democracy, particularly because research shows that the vast majority of bribe-demanding foreign officials never face consequences in their own countries. FEPA makes it much harder for these foreign officials to cultivate a culture where corruption and bribery are the norm.

After FEPA was enacted into law, it became clear that certain technical corrections were necessary to fully effectuate the law. This legislation would make those necessary changes to ensure that our fight to end corruption is well equipped. I was proud to vote for FEPA last year, and I am proud to vote for it again through this bill.

I must observe that consideration of this bill is bittersweet today because the House sponsor of FEPA was our late, beloved colleague, SHEILA JACKSON LEE, who we lost just this past weekend.

Her impact on this Chamber was immeasurable, and she was the champion of so many issues from criminal justice to voting rights to civil rights and civil liberties and so much more.

She was also passionate about fighting against corruption, both at home and abroad, and passage of today's bill would be a small tribute to the mark that she has left on this country and on all of us.

This legislation simply makes technical corrections to the Foreign Extortion Prevention Act, important bipartisan anticorruption legislation, which was enacted last year. This bill has already passed the Senate.

I urge all Members to support the bill and send it to the President's desk, and I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the bill before us isn't just another example of the hardworking SHEILA JACKSON LEE that both of us served with for more than two decades.

In closing, I take a moment to pay tribute to the gentlewoman, not on my side of the aisle, not always on my side of a vote, but never has our committee had a harder working, more dedicated Member, a Member who I had the honor of traveling with to many places, including the Middle East, Africa, and elsewhere.

She would get up early. She would work late. She would add meetings on top of meetings, even on congressional delegations that seemed to be filled beyond the possibility of doing it all.

I don't remember a piece of legislation on which she wasn't prepared to opine with accuracy and proper briefing, and I don't remember an opportunity missed to offer an amendment or a need for greater transparency.

I join my colleague, Mr. NADLER, in saying she will be missed. She will be missed because nobody could have had somebody more interested in transparency, in proper reporting, and quite frankly, the importance of this body. She was a person of the House, and she will be missed.

Mr. Speaker, I urge support and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, S. 4548.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROTECTING AND ENHANCING PUBLIC ACCESS TO CODES ACT

Mr. ISSA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1631) to amend title 17, United States Code, to reaffirm the importance of, and include requirements for, works incorporated by reference into law, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting and Enhancing Public Access to Codes Act'' or the ''Pro Codes Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Congress, the executive branch, and State and local governments have long recognized that the people of the United States benefit greatly from the work of private standards development organizations with expertise in highly specialized areas.

(2) The organizations described in paragraph (1) create technical standards and voluntary consensus standards through a process requiring openness, balance, consensus, and due process to ensure all interested parties have an opportunity to participate in standards development.

(3) The standards that result from the process described in paragraph (2) are used by private industry, academia, the Federal Government, and State and local governments that incorporate those standards by reference into laws and regulations.

(4) The standards described in paragraph (3) further innovation, commerce, and public safety, all without cost to governments or taxpayers because standards development organizations fund the process described in paragraph (2) through the sale and licensing of their standards.

(5) Congress and the executive branch have repeatedly declared that, wherever possible, governments should rely on voluntary consensus standards and have set forth policies and procedures by which those standards are incorporated by reference into laws and regulations and that balance the interests of access with protection for copyright.

(6) Circular A–119 of the Office of Management and Budget entitled ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities'', issued in revised form on January 27, 2016, recognizes the benefits of voluntary consensus standards and incorporation by reference, stating that ''[i]f a standard is used and published in an agency document, your agency must observe and protect the rights of the copyright holder and meet any other similar obligations.''.

(7) Federal agencies have relied extensively on the incorporation by reference system to leverage the value of technical standards and voluntary consensus standards for the benefit of the public, resulting in more than 23,000 sections in the Code of Federal Regulations that incorporate by reference technical and voluntary consensus standards.

(8) State and local governments have also recognized that technical standards and voluntary consensus standards are critical to protecting public health and safety, which has resulted in many such governments—

(A) incorporating those standards by reference into their laws and regulations; or

(B) entering into license agreements with standards development organizations to use the standards created by those organizations.

(9) Standards development organizations rely on copyright protection to generate the revenues necessary to fund the voluntary consensus process and to continue creating and updating these important standards.

(10) The people of the United States have a strong interest in—

(A) ensuring that standards development organizations continue to utilize a voluntary consensus process—

(i) in which all interested parties can participate; and

(ii) that continues to create and update standards in a timely manner to—

(I) account for technological advances;

(II) address new threats to public health and safety; and

(III) improve the usefulness of those standards; and

(B) the provision of access that allows people to read technical and voluntary consensus standards that are incorporated by reference into laws and regulations.

(11) As of the date of enactment of this Act, many standards development organizations make their standards available to the public free of charge online in a manner that does not substantially disrupt the ability of those organizations to earn revenue from the industries and professionals that purchase copies and subscription-access to those standards (such as through read-only access), which ensures that the public may read the current, accurate version of such a standard without significantly interfering with the revenue model that has long supported those organizations and their creation of, and investment in, new standards.

(12) Through this Act, and the amendments made by this Act, Congress intends to balance the goals of furthering the creation of standards and ensuring public access to standards that are incorporated by reference into law or regulation.

SEC. 3. WORKS INCORPORATED BY REFERENCE INTO LAW.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding at the end the following:

''§ 123. Works incorporated by reference into law

''(a) DEFINITIONS.—In this section:

''(1) CIRCULAR A–119.—The term 'Circular A–119' means Circular A–119 of the Office of Management and Budget entitled 'Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities', issued in revised form on January 27, 2016.

''(2) INCORPORATED BY REFERENCE.—

''(A) IN GENERAL.—The term 'incorporated by reference' means, with respect to a standard, that the text of a Federal, State, local, or municipal law or regulation—

''(i) references all or part of the standard; and

''(ii) does not copy the text of that standard directly into that law or regulation.

''(B) APPLICATION.—The creation or publication of a work that includes both the text of a law or regulation and all or part of a standard

that has been incorporated by reference, as described in subparagraph (A), shall not affect the status of the standard as incorporated by reference under that subparagraph.

''(3) STANDARD.—The term 'standard' means a standard or code that is—

''(A) a technical standard, as that term is defined in section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note); or

''(B) a voluntary consensus standard, as that term is used for the purposes of Circular A–119.

''(4) STANDARDS DEVELOPMENT ORGANIZATION.—The term 'standards development organization' means a holder of a copyright under this title that plans, develops, establishes, or coordinates voluntary consensus standards using procedures that incorporate the attributes of openness, balance of interests, due process, an appeals process, and consensus in a manner consistent with the requirements of Circular A–119.

