

# H.R. 5305

**The FDLP Modernization  
Act of 2018**

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2018

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GODORT Virtual Meeting

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# agenda

1. presentation
  - a. H.R. 5305
  - b. key provisions
  - c. frequently asked questions
2. comments from Washington Office
3. questions from audience (text chat)
4. comments from audience (text chat & open mic)



# 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)





# ALA American Library Association

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115TH CONGRESS  
2D SESSION

# H. R. 5305

To amend title 44, United States Code, to ensure the availability of no-fee public access to government information, to reform the Federal Depository Library Program, to authorize the activities of the Superintendent of Documents, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2018

Mr. HARPER (for himself, Mr. BRADY of Pennsylvania, Mr. RODNEY DAVIS of Illinois, Mrs. COMSTOCK, Mr. WALKER, Mr. LOUDERMILK, Ms. LOFGREN, and Mr. RASKIN) introduced the following bill; which was referred to the Committee on House Administration, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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key provisions

access to electronic  
information



# incorporates electronic information

*§ 1706(b)(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.*

## guarantees free public access

The FDLP and the online repository are established for no-fee public access to the national collection. This comprehensive collection includes IDPs of public interest or educational value, except self-sustaining publications, unwarranted invasions of privacy, etc.

These exceptions do not apply if the agency publishes the IDP on its website, and they do not apply to standards incorporated by reference in the *Code of Federal Regulations*.

# improves authority for the online repository

The online repository is established as a “trustworthy information system” with requirements including:

- provides bulk access to machine-readable information and metadata;
- authenticates IDPs, and provides chain of custody;
- preserves IDPs for public access; and
- meets all applicable privacy standards.

## supports digitization

The Superintendent of Documents is authorized to digitize and authenticate IDPs created at any time.

The digitized files, which can be created by a depository library or another entity, are works of the United States government, and become part of the national collection.

# improves authority for cataloging

The Catalog of Government Products is established as a comprehensive set of metadata, including digital object identifiers. Records must be supplied to depository libraries, and may be made available in other “bibliographic utilities.”

Agencies must provide metadata for digital IDPs; GPO can accept metadata from depository libraries and other partners.

## encourages agency compliance

Agencies must provide IDPs to the Superintendent, and notify GPO if a product will be discontinued or change formats.

For digital IDPs, agencies must provide access & metadata if the format is not compatible with the online repository. For IDPs available online, agencies must provide metadata, and notify GPO if access will be discontinued.

§ 1764(a) authorizes the Director to take necessary measures to improve permanent public access.

# FDLP program rules

## changes some participation requirements

No minimum volume count for participating libraries; and a knowledgeable staff member must be “reasonably available” to help patrons with access to federal information.

Selectives and regionals must collaborate on the maintenance of a regional collection in tangible form. In establishing cooperative agreements between libraries, the Superintendent must give preference to existing consortia or other collaborative projects without geographic restriction.



# specifies additional program authorities

Tangible IDPs remain government property unless the Superintendent donates them to a depository library.

GPO may pay the cost for moving collections from regionals.

GPO has the authority to accept gifts and services in support of the public access programs. Costs for all public access programs must be paid from a separate appropriation for the Superintendent of Documents, or from gifts & bequests.

# continues existing designations

All currently designated depository libraries will continue under their existing designation status.

Designation can be terminated at the request of the library or by the Superintendent if the library fails to meet program requirements, but the latter can only do so after providing opportunities for remediation.

federal information  
preservation

# specifies permanent public access mandate

The responsibility of the Superintendent of Documents includes ensuring permanent public access to the national collection.

IDPs can only be replaced in case of error, and only removed from the national collection to comply with relevant law.

# requires digital preservation

IDPs in the online repository must be preserved, and there must be a program for permanent retention.

For IDPs that are not compatible with the online repository, agencies must provide access to the content and preserve it; the Superintendent is authorized to determine the best method for the product to be preserved.

