

103^D CONGRESS
2^D SESSION

H. R. 4736

To establish in the Treasury of the United States the Library of Congress Revolving Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 1994

Mr. ROSE (by request) introduced the following bill; which was referred jointly to the Committees on House Administration and the Judiciary

A BILL

To establish in the Treasury of the United States the Library of Congress Revolving Fund, 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 Financial Reform Act of 1994”.

6 **TITLE I—LIBRARY OF CONGRESS**

7 **REVOLVING FUND**

8 **SEC. 101. DEFINITIONS.**

9 For the purposes of this title:

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

3 (2) LIBRARY OF CONGRESS REVOLVING
4 FUND.—The term “Library of Congress Revolving
5 Fund” means that fiscal resource established in the
6 United States Treasury to enable the Library of
7 Congress to conduct a cycle of operations in which
8 expenditures generate income, which is then credited
9 directly to that resource.

10 (3) FUND SERVICE ACTIVITIES.—The term
11 “Fund service activities” means the library informa-
12 tion products and services authorized by section 102.

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

18 **SEC. 102. FUND SERVICE ACTIVITIES AUTHORIZED.**

19 The Fund service activities that are authorized by
20 this Act and that may be conducted by Fund service units
21 are limited to the following:

22 (1) Research reports, translations, and analyt-
23 ical studies, where such materials are prepared for
24 Federal agencies.

1 (2) Centralized acquisition of publications, in-
2 formation services, and library materials, and train-
3 ing in library and information services, for Federal
4 agencies.

5 (3) Decimal classification development.

6 (4) Gift shop activities involving sale of items
7 associated with Library collections, exhibits, per-
8 formances, or special events.

9 (5) Document location, copying and delivery
10 services, and international interlibrary lending.

11 (6) Centralized acquisition activities for librar-
12 ies participating in the Library of Congress overseas
13 programs.

14 (7) Special events and programs, such as per-
15 formances, exhibits, workshops, and meetings.

16 **SEC. 103. OPERATION OF THE LIBRARY OF CONGRESS RE-**
17 **VOLVING FUND.**

18 (a) ESTABLISHMENT OF FUND.—

19 (1) IN GENERAL.—There is established in the
20 Treasury of the United States the Library of Con-
21 gress Revolving Fund. The Fund shall be available
22 to the Librarian, without fiscal year limitation, for
23 use as a revolving fund to carry out Fund service ac-
24 tivities.

1 (2) RESTRICTION.—Obligations for Fund serv-
2 ice activities are limited to the total amounts speci-
3 fied in the appropriation Act for any fiscal year.

4 (b) FUND CAPITAL.—The capital of the Fund shall
5 consist of the aggregate of—

6 (1) appropriations made to provide capital for
7 the Fund which appropriations are authorized under
8 this Act; and

9 (2) the difference between—

10 (A) the sum of the fair and reasonable
11 value of such supplies, equipment, and other as-
12 sets as the Library from time to time transfers
13 to the Fund, including the amount of the unex-
14 pended balances of gift funds relating to activi-
15 ties the financing of which is transferred to the
16 Fund, and

17 (B) the sum of the amounts of related li-
18 abilities and unpaid obligations, and the value
19 of accrued annual leave of employees, which
20 amounts and value are attributable to those ac-
21 tivities whose financing is transferred to the
22 Fund.

23 (c) CREDITING TO THE FUND.—The Fund shall be
24 credited with—

1 (1) all fees, advances, and reimbursements re-
2 ceived from any source for products and services fur-
3 nished or to be furnished by the Fund service units
4 as authorized Fund service activities under this Act,
5 including transfers of monies received during the
6 year by Fund service units for services and products
7 furnished under Economy Act agreements;

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

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

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

15 (5) any sums accruing from interest paid on
16 Fund investments.

17 (d) **AUTHORITY TO SET AND CHARGE FEES.**—With
18 respect to the Fund service activities authorized by section
19 102, the Librarian of Congress is authorized to set fees
20 to recover the production and distribution costs of library
21 products and services provided by each Fund service unit,
22 to charge those fees to the institutions and individuals
23 purchasing the products and services, and to furnish said
24 products and services. The activities of each individual
25 Fund service unit shall, to the maximum extent feasible,

1 be conducted on an actual cost basis over a reasonable
2 period of time.

