from time to time reprint additional copies of the document for sale under the program, so long as the Director notifies the office which created the IDP.

“(3) BLANK FORMS.—The Director may print additional copies of approved Government forms for sale to the public under the sales program.

“(c) RESALE BY COMMERCIAL VENDORS.—

“(1) AUTHORIZATION OF RESALE.—As part of the sales program, the Director of the Government Publishing Office may authorize the resale of IDPs by book dealers and other commercial vendors, under such terms and conditions as the Director may establish.

“(2) NO EFFECT ON PUBLIC ACCESS.—Nothing in paragraph (1) may be construed to remove any IDP which is subject to resale under such paragraph (including the original text and the underlying data) from the public domain, or to waive any requirement that the IDP be available for no-fee public access under any other subchapter of this chapter.

“§ 1752. Determination of costs of products

“(a) OPERATION OF PROGRAM ON SELF-SUSTAINING BASIS.—To the greatest extent feasible, the Director of the Government Publishing Office shall operate the sales program under this subchapter on a self-sustaining basis, so that the prices of the information dissemination products sold will cover the cost of procurement or production, dissemination, and other appropriate costs associated with the program as determined by the Director, including the offering of sales discounts.

“(b) SPECIAL RULE FOR FEDERAL DEPOSITORY LIBRARY PROGRAM.—The Director of the Government Publishing Office shall ensure that any IDP (regardless of form or format) which is made available for sale under the sales program is offered to the Superintendent of Documents for purposes of this chapter at no greater than the applicable price described in subsection (a)(2) of section 1722.

“§ 1753. Inventory

“(a) ANNUAL INVENTORY.—The Director of the Government Publishing Office shall conduct an inventory of the sales program under this subchapter each fiscal year and use the results of the inventory to determine stock levels necessary for the next year.

“(b) DESTRUCTION OR REMAINDERING OF INVENTORY.—Prior to destroying or remaindering any inventory of IDPs, the Director of the Government Publishing Office shall first offer the inventory at no cost to—

“(1) the Superintendent of Documents for purposes of the other subchapters of this chapter; and

“(2) if the Superintendent rejects the offer, the office which created the IDPs.

“SUBCHAPTER F—OTHER PROGRAMS AND AUTHORITIES

“§ 1761. By-law distribution program

“(a) HOUSE OF REPRESENTATIVES AND SENATE.—For each fiscal year, the Superintendent shall deliver information dissemination products to the Clerk of the House of Representatives for use in the libraries of the House and to the Secretary of the Senate for use in the libraries of the Senate.

“(b) NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.—For each fiscal year, the Superintendent shall deliver information dissemination products to the National Archives and Records Administration for use by the Archivist of the United States, including use by the Presidential Library established for the President during whose term the IDPs were produced, based on a determination made by the Archivist and the Superintendent jointly of the number of IDPs necessary for the use of the Archivist.

“(c) FOREIGN DISSEMINATION.—

“(1) UNITED STATES LEGATIONS AND CONSULATES.—The Superintendent may disseminate an information dissemination product to a legation or consulate of the United States only if the Secretary of State, by an order to be recorded in the State Department, determines that the dissemination is suitable for and required by the legation and consulate.

“(2) FOREIGN LEGATIONS.—The Superintendent may disseminate an information dissemination product to a foreign legation to the United States only upon request of the Secretary of State, and only in such number as the Secretary provides in the request. The Superintendent may disseminate an IDP to a foreign legation to the United States without cost only if the government of such legation furnishes copies of its printed and legislative documents to legations of the United States.

“(d) LIBRARY OF CONGRESS AND CONGRESSIONAL RESEARCH SERVICE.—

“(1) LIBRARY OF CONGRESS.—For each fiscal year, the Superintendent shall furnish to the Library of Congress a number of full and partial sets of information dissemination products in a timely manner, based on a determination made by the Librarian of Congress and transmitted to the Superintendent of the number of sets necessary for the Library to provide services to Congress and to maintain its collections for such fiscal year.