''(5) PUBLICLY ACCESSIBLE ONLINE.—

''(A) IN GENERAL.—The term 'publicly accessible online', with respect to material, means that the material is displayed for review in a readily accessible manner on a public website that conforms with the accessibility requirements of section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), including the regulations implementing that section as set forth in part 1194 of title 36, Code of Federal Regulations, or any successor regulation.

''(B) RULE OF CONSTRUCTION.—If a user is required to create an account or agree to the terms of service of a website or organization in order to access material online, that requirement shall not be construed to render the material not publicly accessible online for the purposes of subparagraph (A), if—

''(i) there is no monetary cost to the user to access that material; and

''(ii) no personally identifiable information collected pursuant to such a requirement is used without the affirmative and express consent of the user.

''(b) STANDARDS INCORPORATED BY REFERENCE INTO LAW OR REGULATION.—A standard to which copyright protection subsists under section 102(a) at the time of its fixation shall retain such protection, notwithstanding that the standard is incorporated by reference, if the applicable standards development organization, within a reasonable period of time after obtaining actual or constructive notice that the standard has been incorporated by reference, makes all portions of the standard so incorporated publicly accessible online at no monetary cost and in a format that includes a searchable table of contents and index, or equivalent aids to facilitate the location of specific content.

''(c) BURDEN OF PROOF.—In any proceeding in which a party asserts that a standards development organization has failed to comply with the requirements under subsection (b) for retaining copyright protection with respect to a standard, the burden of proof shall be on the party making that assertion to prove that the standards development organization has failed to comply with those requirements.''.

(b) PRO CODES ACT REPORTING REQUIREMENT.—

(1) IN GENERAL.—The United States Copyright Office is required to prepare and submit a comprehensive report to the House Judiciary Committee, which shall include—

(A) a detailed assessment of this Act's effect on case law;

(B) an analysis of this Act's effectiveness in achieving its stated goals;

(C) a review of any challenges or obstacles encountered during the implementation process;

(D) recommendations for legislative or regulatory modifications to improve the effectiveness of this Act; and

(E) an overview of the impact of this Act on the public, including access to legal information and compliance costs for governments, businesses, and individuals.

(2) TIMELINE FOR SUBMISSION.—

(A) The initial report must be submitted within two years of the enactment of this Act.

(B) Subsequent reports shall be submitted every five years on the anniversary of the first report's submission.

(c) GAO STUDY ON DISADVANTAGED COMMUNITIES.—

(1) STUDY DIRECTED.—The Comptroller General of the United States shall conduct a study on the potential disparate impact of this Act on historically disadvantaged communities.

(2) ELEMENTS OF THE STUDY.—The study shall include, but not be limited to:

(A) An analysis of how limited access to technical standards incorporated in the PRO Codes Act could disproportionately hinder the ability of historically disadvantaged communities to assert their legal rights and advocate for legal reforms.

(B) An assessment of how the potential costs associated with accessing standards could create additional barriers for residents of historically disadvantaged communities seeking to understand and enforce their rights.

(C) An examination of potential disparities in outcomes for historically disadvantaged communities arising from the implementation of the PRO Codes Act.

(D) Recommendations on ways to mitigate any identified disparate impacts on historically disadvantaged communities.

(3) REPORT.—The Comptroller General shall submit a report to Congress within two years of the enactment of this Act, detailing the findings of the GAO Study on the impact of PRO Codes on historically disadvantaged communities from paragraphs (1) and (2).

(d) STUDY OF COSTS FOR STATES, CITIES, MUNICIPALITIES, COUNTIES, SPECIAL DISTRICTS, ASSOCIATED WITH STANDARDS INCORPORATED BY REFERENCE (SIBR).—

(1) REQUIREMENT FOR COST ANALYSIS.—The Comptroller General of the United States shall conduct a comprehensive study of the costs associated with the implementation of this Act. This study will encompass levels of government, including state, cities, municipalities, counties, and special district governments, to ensure a complete understanding of the potential financial impact.

(2) SCOPE OF ANALYSIS.—The analysis shall include, but not be limited to:

(A) Fees charged by Standard Development Organizations to state, cities, municipalities, counties, and special district governments for access to standards incorporated by reference.

(B) An analysis of indirect costs to state, cities, municipalities, counties, and special district governments associated with compliance with this Act.

(3) REPORTING.—The Comptroller General shall submit a report to Congress within two years of the enactment of this Act, detailing the findings of the cost analysis required under paragraph (2). The report shall include recommendations on potential actions to improve cost-effectiveness related to SIBRs.

(e) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON CONSUMERS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the potential impact of this Act on consumers.

(2) ELEMENTS OF THE STUDY.—

(A) Implications for consumer protection under this Act.

(B) Potential for increased costs or confusion among consumers due to new regulations.

(C) Accessibility of information about rights and protections for consumers under this Act.

(D) Recommendations to enhance consumer protection and information accessibility.

(3) REPORT.—The Comptroller General shall submit a report to Congress within one year of the enactment of this Act, detailing the findings of the GAO Study on the impact of this Act on consumers.

(f) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON DIGITAL PRIVACY AND DATA PROTECTION.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the potential impact of this Act on digital privacy and data protection.

(2) ELEMENTS OF THE STUDY.—

(A) Analysis of how this Act affects the protection of personal data.

(B) Evaluation of the Act's compliance requirements related to data security.

(C) Recommendations for strengthening digital privacy protections.

(3) REPORT.—The Comptroller General shall submit a report to Congress within 18 months of the enactment of this Act, detailing the findings of the GAO Study on the impact of this Act on digital privacy and data protection.

(g) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON ACCESS TO THE LAW.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the impact of this Act specifically on platforms that offer legal codes online at no cost to the public. The study will assess how the Act influences these platforms' operations and the public's access to and understanding of the law.

(2) ELEMENTS OF THE STUDY.—

(A) Assessment of how this Act influences the operations of online platforms that provide public access to legal codes and other regulatory documents.

(B) Evaluation of the Act's provisions that may limit or enhance public accessibility to legal information via these platforms.

(C) Analysis of potential barriers introduced by the Act that could hinder public understanding of legal standards and codes.

(D) Recommendations for amendments or new provisions to ensure continued and enhanced public access to legal codes and standards, fostering transparency and legal literacy.

(3) REPORT.—The Comptroller General shall submit a report to Congress within two years of the enactment of this Act, detailing the findings of the GAO Study.