3 (e) AVAILABILITY OF FUND.—The Fund shall be
4 available to the Librarian of Congress for the payment of
5 all costs of conducting Fund service activities, including
6 the payment of any financial obligations related to these
7 activities that were undertaken by the Librarian before the
8 establishment of the Fund and that were later transferred
9 to the Fund by law or in conjunction with any reorganiza-
10 tion authorized by law.

11 (f) RESPONSIBILITIES OF FUND SERVICE UNITS.—
12 The nonappropriated capital of the Fund shall be ac-
13 counted for by Fund service units. Any unobligated and
14 unexpended balances of these Fund service unit accounts
15 shall be available to provide reserve accounts and to sup-
16 port research and development activities of that Fund
17 service unit. Fund service unit accounts shall not be com-
18 mingled with other Fund service unit accounts.

19 (g) INTEREST ON APPROPRIATED CAPITAL.—An an-
20 nual interest charge shall be paid by the Fund to the gen-
21 eral fund of the Treasury for appropriations made to pro-
22 vide capital for Fund service units that predominantly sell
23 library products and services to non-Federal customers.
24 The interest rate used to calculate an annual interest
25 charge shall be determined by the Secretary of the Treas-

1 ury taking into consideration average market yields on
2 outstanding marketable obligations of the United States
3 with approximately one year remaining to maturity during
4 the month preceding each fiscal year.

5 (h) INVESTMENT OF FUNDS.—Upon the request of
6 the Librarian of Congress, the Secretary of the Treasury
7 shall invest such portion of the Fund, except for amounts
8 appropriated to the Fund, as is not in the judgment of
9 the Librarian of Congress required to meet current with-
10 draws. Such investments shall be in public debt securi-
11 ties with maturities suitable to the needs of the Fund, as
12 determined by the Librarian of Congress, and bearing in-
13 terest at rates determined by the Secretary of the Treas-
14 ury, taking into consideration current market yields on
15 outstanding marketable obligations of the United States
16 of comparable maturity. The income on such investments
17 shall be credited to and form a part of the Fund.

18 (i) MISTAKEN PAYMENT OR OVERPAYMENT FROM
19 FUND.—The Librarian of Congress shall make provisions
20 for the refund from the Fund of any fees paid by mistake
21 or overpayment.

22 (j) EXCESS FUNDS.—Any unobligated and unex-
23 pended balances of the Fund that the Librarian deter-
24 mines to be in excess of amounts needed for activities fi-

1 nanced by the Fund shall be deposited in the Treasury
2 of the United States as miscellaneous receipts.

3 (k) AUDITS.—The General Accounting Office shall
4 audit the financial activities of the Fund pursuant to the
5 regulations of the Comptroller General and shall furnish
6 reports of such audits to the Congress and to the Librar-
7 ian.

8 **TITLE II—CATALOGING** 9 **PRODUCTS AND SERVICES**

10 **SEC. 201. DEFINITION.**

11 For the purposes of this title, the term “cataloging
12 products and services” means those information products
13 and services, in any format now known or later developed,
14 that are used by libraries and library organizations, in-
15 cluding bibliographic products and services, other Library-
16 created data bases, and related technical publications.

17 **SEC. 202. FURNISHING CATALOGING PRODUCTS AND SERV-** 18 **ICES.**

19 (a) IN GENERAL.—The Librarian of Congress is au-
20 thorized to furnish cataloging products and services to in-
21 stitutions or individuals for purchase.

22 (b) CHARGING FOR CATALOGING PRODUCTS AND
23 SERVICES.—The Librarian of Congress may charge a
24 price for products and services referred to in subsection
25 (a) that is limited to the distribution costs of the products

1 and services. All monies received through the distribution
2 of cataloging products and services shall be deposited in
3 the Treasury and shall be credited to the Library of Con-
4 gress salaries and expenses appropriation to remain avail-
5 able until expended for necessary distribution of such
6 products and services of the Library.