# establishes preservation depositories

A depository library can be designated as a Preservation Depository Library if it assists the Superintendent by preserving IDPs in any format.

The Superintendent can also enter into agreements with other entities for preservation activities.

transparency and  
oversight

## provides rulemaking authority

The Director of the GPO promulgates regulations through the *Federal Register* on behalf of the Superintendent of Documents; regulations affecting regional depositories require additional consultation with selectives & regionals.



# requires regular reports to Congress

The Director must report to Congress every 6 months, and post the report to GPO's website.

The report must include the status of the FDLP and any pending regulations, gifts received, current privacy measures, notifications from agencies that an IDP is discontinued, and any recalls or replacements of IDPs in the national collection.

# requires accountability review

Within three years after enactment, the Government Accountability Office is directed to study the implementation of this legislation, in order to report to Congress on:

- implementation status;
- agency compliance;
- effectiveness in meeting public needs for access; and
- effectiveness of depository libraries in providing access.

frequently asked questions

# what's your favorite provision?

§ 1701(a)(4).

*§ 1701(a)(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.*

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# number of regionals?!?

for now: 46ish.

eventually: between 8 and 112,  
inclusive.

*§ 1745(d)(1) The Superintendent shall carry out this section in accordance with regulations promulgated under this subchapter. Such regulations shall—[...] (B) limit the number of Regional Depository Libraries located in any State to two; and (C) unless impracticable, provide for the designation of at least 2 Regional Depository Libraries in each census region.*

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# number of copies?!?

to be determined.

regionals do not need to accept tangible copies of authenticated electronic IDPs, and they may withdraw such publications.

*§ 1745(b) 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.*

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# electronic-only depositories?!?

yes.

designations of selectives &  
regionals carry additional  
criteria.

*§ 1747(a) 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.*

# “national collection”?!?

the what now?

IDPs of “public interest or educational value” produced or procured & furnished to the Superintendent

*§ 1721(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.*

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# fugitives?!?

it's complicated.

adding fugitives to the historical collection is not mandated, but digitized publications are added to the national collection

*§ 1725(b)(2) 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.*

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# digital deposit?

included; optional for libraries.

# training program?

yes!

# grant authority?

nope. sorry.

# Joint Committee on Printing?

still there.

# comprehensive GPO reform?

no. this bill only revises the public access programs and corresponding authorities.

# do you have a second favorite provision?

§ 1722(e)(1).

*§ 1722(e)(1) 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.*

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you can't  
possibly have a  
third favorite,  
can you?

in fact, I do.

§ 1724(c).

