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{ REPORT  
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### WENDELL H. FORD GOVERNMENT PUBLICATIONS REFORM ACT OF 1998

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OCTOBER 16 (legislative day, OCTOBER 2), 1998—Ordered to be printed

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Mr. WARNER, from the Committee on Rules and Administration,  
submitted the following

### REPORT

[To accompany S. 2288]

The Committee on Rules and Administration, to which was referred a bill to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications, and for other purposes, having considered the same, reports favorably S. 2288 with an amendment in the nature of a substitute, and recommends that the bill, the "Wendell H. Ford Government Publications Reform Act of 1998," do pass.

#### I. PURPOSE

The purposes of the "Wendell H. Ford Government Publications Reform Act of 1998" (S. 2288) are to:

- (1) reform the oversight and management of the production, dissemination, and permanent public access to Federal Government publications;
- (2) guarantee permanent public access to publications produced by or for the Federal Government, regardless of their form or format;
- (3) facilitate the efficient and economical production, dissemination, and permanent public access to Government publications; and,
- (4) limit the Federal Government's internal printing and publication production capacity and to promote the procurement of printing and publication production from competitively selected private sector commercial sources to the maximum extent practicable consistent with this Act.

## II. SUMMARY AND OVERVIEW

### BACKGROUND

Since the earliest days of the Federal government, most aspects of government information policy and practice have been established by Congress. Statutory provision was made in the early years, for example, for the printing and distribution of both laws and treaties, the preservation of state papers, and the maintenance of official files in the new departments. Just before the nation erupted in civil war, a permanent printing organization—the Government Printing Office (GPO)—was statutorily mandated to produce all public printing.

Statutory provisions governing public printing by the federal government, including production, dissemination, management, and oversight, are largely concentrated in the opening chapters of Title 44 of the United States Code. GPO is designated the principal agent for almost all federal government printing. Oversight responsibility for the GPO printing system is vested principally in the Joint Committee on Printing (JCP), which also is authorized to exercise discretionary remedial powers to improve public printing operations and the distribution of government publications. Much of the content of the public printing chapters of title 44 derives from the Printing Act of 1895, the first comprehensive government printing law. This body of law has been amended and modified by Congress from time to time to accommodate changing technology and policy developments. During the past two decades, however, monumental challenges have arisen which have prompted a reconsideration of government printing policy and practice and the provisions of title 44 prescribing them. Among the challenges prompting this reconsideration are:

- Identified weaknesses, and the consequent inability, of the Joint Committee on Printing (JCP) to force agencies to produce and disseminate their publications through the Government Printing Office (GPO);

- Open encouragement of the current Administration—through strategic decisions and through the National Performance Review (NPR)—for agencies to use other printing and dissemination facilities;

- Evolutions in technology; and,

- GPO's slow response to technological change and seeming unresponsiveness to agency needs, demands, and expectations.

### THE JOINT COMMITTEE ON PRINTING

For over 150 years, oversight responsibility for the GPO printing and dissemination system has been vested principally in the JCP. Composed of the senior members of the House Committee on House Oversight and the Senate Committee on Rules and Administration, the JCP is empowered to “use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications.” Although it is not a legislative committee, the JCP contributes to the management of the GPO printing and dissemination system through various administrative techniques, a major one being the

promulgation and administration of government printing and binding regulations.

In 1983, the Supreme Court's decision in *INS v. Chadha* found adoption of a simple resolution by one congressional chamber to veto executive action or policy unconstitutional because it was an exercise of legislative power which did not follow the constitutional prescribed lawmaking process: bicameral consideration and presentation of a bill or joint resolution to the President for his signature or veto. The legislative veto authority of Congress was invalidated, and with its invalidation, the Department of Justice and the Office of Management and Budget (OMB) began to question the long-standing assumption that Congress, through the JCP, had plenary authority to control public printing throughout the Federal government.

At the heart of the controversy has been JCP's historic prerogative, virtually unchallenged until *Chadha*, to control all aspects of public printing through its statutory authority to "use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications."<sup>1</sup> Thus, while the Public Printer was appointed by the President, for all practical purposes he was beholden to and controlled by the Congress through the JCP.

Through a series of challenges and interpretations since the Supreme Court's decision, the Senate Committee on Rules and Administration now recognizes that the role of Congress, through the JCP, in the control and management of government printing and publications dissemination is a serious impediment to the cooperative development between the Executive, Judicial and Legislative Branches of effective, efficient and appropriate public printing policies for the 21st century.

#### ADMINISTRATION ENCOURAGEMENT

While previous Administrations may have been reticent about complying with title 44, United States Code, the Clinton Administration has been notably aggressive in its efforts to change government printing and dissemination practices. Through Justice Department opinions (discussed above) and subsequent guidance provided agencies by the Office of Management and Budget, and through the National Performance Review (NPR), efforts were made to do through administrative fiat what could not be done by law.

The NPR made three specific recommendations, and at least a half dozen related recommendations, which, while government-wide in their application, were particularly relevant to GPO and how it did business.

The three specific recommendations were:

- Sup01: Authorize the Executive Branch to establish a printing policy that will eliminate the current printing monopoly;
- Sup02: Ensure public access to Federal information; and,
- It03: Develop integrated electronic access to government information and services.

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<sup>1</sup> 44 U.S.C. 103 (1994).

*Sup01*

The first recommendation was predicated in part on a 1990 General Accounting Office (GAO) report which characterized GPO's centralized function as a monopoly.

Despite the fact that GPO serves as a facility through which 80 percent of the printing and publication services it provides are procured through a highly competitive process from private-sector contractors, the NPR declared:

The GPO is the mandatory source for obtaining congressional and executive branch printing . . . GPO charges overhead of 6 to 9 percent for each print order it forwards to private sector printers. Agencies complain that printing done in-house by GPO costs 50 percent more than printing done in the commercial sector . . . Congress should take the necessary steps to clearly give the executive branch the authority to make its own printing policy.

The recommendation called for a policy to be developed by the General Services Administration (GSA) with the cooperation of the Interagency Council on Printing and Publication Services which:

Was to take full advantage of the rapid changes in printing technology;

Was to exclude desk top publishing and xerographic processes from the definition of printing;

Was to emphasize out-sourcing traditional printing;

Was to give agencies authority to choose both their procurement agent and the type of equipment they may wish to use for their own in-plant production;

Was to minimize reporting requirements; and,

Was to ensure continued dissemination of printed information to the Depository Library Program.

Because of the nature of the definition and the emphasis on a particular type of technology—this recommendation would have greatly reduced the amount of information agencies would be required to make permanently accessible to the public through the Federal Depository Library Program.

*Sup02*

The second major recommendation of the NPR proposed:

That each agency in the executive branch be given the responsibility for distributing their own printed federal information to the depository libraries;

That the GSA develop a plan to ensure that distribution occurs;

That a locator system for public access be developed; and,

That one-stop shopping facilities be established for the sale of Federal documents.

Under this scenario, the Superintendent of Documents would no longer be responsible for either assuring dissemination to the Federal Depository Libraries, nor would Superintendent Documents be the principal publications seller for the Federal Government. Ostensibly, what few remaining "printed" materials executive agencies would produce would be offered through a GSA sponsored facility.

As to the locator system, no clear responsibility for its development was spelled out. It was to be everyone's and no one's.

*It03:*

To develop integrated electronic access to government information and services, the NPR directed that:

A Government Information Working Group should charter an interagency team to coordinate, recommend, and implement information technology initiatives to improve customer service;

An integrated, government-wide national, one-stop 800-number calling service be implemented;

A program of an integrated one-stop government service kiosks be implemented;

An integrated, government-wide one-stop electronic bulletin board system be implemented; and,

Work be undertaken with private industry to advance the implementation of technologies that provide citizen access to government information and services.

Because of Congressional leadership in this area, GPO ACCESS, the Federal government's main on-line source of access to hundreds of Federal government agency web sites, as well as the documents of the past several Congresses, the *Federal Register*, the *Commerce and Business Daily*, and other recent, key Federal government electronic and digital publications, exists today. The Government Information Locator System (GILS) is also operational. However, it is not—to date—as comprehensive, or user friendly as it was originally envisioned.

#### TECHNOLOGY

Information technology is revolutionizing the way people everywhere do virtually everything. Nowhere, however, has the impact of information technology been seen and felt more dramatically than in the printing and dissemination of government information. Today, the government publications which used to take months to write, edit, layout, and print require only a fraction of the time and energy to create. Once created, these publications are almost instantly available to their intended publics via the Internet, or through high speed, high volume, print-on-demand systems.

This technology is relatively easy to use. The quality and variety of material it can produce, and the speed and cost at which it can be produced compared to traditional processes make it a ready choice. Additionally, the arcane definitions of printing in title 44, United States Code, invites agencies to use the new technology whenever possible.

The down-side for those who advocate permanent public access, however, is that, as quickly as much of this information is produced, it is destroyed. Web pages go up and come down daily. Publications produced and disseminated electronically are easily and readily changed, and sometimes discarded without any provision made for either public access or archiving.

#### GOVERNMENT PRINTING OFFICE

Giving credibility to the Administration's campaign to free itself from the requirements of title 44, United States Code, is the widely

held perception that GPO is not responsive to the needs, desires, and expectations of its customers, and that it is slow to adopt new technology. Numerous GAO reports on both the regulatory environment and the management of GPO over the decade before the NPR lent further credence to these perceptions.

In May 1998, the GAO issued a voluminous management audit of the Government Printing Office which addressed six specific areas:

Superintendent of Documents Sales Program—Appropriateness and adequacy of policies and procedures involving publication inventory management;

Printing Procurement Program—Adequacy and effectiveness of organization, operation, staffing, marketing, financing, procedures for contracting printing services from private vendors, and the process for determining charges for printing and other services provided to Congress and executive branch agencies;

In-plant production—Ways to improve efficiency and cost effectiveness, particularly organization, product mix, management, staffing, processes for determining charges for printing and other services provided to Congress and the executive branch agencies;

Personnel—Adequacy and appropriateness of personnel matters, including training, deployment, and supervisory structure;

Budgeting, accounting, and financial reporting systems—Adequacy and completeness of methodology, presentation, clarity, reliability, and ease of interpretation; and,

Financial and other management-related observations and recommendations identified during the audit of GPO's consolidated financial statement for the year ending September 30, 1995—Status of GPO's actions regarding the observations and recommendations.

In sum, the auditors, Booz-Allen & Hamilton observed:

In the course of our analysis, overarching issues arose that, by their nature, affect the organization as a whole. These issues deal with the future and overall organization of GPO and the lack of strategic planning with GPO.

Although, from the customer perspective, there is little support for eliminating GPO, there is strong desire on the part of customers to improve the efficiency and effectiveness of the organization. The congressional focus group agreed unanimously that the Congress needs a printing capability over which they have control. Similarly, when we met with representatives from the executive branch agencies, we found universal support for GPO's printing procurement services. Finally, disseminating government information to the public is an inherent government responsibility, and we found no evidence that people believe otherwise. In response to these findings, we recommend that GPO focus its energy on creating a future-oriented organizational structure and on developing and adopting new plans and business processes that focus more on where GPO and its customers want it to be and less on where it has been.

## THE LEGISLATIVE RESPONSE—TITLE 44 REFORM

In light of these conditions, and the concerns expressed to the Congress by a wide range of interests, the Senate Committee on Rules and Administration and the House Committee on House Oversight began a concerted effort in 1995 to identify a workable reform. In the Summer of 1995, the House Committee on House Oversight held hearings on GPO operations and the problem of “fugitive documents”. These hearings were followed in 1996 by a series of hearings by the Senate Committee on Rules and Administration. At the end of the 104th Congress, the chairman of the Joint Committee on Printing, Congressman Bill Thomas, introduced H.R. 4280, a broad proposal to reform title 44, United States Code.

At the start of the 105th Congress, the Senate Committee on Rules and Administration, responding to the testimony received in 1996, and with a concurrent consensus of the membership of the Joint Committee on Printing, undertook an initiative to solve four key issues related to title 44, United States Code. These issues were:

1. Resolve the conflict between the branches of the Federal Government which hampers efficient production and thwarts permanent access to the Federal Government’s publications;
2. Facilitate production and public access to Government publications by the establishment of mechanisms that assure the efficient and economical production of publications and an effective and equitable system of dissemination;
3. Guarantee the right of the public to access publications produced by the Federal Government; and,
4. Promote public availability of Government information in the electronic age through a Federal publications access program that provides no-fee availability, regardless of format.

The chairman of the Senate Committee on Rules and Administration authorized that a working group comprised of Republicans and Democrats, representatives of House and Senate members, representatives of the Administration, and representatives of virtually every organization or body which might have an interest in this issue be established.

Subsequently, the Committee held three more hearings during the spring of 1997, and on July 10, 1998, Senators Warner and Ford introduced S. 2288, the Wendell H. Ford Government Publications Reform Act of 1998. As introduced, the measure reflected the input of the library community on behalf of the Federal Depository Library Program, the union leadership and management of the Government Printing Office, the private sector information industry, the private sector printing industry, printing officers in the House of Representatives and the Senate, and several Executive branch agencies.

*Separation of powers*

Title I of S. 2288 decisively and completely removes the constitutional obstacle that has been the source of the interbranch stalemate. The measure conforms the printing establishment to the constitutional principles of separation of powers. This is accomplished

by abolishing the Joint Committee on Printing and eliminating all direct congressional controls over Executive and Judicial Branch printing.<sup>2</sup> Hereafter, Congress will exercise only traditional oversight over public printing through its authorizing and appropriating committees of jurisdiction.<sup>3</sup>

Second, the new Administrator of the GPO, and his two chief assistants, the Superintendent of Government Publications Production and Procurement Services and the Superintendent of Government Publications Access Programs, are all appointed by the President with the advice and consent of the Senate.<sup>4</sup> The three officials serve at the pleasure of the President.<sup>5</sup> The Administrator is vested with the authority to “use any measures [he] considers necessary to carry out the duties and powers of the office and to remedy neglect, delay, duplication, or waste in the production, procurement, and dissemination of the Federal Government’s publications, and to enhance and expand the dissemination of, and maintenance of permanent public access to, the Federal Government’s publications, and to issue all regulations necessary to implement the purposes of legislation.”<sup>6</sup> Both Superintendents are subject to the direction of the Administrator in the performance of their duties.<sup>7</sup> Thus, the President has plenary control of those officials who will administer the new GPO.

Finally, the proposed legislation reestablishes the Government Printing Office as the “Government Publications Office, an independent entity in the Federal Government, independent of executive agencies.”<sup>8</sup> The intention here is to continue in the new GPO the historical recognition of its necessary independence from the executive agencies that it will regulate and the fact that it will service the printing and procurement requirements of agencies in all three branches. The reaffirmation of GPO’s unique mission will, therefore, require continued funding under the annual Legislative Branch appropriations measure, placing GPO’s annual budget under the requirements of 31 U.S.C. 9104. The maintenance of these historical vestiges of independence, in view of the overall structural nature of the new GPO, raises no substantial separation of powers concerns under current Supreme Court separation jurisprudence.

Only where the object of the exercise of legislative power is clearly seen in the particular situation as an attempt at aggrandizement or encroachment have the courts felt constrained to intervene. See, e.g., *Buckley v. Valeo*, 424 U.S. 1 (1976) (Congress may not appoint executive officials performing substantial functions under the law); *Bowsher v. Synar*, 478 U.S. 714, 732 (1986) (Congress may not retain removal power over an officer performing executive functions); *INS v. Chadha*, 462 U.S. 919 (1983) (Congress may not exercise

<sup>2</sup>Section 101, 102, 105, and 506 (9), (10).

<sup>3</sup>Section 103(a), 105, 506 (1)–(8).

<sup>4</sup>New Sections 301(a), 502(a), and 1903(a) of title 44.

<sup>5</sup>It is well settled that, in the face of statutory silence, the power of removal is presumptively incident to the power of appointment and that a statutory term of office (the Superintendents each serve five year terms) merely sets the outer limits of the tenure of an incumbent. *Myers v. United States*, 272 U.S. 52, 161 (1926); *Shurtleff v. United States*, 189 U.S. 311, 318 (1903); *Reagan v. United States*, 182 U.S. 419, 426–27 (1902); *In re Hennen*, 38 U.S. (13 Pet.) 230, 259 (1839).

<sup>6</sup>New Section 301(b) of title 44.

<sup>7</sup>New Section 310(a).

<sup>8</sup>Section 201(b)(2).



legislative power without conforming to the constitutionally prescribed lawmaking power); *Metropolitan Washington Airports Authority v. CAAN*, 501 U.S. 252 (1991) (Board of Review composed of Members of Congress could not exercise veto power over operational decisions of Airports Authority); *Hechinger v. Metropolitan Washington Airports Authority Board of Review*, 36 F. 3d 97 (D.C. Cir. 1994), cert. denied, 115 S. Ct. 934 (1995) (Board of Review which could only recommend and delay, but not veto, the operational decisions of the Airports Authority held to be an unconstitutional direct exercise of congressional influence); *Federal Election Commissioner v. NRA Political Victory Fund*, 6 F. 3d 821 (D.C. Cir. 1993), cert. denied for want of jurisdiction, 115 S. Ct. 537 (1994) (congressional appointment of two of its agents as non-voting members of the Commission who could attend all business meetings of the agency held unconstitutional).

Beyond such direct congressional intrusions on agency decision making, however, the Supreme Court has been generous in broadly defining the legislative authority to structure the administrative bureaucracy. It has upheld congressional actions lengthening and shortening terms of office and abolishing offices altogether, *Crenshaw v. United States*, 134 U.S. 99, 105–6 (1890); *Lewis v. United States*, 244 U.S. 1345 (1917); limiting the removal power of the President, *Morrison v. Olson*, 487 U.S. 654 (1988); locating an independent agency performing executive functions in the judicial branch, *Mistretta v. United States*, 488 U.S. 361 (1989); allowing an agency to assume jurisdiction over state-law counterclaims, *Commodity Futures Trading Commission v. Schor*, 473 U.S. 833 (1986); empowering the Attorney General to determine what substances would be criminal and to prosecute violations, *Touby v. United States*, 500 U.S. 160 (1991); and establishing the qualifications for holding office, *Myers v. United States*, 272 U.S. 52, 128, 129 (1926).

This case law has established that it is the nature of the appointment of the officer performing the executive functions and who has the power to remove that officer, rather than the location of the entity, that is critical to determining the constitutionality of a particular legislative scheme. The Committee's proposal, which vests the appointment and removal of the Administrator and the two Superintendents exclusively in the President, and which eliminates all direct congressional intrusions on GPO's decision making processes (other than normal congressional oversight and the passage of legislation), is well within the permissible limits of the separation doctrine. The Court's decision in *Mistretta v. United States*, *supra*, holding that the placement of an agency with executive powers and functions outside the Executive Branch did not raise significant constitutional questions, is perhaps most apposite to the legislation under consideration.

In *Mistretta*, the Court rejected a separation of powers challenge to the United States Sentencing Commission. Petitioners argued that the Commission, an independent agency in the Judicial Branch vested with power to promulgate binding sentencing guidelines, violated the separation doctrine by its placement in the Judicial Branch, by requiring federal judges to serve on the Commission and to share their authority with nonjudges, by empowering the President to appoint Commission members, but limiting his

power to remove them only for cause, and by vesting the Commission with binding rulemaking authority.

At the outset of its opinion, the Court reiterated its understanding of Congress's broad authority to create and to fashion the responsibilities and functions of agencies. Brushing aside an argument that Congress could not locate an agency with no judicial powers in the Judicial Branch, the majority held:

Our constitutional principles of separated powers are not violated, however, by mere anomaly or innovation . . . Congress' decision to create an independent rulemaking body to promulgate sentencing guidelines and to locate that body within the Judicial Branch is not unconstitutional unless Congress has vested in the Commission powers that are more appropriately performed by the other Branches or that undermine the integrity of the Judiciary. (488 U.S. at 385)

The Court found none. Rulemaking, it held, is not a uniquely executive function.

None of our cases indicate that rulemaking per se is a function that may not be performed by an entity within the Judicial Branch, either because rulemaking is inherently nonjudicial or because it is a function exclusively committed to the Executive Branch. (*Id.* at 386)

Nor was the "significantly political nature of the Commission's work," i.e., that the promulgation of the sentencing guidelines involves making policy judgments and choices, a significant infirmity.

Our separation-of-powers analysis does not turn on the labeling of an activity as "substantive" as opposed to "procedural," or "political" as opposed to "judicial . . ." Rather our inquiry is focused on the "unique aspects of the congressional plan at issue and its practical consequences in light of the larger concerns that underlie Article III." Using this pragmatic approach, the Court noted that, although the Commission is located in the Judicial Branch, its rulemaking powers are separate from those of the judiciary. The Commission is not a court and is not controlled by or accountable to, members of the judiciary. Moreover, the Commission is an independent agency accountable to Congress, which can revoke any or all of the guidelines at any time; its members are subject to the President's limited removal powers; and its rules are subject to the notice and comment requirements of the Administrative Procedure Act. Thus, the Court concluded, "because Congress vested the power to promulgate sentencing guidelines in an independent agency, not a court, there can be no serious argument that Congress combined legislative and judicial power within the Judicial Branch." (*Id.* at 354)

The Court summarized its holdings as follows:

We conclude that in creating the Sentencing Commission—an unusual hybrid in structure and authority—Congress neither delegated excessive legislative power nor upset the constitutionally mandated balance of powers among the coordinate Branches. The Constitution's structural protections do not prohibit Congress from delegating

to an expert body located within the Judicial Branch the intricate task of formulating sentencing guidelines consistent with such significant statutory direction as it presents here. Nor does our system of checked and balanced authority prohibit Congress from calling upon the accumulated wisdom and experience of the Judicial Branch in creating policy on a matter uniquely within the ken of judges. Accordingly, we hold that the Act is not unconstitutional. (*Id.* at 412)

*Mistretta* also lends substantial support to the 1978 Fourth Circuit decision in *Eltra Corporation v. Ringer*, 579 F.2d 294 (4th Cir. 1978), which upheld the performance of executive functions by the Copyright Office, a component part of the Library of Congress which, of course, is located in the Legislative Branch. In that case the appeals court affirmed a lower ruling dismissing a mandamus action brought to compel the Register of Copyrights to register a proposed copyright as a “work of art.” Among the contentions of the appellant was the claim that the Register of Copyrights is a legislative office and cannot perform executive functions since it is part of the Library of Congress which, through the Congressional Research Service (CRS), performs exclusively legislative functions as a support agency for the Congress. As a consequence of this activity, it was urged, the Library as a whole must be deemed legislative in character and its copyright functions cannot be lawfully exercised, citing the Supreme Court’s then recent decision in *Buckley v. Valeo*, *supra*, as controlling authority. The appellant also argued that receipt of its annual appropriation in the Legislative Branch appropriations legislation was a determinative indication that it was a legislative branch agency incapable of exercising executive functions. The appeals court unequivocally rejected these arguments in an opinion in which it delineated the executive character of the Library despite the unique presence of CRS, the constitutional necessity of presidential appointment of the Librarian, the irrelevance of receiving funding under the Legislative Branch appropriations measure, and the appropriateness of the appointment of the Register by the Librarian.

The registration of copyrights cannot be likened to the gathering of information “relevant to the legislative process” nor does the Register perform a function “which Congress might devolve to one of its own committees.” The operations of the Office of the Register are administrative and the Register must accordingly owe his appointment, as he does, to appointment by one who is in turn appointed by the President in accordance with the Appointments Clause. It is irrelevant that the Office of the Librarian of Congress is codified under the legislative branch or that it receives its appropriation as a part of the legislative appropriation. The Librarian performs certain functions which may be regarded as legislative (i.e. Congressional Research Service) and other functions (such as the Copyright Office) which are executive or administrative. Because of its hybrid character, it could have been grouped code-wise under either the legislative or executive department. But such code-grouping cannot determine whether a given function

is executive or legislative. After all, the Federal Election Campaign Act of 1971, under which the Federal Election Commission reviewed in *Buckley* was appointed, is codified under the legislative heading and its appropriations were made under the heading. Neither the Supreme Court nor the parties in *Buckley* regarded that fact as determinative of the character of the Commission, whether legislative or executive. It is not more permissible to argue, as the appellant did in the article in the *George Washington Law Review*, that the mere codification of the Library of Congress and the Copyright Office under the legislative branch placed the Copyright Office “within the constitutional confines of a legislative agency” than it would be to contend that the Federal Election Commission, despite the 1974 amendment of the Act with reference to the appointment of its members, is a legislative agency unconstitutionally exercising executive administrative authority.

The Supreme Court has properly assumed over the decades since 1909 that the Copyright Office is an executive office, operating under the direction of an Officer of the United States and as such is operating under the direction of an Officer of the United States in conformity with the Appointments Clause. The challenges of the appellant to the constitutionality of the 1909 Act and to the Register’s power thereunder, would, if properly before us, be without merit. (579 F.2d at 300–01 (footnotes omitted))

The Committee’s proposed restructuring of GPO is neither anomalous or innovative. It abandons Congress’ unconstitutional direct control of GPO’s executive decision making; allows the President unfettered removal power over his appointees who are to administer the agency; and maintains the agency’s historic and prophylactic independence from the agencies it is directed to regulate. The scheme plainly is in accord with separation of powers principles.

The authorities of the Joint Committee on Printing over Congressional printing are transferred to the House Committee on House Oversight and the Senate Committee on Rules and Administration (acting respectively for each house or jointly for both houses of Congress). The legislative oversight jurisdiction for the Government Publications Office remains with the House Committee on House Oversight and Senate Committee on Rules and Administration, and the appropriations authority for the Government Publications Office remains with the Legislative Branch Appropriations Subcommittees.

Title I also provides that the current Government Printing and Binding Regulations administered by the Joint Committee on Printing shall stay in effect and be administered by the Administrator of the Government Publications Office until final regulations are published by the Administrator under authorities provided in Title II of the Act. Additionally, all waivers and other provisions required of executive and judicial branch agencies by the Joint Committee on Printing before the date of enactment of the Act shall remain in effect until 120 days following final promulgation of regulations authorized under Title II of the Act. The purposes of these provisions are to minimize disruption of printing and dissemination activities of government agencies during the implementation of this

legislation, and to ensure that, at some point early in the life of the newly established Government Publications Office, there is a reconciliation of waiver and exemption records between the Government Publications Office and the government agencies.

*Efficient and economical production and dissemination*

Titles II, III, and IV of the Act facilitate production of Government printing and public access to Government publications by establishing a mechanism that assures the efficient and economical production of Government printing and publications and an effective and equitable system of dissemination.

Title II amends current chapter 3, title 44, United States Code, "Government Printing Office", by abolishing the Government Printing Office and transferring its authorities, responsibilities, and functions to the Government Publications Office, an independent entity in the Federal government, independent of executive agencies.

As noted earlier:

The intention here is to continue to the new GPO the historical recognition of its necessary independence from the executive agencies that it will regulate and the fact that it will service the printing and procurement requirements of agencies in all three branches. The reaffirmation of GPO's unique mission will, therefore, require continued funding under the annual Legislative Branch appropriations measure and placing GPO's annual budget under the requirements of 31 U.S.C. 9104. The maintenance of these historical vestiges of independence, in view of the overall structural nature of the new GPO, raises no substantial separation of powers concerns under current Supreme Court separation jurisprudence.

Because the agency is "an independent entity in the Federal government, independent of executive agencies", the Committee believes the general management laws which govern the operations of other Federal agencies should apply selectively to the Government Publications Office. In large part, the Committee is concerned that no new constitutional separation of powers issues are raised by making the agency generally subject to requirements or practices imposed on the agencies and offices of any single branch. Nonetheless, the Act requires that the laws applicable to the Government Printing Office on the day before the effective date of this Act will be applicable to the Government Publications Office, and that the Administrator adopt policies, procedures, and regulations appropriate to the agency which incorporate provisions of the general management laws identified at Sec. 201(c)(2) of the Act and any future general management laws expressly made applicable by law.

This agency will be headed by an Administrator, appointed by the President, with the advise and consent of the Senate, with two additional Presidential appointees, the Superintendent of Government Publications Access Programs and the Superintendent of Government Publications Production and Procurement Services, who will oversee the two key missions of the agency.

The person serving as Public Printer on the day before enactment of this Act may serve as the Administrator on the effective date of this Act until the President appoints and the Senate confirms a successor Administrator. Additionally, all the assets and personnel of the Government Printing Office on the day before enactment of this Act shall be the assets and personnel of the Government Publications Office on the effective date of this Act.

The Administrator is authorized to use any measures necessary to carry out the duties and powers of the office, and to remedy neglect, delay, duplication, or waste in the production or procurement of the Government's printing, binding, and blank-book work, the dissemination of the Government's publications, and maintenance of permanent public access to the Federal government's publications. Chief among the Administrator's authorities is the ability to issue regulations to carry out the purposes of the Act after notice and comment, and in consultation with the Office of Management and Budget, the Congress, and the Administrative Office of the U.S. Courts.

In addition, the Administrator is authorized to appoint a deputy and a disbursing officer; employ personnel and establish, through collective bargaining, wages for the employees of the agency; administer the agency's revolving fund which will include the separate accounts of the programs supervised by the two Superintendents; make purchases—without reference to the Federal Property and Administrative Services Act of 1949, as amended—for the agency and the Federal government; pay for those purchases from the agency's revolving fund; and, establish whatever advisory committees determined appropriate.

