

**forever is a  
long long time**

**Title 44 & the promise of  
public access to federal  
information**

# forever is a long long time

Title 44 & the promise of public  
access to federal information

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Government Information Librarian

UCSB Library

LAUC-SB brown bag

November 14, 2017

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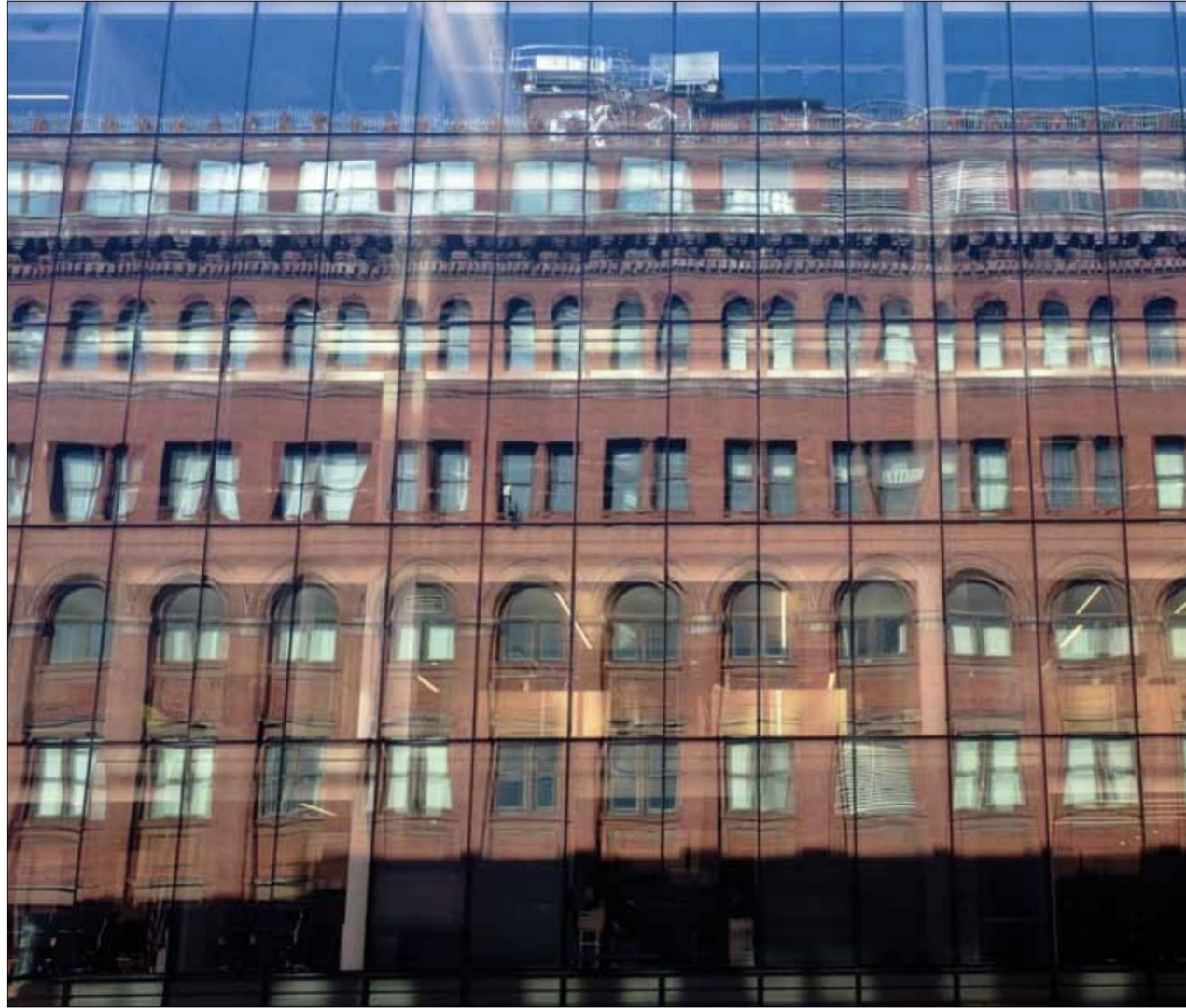
## outline

1. history
2. “modernization”
3. Title 44
4. key opportunities
5. “flexibility”
6. [redacted]
7. so what’s next?



