

103D CONGRESS
1ST SESSION

S. 345

To authorize the Library of Congress to provide certain information products and services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

Mr. PELL (for himself, Mr. STEVENS, Mr. DECONCINI, Mr. MOYNIHAN, and Mr. HATFIELD) introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To authorize the Library of Congress to provide certain information products and services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Library of Congress
5 Fund Act of 1993”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress makes the following
8 findings:

9 (1) The Library of Congress was established by
10 the Congress as a library for the Congress.

1 (2) The Congress has extended the services of
2 the Library of Congress to the Nation.

3 (3) The Library of Congress now serves the
4 Nation by providing research and reference for Con-
5 gress and providing public access to its rich collec-
6 tions through its reading rooms and through
7 interlibrary loan and through a variety of special
8 programs and services.

9 (b) INTENT OF CONGRESS.—It is the intent of Con-
10 gress that—

11 (1) the first priority of the Library of Congress
12 is, and shall remain, to serve the information and re-
13 search needs of the Congress;

14 (2) core Library of Congress services shall con-
15 tinue to be provided at no cost to the Congress, Li-
16 brary of Congress users, and the Nation's libraries;

17 (3) the Library of Congress shall provide na-
18 tional library products and services, including biblio-
19 graphic data and technical publications, and may re-
20 cover the distribution costs for providing such prod-
21 ucts and services;

22 (4) the Library of Congress shall distribute core
23 and national publications to depository libraries as
24 required by chapter 19 of title 44 of the United
25 States Code;

1 (5) the Library of Congress shall make avail-
2 able to the Government Printing Office for distribu-
3 tion to the depository library program specialized li-
4 brary products and services where covered by title
5 44;

6 (6) the Library of Congress may provide spe-
7 cialized library products and services on a fee basis
8 and may recover the production and distribution
9 costs for providing such products and services;

10 (7) the Library of Congress shall act in accord-
11 ance with the protections afforded copyrighted mate-
12 rial under the Copyright Act (title 17, United States
13 Code); and

14 (8) the Library of Congress shall, in developing
15 specialized products and services, consider and foster
16 a diversity of sources.

17 (c) PURPOSES.—The purposes of this Act are—

18 (1) to expand and clarify the authority of the
19 Library of Congress to provide certain information
20 products and services;

21 (2) to make national and specialized library re-
22 search and information products and services more
23 readily available to Federal, State, and local agen-
24 cies, foreign governments, as well as libraries,

1 schools, institutions of higher education, industry,
2 business, and other organizations and individuals;

3 (3) to clarify and define the authority of the Li-
4 brary of Congress to be compensated for such prod-
5 ucts and services;

6 (4) to provide administrative mechanisms
7 whereby the Library of Congress may charge fees
8 for certain information products and services; and

9 (5) to improve the accountability of the Library
10 of Congress to the Congress and the public.

11 **SEC. 3. DEFINITIONS.**

12 As used in this Act—

13 (1) CORE LIBRARY PRODUCTS AND SERVICES.—

14 The term “core library products and services”
15 means domestic interlibrary loan and information
16 products and services in any format customarily pro-
17 vided by libraries to users at no charge. Such prod-
18 ucts and services, which will evolve over time and
19 with changing technologies, include organizing, cata-
20 logging, and preserving library collections, and provid-
21 ing access to Library reading rooms, reference serv-
22 ices, databases, and collections. Such core products
23 and services may include electronic access to the
24 contents of the collections, subject to any relevant
25 legal restrictions.

1 (2) NATIONAL LIBRARY PRODUCTS AND SERV-
2 ICES.—The term “national library products and
3 services” means information products and services,
4 in any format, including bibliographic products and
5 services and other technical publications, and other
6 Library-created databases that—

7 (A) are used by libraries and library orga-
8 nizations; and

9 (B) play a role in maintaining and improv-
10 ing library services throughout the Nation.

11 Such national library products and services may in-
12 clude electronic access to the contents of the collec-
13 tions, subject to any relevant legal restrictions.

14 (3) DISTRIBUTION COSTS.—The term “distribu-
15 tion costs” means costs sustained by the Library of
16 Congress, over and above the costs of services fund-
17 ed by appropriations, to package and distribute na-
18 tional library products and services. Such costs in-
19 clude salaries and benefits, materials and supplies,
20 inventory obsolescence, travel, research and develop-
21 ment costs related to the distribution of national li-
22 brary products and services, operation and mainte-
23 nance, depreciation, and related administrative costs.

24 (4) SPECIALIZED LIBRARY PRODUCTS AND
25 SERVICES.—

1 (A) The term “specialized library products
2 and services” means customized information
3 products and services that—

4 (i) exceed core services;

5 (ii) are not national library products
6 and services; and

7 (iii) are created for individuals or dis-
8 crete groups of persons or entities.

9 (B) The products and services are limited
10 to—

11 (i) research reports and analytical
12 studies;

13 (ii) gift shop items such as realia,
14 publications, graphic and pictorial mate-
15 rials, and audio-visual works and sound re-
16 cordings associated with Library collec-
17 tions, exhibits, performances, or special
18 events;

19 (iii) item replacement, document loca-
20 tion, copying and delivery services;

21 (iv) centralized acquisition of books,
22 services and library materials for Federal
23 libraries and information centers;

1 (v) centralized acquisition activities
 2 for libraries participating in Library of
 3 Congress overseas programs;

4 (vi) electronic access to the contents
 5 of the collections; and

6 (vii)(I) translation and foreign lan-
 7 guage services;

8 (II) search of databases;

9 (III) training in preservation methods
 10 and library services;

11 (IV) preservation products and serv-
 12 ices;

13 (V) special events and programs.

14 (5) PRODUCTION AND DISTRIBUTION COSTS.—

15 The term “production and distribution costs” means
 16 costs related to the research, development, produc-
 17 tion and distribution of a specialized library product
 18 or service. Such costs include salaries and benefits,
 19 materials and supplies, inventory obsolescence, trav-
 20 el, research and development costs, operation and
 21 maintenance, depreciation, and related administra-
 22 tive costs.

1 **TITLE I—LIBRARY PRODUCTS**
2 **AND SERVICES**

3 **SEC. 101. NATIONAL LIBRARY PRODUCTS AND SERVICES.**

4 (a) IN GENERAL.—The Librarian of Congress is au-
5 thorized to furnish national library products and services
6 to institutions or individuals for purchase.

7 (b) CHARGING FOR PRODUCTS AND SERVICES.—The
8 Librarian of Congress may charge a price for products and
9 services referred to in subsection (a) that covers the dis-
10 tribution costs of the products and services. All moneys
11 received through the distribution of national library prod-
12 ucts and services shall be deposited in the Treasury and
13 shall be credited to the Library of Congress salaries and
14 expenses appropriation to remain available until expended
15 for necessary distribution of such products and services
16 of the Library.

17 (c) REPEAL.—The paragraph beginning “The Li-
18 brarian of Congress” under the heading “PUBLIC PRINT-
19 ING AND BINDING” in section 1 of the Act of June 28,
20 1902 (ch. 1301; 32 Stat. 480), as amended by section
21 405(c) of Public Law 95–94 (91 Stat. 682), is repealed.

22 **SEC. 102. NEW FUND SERVICE ACTIVITIES.**

23 (a) IN GENERAL.—In developing, producing, and dis-
24 tributing specialized products and services, the Library
25 may establish collaborative relationships with one or more

1 interested parties. Pursuant to the first paragraph under
2 the heading “Library of Congress” in the first section of
3 the Act entitled “An Act making appropriations for the
4 legislative, executive, and judicial expenses of the Govern-
5 ment for the fiscal year ending June thirtieth, eighteen
6 hundred and ninety-eight, and for other purposes”, ap-
7 proved February 19, 1897 (29 Stat. 54; 2 U.S.C. 136),
8 the Librarian of Congress shall promulgate regulations
9 concerning the establishment and conduct of such collabo-
10 rative relationships. No such collaborative relationship
11 shall interfere with timely, equal, and equitable access by
12 the public to the underlying materials in the Library’s col-
13 lections.

14 (b) NOTICE.—The Librarian shall publish a notice in
15 the Federal Register each time significant new Fund serv-
16 ice activities are proposed under the authority of section
17 202(d). The notice shall include information about the ob-
18 jective of the proposed activity, its cost, its intended audi-
19 ence, its benefits to the public and the reason for Library
20 of Congress participation. The public shall have at least
21 45 days to comment on the proposed new activity. The
22 Librarian’s decision establishing a new activity within spe-
23 cialized library products or services shall be published in
24 the Federal Register accompanied by an explanation.

1 (c) REPORTING.—In addition to the provision in sec-
 2 tion 102(b), and before establishing the services described
 3 in section 3(4)(B)(vii), the Librarian shall submit a writ-
 4 ten report to the Joint Committee on the Library. The
 5 Library will publish in the Federal Register the date of
 6 the report's submission to the Joint Committee on the Li-
 7 brary and the fact of its availability from the Library. The
 8 report shall include information about the objective of the
 9 proposed new service, its cost, its intended audience, its
 10 benefits to the public, the reason for Library of Congress
 11 participation, and a summary of the public comments re-
 12 ceived.

13 (d) IMPLEMENTATION.—Unless the Joint Committee
 14 disapproves a new service subject to the provisions of sub-
 15 section (c) or requests a delay in its implementation, the
 16 Librarian may undertake such a service 30 days after sub-
 17 mitting the report.

18 (e) LIMITATION.—Any new Fund service activity
 19 shall be established as provided in section 202(a).

20 **SEC. 103. MOVEMENT OF SPECIALIZED PRODUCTS AND**
 21 **SERVICES TO ANOTHER SERVICE CATEGORY.**

22 Library products and services that originate in one
 23 fiscal year as specialized library products and services
 24 (such as research reports and analytical studies, trans-
 25 lation and foreign language services, search of databases,

1 preservation products and services, and electronic access
2 to the contents of the collections) may be provided as core
3 or national library products and services in a subsequent
4 fiscal year.

5 **TITLE II—LIBRARY OF CON-**
6 **GRESS REVOLVING FUND FOR**
7 **SPECIALIZED PRODUCTS AND**
8 **SERVICES**

9 **SEC. 201. DEFINITIONS.**

10 For the purposes of this title—

11 (1) **FUND.**—The term “Fund” means the Li-
12 brary of Congress Revolving Fund.

13 (2) **LIBRARY OF CONGRESS REVOLVING**
14 **FUND.**—The term the “Library of Congress Revolv-
15 ing Fund” means that fiscal resource established in
16 the United States Treasury to enable the Library of
17 Congress to conduct a cycle of operations in which
18 expenditures generate income, which is then credited
19 directly to that resource.

20 (3) **FUND SERVICE ACTIVITIES.**—The term
21 “Fund service activities” means the specialized li-
22 brary information products and services authorized
23 by this Act and any other activities lawfully assigned
24 by the Librarian of Congress to the Fund service
25 units under section 102.

1 (4) FUND SERVICE UNITS.—The term “Fund
2 service units” means those organizational entities
3 that, at the direction of the Librarian of Congress,
4 are partially or fully sustained through the collection
5 of fees credited to the Fund.

6 **SEC. 202. LIBRARY OF CONGRESS REVOLVING FUND.**

7 (a) ESTABLISHMENT OF FUND.—

8 (1) IN GENERAL.—There is established in the
9 Treasury of the United States the Library of Con-
10 gress Revolving Fund. The Fund shall be available
11 to the Librarian, without fiscal year limitation, for
12 use as a revolving fund to carry out Fund service ac-
13 tivities.

14 (2) RESTRICTION.—Obligations for Fund serv-
15 ice activities are limited to the total amounts speci-
16 fied in the appropriations Act for any fiscal year.