7 **TITLE III—RETENTION OF PRO-**
8 **CEEDS BY LIBRARY OF CON-**
9 **GRESS**

10 **SEC. 301. SALE OF EXCESS MATERIALS.**

11 (a) SALES AUTHORIZED.—Except as provided by
12 subsections (b) and (c), personal property, including
13 books, periodicals, phonorecords, and other material, that
14 the Librarian of Congress determines to be excess to the
15 collections of the Library of Congress or the exchange and
16 donation programs of the Library may be sold by the Li-
17 brarian pursuant to regulations promulgated by the Ad-
18 ministrator of General Services for the disposal of per-
19 sonal property by sale.

20 (b) COPYRIGHT DEPOSITS.—

21 (1) SALES NOT AUTHORIZED.—The Librarian
22 shall not be authorized to sell copies, phonorecords,
23 or identifying material deposited in the Copyright
24 Office under title 17, United States Code, in cases
25 where—

1 (A) the work was unpublished at the time
2 of deposit;

3 (B) the work is subject to a request for re-
4 tention under section 704(e) of title 17, United
5 States Code;

6 (C) the articles deposited are still under
7 the control of the Copyright Office, and the
8 joint decision as to their disposition required by
9 section 704(d) of title 17, United States Code,
10 has not been taken by the Librarian of Con-
11 gress and the Register of Copyrights;

12 (D) the articles deposited under section
13 407 of title 17, United States Code, in response
14 to a demand specifically identifying the work in
15 question; or

16 (E) the Library and the depositor of the
17 articles deposited under title 17, United States
18 Code, have entered into a written agreement
19 that addresses disposition of said articles, and
20 the sale would not be authorized under such
21 agreement.

22 (2) SALES AUTHORIZED IN CERTAIN CASES.—
23 Subject to the provisions of subsection (a) and of
24 paragraph (1), the Librarian shall be authorized to
25 sell copies, phonorecords, or identifying material de-

1 posited in the Copyright Office under title 17,
2 United States Code, where—

3 (A) the articles are sold exclusively as
4 scrap for purposes of recycling, under an agree-
5 ment with the purchaser that they will not be
6 resold or used for any other purpose; or

7 (B) the Library of Congress has owned the
8 articles for at least 5 years, or there is no rea-
9 sonable likelihood that their later resale or com-
10 mercial use by the purchaser or the purchaser's
11 successors in title would materially impair the
12 market value of the work.

13 (3) SALES AUTHORIZED; EXPIRED COPY-
14 RIGHTS.—Notwithstanding the provisions of para-
15 graphs (1) and (2), the Librarian shall be authorized
16 to sell any articles deposited under title 17, United
17 States Code, when the term of copyright in the work
18 has expired.

19 (c) OTHER SALES NOT AUTHORIZED.—The Librar-
20 ian shall not be authorized to sell—

21 (1) materials received by the Library under a
22 written deed of gift, a license, or other contractual
23 agreement signed by the Library, where the agree-
24 ment expressly precludes the transfer of ownership
25 or possession by the Library of such material, or the

1 proposed sale is not authorized by the terms of the
2 agreement;

3 (2) audio books, braille books, and sound pro-
4 duction equipment distributed by the National Li-
5 brary Service for the Blind and Physically Handi-
6 capped; or

7 (3) products of the Congressional Research
8 Service, unless approved by Congress.

9 **SEC. 302. ACCEPTANCE OF PAYMENTS OR RESTITUTION.**

10 The Librarian is authorized to accept all sums ten-
11 dered as payment or restitution for lost, stolen, damaged,
12 or destroyed books, periodicals, newspapers, phonorecords,
13 or other materials from the Library's collection if such
14 sums are—

15 (1) ordered by any judicial or administrative
16 authority to be paid to the Library; or

17 (2) received from a borrower or other Library
18 user.

19 **SEC. 303. RETENTION OF PROCEEDS OF SALES, PAYMENTS,**
20 **OR RESTITUTION.**

21 (a) ACCOUNT ESTABLISHED.—There is established in
22 the Treasury of the United States an account consisting
23 of the proceeds of any sale described in section 301 or
24 of any payment or restitution described in section 302.

1 (b) EXPENDITURES.—Amounts in the account de-
2 scribed in subsection (a) shall be available to the Librar-
3 ian, to the extent provided in appropriations Acts, until
4 expended, for the acquisition of books, periodicals,
5 phonorecords, and other materials, including the costs of
6 administering the national and international acquisition
7 programs of the Library.

8 **TITLE IV—AMENDMENTS TO THE**
9 **LIBRARY OF CONGRESS**
10 **TRUST FUND BOARD ACT**

11 **SEC. 401. ADDITIONAL MEMBERSHIP ON THE LIBRARY OF**
12 **CONGRESS TRUST FUND BOARD.**

13 The first sentence of the first paragraph of the first
14 section of the Act entitled “An Act to create a Library
15 of Congress Trust Fund Board, and for other purposes”,
16 approved March 3, 1925 (2 U.S.C. 154), is amended by
17 inserting after “the chairman” the following: “and the vice
18 chairman”.

19 **SEC. 402. LIMIT ON AMOUNT ON DEPOSIT IN THE PERMA-**
20 **NENT LOAN ACCOUNT, UNITED STATES**
21 **TREASURY.**

22 The proviso in the third undesignated paragraph of
23 section 2 of the Act entitled “An Act to create a Library
24 of Congress Trust Fund Board, and for other purposes”,
25 approved March 3, 1925 (2 U.S.C. 158), is amended by

1 striking out “\$10,000,000” and inserting in lieu thereof
2 “\$20,000,000”.

3 **SEC. 403. TEMPORARY INVESTMENT AUTHORITY.**

4 Section 2 of the Act entitled “An Act to create a Li-
5 brary of Congress Trust Fund Board, and for other pur-
6 poses”, approved March 3, 1925, is amended—

7 (1) in the third undesignated paragraph (2
8 U.S.C. 158), by inserting after “subject to” the fol-
9 lowing: “subsequent”; and

10 (2) in the second sentence of the fourth undes-
11 igned paragraph (2 U.S.C. 158a), by inserting
12 after “retained” the following: “by the Librarian”.

13 **SEC. 404. AUTHORITY TO TRANSFER GIFT FUNDS TO THE**
14 **BOARD.**

15 Section 4 of the Act entitled “An Act to create a Li-
16 brary of Congress Trust Fund Board, and for other pur-
17 poses”, approved March 3, 1925 (2 U.S.C. 160), is
18 amended by adding at the end the following new undesignated
19 paragraph:

20 “Gifts or bequests accepted by the Librarian under
21 the authority of this section may subsequently be offered
22 by the Librarian to the Board in cases where the Librarian
23 determines, and the Board agrees, that the purposes
24 of the gift or bequest would best be accomplished by the

1 Board’s authority to invest and reinvest monies or securi-
2 ties donated or bequeathed.”.

3 **TITLE V—AMENDMENTS TO**
4 **COPYRIGHT ARBITRATION**
5 **ROYALTY PANELS LEGISLA-**
6 **TION**

7 **SEC. 501. ARBITRATION PROCEEDINGS.**

8 Section 802(c) of title 17, United States Code, is
9 amended by striking out the last two sentences.

10 **SEC. 502. ADMINISTRATIVE MATTERS.**

11 Section 802(h) of title 17, United States Code, is
12 amended by striking out paragraph (1), by redesignating
13 paragraph (2) as paragraph (5), and by inserting after
14 the section heading the following new paragraphs:

15 “(1) DEDUCTION OR ASSESSMENT OF COSTS OF
16 THE LIBRARY OF CONGRESS AND THE COPYRIGHT
17 OFFICE.—The Librarian of Congress and the Reg-
18 ister of Copyrights may, to the extent not otherwise
19 provided under this title, deduct from royalty fees
20 deposited or collected under this title the reasonable
21 costs incurred by the Library of Congress and the
22 Copyright Office under this chapter. Such deduction
23 may be made before the fees are distributed to any
24 copyright claimants. If no royalty pool exists from
25 which their costs can be deducted, the Librarian of

1 Congress and the Copyright Office may assess their
2 reasonable costs directly to the parties to the most
3 recent relevant arbitration proceeding.

4 “(2) DEDUCTION OF COSTS OF THE COPYRIGHT
5 ARBITRATION ROYALTY PANELS IN DISTRIBUTION
6 PROCEEDINGS FROM ROYALTY FEES.—In distribu-
7 tion proceedings, the Librarian of Congress and the
8 Register of Copyrights may deduct from royalty fees
9 deposited or collected under this title the reasonable
10 costs incurred by the copyright arbitration royalty
11 panels, and pay the arbitrators from such deductions
12 at such intervals and in such manner as the Librar-
13 ian of Congress shall by regulation provide. Such de-
14 duction may be made before the fees are distributed
15 to any copyright claimants. Claimants shall bear the
16 costs of the copyright arbitration royalty panels in
17 direct proportion to their share of the distribution.

18 “(3) PAYMENT OF COSTS OF THE COPYRIGHT
19 ARBITRATION ROYALTY PANELS IN RATEMAKING
20 PROCEEDINGS.—In ratemaking proceedings, the Li-
21 brarian of Congress and the Register of Copyrights
22 may require the parties to pay the costs of the copy-
23 right arbitration royalty panels to the Librarian of
24 Congress who shall, in turn, make payments to the
25 arbitrators, at such intervals and in such manner as

1 the Librarian of Congress shall by regulation pro-
2 vide. The parties to such proceedings shall bear the
3 entire cost thereof in such manner and proportion as
4 the arbitration panels shall direct.

5 “(4) PAYMENT AND STATUS OF THE ARBITRA-
6 TORS.—Arbitrators are independent contractors act-
7 ing on behalf of the United States. Arbitrators shall
8 be paid pursuant to a signed agreement between the
9 Library of Congress and the arbitrators.”.

10 **TITLE VI—SUPPLEMENTARY** 11 **PROVISIONS**

12 **SEC. 601. PRESERVATION OF SECURITY CLASSIFICATION.**

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

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

1 **SEC. 602. APPLICATION OF ACT.**

2 (a) COPYRIGHT.—Subject to the provisions of sec-
3 tions 501 and 502, nothing in this Act shall be construed
4 as modifying or limiting any provision of title 17, United
5 States Code.

6 (b) CRS.—In keeping with the intent and purposes
7 of provisions of section 203 of the Legislative Reorganiza-
8 tion Act of 1946 (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 by the
14 Library of Congress without prior approval of either
15 the Committee on House Administration of the
16 House of Representatives or the Senate Committee
17 on Rules and Administration.

18 **SEC. 603. REGULATIONS.**

19 Pursuant to the first paragraph under the heading
20 “LIBRARY OF CONGRESS” in the first section of the Act
21 entitled “An Act making appropriations for the legislative,
22 executive, and judicial expenses of the Government for the
23 fiscal year ending June thirtieth, eighteen hundred and
24 ninety-eight, and for other purposes”, approved February
25 19, 1897 (2 U.S.C. 136), the Librarian of Congress shall

1 promulgate such regulations as are necessary to imple-
2 ment this Act.

3 **SEC. 604. ANNUAL REPORT.**

4 The Librarian shall each year report the activities
5 and financial transactions resulting from implementation
6 of this Act in the annual report of the Librarian of Con-
7 gress.

8 **SEC. 605. REPEAL.**

9 The paragraph beginning “The Librarian of Con-
10 gress” under the heading “PUBLIC PRINTING AND
11 BINDING” in section 1 of the Act entitled “An Act mak-
12 ing appropriations for sundry civil expenses of the Govern-
13 ment for the fiscal year ending June thirtieth, nineteen
14 hundred and three, and for other purposes”, approved
15 June 28, 1902 (2 U.S.C. 150), is repealed.

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