# GPO: past & present

- 1861: Government Printing Office opens its doors
- 1873: GPO publishes the first issue of the Congressional Record
- 1895: Printing Act brings most printing under GPO's control
- 1936: GPO publishes the first issue of the Federal Register
- 1993: GPO Access Act authorizes a "directory, system of access, and electronic storage facility"
- 2014: Agency name & directorial title changed



# Superintendent of Documents

- 1813: Congress establishes a document distribution program under the Librarian of Congress
- 1869: Superintendent of Public Documents established within Department of Interior
- 1895: Office transferred to GPO; Cataloging & Indexing Program & Sales Program established
- 1962: Depository Library Act establishes modern FDLP
- 1972: Public Printer establishes Depository Library Council
- 1972 & 1978: By-law program expansions

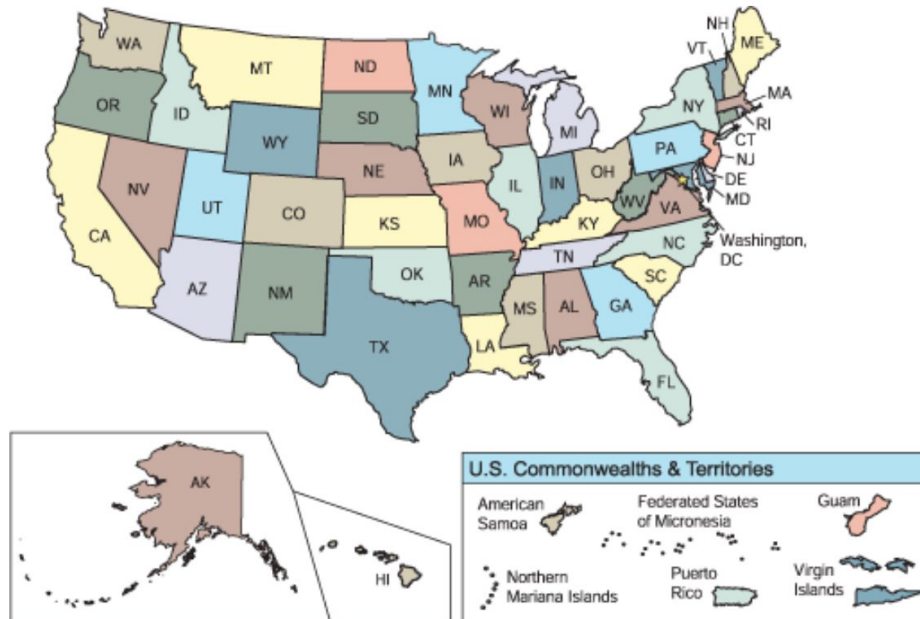




The United States Government is the largest publisher in the world. It distributes materials in a variety of formats, including electronic, CD, microfiche, and paper. As part of its publishing program, the U.S. Government Publishing Office (GPO) through the Federal Depository Library Program (FDLP) distributes certain classes of Government documents free of cost to designated libraries throughout the United States and its territories. These libraries are known as **Federal depository libraries**.

Federal depository libraries **must** offer free, public access to their Federal collections, even if the depository library is part of a private academic institution. In addition, information specialists are available at these libraries to assist the American public to locate Federal information.

Use the map below to locate a local Federal depository library or use the [advanced search](#).



# “modernization”

(and the can of worms)

# background...

- Depository Library Council (DLC) call for feedback regarding Title 44, Chapter 19 modernization -- June 27
- GPO Director testifies before Committee on House Administration (CHA) regarding Title 44 -- July 18
- Background emerges that the Committee on House Administration (CHA) is planning to rapidly begin work to revise Title 44 -- late July/early August
- ALA's Committee on Legislation (COL) submits a formal request to the Government Documents Round Table (GODORT) for feedback regarding Title 44 -- August 3
- ALA's Washington Office (WO) provides an initial draft for discussion to GODORT -- August 11
- GODORT submits a formal response to COL/WO -- August 31
- COL endorses ALA's position statement for Title 44 -- September 11
- CHA holds additional hearings about Title 44 -- September 26, October 11
- DLC meeting presents recommendations regarding Title 44 reform -- October 16
- GPO Director announces departure -- November 1