*§ 1724(c) 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.*

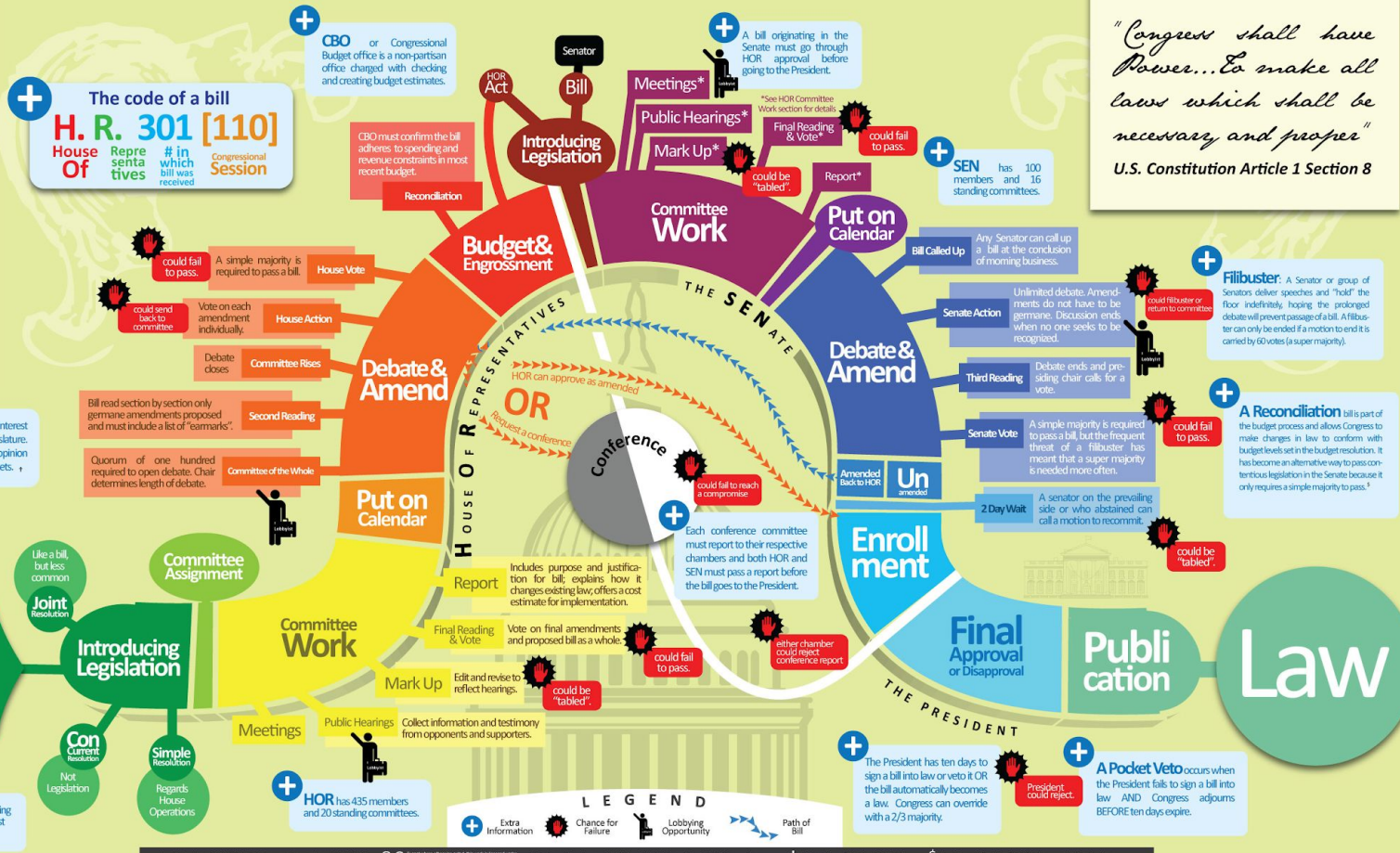
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what's next?

a vote??

# 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

**Lobbyist**

A Lobbyist is an activist paid by an interest group to promote their position in the legislature. He/She can also work to change public opinion through advertising and other media outlets.

**Representative**

**A State Legislature**

**The People**

**Executive Branch**

**Bill**

**Introducing Legislation**

- Joint Resolution**: Like a bill, but less common
- Simple Resolution**: Regards House Operations
- Not Legislation**

**Committee Assignment**

**Committee Work**

- Meetings**
- Public Hearings**: Collect information and testimony from opponents and supporters.
- Mark Up**: Edit and revise to reflect hearings.
- Final Reading & Vote**: Vote on final amendments and proposed bill as a whole.
- Report**: Includes purpose and justification for bill; explains how it changes existing law; offers a cost estimate for implementation.

**Enrollment**

- Un-amended**: 2 Day Wait
- Amended back to HCR**: could fail to reach a compromise.

**Final Approval or Disapproval**

- President could reject**
- A Pocket Veto** occurs when the President fails to sign a bill into law AND Congress adjourns BEFORE ten days expire.

**Publication**

**Law**

**LEGEND**

- Extra Information**
- Chance for Failure**
- Lobbying Opportunity**
- Path of Bill**



**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

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thank you!

# key sources

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