The Committee, being very sensitive to the desire of Federal agencies to have greater flexibility in how and where they procure their printing needs, but recognizing the importance of a centralized facility to ensure full and open competition for the purposes of procurement and enhanced and expanded dissemination for the purposes of public access to the Government's publications, has provided broad delegation authorities to the Administrator. The Committee intends that these delegation authorities will be used, fairly, liberally and uniformly to ensure the efficient operation of the GPO, and to enable agencies to take advantage of the best practices available to produce or procure their printing and publication needs. The Administrator is to promulgate regulations governing the delegation of authority, and these regulations will address the means by which the procurement of printing is executed, and the means by which agencies are to assure that their publications will be made accessible to the public through the Superintendent of Government Publications Access Programs.

The print procurement delegation authority administered under this Act is patterned after a delegation model administered by the General Services Administration (GSA) through its Public Building Service Leasing Program. Under the GSA program, the procedures are streamlined and simplified. They provide agencies maximum flexibility, with minimum compliance requirements.

Finally, in Title II, the Administrator has authority to:

Requisition machinery, material, equipment, or supplies for printing, binding, and blank-book work determined by the

head of an agency to be no longer required or authorized for service;

Manufacture inks and glues and other supplies needed by GPO and sell those materials to other departments and establishments in the Government;

Detail GPO employees to any office of the Government, but only for work pertaining to GPO;

Designate personnel to serve as security personnel for the agency;

Transfer surplus property to other Federal entities or non profit organizations; and,

Sell publication production reproducibles to any person at a price not to exceed the cost of their creation to the Government.

Some have expressed concern that the Administrator, using the authority to requisition machinery, material, equipment, or supplies for printing, binding, and blank-book work determined by the head of an agency to be no longer required or authorized for service, could arbitrarily commandeer an agency's equipment. Under 44 U.S.C. 312, on the day before the effective day of this Act, the Public Printer had the same authority. To the best knowledge of the Committee, this authority was never used to commandeer agencies' equipment. It is the Committee's expectation that the case will be the same with the enactment of this Act. The decision to "surplus" equipment is that of the head of an agency. Once notified by the head of an agency, the Administrator can then determine if the GPO has a use or need for the equipment, and make arrangements, including reimbursement to the agency, for GPO to acquire the equipment.

Title III amends current chapters 5, 7, 9, 11, 13, and 15, title 44, United States Code. In chapter 5, the general authorities of the Government Publications Office, as the only agency authorized by law to produce or procure the production of Government publications, regardless of form or format, for all other agencies and offices of the Federal government, except the Supreme Court, are outlined. As explained previously, by tying the production of Government publications to their dissemination, the Congress historically has assured itself that all of the Government's publications could be identified and obtained for the various public access programs managed by the Superintendent of Documents. Practices of agencies to avoid compliance with title 44, United States Code, over the past several years have resulted in large numbers of the Government's publications being no longer available through the Superintendent's programs, most notably the Federal Depository Library Program.

Some have charged that the centralized printing procurement system authorized under current title 44, United States Code, and reaffirmed in S.2288, turns back the clock on a number of procurement reforms enacted over the past few years, most notably the Federal Acquisition Streamlining Act (108 Stat. 3342 *et seq.*), The Information Technology Management Reform Act (40 U.S.C. 1401 *et seq.*), and the recommendations of the National Performance Review. This argument ignores several facts:

1. Since the initial enactment of the Federal Property and Administrative Services Act of 1949 as amended (41 U.S.C. 301 *et seq.*), the GPO has specifically been statutorily exempt from the provisions of this law. Not even the revisions made in the Federal Acquisition Streamlining Act (108 Stat. 3342 *et seq.*) changed that fact.

2. The GPO administers a body of procurement policies and regulations which have been reviewed by Office of Management and Budget staff and judged to be simpler, and more fair than the Federal Acquisition Regulations administered under the Federal Property and Administrative Services Act of 1949, as amended.

3. The Information Technology Management Reform Act (40 U.S.C. 1401 *et seq.*) addresses, as its name implies, the procurement of information technology, not printing. The Congress made no effort when it passed this act to include the Government Printing Office or its activities in the Act, and it is not within the Committee's jurisdiction to amend 40 U.S.C. 1401 *et seq.* to include the production or procurement of printing or publications.

4. The National Performance Review, while containing several important recommendations to improve the efficiency of the Federal government, was insensitive to the historic requirements of the Congress regarding the expectation that the American public should be informed about the activities of its Federal government, or the need to make that information permanently accessible to the public. Recognition of these policy objectives would be beneficial to the successful implementation of pertinent National Performance Review recommendations.

Thus, one rationale for reaffirming a centralized publication production and procurement system is grounded in the longstanding, successful model prescribed in 44 U.S.C. 501. Another rationale for reaffirming a centralized publication production and procurement system is to facilitate the ability of the private sector printing industry to compete fully and fairly to fulfill the printing needs of the Federal government. Without a centralized procurement system, private sector printing companies would be forced to monitor the activities of the entire Federal government—agency by agency, office by office—in order to learn of, and compete for, the government's needs. Such a decentralized system would invite non-competitive practices, and result in increased costs and reduced efficiency.

As introduced, this legislation did not define the term "printing". Instead, the term "Government publication" was used to reference the commodity which was being produced, procured, and disseminated. The rationale for not using the term "printing" was that "printing", as defined in 44 U.S.C. 501, is an outmoded term which does not fully reflect the evolving technologies and names for the processes used to produce images on paper. At the July 29, 1998 Rules Committee hearing on S. 2288, however, several witnesses including those representing the Government Printing Office and the private sector printing industry, argued that only 50 percent of the Federal government's use of the processes which put large runs of images on paper resulted in the manufacture of Government



publications. The other 50 percent resulted in the production of forms, stationery, and other image on paper items used to transact the Federal government's business. To satisfy these concerns, the term "printing" was added to S. 2288, using the basic definition which appears in 44 U.S.C. 501. Added to this definition is a requirement that the Administrator review the definition of printing to ensure its consistency with international and commercial standards, and make recommendations for change at least every five years.

In addition to exempting the Supreme Court, certain types of work required by various other Federal courts, the Central Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, the Defense Intelligence Agency, the National Security Agency, and agencies procuring not more than \$1,000 of noncontinuing, nonrepetitive printing of a class certified by GPO as work that cannot be provided more economically through GPO, S. 2288 exempts agencies which create publications only for dissemination through an electronic communications system or network, provided the requirements of chapter 19 are fulfilled. This is viewed by the Committee as a large incentive for agencies to utilize the new technologies to their maximum extent for the creation and dissemination of Government publications.

Under delegation of authority from the Administrator, agencies also will have broad flexibility to procure printing for themselves, provided they comply with the dissemination requirements of chapter 19 (Sec. 402 of the Act).

Section 501(d) prohibits agencies from entering into any partnership or alliance, or any contractual or cooperative agreement or similar contractual arrangement, public or private, for the production or procurement of printing, binding, and blank-book work or dissemination of a Government publication, regardless of form or format, that is not in compliance with the public access requirements of chapter 19 as amended by this Act.

It is the intent of the Committee to ensure against evasion of the public access requirements of chapter 19 of the bill to the maximum extent feasible. In the past, a variety of agency schemes to avoid compliance with current law have come to the Committee's attention. The most egregious involved the privatization of the prestigious *Journal of the National Cancer Institute* (JNCI) through an arrangement called a "Cooperative Research and Development Agreement" (CRADA) between its longtime government publisher, the National Cancer Institute (NCI) and Oxford University Press (OUP). The arrangement, purportedly effected under the authority of the Federal Technology Transfer Act of 1986 (FTTA), 15 U.S.C. 3710a et seq. (1994), allows OUP to take over and ultimately own, the JNCI. NCI will maintain a symbolic editorial presence, but OUP will market the *Journal*. The stated purpose of the CRADA "is to create a state-of-the-art multi-media, hyper-linked, interactive journal." However, it is clear that in establishing a new type of contractual relationship between a federal laboratory and a non-federal party for research and development purposes under the FTFTA, Congress did not intend that a CRADA was to be a substitute for a procurement contract and thereby evade federal procurement laws. (See 15 U.S.C. 3710a(d)(1))

Its purpose is to improve and facilitate the transfer of commercially useful technologies from federal laboratories to the private sector in order to increase the nation's economic competitiveness. The FTTA defines a CRADA as an agreement between the laboratory and a non-federal party under which each agree to provide resources "toward the conduct of specific research or development efforts which are consistent with the missions of the laboratory." *Id.* (See also *Chem Service Inc v. Environmental Monitoring Systems*, 12 F.3d 1256, 1265 ("Congress did not intend CRADA's to be used to circumvent the nation's procurement laws").

The NCI-OUP CRADA is no more than a production contract. The "research" to be done by OUP is no more than developing a technology to disseminate research already done by others which has been submitted to (or developed by) NCI for publication in the Journal. OUP is a product marketer. The agreement makes clear that "[f]rom the outset of the CRADA, OUP will assume production duties for the print journal as specified in this CRADA." In addition, submitter of research articles must assign copyright rights to OUP, and OUP can sell advertising and has control of the journal's pricing and subscription lists. The agreement had no provision for providing copies for distribution to Federal Depository Libraries until the Joint Committee on Printing learned of the arrangement and raised objections. Although OUP readily agreed to provide the necessary copies, the necessary diligence required raises danger signals with respect to such arrangements. (The CRADA also raises a serious question whether NCI has the authority to privatize the Journal. Neither the language or legislative history of 42 U.S.C. 284b or 285a-2 indicates a congressional intent to allow privatization of any or all of its information dissemination functions and responsibilities. Indeed the language of 42 U.S.C. 285a-2(a)(1) appears to commit to the Director of NCI the sole responsibility to maintain channels of communication and dissemination between the NCI and the public and the NCI and the scientific community. In such circumstances an agency cannot relinquish its statutory mission without further congressional authorization. *Board of Trade of the City of Chicago v. S.E.C.*, 677 F.2d 1137, 1142 note 8 (7th Cir. 1982); *Ft. Pierce Utilities Authority v. U.S.*, 609 F.2d 986, 995 (D.C. cir. 1979), cert denied, 444 U.S. 842 (1979); *Talley v. Mathews*, 350 F.2d 911, 919 and note 21 (4th Cir. 1977).

The Committee's intent is to ensure that the Superintendent has the ability to review and approve only the public access features of such arrangements, and then only as far as the arrangements accommodate the public access requirements established by the legislation and the rules promulgated in support of those requirements.

For purposes of clarity, the Smithsonian Institution is not an agency as defined by this Act, and their publications are not publications of the nature defined in this Act.

Other important provisions of section 301 of the Act include:

The appointment of a Superintendent of Government Publications Production and Procurement Services by the President within 180 days of the Act's enactment;

The appointment of a Deputy Superintendent by the Superintendent;

Authorization for the promulgation of regulations governing the production and procurement of printing, binding, and blank-book work;

Authorization for the promulgation of standards for printing and writing papers used in all Government printing, binding, and blank-book work;

Preparation and submission by all agencies of annual plans on the production or procurement of printing, binding, and blank-book work; and,

Preparation, submission, and implementation by all agencies with internal printing capabilities of plans to reduce that capability in increments over five years to a level not greater than that required to provide for the agencies' immediate internal administrative and office support needs.

Section 302 of the Act amends the provisions of title 44, United States Code, which authorize the production and procurement of printing and publication services for the Congress. The most notable provision of this section transfers the authorities of the Joint Committee on Printing over Congressional printing to the Senate Committee on Rules and Administration and the House Committee on House Oversight. Each committee will make determinations for its respective house, and will act jointly on those matters affecting both houses of Congress.

The United States Congressional Serial Set is the historic bound compilation of the Senate and House documents, reports, presidential and other executive publications, treaty materials, and selected reports of nongovernmental organizations. The Set is composed of over 20,000 numbered bound volumes beginning with the 15th Congress in 1817.

Because the Serial Set is used by the Congress, its staff, scholars, legal researchers, and others as the basis of research into the legislative history of the United States, it must be preserved so that the public record is complete and accurate. Librarians, archivists, and historians have maintained that the only recognized and proven permanent medium available today that will guarantee that the Set will continue to be around 200 years from now is permanent acid free paper. The Committee supports the provision in electronic format of the underlying information represented in the individual publications contained in the Set, but believes that the compilation of that information is best preserved in bound volumes of acid free permanent paper until technology is developed that will assure that electronic versions will be available to our descendants some 200 years in the future just as our ancestors made sure that we would be able to study and learn from their work.

Section 303 of the Act amends and revises chapter 9 of title 44, United States Code, affecting the production and distribution of the *Congressional Record*.

Section 304 of the Act amends chapter 11 of title 44, United States Code to reflect the elimination of the JCP and the transfer of JCP's authorities over Congressional printing to the Congress.

Over the years a number of executive branch publications were specifically authorized by law in chapter 13 of title 44, United States Code. Section 305 repeals all those authorizations with the exception of the authorities granted the National Oceanic and At-

mospheric Administration (NOAA). The Committee sees no impact from this provision given the authority of agency heads to authorize the production of their agency's printing and publication production. NOAA specifically requested that this authority under chapter 13 be continued.

In addition to publications specifically authorized by law, title 44, United States Code, also has been amended over time to exempt agencies from the provisions of 44 U.S.C. 501. The Congressional Research Service and others have, from time to time, attempted to compile a complete inventory of all agencies with legislated exemptions from 44 U.S.C. 501, but these efforts have not been totally successful. The existence of these waivers is believed by the Committee to be a contributing factor to the fugitive documents problem. Agencies having a waiver from the printing and print procurement provisions of title 44, United States Code, believe they have a waiver from all provisions of title 44, United States Code. This is not the case. Therefore, in the interest of reconciling the record and assuring agency compliance with the dissemination provisions of this Act, all legislated waivers from title 44, United States Code, are repealed, effective 120 days after enactment of this Act.

*Public access to Government publications*

The right of the public to access publications produced by the Federal government is guaranteed by the provisions of Title IV of the Act. The purposes of this title are: To broaden, strengthen, and enhance public access to all Government publications regardless of form or format through Federal Publications Access Programs; and, to provide permanent public access to and ensure the authenticity of Government publications regardless of form or format.

Under section 402 of the Act, the Office of the Superintendent of Documents, who serves at the pleasure of the Public Printer, is reestablished as the Office of the Superintendent of Government Publications Access Programs, headed by a Presidential appointee who serves for a term of five years, and is eligible for reappointment. The authorities of the Superintendent of Government Publications Access Programs are delineated to include, but are not limited to:

Using whatever measures are necessary to ensure the timely dissemination of Government publications to the public and to expand and improve the maintenance of permanent public access to Government publications;

Issuing regulations, in consultation with the Administrator of the Government Publications Office, the Office of Management and Budget, the Administrative Office of the United States Courts, and the Congress to carry out the duties and powers of the office;

Managing the Federal Publications Access Library Program, formerly known as the Federal Depository Library Program;

Operating and maintaining GPO Access, the on-line service providing access to a broad range of Federal databases, bulletin boards, agency websites, and the Government Information Locator Service (GILS);

Operating the Superintendent's sales program, including the GPO bookstores; and

Seeking and obtaining the guidance and counsel of various affected interests to ensure, to the highest degree possible, permanent public access to the Government's publication.

Like the Superintendent of Government Publications Production and Procurement Services and the Administrator, the Superintendent of Government Publications Access Programs has authority to appoint a deputy, and is required to prepare a business-like budget for the program under his supervision.

Within this title there are two critical definitions. The first is the definition of the term, "agency" which means: "An executive department, government corporation, government-controlled corporation, or other establishment in the executive branch of Government, including the Executive Office of the President, any independent regulatory agency, and establishment or component of the legislative branch as determined by the rules of the Senate and the House of Representatives, respectively, or judicial branch of the Government."

This definition, which is drawn from provisions of title 5, United States Code, is intended to ensure that all agencies and offices of the Federal government, in all three branches, are included in the coverage of this legislation. The exception to this general definition is the Smithsonian Institution which is not an agency under this definition.

The second definition is the term, "Government publication", which means: Any information product or other discrete set of Government information, regardless of form or format, that is created or compiled by the Government, at Government expense in whole or in part, or as required by law, and an agency discloses, disseminates, or makes available to the public, and shall not include information that is required for official use only or is for strictly internal administrative, or operational purposes having no public interest or educational value, is classified for reasons of national security, or in the case of an agency within the judicial branch, orders, notices, or documents filed by litigants."

It is the intent of the Committee that the definition of "Government publication" in chapter 19 shall be construed broadly to include publications in all formats from all three branches of Government. In order to ensure the public has access to information necessary to make informed decisions and to hold the Government accountable for its actions, the objective of S. 2288 is to capture in the Federal publications access programs the widest range of information products that agencies disclose, disseminate, or make available for dissemination to the public at large or as a whole, not to individual members of the public or to specific groups or sectors of the public.

The phrase "any information product or other discrete set of information" is intended to include, but is not limited to, any book, document, report, newsletter, periodical, journal, bulletin, pamphlet, map, photo, poster, film, data base, audio file, video file, compilation, catalog, or other published work or information product, regardless of the form or format in which the work may be created, compiled, produced, distributed, disseminated, or accessed.

It is not the intent of the Committee to include, for purposes of this definition, individual "records" covered under section 3301 of

title 44 of the United States Code; “documentary material” covered under section 2201 of title 44 of the United States Code; administrative material, opinions, and orders placed in agency reading rooms and not otherwise more broadly disseminated; documents reproduced or released in response to individual requests filed under section 552 of title 5 of the United States Code (FOIA); or drafts of peer-reviewed articles authored by government employees.

In addition, it is not intended that information or publications created or compiled by an organization that is not an agency, or by an individual or group of individuals that are not employees of an agency, even if the information or publication was financed in whole or part by a federal grant or loan, unless the terms of the grant or loan specify that the information or publication is to be the property of the United States Government, be considered a “Government publication” under this definition.

The definition of “Government publication” in S. 2288 recognizes only three exceptions to the basic mandate established by this act that all publications regardless of form or format from all three branches of Government must be included under chapter 19 and made available to the public through the Federal publications access programs. These exceptions are:

- (1) those publications that are required for official use only or are for strictly internal administrative or operational purposes having no public interest or educational value;
- (2) publications classified for reasons of national security and,
- (3) orders, notices, or documents filed by litigants in a proceeding before a judicial branch entity.

The Committee intends that, with respect to the first exception, “public interest or educational value” is to be interpreted broadly, and the Committee urges that any question or uncertainty in this regard should be resolved in favor of public access. The Committee recognizes that many Government publications are not designed or published specifically for the general public or with a large or general audience in mind, yet these materials are extremely valuable and useful to members of the public and often provide important historical information that is of public interest or educational value to future generations. Historically, some of the more popular Government publications were initially produced by agencies for internal use only. These publications, produced at taxpayer expense, have been of immense interest to broad segments of the public.

The Committee recognizes that Government publications today (and in the future) are produced and distributed in a growing diversity of tangible formats and media, including tangible electronic formats. Examples of tangible formats and media include, but are not limited to, paper, microfiche, microfilm, CD-ROM, DVD-ROM, magnetic diskette, audio cassette, videocassette, slides, or multimedia kits. In addition, the Committee recognizes that agencies increasingly are utilizing electronic information technologies to disseminate or make accessible Government publications through the Internet and other electronic communications systems or networks.

Increasingly, agencies today use the World Wide Web, electronic bulletin boards, FTP, and other online means to disseminate Government publications electronically. It is the Committee’s intent to

establish unequivocally that electronic Government publications are included in the Federal publications access programs. Electronic Government publications may include, but are not limited to, publications originally created and disseminated electronically using desktop publishing technologies, publications converted to electronic format by scanning, publications stored on CD-ROMs or other electronic storage media, audio or video files made available on the Internet, or publications created, maintained, or disseminated using future electronic methods or technologies. The definition of "Government publication" in section 1902 is intended to include all publications, regardless of their medium, form, or format.

It is the intent of the Committee, under Section 301 of the Act to ensure that "cooperative publications" as currently defined in 44 U.S.C. 1903, also be made accessible through the Superintendent's access programs.

Nonetheless, there are publications, created under cooperative agreements, primarily between the Smithsonian Institution, the National Archives, the National Gallery of Art, and the Library of Congress and private sector publishers for the production, sale, marketing or subsidiary rights of trade publications. Such publications include books, exhibition catalogs, calendars, and posters, which:

- Highlight certain collections, exhibits or special events of those entities;

- Are not primarily prepared using appropriated funding;

- Are intended to be self-sustaining; and,

- Are intended to be available for sale through traditional outlets for books, calendars and similar published items.

These are not "cooperative publications" for the purposes of this definition.

Further, the definition is modified to ensure that program libraries have access to agencies' fee-based Government information services at no charge. During its hearings the Committee discovered and was alerted to numerous cases where agencies had contracted or otherwise made cooperative arrangements with Government and non-Government publishers to create, produce, publish, or distribute publications developed and paid for, in whole or in part, with taxpayer funds. In addition, agencies increasingly are charging user fees to access online information services to defray costs or generate revenue.

These publications generally were excluded from depository libraries, although some of these publications were distributed later to depositories after investigation and directive action by this Committee or the Joint Committee on Printing. It is the intent of the Committee that the definition in chapter 19 include fee-based publications, publications made available by agencies through fee-based electronic networks or online services, Government publications contracted out to private sector publishers, and so-called cooperative publications that must be sold in order to be self-sustaining.

The Committee intends that the definition of Government publications in section 1902 include electronic information systems such as the Electronic Data Gathering Analysis and Retrieval (EDGAR) system of the Securities and Exchange Commission (SEC). How-

ever, in the case of the EDGAR system, it is the intent of the Committee that the requirements of chapter 19, providing for dissemination to the public of an agency's Government publications, is satisfied by the dissemination, at no charge to the Federal Publications Access Libraries, of identical information by the SEC through other electronic networks, provided such information is made available within a day of its posting on the EDGAR system. The Committee encourages the SEC to work with the Superintendent of Government Publications Access Programs to address the potential of making the EDGAR system available, on a marginal cost basis, to the Federal Publications Access Libraries in the future.

#### *The judicial branch*

Public access to American jurisprudence is essential to our democratic society. The full participation of the judiciary, including the Federal courts, in this reform of Title 44 is crucial to ensuring that American citizens have access to the law of the land so that they can fully participate in their government. S. 2288 demonstrates the commitment of this Committee to provide the American public with access to judicial branch publications, including court opinions, through Federal publications access libraries.

The Committee intends that agencies within the judicial branch comply with the chapter 19 requirements for participation in the Federal Information Access Program in a manner identical to the requirements for agencies within the executive and legislative branches. The Federal courts, with the exception of the Supreme Court, have neglected their dissemination responsibilities under current title 44, United States Code. With the exception of slip opinions of the Supreme Court and the official bound *United States Reports*, which are produced through the Government Printing Office and distributed to depository libraries, the opinions of the Federal courts have not been part of the depository library program.

In 1939, the Joint Committee on Printing (JCP) and the Government Printing Office (GPO) granted waivers to the judiciary for the printing of opinions of the United States Courts of Appeals. These opinions had previously been published by the GPO. This waiver began the long-standing practice that exists today of permitting the Administrative Office of the United States Courts (AOUSC) to directly procure the printing of slip opinions of the U.S. Courts of Appeals. This decentralized procurement and printing model permits the Courts to determine how and to whom court opinions are to be disseminated. The waiver given to the courts in 1939 over time became an ad hoc waiver from the dissemination of court opinions through the depository library program that continues today.

The lack of full compliance by the courts with the chapter 19 dissemination requirements of title 44, United States Code, was never intended by the JCP in granting the printing waiver. Consequently, while Section 501(a)(2)(D) of this legislation allows the Judiciary to continue to produce or procure, outside of the GPO, the printing, binding and blank-book work for appellate slip opinions and the Bankruptcy Noticing Center, the language very clearly states "provided that the requirements of chapter 19, title 44, United States Code, are fulfilled."



*Overcoming fugitive documents*

Two of the central purposes of S. 2288—enhancing timely, no-fee public dissemination of federal Government publications and ensuring permanent public access to those publications—are grounded on the bedrock of the Federal Depository Library Program. Yet, no matter how strong and efficient that program, these two central objectives cannot be attained if Government publications, regardless of form or format, do not get into the program in the first instance. Thus capturing the so-called “fugitive document” is a critical element of this legislation.

A number of witnesses at the Committee’s hearing on Public Access to Government Information in the 21st Century emphasized the growing problem of fugitive documents. Those testifying about this problem included American Library Association President Betty J. Turock, Superintendent of Documents Wayne P. Kelley, and librarians Daniel P. O’Mahony and Christie D. Vernon. Ms. Vernon’s stories about wasted time, bewilderment, and frustration in dealing with government information systems were particularly instructive.

Each time a government publication escapes the depository library program, the public is deprived of the benefit of its tax dollars in creating the publication, as well as the benefit of convenient, timely, long-term access to the information contained in that publication. The cumulative loss to our society is incalculable.

The need to ensure participation and compliance by agencies in all three branches of Government in getting publications into the program in the first place was addressed in Committee hearings last year by Francis J. Buckley, now Superintendent of Documents but at the time Director of the Shaker Heights Public Library, who testified for the American Library Association. Mr. Buckley made clear that “a balance of incentives and enforcement is necessary to ensure agency participation and compliance so that information created at taxpayer expense remains in the public domain and permanently available to the public.” (Title 44, United States Code—Proposals for Revision, Hearings before the Committee on Rules and Administration, U.S. Senate, 105th Cong., 1st Sess., S. Hrg. 105–139 (1997).)

In introducing S. 2288, Senator Ford put it even more bluntly:

a principal issue to be addressed by reform legislation is the need for enforcement—I underscore enforcement—of title 44 to ensure that executive agencies comply with the centralized printing and dissemination requirements that otherwise lead to the creation of fugitive documents. (Cong. Rec. S7955 (daily ed. July 10, 1998).)

S. 2288 attempts to effect a balance of incentives and enforcement.

At the heart of chapter 19, intended to modernize the Federal Depository Library Program into an improved and enhanced Federal publications access program, stands the authority of the Superintendent of Government Publications Access Programs to implement and enforce the provisions of this chapter. Carried over from 44 U.S.C. 1914 is the authority to “use whatever measures are necessary” to implement chapter 19. (Sections 1904(a),

1906(a)(1); 1906(a)(2)(B)(i).) This authority is further bolstered by the ability of the Superintendent of Government Publications Access Programs under section 1904(e)(1) to adopt regulations “as are necessary to implement the requirements of this chapter.”

Nonetheless, the Superintendent does not alone bear the responsibility for ensuring that Government publications reach the public through the Government publications access programs. Under sections 1905, 1906, 1906a, and 1906b, each agency head in the executive branch, the Administrative Office of the U.S. Courts, and the Congress through the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are charged with taking necessary actions to facilitate compliance with the requirements of chapter 19 and movement into the access programs of the Government publications of each of the three branches of Government.

The enforcement provisions of S. 2288 do not stop with the general directions and authorizations that the Superintendent and other responsible persons and entities, as a general proposition, implement the Federal publications access programs. See sections 1905(a), 1906a(a)(2), 1906b(a)(2). A comprehensive and workable three-part implementation scheme is embodied in the legislation. These three parts involve notification, certification, and rectification.

**Notification.**—The first part of the enforcement scheme requires that each agency, under section 1905(b)(1), notify the Superintendent of Government Publications Access Programs of the agency’s intent “to produce or procure, substantially modify, or terminate the production of a Government publication, regardless of form or format . . .”.

This will allow the Superintendent to obtain access to electronic communications or to order publications that will be made available to the public through the Government publications access programs.

**Certification.**—The second part of the enforcement scheme requires that each agency, pursuant to section 1905(b)(3)–(4), include in any contract for the production or procurement of a publication a certification ensuring that notice has been given to the Superintendent of Government Publications Access Programs as required above. The contract must specify the number of copies required by the Superintendent for its program or terms and conditions of access for the program.

**Rectification.**—The third part of the enforcement scheme is intended to rectify a violation of the requirements of chapter 19 by an agency that results in a fugitive Government publication. Under section 1906(a)(2)–(4), the Superintendent may secure access to the Government publication and have it produced or reproduced or otherwise made available to the public through the Government publications access programs, and may obtain reimbursement for any costs associated with doing so. The reimbursement process is set in motion with a determination (under section 1906(a)(2)(A)) that an agency has not complied with the requirements of chapter 19. Once the Superintendent has taken steps necessary to bring the agency into compliance, a vouchered reimbursement from the Treasury to cover costs of bringing the agency into compliance (for example,

costs of reprinting and distribution of a document, in the case of a printed publication) may follow.

Taken together, these three parts of the enforcement scheme—coupled with the Superintendent's authority and the agency heads', Administrative Office of the U.S. Court's, and the Congress through relevant Committees' responsibilities—will go a long way toward making sure that agencies do not and cannot, intentionally or inadvertently, subvert or circumvent the Government publications access programs established under S. 2288.

Additionally, noncompliance with the requirements of chapter 19 will affect the agency's ability to obtain or sustain delegation of production or procurement authority under section 501. A determination of noncompliance by the Superintendent of Government Publications Access Programs under section 1906 shall, under section 1906(a)(5), be deemed a determination of noncompliance under section 501, as well. Thus noncompliance with chapter 19 may lead to the agency's being denied delegated authority to procure publications production or procurement services under section 501(b)(1).