17 (b) FUND CAPITAL.—The capital of the Fund shall
18 consist of the aggregate of—

19 (1) appropriations made to provide capital for
20 the Fund, which appropriations are authorized
21 under this Act; and

22 (2)(A) the sum of the fair and reasonable value
23 of such supplies, equipment and other assets as the
24 Library from time to time transfers to the Fund (in-
25 cluding the amount of the unexpended balances of

1 gift funds relating to activities the financing of
2 which is transferred to the Fund), less

3 (B) the amount of related liabilities, the
4 amount of unpaid obligations, and the value of ac-
5 crued annual leave of employees which are attrib-
6 utable to the activities the financing of which is
7 transferred to the Fund.

8 (c) CREDITING TO THE FUND.—The Fund shall be
9 credited with—

10 (1) all fees, advances and reimbursements re-
11 ceived from any source for specialized library prod-
12 ucts and services furnished or to be furnished under
13 this Act;

14 (2) receipts from sales or exchanges of prop-
15 erty, and payments for loss or damage to property,
16 accounted for under the Fund;

17 (3) all receivables, inventories, and other assets
18 associated with Fund service activities;

19 (4) any sums appropriated by law for the con-
20 duct of Fund service activities; and

21 (5) any sums accruing from interest paid on
22 Fund investments.

23 (d) FUND SERVICE ACTIVITIES.—The Librarian of
24 Congress is authorized to furnish to institutions or individ-
25 uals for purchase specialized library products and services.

1 The Librarian of Congress may charge a price for such
2 products and services that will cover the production and
3 distribution costs of the products and services.

4 (e) FEES.—The Librarian shall set fees to recover
5 the costs of specialized library products and services pro-
6 vided by each Fund service unit. To the maximum extent
7 feasible, the activities of each individual Fund service unit
8 shall be conducted on an actual cost basis over a reason-
9 able period of time.

10 (f) AVAILABILITY OF FUNDS.—The Fund shall be
11 available to the Librarian for the payment of all costs of
12 conducting Fund service activities, including the payment
13 of any financial obligation related to these activities that
14 were undertaken by the Librarian of Congress prior to the
15 establishment of the Fund and that were subsequently
16 transferred to the Fund by law or in conjunction with any
17 reorganization authorized by law.

18 (g) FUND SERVICE UNITS.—The nonappropriated
19 capital of the Fund shall be accounted for by Fund service
20 units. Any unobligated and unexpended balances of these
21 Fund service unit accounts shall be available to support
22 research and development activities of that Fund service
23 unit. Fund service unit accounts shall not be commingled
24 with other Fund service unit accounts.

1 (h) INTEREST ON APPROPRIATED CAPITAL.—An an-
2 nual interest charge shall be paid by the Fund to the gen-
3 eral fund of the Treasury for appropriations made to pro-
4 vide capital for Fund service units that predominantly sell
5 library products and services to non-Federal customers.
6 The interest rate used to calculate this annual charge is
7 equal to the average market yield computed as of the end
8 of March, borne by all marketable interest-bearing obliga-
9 tions of the United States then forming a part of the pub-
10 lic debt. If the average market yield is not a multiple of
11 one-eighth of one percent, the rate of interest on the obli-
12 gations shall be the multiple of one-eighth of one percent
13 nearest the average market yield.

14 (i) INVESTMENT OF FUNDS.—The Librarian of Con-
15 gress shall immediately invest and reinvest with the ap-
16 proval of the Secretary of the Treasury in public debt se-
17 curities of the United States such currently available por-
18 tions of the Fund, other than appropriated capital, as are
19 not immediately required for payments from the Fund. In-
20 vestments in public debt securities shall bear interest at
21 rates determined by the Secretary of the Treasury taking
22 into consideration the current average market yield on
23 outstanding marketable obligations of the United States
24 of comparable maturity. The income derived from these
25 investments constitutes a part of the Fund.

1 (j) MISTAKEN OR OVERPAYMENT FROM FUND.—The
2 Librarian of Congress shall make provisions for the refund
3 from the Fund of any fees paid by mistake or overpay-
4 ment.

5 (k) EXCESS FUNDS.—Any unobligated and unex-
6 pended balances of the Fund which the Librarian deter-
7 mines to be in excess of amounts needed for activities fi-
8 nanced by the Fund shall be deposited in the Treasury
9 of the United States as miscellaneous receipts.

10 (l) REPORTS.—

11 (1) ANNUAL.—The Librarian shall report ac-
12 tivities and financial transactions of the Fund in the
13 annual report of the Librarian of Congress.

14 (2) 5-YEAR.—Five years after the effective date
15 of this Act, and again 10 years after the effective
16 date of this Act, the Librarian, after collaboration
17 with representatives of library users, librarians, and
18 the information and publishing industries, shall sub-
19 mit to the Congress a report setting forth the extent
20 to which the Library of Congress Fund Act of 1993
21 has achieved the intended balancing of the authority
22 to add specialized library products and services while
23 providing the core library products and services at
24 no charge and the national library products and
25 services at their distribution costs. The report should

1 also describe any problems that may have arisen,
2 and present legislative or other recommendations if
3 warranted.

4 (m) AUDITS.—The General Accounting Office shall
5 audit the financial activities of the Fund pursuant to the
6 regulations of the Comptroller General. The first audit
7 shall be conducted no later than two years after the estab-
8 lishment of the Fund and biennially thereafter.

9 **TITLE III—GENERAL**
10 **STANDARDS AND LIMITATIONS**

11 **SEC. 301. PRESERVATION OF SECURITY CLASSIFICATION.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sions of this Act, the Librarian of Congress shall respect
14 and preserve the security classification of any scientific or
15 technical information, data, patents, inventions, or discov-
16 eries in, or coming into, the possession or control of the
17 Library of Congress. The President or a designee shall
18 certify the classified status of any classified items received
19 by the Librarian of Congress as being essential in the in-
20 terest of national defense.

21 (b) EFFECT ON OTHER LAWS.—Nothing in this Act
22 shall be construed as modifying or limiting any other stat-
23 ute relating to the classification of information for reasons
24 of national defense or security.

1 **SEC. 302. APPLICATION OF ACT.**

2 (a) COPYRIGHT.—This Act shall not modify or other-
3 wise change any provision of title 17 of the United States
4 Code, specifically including section 105 of title 17.

5 (b) CRS.—In keeping with the intent and purposes
6 of provisions of the Legislative Reorganization Act of
7 1946, as amended by the Legislative Reorganization Act
8 of 1970 (2 U.S.C. 166)—

9 (1) the resources of the Congressional Research
10 Service shall not be utilized to generate fee-based re-
11 search and information services; and

12 (2) the products of the Congressional Research
13 Service shall not be marketed or published, without
14 prior approval of either the Committee on House
15 Administration of the House of Representatives or
16 the Senate Committee on Rules and Administration.

17 **SEC. 303. CONSTRUCTION OF ACT.**

18 Nothing in this Act shall be construed to—

19 (1) permit the Library of Congress to impose
20 redistribution fees for domestic use of core or na-
21 tional library products and services;

22 (2) amend chapter 19 of title 44 of the United
23 States Code or in any way modify the Library of
24 Congress distribution of publications to Federal de-
25 pository libraries as required by chapter 19 of title
26 44;

1 (3) require the levying of redistribution fees;

2 (4) require the levying of fees or charges for
3 services provided and products furnished pursuant to
4 reciprocal arrangements for the exchange of infor-
5 mation; and

6 (5) modify in any way the Library of
7 Congress's service to the Congress.

8 **SEC. 304. REGULATIONS.**

9 (a) IN GENERAL.—Pursuant to the first paragraph
10 under the heading “Library of Congress” in the first sec-
11 tion of the Act entitled “An Act making appropriations
12 for the legislative, executive, and judicial expenses of the
13 Government for the fiscal year ending June thirtieth,
14 eighteen hundred and ninety-eight, and for other pur-
15 poses”, approved February 19, 1897 (29 Stat. 54; 2
16 U.S.C. 136), the Librarian of Congress shall promulgate
17 such regulations as are necessary to implement this Act.

18 (b) APA.—Notwithstanding the inapplicability of the
19 Administrative Procedure Act to the Library, the Library,
20 when proposing new Fund service activities, shall follow
21 the rulemaking notification procedures of section 553 of
22 title 5, United States Code.

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