(h) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON INCLUSIVE OF ACCESSIBILITY AND USABILITY STANDARDS FOR PEOPLE WITH DISABILITIES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the impact of this Act on disabled populations, specifically assessing whether the Act's definition of ''publicly accessible'' is sufficiently inclusive of accessibility and usability standards for people with disabilities.

(2) ELEMENTS OF THE STUDY.—

(A) Evaluation of how the accessibility provisions of this Act impact the ability of people with disabilities to access and use public codes and standards.

(B) Examination of current gaps in accessibility that may prevent full participation of disabled individuals in public and legal affairs as affected by the Act.

(C) Recommendations to ensure this Act aligns with federal accessibility standards and effectively serves the needs of the disabled community.

(3) REPORT.—The Comptroller General shall submit a report to Congress within 18 months of the enactment of this Act, detailing the findings of the GAO Study on the accessibility of this Act for disabled populations.

(i) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON AFFORDABLE HOUSING.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the potential impact of this Act on the development and accessibility of affordable housing.

(2) ELEMENTS OF THE STUDY.—

(A) Analysis of this Act's impact on the costs and regulatory barriers to building affordable housing.

(B) Evaluation of the Act's impact on the availability of affordable housing units in urban and rural areas.

(C) Assessment of the Act's cost on affordable housing projects.

(3) REPORT.—The Comptroller General shall submit a report to Congress within two years of the enactment of this Act, detailing the findings of the GAO Study on the impact of this Act on affordable housing.

(j) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON SDO ACCESS CONDITIONS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on whether Standards Development Organizations (SDOs) condition access to standards under this Act by requiring users to create accounts, agree to restrictive terms of service, or meet other potentially burdensome conditions.

(2) ELEMENTS OF THE STUDY.—

(A) Assessment of the extent to which SDOs impose conditions that could restrict public access to standards and legal codes, such as account creation, agreement to terms of service, or other barriers.

(B) Evaluation of the impact of these conditions on the public's ability to freely access, distribute, share, and print essential legal information.

(C) Analysis of potential violations of the fundamental principle that laws should be accessible without undue restrictions, considering the implications for transparency and accountability.

(D) Recommendations for legislative or regulatory measures to ensure that access to legal information under this Act is not conditioned on undue or discriminatory terms.

(3) REPORT.—The Comptroller General shall submit a report to Congress within 18 months of the enactment of this Act, detailing the findings of the GAO Study.

(k) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON EXECUTIVE COMPENSATION AT SDOS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on executive compensation within Standards Development Organizations (SDOs), particularly those with substantial revenue streams and tax-exempt status.

(2) ELEMENTS OF THE STUDY.—

(A) Analysis of the revenue sources of large SDOs, including details on income from sales of publications, fees for training and certification services, and membership dues.

(B) Examination of the scale of executive compensation at these organizations, including total executive compensation as a proportion of total revenues and in comparison to industry standards.

(C) Evaluation of the governance practices related to executive compensation at SDOs, including transparency, accountability, and alignment with nonprofit organization standards.

(D) Recommendations for potential regulatory or legislative actions to ensure that executive compensation at tax-exempt SDOs remains within reasonable limits and aligns with best practices for nonprofit management.

(3) SUBMISSION.—The Comptroller General shall submit this report to Congress within 18 months of the enactment of this Act, detailing the findings of the GAO.

(l) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON THIS ACT AND HOMEOWNER COSTS FOR BUILDING CODE ACCESS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on how this Act would affect the costs imposed on homeowners' access to building codes.

(2) ELEMENTS OF THE STUDY.—

(A) Examination of the financial impact on homeowners, particularly focusing on how these costs might deter necessary maintenance, safety upgrades, and other costs associated with renovations.

(B) Evaluation of how this Act would affect the availability and affordability of building codes across different regions and income groups.

(C) Recommendations for improving this Act to make building codes more accessible and affordable for homeowners.

(3) REPORT.—The Comptroller General shall submit a report to Congress within 18 months of the enactment of this Act.

(m) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) ON SMALL BUSINESSES.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the potential impact of this Act on small businesses.

(2) ELEMENTS OF THE STUDY.—

(A) The extent to which compliance burdens are affected by this Act.

(B) Analysis of small businesses' ability to compete with larger entities under the new regulatory framework.

(C) Availability and effectiveness of legal resources for small businesses navigating this Act.

(D) Recommendations to mitigate any identified negative impacts on small businesses.

(3) REPORT.—The Comptroller General shall submit a report to Congress within one year of the enactment of this Act, detailing the findings of the GAO Study on the impact of this Act on small businesses.

(n) U.S. GOVERNMENT ACCOUNTABILITY OFFICE (GAO) STUDY ON FIRST AMENDMENT RIGHTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the potential impact of this Act on First Amendment rights, specifically the public's ability to access, read, share, and debate the law, including codes incorporated by reference.

(2) ELEMENTS OF THE STUDY.—

(A) Analysis of how this Act may lead standard development organizations to place the law behind paywalls, thus restricting public access to essential legal information and potentially violating First Amendment rights.

(B) Evaluation of the economic, legal, and social impacts of restricting public access to codes and standards referenced in the Act.

(C) Examination of precedents and legal interpretations regarding public access to laws and how they align with First Amendment protections.

(D) Recommendations for legislative or regulatory changes to ensure that all laws and standards referenced in the Act are accessible without undue financial or procedural barriers.

(3) REPORT.—The Comptroller General shall submit a report to Congress within one year of the enactment of this Act, detailing the findings of the GAO Study on the impact of this Act on First Amendment rights.

(o) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding at the end the following:

''123. Works incorporated by reference into law.''.

SEC. 4. STUDY OF STANDARDS COST TO GOVERNMENTS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the financial impact to federal, state, and local governments in the United States associated with acquiring access to standards incorporated by reference into law.

(b) SCOPE.—The study under subsection (a) shall—

(1) Analyze the total expenditure by government entities for accessing these standards;

(2) Assess any financial burdens or resource constraints these costs impose on governments, particularly for smaller municipalities;

(3) Evaluate the cost-effectiveness of current mechanisms for acquiring these standards; and

(4) Examine the impacts on public services due to the costs associated with accessing these standards.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit a report to Congress that includes—

(1) The findings of the study conducted under subsection (a); and

(2) Recommendations to mitigate any adverse financial impacts identified by the study, including suggestions for legislative or administrative actions as appropriate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ISSA) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

Ms. LOFGREN. Mr. Speaker, I claim the time in opposition.

The SPEAKER pro tempore. Is the gentleman opposed to the motion?