“(2) CONGRESSIONAL RESEARCH SERVICE.—For each fiscal year, the Superintendent shall furnish to the Congressional Research Service a number of full and partial sets of information dissemination products in a timely manner, based on a determination made by the Director of the Congressional Research Service and transmitted to the Superintendent of the number of sets necessary to provide services to Congress for such fiscal year. The Director shall make a payment for the costs incurred by the Superintendent in furnishing IDPs under this paragraph, and for the related costs of carrying out this paragraph, based on the incremental costs of printing, using funds appropriated to the Director for such purpose.

“§ 1762. International Exchange Service Program

“(a) DISSEMINATION THROUGH LIBRARIAN OF CONGRESS.—For each fiscal year, the Superintendent shall furnish a number of full and partial sets of information dissemination products in a timely manner to the Library of Congress to enable the Librarian of Congress to meet the requirements of international exchange service programs for such fiscal year, based on a determination made by the Librarian of Congress and transmitted to the Superintendent of the number of sets necessary for such purpose. The costs of carrying out this subsection shall be charged to appropriations provided for the Superintendent for purposes of this subsection.

“(b) INTERNATIONAL EXCHANGE SERVICE PROGRAMS DESCRIBED.—In this section, an ‘international exchange service program’ is any program to fully carry into effect the convention concluded at Brussels on March 15, 1886, and proclaimed by the President of the United States on January 15, 1889, and all subsequent bilateral and multilateral treaties and agreements under which copies of Government publications are provided for distribution to foreign governments which agree, as indicated by the Librarian of Congress, to send to the United States similar publications of their governments for delivery to the Library of Congress.

“§ 1763. Acceptance of gifts

“The Director of the Government Publishing Office may accept and use gifts and bequests of property (both real and personal) and services in support of the Superintendent’s responsibilities under this chapter.

“§ 1764. Authorities of Director of the Government Publishing Office

“(a) PLENARY AUTHORITY TO PROMOTE PUBLIC ACCESS TO PRODUCTS.—Consistent with this chapter and other applicable laws, the Director of the Government Publishing Office may take such measures as the Director considers necessary to ensure the timely dissemination of information dissemination products to the public and to expand and improve the maintenance of permanent public access to such products.

“(b) REGULATIONS.—

“(1) IN GENERAL.—The Director of the Government Publishing Office may promulgate such regulations as the Director considers necessary to carry out any subchapter of this chapter on behalf of the Superintendent of Documents, in accordance with the requirements of this section.

“(2) APPLICATION OF ADMINISTRATIVE PROCEDURES.—The promulgation of regulations by the Director pursuant to this subsection shall be subject to the following laws:

“(A) Section 553 of title 5 (relating to notice and comment requirements for agency rule making).

“(B) Chapter 7 of title 5 (relating to judicial review of agency actions).

“(3) MANDATORY REVIEW.—3 years after the promulgation of any regulation pursuant to this subsection and every 3 years thereafter, the Director shall conduct a review of the regulation

to determine whether or not the regulation should be updated or repealed.

“(4) CONSULTATION WITH LIBRARIES.—The Director shall carry out paragraphs (1) and (3) in consultation with the Federal Depository Libraries and other appropriate parties.

“(5) PERMANENT RETENTION; PUBLIC ACCESSIBILITY.—The Director shall ensure that any regulation promulgated pursuant to this subsection is retained permanently in the records of the Government Publishing Office and is fully accessible to the public.

“§ 1765. Source of funds used to carry out programs and activities

“The costs of carrying out any programs and activities under this chapter shall be paid solely from a separate appropriation made for the activities of the Superintendent of Documents or from gifts and bequests accepted under section 1763.

“§ 1766. Congressional oversight

“(a) REPORTS.—Not later than 45 days after the first 6 months of each fiscal year, and not later than 45 days after the next 6 months of each fiscal year, the Director of the Government Publishing Office shall submit to the Joint Committee on Printing a report on the activities of the Superintendent of Documents during the previous 6 months, and shall include in the report the following information:

“(1) Gifts accepted by the Director under section 1763, including the donor, the amount, and the disposition.

“(2) Actions taken to ensure the protection of the privacy of users of information dissemination products.