#### *Federal publications access libraries*

The Committee recognizes that Congress, as the branch of Government most directly accountable to the local electorate, has a special obligation to inform the American people of the actions, decisions, policies, and activities of the Federal Government. Since the earliest years of the nation, Congress has exercised this responsibility by designating certain libraries in each state and congressional district to receive Government publications so that these materials are available to the general public on an equitable and no fee basis.

Through their local depository libraries, constituents have had ready access to materials that enable them to keep informed about the workings of the Federal Government.

Linking the designation of program libraries to congressional districts has enabled the program to adjust systematically over time to growing or shifting populations and to the changing Government information needs of local communities.

The Committee recognizes that the designation of such libraries is a serious commitment on the part of the designated library and the Federal Government to enter into a continuing and mutually beneficial partnership. Further, to ensure the broadest and most equitable access to Government publications by all citizens, the Committee recognizes the importance in having a diversity of library types participating in the Federal publications access library program (e.g., public, academic, land grant institution, state, law, court, Federal agency, and other libraries).

Each library serves its own local clientele as well as the constituents in the library's congressional district or, in the case of regional libraries, the citizens of the entire state. All designated libraries cooperatively work with other libraries in the program to participate in a nationwide network to serve the public's Government information needs.

The intent of section 1908 is to continue to embody in statute the process by which new libraries are designated as Federal publications access libraries. Sections 1908(a) through 1908(c) of the act

bring together the various provisions in the current law that provide for library designations. In addition, it is the intent of the Committee to provide flexibility for the program to respond to changing conditions and to meet the needs of undeserved areas. For purposes of section 1908(e), the Committee intends that an “undeserved area” means a service area within the Federal publications access library program where the Government information needs of the people are not sufficiently addressed by the program libraries already designated. An example of an “undeserved area” might be a geographically isolated area where there are no program libraries within a reasonable distance to centers of population. Section 1908(f) ensures that every library currently designated as a Federal Depository Library as of the effective date of the act shall become a Federal publications access library as of that date.

While the Joint Committee on Printing historically has played the role of compliance officer on behalf of GPO, under the system established by this legislation, it is GPO which must assume that role, especially to ensure that agencies are providing access to their publications through the Superintendent of Government Publications Access Programs. In general terms, agencies are required to notify the Superintendent of Government Publications Access Programs when they create, change the format of, or intend to eliminate a publication so that the Superintendent may ride the printing order, or obtain an image file of the publication, for dissemination through the various access tools at the Superintendent’s disposal.

*Permanent public access—the electronic era*

The Committee intends that S. 2288 promote public availability of Government information in the electronic age through a Federal publications access program that provides no-fee availability, regardless of format. The first line of responsibility for implementation of the Federal publications access programs remains with the agencies, the courts, and the Congress. In faithfully carrying out their responsibilities, they will be enriching the lives and businesses and studies of the American public both now and in the future. Together, the implementation provisions of S. 2288 will ensure that much of the informational output of Government will be widely and permanently available to the people.

The Committee finds that permanent public access to Federal Government publications regardless of form or format must be guaranteed. One of the key purposes of this act is to clarify the Government’s ongoing responsibility to provide for the preservation and continuous and permanent access to Government publications regardless of form or format so that they remain available for current and future users.

The Committee acknowledges that the responsibility for providing permanent public access for tangible Government publications currently is being carried out primarily by the Regional depository libraries in the Federal Depository Library Program. The comprehensive collections maintained by the 53 Regional depositories across the country provide the public with reliable and ongoing access to Government publications distributed through the program.

The National Archives and Records Administration (NARA) provides permanent care for the record set of Government publications used by the Superintendent for cataloging, and NARA houses the publications cataloged by the Government Printing Office dating back to the beginning of the program. The Committee does not intend to modify the responsibilities of Federal agencies, and the authorities and responsibilities of NARA under chapters 21, 22, 29, 31, and 33 of title 44, United States Code. The duties vested in the Superintendent of Government Publication Access Programs in this bill are intended to ensure that Government publications, as defined in section 1902, are made permanently accessible to the public, and such duties do not replace the authorities of NARA.

The Committee envisions that the Regional depository libraries and NARA will continue to provide permanent public access to tangible Government publications in the future.

The Committee recognizes that continuous and permanent access to electronic Government publications must also be guaranteed. At its hearings, the Committee heard numerous examples of electronic publications and files that no longer are accessible to the public. These electronic publications were lost because agencies deleted the files from their Web site, agencies no longer maintain the files or the computer server upon which they resided, the format of the electronic files became obsolete, or other reasons that resulted in loss of access. It is the Committee's intent to guarantee continuous and permanent public access to Government publications in electronic formats so that current and future generations have access to this material regardless of changing technologies.

The coordination of permanent public access to electronic Government publications is a logical extension of the Superintendent's responsibilities under the Federal Government publications access programs. The Committee recognizes that this is a complex undertaking that will require the cooperative efforts of many parties. The committee on permanent public access established under section 1907(d) of the act is intended to include representatives from the various stakeholders both inside and outside of the Federal Government responsible for or concerned with these issues. The charge of the committee for permanent public access is to investigate the technological and organizational factors relating to establishing a distributed system of permanent public access, to make recommendations to the Superintendent on the components of such a system, and to make recommendations to the Superintendent on the strategy for achieving such a system to provide permanent public access for the Government publications of all three branches of Government. Not later than 24 months after the effective date of this act, the committee on permanent public access should provide recommendations to the Superintendent for necessary statutory and regulatory changes to implement a system of permanent public access.

The Committee notes that the Archivist of the United States has begun to address problems of providing permanent public access to electronic materials within his purview. The Committee intends that the Superintendent and the Archivist work cooperatively to achieve shared objectives through the committee on permanent public access.

The Committee envisions that the system of permanent public access shall be a distributed system that provides for adequate redundancy at multiple sites. Relying on a single site to retain and provide access to all electronic government publications is dangerous; such sites, like physical collections of tangible publications, are vulnerable to natural and physical disasters, accidents, and other problems that can destroy facilities or interrupt access. A distributed system of permanent public access provides the opportunity for many libraries and other partners to cooperate with the Superintendent and agencies in providing permanent public access to electronic Government publications. The system shall require official and contractual agreements among participating entities to ensure that the regulations and standards of permanent public access are consistent throughout the program. The Committee notes that the Government Printing Office already has developed model agreements for permanent public access partnerships that can be used as models for this program.

*Superintendent of Government Publications—other authorities*

Other key provisions of S. 2288 include the Superintendent of Government Publications Access Program's authorization to sell Government publications, and to establish sales prices for those publications as well as the terms and conditions the resale of Government publications could be made to book dealers. This program is intended to be self-sustaining to the greatest extent possible. The Superintendent of Government Publications Access Programs may also sell Government blank forms to the public.

The Superintendent of Government Publications Access Programs' account is to bear the cost of providing the National Archives one bound copy each of all documents, public reports, journals, public bills and resolutions of each house of the Congress, the United States Code, the United States Reports, and all other documents bearing Congressional numbers or printed upon order of a committee in either house of Congress or of a department, independent agency or establishment, commission, or officer of the Government. In addition, the Superintendent is to provide Government publications to the Secretary of the Senate, the Clerk of the House of Representatives, the Library of Congress, Congressional Research Service, and to the International Exchange Program operated by the Library of Congress. These entities will reimburse the Superintendent from funds appropriated for this purpose. Like all other provisions of S. 2288, these provisions take effect on January 1, 1999, except the provisions affecting the Library of Congress which will take effect on October 1, 1999. The delayed effective date is required to enable the Library of Congress to obtain an appropriation for this purpose, the FY '99 appropriations cycle having already begun.

Agency heads may return to the Superintendent extra copies of Government publications they no longer wish to maintain in their agency, and they may exchange surplus Government publications for Government publications they desire for their agency.

*Administrative savings*

Finally, the Committee intends that all proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Government Printing Office at the time the Act takes effect shall continue following the effective date of the Act, and any arrangement or proceeding, including contractual arrangements between agencies and outside parties which may otherwise be affected by this Act, continue until they are discontinued or modified, at which time the agencies and parties are to conform their arrangement to the terms of the Act.

## III. NEED FOR THE LEGISLATION

## A. POLICY ORIGINS

The Constitution of the United States created a government accountable to the people with accountability among its three coequal branches as well. It was expected that Government leaders would keep the citizenry informed of developments, or at least maintain a record of their activities. In this regard, the Constitution, for example, specifies that each house of Congress “shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy” (Article I, Section 5, clause 3). With regard to the subnational level of government, the Constitution states: “Full Faith and Credit shall be given in each State to the Public Acts, Records, and judicial Proceedings of every other State” (Article IV, Section 1, clause 1).

Moreover, with its system of checks and balances, the Constitution anticipated that each branch would be knowledgeable of the activities and interests of the other two. In this regard, the Constitution specifically provides that, when the President vetoes a bill, “he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal and proceed to reconsider it” (Article I, Section 7, clause 2). Concerning interbranch accountability, the President is vested with the duty to “take Care That the Laws be faithfully executed” (Article I, Section 3, clause 4) and provision is made for the President to “require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices” (Article II, Section 2, clause 1). Further, the Constitution indicates that the President “shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient” (Article II, Section 3, clause 1).

In turn, the Constitution’s vesting of “All legislative Powers” in a Congress of the United States has been consistently interpreted by the Supreme Court as providing the basis for broad congressional oversight and investigation so that the House and the Senate may inform themselves and the public concerning the effectiveness and the honesty of Government agencies in performing their responsibilities. These powers have been held to “encompass[] inquiries concerning the administration of existing laws as well as proposed or possible needed statutes” and “to expose corruption, in-

efficiency or waste,”<sup>1</sup> as well as to preserve a historical record of presidential actions.<sup>2</sup>

Since the earliest days of the Federal Government, most aspects of government information policy and practice have been established by Congress. Statutory provision was made in the early years, for example, for the printing and distribution of both laws and treaties,<sup>3</sup> the preservation of state papers,<sup>4</sup> and the maintenance of official files in the new departments.<sup>5</sup> Just before the Nation erupted in civil war, a permanent printing organization—the Government Printing Office (GPO)—was statutorily mandated to produce all public printing.<sup>6</sup> The Joint Committee on Printing, which had been established earlier in 1846,<sup>7</sup> exercised oversight over both GPO and public printing activities, as well as remedial powers over printing operations.<sup>8</sup> Later, with the rise of the administrative state early in the twentieth century, Congress established arrangements for the publication of related rules, regulations, and legal instruments,<sup>9</sup> and for their orderly creation.<sup>10</sup> More recent developments include legislated procedures facilitating public access to unpublished department and agency records,<sup>11</sup> as well as the inspection by individuals of files maintained on them by these executive branch entities.<sup>12</sup>

Several developments during the past 10 years have prompted congressional reconsideration of some of the longest enduring institutions and arrangements for producing and disseminating government information, including congressional literature. These new developments include the rise of the electronic information phenomenon, the erosion of the Public Printer’s authority to supervise the public printing system, constitutional challenges, and, against a background of budget reduction and government downsizing, desires for greater efficiency and economy in the production and dissemination of government information products. Among the institutions and arrangements that came under reconsideration were GPO and the JCP, the required procurement of largely all executive branch and legislative branch printing and information products through GPO, and the depository library program.

#### B. THE ELECTRONIC INFORMATION PHENOMENON

The phenomenon of government information being collected, maintained, used, and disseminated in electronic formats has been a recent development presenting various new opportunities, challenges, and problems. A pioneering, comprehensive assessment of the electronic collection and dissemination of information by the

<sup>1</sup> *Watkins v. United States*, 354 U.S. 178, 187 (1957). See also *McGrain v. Daugherty*, 272 U.S. 135 (1927); *Eastland v. United States Serviceman’s Fund*, 421 U.S. 491 (1975).

<sup>2</sup> *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977).

<sup>3</sup> See 1 Stat. 68, 443, 519, 724; 2 Stat. 302; 3 Stat. 145, 439, 576.

<sup>4</sup> See 1 Stat. 168.

<sup>5</sup> See 1 Stat. 28, 49, 65. These and other similar provisions were consolidated in the Revised Statutes of the United States (1878) at section 161, which is presently located in the United States Code at 5 U.S.C. 301 (1994).

<sup>6</sup> See 12 Stat. 117.

<sup>7</sup> 9 Stat. 114.

<sup>8</sup> 44 U.S.C. 103.

<sup>9</sup> See 49 Stat. 500; 50 Stat. 304.

<sup>10</sup> See 60 Stat. 237.

<sup>11</sup> See 5 U.S.C. 552.

<sup>12</sup> See 5 U.S.C. 552a.



Federal agencies, produced by a committee of the House of Representatives in the spring of 1986, offered a number of relevant and prescient findings.

“Increasing amounts of information—both private and public—are being maintained in electronic data bases,” and this “trend will both continue and accelerate.”

“Electronic collection, maintenance, and dissemination of information by Federal agencies can undermine the practical limitations and legal structures” governing public access to, as well as government collection, creation, and dissemination of, such information.

“Electronic information systems offer the opportunity to make more government information readily available” to the public and this same information “technology also permits government information to be used in ways that are not possible when the information is stored on paper records.”

“The development and installation of an electronic information system requires advanced planning and may require sizable capital expenditures.”

“The Federal Government must understand the consequences of electronic information systems and must recognize the need for new policies that will prevent these systems from being used in unintended ways.”

“There is little communication among Federal agencies about electronic information activities, and there is little central administrative guidance”.<sup>13</sup>

These 1986 findings revealed a relatively new technology of growing use and application, one conveying considerable discretionary capability to Federal agencies concerning government information management, while simultaneously outstripping the existing practical limitations and legal structures governing many aspects of the government information life cycle.

An October 1988 Office of Technology Assessment (OTA) report gave further testimony to the impact of the electronic information phenomenon upon existing government information policy and practice. Among the “problems and challenges” identified in the OTA study were the following:

a blurring or elimination of “many distinctions between reports, publications, databases, records, and the like, in ways not anticipated by existing statutes and policies;”

electronic technology permitting “information dissemination on a decentralized basis that is cost-effective at low levels of demand, but in ways that may challenge traditional roles, responsibilities, and policies;”

electronic technology “eroding the institutional roles of government-wide information dissemination agencies;” and

electronic technology that “has outpaced the major government-wide statutes that apply to Federal information dissemination.”<sup>14</sup>

<sup>13</sup> U.S. Congress. House. Committee on Government Operations. *Electronic Collection and Dissemination of Information by Federal Agencies: A Policy Overview*. H. Rept. 99-560, 99th Congress, 2d session. Washington: U.S. Govt. Print. Off., 1986, pp. 10-11.

<sup>14</sup> U.S. Office of Technology Assessment. *Informing the Nation: Federal Information Dissemination in an Electronic Age*. Washington: October 1988, p. 8.

Calling explicitly for a defining of “GPO’s role in the dissemination of electronic formats” and “GPO’s role relative to the growth in agency desktop and high-end electronic publishing systems,” the report concluded:

the government needs to set in motion a comprehensive planning process for creatively exploring the long-term future (e.g., 10 to 20 years from now) when the information infrastructure of the public and private sectors could be quite different. At the same time, the government needs to provide short-term direction to existing agencies and institutions with respect to electronic information dissemination.<sup>15</sup>

A subsequent response to these recommendations was the passage of the Government Printing Office Electronic Information Access Enhancement Act of 1993.<sup>16</sup> This statute directed the Superintendent of Documents to provide a system of online access to the Congressional Record and the Federal Register by June 1994. The Superintendent was given discretion to make available other appropriate publications, and responsibility for maintaining an electronic directory of Federal electronic information, as well as for operating an electronic storage facility for Federal electronic information. In addition to the online Congressional Record and Federal Register, GPO also created a legislation database containing all published versions of House and Senate bills introduced since the 103rd Congress. The GPO Electronic Information Access Enhancement Act provided free online access for all depository libraries and cost recovery based upon the marginal cost of dissemination for all other users. Subsequently, GPO made arrangements with 20 libraries around the country to offer “gateway” access to the GPO databases via the Internet or through a local phone call. Anyone, therefore, could get access to the GPO electronic material by connecting to these libraries. Finally, in December 1995, GPO announced that it was making the GPO Access service directly available over the Internet and that it was dropping the subscription fee.

In the 104th Congress passage of the Paperwork Reduction Act of 1995 (PRA) provided a statutory framework for electronic information policymaking in the Federal Government.<sup>17</sup> The Act established agency and Office of Management and Budget responsibilities for the entire information life cycle and set in place principles for electronic dissemination of government information.

The rapid growth of the Internet and the World Wide Web (WWW), which facilitates easy access to remote databases, has greatly expanded dissemination of government information electronically. According to a June 1997 General Accounting Office study, “42 federal organizations reported having a total of about 4,300 WWW sites . . .”<sup>18</sup> Agencies increasingly provide information on their WWW sites to enhance public access to government information, increase efficiency and reduce costs, and improve service to

<sup>15</sup> *Id.*, pp. 10, 11.

<sup>16</sup> P.L. 103-40; 107 Stat. 112; 44 U.S.C. 4101-4104 (1994).

<sup>17</sup> P.L. 104-13; 109 Stat. 163; 44 U.S.C. 3501-3520 (1996).

<sup>18</sup> U.S. General Accounting Office. Internet and Electronic Dial-Up Bulletin Boards, GAO/GGD-97-86. Washington: June 1997, p. 2.

the public. Congress also now supplies a significant amount of legislative information to the public via the Internet. The Government Printing Office's ACCESS system and the Library of Congress' THOMAS system both provide public access through their WWW sites to congressional documents, including, among other legislative information, bills, committee reports and hearings, and the Congressional Record. Both of these systems have been extremely popular with the public. The growth of Government WWW sites greatly expands the ability of the public to quickly acquire a broad range of government data and public information on a distributed basis directly from the originating agency.

While the explosion of the Federal Government's use of the Internet for disseminating information creates enormous opportunities, it also poses potential problems. Of particular concern is the possibility that citizens without access to computer and network technologies will become information "have nots" in our society. In addition, the Government faces the new and significant challenge of preserving electronic material for long term public access absent proven approaches for ensuring the durability of different formats and migrating data to new technologies as they emerge. As agencies replace traditional paper-based documents with new electronic publications, they may gain certain features, such as currency or the ability to search data, but also may lose others, such as readability or access by certain communities of users. The dynamics of electronic publishing also may shift some costs from the agency publishers to the end users. Ensuring public access to the growing amount of government information in electronic formats, both currently and in the long term, necessitates clear policy direction from Congress and a system that can adapt to the changing technological environment of government publications.

#### C. EROSION OF THE PUBLIC PRINTER'S SUPERVISORY AUTHORITY

Another development prompting congressional reconsideration of arrangements for producing and disseminating government information is the erosion of the Public Printer's authority to supervise the public printing system. As the General Accounting Office reported in April 1994, "for all practical purposes, the framework of laws and regulations used to manage many aspects of government publishing has become outdated" as a consequence of the emergence and use of various new electronic information technologies.<sup>19</sup> GPO was deemed ill-equipped to continue to assert monopoly control over agency printing-like operations. Moreover, "some agencies want to publish their work independent of GPO involvement" and can do so as a "result of significant advances in publishing technologies."<sup>20</sup> Remedying the situation, however, is complicated by constitutional challenges to the roles heretofore played by GPO and the JCP.

<sup>19</sup>U.S. General Accounting Office. Government Printing: Legal and Regulatory Framework Is Outdated for New Technological Environment. GAO/NSIAD-94-157. Washington: April 1994, p. 3.

<sup>20</sup>Id., p. 2.

## D. CONSTITUTIONAL CHALLENGES

A third development prompting congressional reconsideration of Government publication arrangements is rooted in the 1983 Supreme Court invalidation of Congress's so-called legislative veto authority. That ruling inspired a well-orchestrated quest by the executive branch for more independence to set publication policy and to procure its own printing and information products that has proved increasingly more disruptive of interbranch relations.

In the milestone *Chadha* decision of June 23, 1983, the Supreme Court found adoption of a simple resolution by one congressional chamber to veto executive action or policy unconstitutional because it was an exercise of legislative power which did not follow the constitutionally prescribed lawmaking process: bicameral consideration and presentation of a bill or joint resolution to the President for his signature or veto.<sup>21</sup> The potential breadth of the Court's ruling was signaled by its definition of a legislative act. Whether an action is an exercise of legislative power will depend on its purpose and effect. It concluded that, where such action has "the purpose and effect of altering legal rights, duties and relations of persons . . . outside the legislative branch," it must be effected through the constitutionally-mandated lawmaking process.<sup>22</sup> The wide reach of the Court's rationale was shortly confirmed by its summary affirmance of two appeals court rulings invalidating one- and two-house vetoes of agency rulemaking, and was shortly recognized by the Department of Justice as an effective vehicle to challenge the very foundation of Congress' control of Federal printing.<sup>23</sup>

Until *Chadha*, the historic prerogative of Congress to control public printing through the JCP was virtually unquestioned. The basic authority of the panel—to "use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing and binding and the distribution of Government publications"—is sweeping and unqualified.<sup>24</sup> Its exercise extends beyond oversight and veto to affirmative direction and control. The JCP's role has been likened to that of the board of directors of a corporation,<sup>25</sup> and it assumed powers of commensurate scope without any serious challenge. This status was confirmed by a decision of the Court of Appeals for the District of Columbia Circuit announced shortly before *Chadha*.<sup>26</sup> Ten unions and four employees of GPO challenged the decision of the Public Printer to furlough the entire work force of GPO for six days. The Printer's decision was made in the face of a JCP directive that he delay implementation of his furlough plans until the JCP evaluated GPO's personnel requirements. The Printer had contended that, while the JCP had a final say over "wages, salaries, and compensation," that authority did

<sup>21</sup> *INS v. Chadha*, 462 U.S. 919 (1983).

<sup>22</sup> *Id.*, at 952.

<sup>23</sup> *Process Gas Consumers Group v. Consumer Energy Council of America*, 463 U.S. 1216 (1983); and *United States Senate v. Federal Trade Commission*, 463 U.S. 1216 (1983).

<sup>24</sup> 44 U.S.C. 103.

<sup>25</sup> See Congressional Record, v. 65, June 4, 1924, p. 10556; U. S. Congress. Senate. Committee on Rules and Administration. Report with Recommendations of the Committee on Rules and Administration on the Joint Committee on Printing. S. Rept. 327, 95th Congress, 1st session. Washington: U.S. Govt. Print. Off., 1977, p. 2; 41 Op. Atty. Gen. 282, 286-287 (1957).

<sup>26</sup> *Lewis v. Sawyer*, 698 F.2d 1261 (D.C. Cir. 1983). *Lewis* was decided immediately after three D.C. Circuit rulings overturning a variety of legislative veto provisions.

not extend to matters involving personnel policy.<sup>27</sup> The District Court rejected this contention as contrary to the intent of Congress to place GPO in a subordinate relation to the JCP, saying:

In the exercise of its powers under [section 103 of] Title 44, the Joint Committee adopted its resolution of May 11, 1982, which commanded the Printer not to furlough GPO workers. Although the statutory scheme envisions a cooperative relationship between the Printer and the Joint Committee, that scheme also places final authority to resolve disputes in the hands of the Joint Committee, as the agent of Congressional oversight. Consequently, the Court finds, in the context of this particular conflict between the Joint Committee and the Printer, that the Joint Committee's will must prevail. In the circumstances of this case, the Joint Committee having gone on record against furloughs, the Printer does not have authority to furlough workers.<sup>28</sup>

On review, the appeals court summarily adopted the result and reasoning of the lower court. Judge Patricia Wald, however, filed a concurring opinion in which she made clear her view of the relationship between the JCP and GPO and the Federal printing establishment generally. Judge Wald initially noted that it was well established that GPO is a legislative branch agency,<sup>29</sup> whose prime function is to support Congress in its legislative activities and its constitutional responsibility under Article 1, section 5, clause 3 that "Each house shall keep a Journal of its Proceedings, and from time to time publish the same . . ." She then gave recognition to the long history of close congressional control of the public printing function, which had been maintained "in part because the activity is vital to Congress' ability to operate."<sup>30</sup> Judge Wald acknowledged that often that control had included assigning GPO publishing duties for the executive branch, or including GPO employees under some personnel statutes which also covered executive branch employees, thereby "enmesh[ing] the GPO to some degree with the executive." Judge Wald found that such executive connections do not alter the essential character of GPO as a legislative support agency, a conclusion supported by the control "over a myriad of GPO operational decisions" Congress has maintained through numerous statutes. Concluding, she wrote:

In sum, the GPO's purpose, performance, history, and ongoing relationship with Congress do not suggest that the JCP encroached on another branch and thereby offended the constitutional separations of powers when it ordered the Printer to halt his furlough plans. I do not think that the GPO, by nature a legislative support unit, vital to the flow of information within Congress and from Congress to the nation, can be metamorphosed into an executive agen-

<sup>27</sup> See 44 U.S.C. 305.

<sup>28</sup> *Lewis v. Sawyer*, C.A. 82-1515, July 2, 1982, per Gasch, J., slip opinion, p. 8.

<sup>29</sup> Citing the recent decision in *Thompson v. Sawyer*, 678 F. 2d 257, 264 (D.C. Cir. 1982).

<sup>30</sup> 698 F.2d, at 1263.

cy by according GPO employees civil service protections applicable to and run by executive branch personnel.<sup>31</sup>

By 1983, the statutory scheme of Title 44, United States Code, as interpreted and applied by the courts, the General Accounting Office, and the Attorney General, appeared to prescribe a predominant role for the JCP with respect to the central tasks of satisfying the printing needs of Congress and the other branches of government and making it possible for the broadest segment of the public to have direct access to government publications. To assure accomplishment of those tasks, Congress long ago had established the JCP to oversee the process and invested it with ample power to enforce compliance either directly pursuant to its authority under 44 U.S.C. 103, or indirectly through its general managing agent, the Public Printer. The JCP had three kinds of authority it could exercise over government printing: (1) statutory requirements that the Public Printer and Government agencies obtain JCP approval prior to taking action, (2) regulations promulgation, and (3) the managerial and remedial power of 44 U.S.C. 103. In view of this, the authority of the JCP over the Public Printer and the Federal printing establishment was virtually plenary.

In the aftermath of the Supreme Court's *Chadha* decision, the Department of Justice (DOJ) and the Office of Management and Budget (OMB) began to question the longstanding assumption that Congress, through the Joint Committee on Printing, had plenary authority to control public printing throughout the Federal Government. For instance, the DOJ Office of Legal Counsel (OLC) advised the Department of Defense in a March 2, 1984, legal opinion that Pentagon compliance with 44 U.S.C. 501(2), requiring the prior approval of the JCP before printing could be undertaken, was no longer required because of the *Chadha* ruling. OLC also maintained that the veto condition was severable from the statute and, thus, the Department retained the power to conduct printing activities outside of GPO to the extent it was so "permitted by its authorization and appropriations legislation and considerations of efficiency." OLC suggested that the agency continue to notify JCP of its proposed actions.<sup>32</sup>

Next, OLC issued an April 11, 1984, opinion to OMB regarding the JCP's proposed revision of its printing regulations, which had been published November 11, 1983.<sup>33</sup> It concluded that the proposed regulations were not authorized by any statute and the execution of the authority purportedly vested in the JCP by the regulations not only would violate the constitutionally mandated placement of executive authority in the President,<sup>34</sup> but also would be inconsistent with the provisions of Article I of the Constitution, which, as interpreted by the *Chadha* Court, forbid the legislative imposition of binding directives on the executive branch without compliance with that article's prescribed lawmaking procedures.<sup>35</sup>

<sup>31</sup> *Id.*

<sup>32</sup> U.S. Department of Justice, Office of Legal Counsel. Memorandum from Theodore B. Olsen, Assistant Attorney General, for William H. Taft IV, Deputy Secretary of Defense, Department of Defense. "Effect of *INS v. Chadha* on 44 U.S.C. § 501, 'Public Printing and Documents'." Washington, March 2, 1984.

<sup>33</sup> See *Congressional Record*, v. 129, November 11, 1983, p. H9709 (daily edition).

<sup>34</sup> Citing *Buckley v. Valeo*, 424 U.S. 1 (1976) (officers of the United States may not be appointed by Congress).

<sup>35</sup> 8 *Op. O.L.C.* 53-65 (1984).

Several months later, the JCP published another version of its revised printing regulations, designating them “proposed policies and guidelines.”<sup>36</sup> OLC responded with the same conclusions it had offered previously: if the new proposals were truly guidelines, “then executive departments are under no obligation to comply with them in formulating their decisions” with respect to agency printing policy. If, however, they were intended to in any way bind executive branch officials, OLC found that there was no statutory authority to support “the promulgation of mandatory guidelines or the compulsory subordination of executive management discretion to a committee of Congress.” Moreover, said the opinion, even if such statutory authority was deemed to exist, “they would represent a constitutionally impermissible legislative trespass under the rights, duties, and responsibilities of the Executive Branch [under the *Buckley* and *Chadha* decisions].”<sup>37</sup>

Three years later, the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration published notice of their intention to implement, on July 1, 1987, a final rule supplanting the current Federal Acquisition Rule (FAR) dealing with the acquisition of printing and related supplies.<sup>38</sup> The agencies explained that revision of the rule was made necessary by *Chadha*’s implicit invalidation of JCP’s approval requirement under 44 U.S.C. 501(2), referencing the DOJ March 2, 1984, opinion. The new rule, it was said, “reflects the deletion of the [old rules’] approval procedure, substitution of a notification requirement, and revision of definitions to reflect the statute rather than JCP regulations.”<sup>39</sup>

The proposed revision of the FAR, however, would have gone beyond simply conforming the regulatory scheme to the constitutional strictures announced by the *Chadha* Court. The new FAR not only would have eliminated the JCP’s supervisory role and veto power, it also would have divested GPO of any role in printing decision-making, allowing the individual agency with printing capability, or the funds to contract out for printing, to decide where and how printing shall be accomplished.