Mr. NADLER. Mr. Speaker, no.

The SPEAKER pro tempore. As such, the gentlewoman from California (Ms. LOFGREN) will control 20 minutes in opposition.

GENERAL LEAVE

Mr. ISSA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1631.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is not without controversy. You will see it here today, but this bill couldn't be more important because it maintains the balance that for more than 100 years has allowed people to have access to the right material necessary to understand the complex laws of the building code, the fire code, automotive standards, and the like.

There have been complaints from one side that we don't go far enough, that we allow any free access to these copyrighted materials. As you will hear today, there are those who believe that they should all be free, throwing out more than 200 years of tradition that those who produce materials are entitled to their copyright and the protection that comes with it.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill to defend Americans' right to access, understand, and debate the law. The Pro Codes Act threatens public access to the law and undermines due process by keeping essential legal standards hidden behind restrictive barriers. Instead of providing open access, the bill offers only limited public access.

Under this flawed bill, individuals would be forced to forfeit personal information just to view the standards. The standards would not be available in useful formats, preventing users from searching, copying, pasting, printing, downloading, or retweeting.

To get full access to the law, some people would have to pay, creating a two-tiered system, a free but limited economy-class access, and a full-access version for those who can afford to pay. This is neither fair nor just not in keeping with our tradition of everybody who is going to be held accountable under the law has to be able to fully access the law.

Despite bipartisan concerns, we had no hearings, we had multiple failed Judiciary Committee markups, and finally, a sparsely attended markup. Some are working to rush the Pro Codes Act through here in the suspension format.

Ranking Member NADLER himself, although he supports the bill, did note during the markup that since we began consideration of this legislation, we missed many opportunities to strengthen the bill through a better process. If there was a compromise to be had, we would not know because, unfortunately, we were not given an opportunity to find out. We should not be bypassing regular order, especially for a bill with such far-reaching implications like the Pro Codes Act.

For years, I fought to preserve the fundamental right of the public to access the law. I submitted amicus briefs in multiple court cases where certain Standards Development Organizations sued the nonprofit Public Resource Organization for posting online legal standards.

The courts repeatedly side with Public Resource and me, enforcing the idea that no one should control who can read and distribute the law.

In these cases, the SDOs argued that free and full access to the codes would financially harm them. Despite Public Resource posting incorporated standards for 15 years, the court observed that the SDOs produced no quantifiable evidence of past or future market harms. The court concluded that free and easy access to the law provided a substantial public benefit.

I would note that while the standard-setting organizations were complaining during the years that they were unable to prevent the posting of these standards, they made substantial revenue. For example, the American Society for Testing and Materials, the year after the decision, had a net income of $36 million.

Mr. Speaker, I include in the RECORD a link to the records from the American Society for Testing and Materials.

Https://projects.propublica.org/nonprofits/ organizations/231352024.

□ 1715

Ms. LOFGREN. When a member of the House Judiciary Committee asked Shira Perlmutter, the Register of Copyrights and the Director of the U.S. Copyright Office, for her opinion of the Pro Codes Act, this is what she said: ''The public should have access to standards when they are incorporated into the law, because the public does have the right of access to the law. While the standards themselves may be protected by copyright, the use of them generally falls under fair use as it is for the purpose of understanding, using, and applying the law. So at present we think the courts are handling this in an appropriate way.''

If the Copyright Office believes the courts are handling this issue appropriately, why are we pushing this bill? We are trying to solve a problem that doesn't exist.

Despite repeatedly losing in courts, some SDOs have turned to Congress, using the same failed arguments about financial harm that failed to persuade the courts. One of the SDOs that sued has gained substantial revenue using other means, manuals and other things that they do.

The proponents claim that the experts who develop these codes should be able to charge the public for access once the codes become law. Using that same logic, public interest lobbyists would be entitled to charge the public to read the laws that they drafted.

In addition to these flaws, the Pro Codes Act disproportionately affects marginalized communities, particularly poor and disabled tenants who need access to building codes.

Organizations like the NAACP have highlighted how inaccessible standards would leave low-income communities vulnerable in disputes, stating that access to these standards is access to justice.

Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, where do I begin? The gentlewoman is aware that in previous Congresses we have held hearings, and this bill is not new, but in fact is in its third iteration before the Congress.

Additionally, she is right, we did schedule a markup, and the gentlewoman objected. We waited, and we scheduled it again. A quorum being present, by a vote of 19–4, overwhelmingly it was passed out of the Judiciary Committee, the committee of jurisdiction for copyright.

Just for the purpose of the Speaker, I want to read one clause of the Constitution. Article I, Section 8, Clause 8: ''[The Congress shall have power] to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.''

Mr. Speaker, that is a solemn obligation of the Constitution. For nearly 250 years, we have made sure that, in fact, authors, musicians, anyone producing copyrighted material, have had protection. We have not, historically, even partially opened that up.

In this case, we have gone much further on this legislation. We have provided a form of fair use. Any citizen can go online and read any part of any of these documents, thousands of pages. They can look at them, they can take notes. They can do any number of things. What they can't do is distribute it to others, circumventing the copyright.

To put it in perspective, for the first 100-plus years of this, there was no controversy. They printed books, and they sold the books, and it was a copyright violation if you copied the book, if you made a duplicate of it. Nobody argued that because it made common sense.

This makes common sense, too. We are making 100 percent of the material contained in any of these pro codes available. What we are not doing is allowing people to say they are giving something that in fact they have stolen from the author.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. NADLER), the ranking member of the full committee.

Mr. NADLER. Mr. Speaker, the Pro Codes Act is sensible, bipartisan legislation that strikes a balance between copyright protection and public access to information, thus resolving a clear uncertainty in the law.

This legislation would allow standards developing organizations, or SDOs, to retain their copyrights when their standards are incorporated by reference into the law, so long as they make a copy freely available online.

SDOs are organizations that develop and publish standards to govern certain highly technical industries. These best practices govern everything from consumer safety and household utility installation to home electrical wiring and plumbing planning.

SDOs make sure that your house won't catch on fire, your plumbing is up to code, your water boiler is installed correctly, and everything in between. You rely on your local contractor, and your contractor relies on their SDO standards.

State and local legislatures, which generally do not have the requisite experts on staff to write highly technical standards, often choose to incorporate rigorously developed and diligently updated SDO standards by reference into the law. In this way, legislators can key their State's laws to codes that are regularly updated, as mistakes are fixed, new methods are developed, and technological advancements are incorporated into best practices.