“(3) The status of the Depository Library Program under subchapter D.

“(4) The status of any pending rules or regulations proposed under this chapter.

“(5) Notifications received by the Superintendent of Documents under section 1723(a).

“(6) Any information dissemination products replaced or recalled under section 1727 from the national collection established under subchapter B.

“(b) POSTING FOR NO-FEE PUBLIC ACCESS.—At the time of submitting a report under subsection (a) to the Joint Committee on Printing, the Director of the Government Publishing Office shall post an electronic version of the report on the Government Publishing Office’s official website for no-fee public access.”.

(b) CONFORMING AMENDMENTS TO TITLE 44, UNITED STATES CODE.—

(1) DISTRIBUTION OF CONGRESSIONAL DOCUMENTS FOR LIBRARY OF CONGRESS AND INTERNATIONAL EXCHANGE SERVICE PROGRAMS.—Section 701 of title 44, United States Code, is amended—

(A) in subsection (b), by striking “ten copies, as provided by section 1718 of this title” each place it appears and inserting “the number of copies determined in accordance with section 1761(d) of this title”; and

(B) in subsection (c), by striking “not to exceed one hundred and fifty copies, as provided by section 1718 of this title” and inserting “the number of copies determined in accordance with section 1761(d) of this title”; and

(C) in subsection (c), by striking “as provided by sections 1718 and 1719 of this title” and inserting “as determined in accordance with sections 1761(d) and 1762 of this title”.

(2) DISTRIBUTION OF CONGRESSIONAL RECORD FOR LIBRARY OF CONGRESS AND INTERNATIONAL EXCHANGE PROGRAMS.—Section 906 of such title is amended by striking “as provided by sections 1718 and 1719 of this title, not to exceed one hundred and forty-five copies of the daily, five semimonthly copies, and one hundred and fifty bound copies” and inserting “the number of copies determined in accordance with sections 1761(d) and 1762 of this title”.

(3) PREPARATION OF FEDERAL REGISTER AND CODE OF FEDERAL REGULATIONS.—The last sentence of section 1504 of such title is amended by striking “by sections 1705 and 1708 of this title” and inserting “by subchapter E of chapter 17 of this title”.

(4) OTHER CONFORMING AMENDMENTS.—Title 44, United States Code, is further amended by striking chapters 19 and 41.

(c) CLERICAL AMENDMENTS.—The table of chapters for title 44, United States Code, is amended—

(1) by striking the item relating to chapter 17 and inserting the following:

“CHAPTER 17—NO-FEE PUBLIC ACCESS TO GOVERNMENT INFORMATION”; AND

(2) by striking the items relating to chapters 19 and 41.

SEC. 3. TRANSITION.

(a) TREATMENT OF INDIVIDUAL CURRENTLY HOLDING POSITION OF SUPERINTENDENT OF DOCUMENTS.—

(1) PERMITTING INDIVIDUAL TO SERVE ON INTERIM BASIS.—For purposes of title 44, United States Code, as amended by this Act, any individual who holds the position of Superintendent of Documents as of the effective date of this Act shall be deemed to meet the qualifications for such position under such title, and shall be permitted to remain in that position after the effective date of this Act until the Director of the Government Publishing Office appoints an individual to serve as the Superintendent of Documents under section 1702 of such title, as amended by this Act. Nothing in this paragraph shall be construed to prohibit the Director from appointing such an individual as the Superintendent of Documents under section 1702 of such title, as amended by this Act.

(2) SPECIAL RULE ON COMPENSATION.—If an individual described in paragraph (1) serves as Superintendent of Documents pursuant to the authority of such paragraph after the effective date of this Act, the individual shall receive compensation for such service after such date at the same annual rate of compensation the individual received as of the effective date of this Act. If the Director of the Government Publishing Office appoints the individual to serve as Superintendent of

Documents under section 1702 of title 44, United States Code, as amended by this Act, the individual shall be compensated in accordance with such section.

(b) **TRANSITION FOR EXISTING DEPOSITORY LIBRARIES.**—For purposes of chapter 17 of title 44, United States Code, as amended by this Act—

(1) each institution which, as of the effective date of this Act, is designated as a depository library under chapter 19 of such title (as in effect prior to such date) shall be deemed to have been designated as a Federal Depository Library under chapter 17 of such title on the effective date of this Act;

(2) each institution which, as of the effective of this Act, is designated as a selective depository library under chapter 19 of such title (as in effect prior to such date) shall be deemed to have been designated as a Selective Depository Library under chapter 17 of such title on the effective date of this Act; and

(3) each institution which, as of the effective date of this Act, is serving a regional depository library under chapter 19 of such title (as in effect prior to such date) shall be deemed to have been designated as a Regional Depository Library under chapter 17 of such title on the effective date of this Act.

SEC. 4. GAO STUDY AND REVIEW OF IMPLEMENTATION OF CHANGES TO RULES GOVERNING PUBLIC ACCESS TO GOVERNMENT PUBLICATIONS.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the implementation of chapter 17 of title 44, as amended by this Act. Such study shall include an analysis of—

(1) the status of the implementation of such chapter;

(2) the extent of compliance by offices of the Federal government with the requirements of such chapter;

(3) the effectiveness of such chapter at meeting the needs of the public and Federal Depository Libraries in providing public access to government information; and

(4) other related issues determined appropriate by the Comptroller General.

(b) **REPORT.**—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Joint Committee on Printing a report on the study conducted under subsection (a).

SEC. 5. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall apply with respect to the first fiscal year which begins after the date of the enactment of this Act and each succeeding fiscal year.

The **CHAIRMAN**. This amendment makes a number of technical changes to clarify and strengthen the FDLP program. For purposes of time, each member has been provided with a copy of the amendment.

Does any Member wish to be heard on the amendment in the nature of a substitute or wish to offer an amendment? If not the question, is on adopting the amendment.

All those in favor of the amendment, say aye.

All those opposed, say no.

In the opinion of the chair, the ayes have it, and the amendment is agreed to.

I move that the Committee favorably report H.R. 5305, the FDLP—oh, I should look at my notes better.

Pursuant to Clause 2 of Rule 11, all Members are entitled to two additional calendar days to file such views in writing and signed by the member and file with the clerk of the Committee.

I move that the Committee favorably report H.R. 5305, the FDLP Modernization Act of 2018 as amended. The question is on the motion.

All those in favor, signify by saying aye.

All those opposed, signify by saying no.

In the opinion of the chair, the ayes have it and the motion is agreed to. Without objection, the motion to reconsider is laid on the table.

Does any member wish to submit supplemental or minority views?

Seeing none, I now call up H.R. 4631, the Access to Congressionally Mandated Reports Act. Without objection, the bill is considered read and the amendment in the nature of a substitute provided to each of you will serve as the base text and is considered open for amendment at any point.

[The bill follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 4631

OFFERED BY MR. HARPER

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Access to Congressionally Mandated Reports Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) CONGRESSIONALLY MANDATED REPORT.—The term “congressionally mandated report”—

(A) means a report that is required to be submitted to either House of Congress or any committee of Congress, or subcommittee thereof, by a statute, resolution, or conference report that accompanies legislation enacted into law; and

(B) does not include a report required under part B of subtitle II of title 36, United States Code.

(2) DIRECTOR.—The term “Director” means the Director of the Government Publishing Office.

(3) FEDERAL AGENCY.—The term “Federal agency” has the meaning given that term under section 102 of title 40, United States Code, but does not include the Government Accountability Office.

(4) OPEN FORMAT.—The term “open format” means a file format for storing digital data based on an underlying open standard that—

(A) is not encumbered by any restrictions that would impede reuse; and

(B) is based on an underlying open data standard that is maintained by a standards organization.

(5) REPORTS ONLINE PORTAL.—The term “reports online portal” means the online portal established under section (3)(a).

SEC. 3. ESTABLISHMENT OF ONLINE PORTAL FOR CONGRESSIONALLY MANDATED REPORTS.

(a) REQUIREMENT TO ESTABLISH ONLINE PORTAL.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Director shall establish and maintain an online portal accessible by the public that allows the public to obtain electronic copies of all congressionally mandated reports in one place. The Director may publish other reports on the online portal.

(2) EXISTING FUNCTIONALITY.—To the extent possible, the Director shall meet the requirements under paragraph (1) by using existing online portals and functionality under the authority of the Director.

(3) CONSULTATION.—In carrying out this Act, the Director shall consult with the Clerk of the House of Representatives, the Secretary of the Senate, and the Librarian of Congress regarding the requirements for and maintenance of congressionally mandated reports on the reports online portal.

(b) CONTENT AND FUNCTION.—The Director shall ensure that the reports online portal includes the following:

(1) Subject to subsection (c), with respect to each congressionally mandated report, each of the following:

(A) A citation to the statute, conference report, or resolution requiring the report.

(B) An electronic copy of the report, including any transmittal letter associated with the report, in an open format that is platform independent and that is available to the public without restrictions, including restrictions that would impede the re-use of the information in the report.

(C) The ability to retrieve a report, to the extent practicable, through searches based on each, and any combination, of the following:

(i) The title of the report.

(ii) The reporting Federal agency.

(iii) The date of publication.

(iv) Each congressional committee receiving the report, if applicable.

(v) The statute, resolution, or conference report requiring the report.

(vi) Subject tags.

(vii) A unique alphanumeric identifier for the report that is consistent across report editions.

(viii) The serial number, Superintendent of Documents number, or other identification number for the report, if applicable.

(ix) Key words.

(x) Full text search.

(xi) Any other relevant information specified by the Director.

- (D) The date on which the report was required to be submitted, and on which the report was submitted, to the reports online portal.
 - (E) Access to the report not later than 30 calendar days after its submission to Congress.
 - (F) To the extent practicable, a permanent means of accessing the report electronically.
- (2) A means for bulk download of all congressionally mandated reports.
 - (3) A means for downloading individual reports as the result of a search.
 - (4) An electronic means for the head of each Federal agency to submit to the reports online portal each congressionally mandated report of the agency, as required by section 4.
 - (5) In tabular form, a list of all congressionally mandated reports that can be searched, sorted, and downloaded by—
 - (A) reports submitted within the required time;
 - (B) reports submitted after the date on which such reports were required to be submitted; and
 - (C) reports not submitted.
- (c) **NONCOMPLIANCE BY FEDERAL AGENCIES.—**
- (1) **REPORTS NOT SUBMITTED.—**If a Federal agency does not submit a congressionally mandated report to the Director, the Director shall to the extent practicable—
 - (A) include on the reports online portal—
 - (i) the information required under clauses (i), (ii), (iv), and (v) of subsection (b)(1)(C); and
 - (ii) the date on which the report was required to be submitted; and
 - (B) include the congressionally mandated report on the list described in subsection (b)(5)(C).
 - (2) **REPORTS NOT IN OPEN FORMAT.—**If a Federal agency submits a congressionally mandated report that is not in an open format, the Director shall include the congressionally mandated report in another format on the reports online portal.
 - (d) **FREE ACCESS.—**The Director may not charge a fee, require registration, or impose any other limitation in exchange for access to the reports online portal.
 - (e) **UPGRADE CAPABILITY.—**The reports online portal shall be enhanced and updated as necessary to carry out the purposes of this Act.

SEC. 4. FEDERAL AGENCY RESPONSIBILITIES.

(a) **SUBMISSION OF ELECTRONIC COPIES OF REPORTS.—**Concurrently with the submission to Congress of each congressionally mandated report, the head of the Federal agency submitting the congressionally mandated report shall submit to the Director the information required under subparagraphs (A) through (D) of section 3(b)(1) with respect to the congressionally mandated report. Nothing in this Act shall relieve a Federal agency of any other requirement to publish the congressionally mandated report on the online portal of the Federal agency or otherwise submit the congressionally mandated report to Congress or specific committees of Congress, or subcommittees thereof.

(b) **GUIDANCE.**—Not later than 240 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Director, shall issue guidance to agencies on the implementation of this Act.

(c) **STRUCTURE OF SUBMITTED REPORT DATA.**—The head of each Federal agency shall ensure that each congressionally mandated report submitted to the Director complies with the open format criteria established by the Director in the guidance issued under subsection (b).

(d) **POINT OF CONTACT.**—The head of each Federal agency shall designate a point of contact for congressionally mandated report.

(e) **LIST OF REPORTS.**—As soon as practicable each calendar year (but not later than April 1), and on a rolling basis during the year if feasible, the Librarian of Congress shall submit to the Director a list of congressionally mandated reports from the previous calendar year, in consultation with the Clerk of the House of Representatives, which shall—

- (1) be provided in an open format;
- (2) include the information required under clauses (i), (ii), (iv), (v) of section 3(b)(1)(C) for each report;
- (3) include the frequency of the report;
- (4) include a unique alphanumeric identifier for the report that is consistent across report editions;
- (5) include the date on which each report is required to be submitted; and
- (6) be updated and provided to the Director, as necessary.

SEC. 5. REMOVING AND ALTERING REPORTS.

A report submitted to be published to the reports online portal may only be changed or removed, with the exception of technical changes, by the head of the Federal agency concerned if—

- (1) the head of the Federal agency consults with each congressional committee to which the report is submitted; and
- (2) Congress enacts a joint resolution authorizing the changing or removal of the report.

SEC. 6. RELATIONSHIP TO THE FREEDOM OF INFORMATION ACT.

(a) **IN GENERAL.**—Nothing in this Act shall be construed to—

- (1) require the disclosure of information or records that are exempt from public disclosure under section 552 of title 5, United States Code; or
- (2) to impose any affirmative duty on the Director to review congressionally mandated reports submitted for publication to the reports online portal for the purpose of identifying and redacting such information or records.

(b) **REDACTION OF INFORMATION.**—The head of a Federal agency may redact information required to be disclosed under this Act if the information would be properly withheld from disclosure under section 552 of title 5, United States Code, and shall—

- (1) redact information required to be disclosed under this Act if disclosure of such information is prohibited by law;
- (2) redact information being withheld under this subsection prior to submitting the information to the Director;

- (3) redact only such information properly withheld under this subsection from the submission of information or from any congressionally mandated report submitted under this Act;
- (4) identify where any such redaction is made in the submission or report; and
- (5) identify the exemption under which each such redaction is made.

SEC. 7. IMPLEMENTATION.

Except as provided in section 4(b), this Act shall be implemented not later than 1 year after the date of enactment of this Act and shall apply with respect to congressionally mandated reports submitted to Congress on or after the date that is 1 year after such date of enactment.

Amend the title so as to read: “A bill to require the Director of the Government Publishing Office to establish and maintain an online portal accessible to the public that allows the public to obtain electronic copies of all congressionally mandated reports in one place, and for other purposes.”.

The CHAIRMAN. This amendment will make a number of technical changes to Title 44 to clarify and strengthen transparency with respect to reports requested by Congress.

Does any Member wish to be heard on the amendment in the nature of a substitute or wish to offer an amendment? If not, the question is on adopting the amendment.

All those in favor of the amendment, say aye.

All those opposed, say no.

In the opinion of the Chair, the ayes have it, and the amendment is agreed to.

I now move the Committee favorably report H.R. 4631, the Access to Congressionally Mandated Reports Act as amended. The question is on the motion.

All those in favor, signify by saying aye.

All those opposed signify by saying no.

In the opinion of the Chair, the ayes have it, and the motion is agreed to. Without objection, the motion to reconsider is laid upon the table.

Does any Member wish to submit supplemental or minority views?

Pursuant to Clause 2 of Rule 11, all Members are entitled to two additional calendar days to file such views in writing and signed by the Member and file with the clerk of the Committee.

For all the matters here today, I would ask unanimous consent that the staff be authorized to make technical and conforming changes, if necessary. Without objection, so ordered.

That concludes today’s markup.

Without objection, the markup is adjourned.

[Whereupon, at 11:15 a.m., the Committee proceeded to other business.]