Congress responded by placing an appropriations limitation in the FY1988 legislative branch appropriation measure, proscribing any executive agency procurement of commercial printing, with certain limited exceptions, unless authorized by GPO.<sup>40</sup> The conference report on the legislation made clear the congressional intent to override the FAR:

The conference agreement includes a provision which requires executive branch agencies who wish to procure printing services from commercial sources to do so through the Government Printing Office. Exceptions are provided for a number of printing practices and activities that for reasons of necessity, practicality, efficiency, or statutory

<sup>36</sup> See *Congressional Record*, v. 130, June 26, 1984, p. H7075 (daily edition).

<sup>37</sup> U.S. Department of Justice. Office of Legal Counsel. Memorandum from Theodore B. Olsen, Assistant Attorney General, for Michael J. Horowitz, Counsel to the Director, Office of Management and Budget. “Government Printing, Binding, and Distribution Policies and Guidelines of the Joint Committee on Printing.” Washington, August 21, 1984.

<sup>38</sup> See 48 C.F.R. 8.800–8.802 (1986).

<sup>39</sup> *Federal Register*, v. 54, March 20, 1987, p. 9037.

<sup>40</sup> P.L. 100–202, sec. 309; 101 Stat. 1329.

authority have been, and should continue to be, performed other than through the Government Printing Office. The overall intent is to maintain the status that existed prior to the implementation of the recent change in the Federal Acquisition Regulation \* \* \*. This provision revises a provision inserted by the Senate.<sup>41</sup>

The proposed FAR was subsequently withdrawn.

Congress imposed the same limiting language in legislative branch appropriations acts for FY1989, FY1990, and FY1991. The FY1991 version, however, made the provision permanent.<sup>42</sup> In the legislation for FY1993, Congress repealed the FY1991 provision and, in its stead, enacted one that swept more broadly.<sup>43</sup> The General Services Administration (GSA) attempted to challenge the constitutionality of this version by seeking an opinion to that effect from the DOJ Office of Legal Counsel. Acting Assistant Attorney Walter Dellinger found the limitation to be constitutionally valid, saying: "It does not give the GPO the authority to refuse to print any materials, but merely requires that printing be procured 'by or through' the GPO."<sup>44</sup>

In 1994, Congress again altered the limitation by requiring that executive branch agencies receive a certification from the Public Printer before procuring the production of certain documents outside of GPO, and by expanding the types of materials that are to be produced by GPO.<sup>45</sup> This modification prompted President Clinton to comment in his July 22, 1994, signing statement that the provision "raises serious constitutional concerns" and to declare that he would "interpret the amendments to the public printing provisions in a manner that minimizes the potential constitutional deficiencies in the Act".<sup>46</sup>

Later, as revealed in a September 19, 1994, memorandum from OMB Acting Director Alice Rivlin to department and agency heads, an accommodation between the two branches was reached concerning public printing. She announced: "The leadership of the Congressional committees of jurisdiction has agreed to work with the Administration to produce a legislative approach to solving this problem" of comprehensive reform of Federal Government printing. As a consequence, she directed the executive departments and agencies "to maintain the status quo regarding present printing and duplicating arrangements during Fiscal Year 1995 to allow this initiative to go forward."<sup>47</sup> However, the accommodation proved to be temporary when, several weeks later, the President's political party lost majority control of both Houses of Congress and

<sup>41</sup> U.S. Congress. House. Committee of conference. Making Further Continuing Appropriations for the Fiscal Year Ending September 30, 1988. H. Rept. 100-498, 100th Congress, 1st session. Washington: U.S. Govt. Print Off., 1987, p. 1001.

<sup>42</sup> See P.L. 101-520, sec. 206; 104 Stat. 2274.

<sup>43</sup> See P.L. 102-392, sec. 207; 106 Stat 1719-1720. Previous versions were narrower in that they applied only to printing "from commercial sources". The new version applied to virtually all spending by all executive agencies for any printing.

<sup>44</sup> U.S. Department of Justice. Office of Legal Counsel. Memorandum from Walter Dellinger, Assistant Attorney General, for Emily C. Hewitt, General Counsel, General Services Administration. "General Services Administration Printing Operations." Washington, September 13, 1993.

<sup>45</sup> P.L. 103-283, sec. 207; 108 Stat. 1423, 1440.

<sup>46</sup> Weekly Compilation of Presidential Documents, v. 30, July 29, 1994, pp. 1541- 1542.

<sup>47</sup> Memorandum reprinted in Congressional Record, v. 140, September 29, 1994, pp. E1997-E1998 (daily edition).



congressional reconsideration of public printing arrangements came under new leadership.

Nonetheless, executive branch resolve in challenging congressional efforts at controlling Federal printing practices may have been buttressed by several judicial rulings since *Chadha* which have substantially narrowed the ways in which Congress may directly control executive agency decisionmaking. In one such case, *Bowsher v. Synar*, the Supreme Court ruled that, “because Congress has retained removal authority over the Comptroller General, he may not be entrusted with executive powers”.<sup>48</sup> In another, the Court held that a board of review, which was composed of Members of Congress and could exercise veto power over the operational decisions of the Metropolitan Washington Airport Authority, was unconstitutional.<sup>49</sup> More recently, the Court of Appeals for the District of Columbia Circuit, reviewing the subsequent congressional effort to repair the defects found by the Supreme Court, held that scheme—creating a board of review which could only recommend, but not veto, the operational decisions of the Airport Authority—to be unconstitutional as well. The appeals court found the review board to be an agent of Congress, allowing for a direct exercise of congressional influence, which was deemed sufficient to thereby taint the scheme.<sup>50</sup> In this latter regard, the appeals court was following its recent holding in *Federal Election Commission v. NRA Political Victory Fund*, in which it invalidated an arrangement whereby Congress appoints two of its agents as non-voting ex officio members of the Federal Election Commission.<sup>51</sup>

These emerging legal authorities buttressing *Chadha*, coupled with Congress’s effort to expand the definition of “printing” subject to GPO control to include “duplicating” in the FY1995 Legislative Branch Appropriations Act and the collapse of the Rivlin accommodation after the fall 1994 congressional elections, prompted the Justice Department to issue its most direct legal challenge to congressional control of executive branch printing. In a May 31, 1996, opinion, the Office of Legal Counsel found that the current extent of congressional control over the printing operations of GPO, and, in particular, the printing needs of the executive branch, was an unconstitutional violation of the separation of powers doctrine. OLC also assured all executive branch officers and employees who act in conformity with its opinion that they would not be subject to liability or sanction even if their actions were contrary to the views and rulings of the Comptroller General.<sup>52</sup> The OLC opinion is the clearest indication that the heretofore challenges by the executive to congressional attempts to maintain direct control of executive branch printing are not likely to abate. Indeed, OLC’s invitation to ignore the contrary views of the Comptroller General, which

<sup>48</sup> *Bowsher v. Synar*, 478 U.S. 714, at 732 (1986).

<sup>49</sup> *Metropolitan Washington Airport Authority v. Citizens for the Abatement of Aircraft Noise, Inc.*, 501 U.S. 252 (1991).

<sup>50</sup> *Hechinger v. Metropolitan Washington Airport Authority Board of Review*, 36 F.3d 97 (D.C. Cir. 1994), cert. denied, 115 S. Ct. 934 (January 23, 1995).

<sup>51</sup> *Federal Election Commission v. NRA Political Victory Fund*, 6 F.3d 821 (D.C. Cir. 1993), cert. dismissed for want of jurisdiction, 115 S.Ct. 537 (1994).

<sup>52</sup> U.S. Department of Justice. Office of Legal Counsel. Memorandum from Walter Dellinger, Assistant Attorney General, for Emily C. Hewitt, General Counsel, General Services Administration. “Government Printing Office Involvement in Executive Branch Printing.” Washington, May 31, 1996.

would ordinarily deter certifying and disbursing officers from acting contrary to his advice,<sup>53</sup> marks an unprecedented deterioration of interbranch comity.

#### E. REINVENTING, DOWNSIZING, AND ECONOMIZING

Shortly after his inauguration, President Clinton announced on March 3, 1993, that he was initiating a National Performance Review (NPR) to be conducted over the next six months by a task force headed by Vice President Albert Gore, Jr. "Our goal," said the President, "is to make the entire Federal Government both less expensive and more efficient, and to change the culture of our national bureaucracy away from complacency and entitlement toward initiative and empowerment. We intend to redesign, to reinvent, to reinvigorate the entire National Government."<sup>54</sup>

The final report of the NPR was delivered to the President on September 7, 1993. It criticized Federal Government hiring, purchasing, decisionmaking structure, program duplication, and administrative procedures. To rectify the situation, over 380 major recommendations were offered. Among these was a proposal to eliminate the Government Printing Office's monopoly over the procurement of government printing. GAO had criticized GPO's monopoly status in 1990.<sup>55</sup> The report also called for Congress to end the oversight role of the Joint Committee on Printing for all executive branch printing.<sup>56</sup>

An April 11, 1996, memorandum from White House Chief of Staff Leon E. Panetta reflected the willingness of the Clinton Administration to continue to pursue new printing policy that would address various pending problems to the satisfaction of both Congress and the administration. The memorandum, addressed to all heads of executive departments and agencies, reminded these officials "to make maximum use of the capabilities and expertise of the Government Printing Office in handling your agency's printing and duplicating procurements during the next 12 months, in accordance with the following:

Agencies should continue to procure printing and high volume duplicating through the Government Printing Office.

Existing agency in-house printing and duplicating operations and cross-servicing arrangements may continue to operate normally.

Plans to downsize internal printing and duplicating capacity shall continue to be carried out."<sup>57</sup>

Approximately one month later, as indicated above, a May 31, 1996, Department of Justice memorandum provided a sharp reminder that the constitutional problems plaguing public printing policy and practice not only had not disappeared, but were becoming somewhat more acute. Prepared by Assistant Attorney General

<sup>53</sup> See 31 U.S.C. 3522-3530 (1994).

<sup>54</sup> Weekly Compilation of Presidential Documents, v. 29, March 8, 1993, p. 350.

<sup>55</sup> U.S. General Accounting Office. Government Printing Office: Monopoly-Like Status Contributes to Inefficiency and Ineffectiveness. GAO/GGD-90-107. Washington: September 1990.

<sup>56</sup> Office of the Vice President. From Red Tape to Results: Creating a Government that Works Better & Costs Less. Report of the National Performance Review, pp. 6-7.

<sup>57</sup> The White House. Memorandum from Leon E. Panetta, Chief of Staff, for heads of executive departments and agencies. "Procurement of Printing and Duplicating through the Government Printing Office." Washington, April 11, 1996.

Walter Dellinger, Office of Legal Counsel, the memorandum revisited the provisions in the Legislative Branch Appropriations Act of 1995 expanding the definition of printing and requiring the agencies to receive a certification from the Public Printer before procuring the production of certain official documents from sources other than GPO. These were the same provisions to which President Clinton had taken exception when signing the legislation into law. The Dellinger memorandum found “that the GPO is subject to congressional control, and conclude that the GPO’s extensive control over executive branch printing is unconstitutional under the doctrine of separation of powers.” Moreover, the memorandum concluded “that executive branch departments and agencies are not obligated to procure printing by or through the GPO” and “we perceive little or no risk of liability or sanction to contracting officers who act consistently with this opinion” as the Department of Justice would decline to prosecute them.<sup>58</sup>

#### IV. COMMITTEE ACTION

In 1996, during the second session of the 104th Congress, the Senate Committee on Rules and Administration began examining the issues surrounding public access to Government Information in the 21st Century. This initiative was taken in light of a series of actions in the House of Representatives, and the activities of the Administration in light of the recommendations of the National Performance Review.

To address these concerns, the Committee convened a series of four hearings, on June 18, 1996, June 19, 1996, July 16, 1996, and July 24, 1996 with the objectives to:

1. Ensure continued public access to Government information;
2. Encourage technological advances for even broader public access without creating a society of information “haves” and “have-nots”; and,
3. Bring title 44, United States Code, into the 21st century with a minimum cost to the taxpayers.

At the June 18, 1996, hearing, the Committee received testimony from Wayne P. Kelley, Superintendent of Documents, U.S. Government Printing Office; Daniel P. O’Mahony, Government Documents Coordinator, Brown University Library, Providence, Rhode Island; Betty J. Turock, President, American Library Association, Washington, D.C.; and, Christie D. Vernon, Saint Leo College, Yorktown, Virginia.

During the hearing on June 19, 1996, the Committee received testimony from William A. Wulf, Professor of Computer Science, University of Virginia, Charlottesville, Virginia; Dennis F. Galletta, University of Pittsburgh, Pennsylvania; Robert L. Smith, Jr., Interactive Services Association, Silver Spring, Maryland; and, Hon. Jeanne Hurley Simon, Chairperson, U.S. National Commission on Libraries and Information Science, Washington, D.C.

<sup>58</sup> U.S. Department of Justice. Office of Legal Counsel. Memorandum from Walter Dellinger, Assistant Attorney General, for Emily C. Hewitt, General Counsel, General Services Administration. “Government Printing Office Involvement in Executive Branch Printing.” Washington, May 31, 1996, pp. 1, 18.

At the July 16, 1996, hearing, the Committee received testimony from Eric Massant, Director, Government and Industry Affairs, LEXIS-NEXIS and Congressional Information Service, Inc.; William A. Gindlesperger, President, ABC/BIDS Plus, Chambersburg, Pennsylvania; Robert G. Claitor, President, Claitor's Law Books and Publishing Division, Inc. Baton Rouge, Louisiana; and Benjamin Y. Cooper, Vice President, Government Affairs, Printing Industries of America, Alexandria, Virginia.

On July 24, 1996, the Committee received testimony from Hon. Royce C. Lamberth, United States District Court Judge from the District of Columbia; and, Hon. Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C.

Shortly after the convening of the 105th Congress, the chairman of the Senate Committee on Rules and Administration initiated an effort to develop a public printing reform bill. While addressing the various technological, managerial, and constitutional challenges, opportunities, and problems confronting the public printing system, the resulting reform proposal was to be designed to garner broad support within Congress as well as the approval of the Clinton Administration. Consequently, in April 1997, a legislative working group was formed, consisting of staff from the Senate Committee on Rules and Administration, the Joint Committee on Printing, and the Office of Management and Budget. This group met regularly during the spring, summer, and fall months.

Some members of the working group also held discussions with representatives of various organizations having a direct interest in public printing policy and practice. These deliberations provided an opportunity for exchanging ideas, recommendations, and rationales for reform. As a draft bill began to take shape, various agency representatives were consulted to obtain their reactions to the reform measure, as were House and Senate officials who would be affected by the new arrangements.

The Committee on Rules and Administration also held a series of hearings during the 105th Congress to review legislative recommendations on certain revisions to Title 44 of the United States Code. At a April 24, 1997, hearing, the Committee heard testimony from Michael F. DiMario, Public Printer, and George E. Lord, chairman, Joint Council of Unions, both of the Government Printing Office; Royce C. Lamberth, United States District Judge for the District of Columbia; and William J. Boarman, Communications Workers of America.

At a May 8, 1997, hearing, the Committee received testimony from Sally Katzen, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; Richard L. Shiffrin, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice; Francis J. Buckley, Shaker Heights Public Library, Shaker Heights, Ohio, on behalf of library organizations; Ben Cooper, vice president, Office of Government Affairs, Printing Industries of America, Inc.; and Ronald G. Dunn, president, Information Industry Association.

Those testifying at the Committee's May 22, 1997, hearing included Henry J. Gioia, Senior Management Analyst, Office of the Director of Administration and Management, Office of the Sec-

retary of Defense; Gary R. Bachula, Deputy Under Secretary for Technology Administration, Department of Commerce; John W. Carlin, Archivist of the United States; and Joan K. Lippincott, interim Executive Director, Coalition for Networked Information.

Following over a year of discussion and negotiation between committee staff and representatives of the Inter-Association Working Group on Government Information Policy on behalf of the library community, the Office of Management and Budget, the Institute for Federal Printing and Publishing, the Information Industry Association, the Printing Industry of America, and ABC Advisors, S. 2288, the Wendell H. Ford Government Publication Reform Act of 1998 was introduced by Senators Warner and Ford on July 10, 1998.

Subsequently, the Committee held two hearings on the bill.

At a July 29, 1998, hearing, the Committee received testimony from Barbara J. Ford, Executive Director, University Library Services, Virginia Commonwealth University, Richmond, Virginia, on behalf of the American Library Association; Daniel P. O'Mahony, Coordinator of Government Documents and Social Sciences Data Services, Brown University, Providence, Rhode Island, on behalf of the Inter-Association Working Group on Government Information Policy; Robert L. Oakley, Director of the Law Library and Professor of Law, Georgetown University Law Center, Washington, D.C., on behalf of the American Association of Law Libraries; Ben Cooper, vice president, Office of Government Affairs, Printing Industries of America, Inc.; and Daniel Duncan, vice president, Information Industry Association; Patrice McDermott, Information Policy Analyst, OMB Watch; Michael F. DiMario, Public Printer, and George E. Lord, chairman, Joint Council of Unions, both of the Government Printing Office; and, William J. Boarman, vice president, Communications Workers of America, AFL-CIO. Submitting testimony, but not appearing were Donald R. Arbuckle, Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; and William Treanor, Deputy Assistant Attorney General, Office of Legal Counsel, Department of Justice; L. Nye Stevens, Director, Federal Management and Workforce Issues, General Government Division, U.S. General Accounting Office; and Joyce C. Doria, vice president, Booz-Allen & Hamilton, Inc.

At a September 16, 1998 hearing, the Committee received testimony from J. Michael Farren, vice president, External Affairs, Xerox Corporation, on behalf of the Information Technology Industry Council; Leonard Pomata, president, Litton/PRC, on behalf of the Professional Services Council; and William Gindlesperger, president, ABC Advisors, Inc.

The Committee convened to mark up and report out S. 2288 on September 28, 1998. The Committee, by voice vote, reported favorably S. 2288 with an amendment in the nature of a substitute, and recommended that the bill, the "Wendell H. Ford Government Publications Reform Act of 1998," pass.

## V. SECTION-BY-SECTION ANALYSIS

## SECTION 1. SHORT TITLE

*Findings*

Subsection (a) of this legislation specifies certain findings by Congress concerning the public career of Senator Wendell H. Ford of Kentucky, concluding with the finding that it is altogether fitting and proper that this legislation, the most comprehensive and far reaching proposal to ensure permanent public access to the Government's publications, regardless of form or format, to come before the Congress of the United States during the tenure of Senator Ford, be named in his honor.

*Short Title*

Subsection (b) of this section entitles this legislation the "Wendell H. Ford Government Publications Reform Act of 1998."

## SECTION 2. TABLE OF CONTENTS

The table of contents of this legislation is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings and purposes.
- Sec. 4. Definitions.

## TITLE I—TRANSFER OF FUNCTIONS OF THE JOINT COMMITTEE ON PRINTING

- Sec. 101. Purpose.
- Sec. 102. Repeal of provisions establishing the Joint Committee on Printing.
- Sec. 103. Legislative oversight functions.
- Sec. 104. Repeal of waivers.
- Sec. 105. References.
- Sec. 106. Effective date.

## TITLE II—GOVERNMENT PUBLICATIONS OFFICE

- Sec. 201. Government Publications Office.

## TITLE III—GOVERNMENT PUBLICATIONS OFFICE; PUBLICATIONS PRODUCTION AND PRODUCTION PROCUREMENT SERVICES

- Sec. 301. Government Publications Office; publications production and production procurement services.
- Sec. 302. Production of publications and procurement of publication services by Congress and legislative agencies.
- Sec. 303. Congressional Record.
- Sec. 304. Production of publications and procurement of publication services; legislative oversight.
- Sec. 305. Particular Government publications.
- Sec. 306. Costs of producing regulatory publications.
- Sec. 307. Publications of the Supreme Court.
- Sec. 308. Repeal of provisions exempting statutory publication production and production procurement requirements.
- Sec. 309. Additional technical and conforming amendments relating to congressional publications.

## TITLE IV—OFFICE OF GOVERNMENT PUBLICATIONS ACCESS PROGRAMS

- Sec. 401. Short title.
- Sec. 402. Federal Publications Access Programs.
- Sec. 403. Distribution and sale of Government publications by Superintendent of Government Publications Access Programs.
- Sec. 404. Technical and conforming amendments relating to the Superintendent of Government Publications Access Programs.

## TITLE V—ADMINISTRATIVE AND SAVINGS PROVISIONS

- Sec. 501. Continuation of employment terms and conditions.
- Sec. 502. Proceedings not affected.
- Sec. 503. Suits not affected.
- Sec. 504. Nonabatement of actions.
- Sec. 505. Separability.
- Sec. 506. Transfer of certain functions of the Joint Committee on Printing.
- Sec. 507. Additional technical and conforming amendments.
- Sec. 508. Implementation actions.
- Sec. 509. Effective date.

## SECTION 3. FINDINGS AND PURPOSES

*Findings*

Subsection (a) specifies nine findings underlying the preparation and introduction of this legislation. These findings are as follows:

(1) in a democracy, public access to Government publications is fundamental to fostering an informed citizenry in order to promote meaningful participation in the democratic process;

(2) easy and equitable access to Federal Government publications contributes to economic development in many sectors of the Nation's economy;

(3) permanent public access to Federal Government publications through a diversity of sources, including a system of Federal publications access libraries, should be guaranteed;

(4) the Federal Government should seek the most effective and efficient means of producing, disseminating, and providing permanent public access to its publications, and these means should not be placed at risk due to jurisdictional disputes between the branches of the Federal Government;

(5) duplicative in-house agency publications production is costly and inefficient and should be phased out and replaced with—

(A) procurement through the Government Publications Office, consistent with this Act; or

(B) as appropriate, from competitively selected private sector commercial sources;

(6) recent practices by Federal agencies of privatizing Government publications have resulted in a significant loss of publications that should have been made available to the public through the Federal publications access program;

(7) technological developments provide opportunities for increasing efficiencies in the production and dissemination of Government publications, but also pose challenges for ensuring broad-based, permanent public access to Government publications in new forms and format;

(8) the establishment of a mechanism for contemporaneous monitoring and evaluation of such developments is essential in order to maintain a continuous flow of timely, useful, and permanently accessible Government publications to the public; and

(9) the dissemination and permanent public access of Government publications must be guaranteed through a mechanism with sufficient independence and authority to ensure agency compliance with their obligation to provide material for the Federal publications access program.

### *Purposes*

Subsection (b) specifies three purposes of this legislation:

- (1) reform the oversight and management of the production, dissemination, and permanent public access to the Federal Government's publications;
- (2) guarantee permanent public access to publications produced by the Federal Government, regardless of form or format;
- (3) facilitate the efficient and economical production, dissemination, and permanent public access to Government publications; and,
- (4) limit the Federal government's internal publication production capacity and to promote the procurement of publication production from competitively selected private sector commercial sources to the maximum extent practicable consistent with this Act.

### SECTION 4. DEFINITIONS

1. The term "Government publication" has the meaning specified under section 1902(3) of title 44, United States Code, as amended by this legislation. As defined in that section, "Government publication" means any information product or other discrete set of Government information, regardless of form or format, that is created or compiled (1) by the Government, (2) at Government expense, in whole or in part, or (3) as required by law, and an agency discloses, disseminates, or makes available to the public. The term does not include information that (1) is required for official use only, (2) is for strictly internal administrative or operational purposes having no public interest or educational value, or (3) is classified for reasons of national security.

2. The term "agency" has the meaning given such term under section 1902(1) of title 44, United States Code, as amended by this legislation. As defined in that section, "agency" means (1) an executive department, government corporation, government-controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President and any independent regulatory agency, and (2) an establishment or component of the legislative branch as determined by the rules of the Senate and the House of Representatives, respectively. It also embraces (3) an establishment or component of the judicial branch of the Government, including courts, unless they are otherwise excepted.

3. The term "House of Representatives" is defined to include delegates of the U.S. Territories and the District of Columbia and the Resident Commissioner.

### Title I—Transfer of Functions of the Joint Committee on Printing

#### SEC. 101. PURPOSE

Section 101 indicates that the purpose of this title is to provide for the orderly transfer of functions of the Joint Committee on Printing, as appropriate, to the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the



House of Representatives, and the Government Publications Office, and within that agency, as appropriate, to the Administrator, the Superintendent of Government Publications Production and Procurement Services, and the Superintendent of Government Publications Access Programs.

#### SEC. 102. REPEAL OF PROVISIONS ESTABLISHING THE JOINT COMMITTEE ON PRINTING

Section 102 repeals chapter 1 of title 44, United States Code, and amends the table of chapters for title 44 by striking the item relating to chapter 1.

#### SEC. 103. REGULATION

Section 103 generally directs that, unless otherwise provided by this Act, the Administrator of the Government Publications Office shall continue to keep in effect, as appropriate, the Government Printing and Binding Regulations No. 26, effective February 1990, as contained in Senate Publication, S. Pub. 101–9, until the Administrator publishes final regulations in accordance with section 301 of title 44, United States Code, as amended by this Act.

#### SEC. 104. REPEAL OF WAIVERS

Section 104 specifies that all waivers granted and other provisions required of executive and judicial branch agencies and independent establishments by the Joint Committee on Printing under the Government Printing and Binding Regulations before the date of enactment of this Act shall be void 120 days after the promulgation of final regulations pursuant to section 308, Title 44, United States Code, as amended by this Act.

#### SEC. 105. REFERENCES

Section 105 specifies that a reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Joint Committee on Printing shall be deemed to refer, as appropriate, to the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the House of Representatives, or the Government Publications Office.

#### SEC. 106. EFFECTIVE DATE

Section 106 specifies that title I of this Act shall take effect on January 1, 1999.

### Title II—Government Publications Office

#### *Sec. 201(a). Government Publications Office.*

Section 201(a) generally amends Chapter 3, title 44, United States Code, to read as follows:

#### “CHAPTER 3—GOVERNMENT PUBLICATIONS OFFICE

“Sec.

“301. Administrator; Government Publications Office: appointment; duties; and pay.

“302. Government Publications Office; Deputy Administrator: appointment; duties; and pay.

- “303. Government Publications Office; employee pay.
- “304. Government Publications Office; night work.
- “305. Disbursing officer, deputy disbursing officer, certifying officers and employees.
- “306. Revolving Fund for operation of Government Publications Office.
- “307. Payments for printing, binding, blank paper, supplies, and publications production services.
- “308. Procurement authority.
- “309. Machinery, material, equipment, or supplies from other Government agencies.
- “310. Inks, glues, and other supplies furnished to other Government agencies: payment.
- “311. Branches of Government Publications Office: limitations.
- “312. Detail of employees of Government Publications Office to other Government establishments.
- “313. Government Publications Office security.
- “314. Transfer of surplus property.
- “315. Sales of reproductions.
- “316. Use of Federal advisory committees.”.

*Sec. 301. Administrator; Government Publications Office: appointment; duties; and pay*

This section authorizes the President to appoint, with the advice and consent of the Senate, the Administrator of the Government Publications Office, who is authorized to take charge of and manage the Government Publications Office. The Administrator may use any measures the Administrator considers necessary to carry out the duties and powers of the office, and to remedy neglect, delay, duplication, or waste in the production or procurement of printing, binding, and blank-book work, as defined in section 501 of this Title, and dissemination of the Federal Government’s publications, and to enhance and expand the dissemination of, and maintenance of permanent public access to, the Federal Government’s publications. After notice and comment, and in consultation with the Office of Management and Budget, the Administrative Office of the United States Courts, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, the Administrator may issue regulations consistent with this title to carry out the purposes of this title. All such regulations are to be promulgated in accordance with the requirements of section 553 and section 556 of title 5, United States Code, and the requirements of chapter 7, title 5, United States Code. Furthermore, all such regulations are to be promulgated in accordance with chapter 8 of title 5, United States Code, and, notwithstanding section 804(2), all such regulations promulgated shall be treated as a “major rule.” The section sets the annual rate of pay for the Administrator at a rate equal to the rate payable for a position at level III of the Executive Schedule under section 5314 of title 5.

*Sec. 302. Government Publications Office; Deputy Administrator: appointment; duties; and pay*

The Administrator is authorized by this section to appoint a suitable person to be the Deputy Administrator of the Government Publications Office. The Deputy Administrator shall perform all duties and responsibilities assigned by the Administrator, and the duties and responsibilities of the Administrator in the event of either a vacancy in the office of the Administrator or the incapacity of the Administrator. In the event of a vacancy or incapacity, the Deputy

Administrator serves until a successor Administrator is appointed, but for no longer than 1 year after a vacancy or incapacity occurs. The section sets the annual rate of pay for the Deputy Administrator at a rate equal to the rate payable for a position at level IV of the Executive Schedule under section 5314 of title 5.

*Sec. 303. Government Publications Office; employee pay*

The section authorizes the Administrator to employ persons necessary for the work of the Government Publications Office at rates of wages and salaries, including compensation for night and overtime work, that the Administrator considers for the interest of the Government and just to the persons employed, except as otherwise provided by this section. The Administrator may not employ more persons than the necessities of public work require. The rate of wages, including compensation for night and overtime work, for more than 10 employees of the same occupation, are to be determined by a conference between the Administrator and a committee selected by the trades affected.

Wages affecting the employees of the Government Publications Office are to be negotiated between the Administrator and bargaining representatives of the employees of the Government Publications Office. If the Administrator and the bargaining representatives of the employees fail to agree to wages, salaries, and compensation, the dispute is to be referred to an arbitrator chosen from a panel of 3 arbitrators. The Administrator and the bargaining representatives of the employees are authorized to enter into an agreement governing the selection of arbitrators for the panel and the procedures applicable to the panel. The Government Publications Office and the bargaining representatives of the employees each pay 50 percent of the costs of the proceedings of the panel, including transcripts expenses. The section specifies that a decision by the arbitrator shall be final and binding on all parties. The wages, salaries, and compensation so determined are not subject to change more than once a year. The Administrator is authorized to grant an employee paid on an annual basis compensatory time off from work duty instead of overtime pay for overtime work.

*Sec. 304. Government Publications Office; night work*

This section authorizes the Administrator to cause the work of the Government Publications to be performed at night, as well as through the day, when the exigencies of the public service require such action.

*Sec. 305. Disbursing officer; deputy disbursing officer; certifying officers and employees*

The Administrator is authorized by this section to appoint, from time to time, a disbursing officer of the Government Publications Office, who shall be under the direction of the Administrator. The disbursing officer is responsible for disbursing moneys of the Government Publications Office only upon, and in strict accordance with, vouchers certified by the Administrator or by an officer or employee of the Government Publications Office authorized in writing by the Administrator to certify such vouchers. The disbursing officer is also responsible for examining vouchers, as may be nec-

essary, to ascertain whether they are in proper form, certified, and approved. While the disbursing officer is to be held accountable for these responsibilities, he or she is not to be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate, the responsibility for which, under subsection (c) of this section, is imposed upon a certifying officer or employee of the Government Publications Office. Upon the death, resignation, or separation from office of the disbursing officer, his or her accounts may be continued, and payments and collection may be made in his or her name, by any individual designated as a deputy disbursing officer by the Administrator, for a period of time not to extend beyond the last day of the second month following the month in which the death, resignation, or separation occurred. Accounts and payments are to be allowed, audited, and settled; checks signed in the name of the former disbursing officer by a deputy disbursing officer are to be honored in the same manner as if the former disbursing officer had continued in office. The section specifies that a former disbursing officer of the Government Publications Office or his or her estate may not be subject to any legal liability or penalty for the official accounts or defaults of the deputy disbursing officer acting in the name or in the place of the former disbursing officer. Each deputy disbursing officer is responsible for accounts entrusted to him or her under paragraph (1) of this subsection, and the deputy disbursing officer is liable for any default occurring during his service under this paragraph.

The section authorizes the Administrator to designate in writing officers and employees of the Government Publications Office to certify vouchers for payment from appropriations and funds. These designated officers and employees are to be responsible for the existence and correctness of the facts recited in the certificate or other voucher or its supporting papers, and for the legality of the proposed payment under the appropriation or fund involved. They are also responsible and accountable for the correctness of the computations of certified vouchers, and accountable for, and required to make restitution to, the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate made by him or her, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved. However, the Administrator may, at his or her discretion, relieve such certifying officer or employee of liability for any payment otherwise proper whenever the Comptroller finds that the certification was based on the official records and that such certifying officer or employee did not know, and by reasonable diligence and inquiry could not have ascertained, the actual facts; or when the obligation was incurred in good faith, the payment was not contrary to any statutory provision specifically prohibiting payments of the character involved, and the United States has received value for such payment. The Administrator is directed to relieve such certifying officer or employee of liability for an overpayment for transportation services made to any common carrier covered by section 3726 of title 31, whenever he or she finds that the overpayment occurred solely because the administrative examination made prior to payment of the

transportation bill did not include a verification of transportation rates, freight classifications, or land grant deductions. The section provides that the liability of such certifying officers or employees shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. Such certifying officers and employees have the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment on any vouchers presented to them for certification.

*Sec. 306. Revolving Fund for operation of Government Publications Office*

Section 306 specifies that the revolving fund established July 1, 1953, is available without fiscal year limitation for the operation and maintenance of the Government Publications Office, including the rental of buildings, attendance at meetings, maintenance and operation of the emergency room, employee training, uniforms or uniform allowances, repairs and minor alterations to buildings, and any costs associated with audits performed in accordance with this Act. Also included are all expenses incurred by the Superintendent of Government Publications Access Programs for the production of, or procurement for the production of, Government publications found to be in violation of requirements of chapter 19, as authorized by that chapter; and all receipts received through a transfer by the Secretary of the Treasury in accordance with chapter 19 and credited to the accounts of the Superintendent of Government Publications Access Programs.

The section indicates that the Revolving Fund is to be reimbursed for the cost of all services and supplies furnished the Government Publications Office and credited with all receipts, including sales of printing, print procurement and related publications production services, waste, condemned and surplus property, payments received for losses or damage to property, and receipts received through a transfer by the Secretary of the Treasury in accordance with chapter 19.

The Administrator is directed to maintain within the Revolving Fund separate accounts for activities of the Superintendent of Government Publications Production and Procurement Services and the Superintendent of Government Publications Access Programs. All expenses and reimbursements of costs of the respective Superintendents are to be accounted for within the Revolving Fund. The Administrator is to ensure to the greatest extent possible, net receipts of the respective Superintendent's programs are used for the benefit and enhancement of those programs, respectively. An adequate system of accounts for the Revolving Fund are to be maintained on the accrual method, and financial reports are to be prepared on the basis of accepted accounting standards. The Administrator is directed to prepare and submit an annual business-type budget for this fund which is to include the programs and activities of the Superintendent of Government Publications Production and Procurement Services and the Superintendent of Government Publications Access Programs. This budget program is to be considered and enacted as prescribed by section 9104 of title 31, United States Code. Notwithstanding paragraph (1), for the purposes of section

8147 of title 5, United States Code, the Government Publications Office (and each of its components) is not considered to be an agency which is required by statute to submit an annual budget pursuant to or as provided by chapter 91 of title 31.

The Administrator is directed to prepare annual financial statements meeting the requirements of section 3515(b) of title 31. These financial statements are to be audited each year, in accordance with applicable, generally accepted Government auditing standards, by an independent external auditor selected by the Administrator, with the concurrence of the Inspector General of the Government Publications Office, or by the Inspector General of the Government Publications Office. For purposes of the audits, the Inspector General is to have such access to the records, files, personnel, and facilities of the Government Publications Office as the Inspector General considers appropriate. The Inspector General shall furnish reports of the audits to Congress and the Administrator.

The costs associated with the performance of an audit conducted in accordance with this section shall be paid from receipts in the Revolving Fund credited to the accounts of the Administrator.

*Sec. 307. Payments for printing, binding, blank paper, supplies, and publications production services*

This section provides that an agency of the Federal Government ordering printing, binding, blank paper, supplies, or other publications production services from the Government Publications Office is to pay promptly by the most efficient means available, including electronic funds transfer, to the Administrator or the Administrator's designee, upon his written request, either in advance or upon completion of the work, all or part of the estimated or actual cost, as the case may be. Bills rendered by the Administrator, or the Administrator's designee, are not subject to audit or certification in advance of payment. Adjustments on the basis of the actual cost of delivered work paid for in advance is to be made monthly or quarterly and as may be agreed by the Administrator and the agency concerned. The Administrator is to present a bill or advice of payment to an agency for which the Government Publications Office has performed work no later than 90 days after work has been completed. The agency is to pay the Government Publications Office with funds obligated during the fiscal year in which the order was placed.

For congressional orders which are in process 90 days before Congress adjourns, the Administrator is to consult with the appropriate office to determine whether the work will be completed before Congress adjourns. The Administrator is to bill for the cost of work completed for all jobs that are still in process on the date that Congress adjourns within 45 days after adjournment. The succeeding Congress must submit requisitions to the Government Publications Office to authorize completion of any job ordered by the prior Congress.

*Sec. 308. Production and Procurement authority*

Section 308 specifies that purchases may be made by the Administrator without reference to the Federal Property and Administra-

tive Services Act of 1949, as amended (40 U.S.C. 481 et seq.) concerning purchases for the Federal Government.

The section also indicates that publications production and procurement regulations administered by the Government Publications Office are to govern the production and procurement of printing, binding, and blank-book work, as defined in section 501 of this Title, by the Government Publications Office or by an agency under a delegation of authority granted by the Administrator.

Any agency that intends to procure printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended, through the Government Publications Office or for that agency under a delegation of authority granted by the Administrator, is to cause a notice to be posted on a centralized notification system maintained by the Superintendent of Government Publications Production and Procurement Services that is electronically accessible.

The Administrator is authorized to prescribe such regulations, policies, and directives, in accordance with section 301(c) of title 44, United States Code, as amended by this Act not inconsistent with the provisions of this section, to carry out this section relating to the Government Publications Office.

The Administrator is authorized to delegate and authorize successive redelegation of any production or procurement authority vested in the Administrator to any official in the Government Publications Office, or any official in any agency seeking authority for the procurement of services, if the Administrator determines that the Government Publications Office is not able or suitably equipped to execute such procurement authority or as may be more economically or in the better interest of Government executed elsewhere. Such delegation or redelegation of production or procurement authority is to be in accordance with this chapter and chapter 19. No delegation, or redelegation, of authority under this section is to be granted by the Administrator until final regulations providing for the requirements of any such delegation, or redelegation, of authority are issued. Such final regulations are to require that—

An agency may not contract for the production or procurement of printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended with another agency or a private sector commercial source unless that entity has been certified by the Administrator as having met the requirements of this title, including the notice requirement of chapters 5 and 19, and remains certified during the course of the procurement contract;

The Superintendent of Government Publications Access Programs be a signatory to the procurement contract, or that the Superintendent otherwise certifies that a memorandum of understanding has been agreed to by the procuring agency establishing the requirements to be met for the Federal publications access program; and

The requirements of subsection (b) shall be met.

All delegations of authority for the production or procurement of printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended, shall be done in conform-

ance to this chapter and chapters 5 and 19, United States Code, as amended.

Except as provided in subsections (f) and (g), and except in the case of procurement procedures otherwise expressly authorized by statute, the Administrator, in conducting a procurement for property or services, and an agency acting under a delegation of authority granted by the Administrator is to obtain full and open competition through the use of competitive procedures, in accordance with the requirements of this section, and is to use the competitive procedure or a combination of competitive procedures that is best suited under the circumstances of the procurement. In determining the competitive procedures appropriate under the circumstances, the Administrator and an agency acting under a delegation of authority granted by the Administrator is to solicit sealed bids if time permits their solicitation, submission, and evaluation; the award will be made on the basis of price and other price-related factors; it is not necessary to conduct discussions with the responding sources about their bids; and there is a reasonable expectation of receiving more than 1 sealed bid. The Administrator is to request competitive proposals if sealed bids are inappropriate under subparagraph (A).

In addition to the authority otherwise provided by law, the Administrator, and an agency acting under a delegation of authority granted by the Administrator, may use procedures other than competitive procedures only if the property or services needed by the Government are available from only 1 responsible source and no other type of property or services will satisfy the needs of the Government; the Government's need for the property or services is of such an unusual and compelling urgency that the Government would be seriously injured unless the Administrator is permitted to limit the number of sources from which the Government Publications Office solicits bids or proposals; a statute expressly authorizes a specified source; or the Administrator determines that it is necessary in the public interest to use procedures other than competitive procedures in the particular procurement concerned.

In order to promote efficiency and economy in contracting, and to avoid unnecessary burdens for the Government and contractors, the regulations issued, in accordance with this section, are to provide for special, simplified procedures for small purchases of property and services by the Government Publications Office or any agency acting under a delegation of authority granted by the Administrator. For the purposes of this section, a small purchase is understood to be a purchase or contract for an amount which does not exceed the small purchase threshold. The section indicates that a proposed purchase or contract for an amount greater than the small purchase threshold may not be divided into several purchases or contracts for lesser amounts in order to use the small purchase procedures required under paragraph (1). In using small purchase procedures, the Administrator and any agency acting under a delegation of authority granted by the Administrator is to promote competition to the maximum extent practicable. For subsection (g), the term "small purchase threshold" has the meaning given such term by regulations issued by the Administrator under subsection (c).



*Sec. 309. Machinery, material, equipment, or supplies from other Government agencies*

Section 309 specifies that agencies having machinery, material, equipment, or supplies for printing, binding, and blank-book work, including lithography, photolithography, xerography, and other processes of reproduction, no longer required or authorized for service, as determined by the agency head, are to provide a description of such material, equipment, or supplies to the Administrator. The Administrator may requisition such articles as are serviceable in the Government Publications Office, and such articles are to be promptly delivered to the Government Publications Office.

*Sec. 310. Inks, glues, and other supplies furnished to other Government agencies: payment*

Section 310 specifies that inks, glues, and other supplies manufactured by the Government Publications Office, in connection with its work, may be furnished to departments and other establishments of the Government upon requisition, and payment is to be made from appropriations available.

*Sec. 311. Branches of Government Publications Office: limitations*

Section 310 specifies that appropriated funds may not be used for maintaining more than 1 branch of the Government Publications Office in any 1 building occupied by an executive department of the Government, and a branch of the Government Publications Office may not be established unless specifically authorized by law.

*Sec. 312. Detail of employees of Government Publications Office to other Government establishments*

Section 312 provides that an employee of the Government Publications Office may not be detailed to duties not pertaining to the work of the Government Publications Office in any office in the Legislative, Executive or Judicial branches of Government unless expressly authorized by law.

*Sec. 313. Government Publications Office security*

Section 313 authorizes the Administrator, or a delegate appointed by the Administrator, to designate employees of the Government Publications Office to serve as special policemen to protect persons and property on the premises and in adjacent areas occupied by or under the control of the Government Publications Office. Under regulations to be prescribed by the Administrator, employees designated as special policemen are authorized to bear and use arms in the performance of their duties, make arrest for violations of laws of the United States, the several States, and the District of Columbia, and to enforce the regulations of the Administrator, including the removal from Government Publications Office premises of individuals who violate such regulations. The jurisdiction of special policemen on the premises occupied by or under the control of the Government Publications Office and adjacent areas shall be concurrent with the jurisdiction of the respective law enforcement agencies where the premises are located.

*Sec. 314. Transfer of surplus property*

This section provides that, notwithstanding title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), the Administrator may transfer or donate surplus and condemned Government Publications Office machinery, material, equipment, and supplies, and surplus Government publications to other Federal entities; any organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; or State or local governments.

*Sec. 315. Sales of reproducibles*

This section authorizes the Administrator to sell to persons who may apply, publication production reproducibles, regardless of form or format, from which a Government publication is produced at a price not to exceed the cost to the Government, as determined by the Administrator.

*Sec. 316. Use of Federal advisory committees*

Section 316 authorizes the Administrator to establish such advisory committees as the Administrator determines appropriate. All meetings of such advisory committee(s) are required to be open to the public, except when the Administrator determines that the meeting or any portion of the meeting, shall be closed to the public, consistent with the provisions of section 552b(c) of title 5 and only after a 2/3 vote of the advisory committee(s). All meetings of any advisory committee established by the Administrator are to be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting. Minutes of each meeting are to be kept and shall contain a record of the people present and a description of the discussion that occurred. The minutes and records of all such meetings and other documents that were made available to or prepared for an advisory committee established by the Administrator are to be made publicly accessible, unless the Administrator determines that a record or any portion of such record, shall not be publicly disclosed, consistent with the provisions of section 552 of title 5 and only after a 2/3 vote of the advisory committee.

*Sec. 201(b)(1). Government Printing Office; Abolished*

Section 201(b) reestablishes the Government Printing Office as the Government Publications Office, as an independent entity in the Federal government, independent of executive agencies.

*SEC. 201(c). Report to Congress*

Section 201(c) provides that acts applicable to the Government Printing Office on the day before the effective date of this Act are to apply to the Government Publications Office. Any other acts that are generally applicable to executive branch agencies are not applicable to the Government Publications Office unless expressly made applicable by law. The Administrator of the Government Publications Office is directed to adopt such policies, procedures, and regulations as are necessary to incorporate and thereby make the Government Publications Office subject to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), the Government Performance and

Results Act of 1992 (107 Stat. 285), the Government Management and Reform Act of 1994 (108 Stat. 3410), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), the Chief Financial Officers Act of 1990 (104 Stat. 2838), the Direct Deposit Act (31 U.S.C. 3332), the Federal Managers Financial Integrity Act of 1982 (31 U.S.C. 3512), the Prompt Payment Act (31 U.S.C. 3901), the Contract Disputes Act (41 U.S.C. 601 et seq.), and 5 U.S.C. 7351.

*Sec. 201(d). Transfer*

Section 201(d) transfers all duties, authorities, responsibilities, and functions of the Public Printer of the Government Printing Office on the day before the effective date of this title to the Administrator of the Government Publications Office for performance on and after such date.

*Sec. 201(e). References*

Section 201(e) provides that references in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to (1) the Government Printing Office is to be deemed a reference to the Government Publications Office, (2) the Public Printer is to be deemed a reference to the Superintendent of Government Publications Production and Procurement Services or the Administrator, as appropriate, (3) the Office of the Public Printer is to be deemed a reference to the Office of the Superintendent of Government Publications Production and Procurement Services, or the Office of the Administrator, as appropriate, (4) the Superintendent of Production Services is to be deemed a reference to the Superintendent of Government Publications Production and Procurement Services, and (5) the Superintendent of Access Programs is to be deemed a reference to the Superintendent of Government Publications Access Programs.

*Sec. 201(f). Transition*

Section 201(f) indicates that the individual serving as the Public Printer on the effective date of this title may serve as the Administrator of the Government Publications Office until the President appoints, with the advice and consent of the Senate, a successor Administrator. The individual serving as the Administrator pursuant to subparagraph (A) is to perform all of the duties and responsibilities of the Administrator until the President appoints a successor Administrator in accordance with section 301 of title 44, United States Code, as amended by this Act.

Assets and real property under the control of, in use by, or assigned to the Public Printer on the day before the effective date of this Act is placed under the control of the Administrator on the effective date of this Act for the use of the Administrator and the Acting Superintendent of Government Publications Access Programs for purposes of implementing this Act.

Personnel under the supervision of or assigned to the Public Printer on the day before the effective date of this Act are placed under the supervision of the Administrator, pursuant to subsection (g) of title IV, on the effective date of this Act for purposes of implementing this Act.

*Sec. 201(g). Technical and conforming amendment*

This subsection amends the table of chapters for title 44, United States Code, by striking the item relating to chapter 3 and inserting the following:

“3. Government Publications Office ..... 301.”

Title III—Government Publications Office; Publications Production and Production Procurement Services

*Sec. 301(a). Government Publications Office; Publications Production and Production and Procurement Services*

This subsection amends Chapter 5 of title 44, United States Code, to read as follows:

“CHAPTER 5—GOVERNMENT PUBLICATIONS OFFICE; PUBLICATIONS PRODUCTION AND PROCUREMENT SERVICES

“Sec.

“501. Government Publications produced by or procured through the Government Publications Office.

“502. Government Publications Office; Superintendent of Government Publications Production and Procurement Services: appointment; duties; and pay.

“503. Printing in veterans’ hospitals.

“504. Regulations for procurement of Government publications production services.

“505. Time for printing documents or reports which include illustrations or maps.

“506. Orders for printing and publications production services to be acted upon within 1 year.

“507. Standards for papers used in Government publications.

“508. Annual plans for Government publications.”.

*Sec. 501. Government Publications produced by or procured through the Government Publications Office*

Section 501 authorizes the Government Publications Office to produce or procure the production of Government publications, regardless of form or format, including Government publications created for or transmitted through an electronic communications system or network, as requisitioned by Congress, Federal agencies and the Superintendent of Government Publications Access Programs. Notwithstanding any other provision of law, and subject to subsection (b), the Government Publications Office, with slight exception, is to be the only authorized agency of the Federal Government to provide printing, binding and blank-book work for Congress, the Executive Office of the President, the Judiciary (other than the Supreme Court of the United States) and every Executive department and independent establishment of the Government, publications production and procurement services. Exceptions to this requirement include publications created only for dissemination through an electronic communications system or network, provided that the requirements of chapter 19 are satisfied; individual production orders by the executive branch costing not more than \$1,000, if the work is not of a continuing or repetitive nature, and as certified by the Superintendent of Government Publications Production and Procurement Services if the work is included in a class of work which cannot be provided more economically through the Government Publications Office, if the requirements of chapter 19 are satisfied; the production or procurement of printing, binding, and blank-book work for the Central Intelligence Agency, the National

Imagery and Mapping Agency, the National Reconnaissance Office, the Defense Intelligence Agency, or the National Security Agency; and the production or procurement of printing, binding, and blank-book work, provided the requirements of chapter 19 are fulfilled, for slip opinions of the United States Circuit Courts of Appeals and the Bankruptcy Noticing Center. Provision is made that no appropriated funds may be obligated or expended by an executive branch entity for the procurement of any printing related to the production of Government publications (including printed forms) unless such procurement is made by or through the Government Publications Office. As used in the section, “printing” includes the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes. The Administrator is directed to review the subsection to ensure that the definition of “printing” is consistent with international and commercial standards, and to review, as well, at intervals of not greater than five years, the definition of “printing” to recommend revisions to reflect current technology.

The section also provides that, under a delegation of authority from the Administrator in accordance with section 308, an agency of the executive or judicial branch may produce or procure printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended, for that agency if the agency certifies to the Administrator that the agency is in full compliance with the requirements of this chapter, chapter 19, and the publications production and procurement services regulations administered by the Superintendent of Government Publications Production and Procurement Services.

The Administrator is to promptly notify the Superintendent of Government Publications Production and Procurement Services and the Superintendent of Government Publications Access Programs of any decision to delegate authority under this section. However, a delegation of authority to an agency under this section is not to be granted unless and until the Department of the Treasury has established a designated budget account for the agency in accordance with section 1906(a). In determining a delegation of authority under this section, the Administrator is to take into account any prior determinations of noncompliance issued against an agency under section 1906.

The section specifies that no agency is to produce or procure printing, binding, and blank-book work, as defined in section 501, title 44 United States Code, as amended, for another agency, except for those publications created only for dissemination through an electronic communications system or network, unless expressly authorized by law enacted after the effective date of this Act.

The section further specifies that, notwithstanding any other provision of law, no agency may participate in a partnership or alliance, public or private, to produce Government publications, or enter into a contract or cooperative agreement or similar contractual arrangement for the production or procurement of printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended, or dissemination of a Government publication, regardless of form or format, unless such action com-

plies with chapter 19 and is approved in advance by the Superintendent of Government Publications Access Programs.

*Sec. 502. Government Publications Office; Superintendent of Government Publications Production and Procurement Services: appointment; duties; and pay*

Section 502 specifies that the Superintendent of Government Publications Production and Procurement Services, who may also be referred to as the Superintendent of Production Services, is to be appointed by the President, with the advice and consent of the Senate, for a term of 5 years. This appointment is to be made without regard to political affiliation, and solely on the basis of professional qualifications to perform the duties and responsibilities of the office. Allowance is made for an individual to be appointed to more than 1 term in this position.

The section also provides that the Superintendent of Production Services, under the direction of the Administrator, is to take all steps considered necessary to carry out the duties and powers of the office and to remedy neglect, delay, duplication, or waste in the production or procurement of printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended. To the greatest extent feasible, the Superintendent is to operate the production and procurement services program on a self-sustaining basis. Furthermore, the Superintendent of Production Services must promptly notify the Superintendent of Government Publications Access Programs of any contract for the production or procurement of production services of any Government publication so that the Superintendent of Government Publications Access Programs may meet the requirements of chapter 19.

The Administrator is to transfer to the authority of the Superintendent of Production Services such personnel within the Government Publications Office as the Administrator shall determine are required by the Superintendent to perform the duties of this chapter.

The Superintendent of Government Publications Production and Procurement Services is to be paid, according to this section, an annual rate of pay equal to the rate payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

Provision is also made for a Deputy Superintendent of Government Publications Production and Procurement Services, who is to be appointed by the Superintendent of Production Services. The Deputy Superintendent of Government Publications Production and Procurement Services is authorized to perform all duties and responsibilities assigned by the Superintendent of Production Services and the duties and responsibilities of the Superintendent of Production Services in the event of a vacancy in the office of the Superintendent or the incapacity of the Superintendent. In the event of a vacancy, the Deputy Superintendent of Government Publications Production and Procurement Services is to serve until a successor Superintendent of Production Services is appointed and qualifies, but for no longer than 1 year after a vacancy occurs.

Compensation for the Deputy Superintendent of Government Publications Production and Procurement Services is provided by

the section at an annual rate of pay equal to the rate payable for a position on the Senior Executive Service under section 5316 of title 5, United States Code.

Lastly, notwithstanding subparagraph (A), for purposes of section 8147 of title 5, United States Code, the activities of the Superintendent of Production Services are not considered activities that are required by statute to submit an annual budget pursuant to or as provided by chapter 91 of title 31.

*Sec. 503. Printing in veterans' hospitals*

Section 503 provides that, notwithstanding section 501, the Secretary of Veterans Affairs may use the equipment described in subsection (b) for printing and binding that the Secretary finds advisable for the use of the Department of Veterans Affairs. The equipment described in subsection (b) is the printing and binding equipment that the various hospitals and homes of the Department of Veterans Affairs use for occupational therapy.

*Sec. 504. Regulations for procurement of Government publications production services*

This section indicates that the Administrator is to promulgate and the Superintendent of Government Publications Production and Procurement Services is to administer regulations governing the production and procurement of printing, binding and blank-book work, as defined in section 501, title 44, United States Code, as amended, through the Government Publications Office in accordance with chapters 3 and 19. All such regulations must be promulgated in accordance with the requirements of section 553 and section 556 of title 5, United States Code, and the requirements of chapter 7, title 5, United States Code. The section further specifies that all such regulations must be promulgated in accordance with chapter 8 of title 5, United States Code, and notwithstanding section 804(2), all such regulations promulgated are to be treated as a "major rule."

*Sec. 505. Time for printing documents or reports which include illustrations or maps*

Section 505 provides that a document or report to be illustrated or accompanied by maps may not be printed by the Superintendent of Government Publications Production and Procurement Services until the illustrations or maps designed for it are ready for publication.

*Sec. 506. Orders for printing and publications production services to be acted upon within 1 year*

Section 506 specifies that an order for production or procurement of printing, binding, or blank-book work, as defined in section 501, title 44, United States Code, as amended, may not be acted upon by the Superintendent of Government Publications Production and Procurement Services after the expiration of 1 year, unless the entire copy and illustrations for the work have been furnished within that period.

*Sec. 507. Standards for papers used in Government publications*

Section 507 provides that the Superintendent of Government Publications Production and Procurement Services is to establish appropriate standards for printing and writing papers to be used in all Government printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended, and may procure such papers under procedures established pursuant to section 308. These standards are to detail the Government's minimum needs for each type and grade of paper in such a way as to allow the use of as many existing commercially available papers as practical, and to provide maximum economy to the public. These standards, denominated the "Government Paper Specification Standards," are to be published periodically.

*Sec. 508. Annual plans for Government publications*

Section 508 indicates that, on the date that the head of each agency submits an appropriation request under section 1108 of title 31 for the preparation of the budget, the agency head must also submit a plan on the production or procurement of printing, binding, and blank-book work, as defined in section 501, title 44, United States Code, as amended, and the dissemination and accessibility of Government publications of the agency.

Plans required under this section are to be submitted in different ways by each branch of the Government. Agencies of the executive branch and independent establishments are to submit such plans and reports to the Director of the Office of Management and Budget, the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the House of Representatives, and the Administrator of the Government Publications Office. Agencies of the legislative branch are to submit their plans and reports to the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the House of Representatives, and the Administrator of the Government Publications Office. Agencies of the judicial branch, except the Supreme Court, are to submit their plans and reports to the Director of the Administrative Office of the United States Courts, the Committee on Rules and Administration of the Senate, the Committee on House Oversight of the House of Representatives, and the Administrator of the Government Publications Office.

A plan prepared pursuant to this section is not considered to be in lieu of any requirements under chapter 35, title 44, United States Code, as amended.

*Sec. 301(b). Transition*

This subsection provides that the individual serving as Administrator pursuant to subsection (f) of title II of this Act is to perform all duties and responsibilities of the Superintendent of Government Publications Production and Procurement Services as provided in chapter 5, title 44, United States Code, as amended by this Act, until a Superintendent of Production Services is appointed by the President, with the advice and consent of the Senate, under section 502. The subsection further specifies that the President must make



this appointment not later than 180 days after the effective date of this Act.

*Sec. 301(c). Report and 5-year plan*

This subsection specifies that, not later than 180 days after the effective date of this title, each agency must submit a report that contains a plan, to be implemented during the 5-year period following such effective date, that reduces the publications production capacity, if any, of the agency; sets annual dates, during such 5-year period, by which incremental reductions of such capacity will be accomplished; and provides for publications production performed by the agency to be performed by non-Federal entities pursuant to contracts in compliance with this act, and with appropriate protections to ensure compliance with the requirements of chapter 19 of title 44, United States Code, regarding dissemination and permanent accessibility of Government publications. On October 1 of each of the 5 fiscal years following the submission date of such reports, each agency must also submit a report on its compliance with its plan. Reports under this subsection are to be submitted in accordance with section 508 of title 44, United States Code, as amended by this section.