However, this practice exists at the crux of a dilemma in American intellectual property law today. On one hand, everyone typically benefits when local, State, or Federal legislators adopt content developed by SDOs into their laws. The law benefits from dynamic safety codes created by experts in their fields, and SDOs in turn benefit from more customers for their published works. If the copyright to that material were taken away, the incentives for the SDOs would disappear and the mutually beneficial relationship would no longer exist.

On the other hand, Americans also have an essential interest in knowing that they can access the laws that govern them. Because of this principle, once a code is enacted into law, Americans must have access to this information because if you can't find the code, you don't know how it will affect you.

The Pro Codes Act seeks to find the middle ground between these two competing interests. This legislation would

allow SDOs to retain their copyrights when their standards are incorporated by reference into the law so long as they make a copy available online at no cost.

Although I support this legislation, I do want to note that the bill could have been improved further had we held a hearing, as I and others had requested. A hearing would have enabled Members to ask questions of stakeholders with various viewpoints, to make any necessary refinements, and to convince more of our colleagues that this bill is the right path forward. Unfortunately, that process did not occur. Be that as it may, I still believe that this legislation would improve our laws by protecting SDOs' intellectual property rights while ensuring that Americans have access to the laws that bind them.

I thank Chairman ISSA and Congresswoman ROSS for introducing this bipartisan legislation. I urge all Members to support this legislation.

Ms. LOFGREN. Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Ms. ROSS).

Ms. ROSS. Mr. Speaker, I rise in support of the Pro Codes Act, which I am proud to lead alongside Representative ISSA.

The Pro Codes Act is a commonsense solution that balances providing free, public access to codes and standards that have been incorporated into law with ensuring that important code development work can continue.

The industry codes and standards that keep us healthy and safe every day are created by standards development organizations, SDOs, which regularly convene experts to write and modify standards to ensure electrical codes, building codes, crisis management codes, and more are up to date.

Importantly, the standards the SDOs put out are approved by consensus and adopted by industries voluntarily. However, Congress and Federal agencies have recognized repeatedly that government should rely on these standards whenever possible, which has led to their incorporation into law.

I firmly believe that codes that have been incorporated into law should be available to the public at no cost, and this bill recognizes that. It is why it requires these codes to be available online. That said, code development costs money, and SDOs cannot operate without funding, and they earn that funding by maintaining copyrights to their codes, which allows them to sell print copies and access to their work. These sales fund code development at no cost to the taxpayer. Ultimately, this bill strikes a critical balance between having good, safe codes and having public access.

Mr. Speaker, I urge my colleagues to support this bill.

Ms. LOFGREN. Mr. Speaker, I include in the RECORD an article by David Halperin from this March titled: ''Congress Should Reject Bill to Let Private Groups Control Access to U.S. Laws.''

The article can be found at the following link: https://www.republicreport.org/2024/congress-should-reject-bill-to-let-private-groups-control-access-to-u-s-laws/.

Ms. LOFGREN. Mr. Speaker, here is a paragraph that is important and really places the question before us succinctly: ''In the regime posited by the Pro Codes Act, if citizens, or advocates, or journalists, or business operators, or lawmakers, or even judges wanted to read, quote, or comment on the law, they would have to register and provide their personal information to a private SDO, hand-copy the words of a standard from a read-only website, and if they quoted too much, they would risk being sued by an SDO for copyright infringement. That is not the right way to provide access to our laws.''

Mr. Speaker, I include in the RECORD a letter signed by 21 groups, ranging from the American Library Association to the American Federation of State, County and Municipal Employees, or the AFSCME union, Center for Democracy and Technology, Electronic Frontier Foundation, iFixit, and repair.org. Yes, the right to repair movement is threatened by the Pro Codes Act.

Here is what they said, although the bill does make some publicly accessible material online available, this bill would likely '' . . . entrench some of the most obstructive current practices. . . . ''

They note further that courts have recognized ''no one can own the law.''

Last year, the D.C. Circuit stated that legal text falls plainly outside the realm of copyright protection, and in 2020 the Supreme Court of the United States reaffirmed that if every citizen is presumed to know the law, it needs no argument to show that all should have free access to its contents.

APRIL 9, 2024.

Re: Opposition to H.R. 1631, the ''Protecting and Enhancing Public Access to Codes Act'' (Pro Codes Act)

Chairman JIM JORDAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.
Ranking Member JERRY NADLER,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR CHAIRMAN JORDAN, RANKING MEMBER NADLER, AND MEMBERS OF THE COMMITTEE: The undersigned organizations write to express our strong opposition to the ''Protecting and Enhancing Public Access to Codes Act'' (Pro Codes Act). The trade associations and civil society groups that signed this letter agree with the findings of Congress in the Pro Codes Act that technical standards are critical to the public interest. Our interest is in ensuring that copyright law is not exploited to create a monopoly in which private standards development organizations (SDOs) control access to the codes and regulations that govern public health and safety. Further, courts have found there is no evidence to support the SDOs' claims that they have lost revenue due to the public dissemination of their standards. In addition to the substantive issues outlined in this letter, the undersigned organizations are concerned that the committee has never held an actual hearing on this bill.

PRO CODES WOULD LIMIT ACCESS TO PUBLICLY BENEFICIAL STANDARDS

Under this bill, standards development organizations would retain their copyright in a standard that is incorporated by reference into law, so long as the standard is made ''publicly accessible'' online. However, SDOs often require users to provide their personal information to access the standards, raising privacy concerns. Pro Codes would also entrench some of the most obstructive current practices of standards development organizations, providing read-only access to the codes and limiting their use through restrictive licenses that prohibit copying, printing, and linking. When standards are made available in this way, they are often inaccessible to people with print disabilities; the public is restricted in how they can use and share to the standards; and they must sacrifice their personal privacy for the privilege.

Providing free public access to the law furthers the purposes of copyright: to allow public access to knowledge. Consider Section 508 of the Rehabilitation Act, which requires federal agencies to make websites and other information technology offerings accessible to people with disabilities. Section 508 incorporates by reference the Web Content Accessibility Guidelines (WCAG) standards set by the World Wide Web Consortium (W3C). Because the public can access these standards, they can look up exactly what federal agencies are required to adhere to when making information available. Without access to the WCAG standards, the public would have fewer tools to hold website owners accountable.

NO ONE OWNS THE LAW

Although a standard might be developed by an industry group to promote its interests, once it is incorporated into law by reference—typically at the request of the industry group—it belongs to everyone. Courts have recognized that no one can own the law. Last year, the D.C. Circuit stated that legal text ''falls plainly outside the realm of copyright protection.'' In 2020, the Supreme Court of the United States reaffirmed that ''if every citizen is presumed to know the law, it needs no argument to show . . . that all should have free access to its contents.'' By extending copyright protection to the law, Pro Codes is unconstitutional under the First, Fifth, and Fourteenth Amendments, which guarantee the public's right to read, share, and discuss the law.