# Title 44: Public Printing & Documents

- chapter 17 - distribution and sale of public documents (§§ 1701 to 1722)
- chapter 19 - depository library program (§§ 1901 to 1916)
- chapter 41 - access to federal electronic information (§§ 4101 to 4104)

# modernization principles

## Identified by Free Government Information:

- Privacy
- Preservation
- Free Access and Free Use
- Modernized scope of information covered by Chapter 19 to include digital information.

## Identified by Government Documents Round Table (GODORT):

- Update the definition of “government publication.”
- Guarantee free access and privacy protections for users of federal information.
- Improve GPO’s ability to partner with depository libraries.
- Maintain the regional-selective depository model with minor changes.
- Make all information dissemination products managed by GPO available to collect and preserve.
- Create a role for depository libraries to accept deposit of digital federal information.

Full disclosure: I’m currently GODORT Chair, and also an FGI volunteer / occasional contributor

# modernization opportunities (1/2)

Identified by Depository Library Council:

- Amend § 1901 to redefine “Government publication” so that it may be clearly interpreted to include government information in all formats, so that electronic and possibly as yet undeveloped formats created to inform the public, at government expense or as required by law, can be incorporated into the Federal Depository Library Program.
- Amend § 1902 to require legislative, executive, and judicial branch agencies to deposit authenticated electronic publications with the U.S. Government Publishing Office (GPO) for inclusion in the Federal Depository Library Program. This complements our recommendation to amend § 1901, and we recommend that GPO be explicitly charged with caring for and managing these publications in a responsible and accountable manner, and with ensuring their long-term preservation.
- Amend § 1904 to permit the Superintendent of Documents to develop and maintain a mechanism to enable depository libraries to select only those publications they need, in whatever format is most appropriate. Remove references to a classified list.
- Amend § 1909 to remove the requirement that a depository library hold at least 10,000 books and stipulate instead that the library have physical and/or electronic collections sufficient to indicate organizational capacity to successfully participate in the FDLP.
- Amend § 1911 to permit selective depositories that are not served by a regional depository to dispose of government publications after retaining them for five years. Such withdrawals shall be conducted with guidance provided by the Superintendent of Documents, which may include oversight by another regional depository.
- Amend § 1912 to permit regional depositories to share their collections and services across state lines, so long as the Senators in the involved states agree.
- Amend §§ 1911 and 1912 to make authenticated digital copies of Government publications a format which a regional depository library may hold as deposited items so long as they are made freely available to the public.

# modernization opportunities (2/2)

Identified by Depository Library Council:

- Add a section to Chapter 19 to give GPO grant-making authority, and to enter into contracts or cooperative arrangements with depository libraries to enhance access to Government publications. Such activities may include, but are not limited to, the digitization of Government publications, preservation of Government publications, and cataloging Government publications.
- Amend §§ 3502 and 4101 so that “publication” is defined to include all formats of information, which parallels our recommendation to amend § 1901.
- Amend §§ 4101 and 4102 to affirm that the public shall have no-fee access to electronic government information, which constitutes a governing principle for keeping America informed and the work of the FDLP.
- Amend § 4101 to add provisions governing privacy, so that the public may use electronic information resources such as those provided by govinfo.gov with an expectation of privacy.

# GPO's modernization priorities (1/5)

A firm prohibition on charging the public any fees for accessing Government information through the FDLDP, and a guarantee of privacy for Government information users in depository libraries and online.

GPO should be made responsible for the lifecycle management of digital and tangible Government information (identify, acquire, catalog, preserve, disseminate, reformat) from all three branches of the Federal Government.

The definition of a Government publication found in 44 U.S.C. 1901 should indicate “regardless of form or format,” which will codify digital content and successor formats. The term “Government publication” should be revised to refer instead to “Government information dissemination product” or a comparable description. Further change to section 1901 is needed to remove the language of “published as an individual document” as online content is not always conveyed as one file.

# GPO's modernization priorities (2/5)

Recognition that GPO administers a distributed “National Collection of Government Information,” or “National Library of Government Information” housed in Federal depository libraries, and works in collaboration with other national libraries (Agriculture, Medicine, Education, Transportation, and the Library of Congress).

A Preservation Program must be a component of the Public Information Programs of the Superintendent of Documents to ensure permanent public access to the corpus of Federal Government information for future generations.

Authority to digitize previously printed historical materials disseminated to the public (could be a revision to either chapter 19 or chapter 41, USC). Similarly to assist in this effort, provide authority for GPO to accept and ingest digitized content, metadata, cataloging information, and other products and services for inclusion in FDsys/govinfo, or shared repositories for preserving print and digital Government information.

# GPO's modernization priorities (3/5)

Grant authority that initially will allow regional depository libraries to receive funding for innovative digital activities within their states that improve access to Government information.

The requirement for Federal agencies to supply GPO with lists of publications in section 1902 should be updated through a mechanism that ensures agency notification and supply of digital and tangible content to GPO.

Flexibility for depository libraries, particularly regional depositories, in managing their collections of depository resources, should include the ability to share collections and services across state lines, with the approval of the Senators from the participating states.

Regional tangible discards should be allowed when content is available on GPO's system of online access or from a GPO partner that meets the criteria for a trusted digital repository, as determined by the Superintendent of Documents.



# GPO's modernization priorities (4/5)

Repeal of the 10,000 book requirement of section 1909 because it is no longer a metric for success or sustainability. Instead, amend section 1905 to require GPO staff to visit potential depository libraries to assess their sustainability for housing depository collections or providing access services.

GPO should be provided a greater role in the disposition of material in depository libraries through authorization to establish retention parameters for both selective and regional depository libraries, and regardless of the presence of a regional depository library in the state.

Allow regional and selective depository libraries to elect to receive Government information products in the forms and formats (i.e., paper, digital, and microfiche) that best meet the needs of the communities they serve.

Revise section 1907 by deleting “after first offering them to the Library of Congress and the Archivist of the United States” and inserting instead “after first offering them to GPO.”

# GPO's modernization priorities (5/5)

The requirements of sections 1710-1711 for a Catalog of U.S. Government Publications should be transferred to chapter 19 and revised to require not only information on Government publications, regardless of form or format, but to also include information on where content is held and how it can be accessed. That is, the CGP will become an inventory of the National Collection. Sections 1710 and 1711 should also be revised to eliminate the requirement for production of printed indexes.

Consider transferring sections 4101 and 4104 to chapter 19, and repealing sections 4102 and 4103.

we all agree on  
some things...

## **§ 1901. Definition of Government publication**

“Government publication” as used in this chapter, means informational matter which is published as an individual document at Government expense, or as required by law.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1283.)

...informational matter? published? individual document?

**SUPERINTENDENT OF DOCUMENTS  
PUBLIC POLICY STATEMENT  
2016-5**

**EFFECTIVE:** 12/19/2016

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**SUBJECT: Harvesting Digital Federal Government Information Dissemination Products for  
GPO's Superintendent of Documents Programs**

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**PURPOSE**

To affirm that harvesting is an appropriate proactive approach for acquiring content for the public information programs administered by the Superintendent of Documents and, further, to provide guidance for determining information dissemination products that are within scope for manual and automated harvesting from Federal agency websites.

This is \*totally\* a § 1914 maneuver.

...but we don't agree  
on everything.

**“flexibility”**



## **§ 1912. Regional depositories; designation; functions; disposal of publications**

Not more than two depository libraries in each State and the Commonwealth of Puerto Rico may be designated as regional depositories, and shall receive from the Superintendent of Documents copies of all new and revised Government publications authorized for distribution to depository libraries. Designation of regional depository libraries may be made by a Senator or the Resident Commissioner from Puerto Rico within the areas served by them, after approval by the head of the library authority of the State or the Commonwealth of Puerto Rico, as the case may be, who shall first ascertain from the

head of the library to be so designated that the library will, in addition to fulfilling the requirements for depository libraries, retain at least one copy of all Government publications either in printed or microfacsimile form (except those authorized to be discarded by the Superintendent of Documents); and within the region served will provide interlibrary loan, reference service, and assistance for depository libraries in the disposal of unwanted Government publications.

The agreement to function as a regional depository library shall be transmitted to the Superintendent of Documents by the Senator or the Resident Commissioner from Puerto Rico when the designation is made.

The libraries designated as regional depositories may permit depository libraries, within the areas served by them, to dispose of Government publications which they have retained for five years after first offering them to other depository libraries within their area, then to other libraries.

(Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1286.)

The letter of the law...

In addition to alleviating space problems, freeing greater resources to focus on the needs of a growing population of library patrons and the public at large, which increasingly obtain information in digital formats, advances the intent of the FDLP to be available for the “free use” of the public, as provided in 44 U.S.C. 1911, as well as GPO’s mission of Keeping America Informed. These goals are impaired when space limitations result in the relocation of tangible collections to offsite storage or the withdrawal of regional libraries from the FDLP.

**Proposal** To help address these concerns, I am proposing that regional depository libraries be permitted to withdraw tangible depository materials in print, CD-ROM, or microfiche formats from their collections under the following conditions:

- (1) When the publication has been retained by the regional in tangible form for a period of seven years from the date of receipt, processing, or shipping list date; and
- (2) Is available on GPO’s FDsys in a format that meets the standards of the Superintendent of Documents as authentic and with the Superintendent’s digital signature.

This proposal, to be implemented by a directive issued by the Superintendent, would supplement the language of section 1911 of Title 44 which permits regional depository libraries to retain Government publications either in print or microfacsimile, except superseded publications or those later issued in bound form which may be discarded as authorized by the Superintendent.

A letter from GPO Director to the  
Joint Committee on Printing, July 10, 2015

Dear Ms. Vance-Cooks:

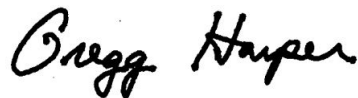
Thank you for your letter on July 10<sup>th</sup> regarding the Federal Depository Library Program (FDLP) and the proposed improvements for the retention of tangible depository materials. Your perspective on the Program is greatly appreciated.

While I approve of the two conditions for disposal outlined in your proposal, I request that the following third condition also be met:

3) A minimum of four tangible copies of the publication exist in the FDLP distributed geographically. One way to accomplish this would be to use the four regions defined by the Census Bureau.

This third stipulation will enable the Program to accomplish its goals while also providing the necessary access to the materials. If you have any questions, or if I can be of further assistance, please contact the Joint Committee on Printing at 202-225-8281.

Sincerely,

A handwritten signature in black ink that reads "Gregg Harper". The signature is written in a cursive, flowing style.

Gregg Harper  
Chairman  
Joint Committee on Printing

The reply to GPO's letter, August 5, 2015

so Title 44 is already flexible...  
why modernize it now?



# Joint Committee on Printing

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*The Joint Committee on Printing, created by the act of August 3, 1846 (9 Stat. 114; 44 U.S.C. 101), is one of the oldest joint committees of the Congress. Composed of five Representatives and five Senators, the panel oversees the operations of the U.S. Government Publishing Office (GPO), whose support is essential to the legislative process of the Congress. The GPO also serves by law as the principal printing organization for Federal agencies, and so the Joint Committee generally oversees compliance by Federal agencies with laws, rules and regulations designed to minimize printing costs to the American people.*

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## ***Rules for 115th Congress***

### **Rule 1.--Committee Rules**

(a) The rules of the Senate and House insofar as they are applicable, shall govern the Committee.

(b) The Committee's rules shall be published in the Congressional Record as soon as possible following the Committee's organizational meeting in each odd-numbered year.

## Joint Committees

### Joint Committee on Printing

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Joint Committee of Congress on the Library

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## Members

### Members - 115th Congress

#### House Members

Rodney Davis (R-IL), Vice-Chairman  
Gregg Harper (R-MS), Member  
Mark Walker (R-NC), Member  
Robert Brady (D-PA), Member  
Jamie Raskin (D-MD), Member

#### Senate Members

Richard Shelby (R-AL), Chairman  
Pat Roberts (R-KS), Member  
Roger Wicker (R-MS), Member  
Amy Klobuchar (D-MN), Member  
Tom Udall (D-NM), Member



# HOUSE ADMINISTRATION

Chairman Gregg Harper

est. 1947



Search



**CHA Republicans** @HouseAdmnGOP · Sep 17

Happy #ConstitutionDay! Today we celebrate the adoption of our nation's founding document and the government it established. 🇺🇸 📖 ✍️



2



6



**CHA Dems** @HouseAdm\_Dems · Oct 16

Great session with librarians @usgpo on #title44 at #gpodlc17. There is work to do to Keep America Informed!

1



5



**CHA Dems**

@HouseAdm\_Dems

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Replying to @HouseAdm\_Dems @USGPO

Preservation and FREE access must be priorities for @usgpo in #title44 reform #gpodlc17

4:35 PM - 16 Oct 2017

1 Retweet 4 Likes



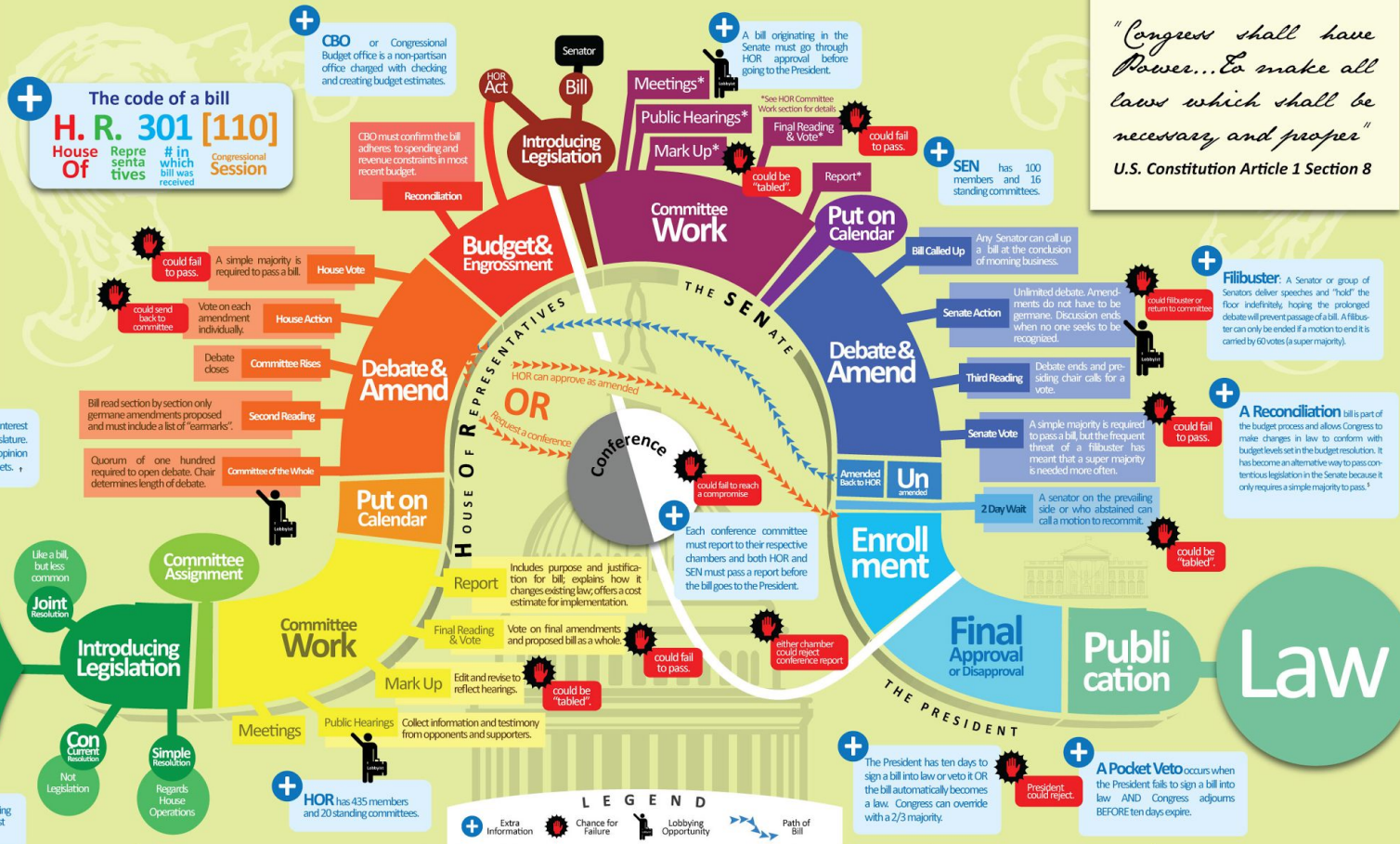
what's next?



# will there be a bill??

probably. almost certainly.

# HOW OUR LAWS ARE MADE



"Congress shall have Power...To make all laws which shall be necessary and proper"

U.S. Constitution Article 1 Section 8

Petitioning [robert.tapella@mail.house.gov](mailto:robert.tapella@mail.house.gov) and [12 others](#)

# Protect the public right to government information: help preserve and expand Title 44



Free Government Information

The public's right to information by and about its government is critical to the workings of a democracy. [Title 44 of the US Code](#), which codifies the Federal Depository Library Program (FDLP) into law, is the \*only\* legal guarantee that the US government will provide its information for free to the General Public, the citizens of the USA. It also directly affects thousands of non-Federal Depository Library Program libraries by defining free public access to the essential information and records of our democracy.

## Sign this petition

978

978 have signed. Let's get to 1,000.





**Carla Hayden** ✓

@LibnOfCongress

Following



“You are on the frontline of providing information to the public. You are the backbone in making this country work.”

#GPODLC17



10:05 AM - 16 Oct 2017

110 Retweets 331 Likes



thank you!

# additional reading

- Congressional Research Service. “Government printing, publications, and digital information management: issues and challenges.” Washington, DC, November 7, 2017. <https://www.everycrsreport.com/reports/R45014.html>.
- Depository Library Council. “Recommendations for revisions to Title 44 U.S. Code Chapter 19.” Washington, DC, September 25, 2017. <https://www.fdlp.gov/file-repository/outreach/events/depository-library-council-dlc-meetings/2017-meeting-proceedings/2017-dlc-meeting-and-fdl-conference/2929-dlc-recommendations-to-gpo-director-for-revisions-to-title-44-u-s-code-chapter-19>
- James A. Jacobs & James R. Jacobs. “Discussing DLC’s Title 44 recommendations: thoughts and questions.” *Free Government Information*, October 4, 2017. <https://freegovinfo.info/node/12364>
- James A. Jacobs & James R. Jacobs. “Strengthening the discussions about Title 44.” *Free Government Information*, August 14, 2017. <https://freegovinfo.info/node/12316>
- Office of Alan Lowenthal, Representative for California’s 47th District. “How a bill becomes a law.” Washington, DC, n.d. <https://lowenthal.house.gov/legislation/bill-to-law.htm>
- Office of the Federal Register. *A brief history commemorating the 70th anniversary of the publication of the first issue of the Federal Register, March 14, 1936*. Washington, DC: National Archives & Records Administration, 2006. <https://www.archives.gov/files/federal-register/the-federal-register/history.pdf>
- Office of the Superintendent of Documents. “Title 44 modernization.” Washington, DC, October 6, 2017. <https://www.fdlp.gov/file-repository/outreach/events/depository-library-council-dlc-meetings/2017-meeting-proceedings/2017-dlc-meeting-and-fdl-conference/2985-title-44-reform-sessions-accompanying-handout>
- U.S. Government Publishing Office. *Keeping America informed, the U.S. Government Publishing Office : a legacy of service to the nation, 1861-2016*. Washington, DC : Government Publishing Office, 2016. <http://purl.fdlp.gov/GPO/gpo71799>
- U.S. Government Publishing Office. *Picturing the big shop : photos of the U.S. Government Publishing Office, 1900-1980*. Washington, DC: Government Publishing Office, 2017. <https://purl.fdlp.gov/GPO/gpo77951>