*Sec. 301(d). Technical and conforming amendment*

This subsection amends the table of chapters for title 44, United States Code, by striking the item relating to chapter 5 and inserting the following:

“5. Government Publications Office; Publications Production and Procurement Services ..... 501”.

*Sec. 302(a). Production of publications and procurement of publications services by Congress and legislative agencies*

This subsection amends chapter 7 of title 44, United States Code, to read as follows:

“CHAPTER 7—PRODUCTION AND PROCUREMENT OF PUBLICATIONS SERVICES BY CONGRESS AND LEGISLATIVE AGENCIES

“Sec.

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*Sec. 701. "Usual number" of bills, resolutions, documents, and reports; distribution of the House of Representatives and the Senate documents and reports; reports on private bills; number of copies printed; distribution*

This section indicates when either House of Congress orders the printing of a bill, resolution, document, or report, the "usual number" of copies for binding and distribution among those entitled to receive them shall be ordered. A greater number of copies than the "usual number" may not be printed unless ordered by either House, or as provided by this section. When a special number of a document or report is ordered printed, the usual number shall also be printed, unless already ordered.

At the beginning of each Congress, the "usual number" is to be jointly established by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, but in no case shall the "usual number" be less than 1. Furthermore, the "usual number" must be sufficient to provide copies for binding and distribution as follows:

Copies of the bills, resolutions, documents, and reports of the House of Representatives, unbound—to the Senate document room for distribution to each Senator, committees, and for other purposes; to the office of the Secretary of the Senate; to the Clerk of the House of Representatives for distribution to each Member of the House of Representatives, committees, and for other purposes; and to fulfill standing orders and such other requirements authorized by law; and

Copies of the bills, resolutions, documents, and reports of the Senate, unbound—to the Senate document room for distribution to each Senator, committees, and for other purposes; to the office of the Secretary of the Senate; to the Clerk of the House of Representatives for distribution to each Member of the House of Representatives, committees, and for other purposes; and to fulfill standing orders and such other requirements authorized by law.

Of the number printed, the Superintendent of Government Publications Production and Procurement Services is directed to bind a sufficient number of copies for distributions as follows:

Bills, resolutions, documents, and reports of the House of Representatives, bound—to the Senate library; to the library of the House of Representatives; and to fulfill standing orders and such other requirements authorized by law, except those designated Federal publications access libraries which may prefer to have documents in unbound form, and have so notified the Superintendent of Government Publications Access Programs in writing prior to the convening of each Congress; and

Bills, resolutions, documents, and reports of the Senate, bound—to the Senate library; to the library of the House of Representatives; and to fulfill standing orders and such other requirements authorized by law, except those designated Federal publications access libraries entitled to documents that may prefer to have documents in unbound form, and have so notified the Superintendent of Government Publications Access Programs in writing prior to the convening of each Congress.

Of Senate reports on private bills and concurrent or simple resolutions, a sufficient number of copies are to be printed for distribution to the Senate document room for distribution to each Senator, committees, and for other purposes; to the office of the Secretary of the Senate; to the Clerk of the House of Representatives for distribution to each Member of the House of Representatives, committees, and for other purposes; and to fulfill standing orders and such other requirements authorized by law.

Of House of Representatives reports on private bills and concurrent or simple resolutions, a sufficient number of copies are to be printed for distribution to the Senate document room for distribution to each Senator, committees, and for other purposes; to the office of the Secretary of the Senate; to the Clerk of the House of Representatives for distribution to each Member of the House of Representatives, committees, and for other purposes; and to fulfill standing orders and such other requirements authorized by law.

Until the “usual number” is established for a Congress under this section, the “usual number” of publications, as established in the immediately preceding Congress, shall remain in effect.

This section does not prevent the binding of all Senate and House of Representatives reports in the reserve volumes bound for and delivered to the Senate and House of Representatives libraries, nor abridge the right of the Vice President, Senators, Representatives, Resident Commissioner, Delegates, Secretary of the Senate, and Clerk of the House of Representatives to have case bound in a durable material, 1 copy of every public document to which he or she may be entitled. Copies of each report on bills for payment or adjudication of claims against the Government shall be kept on file in the Senate document room.

Bills and resolutions are to be produced in bill form and are to be printed when referred to a committee, when reported back, when ordered by either House, and when ordered by the Secretary of the Senate under the direction of the Committee on Rules and Administration of the Senate or by the Clerk of the House under the direction of the Committee on House Oversight of the House of Representatives.

Reports of committees are to be produced by requisition on the order of the originating committee, and the Superintendent of Government Publications Production and Procurement Services is to provide to the committee a voucher for the cost of the order. Preparation or presentation of the voucher is not to delay the printing of the usual number of the report.

*Sec. 702. Style, form, and manner of publication*

This section provides that, at the beginning of each Congress, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are to determine the style, form, and manner of printing for any publication authorized by simple resolution under this title for their respective Houses. Similarly, at the beginning of each Congress, the style, form, and manner of printing for any publication authorized by joint or concurrent resolution under this title is to be determined jointly by these same committees. Finally, at the beginning of each Congress, the style, form, and manner of printing for the Congressional Record, all bills, and other congressional publications, not otherwise provided for in this section, is to be determined by these same committees, acting jointly.

The section further provides that, until the style, form, and manner of printing publications is established for a Congress under this section, the style, form, and manner of printing publications as established in the immediate previous Congress shall remain in effect.

*Sec. 703. Printing extra copies*

Section 703 specifies that orders for printing copies in addition to the “usual number” otherwise provided for by this section shall be by simple, concurrent, or joint resolution. However, either House may print no more than 300 extra copies by simple resolution. If the number exceeds that amount, the printing is to be ordered by concurrent resolution, unless the resolution is self-appropriating, when it shall be by joint resolution. Resolutions, when presented to either House, are to be referred to the Committee on Rules and Administration of the Senate or the Committee on House Oversight of the House of Representatives, which, in making their report, are to require of the Superintendent of Government Publications Production and Procurement Services the estimate of cost. Extra copies may not be printed before the committee has reported. The Superintendent of Government Publications Production and Procurement Services shall provide the committees a voucher for the total cost of the order.

*Sec. 704. Reprinting bills, laws, and reports from committees*

Section 704 provides that, when the supply is exhausted, the Secretary of the Senate, under the direction of the Senate Committee on Rules and Administration of the Senate, and the Clerk of the House of Representatives, under the direction of the Committee on House Oversight of the House of Representatives may order the reprinting of not more than 300 copies of a pending bill, resolution, or public law, or a report from a committee or congressional com-

mission on pending legislation not accompanied by testimony or exhibits or other appendices.

*Sec. 705. Duplicate orders to print*

Section 705 indicates that, if the Superintendent of Government Publications Production and Procurement Services receives duplicate Senate and House of Representatives orders for printing, the Superintendent of Production Services shall consult with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives to determine the appropriate order for printing.

*Sec. 706. Bills and resolutions: style and form*

This section provides that, subject to sections 205 and 206 of title I, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives may authorize the printing of a bill or resolution, with index and ancillaries, in the style and form such committees consider most suitable in the interest of economy and efficiency, and to so continue until final enactment in both Houses of Congress. The committees may also curtail the number of copies of bills or resolutions, including the slip form of a public Act or public resolution, consistent with section 701.

*Sec. 707. Bills and resolutions: binding sets for Congress*

Section 707 specifies that three sets of Senate and House of Representatives bills and joint and concurrent resolutions of each Congress, 1 for the Senate and 2 for the House of Representatives, are to be bound by the Superintendent of Government Publications Production and Procurement Services and kept by the Secretary of the Senate and the Clerk of the House of Representatives for reference.

*Sec. 708. Public and private laws and treaties*

Section 708 provides that the Superintendent of Government Publications Production and Procurement Services is to print in slip form copies of public laws, private laws, and treaties, to be paid from funds appropriated for congressional printing and binding. The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives have control of the number and distribution of such copies.

*Sec. 709. Copies of Acts furnished to the Superintendent of Government Publications Production and Procurement Services*

This section provides that the Archivist of the United States must furnish to the Superintendent of Government Publications Production and Procurement Services a copy of every Act and joint resolution, as soon as possible after its approval by the President, or after it has become a law under the Constitution without his approval.

*Sec. 710. Printing Acts, joint resolutions, and treaties*

Section 710 directs the Superintendent of Government Publications Production and Procurement Services, on receiving from the Archivist of the United States a copy of an Act or joint resolution, or from the Secretary of State, a copy of a treaty, to print an accurate copy and transmit it in duplicate to the Archivist of the United States or to the Secretary of State, as the case may be, for revision. On the return of 1 of the revised duplicates, the Superintendent of Production Services shall make the marked corrections and print the number specified by section 707.

*Sec. 711. Journals of the Houses of Congress*

Section 711 authorizes the printing of such copies of the Journals of the Senate and House of Representatives as determined by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives at the beginning of each Congress for distribution to the Senate document room for distribution to Senators; the Senate library; the office of the Secretary of the Senate; the Clerk of the House of Representatives for distribution to Members and for other purposes; the library of the House of Representatives; and fulfill standing orders and such other requirements authorized by law.

*Sec. 712. Printing documents for Congress in 2 or more editions*

Section 712 directs the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, to establish rules by which public documents and reports printed for Congress, or either House, may be printed in 2 or more editions, to meet public requirements.

*Sec. 713. Printing of documents not provided by law*

Section 713 provides that either House may order the printing of a document not already provided for by law, when accompanied by an estimate from the Superintendent of Government Publications Production and Procurement Services as to the probable cost. An agency of the executive or judicial branch of the Government submitting reports or documents in response to inquiries from Congress shall include an estimate of the probable cost of printing the documents in the "usual number."

*Sec. 714. Appropriation chargeable for printing of document or report by order of Congress*

This section indicates that the cost of printing of a document or report printed by order of Congress, which, under section 1107, cannot be properly charged to another appropriation or allotment of appropriation already made, upon order of Congress, is to be charged to the allotment of appropriation for printing and binding for Congress.

*Sec. 715. Lapse of authority to print*

Section 715 specifies that the authority to print a document or report, or a publication authorized by law to be printed, for distribution by Congress, lapses within 2 years after the date of the

original order, except orders for subsequent editions, approved by Congress.

*Sec. 716. Classification and numbering of publications ordered printed by Congress; designation of publications of departments; printing of committee hearings*

This section specifies that publications ordered by Congress, or either House, regardless of form or format, shall be in 4 series: (1) reports made by the committees of the Senate, to be known as Senate reports; (2) reports made by the committees of the House of Representatives, to be known as House reports; (3) documents other than reports of committees, the orders for printing which originate in the Senate, to be known as Senate documents; and (4) documents other than committee reports, the orders for printing which originate in the House of Representatives, to be known as House documents. The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are jointly responsible for compilation and distribution of the bound United States congressional serial set, which is to be numbered consecutively from the first Congress onward and to include the reports and documents of the Senate and the House of Representatives. The publications in each series are to be consecutively numbered, the numbers in each series continuing in unbroken sequence throughout the entire term of a Congress, but these provisions do not apply to the documents published for the use of the Senate in executive session. These serial sets are to be made available as provided under chapter 19 for distribution and permanent public access by the Superintendent of Government Publications Access Programs.

Copies of annual or serial publications originating in or prepared by an executive department, bureau, office, commission, or board which are intended for distribution to designated Federal publications access libraries may not be numbered in the document or report series of either House of Congress, but are to be designated by title, bound, and made available as provided under chapter 19, and the departmental edition, if any, shall be printed concurrently.

The Superintendent of Government Publications Production and Procurement Services shall supply the Superintendent of Government Publications Access Programs with sufficient copies of publications distributed in unbound form, to be bound and distributed to the designated Federal publications access libraries for their permanent files. Every publication of sufficient size on any 1 subject is to be bound separately and receive the title suggested by the subject of the volume, and the others are to be distributed in unbound form as soon as printed. The library edition, as well as all other bound sets of congressional numbered documents and reports, shall be arranged in volumes and bound in the manner directed by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly.

Transcripts of hearings of committees may be printed as congressional documents only when specifically ordered by Congress or by either House.

*Sec. 717. Senate and House Manuals*

Section 717 indicates that each House may order printed as many copies as that House desires of the Senate Manual and of the Rules and Manual of the House of Representatives.

*Sec. 718. Congressional Directory*

Section 718 authorizes the preparation, under the direction of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, a Congressional Directory, which is to be printed and distributed as early as practicable during the first session of each Congress. The two committees, acting jointly, have control of the content, quantity, and distribution of the Congressional Directory, and shall determine the manner in which 1 copy of it is to be bound for distribution to each Member of the Senate and the House of Representatives. The Directory also is to be maintained in electronic format and accessible to the public through the Superintendent of Government Publications Access Programs on-line service. This electronic version of the Directory is to be updated at least quarterly, with the date of revision noted.

*Sec. 719. Congressional Directory: sale*

This section provides that the Superintendent of Government Publications Access Programs may offer copies of the current Congressional Directory for sale at a price sufficient to reimburse the costs of printing, consistent with section 1708. Revenue derived from these sales are to be deposited to the account of the Superintendent of Government Publications Access Programs in the Revolving Fund of the Government Publications Office to offset the cost of the Publications sales program.

*Sec. 720. Memorial addresses: preparation; distribution*

Section 720 authorizes, after the final adjournment of each Congress, the compiling and binding in cloth in 1 volume of the exercises at the general memorial services held in either House during each session relative to the death of a Member of Congress or Senator, a former Member of Congress who served as Speaker, together with all relevant memorial addresses and eulogies published in the Congressional Record during the same session of Congress. To such compilation may be added any other matter the Committee on Rules and Administration of the Senate considers relevant to a Senator or any other matter the Committee on House Oversight of the House of Representatives considers relevant to a Member of Congress or former Member of Congress who served as Speaker. The printing and distribution of such compilations include 50 copies delivered to the family of the deceased, 100 copies for the successor in office of a deceased Senator, Representative, Resident Commissioner or Delegate, and 2 copies each to the libraries of the Senate and the House of Representatives, respectively.

*Sec. 721. Statement of appropriations: "usual number"*

Section 721 specifies that, of the statements of appropriations required to be prepared under the Act of October 19, 1888 (2 U.S.C.



105), there shall be printed, after the close of each regular session of Congress, the “usual number,” as provided by section 701.

*Sec. 722. Printing for committees of Congress*

Section 722 provides that a committee of Congress may not procure the printing of more than 300 copies of a hearing transcript, or other document germane thereto, for its use, except by simple, concurrent, or joint resolution, as provided by section 702.

*Sec. 723. Committee reports: indexing and binding*

Section 723 directs the Secretary of the Senate and the Clerk of the House of Representatives to procure and file, for the use of their respective Houses, copies of all reports made by committees, and, at the close of each session of Congress to have the reports indexed and bound, with 1 copy deposited in the library of each House and 1 copy deposited with the committee from which the report emanates.

*Sec. 724. United States Statutes at Large: distribution*

Section 724 directs the Superintendent of Government Publications Production and Procurement Services, after the final adjournment of each regular session of Congress, to print and bind copies of the United States Statutes at Large. This undertaking is to be charged to the congressional allotment for printing and binding. The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are responsible for controlling the number and distribution of the copies. Senators and Representatives will receive a copy of such documents if they make a request in writing in advance of publication.

Similarly, the Superintendent of Production Services also is directed by the section to print and, after the end of each calendar year, bind, and deliver to the Superintendent of Government Publications Access Programs a number of copies of the United States Treaties and Other International Agreements not exceeding the number of copies of the United States Statutes at Large required for distribution in the manner provided by chapter 19 of this title.

*Sec. 725. United States Statutes at Large: references in margins*

Section 725 specifies that the Archivist of the United States is to include in the references in margins of the United States Statutes at Large the number of the bill or joint resolution under which each Act was approved and became a law. Designations to be used include S. for Senate bill, H.R. for House bill, S.J. Res. for Senate joint resolution and H.J. Res. for House joint resolution, as the case may be. The reference in the margins is to be placed within brackets immediately under the date of the approval of the Act at the beginning of each Act as printed, beginning with volume 32 of the United States Statutes at Large.

*Sec. 726. Distribution of documents to Members of Congress*

This section indicates that, unless provided elsewhere in law, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are

to determine the quantity and distribution of documents to the Members, committees, and offices of their respective Houses.

*Sec. 727. Allotments of public documents printed after expiration of terms of Members of Congress: rights of reelected and retiring Members to documents*

Section 727 provides that the congressional allotment of Government publications, other than the Congressional Record, printed after the expiration of the term of office of the Vice President of the United States, or Senator, Representative, or Resident Commissioner, is to be delivered to his or her successor in office, unless such individual takes the documents prior to the 30th day of June next following the date of expiration. Reelected and retiring Members may distribute public documents to their credit, or the credit of their respective districts during their successive terms, until their rights to frank documents ends. Unless provided elsewhere in law, the disposition of Government publications allotted and distributed to Members during their terms of office shall be governed by rules established by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives for their respective Houses.

*Sec. 728. Documents and reports ordered by Members of Congress: franks and envelopes for Members of Congress*

This section provides that the Superintendent of Government Publications Production and Procurement Services, on order of a Member of Congress and prepayment of the cost, may reprint documents and reports of committees together with the evidence papers submitted, or any part ordered printed by Congress. The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are to establish for their respective Houses rules governing the style, content, quantity, printing, distribution, and method of payment to the Superintendent of Production Services for franks printed on sheets and perforated, or singly, and envelopes used for mailing public documents. Franks may also contain information relating to missing children as provided in section 3220 of title 39. Moneys accruing under this section are to be deposited by the Superintendent of Government Production Services to the Government Publications Office Revolving Fund as provided in section 502.

*Sec. 729. Stationery and blank books for Congress*

Section 729 authorizes the Superintendent of Production Services, upon requisition of the Secretary of the Senate and the Clerk of the House of Representatives, respectively, to furnish stationery, blank books, tables, forms, and other necessary papers preparatory to congressional legislation, required for the official use of the Senate and the House of Representatives, or their committees and officers. Rules governing the method of payment to the Superintendent of Production Services for such papers are to be established by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives for their respective Houses. Moneys accruing under this section are to be deposited by the Superintendent of Government Production

Services to the Government Publications Office Revolving Fund as provided in section 502. This section does not prevent the purchase by the officers of the Senate and House of Representatives of stationery and blank books necessary for sale to Senators and Members in the stationery rooms of the 2 Houses as provided by law.

*Sec. 730. Binding for Members of Congress*

This section authorizes the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives to establish rules regarding the binding needs of their respective Members.

*Sec. 731. Binding at expense of Members of Congress*

Section 731 provides that the Superintendent of Government Publications Production and Procurement Services may bind at the Government Publications Office books, maps, charts, or documents published by authority of Congress upon application of a Member of Congress, and payment of the actual cost of binding. Moneys accruing under this section are to be deposited by the Superintendent of Government Production Services to the Government Publications Office Revolving Fund as provided in section 502.

*Sec. 732. Binding for Senate library and House of Representatives library*

Section 732 indicates that the Secretary of the Senate and the Clerk of the House of Representatives may make requisition upon the Superintendent of Government Publications Production and Procurement Services for the binding of books for the library of their respective Houses, subject to the approval of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, respectively.

*Sec. 733. Distribution of Senate and House documents to Members*

Section 733 authorizes the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, respectively, to determine appropriate mechanisms for the distribution of congressional documents to the Members of each House.

*Sec. 734. Publications stored at Capitol*

This section provides that the Secretary and Sergeant at Arms of the Senate and the Clerk and Sergeant at Arms of the House of Representatives, at the convening in regular session of each successive Congress, are to cause an inventory to be made of Government publications stored in and about the Capitol. This inventory shall not include publications in the allotment of Members of Congress, in the Library of Congress and the Senate and House libraries and document rooms. The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives are to determine the disposition of this inventory, save 4 copies of leather-bound publications, which shall be reserved and carefully stored, for use in supplying deficiencies in the Senate and House libraries caused by wear or loss.

*Sec. 735. Congressional printing and binding appropriation; authorization*

This section provides that such sums are authorized to be appropriated as may be necessary.

*Sec. 302(b). Feasibility report*

This subsection provides that, not later than 2 years after the effective date of this Act, the General Accounting Office, on behalf of the Administrator of the Government Publications Office, is to submit to the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives a report on the feasibility of legislative branch agencies procuring printing and publications services directly from nongovernmental sources under a delegation of authority from the Administrator of the Government Publications Office, if such agencies certify to the Superintendent of Government Publications Access Programs and the Superintendent of Government Publications Production and Procurement Services full compliance with the requirements of chapters 5 and 19 of title 44, United States Code. This report is to include an analysis of the impact on the procedures and precedents of each House of Congress and on the integrity of congressional publications of allowing legislative branch agencies to procure directly from nongovernmental sources; a study of the impact on the ability of the Government Publications Office to continue to function as a central procurement agency for the Federal executive, legislative, and judicial branches, exclusive of the Supreme Court; and recommendations for the assurance of information security, convenience, quality, economy, and efficiency in the procurement of printing services for all legislative branch agencies.

*Sec. 302(c). Serial set feasibility study*

This subsection provides that, not later than 24 months after the date of the enactment of this Act, the Superintendent of Government Publications Access Programs, in consultation with the Federal Publications Access Library Council and others, is to prepare and submit to the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives a report with recommendations on the feasibility of producing, disseminating, and maintaining permanent public access to the serial sets described under section 716 as publications created for or transmitted through an electronic communications system or network.

*Sec. 302(d). Technical and conforming amendments*

This subsection specifies that the table of chapters for title 44, United States Code, is amended by striking the item relating to chapter 7 and inserting the following:

“7. Production of Publications and Procurement of Publications Services by Congress and Legislative Agencies ..... 701”.

SEC. 303. CONGRESSIONAL RECORD

This section provides that chapter 9 of title 44, United States Code, is amended to read as follows:

## “CHAPTER 9—CONGRESSIONAL RECORD

“Sec.

“901. Congressional Record: arrangement, style, contents, and indexes.

“902. Congressional Record: indexes.

“903. Congressional Record: daily and permanent forms.

“904. Congressional Record: maps; diagrams; illustrations.

“905. Congressional Record: additional insertions.

“906. Congressional Record: gratuitous copies; delivery.

“907. Congressional Record: extracts for Members of Congress; mailing envelopes.

“908. Congressional Record: payment for printing extracts or other documents.

“909. Congressional Record: subscriptions; sale of current, individual numbers, and bound sets; postage rate.

*Sec. 901. Congressional Record: arrangement, style, contents, and indexes*

This section authorizes the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, to control the arrangement and style of the Congressional Record, and while providing that it shall be substantially a verbatim report of proceedings, to take all needed action for the reduction of its size. Authorization is also provided for an index of the Congressional Record to be published semimonthly during and at the close of sessions of Congress.

*Sec. 902. Congressional Record: indexes*

Section 902 provides that the Superintendent of Government Publications Production and Procurement Services is to prepare the semimonthly and the session index to the Congressional Record. The Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, are to direct the form and manner of its publication and distribution. Those persons employed in the Congressional Record Index Office on the effective date of this Act are made employees of the Government Publications Office subject to the provisions of this title governing selection, appointments, employment in the Government Publications Office, and any regulations thereunder.

*Sec. 903. Congressional Record: daily and permanent forms*

This section specifies that the public proceedings of each House of Congress, as reported by the Official Reporters, are to be published in the Congressional Record, which is to be issued daily during each session and to be revised, printed, and bound in permanent form subject to section 714 of this title. The daily and the permanent Record are to bear the same date, which shall be that of the actual day's proceedings reported. The “usual number” of the Congressional Record may not be printed.

*Sec. 904. Congressional Record: maps; diagrams; illustrations*

Section 904 provides that maps, diagrams, or illustrations may not be inserted in the Congressional Record without the approval of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting for their respective Houses.

*Sec. 905. Congressional Record: additional insertions*

Section 905 provides that the Secretary of the Senate, acting under the direction of the Committee on Rules and Administration of the Senate, and the Clerk of the House of Representatives, acting under the direction of the Committee on House Oversight of the House of Representatives, are to cause to be published in the daily Record the legislative program for the day, together with a list of congressional committee meetings and hearings and the place of meeting and subject matter. Such committees are to cause a brief resume of congressional activities for the previous day to be incorporated in the Record, together with an index of its contents, prepared under the supervision of the Secretary of the Senate and the Clerk of the House of Representatives, respectively.

*Sec. 906. Congressional Record: gratuitous copies; delivery*

Section 906 indicates that, at the direction of the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, jointly, the Superintendent of Production Services is to furnish the bound edition of the Congressional Record as follows: not more than 1 copy to the Vice President; not more than 1 copy to those Senators and Members of Congress who so request in writing, prior to its publication; not more than 1 copy each to the Secretary and the Sergeant at Arms of the Senate, if so requested in writing, prior to its publication; not more than 1 copy each to the Clerk of the House of Representatives and the House Sergeant at Arms; not more than 2 copies each to the libraries of the Senate and House of Representatives, respectively; a number, to be determined and held by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, for the use by each House, respectively; to fulfill standing orders and such other requirements authorized by law; the Federal Publications Access Libraries, in such numbers as the Superintendent of Government Publications Access Programs shall determine; and not more than 1 copy each to the Congressional Research Service and the Law Library of the Library of Congress.

At the direction of the same two committees, the Superintendent of Production Services is to furnish the daily edition of the Record in such numbers as is to be determined at the beginning of each Congress by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, as follows: to the Vice President; to the Senate document room for distribution to each Senator, committees, and for other purposes; to the offices of the Secretary of the Senate and Senate Sergeant at Arms; to the Clerk of the House of Representatives for distribution to each Member of the House of Representatives, committees, and for other purposes and to the House Sergeant at Arms; and to fulfill standing orders and such other requirements authorized by law. In addition, 2 copies of the daily edition of the Record is to be furnished to the Vice President and each Senator and Representative in Congress, on a non-transferable basis, of which 1 is to be delivered at his or her office, and 1 at the Capitol. The Federal Publications Access Libraries are authorized to receive the daily edition of the Record in such num-

bers as the Superintendent of Government Publications Access Programs determines.

In addition to the foregoing, the Congressional Record and the semimonthly index are also to be furnished in such numbers as the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, determine at the beginning of each Congress, but in no case shall the usual number be less than 1. Furthermore, the usual number shall be sufficient to provide copies for distribution to the President; committees and commissions of Congress; the Chief Justice and Associate Justices of the Supreme Court; the Marshal and Clerk of the Supreme Court; the United States circuit and district courts and their respective libraries; the Tax Court of the United States and its library; the Court of Veterans Appeals and its library; the Office of the Congressional Record Index; the Chaplain of the Senate; the Postmaster of the Senate; the Secretaries to the Majority and Minority of the Senate; the Office of the Parliamentarian of the Senate; the Office of the Parliamentarian of the House of Representatives; the offices of the Official Reporters of Debate of the Senate; the offices of the Official Reporters of Debate of the House of Representatives; the office of the stenographers to committees of the House of Representatives; the offices of the superintendents of the Senate and the House of Representatives Press Galleries; the offices of the Legislative Counsel of the Senate and the House of Representatives; the Architect of the Capitol; the libraries of the Senate and the House of Representatives; the library of the Supreme Court; the library of the United States Court of Federal Claims; the library of the United States Court of International Trade; the Superintendent of Government Publications and Procurement Services, for official use; the Botanic Garden; the Archivist of the United States; the library of each Executive department and independent establishment of the Government of the District of Columbia, except those designated as Federal publications access libraries, and the libraries of the municipal government of the District of Columbia; the Smithsonian Institution; the Naval Observatory; the Governors of Puerto Rico, Guam, and the Virgin Islands; former Presidents and former Vice Presidents of the United States; to each former Senator and Representative and Resident Commissioner, upon written request; to the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives; the Governor of each State; each of the separate establishments of the Armed Services Retirement Homes, the National Homes for Disabled Veterans, and the State Soldiers Homes; the Federal Publications Access Libraries, in such numbers as the Superintendent of Government Publications Access Programs shall determine; the Department of State for United States Embassies and Consular offices; foreign legations in Washington, District of Columbia, whose governments extend a like courtesy to embassies and legations of the United States abroad; each accredited newspaper correspondent whose name appears in the Congressional Directory; the Court of Appeals for the Armed Forces the Library of Congress; and the United States Customs Court and its library.

Copies of the daily edition, unless otherwise directed by the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, jointly, are to be supplied and delivered promptly on the day after the actual day's proceedings as originally published. Each order for the daily Record is to begin with the current issue, if previous issues of the same session are not available. The apportionment specified by the committees jointly for daily copies may not be transferred for the bound form and an allotment of daily copies not used by a Member during a session shall lapse when the session ends.

*Sec. 907. Congressional Record: extracts for Members of Congress; mailing envelopes*

Section 907 provides that the Superintendent Production Services may print and deliver, upon the order of a Member of Congress and payment of the cost, extracts from the Congressional Record. Provision of envelopes for the mailing of such extracts is governed by sections 727 and 728.

*Sec. 908. Congressional Record: payment for printing extracts or other documents*

Section 908 specifies that, if a Member or Resident Commissioner fails to pay the cost of printing extracts from the Congressional Record or other Government publications ordered by him to be printed, the Administrator shall certify the amount due to the Financial Clerk of the Senate or the Chief Accounting Officer of the House of Representatives, as the case may be, who shall deduct from the Member's office account the delinquent amount, and pay the amount so obtained to the Administrator, to be applied by the Administrator to the satisfaction of the indebtedness.

*Sec. 909. Congressional Record: subscriptions; sale of current, individual numbers, and bound sets; postage rate*

This section authorizes the Superintendent of Government Publications Access Programs to sell subscriptions to the Congressional Record and current, individual numbers, and bound sets of the Record. The price of the subscription is determined by the Superintendent of Government Publications Access Programs and shall be sufficient to cover the cost of publishing and distributing the Congressional Record in accordance with section 1708. Such price must be paid in advance and the receipts from any such sale are to be deposited into the account of the Superintendent of Government Publications Access Programs within the Revolving Fund of the Government Publications Office. The Congressional Record is entitled to be mailed at the same rates of postage at which any newspaper or other periodical publication, with a legitimate list of paid subscribers, is entitled to be mailed.

SEC. 304. PRODUCTION OF PUBLICATIONS AND PROCUREMENT OF PUBLICATIONS SERVICES; LEGISLATIVE OVERSIGHT

This section amends section 1108 of title 44, United States Code, by striking "subject to regulations by the Joint Committee on Printing." It also amends section 1110 of title 44, United States Code, by striking the last sentence and inserting the following: "Publica-



tions ordered under this section shall be paid in advance and the receipts from any such sale shall be deposited into the account of the Superintendent of Government Publications Access Programs within the Revolving Fund of the Government Publications Office.”

This section repeals section 1112 of title 44, United States Code and amends the table of sections for chapter 11 of title 44, United States Code, by striking the item relating to section 1112.

Section 1114 of title 44, United States Code, is amended by this section to read as follows:

**§ 1114. Annual reports: number of copies for Congress**

At the beginning of each Congress, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, respectively, shall establish the number of annual reports of the departments to Congress to be printed for the use of each House.

This section amends section 1121 of title 44, United States Code, by striking “under direction of the Joint Committee on Printing,” by striking “sections 509–516 of this title” and inserting “section 507,” and by striking “the District of Columbia” and inserting “the national capital region”, as defined by 40 U.S.C. 71.

Finally, chapter 11 of title 44, United States Code, is amended by this section by striking “Public Printer” each place it appears and inserting “Superintendent of Government Publications Production and Procurement Services,” and, in section 1108, by striking “Superintendent of Documents” and inserting “Superintendent of Government Publications Production and Procurement Services.”

**SEC. 305. PARTICULAR GOVERNMENT PUBLICATIONS**

This section repeals chapter 13 of title 44, United States Code, except for section 1307, and amends the table of chapters for title 44 by striking the item relating to chapter 13. This section becomes effective 120 days after the date of the enactment of this Act.

**SEC. 306. COSTS OF PRODUCING REGULATORY PUBLICATIONS**

This section amends section 1509 of title 44, United States Code, to read as follows:

**§ 1509. Cost of publication, etc.**

(a) The cost of printing, reprinting, wrapping, binding, and distributing the Federal Register and the Code of Federal Regulations, and, except as provided in subsection (b), other expenses incurred by the Government Publications Office in carrying out the duties placed upon it by this chapter shall be charged to the Revolving Fund provided in section 306. Reimbursements for such costs and expenses shall be made by the Federal agencies and credited, together with all receipts, as provided in section 306.

(b) The cost of producing, reproducing, and distributing all other publications of the Federal Register program, and other expenses incurred in connection with such publica-

tions, shall be paid by the Archivist of the United States from appropriations authorized by Congress for purposes of this section.

#### SEC. 307. PUBLICATIONS OF THE SUPREME COURT

This section amends section 411 of title 28, United States Code, to read as follows:

##### **§ 411. Supreme Court reports; printing, binding, and distribution**

(a) The decisions of the Supreme Court of the United States shall be published and distributed in a manner and format determined by the Supreme Court as soon as practicable after rendition, and charged to the proper appropriation for the judiciary.

(b) The Superintendent of Government Publications Access Programs shall procure such copies of the publications of the Supreme Court in accordance with chapters 17 and 19 of title 44 and the Government Publications Reform Act of 1998.

Section 412 of title 28, United States Code, is amended by this section by striking “Public Printer” and inserting “Superintendent of Government Publications Production and Procurement Services,” and by striking “Superintendent of Documents” and inserting “Superintendent of Government Publications Access Programs.”

Section 676(b) of title 28, United States Code, is also amended by striking “Public Printer and the Superintendent of Public Documents” and inserting “Administrator of the Government Publications Office and the Superintendent of Government Publications Access Programs.”

#### SEC. 308. REPEAL OF PROVISIONS EXEMPTING STATUTORY PUBLICATIONS PRODUCTION AND PRODUCTION PROCUREMENT REQUIREMENTS

This section amends section 3(a)(6) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) to read as follows: “(6) Payment of expenses for necessary printing and binding.” Other amendments effected include section 4 of the Act of August 31, 1922 (7 U.S.C. 285) by striking “without regard to section 501 of title 44, United States Code;” section 101(f) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 431) by striking “without regard to existing laws applicable to public printing;” section 3(h) of the International Wheat Agreement Act of 1949 (7 U.S.C. 1642(h)) by striking “for printing and binding” and inserting “for printing and binding, subject to the provisions of title 44, United States Code;” section 2(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(1)) by striking “without regard to the provisions of section 501 of title 44, United States Code, whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable;” and section 1 of the National Housing Act (12 U.S.C. 1702) in the third sentence by striking “, printing, and binding.” The Act entitled “An Act to extend the time for purchase and distribution of surplus agricultural commodities for relief

purposes and to continue the Federal Surplus Commodities Corporation,” approved June 28, 1937 (15 U.S.C. 713c) is amended in the first proviso by striking “, including rent, printing and binding,” and inserting “(except printing and binding) including rent.”

Other amended provisions include section 201(e)(1) of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051(e)(1)) by striking “Notwithstanding the provisions of section 501 of title 44, United States Code, and consistent” and inserting “Consistent;” section 12 of the Tuna Conventions Act of 1950 (16 U.S.C. 961) by striking clause (c) and redesignating clauses (d) and (e) as clauses (c) and (d), respectively; section 2(b)(2) of the Act entitled “An Act to authorize the construction of a National Fisheries Center and Aquarium in the District of Columbia and to provide for its operation,” approved October 9, 1992 (16 U.S.C. 1052(b)(2)) by striking “all or any of which may be reproduced by any printing or other process without regard to existing regulations;” section 5(c) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 954(c)) by striking the first sentence following clause (10); section 7(c) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 956(c)) by striking the first sentence following clause (10); section 2 of the Act entitled “An Act to authorize the Secretary of Agriculture to cooperate with the Government of Mexico in the control and eradication of foot-in-mouth disease and rinderpest,” approved February 28, 1947 (21 U.S.C. 114c) by striking “without regard to section 87 of the Act of January 12, 1895, or section 11 of the Act of March 1, 1919 (U.S.C. title 44, sec. 111);” section 2(b)(1) of the joint resolution entitled “Joint Resolution providing for acceptance by the United States of America of the Constitution of the International Labor Organization Instrument of Amendment, and further authorizing an appropriation for payment of the United States share of the expenses of membership and for expenses of participation by the United States,” approved June 30, 1948 (22 U.S.C. 272a(b)(1)) by striking “printing and binding without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111), and section 3709 of the Revised Statutes, as amended;” section 2(b) of the joint resolution entitled “Joint Resolution providing for membership and participation in the Caribbean Commission and authorizing an appropriation therefor,” approved March 4, 1948 (22 U.S.C. 280i(d)) by striking “printing and binding without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111), and section 3709 of the Revised Statutes, as amended;” section 2(b) of the joint resolution entitled “Joint Resolution providing for participation by the Government of the United States in the Pan American Railway Congress, and authorizing an appropriation therefor,” approved June 28, 1948 (22 U.S.C. 280k(b)) by striking “without regard to section 501 of title 44, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5);” section 8 of the United Nations Participation Act of 1945 (22 U.S.C. 287e) by striking “without regard to section 11 of the Act of March 1, 1949 (44 U.S.C. 111);” section 6(k) of the joint resolution entitled “Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor,” approved July 30, 1946 (22 U.S.C. 287r(k)) by striking “without regard to

section 11 of the Act of March 1, 1919 (U.S.C., title 44, sec. 111), and section 3709 of the Revised Statutes (U.S.C. title 41, sec. 5);” and section 3(b)(1) of the joint resolution entitled “Joint Resolution providing for membership and participation by the United States in the World Health Organization and authorizing an appropriation therefor,” approved June 14, 1948 (22 U.S.C. 290b(b)(1)) by striking “without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111), and section 3709 of the Revised Statutes, as amended.”

Finally, other amended provisions include section 401(w) of the Foreign Assistance Act of 1969 (22 U.S.C. 290f(w)) by striking “without regard to section 501 of title 44, United States Code;” section 801(4) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1471(4)) by striking “, without regard to section 501 of title 44, United States Code;” section 5 of the International Atomic Energy Agency Participation Act of 1957 (22 U.S.C. 2024) by striking “without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);” section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)) by striking “without regard to provisions of any other law;” section 15(a) of the Peace Corps Act (22 U.S.C. 2514(a)) by striking “without regard to provisions of any other law;” section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) by striking “without regard to the provisions of section 11 of the Act of March 1, 1919 (44 U.S.C. 111);” section 5(a)(1) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2605(a)(1)) by striking “without regard to provisions of any other law;” section 2(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(a)) by striking “without regard to section 11 of the Act of March 1, 1919 (44 U.S.C. 111);” section 23 of the Act of June 25, 1910 (25 U.S.C. 47; 33 Stat. 861) by striking “(including, but not limited to printing, notwithstanding any other law)” and inserting “(including printing);” section 204(d)(3) of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1123(d)(3)) by striking “, without regard to section 501 of title 44, United States Code;” section 405(c)(4) of the Public Health Service Act (42 U.S.C. 284(c)(4)) by striking “without regard to section 501 of title 44, United States Code;” section 11(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(g)) “, without regard to the provisions of section 87 of the Act of January 12, 1895 (28 Stat. 622), and section 11 for the Act of March 1, 1919 (40 Stat. 1270; 44 U.S.C., sec. 111);” section 9(k) of the Lower Mississippi Delta Development Act (42 U.S.C. 3121 note; Public Law 100–460; 102 Stat. 2246) by striking “, notwithstanding any other provision of law;” and section 11(c) of the Railroad Unemployment Insurance Act (45 U.S.C. 361(c)) by striking “printing and binding.”

This section takes effect 120 days after the date of enactment of this Act.

#### SEC. 309. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS RELATING TO CONGRESSIONAL PUBLICATIONS

This section amends section 107 of title 1, United States Code, to read as follows:

### **§ 107. Printing of enrolled bills and resolutions**

Enrolled bills and resolutions of either House of Congress shall be printed in accordance with rules established by the respective Houses of Congress.

The table of sections for chapter 2 of title 1, United States Code, is amended by this section by striking the item relating to section 107 and inserting the following: “107. Printing of enrolled bills and resolutions.” Sections 211, 212, and 213 of title 1, United States Code, are repealed. The table of sections for chapter 2 of title 1, United States Code, is amended by striking the items relating to sections 211, 212, and 213.

The section repeals the joint resolution entitled “A joint resolution to provide for the printing and distribution of the Precedents of the House of Representatives compiled and prepared by Lewis Deschler,” approved October 18, 1976 (2 U.S.C. 28b, 28c, 28d, and 28e).

The first section of the joint resolution of December 24, 1970 (2 U.S.C. 168; Public Law 91–589; 84 Stat. 1586) is amended to read as follows: “That (a) The Director of the Congressional Research Service shall have prepared every 10 years, a hardbound revised edition of the Constitution of the United States of America—Analysis and Interpretation (hereafter referred to as the “Constitution Annotated”); every 2 years in the interim period between decennial editions, cumulative supplements to the most recent hardbound decennial revised edition of the Constitution Annotated, which is to contain cumulative analysis of decisions rendered by the Supreme Court after the period covered by the last hardbound decennial revised edition; and an electronic version of the Constitution Annotated, to be updated regularly. The edition of the Constitution Annotated first prepared after the effective date of this Act is to contain analysis and interpretation of decisions rendered by the Supreme Court of the United States through the end of its October 2001 term, construing provisions of the Constitution. Subsequent decennial revised editions will then revise and update analysis to cover constitutional law developments during the then-most-recent 10 terms of the Supreme Court.

Section 145 of title 4, United States Code, is repealed by this section; section 146 of title 4, United States Code, is amended in the section heading by striking “Sec. 146.” and inserting “145;” and the table of sections for chapter 5 of title 4, United States Code, is amended by striking the items relating to sections 145 and 146 and inserting the following: “145. Authorization of appropriations.”

### **Title IV—Office of Government Publications Access Programs**

#### **SEC. 401. SHORT TITLE**

This section specifies that this title may be cited as the “Federal Publications Dissemination Act of 1998.”

#### ***Sec. 402(a). Federal Publications Access Programs***

This subsection amends chapter 19 of title 44, United States Code, to read as follows:

“CHAPTER 19—FEDERAL PUBLICATIONS ACCESS PROGRAMS

“Sec.

“1901. Purpose.

“1902. Definition.

“1903. Superintendent of Government Publications Access Programs.

“1904. Access to Government publications through the Superintendent of Government Publications; Superintendent responsibilities and authorities.

“1905. Access to Government publications through the Superintendent of Government Publications Access Programs: agency responsibilities and authorities.

“1906. Access to Government publications through the Superintendent of Government Publications Access Programs: compliance and enforcement: executive branch.

“1906a. Access to Government publications through the Superintendent of Government Publications Access Programs: compliance and enforcement: legislative branch.

“1906b. Access to Government publications through the Superintendent of Government Publications Access Programs: compliance and enforcement: judicial branch.

“1907. Permanent Public Access to Government publications.

“1908. Designation of Federal publications access libraries.

“1909. Regional Federal publications access libraries.

“1910. Federal publications access libraries: responsibilities.

“1911. Federal publications access libraries council”.

*Sec. 1901. Purpose*

Section 1901 specifies that the purposes of this chapter are to broaden, strengthen, and enhance public access to all Government publications regardless of form or format through Federal Publications Access Programs, and provide permanent public access to and ensure the authenticity of Government publications regardless of form or format.

*Sec. 1902. Definition*

Section 1902 defines certain terms used in this title.

1. The term “agency” means an executive department, government corporation, government-controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President and any independent regulatory agency, and also embraces an establishment or component of the legislative branch, as determined by the rules of the Senate and the House of Representatives, respectively, or judicial branch of the Government.

2. The term “Federal publications access library” means a library designated under section 1908 to participate in the Federal Publications Access Programs.

3. The term “Government publication”, for purposes of chapters 17 and 19, title 44, United States Code, as amended by this Act, means any information product or other discrete set of Government information, regardless of form or format, that is created or compiled (1) by the Government, or (2) at Government expense, in whole or in part, or (3) as required by law, and an agency discloses, disseminates, or makes available to the public. The term does not include information that (1) is required for official use only, (2) is for strictly internal administrative or operational purposes having no public interest or educational value, (3) is classified for reasons of national security, or, in the case of any agency within the Judicial Branch, orders, notices, or documents filed by litigants.

*Sec. 1903. Superintendent of Government Publications Access Programs*

Section 1903 authorizes the President to appoint, with the advice and consent of the Senate, for a term of 5 years, the Superintendent of Government Publications Access Programs, who may also be referred to as the "Superintendent of Access Programs." This officer is to be appointed without regard to political affiliation, and solely on the basis of professional qualifications to perform the duties and responsibilities of the office. An individual may be appointed to more than 1 term as Superintendent of Government Publications Access Programs. Serving under the direction of the Administrator, the Superintendent of Government Publications Access Programs is responsible for taking charge of and managing the Federal Publications Access Program, including, but not limited to, the Federal publications access library program as provided in chapter 19, the Federal publications sales program as provided in chapter 17, and GPO ACCESS, as provided in chapter 41.

In consultation with the Administrator of the Government Publications Office, the Office of Management and Budget, the Administrative Office of the United States Courts, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, the Superintendent of Government Publications Access Programs is authorized to issue regulations, consistent with this title, that the Superintendent of Government Publications Access Programs considers necessary to carry out the duties and powers of his or her office to enhance the dissemination of Government publications and to expand and improve the maintenance of permanent public access to Government publications. All such regulations are to be promulgated in accordance with the requirements of section 553 and section 556 of title 5, United States Code, and the requirements of chapter 7, title 5, United States Code. All such regulations shall be promulgated in accordance with chapter 8 of title 5, United States Code, and, notwithstanding section 804(2), all such regulations are to be treated as a "major rule."

The annual rate of pay for the Superintendent of Government Publications Access Programs is set at a rate equal to the rate payable for a position at level IV of the Executive Schedule under section 5314 of title 5, United States Code.

The Superintendent of Government Publications Access Programs is authorized to appoint a Deputy Superintendent of Government Publications Access Programs, who shall perform all the duties and responsibilities assigned by the Superintendent of Government Publications Access Programs and the duties and responsibilities of the Superintendent of Government Publications Access Programs in the event of a vacancy in the office of the Superintendent or the incapacity of the Superintendent of Government Publications Access Programs. The Deputy Superintendent, in the event of such vacancy, serves as Superintendent until a successor to the position is appointed and qualified, but for no longer than 1 year after a vacancy occurs. The Deputy Superintendent of Government Publications Access Programs is to be paid at an annual rate of pay equal to the rate payable for a position on the Senior Executive Service Schedule under section 5316 of title 5.

Within the Revolving Fund of the Government Publications Office under section 306, an account, or accounts, under the authority of the Superintendent of Government Publications Access Programs is authorized to be available without fiscal year limitation for the operation of the Federal Publications Access Programs, including rental of buildings; attendance at meetings; employee training; purchase, maintenance, and operation of required equipment, supplies, and contracts; and salaries and expenses of program employees. The fund is to be reimbursed and the account, or accounts, of the Superintendent of Government Publications Access Programs are to be credited for the cost of all services and supplies furnished, including those furnished by other appropriations of the Federal Publications Access Programs, and with all receipts, including sales of Government publications, waste, condemned and surplus property, with payments received for losses or damage to property, and with funds retrieved from agencies for the procurement of or access to publications not compliant with this title. An adequate system of accounts for the fund is to be maintained on the accrual method, and financial reports prepared on the basis of accepted accounting standards in accordance with section 306.

The Superintendent of Government Publications Access Programs is to prepare and submit to the Administrator an annual business-type budget for the accounts under his authority within the fund. This budget program is to be as prescribed by section 9104 of title 31. There are authorized to be appropriated such sums as are necessary for the Superintendent of Government Publications Access Programs for the salaries and expenses of the Federal Publications Access Programs, exclusive of the Government publications sales program under chapter 17.

*Sec. 1904. Access to Government publications through the Superintendent of Government Publications; Superintendent's responsibilities and authorities*

This section authorizes the Superintendent of Government Publications Access Programs to use whatever measures are necessary to ensure the timely dissemination of Government publications to the public and to expand and improve the maintenance of permanent public access to Government publications. Notwithstanding any other provision of law, Government publications of the executive, legislative, and judicial branches must be made available at no charge to Federal publications access libraries. The Superintendent of Government Publications Access Programs is to certify, on every contract for the production or procurement of any Government publications entered into by an agency, the number of additional copies required for the Federal publications access programs, or the terms and conditions, if any, for accessing Government publications required for the Federal publications access programs. For on-line, fee-based services, the Superintendent of Government Publications Access Programs is to negotiate terms and conditions for access by the Federal publications access programs, based upon the incremental cost of providing access to the Federal publications access libraries. The Superintendent is authorized to procure such access to ensure that the information needs of the



user community are met at no charge to the Federal publications access libraries.

Other responsibilities of the Superintendent of Government Publications Access Programs specified in the section include providing selection, cataloging, classification, locator, and indexing services for all Government publications from the executive, legislative, and judicial branches. Such services may be provided by the Superintendent through cooperative agreements with Government agencies or Federal publications access libraries.

The Superintendent of Government Publications Access Programs is also responsible for creating, maintaining, and making available a comprehensive and timely catalog of Government publications, regardless of form or format, that is accessible to the Federal publications access libraries and to the public, and for creating, maintaining, and making available a locator, in accordance with chapter 41, of all Government publications. This locator service must identify, describe, and link users to Government publications available through Government electronic communications systems or accessible through public telecommunications networks. The Superintendent is directed to consult with the Director of the Office of Management and Budget, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, the Administrative Office of the United States Courts, and other agencies and offices to coordinate implementation of the requirements of section 3511, with locator services required under this section.

Other duties of the Superintendent include creating, maintaining, and making available a current, categorized list of Government publications, including annotations of contents and item identification numbers, to facilitate the selection of, or access to those publications required by Federal publications access libraries. The Superintendent must prepare and produce a consolidated index of congressional documents, and shall index single volumes of documents as the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives direct.

The section authorizes the Superintendent of Government Publications Access Programs to adopt such regulations, in accordance with section 1903(c), as are necessary to implement the requirements of this chapter. Such regulations are to include procedures for implementing this section and sections 1905, 1906, 1907, and 1911 to require the availability of Government publications, regardless of form or format, to the public through the Federal publications access programs. Such regulations are to reflect the needs of the user community and provide access to Government publications at no charge to the Federal publications access libraries. Government publications made available by the Superintendent may be chosen or accessed by Federal publications access libraries according to regulations and guidelines issued by the Superintendent for such purposes. The Superintendent of Government Publications Access Programs is to coordinate with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, the Office of Management and Budget, and the Administrative Office of the United States

Courts for the development and establishment of uniform policies and procedures relating to the dissemination of Government publications, including policies and procedures for ensuring authenticity, and of guidelines to facilitate permanent public access to and use of Government publications.

The procedures, guidelines, and regulations developed by the Superintendent of Government Publications Access Programs under this section must be consistent with sections 1903(c) and 1907(f).

Finally, this section provides that the Superintendent of Government Publications Access Programs, after informing the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, is to promulgate, through notice and comment, appropriate regulations governing the qualifications, process for selection, periodic inspection, collection maintenance, termination, and total number of Federal publications access libraries in accordance with sections 1903(c) and 1908.

*Sec. 1905. Access to Government publications through the Superintendent of Government Publications Access Programs: agency responsibilities and authorities*

This section provides that, notwithstanding any other provision of law, each agency head of the executive branch, the Administrative Office of the Courts, on behalf of the judicial branch, and the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, respectively, for each House of Congress, are authorized to take such action as is necessary to ensure that all Government publications produced or procured for production by the agency are made available to the Superintendent of Government Publications Access Programs, as required by this chapter, for dissemination to the public through the Federal publications access program, at no charge to Federal publications access libraries.

Each agency head must immediately notify the Superintendent of Government Publications Access Programs of the intent of the agency to produce or procure, substantially modify, or terminate the production of a Government publication, regardless of form or format, so that the Superintendent may have access to Government publications created for or transmitted through electronic communications systems or networks, or to order Government publications at the incremental rate for the Federal publications access program. Notification under this section is intended to be required in addition to the requirements of section 3506 of title 44, United States Code.

Agencies intending to eliminate printed copies of Government publications and provide only electronic access to those publications must notify the Superintendent of Government Publications Access Programs at least 60 days in advance.

Any contract for the production or procurement of any Government publication, regardless of form or format, entered into by an agency must contain a provision that certifies that the head of the agency, in the executive branch, or the Director of the Administrative Office of the United States Courts, in the judicial branch, has given proper notification, as prescribed in this section, to the Superintendent of Government Publications Access Programs before

the awarding of the contract. This contract must also include the number of additional copies required by the Superintendent of Government Publications Access Programs for the Federal publications access program or any terms and conditions for accessing Government publications required by the Superintendent of Government Publications Access Programs for the Federal publications access program. Such certification must require that the procuring official ensures, before production, that each contract for the procurement of Government publications contains verification of the notice to the Superintendent of Government Publications Access Programs required by this title.

Agencies, upon request of the Superintendent of Government Publications Access Programs, agencies must promptly provide copies of, or access to, electronic files of any Government publication to which this section applies for purposes of producing appropriate format material for the Superintendent and providing permanent public access, in accordance with section 1907, to Government publications created for or transmitted through an electronic communications system or network under this section.

Each agency must assure and provide permanent public access to Government publications created for or transmitted through an electronic communications system or network until a system for permanent public access to Government publications created for or transmitted through an electronic communications system or network is established by the Superintendent of Government Publications Access Programs, in accordance with section 1907. Each agency also must provide the Superintendent with a copy of, or access to, any Government publication, created on or after the date of enactment of this Act, regardless of form or format, to enable the Superintendent to perform mandated cataloging, locator, and indexing services, as provided by this section.

Finally, when an agency makes a publication available only as a Government database accessible on an electronic communications system or network, the agency must immediately furnish information about and access to that publication to the Superintendent of Government Publications Access Programs for purposes of providing locator services.

*Sec. 1906. Access to Government publications through the Superintendent of Government Publications Access Programs: compliance and enforcement: executive branch*

Section 1906 specifies that all Government publications, regardless of form or format, of the executive branch, as provided by this title, must be made available at no charge to the Federal publications access libraries. The Superintendent of Government Publications Access Programs is authorized to use any measures the Superintendent considers necessary for the economical and practical implementation of this chapter to ensure the timely dissemination of Government publications to the public and to expand and improve the maintenance of permanent public access to Government publications, as provided by this chapter.

Upon a determination by the Superintendent of Government Publications Access Programs that an agency has not complied

with the requirements of this chapter, the Superintendent is to notify the Administrator.

If the Superintendent determines that a Government publication of an agency has not been made available to the Federal publications access libraries as provided by this chapter, the Superintendent is authorized to use whatever measures are necessary to bring the agency into compliance and secure access to the Government publication, and certify to the Administrator the costs associated with securing such access. Upon the issuance of a final determination by the Superintendent that an agency has not complied with the provisions of this chapter, the Administrator is to certify to the agency and the Department of the Treasury the costs determined in accordance with subsection (a)(2) and is to prepare a voucher for reimbursement of the certified costs.

The Department of the Treasury is directed to cause to be established a designated budget account for each agency that intends to produce, procure, or enter into a contract to produce or procure a Government publication from which, upon certification of noncompliance and associated costs in accordance with subsection (a)(2), the Secretary of the Treasury is authorized to transfer funds, upon presentation of a voucher from the Superintendent of Government Publications Access Programs, to the Revolving Fund of the Government Publications Office, for reimbursement to the programs of the Superintendent.

A final determination of noncompliance by the Superintendent of Government Publications Access Programs under this subsection is to be deemed a determination of noncompliance with section 501.

The section further specifies that each agency of the executive branch must use the Government Publications Office as its agent for the production or the procurement of production of Government publications in accordance with section 501. No agency may produce, procure, or enter into a contract for the production or procurement of any Government publication, regardless of form or format, unless such agency is in compliance with the requirements of this chapter.

Upon a determination by the Superintendent of Government Publications Production and Procurement Services that an agency has not complied with the requirements of section 501, the Superintendent shall notify the Administrator. The Administrator is to certify to the agency and the Office of Management and Budget that the agency is not in compliance and shall suspend any delegation of authority provided under section 501(b). Upon a final determination of noncompliance, the Administrator is directed to withhold any delegation of authority to the agency for a period of 24 months and shall immediately revoke any delegation of authority which has been granted to the agency under section 501(b). If an agency which has been determined to be in noncompliance with section 501 is also determined to be in noncompliance with the requirements of this chapter under subsection (a), the Administrator is directed to withhold any delegation of authority for an additional period of 36 months.

Determinations made under this section may be reviewed by the Administrator. A determination of the Superintendent of Publications Production and Procurement Services and a determination by

the Superintendent of Government Publications Access Programs become final unless overturned or revised by the Administrator within 20 days after the determination. A final determination under this section is not be subject to judicial review.

*Sec. 1906a. Access to Government publications through the Superintendent of Government Publications Access Programs: compliance and enforcement: legislative branch*

Section 1906a specifies that all Government publications, regardless of form or format, of the legislative branch must be made available, at no cost, to the Federal publications access libraries. In the case of Senate publications, the Secretary of the Senate, under the direction of the Committee on Rules and Administration of the Senate, and in the case of House publications, the Clerk of the House of Representatives, under the direction of the Committee on House Oversight of the House of Representatives, are authorized to use whatever measures are necessary to ensure the timely dissemination of Government publications of the respective Houses to the public and to expand and improve the maintenance of permanent public access to Government publications under this chapter. In the case of congressional publications, the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, are authorized to use whatever measures are necessary to ensure the timely dissemination of Government publications of Congress and to expand and improve the maintenance of permanent public access to Government publications of Congress under this chapter. If the Committee on Rules and Administration of the Senate determines that this section has not been complied with, the Committee is authorized to direct the Secretary of the Senate to bring the Senate into compliance. Upon approval by the Committee on Rules and Administration of the Senate of a voucher submitted by the Secretary of the Senate, the contingent fund of the Senate is to be charged for the costs incurred by the Secretary of the Senate to bring the Senate into compliance under this subsection. If the Committee on House Oversight of the House of Representatives determines that this section has not been complied with, the Committee is authorized to direct the Clerk of the House of Representatives to bring the House of Representatives into compliance. As in the case of the Senate, upon appropriate authorization, the costs incurred by the Clerk are to be charged to the appropriate House account.