PROVIDING ACCESS TO THE LAW IS FAIR USE

Even if standards incorporated into the law by reference could retain copyright protection, their reproduction would be a fair use. In September 2023, the D.C. Circuit ruled that making standards incorporated by reference publicly available is a lawful fair use that serves a nonprofit, educational purpose of providing the public with a free and comprehensive repository of the law. The court correctly applied copyright law in determining that the substantial public benefits of free and easy access to the law, including government-mandated codes and standards, must be considered against any potential monetary losses to the copyright holders.

The court found that although Public.Resource.org has been posting incorporated standards for fifteen years, ''the plaintiffs have been unable to produce any economic analysis showing that Public Resources activity has harmed any relevant market for their standards. To the contrary, ASTM's sales have increased over that time. . . .'' The court explained that because governments did not update their regulations incorporating standards as frequently

as SDOs updated their standards, industry players continued to license the standards, even before their adoptions as laws, to keep current.

Pro Codes assumes that the fundamental purpose of copyright law is to create monopolies for rights holders, when in fact it is to promote the dissemination of knowledge for the public good. SDOs do not need a copyright incentive; the development of standards advances the economic interests of their members. Although Pro Codes by its terms would not overturn decisions such as ASTM v. PublicResources that found that fair use permitted the third-party posting of an incorporated standard, the intent of the legislation is clearly to put the thumb on the scale against a fair use finding.

We urge Congress to engage with our organizations and the public to meet its ostensible goal of making mandatory regulations available online for free so people can know, share, and comment on them. Pro Codes will only serve to unnecessarily ration public access to US law.

Sincerely,

American Council of the Blind, American Federation of State, County and Municipal Employees (AFSCME); American Foundation for the Blind, American Library Association (ALA), Association of Research Libraries (ARL), Authors Alliance, Center for Democracy & Technology, Copia Institute, eBook Study Group, Electronic Frontier Foundation (EFF), Fight for the Future, Foundation for American Innovation, iFixit, Library Futures, NYU Engelberg Center, Public.Resource.Org (PRO), Repair.org, Program on Information Justice and Intellectual Property Project on the Right to Research, Public Citizen, Public Knowledge, Public.Resource.Org (PRO), Society of American Archivists (SAA), SPARC, Wikimedia Foundation.

Ms. LOFGREN. Mr. Speaker, I just note that when the standards setting organization sued Public.Resource.Org, the D.C. Circuit Court said this in ruling for freedom of the law: ''Once a standard is incorporated by reference into the law, it effectively becomes part of the law, and the public has a right to access it. The court noted that the public's need to access the law outweighs the financial interests of the SDOs.''

As to fair use, the court concluded that Pro's use of the standards constituted fair use. The decision considered the nature of the work, the purpose and character of the use (nonprofit educational purposes), and the effect on the market. It found that the public benefit of free and easy access to the law was substantial.

Finally, the U.S. Supreme Court told us: ''Officials who speak with the force of law cannot claim copyright in the works they create in the course of their official duties.'' They emphasized that the public must have free access to the law, as these works are in the public domain once they are incorporated into legal statutes.

They reaffirmed the government edicts doctrine that held that annotations in Georgia's Official Code created by the State legislature could not be copyright protected.

The rule of law needs to be enforced, but also the rule of law means that people need to have full access to the law to copy it, to debate it, to know it, to understand it, to transmit it. This pro code bill would violate those fundamental principles. We should not support the bill, and I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, I continue to reserve.

Ms. LOFGREN. Does the gentleman have additional speakers?

Mr. ISSA. Mr. Speaker, I do not have additional speakers at this time.

Ms. LOFGREN. Mr. Speaker, may I inquire how much time is remaining.

The SPEAKER pro tempore. The gentlewoman has 11 minutes remaining.

Ms. LOFGREN. Mr. Speaker, I note that in Veeck v. Southern Building Code, in the 5th Circuit, a more conservative circuit, they ruled that model building codes adopted by reference into law could be copied freely. The court reasoned that once a standard is incorporated into the law, it becomes public domain material, underscoring the need for free access to legal standards.

□ 1730

I note also the First Circuit, not exactly a liberal bastion, in Building Officials & Code Administrators v. Code Technology, found that once a model building code has been adopted into law, it enters the public domain.

This case highlighted the importance of public access to laws and regulations, reinforcing the notion that such standards should not be restricted by copyright claims.

The proponents of this bill suggest that should we not overturn the court decisions, that somehow these standard-setting organizations will fail to do the standards that they have done traditionally. There is no evidence for that whatsoever.

As I mentioned earlier in my remarks, the standard-setting organizations continue to make millions and millions of dollars in revenue even though they lost in court and failed to maintain their copyright protection on these incorporated-by-reference measures. That is going to continue. There is no evidence whatsoever that that will not continue.

Further, it is very evident—and I think most of the Members of the House who served in State legislatures where this usually occurs know—that the standard-setting organizations usually approach the legislative bodies, asking them to incorporate the standards by reference. They are not unwilling participants in this measure. They are just trying to profit by owning the law, which should not be permissible.

Once a standard developed by an industry group is incorporated by reference into law, it belongs to everyone. I will give an example of why that would matter.

In the wake of the 2010 Deepwater Horizon spill in the Gulf of Mexico, the oil industry was under heavy scrutiny. The American Petroleum Institute eventually posted on its website many of its safety standards, including all the standards that had been incorporated by reference into Federal law. That was in 2010, before the court decisions.

However, until that decision by the American Petroleum Institute, as the Deepwater Horizon poured oil into the Gulf for 5 months, and in the weeks after, it had been difficult for citizens, even Members of Congress, to evaluate the adequacy of Federal regulations because key components of those regulations were hidden behind paywalls.

In the regime, as I mentioned earlier, even with the Pro Codes Act exceptions, in order to comment on or gain access to information, you have to give up your data. There may be reasons why a journalist or a Member of Congress might not want to give up all of their personal information to find out what the law is. That is not the way America should work.

Once you pass the law, the law is owned by the people. It is not owned by corporations. It is not owned by associations. It is not owned by anybody who developed the standards.

The people of the United States own the law that governs them, and to impinge or impede in any way their access to fully understand the law, to debate it, to post it, to complain about it, to be fully American in the discussion of that law, that is really contrary to what the Court has told us, to what Justice Roberts has told us, and to our history as a nation. It is a big mistake.