If the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, acting jointly, determine that the provisions of this section regarding congressional publications have not been complied with, these committees are authorized to jointly take specific action to bring Congress into compliance with this section. Upon the joint approval by these two committees of a voucher submitted by the Superintendent of Government Publications Access Programs, the Congressional Printing and Binding Appropriation is to be charged for the costs incurred by the Superintendent, as authorized by this section.

*Sec. 1906b. Access to Government publications through the Superintendent of Government Publications Access Programs: compliance and enforcement: judicial branch*

Section 1906b specifies that all Government publications, regardless of form or format, of the judicial branch, including court opinions, must be made available at no charge to the Federal publications access libraries. The Director of the Administrative Office of the United States Courts is authorized to use whatever measures are necessary to ensure the timely dissemination of Government publications of judicial branch agencies and the courts to the public, and to expand and improve the maintenance of permanent public access to Government publications of judicial branch agencies and the courts under this chapter. In the event of noncompliance with the requirements of this title, the Director of the Administrative Office of the United States Courts, in consultation with the Superintendent of Government Publications Access Programs, is authorized to establish a means to bring the judicial branch into compliance with this chapter.

*Sec. 1907. Permanent Public Access to Government publications*

Section 1907 defines the term “permanent public access,” as used in this section, to mean that a Government publication within the scope of the Federal publications access program must remain available for current, continuous, and future public access; and be made available at no fee to Federal publications access libraries.

The Superintendent of Government Publications Access Programs is authorized to establish a system of permanent public access to Government publications, for publications other than those publications identified in subsection (c), in accordance with the requirements of section 1909(c). The Superintendent is also authorized to establish a system of permanent public access to Government publications created for or transmitted through an electronic communications system or network.

The Superintendent is authorized, as well, to establish a committee to make recommendations on the components of a distributive system for permanent public access and the strategy for achieving such system and access. This committee is to include representatives of the Committee on Rules and Administration of the Senate; the Committee on House Oversight of the House of Representatives; the National Archives and Records Administration; the Office of Management and Budget; the Administrative Office of the United States Courts; the Library of Congress and other national libraries; regional and other Federal publications access libraries; the Federal publications access library council; the National Commission on Libraries and Information Science; the information, computer software, and printing industries; the American Federation of Labor-Congress of Industrial Organizations; and other entities as appropriate. The responsibilities of the committee, as specified in this section, include, not later than 24 months after the effective date of this Act, to provide recommendations to the Superintendent of Government Publications Access Programs for nec-

essary statutory and regulatory changes to implement a system to provide permanent public access to Government publications created for or transmitted through an electronic communications system or network; periodically review developments in public access to Government publications created for or transmitted through an electronic communications system or network, and make recommendations for further action by the Superintendent of Government Publications Access Programs and Congress as necessary; propose regulations to the Superintendent of Government Publications Access Programs to be promulgated under section 1904 by the Superintendent as appropriate, necessary to implement permanent public access to Government publications; identify criteria for Government publications created for or transmitted through an electronic communications system or network that warrant permanent accessibility; and establish certifying criteria to accompany Government publications created for or transmitted through an electronic communications system or network to ensure that such publications are official versions.

The system of permanent public access to Government publications created for or transmitted through an electronic communications system or network established under this section is to include a distributive system that provides for adequate redundancy and requires official and contractual agreements among participating entities. The Superintendent of Government Publications Access Programs retains final responsibility for permanent public access to Government publications created for or transmitted through an electronic communications system or network and for ensuring that the system is operated in accordance with this section.

Until the system of permanent public access under this section is established, each agency is to provide permanent public access to the Government publications it creates for or transmits through an electronic communications system or network.

The Superintendent of Government Publications Access Programs is responsible for developing, in consultation with Congress, the Office of Management and Budget, and the Administrative Office of the United States Courts, procedures and guidelines for permanent public access to Government publications created for or transmitted through an electronic communications system or network for purposes of paragraph (1). The Superintendent is authorized to offer to agencies, on a cost-recovery basis, services for providing permanent public access to the Government publications created for or transmitted through an electronic communications system or network.

Until such time as the bound permanent Congressional Record and the bound United States Congressional serial set are created for or transmitted through an electronic communications system or network, such Record and set shall remain available in a bound, printed format for those Federal publications access libraries which have chosen to receive such Record and set.

*Sec. 1908. Designation of Federal publications access libraries*

This section provides that, subject to subsection (e), Federal publications access libraries are to be designated by certain elected of-

officials as specified: each Senator designating up to 2 libraries within the State represented; each Representative designating up to 2 libraries within the district represented; the Resident Commissioner designating up to 2 libraries within Puerto Rico; the Mayor of the District of Columbia designating up to 2 Federal publications access libraries in the District of Columbia; the Governors of Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa each designating 1 Federal publications access library in each area represented; the Governor of the Virgin Islands designating 1 Federal publications access library on the Island of Saint Thomas and 1 on the Island of Saint Croix.

In addition, upon request of the institution, the following authorized to be designated by the Superintendent of Government Publications Access Programs as Federal publications access libraries: land grant colleges; State libraries; the library of the highest State appellate court in each State; the library of any law school accredited by a nationally recognized accrediting agency or association, or accredited by the highest appellate court of the State in which the law school is located; and the libraries of the executive departments, the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, and the United States Merchant Marine Academy.

A Federal publications access library within each independent agency may be designated by the Superintendent of Government Publications Access Programs upon certification of need by the head of the agency to the Superintendent. Additional Federal publications access libraries within executive departments and independent agencies may be designated by the Superintendent upon certification of justifiable need by the head of the agency.

Before any additional or replacement Federal publications access library is designated, the head of the library must furnish the appointing authority justification of the necessity for such designation. The justification must be approved by the head of the library authority of the State, the District of Columbia, or the Commonwealth of Puerto Rico, within which the proposed Federal publications access library is to be located, or signed by the head of each existing Federal publications access library within the congressional district, the State, the District of Columbia, or the Commonwealth of Puerto Rico. The Superintendent of Government Publications Access Programs may designate as a Federal publications access library, upon recommendation of a Senator or Representative representing the area, any library serving an underserved area.

Notwithstanding the limitations on numbers of Federal publications access libraries that may be designated under this section, each library that is designated as a Federal Depository Library as of the effective date of this Act shall continue to be a Federal publications access library. A library may be designated under this section as a Federal publications access library only if it is able properly to maintain and provide public access to Government publications, regardless of form or format.



*Sec. 1909. Regional Federal publications access libraries*

Section 1909 specifies that not more than 2 Federal publications access libraries, including any group of Federal publications access libraries with a cooperative agreement, in each State or service area and the Commonwealth of Puerto Rico and the District of Columbia may be designated as regional Federal publications access libraries and are authorized to receive from the Superintendent of Government Publications Access Programs copies of or access to all new and revised Government publications disseminated to Federal publications access libraries. A cooperative group of libraries that includes libraries in more than 1 State may be designated under this section.

Designation of regional Federal publications access libraries may be made by a Senator or the Resident Commissioner from Puerto Rico or the Mayor of the District of Columbia within the areas represented by them, after consultation with the head of the library authority of the State or the Commonwealth of Puerto Rico or the District of Columbia, as the case may be, who shall first ascertain from the head of the library, or cooperative group of libraries, to be so designated that the library will fulfill the requirements of a regional Federal publications access library. The agreement to function as a regional Federal public access information library is to be transmitted to the Superintendent of Government Publications Access Programs by the Senator or the Resident Commissioner from Puerto Rico or the Mayor of the District of Columbia when the designation is made.

The responsibilities of regional Federal publications access libraries, as specified in this section, include permanently maintaining for public use at least 1 copy of all Government publications not created for or transmitted through an electronic communications system or network, except those authorized to be discarded by the Superintendent of Government Publications Access Programs, or coordinating with other Federal publications access libraries in the applicable service area to ensure that such service is provided by a Federal publications access library in the area. In addition, within the region served, a regional Federal publications access library provides or coordinates the provision of all program-related activities in the service area, including interlibrary loans and reference services.

*Sec. 1910. Federal publications access libraries: responsibilities*

Section 1910 specifies that Federal publications access libraries are responsible for making Government publications received or accessed through the Federal publications access program available for the use of the public at no fee. All Government publications not created for or transmitted through an electronic communications system or network received by Federal publications access libraries remain the property of the United States Government. Federal publications access libraries may dispose of Government publications only as authorized by the Superintendent of Government Publications Access Programs. Federal publications access libraries are to operate in accord with regulations promulgated under section 1904.

*Sec. 1911. Federal publications access libraries council*

The Superintendent of Government Publications Access Programs is authorized to establish a permanent Federal Publications Access Library Council. The Superintendent is to determine the composition of the Council and the duration of terms of the members, and publish the membership of the Council annually in the Federal Register. The Council's members are to be representative of the various classes of libraries which comprise the Federal publications access library program and others. Appointments to the Council are to be made without regard to political affiliation. The Council is responsible for advising the Superintendent on appropriate items and preferred formats for inclusion in the program under this chapter; Government publications that are not included in the program and the Council recommends for inclusion in the program; and such other policy matters as the Superintendent may request.

The Superintendent of Government Publications Access Programs is authorized to establish other advisory committees consisting of representatives of Federal publications access libraries, agencies, and users of Government publications, as the Superintendent determines appropriate.

All meetings of the Council and those of any other advisory committee established by the Superintendent must be open to the public, except when the Superintendent determines that the meeting or any portion of the meeting is to be closed to the public consistent with the provisions of section 552b of title 5, and only after a two-thirds vote of the Council. All meetings of the Council and those of any other advisory committee established by the Superintendent must provide an opportunity for public comment and be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting. Minutes of each meeting must be kept and are to contain a record of the people present and a description of the discussion that occurred. The minutes and records of all such meetings and other documents that were made available to or prepared for the Council or any other advisory council established by the Superintendent must be made publicly accessible, unless the Superintendent determines that a record or any portion of such record is not to be publicly disclosed, consistent with the provisions of section 552 of title 5, United States Code, and only after a two-thirds vote of the Council.

*Sec. 402(b). Report to Congress*

This subsection provides that, not later than 30 months after the effective date of this Act, the Superintendent must submit a report to the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives concerning the status of the Federal publications access program established under chapter 19 of title 44, United States Code; the expected developments in the program, including recommendations for necessary statutory and subsequent regulatory changes to implement a system to provide continuous and permanent access to Government publications created for or transmitted through an electronic communications system or network; and specific recommendations for legislative proposals, as appropriate.

*Sec. 402(c). Transfer*

This subsection transfers to the Superintendent of Government Publications Access Programs, for performance on and after the effective date of this Act, all of the duties, authorities, responsibilities, and functions performed by the Superintendent of Documents of the Government Printing Office on the day before the effective date of this Act.

*Sec. 402(d). References*

This subsection provides that references in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Superintendent of Documents are to be deemed to refer to the Superintendent of Government Publications Access Programs, and the Office of the Superintendent of Documents is to be deemed to refer to the Office of the Superintendent of Government Publications Access Programs.

*Sec. 402(e). Transition*

This subsection provides that the individual serving as the Superintendent of Documents of the Government Printing Office on the effective date of this title may serve as Acting Superintendent of Government Publications Access Programs of the Government Publications Office until the President appoints a Superintendent of Government Publications Access Programs under paragraph (2).

Paragraph (2) specifies that, not later than 180 days after the effective date of this title, the President is to appoint a Superintendent of Government Publications Access Programs of the Government Publications Office in accordance with section 1903 of title 44, United States Code, as amended by this Act.

Assets and real property under the control of, in use by, or assigned to the Superintendent of Documents by the Public Printer on the day before the effective date of this Act is to be under the control of the Acting Superintendent of Government Publications Access Programs on the effective date of this Act for the use of the Acting Superintendent of Government Publications Access Programs thereafter for purposes of implementing this Act.

Personnel under the supervision of or assigned to the Superintendent of Documents by the Public Printer on the day before the effective date of this Act are to be under the supervision or assigned to the Acting Superintendent of Government Publications Access Programs on the effective date of this Act for purposes of implementing this Act.

*Sec. 402(f). Technical and conforming amendment*

The table of chapters for title 44, United States Code, is amended by striking the item relating to chapter 19 and inserting the following:

“19. Federal Publications Access Programs ..... 1901”.

*Sec. 403(a). Distribution and sale of government publications by Superintendent of Government Publications Access Programs*

This subsection amends Chapter 17 of title 44, United States Code, to read as follows:

“CHAPTER 17—DISTRIBUTION AND SALE OF GOVERNMENT PUBLICATIONS

“Sec.

“1701. Publications for public distribution to be distributed by the Superintendent of Government Publications Access Programs; mailing lists.

“1702. Superintendent of Government Publications Access Programs; sale of Government publications.

“1703. Superintendent of Government Publications Access Programs: assistants, blanks, printing, and binding.

“1704. Payment of costs.

“1705. Additional copies for sale to the public.

“1706. Production and sale of extra copies of Government publications.

“1707. Reproducing Government publications required for sale.

“1708. Prices for sales copies of publications; crediting of receipts; resale by dealers; sales agents.

“1709. Blank forms: printing and sale to public.

“1710. Publications for use of the Superintendent of Publications Access Programs.

“1711. Publications for use of National Archives and Records Administration.

“1712. Publications for the Secretary of the Senate and the Clerk of the House of Representatives.

“1713. Government publications for the Library of Congress.

“1714. Exchange of Government publications by heads of Federal agencies.”

*Sec. 1701. Publications for public distribution to be distributed by the Superintendent of Government Publications Access Programs; mailing lists*

This section prohibits the use of appropriated funds for services in an executive department or other Government establishment at the District of Columbia in the work of addressing, wrapping, mailing, or otherwise dispatching a publication for public distribution, except maps, weather reports, and weather cards issued by them or for the purchase of material or supplies to be used in this work. The Superintendent of Government Publications Access Programs is authorized to perform this work at the Government Publications Office. The head of an executive department, independent office, and establishment of the Government at the District of Columbia, is to furnish from time to time to the Superintendent mailing lists, in convenient form, and changes in them, or penalty mail slips, for use in the public distribution of publications issued by the department or establishment. The Superintendent may furnish copies of a publication only in accordance with law or the instruction of the head of the department or establishment issuing the publication. This section does not apply to orders, instructions, directions, notices, or circulars of information printed for and issued by an executive department or other Government establishment or to the distribution of public publications by Senators or Members of the House of Representatives or to the Senate Service Department, House of Representatives Publications Distribution Service, and document rooms of the Senate or House of Representatives.

*Sec. 1702. Superintendent of Government Publications Access Programs; sale of Government publications*

Section 1702 provides that, if an officer of the Government who has Government publications for sale and desires to be relieved of the publications, the officer may turn the publications over to the Superintendent of Government Publications Access Programs, who is authorized to receive and sell them under this section, or dispose of such publications under section 306 or 314. Moneys received from the sale of such Government publications is to be paid to the

Superintendent of Government Publications Access Programs, placed in the Revolving Fund of the Government Publications Office, and credited to the account of the Superintendent.

This section also vests the Superintendent of Government Publications Access Programs with general supervision of a Government publications sales program, which is to provide Government publications to the public for purchase. The Superintendent is to report monthly to the Administrator the number of publications received by the Superintendent and the disposition made of them.

*Sec. 1703. Superintendent of Government Publications Access Programs: assistants, blanks, printing, and binding*

This section authorizes the Administrator to provide convenient office space, storage, and distributing rooms for the Superintendent of Government Publications Access Programs. The Superintendent of Government Production and Procurement Services, upon requisition by the Superintendent of Government Publications Access Programs, is authorized to perform the printing and binding required by the office in accordance with section 1107.

*Sec. 1704. Payment of costs*

Section 1704 provides that employees in the Office of the Superintendent of Government Publications Access Programs 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 Publications Office under section 303. The costs of printing and related services incurred by the Superintendent of Government Publications Access Programs under this chapter for work performed by the Superintendent of Government Production and Procurement Services is to be paid by the Superintendent of Government Publications Access Programs from accounts under the Superintendent's authority within the Revolving Fund of the Government Publications Office. The Administrator is authorized to transfer funds from the account of the Superintendent of Government Publications Access Programs to the account of the Superintendent of Government Production and Procurement Services, upon a voucher prepared by the Superintendent of Government Production and Procurement Services and approved by the Superintendent of Government Publications Access Programs.

*Sec. 1705. Additional copies for sale to the public*

Section 1705 provides that, upon requisition by the Superintendent of Government Publications Access Programs, the Superintendent of Government Production and Procurement Services is authorized to produce additional copies of a Government publication, not confidential in character, required for sale to the public, as determined by the Superintendent of Government Publications Access Programs. The cost of such production is to be determined in accordance with section 1107. Such production must not interfere with the prompt execution of publications production for the executive, legislative, or judicial branches of Government.

*Sec. 1706. Production and sale of extra copies of Government publications*

This section provides that the Superintendent of Government Publications Access Programs may furnish to private, nongovernmental applicants, giving notice before a publication is produced, such copies of the requested Government publication as the applicant requests. The applicant must pay in advance the price of the requested Government publication as determined by the Superintendent of Government Publications Access Programs. The production of such copies for private, nongovernmental parties must not interfere with the production for the Government.

*Sec. 1707. Reproducing Government publications required for sale*

Section 1707 indicates that the Superintendent of Government Publications Access Programs may order reproduced, from time to time, Government publications required for sale, subject to the approval of the head of the department or agency in which the Government publication originated. The Superintendent of Government Production and Procurement Services must be reimbursed by the Superintendent of Government Publications Access Programs for the cost of reproduction from the moneys received from the sale of Government publications. Such receipts are to be deposited in the Revolving Fund of the Government Publications Office to the credit of the Superintendent of Government Production and Procurement Services.

*Sec. 1708. Prices for sales copies of publications; crediting of receipts; resale by dealers; sales agents*

Section 1708 specifies that, to the greatest extent feasible, the Superintendent of Government Publications Access Programs must operate the sales program of Government publications on a self-sustaining basis. Sales prices for Government publications sold by the Superintendent are to be established by the Superintendent to cover the cost of procurement or production, dissemination, and other appropriate costs, including the offering of sales discounts and any costs associated with the sales program. The Superintendent is authorized to prescribe terms and conditions under which the Superintendent authorizes the resale of Government publications by book dealers. The Superintendent may designate any Government officer, or any person who is not a Federal employee, as his or her agent for the sale of Government publications under terms and conditions agreed upon by the Superintendent and the head of the respective agency of the Government.

*Sec. 1709. Blank forms: printing and sale to public*

This section authorizes the Superintendent of Government Publications Access Programs to have produced for sale to the public, upon prepayment, additional copies of approved Government blank forms.

*Sec. 1710. Publications for use of the Superintendent of Publications Access Programs*

Section 1710 authorizes the Superintendent of Publications Access Programs to retain out of all publications, bills, and resolutions printed, the number of copies absolutely needful for the official use of the Government Publications Office, not exceeding 5 of each.

*Sec. 1711. Publications for use of National Archives and Records Administration*

Section 1711 directs the Administrator to cause to be printed and delivered to the National Archives and Records Administration for use by the Archivist of the United States one copy each of the following publications, chargeable to the Superintendent of Government Publications Access Programs: House and Senate documents and public reports, bound; House and Senate Journals, bound; United States Code and supplements, bound; United States Statutes at Large, bound; United States Reports, bound; all other documents bearing Congressional number or printed upon order of a committee in either House of Congress, or of a department, independent agency or establishment, commission, or officer of the Government, except confidential matter, blank forms, and circular letters not of a public character; and public bill and resolutions in Congress in each parliamentary stage. The cost of providing these publications is deemed an expense of the Government Publications Access Programs and is to be paid in accordance with section 1902(g) of this Act. The Superintendent of Government Publications Access Programs is to furnish to the Archivist, without cost, copies of publications available for free distribution.

*Sec. 1712. Publications for the Secretary of the Senate and the Clerk of the House of Representatives*

This section provides that, when printing not bearing a congressional number, except confidential matters, blank forms, and circular letters not of a public character, is done for an agency of Government, or not of a confidential character, is done for use of congressional committees, 2 copies are to be sent by the Government Publications Office to the Senate and the House of Representatives libraries, respectively. These purchases are to be made in accordance with section 1107, and from funds appropriated for congressional printing and binding under section 735 of title 44, United States Code, as amended by this Act.

*Sec. 1713. Government publications for the Library of Congress*

The Librarian of Congress is authorized to determine annually the number of full and partial sets of Government publications necessary for the Library's service to Congress, maintenance of the Library's collection, and for use in the international exchange program. The Director of the Congressional Research Service is authorized to determine annually the number of full and partial sets of Government publications necessary for the Service to provide assistance to Congress. The Superintendent of Government Publications Access Programs is directed to provide these necessary docu-

ments to the Library and the Congressional Research Service in a timely manner and in the needed quantities.

The Librarian is also authorized to administer an international exchange program, pursuant to the Brussels convention of March 15, 1886, and subsequent similar bilateral and multilateral treaties and agreements, by providing Government publications for foreign governments which agree to send to the United States similar publications of their governments for deposit at the Library of Congress.

Payment by the Library of Congress and the Congressional Research Service for Government Publications and related services under this section are authorized to be made from funds appropriated to each entity for such purposes. Payment for such publications is mandated at the incremental cost of printing, in accordance with section 1107, title 44, United States Code, as amended by this Act.

An effective date of October 1, 1999, is prescribed for this section.

*Sec. 1714. Exchange of Government publications by heads of agencies*

Section 1714 authorizes the head of an agency to exchange surplus Government publications for other Government publications required by the agency, if it is to the advantage of the public service.

*Sec. 403(b). Technical and Conforming Amendment*

This subsection amends the table of chapters for title 44, United States Code, by striking the item relating to chapter 17 and inserting the following:

“17. Distribution and Sale of Government Publications ..... 1701”.

SEC. 404. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE SUPERINTENDENT OF GOVERNMENT PUBLICATIONS ACCESS PROGRAMS

This section amends section 1108 of title 44, United States Code, by striking “Superintendent of Documents” and inserting “Superintendent of Government Publications Access Programs”. It amends chapter 17, title 44, United States Code, by repealing sections 1718 and 1719, effective October 1, 1999. It also amends section 4101 of title 44, United States Code, by striking “Superintendent of Documents” each place it appears and inserting “Superintendent of Government Publications Access Programs”, by striking “, under the direction of the Public Printer; and”, and by inserting before the semicolon in subsection (a)(1) “, for the executive, legislative, and judicial branches of Government”, and by adding at the end the following new subsection:

(d) LOCATOR.—The electronic directory, or locator, authorized under section 3511 shall not replace, but shall be established in addition to, the locator established by this section. The Superintendent of Government Publications Access Programs shall be the sole administrator of the Government locator established under this section and



shall coordinate and integrate the services of the locator established under section 3511.

Finally, this section repeals section 4102 of title 44, United States Code, and amends the table of sections for chapter 41, United States Code, by striking the item relating to section 4102.

#### Title V—Administrative and Savings Provisions

##### SEC. 501. CONTINUATION OF EMPLOYMENT TERMS AND CONDITIONS

This section provides that compensation, benefits, and other terms and conditions of employment in effect on the day before the effective date of this Act, whether provided by statute, regulation, or agreement between employees and the Public Printer, continue to apply to officers and employees of the Government Printing Office until modified or terminated in accordance with law, including the provisions of this Act.

##### SEC. 502. PROCEEDINGS NOT AFFECTED

This section provides that the provisions of this Act do not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Government Printing Office at the time this Act takes effect, with respect to functions transferred by this Act, but such proceedings and applications are continued. Orders are to be issued in such proceedings, appeals are to be taken therefrom, and payments are to be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings are to continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section is to be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

##### SEC. 503. SUITS NOT AFFECTED

This section specifies that the provisions of this Act do not affect suits commenced before the effective date of this Act, and in all such suits, proceedings are to be had, appeals are to be taken, and judgments are to be rendered in the same manner and with the same effect as if this Act had not been enacted.

##### SEC. 504. NONABATEMENT OF ACTIONS

This section provides that no suit, action, or other proceeding commenced by or against the Government Printing Office, or by or against any individual in the official capacity of such individual as an officer of the Government Printing Office, is to abate by reason of the enactment of this Act.

##### SEC. 505. SEPARABILITY

This section specifies that, if a provision of this Act or its application to any person or circumstance is held invalid, neither the re-

mainder of this Act nor the application of the provision to other persons or circumstances is to be affected.

SEC. 506. TRANSFER OF CERTAIN FUNCTIONS OF THE JOINT  
COMMITTEE ON PRINTING

This section makes modifications of references to the Joint Committee on Printing by amending section 208 of title 1, United States Code, in the section heading by striking all after “agencies”, and by striking “Joint Committee on Printing” and inserting “Administrator of the Government Publications Office, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives”. In addition, the table of sections for chapter 3 of title 1, United States Code, is amended in the item relating to section 208 by striking all after “agencies” and inserting a period. Other modifications include amendment of section 3 of the joint resolution of December 24, 1970 (2 U.S.C. 168b) by striking “Joint Committee on Printing” and inserting “Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives”; amendment of section 2(b)(1) of Public Law 94-386 (2 U.S.C. 285b note; District of Columbia Code, section 49-102) by striking “Public Printer” and “Public Printer (in consultation with the Joint Committee on Printing)” and inserting “Superintendent of Government Publications Production and Procurement Services (in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives)”; amendment of section 312 of the Federal Water Power Act (16 U.S.C. 825k) by striking all beginning with “Joint Committee on Printing” in the fourth sentence through the end of the section and inserting “Administrator of the Government Publications Office may prescribe”; amendment of section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) by striking the sentence following paragraph (10); amendment of section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) by striking the sentence following paragraph (10); amendment of section 602(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(d)(18)) by striking “Joint Committee on Printing” and inserting “Government Publications Office”; repealing chapter 1 of title 44, United States Code; amendment of the table of chapters for title 44, United States Code, by striking the item relating to chapter 1; amendment of chapter VII of title I of the Second Supplemental Appropriations Act, 1976 (Public Law 94-303; 90 Stat. 616; 44 U.S.C. 103 note) under the heading “JOINT COMMITTEE ON PRINTING” by striking the 2 provisos; and amendment of Title I of the Legislative Branch Appropriations Act, 1978 (Public Law 95-94; 91 Stat. 669; 44 U.S.C. 103 note) under the heading “JOINT COMMITTEE ON PRINTING” by striking the first 2 provisos.

SEC. 507. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS

This section provides that, after consultation with the Committee on Rules and Administration of the Senate and the Committee on House Oversight of the House of Representatives, the Adminis-

trator of the Government Publications Office, the Superintendent of Government Publications Access Programs, and the Superintendent of Government Publications Production and Procurement Services are to each prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act. This recommended legislation is to be submitted to Congress not later than 6 months after the effective date of this Act.

#### SEC. 508. IMPLEMENTATION ACTIONS

This section provides that, effective on the date of enactment of this Act, the Public Printer and the Superintendent of Documents may each take such administrative actions as necessary to provide for the orderly implementation of this Act.

#### SEC. 509. EFFECTIVE DATE

This section specifies that, except as provided under sections 305, 308, 403, 408, and 508, this Act is to take effect on January 1, 1999.

### VI. COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

#### *S. 2288—Wendell H. Ford Government Publications Reform Act of 1998*

S. 2288 would make numerous changes to Title 44, United States Code, regarding procedures for the production, publication, and distribution of federal documents. The bill would eliminate the Joint Committee on Printing and assign the committee's authorities to the Committee on House Oversight, the Senate Committee on Rules and Administration, and the Government Printing Office. In addition, it would rename and reorganize the Government Printing Office as the Government Publications Office (GPO) and move the office from the legislative to the executive branch. S. 2288 also would generally direct GPO to produce or procure all federal printing within five years of the bill's enactment. The bill contains many other provisions that aim to reform the production and distribution of federal publications.

Enacting S. 2288 would affect direct spending, although the net amounts involved would not be significant. Therefore, pay-as-you-go procedures would apply to the bill. By requiring that all agencies and departments procure printing services through GPO, the bill will could affect the printing and reproduction costs of agencies that receive no annual appropriations, such as the Tennessee Valley Authority and the Office of the Comptroller of the Currency. In addition, by allowing GPO to transfer or donate its surplus machinery and other equipment, the bill could decrease receipt from the sale of such property. Finally, S. 2288 could affect the amount of receipts from the public for GPO publications and other services.

Many of the provisions of S. 2288 would affect federal discretionary spending. The proposed reorganization of the Government Printing Office would increase administrative costs, for example, whereas the procurement of federal printing through GPO could eventually yield savings. At this time, however, CBO cannot provide an estimate of the bill's net effect on discretionary spending.

S. 2288 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments. The CBO staff contacts for this estimate are John R. Righter and Mark T. Grabowicz. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

#### VII. REGULATORY IMPACT EVALUATION

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee believes that passage of S. 2288 would have no regulatory impact. The Government Printing Office currently administers a body of regulation governing the procedures it follows in procuring printing from the private sector on behalf of other Federal agencies. S. 2288 directs that these regulations be adopted, through notice and comment, to govern the procurement procedures of the successor agency authorized in the bill. Therefore, there will be no new regulatory requirement or burdens imposed on any groups and classes of individuals or businesses.

#### VIII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that this bill substantially revises the administrative provisions of title 44, United States Code.