I do not challenge the good intentions of the proponents of this bill. I am sure they are well-intentioned. It is just that the outcome is not permissible. It flies in the face of due process, the First Amendment, and the Fifth Amendment, and we should not adopt this bill today.

Mr. Speaker, I reserve the balance of my time.

Mr. ISSA. Mr. Speaker, may I inquire as to how much time is remaining.

The SPEAKER pro tempore. The gentleman has 11½ minutes remaining.

Mr. ISSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are a couple of things I want to set straight. The gentlewoman regularly talks about cost. The bill clearly says at no cost. This material has to be available at no cost.

The gentlewoman continues talking about private information. It makes it clear, in the amended portion of this bill, that private information is safeguarded. Notwithstanding that, for everyone in America who has used a computer, all these entities ask for is, in fact, to log in with a name and identification. This facilitates better service when you return.

However, we also all know that anybody can get a free Gmail account under any name, so the idea that you are giving out personally identifiable information, that is a choice if you use yours rather than a one-time-use Gmail or other mail you may have just gotten.

As a matter of fact, this is no more invasive than when I log in to do my

Wordle daily with The New York Times, and I feel pretty comfortable that I am safe there.

Lastly, I want to make sure we understand that these books and their digital versions are not just laws. These books, by testimony even from Mr. MASSIE, a distinguished member of the committee, are how-to books. Extensively, Mr. MASSIE, one of the four votes that sided with Ms. LOFGREN, in fact, told us how he used the book as a guideline to do construction of his own home.

In open court, he said that he didn't go to get a permit. He wasn't trying to comply with the law. He used the book because it taught him how to do a good job. He used it sometimes and didn't use it others.

I am paraphrasing my colleague, and I hope I have done it accurately, but in fact, it is clear that there is so much more information than just a law.

We all pore through laws in this body. We know what laws look like. Laws are so complex in the way they are written that usually you need a separate book to understand them, and this is no exception.

If we do not protect the copyright here as the Constitution requires, we will regret it because, in fact, a building code that says, yes, you must have so many electrical plugs between a certain place doesn't tell you that you can have more, doesn't tell you how to do more, doesn't teach you.

These books published by the standard-setters for generations have been how-to. They have been available in libraries to read, but not to make copies of. They have been available online, as the gentlewoman said, but, in some cases, without the protections we seek today.

I want to close this portion of my statement by saying one thing: The gentlewoman made a point that some of these organizations do have large revenues. Most are nonprofits, and they exist for the benefit of producing these standards. This body does not look at a copyright holder and say that because a songwriter or musician is making good money, his song should be given away for free. How much you make and how you spend it, especially for a nonprofit, should never be questioned as to whether or not they are entitled to a copyright.

Mr. Speaker, I reserve the balance of my time, and I am prepared to close.

Ms. LOFGREN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would like to note that the idea that you could conceal your identity to access this material is not really a full answer to the fact that the Supreme Court has told us no one can own the law.

The point about the revenue going into these associations, it is not because the revenue for a copyright holder is material to their rights. It is because those who have suggested that violating due process and putting the law behind doors is justified because of the financial need of the standard-setting organizations are not correct. They don't have that need. Even if they did, it would not be sufficient to overcome the public's right to know what the law is.

The Electronic Frontier Foundation put together a little analysis: ''Access to Law Should Be Fully Open: Tell Congress Not to Be Fooled by the Pro Codes Act.''

Mr. Speaker, I include that analysis in the RECORD.

[From eff.org, Oct. 25, 2023]

ACCESS TO LAW SHOULD BE FULLY OPEN: TELL CONGRESS NOT TO BE FOOLED BY THE PRO CODES ACT

(By Corynne McSherry)

TELL CONGRESS: ACCESS TO LAWS SHOULD BE FULLY OPEN

At EFF, we are especially proud of the work we have done helping our client, Public.Resource.Org (PRO), improve public access to the law. Public Resource's mission is to make all government information available to the governed. As part of that mission, it posts safety codes such as the National Electrical Code, on its website, for free, in a fully accessible format—where those codes have been adopted into law by reference.

You didn't learn about incorporation by reference from Schoolhouse Rock, but it's one of the key ways policymakers create law. A huge portion of the regulations we all live by (such as fire safety codes, or the National Electrical Code) are initially written—by industry experts, government officials, and other volunteers—under the auspices of standards development organizations (SDOs). Federal, state, or municipal policymakers then review the codes and decide whether the standard is a good broad rule. If so, it is adopted into law ''by reference.'' In other words, the regulation cites the code by name but doesn't copy and paste the entire thing into law (useful when the code is long and detailed). For example, if a regulation requires compliance with the National Fire Safety Code, it might simply refer to specific provisions or the code as a whole, rather than copying it in directly. But that doesn't make compliance any less mandatory.

When a pipeline bursts, journalists might want to investigate whether the pipeline complied with federal regulations, or compare federal, state, and local rules. When a toy is recalled, parents want to know whether its maker followed child safety rules. When a fire breaks out, homeowners and communities want to know whether the building complied with fire safety regulations. Online access to safety regulations helps make that review—and accountability—possible.

The rub: the SDOs claim to own copyright in these rules, even after they become law, and that they are therefore allowed to sell and otherwise control access to them. Based on that claim, they sued Public Resource for copyright infringement.

But court after court has recognized that no one can own the law. The Supreme Court held as much in its very first copyright case, and recently reaffirmed it: if ''every citizen is presumed to know the law,'' the Court observed, ''it needs no argument to show . . . that all should have free access to its contents.'' And in September 2023, after a decade of litigation, a federal appeals court held that Public Resource's database was a lawful fair use.

Which brings us to the latest threat. Having lost in court, the SDOs are now looking to Congress to shore up their copyright claim, via the Pro Codes Act. It's a tricky bit of legislation that seems innocuous if you don't know the context.

Pro Codes' main provision requires that:

An original work of authorship otherwise subject to protection under this title that has been adopted or incorporated by reference, in full or in part, into any Federal, State, or municipal law or regulation, shall retain such protection only if the owner of the copyright makes the work available at no monetary cost for viewing by the public in electronic form on a publicly accessible website in a location on the website that is readily accessible to the public.

Sounds good, right? in fact, it sounds obvious: mandatory regulations should be made available online, for free, so people can more easily know, share, and comment on them. Here's the trick: this language would effectively endorse the claim that SDOs can ''retain'' copyright in the law, as long as they let the public read it online.

There are many problems with this approach. First and foremost, ''access'' here means read-only, and subject to licensing limits. We already know what that looks like: currently the SDOs that make their codes available to the public online do so through clunky, disorganized, siloed websites, largely inaccessible to the print-disabled, and subject to onerous contractual terms (like a requirement to give up your personal information). The public can't copy, print, or even link to specific portions of the codes. In other words, you can look at the law (as long as you aren't print-disabled and you know what to look for), but you can't share it, compare it, or comment on it. As multiple amici who filed briefs in support of Public Resource explained, the public needs more.

Second, it doesn't really make sense. The many volunteers who develop these codes neither need nor want a copyright incentive. The SDOs don't need it either—they don't do anything creative (convening volunteers is important work, but not creative work), and they make plenty of profit though trainings, membership fees, and selling standards that haven't been incorporated into law.

Third, it's unconstitutional under the First, Fifth, and Fourteenth Amendments, which guarantee the public's right to read, share, and discuss the law.

Finally, there is no need for this bill. It simply mandates that SDOs do badly what Public Resource is already doing, better, for free.

The Pro Codes Act is a deceptive power grab that will help giant industry associations ration access to huge swaths of U.S. law. Tell Congress not to fall for it.

Ms. LOFGREN. Mr. Speaker, here is what they say: ''You didn't learn about incorporation by reference from Schoolhouse Rock, but it is one of the key ways policymakers create law. A huge portion of the regulations we all live by, such as fire safety codes, or the National Electric Code, are initially written by industry experts, government officials, and other volunteers under the auspices of standards development organizations, SDOs. Federal, State, or municipal policymakers then review the codes and decide whether the standard is a good broad rule. If so, it is adopted into law 'by reference.' In other words, the regulation cites the code by name but doesn't copy and paste the entire thing into law (useful when the code is long and detailed). For example, if a regulation requires

compliance with the National Fire Safety Code, it might simply refer to specific provisions or the code as a whole, rather than copying it directly, but that doesn't make compliance any less mandatory.

''When a pipeline bursts, journalists might want to investigate whether the pipeline complied with Federal regulations, or compare Federal, State, and local rules. When a toy is recalled, parents want to know whether its maker followed child safety rules. When a fire breaks out, homeowners and communities want to know whether the building complied with fire safety regulations. Online access to safety regulations helps make that review—and accountability—possible.''

The SDOs claim copyright in these rules, but the courts have found otherwise. They come to us because they don't like the answers that the court has given them. They don't like the fact that the Supreme Court held as much in its very first copyright case and recently reaffirmed it, saying this: '''Every citizen is presumed to know the law,' and 'it needs no argument to show . . . that all should have free access' to its contents.''

In September 2023, after a decade of litigation, the Federal appeals court held that Public Resource's database was lawful fair use, which brings us to the threat that this bill poses for us. It is a bit tricky.

The Pro Codes Act's main provision is that the code that has been adopted is protected by copyright. It provides some weak ability to access, but the access means read only, subject to licensing limits. We know already that when that is done, they are ''clunky, disorganized, siloed websites, largely inaccessible to the print-disabled, and subject to onerous contractual terms, like a requirement to give up your personal information. The public can't copy, print, or even link to specific portions of the codes. In other words, you can look at the law, as long as you aren't print-disabled and you know what to look for, but you can't share it, compare it, or comment on it. As multiple amici''—and I helped with some of those briefs—''who filed briefs in support of Public Resource explained, the public needs more.

''Second, it doesn't really make sense. The many volunteers who develop these codes neither need nor want a copyright incentive. The SDOs don't need it either.'' As I mentioned earlier, they are doing things very well even without the ability to harness improperly, I would say, copyright law for profit.

Finally, it is unconstitutional. There are some who say that this bill is important, but it is questionable that Congress can actually even overturn through legislation the longstanding court doctrine that mandates free and full access to the law. That is primarily because those decisions are firmly rooted in the constitutional doctrine of due process as outlined in the Fifth and 14th Amendments.

Additionally, the concept of fair use has been interpreted through judicial precedent to align with the freedoms protected by the First Amendment.

I will conclude by saying that to protect public access to the law, we should oppose the Pro Codes Act. We should uphold the principles of due process and ensure that everyone has a right to access, discuss, and understand the laws that govern them.

We should not turn over owning the law to private-sector entities. The law belongs to all of us. It belongs to the public and should not be withheld from the American public.

Mr. Speaker, I yield back the balance of my time.

Mr. ISSA. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, there are a number of things that I think we want to settle for the record here today.

First of all, the protecting of privacy is important, but let's understand, for the first 230 years or 220 years of our existence, we didn't have an internet. We printed documents.

Only the ability to digitally copy somebody's copyrighted material and then put it out on the internet created this situation. The courts have tried to grapple with the internet, but they failed in this case.

Let me give you a good example. If you were to open those books or the online version of them, you would see diagrams. I am going to tell you, Mr. Speaker, I have gone through a few lawbooks in my time. I have never seen a diagram. A diagram is more than a law. A diagram or a picture or details of how to or multiple alternatives of how one can safely do something, all of those things are, in fact, not within the law.

□ 1745

As a matter of fact, the calculation, the formulas on which you can calculate different uses, how much, what size wire to use for a certain amount of amps over a certain distance, all of those things are teaching. These teaching books have been around now for most of our time.

In fact, these organizations have books that they sell in vast amounts. It is only those books that basically continue to give them revenue. The idea that over time we may obsolete books is an idea that we would over time obsolete the ability of these people to create these how-to guides without the government paying for them.

The gentlewoman may be comfortable with the government paying for people to meet and produce these things. She may even be comfortable with the idea that these things would be printed as the document itself in the law, but I am sure she would be uncomfortable looking at that much law sitting there and then somebody saying: It doesn't tell me how to do it.

I will tell you one thing about the government. They passed the IRS laws, but it takes a legion of private-sector companies to teach you how to file your income tax. That is really where we are.

Whether it is the diagrams or our constitutional responsibility which we are meeting here today to ensure that the authors are fairly compensated, this bill narrowly provides a balance that enables us to continue to support copyright for those who create it and those who provide this important service.

Mr. Speaker, I urge passage, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ISSA) that the House suspend the rules and pass the bill, H.R. 1631, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Ms. LOFGREN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

WATER RESOURCES DEVELOPMENT ACT OF 2024

Mr. GRAVES of Missouri. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8812) to provide for improvements to the rivers and harbors of the United States, to provide for the conservation and development of water and related resources, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 8812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Water Resources Development Act of 2024''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows: