

Union Calendar No. 489

107TH CONGRESS
2^D SESSION

H. R. 2458

[Report No. 107-787, Part I]

To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2001

Mr. TURNER, (for himself, Ms. HARMAN, Mr. SANDLIN, Mrs. MCCARTHY of New York, Mrs. TAUSCHER, Mr. SCHIFF, Mr. MORAN of Virginia, Mrs. CAPPS, Mr. DOOLEY of California, Mr. MCINTYRE, Mr. KIND, Mr. CRAMER, Mr. TANNER, Mr. STENHOLM, Mr. THOMPSON of California, Mr. FORD, Mr. MOORE, Mr. CARSON of Oklahoma, Mr. ROSS, Mr. DAVIS of Florida, Mr. SMITH of Washington, Ms. ESHOO, Mr. ETHERIDGE, Mr. BOSWELL, Mr. BOYD, Mr. BENTSEN, Mr. EDWARDS, Mr. WU, Ms. HOOLEY of Oregon, Mr. HILL, Mr. LAMPSON, Mr. PRICE of North Carolina, Mr. DOGGETT, Mr. HOLT, Mr. LARSON of Connecticut, Mrs. THURMAN, and Mr. GREEN of Texas) introduced the following bill; which was referred to the Committee on Government Reform

NOVEMBER 14, 2002

Additional sponsors: Mr. MATHESON, Ms. BALDWIN, Mrs. MALONEY of New York, and Mr. TOM DAVIS of Virginia

NOVEMBER 14, 2002

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than November 14, 2002 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

NOVEMBER 14, 2002

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 11, 2001]

A BILL

To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “E-*
 5 *Government Act of 2002”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

*TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC
GOVERNMENT SERVICES*

Sec. 101. Management and promotion of electronic government services.

Sec. 102. Conforming amendments.

*TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF
ELECTRONIC GOVERNMENT SERVICES*

Sec. 201. Definitions.

Sec. 202. Federal agency responsibilities.

- Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.*
- Sec. 204. Federal Internet portal.*
- Sec. 205. Federal courts.*
- Sec. 206. Regulatory agencies.*
- Sec. 207. Accessibility, usability, and preservation of government information.*
- Sec. 208. Privacy provisions.*
- Sec. 209. Federal information technology workforce development.*
- Sec. 210. Share-in-savings initiatives.*
- Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.*
- Sec. 212. Integrated reporting study and pilot projects.*
- Sec. 213. Community technology centers.*
- Sec. 214. Enhancing crisis management through advanced information technology.*
- Sec. 215. Disparities in access to the Internet.*

TITLE III—INFORMATION SECURITY

- Sec. 301. Information security.*
- Sec. 302. Management of information technology.*
- Sec. 303. National Institute of Standards and Technology.*
- Sec. 304. Information Security and Privacy Advisory Board.*
- Sec. 305. Technical and conforming amendments.*
- Sec. 306. Construction.*

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

- Sec. 401. Authorization of appropriations.*
- Sec. 402. Effective dates.*

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFICIENCY

- Sec. 501. Short title.*
- Sec. 502. Definitions.*
- Sec. 503. Coordination and oversight of policies.*
- Sec. 504. Effect on other laws.*

Subtitle A—Confidential Information Protection

- Sec. 511. Findings and purposes.*
- Sec. 512. Limitations on use and disclosure of data and information.*
- Sec. 513. Fines and penalties.*

Subtitle B—Statistical Efficiency

- Sec. 521. Findings and purposes.*
- Sec. 522. Designation of statistical agencies.*
- Sec. 523. Responsibilities of designated statistical agencies.*
- Sec. 524. Sharing of business data among designated statistical agencies.*
- Sec. 525. Limitations on use of business data provided by designated statistical agencies.*
- Sec. 526. Conforming amendments.*

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) *FINDINGS.*—Congress finds the following:

3 (1) *The use of computers and the Internet is rap-*
4 *idly transforming societal interactions and the rela-*
5 *tionships among citizens, private businesses, and the*
6 *Government.*

7 (2) *The Federal Government has had uneven suc-*
8 *cess in applying advances in information technology*
9 *to enhance governmental functions and services,*
10 *achieve more efficient performance, increase access to*
11 *Government information, and increase citizen par-*
12 *ticipation in Government.*

13 (3) *Most Internet-based services of the Federal*
14 *Government are developed and presented separately,*
15 *according to the jurisdictional boundaries of an indi-*
16 *vidual department or agency, rather than being inte-*
17 *grated cooperatively according to function or topic.*

18 (4) *Internet-based Government services involving*
19 *interagency cooperation are especially difficult to de-*
20 *velop and promote, in part because of a lack of suffi-*
21 *cient funding mechanisms to support such inter-*
22 *agency cooperation.*

23 (5) *Electronic Government has its impact*
24 *through improved Government performance and out-*
25 *comes within and across agencies.*

1 (6) *Electronic Government is a critical element*
2 *in the management of Government, to be implemented*
3 *as part of a management framework that also ad-*
4 *dresses finance, procurement, human capital, and*
5 *other challenges to improve the performance of Gov-*
6 *ernment.*

7 (7) *To take full advantage of the improved Gov-*
8 *ernment performance that can be achieved through the*
9 *use of Internet-based technology requires strong lead-*
10 *ership, better organization, improved interagency col-*
11 *laboration, and more focused oversight of agency com-*
12 *pliance with statutes related to information resource*
13 *management.*

14 (b) *PURPOSES.—The purposes of this Act are the fol-*
15 *lowing:*

16 (1) *To provide effective leadership of Federal*
17 *Government efforts to develop and promote electronic*
18 *Government services and processes by establishing an*
19 *Administrator of a new Office of Electronic Govern-*
20 *ment within the Office of Management and Budget.*

21 (2) *To promote use of the Internet and other in-*
22 *formation technologies to provide increased opportu-*
23 *nities for citizen participation in Government.*

24 (3) *To promote interagency collaboration in pro-*
25 *viding electronic Government services, where this col-*

1 *laboration would improve the service to citizens by*
2 *integrating related functions, and in the use of inter-*
3 *nal electronic Government processes, where this col-*
4 *laboration would improve the efficiency and effective-*
5 *ness of the processes.*

6 *(4) To improve the ability of the Government to*
7 *achieve agency missions and program performance*
8 *goals.*

9 *(5) To promote the use of the Internet and*
10 *emerging technologies within and across Government*
11 *agencies to provide citizen-centric Government infor-*
12 *mation and services.*

13 *(6) To reduce costs and burdens for businesses*
14 *and other Government entities.*

15 *(7) To promote better informed decisionmaking*
16 *by policy makers.*

17 *(8) To promote access to high quality Govern-*
18 *ment information and services across multiple chan-*
19 *nels.*

20 *(9) To make the Federal Government more trans-*
21 *parent and accountable.*

22 *(10) To transform agency operations by uti-*
23 *lizing, where appropriate, best practices from public*
24 *and private sector organizations.*

1 (11) *To provide enhanced access to Government*
 2 *information and services in a manner consistent with*
 3 *laws regarding protection of personal privacy, na-*
 4 *tional security, records retention, access for persons*
 5 *with disabilities, and other relevant laws.*

6 **TITLE I—OFFICE OF MANAGE-**
 7 **MENT AND BUDGET ELEC-**
 8 **TRONIC GOVERNMENT SERV-**
 9 **ICES**

10 **SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC**
 11 **GOVERNMENT SERVICES.**

12 (a) *IN GENERAL.*—*Title 44, United States Code, is*
 13 *amended by inserting after chapter 35 the following:*

14 **“CHAPTER 36—MANAGEMENT AND PRO-**
 15 **MOTION OF ELECTRONIC GOVERN-**
 16 **MENT SERVICES**

“*Sec.*

“3601. *Definitions.*

“3602. *Office of Electronic Government.*

“3603. *Chief Information Officers Council.*

“3604. *E-Government Fund.*

“3605. *Program to encourage innovative solutions to enhance electronic Govern-*
ment services and processes.

“3606. *E-Government report.*

17 **“§ 3601. Definitions**

18 *“In this chapter, the definitions under section 3502*
 19 *shall apply, and the term—*

1 “(1) ‘Administrator’ means the Administrator of
2 the Office of Electronic Government established under
3 section 3602;

4 “(2) ‘Council’ means the Chief Information Offi-
5 cers Council established under section 3603;

6 “(3) ‘electronic Government’ means the use by
7 the Government of web-based Internet applications
8 and other information technologies, combined with
9 processes that implement these technologies, to—

10 “(A) enhance the access to and delivery of
11 Government information and services to the pub-
12 lic, other agencies, and other Government enti-
13 ties; or

14 “(B) bring about improvements in Govern-
15 ment operations that may include effectiveness,
16 efficiency, service quality, or transformation;

17 “(4) ‘enterprise architecture’—

18 “(A) means—

19 “(i) a strategic information asset base,
20 which defines the mission;

21 “(ii) the information necessary to per-
22 form the mission;

23 “(iii) the technologies necessary to per-
24 form the mission; and

1 “(iv) the transitional processes for im-
2 plementing new technologies in response to
3 changing mission needs; and

4 “(B) includes—

5 “(i) a baseline architecture;

6 “(ii) a target architecture; and

7 “(iii) a sequencing plan;

8 “(5) ‘Fund’ means the E-Government Fund es-
9 tablished under section 3604;

10 “(6) ‘interoperability’ means the ability of dif-
11 ferent operating and software systems, applications,
12 and services to communicate and exchange data in an
13 accurate, effective, and consistent manner;

14 “(7) ‘integrated service delivery’ means the pro-
15 vision of Internet-based Federal Government informa-
16 tion or services integrated according to function or
17 topic rather than separated according to the bound-
18 aries of agency jurisdiction; and

19 “(8) ‘tribal government’ means the governing
20 body of any Indian tribe, band, nation, or other orga-
21 nized group or community, including any Alaska Na-
22 tive village or regional or village corporation as de-
23 fined in or established pursuant to the Alaska Native
24 Claims Settlement Act (43 U.S.C. 1601 et seq.), which
25 is recognized as eligible for the special programs and

1 *services provided by the United States to Indians be-*
2 *cause of their status as Indians.*

3 **“§ 3602. Office of Electronic Government**

4 *“(a) There is established in the Office of Management*
5 *and Budget an Office of Electronic Government.*

6 *“(b) There shall be at the head of the Office an Admin-*
7 *istrator who shall be appointed by the President.*

8 *“(c) The Administrator shall assist the Director in car-*
9 *rying out—*

10 *“(1) all functions under this chapter;*

11 *“(2) all of the functions assigned to the Director*
12 *under title II of the E-Government Act of 2002; and*

13 *“(3) other electronic government initiatives, con-*
14 *sistent with other statutes.*

15 *“(d) The Administrator shall assist the Director and*
16 *the Deputy Director for Management and work with the*
17 *Administrator of the Office of Information and Regulatory*
18 *Affairs in setting strategic direction for implementing elec-*
19 *tronic Government, under relevant statutes, including—*

20 *“(1) chapter 35;*

21 *“(2) subtitle III of title 40, United States Code;*

22 *“(3) section 552a of title 5 (commonly referred*
23 *to as the ‘Privacy Act’);*

24 *“(4) the Government Paperwork Elimination Act*
25 *(44 U.S.C. 3504 note); and*

1 “(5) *the Federal Information Security Manage-*
2 *ment Act of 2002.*

3 “(e) *The Administrator shall work with the Adminis-*
4 *trator of the Office of Information and Regulatory Affairs*
5 *and with other offices within the Office of Management and*
6 *Budget to oversee implementation of electronic Government*
7 *under this chapter, chapter 35, the E-Government Act of*
8 *2002, and other relevant statutes, in a manner consistent*
9 *with law, relating to—*

10 “(1) *capital planning and investment control for*
11 *information technology;*

12 “(2) *the development of enterprise architectures;*

13 “(3) *information security;*

14 “(4) *privacy;*

15 “(5) *access to, dissemination of, and preservation*
16 *of Government information;*

17 “(6) *accessibility of information technology for*
18 *persons with disabilities; and*

19 “(7) *other areas of electronic Government.*

20 “(f) *Subject to requirements of this chapter, the Ad-*
21 *ministrator shall assist the Director by performing elec-*
22 *tronic Government functions as follows:*

23 “(1) *Advise the Director on the resources re-*
24 *quired to develop and effectively administer electronic*
25 *Government initiatives.*

1 “(2) Recommend to the Director changes relating
2 to Governmentwide strategies and priorities for elec-
3 tronic Government.

4 “(3) Provide overall leadership and direction to
5 the executive branch on electronic Government.

6 “(4) Promote innovative uses of information
7 technology by agencies, particularly initiatives in-
8 volving multiagency collaboration, through support of
9 pilot projects, research, experimentation, and the use
10 of innovative technologies.

11 “(5) Oversee the distribution of funds from, and
12 ensure appropriate administration and coordination
13 of, the E-Government Fund established under section
14 3604.

15 “(6) Coordinate with the Administrator of Gen-
16 eral Services regarding programs undertaken by the
17 General Services Administration to promote electronic
18 government and the efficient use of information tech-
19 nologies by agencies.

20 “(7) Lead the activities of the Chief Information
21 Officers Council established under section 3603 on be-
22 half of the Deputy Director for Management, who
23 shall chair the council.

24 “(8) Assist the Director in establishing policies
25 which shall set the framework for information tech-

1 *nology standards for the Federal Government under*
2 *section 11331 of title 40, to be developed by the Na-*
3 *tional Institute of Standards and Technology and*
4 *promulgated by the Secretary of Commerce, taking*
5 *into account, if appropriate, recommendations of the*
6 *Chief Information Officers Council, experts, and in-*
7 *terested parties from the private and nonprofit sectors*
8 *and State, local, and tribal governments, and maxi-*
9 *mizing the use of commercial standards as appro-*
10 *priate, including the following:*

11 *“(A) Standards and guidelines for*
12 *interconnectivity and interoperability as de-*
13 *scribed under section 3504.*

14 *“(B) Consistent with the process under sec-*
15 *tion 207(d) of the E-Government Act of 2002,*
16 *standards and guidelines for categorizing Fed-*
17 *eral Government electronic information to enable*
18 *efficient use of technologies, such as through the*
19 *use of extensible markup language.*

20 *“(C) Standards and guidelines for Federal*
21 *Government computer system efficiency and se-*
22 *curity.*

23 *“(9) Sponsor ongoing dialogue that—*

24 *“(A) shall be conducted among Federal,*
25 *State, local, and tribal government leaders on*

1 *electronic Government in the executive, legisla-*
2 *tive, and judicial branches, as well as leaders in*
3 *the private and nonprofit sectors, to encourage*
4 *collaboration and enhance understanding of best*
5 *practices and innovative approaches in acquir-*
6 *ing, using, and managing information resources;*

7 *“(B) is intended to improve the perform-*
8 *ance of governments in collaborating on the use*
9 *of information technology to improve the delivery*
10 *of Government information and services; and*

11 *“(C) may include—*

12 *“(i) development of innovative mod-*
13 *els—*

14 *“(I) for electronic Government*
15 *management and Government informa-*
16 *tion technology contracts; and*

17 *“(II) that may be developed*
18 *through focused discussions or using*
19 *separately sponsored research;*

20 *“(ii) identification of opportunities for*
21 *public-private collaboration in using Inter-*
22 *net-based technology to increase the effi-*
23 *ciency of Government-to-business trans-*
24 *actions;*

1 “(iii) identification of mechanisms for
2 providing incentives to program managers
3 and other Government employees to develop
4 and implement innovative uses of informa-
5 tion technologies; and

6 “(iv) identification of opportunities for
7 public, private, and intergovernmental col-
8 laboration in addressing the disparities in
9 access to the Internet and information tech-
10 nology.

11 “(10) Sponsor activities to engage the general
12 public in the development and implementation of
13 policies and programs, particularly activities aimed
14 at fulfilling the goal of using the most effective cit-
15 izen-centered strategies and those activities which en-
16 gage multiple agencies providing similar or related
17 information and services.

18 “(11) Oversee the work of the General Services
19 Administration and other agencies in developing the
20 integrated Internet-based system under section 204 of
21 the E-Government Act of 2002.

22 “(12) Coordinate with the Administrator for
23 Federal Procurement Policy to ensure effective imple-
24 mentation of electronic procurement initiatives.

1 “(13) Assist Federal agencies, including the Gen-
2 eral Services Administration, the Department of Jus-
3 tice, and the United States Access Board in—

4 “(A) implementing accessibility standards
5 under section 508 of the Rehabilitation Act of
6 1973 (29 U.S.C. 794d); and

7 “(B) ensuring compliance with those stand-
8 ards through the budget review process and other
9 means.

10 “(14) Oversee the development of enterprise ar-
11 chitectures within and across agencies.

12 “(15) Assist the Director and the Deputy Direc-
13 tor for Management in overseeing agency efforts to en-
14 sure that electronic Government activities incorporate
15 adequate, risk-based, and cost-effective security com-
16 patible with business processes.

17 “(16) Administer the Office of Electronic Gov-
18 ernment established under this section.

19 “(17) Assist the Director in preparing the E-
20 Government report established under section 3606.

21 “(g) The Director shall ensure that the Office of Man-
22 agement and Budget, including the Office of Electronic
23 Government, the Office of Information and Regulatory Af-
24 fairs, and other relevant offices, have adequate staff and re-

1 *sources to properly fulfill all functions under the E-Govern-*
2 *ment Act of 2002.*

3 **“§ 3603. Chief Information Officers Council**

4 *“(a) There is established in the executive branch a*
5 *Chief Information Officers Council.*

6 *“(b) The members of the Council shall be as follows:*

7 *“(1) The Deputy Director for Management of the*
8 *Office of Management and Budget, who shall act as*
9 *chairperson of the Council.*

10 *“(2) The Administrator of the Office of Elec-*
11 *tronic Government.*

12 *“(3) The Administrator of the Office of Informa-*
13 *tion and Regulatory Affairs.*

14 *“(4) The chief information officer of each agency*
15 *described under section 901(b) of title 31.*

16 *“(5) The chief information officer of the Central*
17 *Intelligence Agency.*

18 *“(6) The chief information officer of the Depart-*
19 *ment of the Army, the Department of the Navy, and*
20 *the Department of the Air Force, if chief information*
21 *officers have been designated for such departments*
22 *under section 3506(a)(2)(B).*

23 *“(7) Any other officer or employee of the United*
24 *States designated by the chairperson.*

1 “(c)(1) *The Administrator of the Office of Electronic*
2 *Government shall lead the activities of the Council on behalf*
3 *of the Deputy Director for Management.*

4 “(2)(A) *The Vice Chairman of the Council shall be se-*
5 *lected by the Council from among its members.*

6 “(B) *The Vice Chairman shall serve a 1-year term, and*
7 *may serve multiple terms.*

8 “(3) *The Administrator of General Services shall pro-*
9 *vide administrative and other support for the Council.*

10 “(d) *The Council is designated the principal inter-*
11 *agency forum for improving agency practices related to the*
12 *design, acquisition, development, modernization, use, oper-*
13 *ation, sharing, and performance of Federal Government in-*
14 *formation resources.*

15 “(e) *In performing its duties, the Council shall consult*
16 *regularly with representatives of State, local, and tribal*
17 *governments.*

18 “(f) *The Council shall perform functions that include*
19 *the following:*

20 “(1) *Develop recommendations for the Director*
21 *on Government information resources management*
22 *policies and requirements.*

23 “(2) *Share experiences, ideas, best practices, and*
24 *innovative approaches related to information re-*
25 *sources management.*

1 “(3) Assist the Administrator in the identifica-
2 tion, development, and coordination of multiagency
3 projects and other innovative initiatives to improve
4 Government performance through the use of informa-
5 tion technology.

6 “(4) Promote the development and use of com-
7 mon performance measures for agency information re-
8 sources management under this chapter and title II
9 of the E-Government Act of 2002.

10 “(5) Work as appropriate with the National In-
11 stitute of Standards and Technology and the Admin-
12 istrator to develop recommendations on information
13 technology standards developed under section 20 of the
14 National Institute of Standards and Technology Act
15 (15 U.S.C. 278g-3) and promulgated under section
16 11331 of title 40, and maximize the use of commercial
17 standards as appropriate, including the following:

18 “(A) Standards and guidelines for
19 interconnectivity and interoperability as de-
20 scribed under section 3504.

21 “(B) Consistent with the process under sec-
22 tion 207(d) of the E-Government Act of 2002,
23 standards and guidelines for categorizing Fed-
24 eral Government electronic information to enable

1 *efficient use of technologies, such as through the*
2 *use of extensible markup language.*

3 “(C) *Standards and guidelines for Federal*
4 *Government computer system efficiency and se-*
5 *curity.*

6 “(6) *Work with the Office of Personnel Manage-*
7 *ment to assess and address the hiring, training, clas-*
8 *sification, and professional development needs of the*
9 *Government related to information resources manage-*
10 *ment.*

11 “(7) *Work with the Archivist of the United*
12 *States to assess how the Federal Records Act can be*
13 *addressed effectively by Federal information resources*
14 *management activities.*

15 **“§ 3604. E-Government Fund**

16 “(a)(1) *There is established in the Treasury of the*
17 *United States the E-Government Fund.*

18 “(2) *The Fund shall be administered by the Adminis-*
19 *trator of the General Services Administration to support*
20 *projects approved by the Director, assisted by the Adminis-*
21 *trator of the Office of Electronic Government, that enable*
22 *the Federal Government to expand its ability, through the*
23 *development and implementation of innovative uses of the*
24 *Internet or other electronic methods, to conduct activities*
25 *electronically.*

1 “(3) *Projects under this subsection may include efforts*
2 *to—*

3 “(A) *make Federal Government information and*
4 *services more readily available to members of the pub-*
5 *lic (including individuals, businesses, grantees, and*
6 *State and local governments);*

7 “(B) *make it easier for the public to apply for*
8 *benefits, receive services, pursue business opportuni-*
9 *ties, submit information, and otherwise conduct*
10 *transactions with the Federal Government; and*

11 “(C) *enable Federal agencies to take advantage*
12 *of information technology in sharing information and*
13 *conducting transactions with each other and with*
14 *State and local governments.*

15 “(b)(1) *The Administrator shall—*

16 “(A) *establish procedures for accepting and re-*
17 *viewing proposals for funding;*

18 “(B) *consult with interagency councils, includ-*
19 *ing the Chief Information Officers Council, the Chief*
20 *Financial Officers Council, and other interagency*
21 *management councils, in establishing procedures and*
22 *reviewing proposals; and*

23 “(C) *assist the Director in coordinating resources*
24 *that agencies receive from the Fund with other re-*
25 *sources available to agencies for similar purposes.*

1 “(2) When reviewing proposals and managing the
2 Fund, the Administrator shall observe and incorporate the
3 following procedures:

4 “(A) A project requiring substantial involvement
5 or funding from an agency shall be approved by a
6 senior official with agencywide authority on behalf of
7 the head of the agency, who shall report directly to the
8 head of the agency.

9 “(B) Projects shall adhere to fundamental cap-
10 ital planning and investment control processes.

11 “(C) Agencies shall identify in their proposals
12 resource commitments from the agencies involved and
13 how these resources would be coordinated with sup-
14 port from the Fund, and include plans for potential
15 continuation of projects after all funds made available
16 from the Fund are expended.

17 “(D) After considering the recommendations of
18 the interagency councils, the Director, assisted by the
19 Administrator, shall have final authority to deter-
20 mine which of the candidate projects shall be funded
21 from the Fund.

22 “(E) Agencies shall assess the results of funded
23 projects.

24 “(c) In determining which proposals to recommend for
25 funding, the Administrator—

1 “(1) shall consider criteria that include whether
2 a proposal—

3 “(A) identifies the group to be served, in-
4 cluding citizens, businesses, the Federal Govern-
5 ment, or other governments;

6 “(B) indicates what service or information
7 the project will provide that meets needs of
8 groups identified under subparagraph (A);

9 “(C) ensures proper security and protects
10 privacy;

11 “(D) is interagency in scope, including
12 projects implemented by a primary or single
13 agency that—

14 “(i) could confer benefits on multiple
15 agencies; and

16 “(ii) have the support of other agen-
17 cies; and

18 “(E) has performance objectives that tie to
19 agency missions and strategic goals, and interim
20 results that relate to the objectives; and

21 “(2) may also rank proposals based on criteria
22 that include whether a proposal—

23 “(A) has Governmentwide application or
24 implications;

1 “(B) has demonstrated support by the pub-
2 lic to be served;

3 “(C) integrates Federal with State, local, or
4 tribal approaches to service delivery;

5 “(D) identifies resource commitments from
6 nongovernmental sectors;

7 “(E) identifies resource commitments from
8 the agencies involved;

9 “(F) uses web-based technologies to achieve
10 objectives;

11 “(G) identifies records management and
12 records access strategies;

13 “(H) supports more effective citizen partici-
14 pation in and interaction with agency activities
15 that further progress toward a more citizen-cen-
16 tered Government;

17 “(I) directly delivers Government informa-
18 tion and services to the public or provides the in-
19 frastructure for delivery;

20 “(J) supports integrated service delivery;

21 “(K) describes how business processes across
22 agencies will reflect appropriate transformation
23 simultaneous to technology implementation; and

24 “(L) is new or innovative and does not sup-
25 plant existing funding streams within agencies.

1 “(d) *The Fund may be used to fund the integrated*
2 *Internet-based system under section 204 of the E-Govern-*
3 *ment Act of 2002.*

4 “(e) *None of the funds provided from the Fund may*
5 *be transferred to any agency until 15 days after the Admin-*
6 *istrator of the General Services Administration has sub-*
7 *mitted to the Committees on Appropriations of the Senate*
8 *and the House of Representatives, the Committee on Gov-*
9 *ernmental Affairs of the Senate, the Committee on Govern-*
10 *ment Reform of the House of Representatives, and the ap-*
11 *propriate authorizing committees of the Senate and the*
12 *House of Representatives, a notification and description of*
13 *how the funds are to be allocated and how the expenditure*
14 *will further the purposes of this chapter.*

15 “(f)(1) *The Director shall report annually to Congress*
16 *on the operation of the Fund, through the report established*
17 *under section 3606.*

18 “(2) *The report under paragraph (1) shall describe—*

19 “(A) *all projects which the Director has ap-*
20 *proved for funding from the Fund; and*

21 “(B) *the results that have been achieved to date*
22 *for these funded projects.*

23 “(g)(1) *There are authorized to be appropriated to the*
24 *Fund—*

25 “(A) *\$45,000,000 for fiscal year 2003;*

1 “(B) \$50,000,000 for fiscal year 2004;
2 “(C) \$100,000,000 for fiscal year 2005;
3 “(D) \$150,000,000 for fiscal year 2006; and
4 “(E) such sums as are necessary for fiscal year
5 2007.

6 “(2) Funds appropriated under this subsection shall
7 remain available until expended.

8 **“§ 3605. Program to encourage innovative solutions to**
9 **enhance electronic Government services**
10 **and processes**

11 “(a) *ESTABLISHMENT OF PROGRAM.*—*The Adminis-*
12 *trator shall establish and promote a Governmentwide pro-*
13 *gram to encourage contractor innovation and excellence in*
14 *facilitating the development and enhancement of electronic*
15 *Government services and processes.*

16 “(b) *ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVA-*
17 *TIVE SOLUTIONS.*—*Under the program, the Administrator,*
18 *in consultation with the Council and the Administrator for*
19 *Federal Procurement Policy, shall issue announcements*
20 *seeking unique and innovative solutions to facilitate the de-*
21 *velopment and enhancement of electronic Government serv-*
22 *ices and processes.*

23 “(c) *MULTIAGENCY TECHNICAL ASSISTANCE TEAM.*—
24 (1) *The Administrator, in consultation with the Council*
25 *and the Administrator for Federal Procurement Policy,*

1 *shall convene a multiagency technical assistance team to*
2 *assist in screening proposals submitted to the Adminis-*
3 *trator to provide unique and innovative solutions to facili-*
4 *tate the development and enhancement of electronic Govern-*
5 *ment services and processes. The team shall be composed*
6 *of employees of the agencies represented on the Council who*
7 *have expertise in scientific and technical disciplines that*
8 *would facilitate the assessment of the feasibility of the pro-*
9 *posals.*

10 “(2) *The technical assistance team shall—*

11 “(A) *assess the feasibility, scientific and tech-*
12 *nical merits, and estimated cost of each proposal; and*

13 “(B) *submit each proposal, and the assessment of*
14 *the proposal, to the Administrator.*

15 “(3) *The technical assistance team shall not consider*
16 *or evaluate proposals submitted in response to a solicitation*
17 *for offers for a pending procurement or for a specific agency*
18 *requirement.*

19 “(4) *After receiving proposals and assessments from*
20 *the technical assistance team, the Administrator shall con-*
21 *sider recommending appropriate proposals for funding*
22 *under the E-Government Fund established under section*
23 *3604 or, if appropriate, forward the proposal and the as-*
24 *essment of it to the executive agency whose mission most*
25 *coincides with the subject matter of the proposal.*

1 **“§ 3606. E-Government report**

2 “(a) Not later than March 1 of each year, the Director
3 shall submit an E-Government status report to the Com-
4 mittee on Governmental Affairs of the Senate and the Com-
5 mittee on Government Reform of the House of Representa-
6 tives.

7 “(b) The report under subsection (a) shall contain—

8 “(1) a summary of the information reported by
9 agencies under section 202(f) of the E-Government
10 Act of 2002;

11 “(2) the information required to be reported by
12 section 3604(f); and

13 “(3) a description of compliance by the Federal
14 Government with other goals and provisions of the E-
15 Government Act of 2002.”.

16 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—The
17 table of chapters for title 44, United States Code, is amend-
18 ed by inserting after the item relating to chapter 35 the
19 following:

**“36. Management and Promotion of Electronic Govern-
ment Services 3601”.**

20 **SEC. 102. CONFORMING AMENDMENTS.**

21 (a) **ELECTRONIC GOVERNMENT AND INFORMATION**
22 **TECHNOLOGIES.**—

1 (1) *IN GENERAL.*—Chapter 5 of title 31, United
2 States Code, is amended by inserting after section 506
3 the following:

4 **“§ 507. Office of Electronic Government**

5 *“The Office of Electronic Government, established*
6 *under section 3602 of title 44, is an office in the Office of*
7 *Management and Budget.”.*

8 (2) *TECHNICAL AND CONFORMING AMEND-*
9 *MENT.*—The table of sections for chapter 5 of title 31,
10 United States Code, is amended by inserting after the
11 item relating to section 506 the following:

“507. Office of Electronic Government.”.

12 **TITLE II—FEDERAL MANAGE-**
13 **MENT AND PROMOTION OF**
14 **ELECTRONIC GOVERNMENT**
15 **SERVICES**

16 **SEC. 201. DEFINITIONS.**

17 *Except as otherwise provided, in this title the defini-*
18 *tions under sections 3502 and 3601 of title 44, United*
19 *States Code, shall apply.*

20 **SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.**

21 (a) *IN GENERAL.*—The head of each agency shall be
22 responsible for—

23 (1) *complying with the requirements of this Act*
24 *(including the amendments made by this Act), the re-*
25 *lated information resource management policies and*

1 *guidance established by the Director of the Office of*
2 *Management and Budget, and the related information*
3 *technology standards promulgated by the Secretary of*
4 *Commerce;*

5 *(2) ensuring that the information resource man-*
6 *agement policies and guidance established under this*
7 *Act by the Director, and the information technology*
8 *standards promulgated under this Act by the Sec-*
9 *retary of Commerce are communicated promptly and*
10 *effectively to all relevant officials within their agency;*
11 *and*

12 *(3) supporting the efforts of the Director and the*
13 *Administrator of the General Services Administration*
14 *to develop, maintain, and promote an integrated*
15 *Internet-based system of delivering Federal Govern-*
16 *ment information and services to the public under*
17 *section 204.*

18 *(b) PERFORMANCE INTEGRATION.—*

19 *(1) Agencies shall develop performance measures*
20 *that demonstrate how electronic government enables*
21 *progress toward agency objectives, strategic goals, and*
22 *statutory mandates.*

23 *(2) In measuring performance under this section,*
24 *agencies shall rely on existing data collections to the*
25 *extent practicable.*

1 (3) *Areas of performance measurement that*
2 *agencies should consider include—*

3 (A) *customer service;*

4 (B) *agency productivity; and*

5 (C) *adoption of innovative information*
6 *technology, including the appropriate use of com-*
7 *mercial best practices.*

8 (4) *Agencies shall link their performance goals,*
9 *as appropriate, to key groups, including citizens,*
10 *businesses, and other governments, and to internal*
11 *Federal Government operations.*

12 (5) *As appropriate, agencies shall work collec-*
13 *tively in linking their performance goals to groups*
14 *identified under paragraph (4) and shall use infor-*
15 *mation technology in delivering Government informa-*
16 *tion and services to those groups.*

17 (c) *AVOIDING DIMINISHED ACCESS.—When promul-*
18 *gating policies and implementing programs regarding the*
19 *provision of Government information and services over the*
20 *Internet, agency heads shall consider the impact on persons*
21 *without access to the Internet, and shall, to the extent prac-*
22 *ticable—*

23 (1) *ensure that the availability of Government*
24 *information and services has not been diminished for*
25 *individuals who lack access to the Internet; and*

1 (2) *pursue alternate modes of delivery that make*
2 *Government information and services more accessible*
3 *to individuals who do not own computers or lack ac-*
4 *cess to the Internet.*

5 (d) *ACCESSIBILITY TO PEOPLE WITH DISABILITIES.—*
6 *All actions taken by Federal departments and agencies*
7 *under this Act shall be in compliance with section 508 of*
8 *the Rehabilitation Act of 1973 (29 U.S.C. 794d).*

9 (e) *SPONSORED ACTIVITIES.—Agencies shall sponsor*
10 *activities that use information technology to engage the*
11 *public in the development and implementation of policies*
12 *and programs.*

13 (f) *CHIEF INFORMATION OFFICERS.—The Chief Infor-*
14 *mation Officer of each of the agencies designated under*
15 *chapter 36 of title 44, United States Code (as added by this*
16 *Act) shall be responsible for—*

17 (1) *participating in the functions of the Chief*
18 *Information Officers Council; and*

19 (2) *monitoring the implementation, within their*
20 *respective agencies, of information technology stand-*
21 *ards promulgated under this Act by the Secretary of*
22 *Commerce, including common standards for*
23 *interconnectivity and interoperability, categorization*
24 *of Federal Government electronic information, and*
25 *computer system efficiency and security.*

1 (g) *E-GOVERNMENT STATUS REPORT.*—

2 (1) *IN GENERAL.*—*Each agency shall compile*
3 *and submit to the Director an annual E-Government*
4 *Status Report on—*

5 (A) *the status of the implementation by the*
6 *agency of electronic government initiatives;*

7 (B) *compliance by the agency with this Act;*
8 *and*

9 (C) *how electronic Government initiatives of*
10 *the agency improve performance in delivering*
11 *programs to constituencies.*

12 (2) *SUBMISSION.*—*Each agency shall submit an*
13 *annual report under this subsection—*

14 (A) *to the Director at such time and in such*
15 *manner as the Director requires;*

16 (B) *consistent with related reporting re-*
17 *quirements; and*

18 (C) *which addresses any section in this title*
19 *relevant to that agency.*

20 (h) *USE OF TECHNOLOGY.*—*Nothing in this Act super-*
21 *sedes the responsibility of an agency to use or manage infor-*
22 *mation technology to deliver Government information and*
23 *services that fulfill the statutory mission and programs of*
24 *the agency.*

25 (i) *NATIONAL SECURITY SYSTEMS.*—

1 (1) *INAPPLICABILITY.*—*Except as provided under*
2 *paragraph (2), this title does not apply to national*
3 *security systems as defined in section 11103 of title*
4 *40, United States Code.*

5 (2) *APPLICABILITY.*—*This section, section 203,*
6 *and section 214 do apply to national security systems*
7 *to the extent practicable and consistent with law.*

8 **SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METH-**
9 **ODS FOR USE AND ACCEPTANCE OF ELEC-**
10 **TRONIC SIGNATURES.**

11 (a) *PURPOSE.*—*The purpose of this section is to*
12 *achieve interoperable implementation of electronic signa-*
13 *tures for appropriately secure electronic transactions with*
14 *Government.*

15 (b) *ELECTRONIC SIGNATURES.*—*In order to fulfill the*
16 *objectives of the Government Paperwork Elimination Act*
17 *(Public Law 105–277; 112 Stat. 2681–749 through 2681–*
18 *751), each Executive agency (as defined under section 105*
19 *of title 5, United States Code) shall ensure that its methods*
20 *for use and acceptance of electronic signatures are compat-*
21 *ible with the relevant policies and procedures issued by the*
22 *Director.*

23 (c) *AUTHORITY FOR ELECTRONIC SIGNATURES.*—*The*
24 *Administrator of General Services shall support the Direc-*
25 *tor by establishing a framework to allow efficient interoper-*

1 *ability among Executive agencies when using electronic sig-*
2 *natures, including processing of digital signatures.*

3 (d) *AUTHORIZATION OF APPROPRIATIONS.—There are*
4 *authorized to be appropriated to the General Services Ad-*
5 *ministration, to ensure the development and operation of*
6 *a Federal bridge certification authority for digital signa-*
7 *ture compatibility, and for other activities consistent with*
8 *this section, \$8,000,000 or such sums as are necessary in*
9 *fiscal year 2003, and such sums as are necessary for each*
10 *fiscal year thereafter.*

11 **SEC. 204. FEDERAL INTERNET PORTAL.**

12 (a) *IN GENERAL.—*

13 (1) *PUBLIC ACCESS.—The Director shall work*
14 *with the Administrator of the General Services Ad-*
15 *ministration and other agencies to maintain and pro-*
16 *mote an integrated Internet-based system of providing*
17 *the public with access to Government information and*
18 *services.*

19 (2) *CRITERIA.—To the extent practicable, the in-*
20 *tegrated system shall be designed and operated ac-*
21 *cording to the following criteria:*

22 (A) *The provision of Internet-based Govern-*
23 *ment information and services directed to key*
24 *groups, including citizens, business, and other*
25 *governments, and integrated according to func-*

1 *tion or topic rather than separated according to*
2 *the boundaries of agency jurisdiction.*

3 *(B) An ongoing effort to ensure that Inter-*
4 *net-based Government services relevant to a*
5 *given citizen activity are available from a single*
6 *point.*

7 *(C) Access to Federal Government informa-*
8 *tion and services consolidated, as appropriate,*
9 *with Internet-based information and services*
10 *provided by State, local, and tribal governments.*

11 *(D) Access to Federal Government informa-*
12 *tion held by 1 or more agencies shall be made*
13 *available in a manner that protects privacy,*
14 *consistent with law.*

15 *(b) AUTHORIZATION OF APPROPRIATIONS.—There are*
16 *authorized to be appropriated to the General Services Ad-*
17 *ministration \$15,000,000 for the maintenance, improve-*
18 *ment, and promotion of the integrated Internet-based sys-*
19 *tem for fiscal year 2003, and such sums as are necessary*
20 *for fiscal years 2004 through 2007.*

21 **SEC. 205. FEDERAL COURTS.**

22 *(a) INDIVIDUAL COURT WEBSITES.—The Chief Justice*
23 *of the United States, the chief judge of each circuit and dis-*
24 *trict, and the chief bankruptcy judge of each district shall*
25 *establish with respect to the Supreme Court or the respective*

1 *court of appeals, district, or bankruptcy court of a district,*
2 *a website that contains the following information or links*
3 *to websites with the following information:*

4 (1) *Location and contact information for the*
5 *courthouse, including the telephone numbers and con-*
6 *tact names for the clerk's office and justices' or judges'*
7 *chambers.*

8 (2) *Local rules and standing or general orders of*
9 *the court.*

10 (3) *Individual rules, if in existence, of each jus-*
11 *tice or judge in that court.*

12 (4) *Access to docket information for each case.*

13 (5) *Access to the substance of all written opin-*
14 *ions issued by the court, regardless of whether such*
15 *opinions are to be published in the official court re-*
16 *porter, in a text searchable format.*

17 (6) *Access to all documents filed with the court-*
18 *house in electronic form, described under subsection*
19 *(c).*

20 (7) *Any other information (including forms in a*
21 *format that can be downloaded) that the court deter-*
22 *mines useful to the public.*

23 (b) *MAINTENANCE OF DATA ONLINE.—*

1 (1) *UPDATE OF INFORMATION.*—*The information*
2 *and rules on each website shall be updated regularly*
3 *and kept reasonably current.*

4 (2) *CLOSED CASES.*—*Electronic files and docket*
5 *information for cases closed for more than 1 year are*
6 *not required to be made available online, except all*
7 *written opinions with a date of issuance after the ef-*
8 *fective date of this section shall remain available on-*
9 *line.*

10 (c) *ELECTRONIC FILINGS.*—

11 (1) *IN GENERAL.*—*Except as provided under*
12 *paragraph (2), each court shall make any document*
13 *that is filed electronically publicly available online. A*
14 *court may convert any document that is filed in*
15 *paper form to electronic form. To the extent such con-*
16 *versions are made, all such electronic versions of the*
17 *document shall be made available online.*

18 (2) *EXCEPTIONS.*—*Documents that are filed that*
19 *are not otherwise available to the public, such as doc-*
20 *uments filed under seal, shall not be made available*
21 *online.*

22 (3) *PRIVACY AND SECURITY CONCERNS.*—*The Ju-*
23 *dicial Conference of the United States may promul-*
24 *gate rules under this subsection to protect important*
25 *privacy and security concerns.*

1 (d) *DOCKETS WITH LINKS TO DOCUMENTS.*—*The Ju-*
2 *dicial Conference of the United States shall explore the fea-*
3 *sibility of technology to post online dockets with links allow-*
4 *ing all filings, decisions, and rulings in each case to be ob-*
5 *tained from the docket sheet of that case.*

6 (e) *COST OF PROVIDING ELECTRONIC DOCKETING IN-*
7 *FORMATION.*—*Section 303(a) of the Judiciary Appropria-*
8 *tions Act, 1992 (28 U.S.C. 1913 note) is amended in the*
9 *first sentence by striking “shall hereafter” and inserting*
10 *“may, only to the extent necessary,”.*

11 (f) *TIME REQUIREMENTS.*—*Not later than 2 years*
12 *after the effective date of this title, the websites under sub-*
13 *section (a) shall be established, except that access to docu-*
14 *ments filed in electronic form shall be established not later*
15 *than 4 years after that effective date.*

16 (g) *DEFERRAL.*—

17 (1) *IN GENERAL.*—

18 (A) *ELECTION.*—

19 (i) *NOTIFICATION.*—*The Chief Justice*
20 *of the United States, a chief judge, or chief*
21 *bankruptcy judge may submit a notification*
22 *to the Administrative Office of the United*
23 *States Courts to defer compliance with any*
24 *requirement of this section with respect to*

1 *the Supreme Court, a court of appeals, dis-*
2 *trict, or the bankruptcy court of a district.*

3 (ii) *CONTENTS.*—*A notification sub-*
4 *mitted under this subparagraph shall*
5 *state—*

6 *(I) the reasons for the deferral;*
7 *and*

8 *(II) the online methods, if any, or*
9 *any alternative methods, such court or*
10 *district is using to provide greater*
11 *public access to information.*

12 (B) *EXCEPTION.*—*To the extent that the Su-*
13 *preme Court, a court of appeals, district, or*
14 *bankruptcy court of a district maintains a*
15 *website under subsection (a), the Supreme Court*
16 *or that court of appeals or district shall comply*
17 *with subsection (b)(1).*

18 (2) *REPORT.*—*Not later than 1 year after the ef-*
19 *fective date of this title, and every year thereafter, the*
20 *Judicial Conference of the United States shall submit*
21 *a report to the Committees on Governmental Affairs*
22 *and the Judiciary of the Senate and the Committees*
23 *on Government Reform and the Judiciary of the*
24 *House of Representatives that—*

1 (A) contains all notifications submitted to
2 the Administrative Office of the United States
3 Courts under this subsection; and

4 (B) summarizes and evaluates all notifica-
5 tions.

6 **SEC. 206. REGULATORY AGENCIES.**

7 (a) *PURPOSES.*—The purposes of this section are to—

8 (1) improve performance in the development and
9 issuance of agency regulations by using information
10 technology to increase access, accountability, and
11 transparency; and

12 (2) enhance public participation in Government
13 by electronic means, consistent with requirements
14 under subchapter II of chapter 5 of title 5, United
15 States Code, (commonly referred to as the
16 “Administrative Procedures Act”).

17 (b) *INFORMATION PROVIDED BY AGENCIES ONLINE.*—

18 To the extent practicable as determined by the agency in
19 consultation with the Director, each agency (as defined
20 under section 551 of title 5, United States Code) shall en-
21 sure that a publicly accessible Federal Government website
22 includes all information about that agency required to be
23 published in the Federal Register under paragraphs (1) and
24 (2) of section 552(a) of title 5, United States Code.

1 (c) *SUBMISSIONS BY ELECTRONIC MEANS.*—*To the ex-*
2 *tent practicable, agencies shall accept submissions under*
3 *section 553(c) of title 5, United States Code, by electronic*
4 *means.*

5 (d) *ELECTRONIC DOCKETING.*—

6 (1) *IN GENERAL.*—*To the extent practicable, as*
7 *determined by the agency in consultation with the Di-*
8 *rector, agencies shall ensure that a publicly accessible*
9 *Federal Government website contains electronic dock-*
10 *ets for rulemakings under section 553 of title 5,*
11 *United States Code.*

12 (2) *INFORMATION AVAILABLE.*—*Agency electronic*
13 *dockets shall make publicly available online to the ex-*
14 *tent practicable, as determined by the agency in con-*
15 *sultation with the Director—*

16 (A) *all submissions under section 553(c) of*
17 *title 5, United States Code; and*

18 (B) *other materials that by agency rule or*
19 *practice are included in the rulemaking docket*
20 *under section 553(c) of title 5, United States*
21 *Code, whether or not submitted electronically.*

22 (e) *TIME LIMITATION.*—*Agencies shall implement the*
23 *requirements of this section consistent with a timetable es-*
24 *tablished by the Director and reported to Congress in the*

1 *first annual report under section 3606 of title 44 (as added*
2 *by this Act).*

3 **SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION**
4 **OF GOVERNMENT INFORMATION.**

5 (a) *PURPOSE.*—*The purpose of this section is to im-*
6 *prove the methods by which Government information, in-*
7 *cluding information on the Internet, is organized, pre-*
8 *served, and made accessible to the public.*

9 (b) *DEFINITIONS.*—*In this section, the term—*

10 (1) *“Committee” means the Interagency Com-*
11 *mittee on Government Information established under*
12 *subsection (c); and*

13 (2) *“directory” means a taxonomy of subjects*
14 *linked to websites that—*

15 (A) *organizes Government information on*
16 *the Internet according to subject matter; and*

17 (B) *may be created with the participation*
18 *of human editors.*

19 (c) *INTERAGENCY COMMITTEE.*—

20 (1) *ESTABLISHMENT.*—*Not later than 180 days*
21 *after the date of enactment of this title, the Director*
22 *shall establish the Interagency Committee on Govern-*
23 *ment Information.*

1 (2) *MEMBERSHIP.*—*The Committee shall be*
2 *chaired by the Director or the designee of the Director*
3 *and—*

4 (A) *shall include representatives from—*

5 (i) *the National Archives and Records*
6 *Administration;*

7 (ii) *the offices of the Chief Information*
8 *Officers from Federal agencies; and*

9 (iii) *other relevant officers from the ex-*
10 *ecutive branch; and*

11 (B) *may include representatives from the*
12 *Federal legislative and judicial branches.*

13 (3) *FUNCTIONS.*—*The Committee shall—*

14 (A) *engage in public consultation to the*
15 *maximum extent feasible, including consultation*
16 *with interested communities such as public advo-*
17 *cacy organizations;*

18 (B) *conduct studies and submit rec-*
19 *ommendations, as provided under this section, to*
20 *the Director and Congress; and*

21 (C) *share effective practices for access to,*
22 *dissemination of, and retention of Federal infor-*
23 *mation.*

24 (4) *TERMINATION.*—*The Committee may be ter-*
25 *minated on a date determined by the Director, except*

1 *the Committee may not terminate before the Com-*
2 *mittee submits all recommendations required under*
3 *this section.*

4 *(d) CATEGORIZING OF INFORMATION.—*

5 *(1) COMMITTEE FUNCTIONS.—Not later than 2*
6 *years after the date of enactment of this Act, the Com-*
7 *mittee shall submit recommendations to the Director*
8 *on—*

9 *(A) the adoption of standards, which are*
10 *open to the maximum extent feasible, to enable*
11 *the organization and categorization of Govern-*
12 *ment information—*

13 *(i) in a way that is searchable elec-*
14 *tronically, including by searchable identi-*
15 *fiers; and*

16 *(iii) in ways that are interoperable*
17 *across agencies;*

18 *(B) the definition of categories of Govern-*
19 *ment information which should be classified*
20 *under the standards; and*

21 *(C) determining priorities and developing*
22 *schedules for the initial implementation of the*
23 *standards by agencies.*

24 *(2) FUNCTIONS OF THE DIRECTOR.—Not later*
25 *than 1 year after the submission of recommendations*

1 *under paragraph (1), the Director shall issue poli-*
2 *cies—*

3 *(A) requiring that agencies use standards,*
4 *which are open to the maximum extent feasible,*
5 *to enable the organization and categorization of*
6 *Government information—*

7 *(i) in a way that is searchable elec-*
8 *tronically, including by searchable identi-*
9 *fiers;*

10 *(ii) in ways that are interoperable*
11 *across agencies; and*

12 *(iii) that are, as appropriate, con-*
13 *sistent with the standards promulgated by*
14 *the Secretary of Commerce under section*
15 *3602(f)(8) of title 44, United States Code;*

16 *(B) defining categories of Government infor-*
17 *mation which shall be required to be classified*
18 *under the standards; and*

19 *(C) determining priorities and developing*
20 *schedules for the initial implementation of the*
21 *standards by agencies.*

22 *(3) MODIFICATION OF POLICIES.—After the sub-*
23 *mission of agency reports under paragraph (4), the*
24 *Director shall modify the policies, as needed, in con-*
25 *sultation with the Committee and interested parties.*

1 (4) *AGENCY FUNCTIONS.*—*Each agency shall re-*
2 *port annually to the Director, in the report estab-*
3 *lished under section 202(g), on compliance of that*
4 *agency with the policies issued under paragraph*
5 *(2)(A).*

6 (e) *PUBLIC ACCESS TO ELECTRONIC INFORMATION.*—

7 (1) *COMMITTEE FUNCTIONS.*—*Not later than 2*
8 *years after the date of enactment of this Act, the Com-*
9 *mittee shall submit recommendations to the Director*
10 *and the Archivist of the United States on—*

11 (A) *the adoption by agencies of policies and*
12 *procedures to ensure that chapters 21, 25, 27, 29,*
13 *and 31 of title 44, United States Code, are ap-*
14 *plied effectively and comprehensively to Govern-*
15 *ment information on the Internet and to other*
16 *electronic records; and*

17 (B) *the imposition of timetables for the im-*
18 *plementation of the policies and procedures by*
19 *agencies.*

20 (2) *FUNCTIONS OF THE ARCHIVIST.*—*Not later*
21 *than 1 year after the submission of recommendations*
22 *by the Committee under paragraph (1), the Archivist*
23 *of the United States shall issue policies—*

24 (A) *requiring the adoption by agencies of*
25 *policies and procedures to ensure that chapters*

1 21, 25, 27, 29, and 31 of title 44, United States
2 Code, are applied effectively and comprehensively
3 to Government information on the Internet and
4 to other electronic records; and

5 (B) imposing timetables for the implemen-
6 tation of the policies, procedures, and tech-
7 nologies by agencies.

8 (3) *MODIFICATION OF POLICIES.*—After the sub-
9 mission of agency reports under paragraph (4), the
10 Archivist of the United States shall modify the poli-
11 cies, as needed, in consultation with the Committee
12 and interested parties.

13 (4) *AGENCY FUNCTIONS.*—Each agency shall re-
14 port annually to the Director, in the report estab-
15 lished under section 202(g), on compliance of that
16 agency with the policies issued under paragraph
17 (2)(A).

18 (f) *AGENCY WEBSITES.*—

19 (1) *STANDARDS FOR AGENCY WEBSITES.*—Not
20 later than 2 years after the effective date of this title,
21 the Director shall promulgate guidance for agency
22 websites that includes—

23 (A) requirements that websites include di-
24 rect links to—

1 (i) descriptions of the mission and
2 statutory authority of the agency;

3 (ii) information made available to the
4 public under subsections (a)(1) and (b) of
5 section 552 of title 5, United States Code
6 (commonly referred to as the “Freedom of
7 Information Act”);

8 (iii) information about the organiza-
9 tional structure of the agency; and

10 (iv) the strategic plan of the agency de-
11 veloped under section 306 of title 5, United
12 States Code; and

13 (B) minimum agency goals to assist public
14 users to navigate agency websites, including—

15 (i) speed of retrieval of search results;

16 (ii) the relevance of the results;

17 (iii) tools to aggregate and
18 disaggregate data; and

19 (iv) security protocols to protect infor-
20 mation.

21 (2) AGENCY REQUIREMENTS.—(A) Not later than
22 2 years after the date of enactment of this Act, each
23 agency shall—

24 (i) consult with the Committee and solicit
25 public comment;

1 (ii) establish a process for determining
2 which Government information the agency in-
3 tends to make available and accessible to the
4 public on the Internet and by other means;

5 (iii) develop priorities and schedules for
6 making Government information available and
7 accessible;

8 (iv) make such final determinations, prior-
9 ities, and schedules available for public comment;

10 (v) post such final determinations, prior-
11 ities, and schedules on the Internet; and

12 (vi) submit such final determinations, pri-
13 orities, and schedules to the Director, in the re-
14 port established under section 202(g).

15 (B) Each agency shall update determinations,
16 priorities, and schedules of the agency, as needed,
17 after consulting with the Committee and soliciting
18 public comment, if appropriate.

19 (3) *PUBLIC DOMAIN DIRECTORY OF PUBLIC FED-*
20 *ERAL GOVERNMENT WEBSITES.—*

21 (A) *ESTABLISHMENT.—*Not later than 2
22 years after the effective date of this title, the Di-
23 rector and each agency shall—

1 (i) develop and establish a public do-
2 main directory of public Federal Govern-
3 ment websites; and

4 (ii) post the directory on the Internet
5 with a link to the integrated Internet-based
6 system established under section 204.

7 (B) *DEVELOPMENT.*—With the assistance of
8 each agency, the Director shall—

9 (i) direct the development of the direc-
10 tory through a collaborative effort, includ-
11 ing input from—

12 (I) agency librarians;

13 (II) information technology man-
14 agers;

15 (III) program managers;

16 (IV) records managers;

17 (V) Federal depository librarians;

18 and

19 (VI) other interested parties; and

20 (ii) develop a public domain taxonomy
21 of subjects used to review and categorize
22 public Federal Government websites.

23 (C) *UPDATE.*—With the assistance of each
24 agency, the Administrator of the Office of Elec-
25 tronic Government shall—

- 1 (i) update the directory as necessary,
2 but not less than every 6 months; and
3 (ii) solicit interested persons for im-
4 provements to the directory.

5 (g) *ACCESS TO FEDERALLY FUNDED RESEARCH AND*
6 *DEVELOPMENT.*—

7 (1) *DEVELOPMENT AND MAINTENANCE OF GOV-*
8 *ERNMENTWIDE REPOSITORY AND WEBSITE.*—

9 (A) *REPOSITORY AND WEBSITE.*—*The Di-*
10 *rector of the Office of Management and Budget,*
11 *in consultation with the Director of the Office of*
12 *Science and Technology Policy and other rel-*
13 *evant agencies, shall ensure the development and*
14 *maintenance of—*

15 (i) *a repository that fully integrates, to*
16 *the maximum extent feasible, information*
17 *about research and development funded by*
18 *the Federal Government, and the repository*
19 *shall—*

20 (I) *include information about re-*
21 *search and development funded by the*
22 *Federal Government, consistent with*
23 *any relevant protections for the infor-*
24 *mation under section 552 of title 5,*

1 *United States Code, and performed*
2 *by—*

3 *(aa) institutions not a part*
4 *of the Federal Government, in-*
5 *cluding State, local, and foreign*
6 *governments; industrial firms;*
7 *educational institutions; not-for-*
8 *profit organizations; federally*
9 *funded research and development*
10 *centers; and private individuals;*
11 *and*

12 *(bb) entities of the Federal*
13 *Government, including research*
14 *and development laboratories, cen-*
15 *ters, and offices; and*

16 *(II) integrate information about each*
17 *separate research and development task or*
18 *award, including—*

19 *(aa) the dates upon which*
20 *the task or award is expected to*
21 *start and end;*

22 *(bb) a brief summary de-*
23 *scribing the objective and the sci-*
24 *entific and technical focus of the*
25 *task or award;*

1 (cc) *the entity or institution*
2 *performing the task or award and*
3 *its contact information;*

4 (dd) *the total amount of Fed-*
5 *eral funds expected to be provided*
6 *to the task or award over its life-*
7 *time and the amount of funds ex-*
8 *pected to be provided in each fis-*
9 *cal year in which the work of the*
10 *task or award is ongoing;*

11 (ee) *any restrictions attached*
12 *to the task or award that would*
13 *prevent the sharing with the gen-*
14 *eral public of any or all of the in-*
15 *formation required by this sub-*
16 *section, and the reasons for such*
17 *restrictions; and*

18 (ff) *such other information as*
19 *may be determined to be appro-*
20 *priate; and*

21 (ii) *1 or more websites upon which all*
22 *or part of the repository of Federal research*
23 *and development shall be made available to*
24 *and searchable by Federal agencies and*

1 *non-Federal entities, including the general*
2 *public, to facilitate—*

3 *(I) the coordination of Federal re-*
4 *search and development activities;*

5 *(II) collaboration among those*
6 *conducting Federal research and devel-*
7 *opment;*

8 *(III) the transfer of technology*
9 *among Federal agencies and between*
10 *Federal agencies and non-Federal enti-*
11 *ties; and*

12 *(IV) access by policymakers and*
13 *the public to information concerning*
14 *Federal research and development ac-*
15 *tivities.*

16 *(B) OVERSIGHT.—The Director of the Office*
17 *of Management and Budget shall issue any guid-*
18 *ance determined necessary to ensure that agen-*
19 *cies provide all information requested under this*
20 *subsection.*

21 *(2) AGENCY FUNCTIONS.—Any agency that funds*
22 *Federal research and development under this sub-*
23 *section shall provide the information required to pop-*
24 *ulate the repository in the manner prescribed by the*
25 *Director of the Office of Management and Budget.*

1 (3) *COMMITTEE FUNCTIONS.*—Not later than 18
2 months after the date of enactment of this Act, work-
3 ing with the Director of the Office of Science and
4 Technology Policy, and after consultation with inter-
5 ested parties, the Committee shall submit rec-
6 ommendations to the Director on—

7 (A) policies to improve agency reporting of
8 information for the repository established under
9 this subsection; and

10 (B) policies to improve dissemination of the
11 results of research performed by Federal agencies
12 and federally funded research and development
13 centers.

14 (4) *FUNCTIONS OF THE DIRECTOR.*—After sub-
15 mission of recommendations by the Committee under
16 paragraph (3), the Director shall report on the rec-
17 ommendations of the Committee and Director to Con-
18 gress, in the E-Government report under section 3606
19 of title 44 (as added by this Act).

20 (5) *AUTHORIZATION OF APPROPRIATIONS.*—
21 There are authorized to be appropriated for the devel-
22 opment, maintenance, and operation of the Govern-
23 mentwide repository and website under this sub-
24 section—

1 (A) \$2,000,000 in each of the fiscal years
2 2003 through 2005; and

3 (B) such sums as are necessary in each of
4 the fiscal years 2006 and 2007.

5 **SEC. 208. PRIVACY PROVISIONS.**

6 (a) *PURPOSE.*—The purpose of this section is to ensure
7 sufficient protections for the privacy of personal informa-
8 tion as agencies implement citizen-centered electronic Gov-
9 ernment.

10 (b) *PRIVACY IMPACT ASSESSMENTS.*—

11 (1) *RESPONSIBILITIES OF AGENCIES.*—

12 (A) *IN GENERAL.*—An agency shall take ac-
13 tions described under subparagraph (B) before
14 developing or procuring information technology
15 that collects, maintains, or disseminates infor-
16 mation that is in an identifiable form.

17 (B) *AGENCY ACTIVITIES.*—To the extent re-
18 quired under subparagraph (A), each agency
19 shall—

20 (i) conduct a privacy impact assess-
21 ment;

22 (ii) ensure the review of the privacy
23 impact assessment by the Chief Information
24 Officer, or equivalent official, as determined
25 by the head of the agency; and

1 (iii) if practicable, after completion of
2 the review under clause (ii), make the pri-
3 vacy impact assessment publicly available
4 through the website of the agency, publica-
5 tion in the *Federal Register*, or other
6 means.

7 (C) *SENSITIVE INFORMATION*.—Subpara-
8 graph (B)(iii) may be modified or waived for se-
9 curity reasons, or to protect classified, sensitive,
10 or private information contained in an assess-
11 ment.

12 (D) *COPY TO DIRECTOR*.—Agencies shall
13 provide the Director with a copy of the privacy
14 impact assessment for each system for which
15 funding is requested.

16 (2) *CONTENTS OF A PRIVACY IMPACT ASSESS-*
17 *MENT*.—

18 (A) *IN GENERAL*.—The Director shall issue
19 guidance to agencies specifying the required con-
20 tents of a privacy impact assessment.

21 (B) *GUIDANCE*.—The guidance shall—

22 (i) ensure that a privacy impact as-
23 sessment is commensurate with the size of
24 the information system being assessed, the
25 sensitivity of information that is in an

1 *identifiable form in that system, and the*
2 *risk of harm from unauthorized release of*
3 *that information; and*

4 *(ii) require that a privacy impact as-*
5 *essment address—*

6 *(I) what information is to be col-*
7 *lected;*

8 *(II) why the information is being*
9 *collected;*

10 *(III) the intended use of the agen-*
11 *cy of the information;*

12 *(IV) with whom the information*
13 *will be shared;*

14 *(V) what notice or opportunities*
15 *for consent would be provided to indi-*
16 *viduals regarding what information is*
17 *collected and how that information is*
18 *shared;*

19 *(VI) how the information will be*
20 *secured; and*

21 *(VII) whether a system of records*
22 *is being created under section 552a of*
23 *title 5, United States Code, (commonly*
24 *referred to as the “Privacy Act”).*

1 (3) *RESPONSIBILITIES OF THE DIRECTOR.*—*The*
2 *Director shall—*

3 (A) *develop policies and guidelines for agen-*
4 *cies on the conduct of privacy impact assess-*
5 *ments;*

6 (B) *oversee the implementation of the pri-*
7 *vacancy impact assessment process throughout the*
8 *Government; and*

9 (C) *require agencies to conduct privacy im-*
10 *pact assessments of existing information systems*
11 *or ongoing collections of information that is in*
12 *an identifiable form as the Director determines*
13 *appropriate.*

14 (c) *PRIVACY PROTECTIONS ON AGENCY WEBSITES.*—

15 (1) *PRIVACY POLICIES ON WEBSITES.*—

16 (A) *GUIDELINES FOR NOTICES.*—*The Direc-*
17 *tor shall develop guidance for privacy notices on*
18 *agency websites used by the public.*

19 (B) *CONTENTS.*—*The guidance shall require*
20 *that a privacy notice address, consistent with*
21 *section 552a of title 5, United States Code—*

22 (i) *what information is to be collected;*

23 (ii) *why the information is being col-*
24 *lected;*

1 (iii) the intended use of the agency of
2 the information;

3 (iv) with whom the information will be
4 shared;

5 (v) what notice or opportunities for
6 consent would be provided to individuals re-
7 garding what information is collected and
8 how that information is shared;

9 (vi) how the information will be se-
10 cured; and

11 (vii) the rights of the individual under
12 section 552a of title 5, United States Code
13 (commonly referred to as the “Privacy
14 Act”), and other laws relevant to the protec-
15 tion of the privacy of an individual.

16 (2) *PRIVACY POLICIES IN MACHINE-READABLE*
17 *FORMATS.*—The Director shall issue guidance requir-
18 ing agencies to translate privacy policies into a
19 standardized machine-readable format.

20 (d) *DEFINITION.*—In this section, the term
21 “identifiable form” means any representation of informa-
22 tion that permits the identity of an individual to whom
23 the information applies to be reasonably inferred by either
24 direct or indirect means.

1 **SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORK-**
2 **FORCE DEVELOPMENT.**

3 (a) *PURPOSE.*—*The purpose of this section is to im-*
4 *prove the skills of the Federal workforce in using informa-*
5 *tion technology to deliver Government information and*
6 *services.*

7 (b) *WORKFORCE DEVELOPMENT.*—

8 (1) *IN GENERAL.*—*In consultation with the Di-*
9 *rector, the Chief Information Officers Council, and*
10 *the Administrator of General Services, the Director of*
11 *the Office of Personnel Management shall—*

12 (A) *analyze, on an ongoing basis, the per-*
13 *sonnel needs of the Federal Government related*
14 *to information technology and information re-*
15 *source management;*

16 (B) *oversee the development of curricula,*
17 *training methods, and training priorities that*
18 *correspond to the projected personnel needs of the*
19 *Federal Government related to information tech-*
20 *nology and information resource management;*
21 *and*

22 (C) *assess the training of Federal employees*
23 *in information technology disciplines, as nec-*
24 *essary, in order to ensure that the information*
25 *resource management needs of the Federal Gov-*
26 *ernment are addressed.*

1 (2) *AUTHORITY TO DETAIL EMPLOYEES TO NON-*
2 *FEDERAL EMPLOYERS.*—*In carrying out paragraph*
3 *(1), the Director of the Office of Personnel Manage-*
4 *ment may provide for a program under which a Fed-*
5 *eral employee may be detailed to a non-Federal em-*
6 *ployer. The Director of the Office of Personnel Man-*
7 *agement shall prescribe regulations for such program,*
8 *including the conditions for service and duties as the*
9 *Director considers necessary.*

10 (3) *COORDINATION PROVISION.*—*An assignment*
11 *described in section 3703 of title 5, United States*
12 *Code, shall be made only in accordance with the pro-*
13 *gram established under paragraph (2), if any.*

14 (4) *EMPLOYEE PARTICIPATION.*—*Subject to in-*
15 *formation resource management needs and the limita-*
16 *tions imposed by resource needs in other occupational*
17 *areas, and consistent with their overall workforce de-*
18 *velopment strategies, agencies shall encourage employ-*
19 *ees to participate in occupational information tech-*
20 *nology training.*

21 (5) *AUTHORIZATION OF APPROPRIATIONS.*—
22 *There are authorized to be appropriated to the Office*
23 *of Personnel Management for the implementation of*
24 *this subsection, \$7,000,000 in fiscal year 2003, and*

1 *such sums as are necessary for each fiscal year there-*
 2 *after.*

3 (c) *INFORMATION TECHNOLOGY EXCHANGE PRO-*
 4 *GRAM.—*

5 (1) *IN GENERAL.—Subpart B of part III of title*
 6 *5, United States Code, is amended by adding at the*
 7 *end the following:*

8 **“CHAPTER 37—INFORMATION**
 9 **TECHNOLOGY EXCHANGE PROGRAM**

“Sec.

“3701. *Definitions.*

“3702. *General provisions.*

“3703. *Assignment of employees to private sector organizations.*

“3704. *Assignment of employees from private sector organizations.*

“3705. *Application to Office of the Chief Technology Officer of the District of Co-*
lumbia.

“3706. *Reporting requirement.*

“3707. *Regulations.*

10 **“§ 3701. Definitions**

11 *“For purposes of this chapter—*

12 *“(1) the term ‘agency’ means an Executive agen-*
 13 *cy, but does not include the General Accounting Of-*
 14 *fice; and*

15 *“(2) the term ‘detail’ means—*

16 *“(A) the assignment or loan of an employee*
 17 *of an agency to a private sector organization*
 18 *without a change of position from the agency*
 19 *that employs the individual, or*

20 *“(B) the assignment or loan of an employee*
 21 *of a private sector organization to an agency*

1 *without a change of position from the private*
2 *sector organization that employs the individual,*
3 *whichever is appropriate in the context in which such*
4 *term is used.*

5 **“§ 3702. General provisions**

6 “(a) *ASSIGNMENT AUTHORITY.*—*On request from or*
7 *with the agreement of a private sector organization, and*
8 *with the consent of the employee concerned, the head of an*
9 *agency may arrange for the assignment of an employee of*
10 *the agency to a private sector organization or an employee*
11 *of a private sector organization to the agency. An eligible*
12 *employee is an individual who—*

13 “(1) *works in the field of information technology*
14 *management;*

15 “(2) *is considered an exceptional performer by*
16 *the individual’s current employer; and*

17 “(3) *is expected to assume increased information*
18 *technology management responsibilities in the future.*

19 *An employee of an agency shall be eligible to participate*
20 *in this program only if the employee is employed at the*
21 *GS–11 level or above (or equivalent) and is serving under*
22 *a career or career-conditional appointment or an appoint-*
23 *ment of equivalent tenure in the excepted service, and appli-*
24 *cable requirements of section 209(b) of the E-Government*

1 *Act of 2002 are met with respect to the proposed assignment*
2 *of such employee.*

3 “(b) *AGREEMENTS.*—*Each agency that exercises its*
4 *authority under this chapter shall provide for a written*
5 *agreement between the agency and the employee concerned*
6 *regarding the terms and conditions of the employee’s assign-*
7 *ment. In the case of an employee of the agency, the agree-*
8 *ment shall—*

9 “(1) *require the employee to serve in the civil*
10 *service, upon completion of the assignment, for a pe-*
11 *riod equal to the length of the assignment; and*

12 “(2) *provide that, in the event the employee fails*
13 *to carry out the agreement (except for good and suffi-*
14 *cient reason, as determined by the head of the agency*
15 *from which assigned) the employee shall be liable to*
16 *the United States for payment of all expenses of the*
17 *assignment.*

18 *An amount under paragraph (2) shall be treated as a debt*
19 *due the United States.*

20 “(c) *TERMINATION.*—*Assignments may be terminated*
21 *by the agency or private sector organization concerned for*
22 *any reason at any time.*

23 “(d) *DURATION.*—*Assignments under this chapter*
24 *shall be for a period of between 3 months and 1 year, and*
25 *may be extended in 3-month increments for a total of not*

1 *more than 1 additional year, except that no assignment*
2 *under this chapter may commence after the end of the 5-*
3 *year period beginning on the date of the enactment of this*
4 *chapter.*

5 “(e) ASSISTANCE.—*The Chief Information Officers*
6 *Council, by agreement with the Office of Personnel Manage-*
7 *ment, may assist in the administration of this chapter, in-*
8 *cluding by maintaining lists of potential candidates for as-*
9 *signment under this chapter, establishing mentoring rela-*
10 *tionships for the benefit of individuals who are given as-*
11 *signments under this chapter, and publicizing the program.*

12 “(f) CONSIDERATIONS.—*In exercising any authority*
13 *under this chapter, an agency shall take into consider-*
14 *ation—*

15 “(1) *the need to ensure that small business con-*
16 *cerns are appropriately represented with respect to*
17 *the assignments described in sections 3703 and 3704,*
18 *respectively; and*

19 “(2) *how assignments described in section 3703*
20 *might best be used to help meet the needs of the agen-*
21 *cy for the training of employees in information tech-*
22 *nology management.*

1 **“§ 3703. Assignment of employees to private sector or-**
2 **ganizations**

3 “(a) *IN GENERAL.*—An employee of an agency as-
4 signed to a private sector organization under this chapter
5 is deemed, during the period of the assignment, to be on
6 detail to a regular work assignment in his agency.

7 “(b) *COORDINATION WITH CHAPTER 81.*—Notwith-
8 standing any other provision of law, an employee of an
9 agency assigned to a private sector organization under this
10 chapter is entitled to retain coverage, rights, and benefits
11 under subchapter I of chapter 81, and employment during
12 the assignment is deemed employment by the United States,
13 except that, if the employee or the employee’s dependents
14 receive from the private sector organization any payment
15 under an insurance policy for which the premium is wholly
16 paid by the private sector organization, or other benefit of
17 any kind on account of the same injury or death, then, the
18 amount of such payment or benefit shall be credited against
19 any compensation otherwise payable under subchapter I of
20 chapter 81.

21 “(c) *REIMBURSEMENTS.*—The assignment of an em-
22 ployee to a private sector organization under this chapter
23 may be made with or without reimbursement by the private
24 sector organization for the travel and transportation ex-
25 penses to or from the place of assignment, subject to the
26 same terms and conditions as apply with respect to an em-

1 *ployee of a Federal agency or a State or local government*
2 *under section 3375, and for the pay, or a part thereof, of*
3 *the employee during assignment. Any reimbursements shall*
4 *be credited to the appropriation of the agency used for pay-*
5 *ing the travel and transportation expenses or pay.*

6 “(d) *TORT LIABILITY; SUPERVISION.—The Federal*
7 *Tort Claims Act and any other Federal tort liability statute*
8 *apply to an employee of an agency assigned to a private*
9 *sector organization under this chapter. The supervision of*
10 *the duties of an employee of an agency so assigned to a*
11 *private sector organization may be governed by an agree-*
12 *ment between the agency and the organization.*

13 “(e) *SMALL BUSINESS CONCERNS.—*

14 “(1) *IN GENERAL.—The head of each agency*
15 *shall take such actions as may be necessary to ensure*
16 *that, of the assignments made under this chapter from*
17 *such agency to private sector organizations in each*
18 *year, at least 20 percent are to small business con-*
19 *cerns.*

20 “(2) *DEFINITIONS.—For purposes of this sub-*
21 *section—*

22 “(A) *the term ‘small business concern’*
23 *means a business concern that satisfies the defi-*
24 *initions and standards specified by the Adminis-*
25 *trator of the Small Business Administration*

1 *under section 3(a)(2) of the Small Business Act*
2 *(as from time to time amended by the Adminis-*
3 *trator);*

4 *“(B) the term ‘year’ refers to the 12-month*
5 *period beginning on the date of the enactment of*
6 *this chapter, and each succeeding 12-month pe-*
7 *riod in which any assignments under this chap-*
8 *ter may be made; and*

9 *“(C) the assignments ‘made’ in a year are*
10 *those commencing in such year.*

11 *“(3) REPORTING REQUIREMENT.—An agency*
12 *which fails to comply with paragraph (1) in a year*
13 *shall, within 90 days after the end of such year, sub-*
14 *mit a report to the Committees on Government Re-*
15 *form and Small Business of the House of Representa-*
16 *tives and the Committees on Governmental Affairs*
17 *and Small Business of the Senate. The report shall*
18 *include—*

19 *“(A) the total number of assignments made*
20 *under this chapter from such agency to private*
21 *sector organizations in the year;*

22 *“(B) of that total number, the number (and*
23 *percentage) made to small business concerns; and*

24 *“(C) the reasons for the agency’s noncompli-*
25 *ance with paragraph (1).*

1 “(D) *the Federal Tort Claims Act and any*
2 *other Federal tort liability statute;*

3 “(E) *the Ethics in Government Act of 1978;*

4 “(F) *section 1043 of the Internal Revenue*
5 *Code of 1986; and*

6 “(G) *section 27 of the Office of Federal Pro-*
7 *curement Policy Act;*

8 “(3) *may not have access to any trade secrets or*
9 *to any other nonpublic information which is of com-*
10 *mercial value to the private sector organization from*
11 *which he is assigned; and*

12 “(4) *is subject to such regulations as the Presi-*
13 *dent may prescribe.*

14 *The supervision of an employee of a private sector organiza-*
15 *tion assigned to an agency under this chapter may be gov-*
16 *erned by agreement between the agency and the private sec-*
17 *tor organization concerned. Such an assignment may be*
18 *made with or without reimbursement by the agency for the*
19 *pay, or a part thereof, of the employee during the period*
20 *of assignment, or for any contribution of the private sector*
21 *organization to employee benefit systems.*

22 “(c) *COORDINATION WITH CHAPTER 81.—An em-*
23 *ployee of a private sector organization assigned to an agen-*
24 *cy under this chapter who suffers disability or dies as a*
25 *result of personal injury sustained while performing duties*

1 *during the assignment shall be treated, for the purpose of*
2 *subchapter I of chapter 81, as an employee as defined by*
3 *section 8101 who had sustained the injury in the perform-*
4 *ance of duty, except that, if the employee or the employee's*
5 *dependents receive from the private sector organization any*
6 *payment under an insurance policy for which the premium*
7 *is wholly paid by the private sector organization, or other*
8 *benefit of any kind on account of the same injury or death,*
9 *then, the amount of such payment or benefit shall be cred-*
10 *ited against any compensation otherwise payable under*
11 *subchapter I of chapter 81.*

12 “(d) *PROHIBITION AGAINST CHARGING CERTAIN*
13 *COSTS TO THE FEDERAL GOVERNMENT.—A private sector*
14 *organization may not charge the Federal Government, as*
15 *direct or indirect costs under a Federal contract, the costs*
16 *of pay or benefits paid by the organization to an employee*
17 *assigned to an agency under this chapter for the period of*
18 *the assignment.*

19 **“§3705. Application to Office of the Chief Technology**
20 **Officer of the District of Columbia**

21 “(a) *IN GENERAL.—The Chief Technology Officer of*
22 *the District of Columbia may arrange for the assignment*
23 *of an employee of the Office of the Chief Technology Officer*
24 *to a private sector organization, or an employee of a private*

1 *sector organization to such Office, in the same manner as*
2 *the head of an agency under this chapter.*

3 “(b) *TERMS AND CONDITIONS.*—*An assignment made*
4 *pursuant to subsection (a) shall be subject to the same terms*
5 *and conditions as an assignment made by the head of an*
6 *agency under this chapter, except that in applying such*
7 *terms and conditions to an assignment made pursuant to*
8 *subsection (a), any reference in this chapter to a provision*
9 *of law or regulation of the United States shall be deemed*
10 *to be a reference to the applicable provision of law or regu-*
11 *lation of the District of Columbia, including the applicable*
12 *provisions of the District of Columbia Government Com-*
13 *prehensive Merit Personnel Act of 1978 (sec. 1–601.01 et*
14 *seq., D.C. Official Code) and section 601 of the District of*
15 *Columbia Campaign Finance Reform and Conflict of Inter-*
16 *est Act (sec. 1–1106.01, D.C. Official Code).*

17 “(c) *DEFINITION.*—*For purposes of this section, the*
18 *term ‘Office of the Chief Technology Officer’ means the office*
19 *established in the executive branch of the government of the*
20 *District of Columbia under the Office of the Chief Tech-*
21 *nology Officer Establishment Act of 1998 (sec. 1–1401 et*
22 *seq., D.C. Official Code).*

23 **“§ 3706. Reporting requirement**

24 “(a) *IN GENERAL.*—*The Office of Personnel Manage-*
25 *ment shall, not later than April 30 and October 31 of each*

1 *year, prepare and submit to the Committee on Government*
2 *Reform of the House of Representatives and the Committee*
3 *on Governmental Affairs of the Senate a semiannual report*
4 *summarizing the operation of this chapter during the im-*
5 *mediately preceding 6-month period ending on March 31*
6 *and September 30, respectively.*

7 “(b) *CONTENT.—Each report shall include, with re-*
8 *spect to the 6-month period to which such report relates—*

9 “(1) *the total number of individuals assigned to,*
10 *and the total number of individuals assigned from,*
11 *each agency during such period;*

12 “(2) *a brief description of each assignment in-*
13 *cluded under paragraph (1), including—*

14 “(A) *the name of the assigned individual, as*
15 *well as the private sector organization and the*
16 *agency (including the specific bureau or other*
17 *agency component) to or from which such indi-*
18 *vidual was assigned;*

19 “(B) *the respective positions to and from*
20 *which the individual was assigned, including the*
21 *duties and responsibilities and the pay grade or*
22 *level associated with each; and*

23 “(C) *the duration and objectives of the indi-*
24 *vidual’s assignment; and*

1 “(3) such other information as the Office con-
2 siders appropriate.

3 “(c) *PUBLICATION.*—A copy of each report submitted
4 under subsection (a)—

5 “(1) shall be published in the *Federal Register*;
6 and

7 “(2) shall be made publicly available on the
8 *Internet*.

9 “(d) *AGENCY COOPERATION.*—On request of the Office,
10 agencies shall furnish such information and reports as the
11 Office may require in order to carry out this section.

12 **“§ 3707. Regulations**

13 “The Director of the Office of Personnel Management
14 shall prescribe regulations for the administration of this
15 chapter.”.

16 (2) *REPORT.*—Not later than 4 years after the
17 date of the enactment of this Act, the General Ac-
18 counting Office shall prepare and submit to the Com-
19 mittee on Government Reform of the House of Rep-
20 resentatives and the Committee on Governmental Af-
21 fairs of the Senate a report on the operation of chap-
22 ter 37 of title 5, United States Code (as added by this
23 subsection). Such report shall include—

24 (A) an evaluation of the effectiveness of the
25 program established by such chapter; and

1 (B) a recommendation as to whether such
2 program should be continued (with or without
3 modification) or allowed to lapse.

4 (3) *CLERICAL AMENDMENT.*—The analysis for
5 part III of title 5, United States Code, is amended by
6 inserting after the item relating to chapter 35 the fol-
7 lowing:

“37. Information Technology Exchange Program 3701”.

8 (d) *ETHICS PROVISIONS.*—

9 (1) *ONE-YEAR RESTRICTION ON CERTAIN COMMU-*
10 *NICATIONS.*—Section 207(c)(2)(A) of title 18, United
11 States Code, is amended—

12 (A) by striking “or” at the end of clause
13 (iii);

14 (B) by striking the period at the end of
15 clause (iv) and inserting “; or”; and

16 (C) by adding at the end the following:

17 “(v) assigned from a private sector organi-
18 zation to an agency under chapter 37 of title 5.”.

19 (2) *DISCLOSURE OF CONFIDENTIAL INFORMA-*
20 *TION.*—Section 1905 of title 18, United States Code,
21 is amended by inserting “or being an employee of a
22 private sector organization who is or was assigned to
23 an agency under chapter 37 of title 5,” after “(15
24 U.S.C. 1311–1314),”.

1 (3) *CONTRACT ADVICE.*—Section 207 of title 18,
2 *United States Code, is amended by adding at the end*
3 *the following:*

4 “(1) *CONTRACT ADVICE BY FORMER DETAILS.*—Who-
5 *ever, being an employee of a private sector organization as-*
6 *signed to an agency under chapter 37 of title 5, within one*
7 *year after the end of that assignment, knowingly represents*
8 *or aids, counsels, or assists in representing any other person*
9 *(except the United States) in connection with any contract*
10 *with that agency shall be punished as provided in section*
11 *216 of this title.”.*

12 (4) *RESTRICTION ON DISCLOSURE OF PROCURE-*
13 *MENT INFORMATION.*—Section 27 of the *Office of Fed-*
14 *eral Procurement Policy Act (41 U.S.C. 423) is*
15 *amended in subsection (a)(1) by adding at the end*
16 *the following new sentence: “In the case of an em-*
17 *ployee of a private sector organization assigned to an*
18 *agency under chapter 37 of title 5, United States*
19 *Code, in addition to the restriction in the preceding*
20 *sentence, such employee shall not, other than as pro-*
21 *vided by law, knowingly disclose contractor bid or*
22 *proposal information or source selection information*
23 *during the three-year period after the end of the as-*
24 *signment of such employee.”.*

25 (e) *REPORT ON EXISTING EXCHANGE PROGRAMS.*—

1 (1) *EXCHANGE PROGRAM DEFINED.*—For pur-
2 poses of this subsection, the term “exchange program”
3 means an executive exchange program, the program
4 under subchapter VI of chapter 33 of title 5, United
5 States Code, and any other program which allows
6 for—

7 (A) the assignment of employees of the Fed-
8 eral Government to non-Federal employers;

9 (B) the assignment of employees of non-Fed-
10 eral employers to the Federal Government; or

11 (C) both.

12 (2) *REPORTING REQUIREMENT.*—Not later than
13 1 year after the date of the enactment of this Act, the
14 Office of Personnel Management shall prepare and
15 submit to the Committee on Government Reform of
16 the House of Representatives and the Committee on
17 Governmental Affairs of the Senate a report identi-
18 fying all existing exchange programs.

19 (3) *SPECIFIC INFORMATION.*—The report shall,
20 for each such program, include—

21 (A) a brief description of the program, in-
22 cluding its size, eligibility requirements, and
23 terms or conditions for participation;

24 (B) specific citation to the law or other au-
25 thority under which the program is established;

1 (C) the names of persons to contact for more
2 information, and how they may be reached; and

3 (D) any other information which the Office
4 considers appropriate.

5 (f) *REPORT ON THE ESTABLISHMENT OF A GOVERN-*
6 *MENTWIDE INFORMATION TECHNOLOGY TRAINING PRO-*
7 *GRAM.—*

8 (1) *IN GENERAL.—Not later January 1, 2003,*
9 *the Office of Personnel Management, in consultation*
10 *with the Chief Information Officers Council and the*
11 *Administrator of General Services, shall review and*
12 *submit to the Committee on Government Reform of*
13 *the House of Representatives and the Committee on*
14 *Governmental Affairs of the Senate a written report*
15 *on the following:*

16 (A) *The adequacy of any existing informa-*
17 *tion technology training programs available to*
18 *Federal employees on a Governmentwide basis.*

19 (B)(i) *If one or more such programs al-*
20 *ready exist, recommendations as to how they*
21 *might be improved.*

22 (ii) *If no such program yet exists, rec-*
23 *ommendations as to how such a program might*
24 *be designed and established.*

1 (C) *With respect to any recommendations*
2 *under subparagraph (B), how the program under*
3 *chapter 37 of title 5, United States Code, might*
4 *be used to help carry them out.*

5 (2) *COST ESTIMATE.—The report shall, for any*
6 *recommended program (or improvements) under*
7 *paragraph (1)(B), include the estimated costs associ-*
8 *ated with the implementation and operation of such*
9 *program as so established (or estimated difference in*
10 *costs of any such program as so improved).*

11 (g) *TECHNICAL AND CONFORMING AMENDMENTS.—*

12 (1) *AMENDMENTS TO TITLE 5, UNITED STATES*
13 *CODE.—Title 5, United States Code, is amended—*

14 (A) *in section 3111, by adding at the end*
15 *the following:*

16 “(d) *Notwithstanding section 1342 of title 31, the head*
17 *of an agency may accept voluntary service for the United*
18 *States under chapter 37 of this title and regulations of the*
19 *Office of Personnel Management.”;*

20 (B) *in section 4108, by striking subsection*
21 *(d); and*

22 (C) *in section 7353(b), by adding at the end*
23 *the following:*

24 “(4) *Nothing in this section precludes an employee of*
25 *a private sector organization, while assigned to an agency*

1 *under chapter 37, from continuing to receive pay and bene-*
2 *fits from such organization in accordance with such chap-*
3 *ter.”.*

4 (2) *AMENDMENT TO TITLE 18, UNITED STATES*
5 *CODE.—Section 209 of title 18, United States Code,*
6 *is amended by adding at the end the following:*

7 “(g)(1) *This section does not prohibit an employee of*
8 *a private sector organization, while assigned to an agency*
9 *under chapter 37 of title 5, from continuing to receive pay*
10 *and benefits from such organization in accordance with*
11 *such chapter.*

12 “(2) *For purposes of this subsection, the term ‘agency’*
13 *means an agency (as defined by section 3701 of title 5) and*
14 *the Office of the Chief Technology Officer of the District of*
15 *Columbia.”.*

16 (3) *OTHER AMENDMENTS.—Section 125(c)(1) of*
17 *Public Law 100–238 (5 U.S.C. 8432 note) is amend-*
18 *ed—*

19 (A) *in subparagraph (B), by striking “or”*
20 *at the end;*

21 (B) *in subparagraph (C), by striking “and”*
22 *at the end and inserting “or”; and*

23 (C) *by adding at the end the following:*

1 “(D) an individual assigned from a Federal
2 agency to a private sector organization under
3 chapter 37 of title 5, United States Code; and”.

4 **SEC. 210. SHARE-IN-SAVINGS INITIATIVES.**

5 (a) *DEFENSE CONTRACTS.*—(1) Chapter 137 of title
6 10, United States Code, is amended by adding at the end
7 the following new section:

8 **“§ 2332. Share-in-savings contracts**

9 “(a) *AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS*
10 *CONTRACTS.*—(1) The head of an agency may enter into
11 a share-in-savings contract for information technology (as
12 defined in section 11101(6) of title 40) in which the Govern-
13 ment awards a contract to improve mission-related or ad-
14 ministrative processes or to accelerate the achievement of
15 its mission and share with the contractor in savings
16 achieved through contract performance.

17 “(2)(A) Except as provided in subparagraph (B), a
18 share-in-savings contract shall be awarded for a period of
19 not more than five years.

20 “(B) A share-in-savings contract may be awarded for
21 a period greater than five years, but not more than 10
22 years, if the head of the agency determines in writing prior
23 to award of the contract that—

24 “(i) the level of risk to be assumed and the in-
25 vestment to be undertaken by the contractor is likely

1 to inhibit the government from obtaining the needed
2 information technology competitively at a fair and
3 reasonable price if the contract is limited in duration
4 to a period of five years or less; and

5 “(ii) usage of the information technology to be
6 acquired is likely to continue for a period of time suf-
7 ficient to generate reasonable benefit for the govern-
8 ment.

9 “(3) Contracts awarded pursuant to the authority of
10 this section shall, to the maximum extent practicable, be
11 performance-based contracts that identify objective out-
12 comes and contain performance standards that will be used
13 to measure achievement and milestones that must be met
14 before payment is made.

15 “(4) Contracts awarded pursuant to the authority of
16 this section shall include a provision containing a quantifi-
17 able baseline that is to be the basis upon which a savings
18 share ratio is established that governs the amount of pay-
19 ment a contractor is to receive under the contract. Before
20 commencement of performance of such a contract, the senior
21 procurement executive of the agency shall determine in
22 writing that the terms of the provision are quantifiable and
23 will likely yield value to the Government.

24 “(5)(A) The head of the agency may retain savings re-
25 alized through the use of a share-in-savings contract under

1 *this section that are in excess of the total amount of savings*
2 *paid to the contractor under the contract. Except as pro-*
3 *vided in subparagraph (B), savings shall be credited to the*
4 *appropriation or fund against which charges were made to*
5 *carry out the contract and shall be used for information*
6 *technology.*

7 “(B) Amounts retained by the agency under this sub-
8 section shall—

9 “(i) without further appropriation, remain
10 available until expended; and

11 “(ii) be applied first to fund any contingent li-
12 abilities associated with share-in-savings procure-
13 ments that are not fully funded.

14 “(b) CANCELLATION AND TERMINATION.—(1) If funds
15 are not made available for the continuation of a share-in-
16 savings contract entered into under this section in a subse-
17 quent fiscal year, the contract shall be canceled or termi-
18 nated. The costs of cancellation or termination may be paid
19 out of—

20 “(A) appropriations available for the perform-
21 ance of the contract;

22 “(B) appropriations available for acquisition of
23 the information technology procured under the con-
24 tract, and not otherwise obligated; or

1 “(C) funds subsequently appropriated for pay-
2 ments of costs of cancellation or termination, subject
3 to the limitations in paragraph (3).

4 “(2) The amount payable in the event of cancellation
5 or termination of a share-in-savings contract shall be nego-
6 tiated with the contractor at the time the contract is entered
7 into.

8 “(3)(A) Subject to subparagraph (B), the head of an
9 agency may enter into share-in-savings contracts under this
10 section in any given fiscal year even if funds are not made
11 specifically available for the full costs of cancellation or ter-
12 mination of the contract if funds are available and suffi-
13 cient to make payments with respect to the first fiscal year
14 of the contract and the following conditions are met regard-
15 ing the funding of cancellation and termination liability:

16 “(i) The amount of unfunded contingent liability
17 for the contract does not exceed the lesser of—

18 “(I) 25 percent of the estimated costs of a
19 cancellation or termination; or

20 “(II) \$5,000,000.

21 “(ii) Unfunded contingent liability in excess of
22 \$1,000,000 has been approved by the Director of the
23 Office of Management and Budget or the Director’s
24 designee.

1 “(B) *The aggregate number of share-in-savings con-*
2 *tracts that may be entered into under subparagraph (A)*
3 *by all agencies to which this chapter applies in a fiscal*
4 *year—*

5 “(i) *may not exceed 5, in each of fiscal years*
6 *2003, 2004, and 2005; and*

7 “(ii) *may not exceed 10, in each of fiscal years*
8 *2006, 2007, 2008, and 2009.*

9 “(c) *DEFINITIONS.—In this section:*

10 “(1) *The term ‘contractor’ means a private enti-*
11 *ty that enters into a contract with an agency.*

12 “(2) *The term ‘savings’ means—*

13 “(A) *monetary savings to an agency; or*

14 “(B) *savings in time or other benefits real-*
15 *ized by the agency, including enhanced revenues.*

16 “(3) *The term ‘share-in-savings contract’ means*
17 *a contract under which—*

18 “(A) *a contractor provides solutions for—*

19 “(i) *improving the agency’s mission-re-*
20 *lated or administrative processes; or*

21 “(ii) *accelerating the achievement of*
22 *agency missions; and*

23 “(B) *the head of the agency pays the con-*
24 *tractor an amount equal to a portion of the sav-*
25 *ings derived by the agency from—*

1 “(i) any improvements in mission-re-
2 lated or administrative processes that result
3 from implementation of the solution; or

4 “(ii) acceleration of achievement of
5 agency missions.

6 “(d) *TERMINATION.*—No share-in-savings contracts
7 may be entered into under this section after September 30,
8 2009.”.

9 (2) The table of sections at the beginning of such chap-
10 ter is amended by adding at the end of the following new
11 item:

 “2332. Share-in-savings contracts.”.

12 (b) *OTHER CONTRACTS.*—Title III of the Federal
13 Property and Administrative Services Act of 1949 is
14 amended by adding at the end the following:

15 **“SEC. 317. SHARE-IN-SAVINGS CONTRACTS.**

16 “(a) *AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS*
17 *CONTRACTS.*—(1) The head of an executive agency may
18 enter into a share-in-savings contract for information tech-
19 nology (as defined in section 11101(6) of title 40, United
20 States Code) in which the Government awards a contract
21 to improve mission-related or administrative processes or
22 to accelerate the achievement of its mission and share with
23 the contractor in savings achieved through contract per-
24 formance.

1 “(2)(A) *Except as provided in subparagraph (B), a*
2 *share-in-savings contract shall be awarded for a period of*
3 *not more than five years.*

4 “(B) *A share-in-savings contract may be awarded for*
5 *a period greater than five years, but not more than 10*
6 *years, if the head of the agency determines in writing prior*
7 *to award of the contract that—*

8 “(i) *the level of risk to be assumed and the in-*
9 *vestment to be undertaken by the contractor is likely*
10 *to inhibit the government from obtaining the needed*
11 *information technology competitively at a fair and*
12 *reasonable price if the contract is limited in duration*
13 *to a period of five years or less; and*

14 “(ii) *usage of the information technology to be*
15 *acquired is likely to continue for a period of time suf-*
16 *ficient to generate reasonable benefit for the govern-*
17 *ment.*

18 “(3) *Contracts awarded pursuant to the authority of*
19 *this section shall, to the maximum extent practicable, be*
20 *performance-based contracts that identify objective out-*
21 *comes and contain performance standards that will be used*
22 *to measure achievement and milestones that must be met*
23 *before payment is made.*

24 “(4) *Contracts awarded pursuant to the authority of*
25 *this section shall include a provision containing a quantifi-*

1 able baseline that is to be the basis upon which a savings
2 share ratio is established that governs the amount of pay-
3 ment a contractor is to receive under the contract. Before
4 commencement of performance of such a contract, the senior
5 procurement executive of the agency shall determine in
6 writing that the terms of the provision are quantifiable and
7 will likely yield value to the Government.

8 “(5)(A) The head of the agency may retain savings re-
9 alized through the use of a share-in-savings contract under
10 this section that are in excess of the total amount of savings
11 paid to the contractor under the contract. Except as pro-
12 vided in subparagraph (B), savings shall be credited to the
13 appropriation or fund against which charges were made to
14 carry out the contract and shall be used for information
15 technology.

16 “(B) Amounts retained by the agency under this sub-
17 section shall—

18 “(i) without further appropriation, remain
19 available until expended; and

20 “(ii) be applied first to fund any contingent li-
21 abilities associated with share-in-savings procure-
22 ments that are not fully funded.

23 “(b) CANCELLATION AND TERMINATION.—(1) If funds
24 are not made available for the continuation of a share-in-
25 savings contract entered into under this section in a subse-

1 *quent fiscal year, the contract shall be canceled or termi-*
2 *nated. The costs of cancellation or termination may be paid*
3 *out of—*

4 “(A) *appropriations available for the perform-*
5 *ance of the contract;*

6 “(B) *appropriations available for acquisition of*
7 *the information technology procured under the con-*
8 *tract, and not otherwise obligated; or*

9 “(C) *funds subsequently appropriated for pay-*
10 *ments of costs of cancellation or termination, subject*
11 *to the limitations in paragraph (3).*

12 “(2) *The amount payable in the event of cancellation*
13 *or termination of a share-in-savings contract shall be nego-*
14 *tiated with the contractor at the time the contract is entered*
15 *into.*

16 “(3)(A) *Subject to subparagraph (B), the head of an*
17 *executive agency may enter into share-in-savings contracts*
18 *under this section in any given fiscal year even if funds*
19 *are not made specifically available for the full costs of can-*
20 *cellation or termination of the contract if funds are avail-*
21 *able and sufficient to make payments with respect to the*
22 *first fiscal year of the contract and the following conditions*
23 *are met regarding the funding of cancellation and termi-*
24 *nation liability:*

1 “(i) *The amount of unfunded contingent liability*
2 *for the contract does not exceed the lesser of—*

3 “(I) *25 percent of the estimated costs of a*
4 *cancellation or termination; or*

5 “(II) *\$5,000,000.*

6 “(ii) *Unfunded contingent liability in excess of*
7 *\$1,000,000 has been approved by the Director of the*
8 *Office of Management and Budget or the Director’s*
9 *designee.*

10 “(B) *The aggregate number of share-in-savings con-*
11 *tracts that may be entered into under subparagraph (A)*
12 *by all executive agencies to which this chapter applies in*
13 *a fiscal year—*

14 “(i) *may not exceed 5, in each of fiscal years*
15 *2003, 2004, and 2005; and*

16 “(ii) *may not exceed 10, in each of fiscal years*
17 *2006, 2007, 2008, and 2009.*

18 “(c) *DEFINITIONS.—In this section:*

19 “(1) *The term ‘contractor’ means a private enti-*
20 *ty that enters into a contract with an agency.*

21 “(2) *The term ‘savings’ means—*

22 “(A) *monetary savings to an agency; or*

23 “(B) *savings in time or other benefits real-*
24 *ized by the agency, including enhanced revenues.*

1 “(3) *The term ‘share-in-savings contract’ means*
2 *a contract under which—*

3 “(A) *a contractor provides solutions for—*

4 “(i) *improving the agency’s mission-re-*
5 *lated or administrative processes; or*

6 “(ii) *accelerating the achievement of*
7 *agency missions; and*

8 “(B) *the head of the agency pays the con-*
9 *tractor an amount equal to a portion of the sav-*
10 *ings derived by the agency from—*

11 “(i) *any improvements in mission-re-*
12 *lated or administrative processes that result*
13 *from implementation of the solution; or*

14 “(ii) *acceleration of achievement of*
15 *agency missions.*

16 “(d) *TERMINATION.—No share-in-savings contracts*
17 *may be entered into under this section after September 30,*
18 *2009.”.*

19 “(c) *DEVELOPMENT OF INCENTIVES.—The Director of*
20 *the Office of Management and Budget shall, in consultation*
21 *with the Committee on Governmental Affairs of the Senate,*
22 *the Committee on Government Reform of the House of Rep-*
23 *resentatives, and executive agencies, develop techniques to*
24 *permit an executive agency to retain a portion of the sav-*
25 *ings (after payment of the contractor’s share of the savings)*

1 *derived from share-in-savings contracts as funds are appro-*
2 *priated to the agency in future fiscal years.*

3 *(d) REGULATIONS.—Not later than 270 days after the*
4 *date of the enactment of this Act, the Federal Acquisition*
5 *Regulation shall be revised to implement the provisions en-*
6 *acted by this section. Such revisions shall—*

7 *(1) provide for the use of competitive procedures*
8 *in the selection and award of share-in-savings con-*
9 *tracts to—*

10 *(A) ensure the contractor’s share of savings*
11 *reflects the risk involved and market conditions;*
12 *and*

13 *(B) otherwise yield greatest value to the*
14 *government; and*

15 *(2) allow appropriate regulatory flexibility to fa-*
16 *cilitate the use of share-in-savings contracts by execu-*
17 *tive agencies, including the use of innovative provi-*
18 *sions for technology refreshment and nonstandard*
19 *Federal Acquisition Regulation contract clauses.*

20 *(e) ADDITIONAL GUIDANCE.—The Administrator of*
21 *General Services shall—*

22 *(1) identify potential opportunities for the use of*
23 *share-in-savings contracts; and*

24 *(2) in consultation with the Director of the Of-*
25 *fice of Management and Budget, provide guidance to*

1 *executive agencies for determining mutually beneficial*
2 *savings share ratios and baselines from which savings*
3 *may be measured.*

4 *(f) OMB REPORT TO CONGRESS.—In consultation*
5 *with executive agencies, the Director of the Office of Man-*
6 *agement and Budget shall, not later than 2 years after the*
7 *date of the enactment of this Act, submit to Congress a re-*
8 *port containing—*

9 *(1) a description of the number of share-in-sav-*
10 *ings contracts entered into by each executive agency*
11 *under by this section and the amendments made by*
12 *this section, and, for each contract identified—*

13 *(A) the information technology acquired;*

14 *(B) the total amount of payments made to*
15 *the contractor; and*

16 *(C) the total amount of savings or other*
17 *measurable benefits realized;*

18 *(2) a description of the ability of agencies to de-*
19 *termine the baseline costs of a project against which*
20 *savings can be measured; and*

21 *(3) any recommendations, as the Director deems*
22 *appropriate, regarding additional changes in law*
23 *that may be necessary to ensure effective use of share-*
24 *in-savings contracts by executive agencies.*

1 (g) *GAO REPORT TO CONGRESS.*—*The Comptroller*
 2 *General shall, not later than 6 months after the report re-*
 3 *quired under subsection (f) is submitted to Congress, con-*
 4 *duct a review of that report and submit to Congress a report*
 5 *containing—*

6 (1) *the results of the review; and*

7 (2) *any recommendations, as the Comptroller*
 8 *General deems appropriate, on the use of share-in-*
 9 *savings contracts by executive agencies.*

10 (h) *DEFINITIONS.*—*In this section, the terms*
 11 *“contractor”, “savings”, and “share-in-savings contract”*
 12 *have the meanings given those terms in section 317 of the*
 13 *Federal Property and Administrative Services Act of 1949*
 14 *(as added by subsection (b)).*

15 **SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMA-**
 16 **TION TECHNOLOGY BY STATE AND LOCAL**
 17 **GOVERNMENTS THROUGH FEDERAL SUPPLY**
 18 **SCHEDULES.**

19 (a) *AUTHORITY TO USE CERTAIN SUPPLY SCHED-*
 20 *ULES.*—*Section 502 of title 40, United States Code, is*
 21 *amended by adding at the end the following new subsection:*

22 “(c) *USE OF CERTAIN SUPPLY SCHEDULES.*—

23 “(1) *IN GENERAL.*—*The Administrator may pro-*
 24 *vide for the use by State or local governments of Fed-*
 25 *eral supply schedules of the General Services Admin-*

1 *istration for automated data processing equipment*
2 *(including firmware), software, supplies, support*
3 *equipment, and services (as contained in Federal sup-*
4 *ply classification code group 70).*

5 *“(2) VOLUNTARY USE.—In any case of the use by*
6 *a State or local government of a Federal supply*
7 *schedule pursuant to paragraph (1), participation by*
8 *a firm that sells to the Federal Government through*
9 *the supply schedule shall be voluntary with respect to*
10 *a sale to the State or local government through such*
11 *supply schedule.*

12 *“(3) DEFINITIONS.—In this subsection:*

13 *“(A) The term ‘State or local government’*
14 *includes any State, local, regional, or tribal gov-*
15 *ernment, or any instrumentality thereof*
16 *(including any local educational agency or insti-*
17 *tution of higher education).*

18 *“(B) The term ‘tribal government’ means a*
19 *tribal organization, as defined in section 4 of the*
20 *Indian Self-Determination and Education As-*
21 *sistance Act (25 U.S.C. 450b).*

22 *“(C) The term ‘local educational agency’*
23 *has the meaning given that term in section 8013*
24 *of the Elementary and Secondary Education Act*
25 *of 1965 (20 U.S.C. 7713).*

1 (3) *enable any person to integrate and obtain*
2 *similar information held by 1 or more agencies under*
3 *1 or more Federal requirements without violating the*
4 *privacy rights of an individual.*

5 (b) *DEFINITIONS.—In this section, the term—*

6 (1) *“agency” means an Executive agency as de-*
7 *finied under section 105 of title 5, United States Code;*
8 *and*

9 (2) *“person” means any individual, trust, firm,*
10 *joint stock company, corporation (including a govern-*
11 *ment corporation), partnership, association, State,*
12 *municipality, commission, political subdivision of a*
13 *State, interstate body, or agency or component of the*
14 *Federal Government.*

15 (c) *REPORT.—*

16 (1) *IN GENERAL.—Not later than 3 years after*
17 *the date of enactment of this Act, the Director shall*
18 *oversee a study, in consultation with agencies, the*
19 *regulated community, public interest organizations,*
20 *and the public, and submit a report to the Committee*
21 *on Governmental Affairs of the Senate and the Com-*
22 *mittee on Government Reform of the House of Rep-*
23 *resentatives on progress toward integrating Federal*
24 *information systems across agencies.*

1 (2) *CONTENTS.*—*The report under this section*
2 *shall—*

3 (A) *address the integration of data elements*
4 *used in the electronic collection of information*
5 *within databases established under Federal stat-*
6 *ute without reducing the quality, accessibility,*
7 *scope, or utility of the information contained in*
8 *each database;*

9 (B) *address the feasibility of developing, or*
10 *enabling the development of, software, including*
11 *Internet-based tools, for use by reporting persons*
12 *in assembling, documenting, and validating the*
13 *accuracy of information electronically submitted*
14 *to agencies under nonvoluntary, statutory, and*
15 *regulatory requirements;*

16 (C) *address the feasibility of developing a*
17 *distributed information system involving, on a*
18 *voluntary basis, at least 2 agencies, that—*

19 (i) *provides consistent, dependable, and*
20 *timely public access to the information*
21 *holdings of 1 or more agencies, or some por-*
22 *tion of such holdings, without requiring*
23 *public users to know which agency holds the*
24 *information; and*

1 (ii) allows the integration of public in-
2 formation held by the participating agen-
3 cies;

4 (D) address the feasibility of incorporating
5 other elements related to the purposes of this sec-
6 tion at the discretion of the Director; and

7 (E) make any recommendations that the
8 Director deems appropriate on the use of inte-
9 grated reporting and information systems, to re-
10 duce the burden on reporting and strengthen
11 public access to databases within and across
12 agencies.

13 (d) *PILOT PROJECTS TO ENCOURAGE INTEGRATED*
14 *COLLECTION AND MANAGEMENT OF DATA AND INTEROPER-*
15 *ABILITY OF FEDERAL INFORMATION SYSTEMS.—*

16 (1) *IN GENERAL.—*In order to provide input to
17 the study under subsection (c), the Director shall des-
18 ignate, in consultation with agencies, a series of no
19 more than 5 pilot projects that integrate data ele-
20 ments. The Director shall consult with agencies, the
21 regulated community, public interest organizations,
22 and the public on the implementation of the pilot
23 projects.

24 (2) *GOALS OF PILOT PROJECTS.—*

1 (A) *IN GENERAL.*—*Each goal described*
2 *under subparagraph (B) shall be addressed by at*
3 *least 1 pilot project each.*

4 (B) *GOALS.*—*The goals under this para-*
5 *graph are to—*

6 (i) *reduce information collection bur-*
7 *dens by eliminating duplicative data ele-*
8 *ments within 2 or more reporting require-*
9 *ments;*

10 (ii) *create interoperability between or*
11 *among public databases managed by 2 or*
12 *more agencies using technologies and tech-*
13 *niques that facilitate public access; and*

14 (iii) *develop, or enable the development*
15 *of, software to reduce errors in electronically*
16 *submitted information.*

17 (3) *INPUT.*—*Each pilot project shall seek input*
18 *from users on the utility of the pilot project and areas*
19 *for improvement. To the extent practicable, the Direc-*
20 *tor shall consult with relevant agencies and State,*
21 *tribal, and local governments in carrying out the re-*
22 *port and pilot projects under this section.*

23 (e) *PROTECTIONS.*—*The activities authorized under*
24 *this section shall afford protections for—*

1 (1) *confidential business information consistent*
2 *with section 552(b)(4) of title 5, United States Code,*
3 *and other relevant law;*

4 (2) *personal privacy information under sections*
5 *552(b) (6) and (7)(C) and 552a of title 5, United*
6 *States Code, and other relevant law;*

7 (3) *other information consistent with section*
8 *552(b)(3) of title 5, United States Code, and other rel-*
9 *evant law; and*

10 (4) *confidential statistical information collected*
11 *under a confidentiality pledge, solely for statistical*
12 *purposes, consistent with the Office of Management*
13 *and Budget's Federal Statistical Confidentiality*
14 *Order, and other relevant law.*

15 **SEC. 213. COMMUNITY TECHNOLOGY CENTERS.**

16 (a) *PURPOSES.—The purposes of this section are to—*

17 (1) *study and enhance the effectiveness of com-*
18 *munity technology centers, public libraries, and other*
19 *institutions that provide computer and Internet ac-*
20 *cess to the public; and*

21 (2) *promote awareness of the availability of on-*
22 *line government information and services, to users of*
23 *community technology centers, public libraries, and*
24 *other public facilities that provide access to computer*
25 *technology and Internet access to the public.*

1 **(b) STUDY AND REPORT.**—*Not later than 2 years after*
2 *the effective date of this title, the Administrator shall—*

3 (1) *conduct a study to evaluate the best practices*
4 *of community technology centers that have received*
5 *Federal funds; and*

6 (2) *submit a report on the study to—*

7 (A) *the Committee on Governmental Affairs*
8 *of the Senate;*

9 (B) *the Committee on Health, Education,*
10 *Labor, and Pensions of the Senate;*

11 (C) *the Committee on Government Reform*
12 *of the House of Representatives; and*

13 (D) *the Committee on Education and the*
14 *Workforce of the House of Representatives.*

15 **(c) CONTENTS.**—*The report under subsection (b) may*
16 *consider—*

17 (1) *an evaluation of the best practices being used*
18 *by successful community technology centers;*

19 (2) *a strategy for—*

20 (A) *continuing the evaluation of best prac-*
21 *tices used by community technology centers; and*

22 (B) *establishing a network to share infor-*
23 *mation and resources as community technology*
24 *centers evolve;*

1 (3) *the identification of methods to expand the*
2 *use of best practices to assist community technology*
3 *centers, public libraries, and other institutions that*
4 *provide computer and Internet access to the public;*

5 (4) *a database of all community technology cen-*
6 *ters that have received Federal funds, including—*

7 (A) *each center's name, location, services*
8 *provided, director, other points of contact, num-*
9 *ber of individuals served; and*

10 (B) *other relevant information;*

11 (5) *an analysis of whether community technology*
12 *centers have been deployed effectively in urban and*
13 *rural areas throughout the Nation; and*

14 (6) *recommendations of how to—*

15 (A) *enhance the development of community*
16 *technology centers; and*

17 (B) *establish a network to share informa-*
18 *tion and resources.*

19 (d) *COOPERATION.—All agencies that fund community*
20 *technology centers shall provide to the Administrator any*
21 *information and assistance necessary for the completion of*
22 *the study and the report under this section.*

23 (e) *ASSISTANCE.—*

24 (1) *IN GENERAL.—The Administrator, in con-*
25 *sultation with the Secretary of Education, shall work*

1 *with other relevant Federal agencies, and other inter-*
2 *ested persons in the private and nonprofit sectors*
3 *to—*

4 *(A) assist in the implementation of rec-*
5 *ommendations; and*

6 *(B) identify other ways to assist community*
7 *technology centers, public libraries, and other in-*
8 *stitutions that provide computer and Internet*
9 *access to the public.*

10 *(2) TYPES OF ASSISTANCE.—Assistance under*
11 *this subsection may include—*

12 *(A) contribution of funds;*

13 *(B) donations of equipment, and training*
14 *in the use and maintenance of the equipment;*
15 *and*

16 *(C) the provision of basic instruction or*
17 *training material in computer skills and Inter-*
18 *net usage.*

19 *(f) ONLINE TUTORIAL.—*

20 *(1) IN GENERAL.—The Administrator, in con-*
21 *sultation with the Secretary of Education, the Direc-*
22 *tor of the Institute of Museum and Library Services,*
23 *other relevant agencies, and the public, shall develop*
24 *an online tutorial that—*

1 (A) explains how to access Government in-
2 formation and services on the Internet; and

3 (B) provides a guide to available online re-
4 sources.

5 (2) *DISTRIBUTION.*—The Administrator, with
6 assistance from the Secretary of Education, shall dis-
7 tribute information on the tutorial to community
8 technology centers, public libraries, and other institu-
9 tions that afford Internet access to the public.

10 (g) *PROMOTION OF COMMUNITY TECHNOLOGY CEN-*
11 *TERS.*—The Administrator, with assistance from the De-
12 *partment of Education and in consultation with other*
13 *agencies and organizations, shall promote the availability*
14 *of community technology centers to raise awareness within*
15 *each community where such a center is located.*

16 (h) *AUTHORIZATION OF APPROPRIATIONS.*—There are
17 *authorized to be appropriated for the study of best practices*
18 *at community technology centers, for the development and*
19 *dissemination of the online tutorial, and for the promotion*
20 *of community technology centers under this section—*

21 (1) \$2,000,000 in fiscal year 2003;

22 (2) \$2,000,000 in fiscal year 2004; and

23 (3) such sums as are necessary in fiscal years
24 2005 through 2007.

1 **SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH AD-**
2 **VANCED INFORMATION TECHNOLOGY.**

3 (a) *PURPOSE.*—*The purpose of this section is to im-*
4 *prove how information technology is used in coordinating*
5 *and facilitating information on disaster preparedness, re-*
6 *sponse, and recovery, while ensuring the availability of such*
7 *information across multiple access channels.*

8 (b) *IN GENERAL.*—

9 (1) *STUDY ON ENHANCEMENT OF CRISIS RE-*
10 *SPONSE.*—*Not later than 90 days after the date of en-*
11 *actment of this Act, the Administrator, in consulta-*
12 *tion with the Federal Emergency Management Agen-*
13 *cy, shall enter into a contract to conduct a study on*
14 *using information technology to enhance crisis pre-*
15 *paredness, response, and consequence management of*
16 *natural and manmade disasters.*

17 (2) *CONTENTS.*—*The study under this subsection*
18 *shall address—*

19 (A) *a research and implementation strategy*
20 *for effective use of information technology in cri-*
21 *sis response and consequence management, in-*
22 *cluding the more effective use of technologies,*
23 *management of information technology research*
24 *initiatives, and incorporation of research ad-*
25 *vances into the information and communications*
26 *systems of—*

1 (i) *the Federal Emergency Manage-*
2 *ment Agency; and*

3 (ii) *other Federal, State, and local*
4 *agencies responsible for crisis preparedness,*
5 *response, and consequence management; and*

6 (B) *opportunities for research and develop-*
7 *ment on enhanced technologies into areas of po-*
8 *tential improvement as determined during the*
9 *course of the study.*

10 (3) *REPORT.—Not later than 2 years after the*
11 *date on which a contract is entered into under para-*
12 *graph (1), the Administrator shall submit a report on*
13 *the study, including findings and recommendations*
14 *to—*

15 (A) *the Committee on Governmental Affairs*
16 *of the Senate; and*

17 (B) *the Committee on Government Reform*
18 *of the House of Representatives.*

19 (4) *INTERAGENCY COOPERATION.—Other Federal*
20 *departments and agencies with responsibility for dis-*
21 *aster relief and emergency assistance shall fully co-*
22 *operate with the Administrator in carrying out this*
23 *section.*

24 (5) *AUTHORIZATION OF APPROPRIATIONS.—*
25 *There are authorized to be appropriated for research*

1 *under this subsection, such sums as are necessary for*
2 *fiscal year 2003.*

3 *(c) PILOT PROJECTS.—Based on the results of the re-*
4 *search conducted under subsection (b), the Administrator,*
5 *in consultation with the Federal Emergency Management*
6 *Agency, shall initiate pilot projects or report to Congress*
7 *on other activities that further the goal of maximizing the*
8 *utility of information technology in disaster management.*
9 *The Administrator shall cooperate with other relevant agen-*
10 *cies, and, if appropriate, State, local, and tribal govern-*
11 *ments, in initiating such pilot projects.*

12 **SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.**

13 *(a) STUDY AND REPORT.—*

14 *(1) STUDY.—Not later than 90 days after the*
15 *date of enactment of this Act, the Administrator of*
16 *General Services shall request that the National Acad-*
17 *emy of Sciences, acting through the National Research*
18 *Council, enter into a contract to conduct a study on*
19 *disparities in Internet access for online Government*
20 *services.*

21 *(2) REPORT.—Not later than 2 years after the*
22 *date of enactment of this Act, the Administrator of*
23 *General Services shall submit to the Committee on*
24 *Governmental Affairs of the Senate and the Com-*
25 *mittee on Government Reform of the House of Rep-*

1 *representatives a final report of the study under this sec-*
2 *tion, which shall set forth the findings, conclusions,*
3 *and recommendations of the National Research Coun-*
4 *cil.*

5 *(b) CONTENTS.—The report under subsection (a) shall*
6 *include a study of—*

7 *(1) how disparities in Internet access influence*
8 *the effectiveness of online Government services, includ-*
9 *ing a review of—*

10 *(A) the nature of disparities in Internet ac-*
11 *cess;*

12 *(B) the affordability of Internet service;*

13 *(C) the incidence of disparities among dif-*
14 *ferent groups within the population; and*

15 *(D) changes in the nature of personal and*
16 *public Internet access that may alleviate or ag-*
17 *gravate effective access to online Government*
18 *services;*

19 *(2) how the increase in online Government serv-*
20 *ices is influencing the disparities in Internet access*
21 *and how technology development or diffusion trends*
22 *may offset such adverse influences; and*

23 *(3) related societal effects arising from the inter-*
24 *play of disparities in Internet access and the increase*
25 *in online Government services.*

1 (c) *RECOMMENDATIONS.*—*The report shall include rec-*
 2 *ommendations on actions to ensure that online Government*
 3 *initiatives shall not have the unintended result of increas-*
 4 *ing any deficiency in public access to Government services.*

5 (d) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 6 *authorized to be appropriated \$950,000 in fiscal year 2003*
 7 *to carry out this section.*

8 **TITLE III—INFORMATION**
 9 **SECURITY**

10 **SEC. 301. INFORMATION SECURITY.**

11 (a) *SHORT TITLE.*—*This title may be cited as the*
 12 *“Federal Information Security Management Act of 2002”.*

13 (b) *INFORMATION SECURITY.*—

14 (1) *IN GENERAL.*—*Subchapter II of chapter 35 of*
 15 *title 44, United States Code, is amended to read as*
 16 *follows:*

17 “**SUBCHAPTER II—INFORMATION SECURITY**

18 **“§ 3531. Purposes**

19 “*The purposes of this subchapter are to—*

20 “(1) *provide a comprehensive framework for en-*
 21 *sureing the effectiveness of information security con-*
 22 *trols over information resources that support Federal*
 23 *operations and assets;*

24 “(2) *recognize the highly networked nature of the*
 25 *current Federal computing environment and provide*

1 *effective governmentwide management and oversight*
2 *of the related information security risks, including co-*
3 *ordination of information security efforts throughout*
4 *the civilian, national security, and law enforcement*
5 *communities;*

6 *“(3) provide for development and maintenance of*
7 *minimum controls required to protect Federal infor-*
8 *mation and information systems;*

9 *“(4) provide a mechanism for improved oversight*
10 *of Federal agency information security programs;*

11 *“(5) acknowledge that commercially developed*
12 *information security products offer advanced, dy-*
13 *namic, robust, and effective information security solu-*
14 *tions, reflecting market solutions for the protection of*
15 *critical information infrastructures important to the*
16 *national defense and economic security of the nation*
17 *that are designed, built, and operated by the private*
18 *sector; and*

19 *“(6) recognize that the selection of specific tech-*
20 *anical hardware and software information security so-*
21 *lutions should be left to individual agencies from*
22 *among commercially developed products.*

1 **“§ 3532. Definitions**

2 “(a) *IN GENERAL.*—*Except as provided under sub-*
3 *section (b), the definitions under section 3502 shall apply*
4 *to this subchapter.*

5 “(b) *ADDITIONAL DEFINITIONS.*—*As used in this sub-*
6 *chapter—*

7 “(1) *the term ‘information security’ means pro-*
8 *tecting information and information systems from*
9 *unauthorized access, use, disclosure, disruption, modi-*
10 *fication, or destruction in order to provide—*

11 “(A) *integrity, which means guarding*
12 *against improper information modification or*
13 *destruction, and includes ensuring information*
14 *nonrepudiation and authenticity;*

15 “(B) *confidentiality, which means pre-*
16 *servicing authorized restrictions on access and dis-*
17 *closure, including means for protecting personal*
18 *privacy and proprietary information; and*

19 “(C) *availability, which means ensuring*
20 *timely and reliable access to and use of informa-*
21 *tion;*

22 “(2) *the term ‘national security system’ means*
23 *any information system (including any telecommuni-*
24 *cations system) used or operated by an agency or by*
25 *a contractor of an agency, or other organization on*
26 *behalf of an agency—*

1 “(A) the function, operation, or use of
2 which—

3 “(i) involves intelligence activities;

4 “(ii) involves cryptologic activities re-
5 lated to national security;

6 “(iii) involves command and control of
7 military forces;

8 “(iv) involves equipment that is an in-
9 tegral part of a weapon or weapons system;

10 or

11 “(v) is critical to the direct fulfillment
12 of military or intelligence missions,

13 except that this subparagraph does not include a
14 system that is used for routine administrative
15 and business applications (including payroll, fi-
16 nance, logistics, and personnel management ap-
17 plications); or

18 “(B) is protected at all times by procedures
19 established for information that have been spe-
20 cifically authorized under criteria established by
21 an Executive order or an Act of Congress to be
22 kept classified in the interest of national defense
23 or foreign policy; and

24 “(3) the term ‘information technology’ has the
25 meaning given that term in section 11101 of title 40.

1 **“§ 3533. Authority and functions of the Director**

2 “(a) *The Director shall oversee agency information se-*
3 *curity policies and practices, including—*

4 “(1) *developing and overseeing the implementa-*
5 *tion of policies, principles, standards, and guidelines*
6 *on information security, including through the pro-*
7 *mulgation of standards and guidelines under section*
8 *11331 of title 40;*

9 “(2) *requiring agencies, consistent with the*
10 *standards promulgated under such section 11331 and*
11 *the requirements of this subchapter, to identify and*
12 *provide information security protections commensu-*
13 *rate with the risk and magnitude of the harm result-*
14 *ing from the unauthorized access, use, disclosure, dis-*
15 *ruption, modification, or destruction of—*

16 “(A) *information collected or maintained by*
17 *or on behalf of an agency; or*

18 “(B) *information systems used or operated*
19 *by an agency or by a contractor of an agency or*
20 *other organization on behalf of an agency;*

21 “(3) *coordinating the development of standards*
22 *and guidelines under section 20 of the National Insti-*
23 *tute of Standards and Technology Act (15 U.S.C.*
24 *278g–3) with agencies and offices operating or exer-*
25 *cising control of national security systems (including*
26 *the National Security Agency) to assure, to the max-*

1 *imum extent feasible, that such standards and guide-*
2 *lines are complementary with standards and guide-*
3 *lines developed for national security systems;*

4 “(4) *overseeing agency compliance with the re-*
5 *quirements of this subchapter, including through any*
6 *authorized action under section 11303 of title 40, to*
7 *enforce accountability for compliance with such re-*
8 *quirements;*

9 “(5) *reviewing at least annually, and approving*
10 *or disapproving, agency information security pro-*
11 *grams required under section 3534(b);*

12 “(6) *coordinating information security policies*
13 *and procedures with related information resources*
14 *management policies and procedures;*

15 “(7) *overseeing the operation of the Federal in-*
16 *formation security incident center required under sec-*
17 *tion 3536; and*

18 “(8) *reporting to Congress no later than March*
19 *1 of each year on agency compliance with the require-*
20 *ments of this subchapter, including—*

21 “(A) *a summary of the findings of evalua-*
22 *tions required by section 3535;*

23 “(B) *significant deficiencies in agency in-*
24 *formation security practices;*

1 “(C) *planned remedial action to address*
2 *such deficiencies; and*

3 “(D) *a summary of, and the views of the*
4 *Director on, the report prepared by the National*
5 *Institute of Standards and Technology under*
6 *section 20(e)(7) of the National Institute of*
7 *Standards and Technology Act (15 U.S.C. 278g–*
8 *3).*

9 “(b) *Except for the authorities described in paragraphs*
10 *(4) and (8) of subsection (a), the authorities of the Director*
11 *under this section shall not apply to national security sys-*
12 *tems.*

13 **“§ 3534. Federal agency responsibilities**

14 “(a) *The head of each agency shall—*

15 “(1) *be responsible for—*

16 “(A) *providing information security protec-*
17 *tions commensurate with the risk and magnitude*
18 *of the harm resulting from unauthorized access,*
19 *use, disclosure, disruption, modification, or de-*
20 *struction of—*

21 “(i) *information collected or main-*
22 *tained by or on behalf of the agency; and*

23 “(ii) *information systems used or oper-*
24 *ated by an agency or by a contractor of an*

1 *agency or other organization on behalf of an*
2 *agency;*

3 “(B) *complying with the requirements of*
4 *this subchapter and related policies, procedures,*
5 *standards, and guidelines, including—*

6 “(i) *information security standards*
7 *promulgated by the Director under section*
8 *11331 of title 40; and*

9 “(ii) *information security standards*
10 *and guidelines for national security systems*
11 *issued in accordance with law and as di-*
12 *rected by the President; and*

13 “(C) *ensuring that information security*
14 *management processes are integrated with agen-*
15 *cy strategic and operational planning processes;*

16 “(2) *ensure that senior agency officials provide*
17 *information security for the information and infor-*
18 *mation systems that support the operations and assets*
19 *under their control, including through—*

20 “(A) *assessing the risk and magnitude of*
21 *the harm that could result from the unauthorized*
22 *access, use, disclosure, disruption, modification,*
23 *or destruction of such information or informa-*
24 *tion systems;*

1 “(B) determining the levels of information
2 security appropriate to protect such information
3 and information systems in accordance with
4 standards promulgated under section 11331 of
5 title 40, for information security classifications
6 and related requirements;

7 “(C) implementing policies and procedures
8 to cost-effectively reduce risks to an acceptable
9 level; and

10 “(D) periodically testing and evaluating in-
11 formation security controls and techniques to en-
12 sure that they are effectively implemented;

13 “(3) delegate to the agency Chief Information Of-
14 ficer established under section 3506 (or comparable
15 official in an agency not covered by such section) the
16 authority to ensure compliance with the requirements
17 imposed on the agency under this subchapter, includ-
18 ing—

19 “(A) designating a senior agency informa-
20 tion security officer who shall—

21 “(i) carry out the Chief Information
22 Officer’s responsibilities under this section;

23 “(ii) possess professional qualifica-
24 tions, including training and experience, re-

1 *quired to administer the functions described*
2 *under this section;*

3 *“(iii) have information security duties*
4 *as that official’s primary duty; and*

5 *“(iv) head an office with the mission*
6 *and resources to assist in ensuring agency*
7 *compliance with this section;*

8 *“(B) developing and maintaining an agen-*
9 *cywide information security program as required*
10 *by subsection (b);*

11 *“(C) developing and maintaining informa-*
12 *tion security policies, procedures, and control*
13 *techniques to address all applicable requirements,*
14 *including those issued under section 3533 of this*
15 *title, and section 11331 of title 40;*

16 *“(D) training and overseeing personnel*
17 *with significant responsibilities for information*
18 *security with respect to such responsibilities; and*

19 *“(E) assisting senior agency officials con-*
20 *cerning their responsibilities under paragraph*
21 *(2);*

22 *“(4) ensure that the agency has trained per-*
23 *sonnel sufficient to assist the agency in complying*
24 *with the requirements of this subchapter and related*
25 *policies, procedures, standards, and guidelines; and*

1 “(5) ensure that the agency Chief Information
2 Officer, in coordination with other senior agency offi-
3 cials, reports annually to the agency head on the ef-
4 fectiveness of the agency information security pro-
5 gram, including progress of remedial actions.

6 “(b) Each agency shall develop, document, and imple-
7 ment an agencywide information security program, ap-
8 proved by the Director under section 3533(a)(5), to provide
9 information security for the information and information
10 systems that support the operations and assets of the agen-
11 cy, including those provided or managed by another agency,
12 contractor, or other source, that includes—

13 “(1) periodic assessments of the risk and mag-
14 nitude of the harm that could result from the unau-
15 thorized access, use, disclosure, disruption, modifica-
16 tion, or destruction of information and information
17 systems that support the operations and assets of the
18 agency;

19 “(2) policies and procedures that—

20 “(A) are based on the risk assessments re-
21 quired by paragraph (1);

22 “(B) cost-effectively reduce information se-
23 curity risks to an acceptable level;

1 “(C) ensure that information security is ad-
2 dressed throughout the life cycle of each agency
3 information system; and

4 “(D) ensure compliance with—

5 “(i) the requirements of this sub-
6 chapter;

7 “(ii) policies and procedures as may be
8 prescribed by the Director, and information
9 security standards promulgated under sec-
10 tion 11331 of title 40;

11 “(iii) minimally acceptable system
12 configuration requirements, as determined
13 by the agency; and

14 “(iv) any other applicable require-
15 ments, including standards and guidelines
16 for national security systems issued in ac-
17 cordance with law and as directed by the
18 President;

19 “(3) subordinate plans for providing adequate
20 information security for networks, facilities, and sys-
21 tems or groups of information systems, as appro-
22 priate;

23 “(4) security awareness training to inform per-
24 sonnel, including contractors and other users of infor-

1 *mation systems that support the operations and assets*
2 *of the agency, of—*

3 *“(A) information security risks associated*
4 *with their activities; and*

5 *“(B) their responsibilities in complying*
6 *with agency policies and procedures designed to*
7 *reduce these risks;*

8 *“(5) periodic testing and evaluation of the effec-*
9 *tiveness of information security policies, procedures,*
10 *and practices, to be performed with a frequency de-*
11 *pending on risk, but no less than annually, of which*
12 *such testing—*

13 *“(A) shall include testing of management,*
14 *operational, and technical controls of every in-*
15 *formation system identified in the inventory re-*
16 *quired under section 3505(c); and*

17 *“(B) may include testing relied on in a*
18 *evaluation under section 3535;*

19 *“(6) a process for planning, implementing, eval-*
20 *uating, and documenting remedial action to address*
21 *any deficiencies in the information security policies,*
22 *procedures, and practices of the agency;*

23 *“(7) procedures for detecting, reporting, and re-*
24 *sponding to security incidents, consistent with stand-*

1 *ards and guidelines issued pursuant to section*
2 *3536(b), including—*

3 *“(A) mitigating risks associated with such*
4 *incidents before substantial damage is done;*

5 *“(B) notifying and consulting with the Fed-*
6 *eral information security incident center referred*
7 *to in section 3536; and*

8 *“(C) notifying and consulting with, as ap-*
9 *propriate—*

10 *“(i) law enforcement agencies and rel-*
11 *evant Offices of Inspector General;*

12 *“(ii) an office designated by the Presi-*
13 *dent for any incident involving a national*
14 *security system; and*

15 *“(iii) any other agency or office, in ac-*
16 *cordance with law or as directed by the*
17 *President; and*

18 *“(8) plans and procedures to ensure continuity*
19 *of operations for information systems that support the*
20 *operations and assets of the agency.*

21 *“(c) Each agency shall—*

22 *“(1) report annually to the Director, the Com-*
23 *mittees on Government Reform and Science of the*
24 *House of Representatives, the Committees on Govern-*
25 *mental Affairs and Commerce, Science, and Trans-*

1 *portation of the Senate, the appropriate authorization*
2 *and appropriations committees of Congress, and the*
3 *Comptroller General on the adequacy and effectiveness*
4 *of information security policies, procedures, and prac-*
5 *tices, and compliance with the requirements of this*
6 *subchapter, including compliance with each require-*
7 *ment of subsection (b);*

8 *“(2) address the adequacy and effectiveness of in-*
9 *formation security policies, procedures, and practices*
10 *in plans and reports relating to—*

11 *“(A) annual agency budgets;*

12 *“(B) information resources management*
13 *under subchapter 1 of this chapter;*

14 *“(C) information technology management*
15 *under subtitle III of title 40;*

16 *“(D) program performance under sections*
17 *1105 and 1115 through 1119 of title 31, and sec-*
18 *tions 2801 and 2805 of title 39;*

19 *“(E) financial management under chapter*
20 *9 of title 31, and the Chief Financial Officers*
21 *Act of 1990 (31 U.S.C. 501 note; Public Law*
22 *101–576) (and the amendments made by that*
23 *Act);*

1 “(F) financial management systems under
2 the Federal Financial Management Improvement
3 Act (31 U.S.C. 3512 note); and

4 “(G) internal accounting and administra-
5 tive controls under section 3512 of title 31,
6 (known as the ‘Federal Managers Financial In-
7 tegrity Act’); and

8 “(3) report any significant deficiency in a pol-
9 icy, procedure, or practice identified under paragraph
10 (1) or (2)—

11 “(A) as a material weakness in reporting
12 under section 3512 of title 31; and

13 “(B) if relating to financial management
14 systems, as an instance of a lack of substantial
15 compliance under the Federal Financial Man-
16 agement Improvement Act (31 U.S.C. 3512
17 note).

18 “(d)(1) In addition to the requirements of subsection
19 (c), each agency, in consultation with the Director, shall
20 include as part of the performance plan required under sec-
21 tion 1115 of title 31 a description of—

22 “(A) the time periods, and

23 “(B) the resources, including budget, staffing,
24 and training,

1 *that are necessary to implement the program required*
2 *under subsection (b).*

3 “(2) *The description under paragraph (1) shall be*
4 *based on the risk assessments required under subsection*
5 *(b)(2)(1).*

6 “(e) *Each agency shall provide the public with timely*
7 *notice and opportunities for comment on proposed informa-*
8 *tion security policies and procedures to the extent that such*
9 *policies and procedures affect communication with the pub-*
10 *lic.*

11 **“§ 3535. Annual independent evaluation**

12 “(a)(1) *Each year each agency shall have performed*
13 *an independent evaluation of the information security pro-*
14 *gram and practices of that agency to determine the effective-*
15 *ness of such program and practices.*

16 “(2) *Each evaluation by an agency under this section*
17 *shall include—*

18 “(A) *testing of the effectiveness of information se-*
19 *curity policies, procedures, and practices of a rep-*
20 *resentative subset of the agency’s information systems;*

21 “(B) *an assessment (made on the basis of the re-*
22 *sults of the testing) of compliance with—*

23 “(i) *the requirements of this subchapter;*

24 *and*

1 “(ii) related information security policies,
2 procedures, standards, and guidelines; and

3 “(C) separate presentations, as appropriate, re-
4 garding information security relating to national se-
5 curity systems.

6 “(b) Subject to subsection (c)—

7 “(1) for each agency with an Inspector General
8 appointed under the Inspector General Act of 1978,
9 the annual evaluation required by this section shall be
10 performed by the Inspector General or by an inde-
11 pendent external auditor, as determined by the In-
12 spector General of the agency; and

13 “(2) for each agency to which paragraph (1) does
14 not apply, the head of the agency shall engage an
15 independent external auditor to perform the evalua-
16 tion.

17 “(c) For each agency operating or exercising control
18 of a national security system, that portion of the evaluation
19 required by this section directly relating to a national secu-
20 rity system shall be performed—

21 “(1) only by an entity designated by the agency
22 head; and

23 “(2) in such a manner as to ensure appropriate
24 protection for information associated with any infor-
25 mation security vulnerability in such system com-

1 *mensurate with the risk and in accordance with all*
2 *applicable laws.*

3 “(d) *The evaluation required by this section may be*
4 *based in whole or in part on an audit, evaluation, or report*
5 *relating to programs or practices of the applicable agency.*

6 “(e)(1) *Each year, not later than such date established*
7 *by the Director, the head of each agency shall submit to*
8 *the Director the results of the evaluation required under this*
9 *section.*

10 “(2) *To the extent an evaluation required under this*
11 *section directly relates to a national security system, the*
12 *evaluation results submitted to the Director shall contain*
13 *only a summary and assessment of that portion of the eval-*
14 *uation directly relating to a national security system.*

15 “(f) *Agencies and evaluators shall take appropriate*
16 *steps to ensure the protection of information which, if dis-*
17 *closed, may adversely affect information security. Such pro-*
18 *tections shall be commensurate with the risk and comply*
19 *with all applicable laws and regulations.*

20 “(g)(1) *The Director shall summarize the results of the*
21 *evaluations conducted under this section in the report to*
22 *Congress required under section 3533(a)(8).*

23 “(2) *The Director’s report to Congress under this sub-*
24 *section shall summarize information regarding information*
25 *security relating to national security systems in such a*

1 *manner as to ensure appropriate protection for information*
2 *associated with any information security vulnerability in*
3 *such system commensurate with the risk and in accordance*
4 *with all applicable laws.*

5 “(3) *Evaluations and any other descriptions of infor-*
6 *mation systems under the authority and control of the Di-*
7 *rector of Central Intelligence or of National Foreign Intel-*
8 *ligence Programs systems under the authority and control*
9 *of the Secretary of Defense shall be made available to Con-*
10 *gress only through the appropriate oversight committees of*
11 *Congress, in accordance with applicable laws.*

12 “(h) *The Comptroller General shall periodically evalu-*
13 *ate and report to Congress on—*

14 “(1) *the adequacy and effectiveness of agency in-*
15 *formation security policies and practices; and*

16 “(2) *implementation of the requirements of this*
17 *subchapter.*

18 **“§ 3536. Federal information security incident center**

19 “(a) *The Director shall ensure the operation of a cen-*
20 *tral Federal information security incident center to—*

21 “(1) *provide timely technical assistance to opera-*
22 *tors of agency information systems regarding security*
23 *incidents, including guidance on detecting and han-*
24 *dling information security incidents;*

1 “(2) compile and analyze information about in-
2 cidents that threaten information security;

3 “(3) inform operators of agency information sys-
4 tems about current and potential information secu-
5 rity threats, and vulnerabilities; and

6 “(4) consult with agencies or offices operating or
7 exercising control of national security systems
8 (including the National Security Agency) and such
9 other agencies or offices in accordance with law and
10 as directed by the President regarding information se-
11 curity incidents and related matters.

12 “(b) Each agency operating or exercising control of a
13 national security system shall share information about in-
14 formation security incidents, threats, and vulnerabilities
15 with the Federal information security incident center to the
16 extent consistent with standards and guidelines for national
17 security systems, issued in accordance with law and as di-
18 rected by the President.

19 **“§ 3537. National security systems**

20 “The head of each agency operating or exercising con-
21 trol of a national security system shall be responsible for
22 ensuring that the agency—

23 “(1) provides information security protections
24 commensurate with the risk and magnitude of the
25 harm resulting from the unauthorized access, use, dis-

1 *closure, disruption, modification, or destruction of the*
2 *information contained in such system;*

3 “(2) *implements information security policies*
4 *and practices as required by standards and guidelines*
5 *for national security systems, issued in accordance*
6 *with law and as directed by the President; and*

7 “(3) *complies with the requirements of this sub-*
8 *chapter.*

9 **“§ 3538. Authorization of appropriations**

10 *“There are authorized to be appropriated to carry out*
11 *the provisions of this subchapter such sums as may be nec-*
12 *essary for each of fiscal years 2003 through 2007.*

13 **“§ 3539. Effect on existing law**

14 *“Nothing in this subchapter, section 11331 of title 40,*
15 *or section 20 of the National Standards and Technology Act*
16 *(15 U.S.C. 278g–3) may be construed as affecting the au-*
17 *thority of the President, the Office of Management and*
18 *Budget or the Director thereof, the National Institute of*
19 *Standards and Technology, or the head of any agency, with*
20 *respect to the authorized use or disclosure of information,*
21 *including with regard to the protection of personal privacy*
22 *under section 552a of title 5, the disclosure of information*
23 *under section 552 of title 5, the management and disposi-*
24 *tion of records under chapters 29, 31, or 33 of title 44, the*
25 *management of information resources under subchapter I*

1 of chapter 35 of this title, or the disclosure of information
 2 to the Congress or the Comptroller General of the United
 3 States.”.

4 (2) *CLERICAL AMENDMENT.*—The items in the
 5 table of sections at the beginning of such chapter 35
 6 under the heading “SUBCHAPTER II—INFORMA-
 7 TION SECURITY” are amended to read as follows:

“3531. Purposes.

“3532. Definitions.

“3533. Authority and functions of the Director.

“3534. Federal agency responsibilities.

“3535. Annual independent evaluation.

“3536. Federal information security incident center.

“3537. National security systems.

“3538. Authorization of appropriations.

“3539. Effect on existing law.”.

8 (c) *INFORMATION SECURITY RESPONSIBILITIES OF*
 9 *CERTAIN AGENCIES.*—

10 (1) *NATIONAL SECURITY RESPONSIBILITIES.*—

11 (A) Nothing in this Act (including any amendment
 12 made by this Act) shall supersede any authority of the
 13 Secretary of Defense, the Director of Central Intel-
 14 ligence, or other agency head, as authorized by law
 15 and as directed by the President, with regard to the
 16 operation, control, or management of national secu-
 17 rity systems, as defined by section 3532(b)(2) of title
 18 44, United States Code.

19 (B) Section 2224 of title 10, United States Code,
 20 is amended—

1 *Management and Budget shall, on the basis of pro-*
2 *posed standards developed by the National Institute of*
3 *Standards and Technology pursuant to paragraph (3)*
4 *of section 20(a) of the National Institute of Standards*
5 *and Technology Act (15 U.S.C. 278g–3(a)), promul-*
6 *gate information security standards pertaining to*
7 *Federal information systems.*

8 *“(B) Standards promulgated under subpara-*
9 *graph (A) shall include—*

10 *“(i) standards that provide minimum infor-*
11 *mation security requirements as determined*
12 *under section 20(b) of the National Institute of*
13 *Standards and Technology Act (15 U.S.C. 278g–*
14 *3(b)); and*

15 *“(ii) such standards that are otherwise nec-*
16 *essary to improve the efficiency of operation or*
17 *security of Federal information systems.*

18 *“(C) Information security standards described*
19 *under subparagraph (B) shall be compulsory and*
20 *binding.*

21 *“(2) NATIONAL SECURITY SYSTEMS.—Standards*
22 *and guidelines for national security systems under*
23 *this subsection shall be developed, promulgated, en-*
24 *forced, and overseen as otherwise authorized by law*
25 *and as directed by the President.*

1 “(3) *AGENCY HEAD AUTHORITY.*—*The head of an*
2 *agency may employ standards for the cost-effective in-*
3 *formation security for all operations and assets with-*
4 *in or under the supervision of that agency that are*
5 *more stringent than the standards promulgated by the*
6 *Director under this subsection, if such standards—*

7 “(A) *contain, at a minimum, the provisions*
8 *of those applicable standards made compulsory*
9 *and binding by the Director; and*

10 “(B) *are otherwise consistent with policies*
11 *and guidelines issued under section 3533 of title*
12 *44.*

13 “(4) *DECISIONS ON PROMULGATION OF STAND-*
14 *ARDS.*—(A) *The decision regarding the promulgation*
15 *of any standard by the Director under paragraphs (1)*
16 *and (2) shall occur not later than 6 months after the*
17 *submission of the proposed standard to the Director*
18 *by the National Institute of Standards and Tech-*
19 *nology, as provided under section 20 of the National*
20 *Institute of Standards and Technology Act (15 U.S.C.*
21 *278g-3).*

22 “(B) *A decision by the Director to significantly*
23 *modify, or not promulgate, a proposed standard sub-*
24 *mitted to the Director by the National Institute of*
25 *Standards and Technology, as provided under section*

1 20 of the National Institute of Standards and Tech-
2 nology Act (15 U.S.C. 278g-3), shall be made after
3 the public is given an opportunity to comment on the
4 Director's proposed decision.

5 “(b) *ADDITIONAL STANDARDS RELATING TO FEDERAL*
6 *INFORMATION SYSTEMS.*—

7 “(1) *IN GENERAL.*—*Except as provided under*
8 *paragraph (2), the Secretary of Commerce shall, on*
9 *the basis of proposed standards developed by the Na-*
10 *tional Institute of Standards and Technology pursu-*
11 *ant to paragraph (2) of section 20(a) of the National*
12 *Institute of Standards and Technology Act (15 U.S.C.*
13 *278g-3(a)) and in consultation with the Director of*
14 *the Office of Management and Budget, promulgate*
15 *standards pertaining to Federal information systems.*
16 *The Secretary shall make such standards compulsory*
17 *and binding to the extent that the Secretary deter-*
18 *mines necessary to improve the efficiency and effec-*
19 *tiveness of the operation of Federal information sys-*
20 *tems.*

21 “(2) *NATIONAL SECURITY SYSTEMS.*—*Standards*
22 *and guidelines for national security systems under*
23 *this subsection shall be developed, promulgated, en-*
24 *forced, and overseen as otherwise authorized by law*
25 *and as directed by the President.*

1 “(3) *AUTHORITY OF SECRETARY.*—*The authority*
2 *conferred upon the Secretary of Commerce by this*
3 *subsection shall be exercised subject to direction by the*
4 *President and in coordination with the Director of*
5 *the Office of Management and Budget to ensure fiscal*
6 *and policy consistency.*

7 “(4) *AGENCY HEAD AUTHORITY.*—*The head of an*
8 *agency may employ standards for information sys-*
9 *tems that are more stringent than the standards pro-*
10 *mulgated by the Secretary of Commerce under this*
11 *subsection, if such standards contain, at a minimum,*
12 *the provisions of those applicable standards made*
13 *compulsory and binding by the Secretary of Com-*
14 *merce.*

15 “(c) *DEFINITIONS.*—*In this section:*

16 “(1) *FEDERAL INFORMATION SYSTEM.*—*The term*
17 *‘Federal information system’ means an information*
18 *system used or operated by an agency, by a con-*
19 *tractor of an agency, or by another organization on*
20 *behalf of an agency.*

21 “(2) *INFORMATION SECURITY.*—*The term*
22 *‘information security’ has the meaning given that*
23 *term in section 3532(b)(1) of title 44.*

1 *but such standards and guidelines shall not apply to*
2 *national security systems.*

3 “(b) *The standards and guidelines required by sub-*
4 *section (a) shall include, at a minimum—*

5 “(1)(A) *standards to be used by all agencies to*
6 *categorize all information and information systems*
7 *collected or maintained by or on behalf of each agency*
8 *based on the objectives of providing appropriate levels*
9 *of information security according to a range of risk*
10 *levels;*

11 “(B) *guidelines recommending the types of infor-*
12 *mation and information systems to be included in*
13 *each such category; and*

14 “(C) *minimum information security require-*
15 *ments for information and information systems in*
16 *each such category;*

17 “(2) *a definition of and guidelines concerning*
18 *detection and handling of information security inci-*
19 *dents; and*

20 “(3) *guidelines developed in coordination with*
21 *the National Security Agency for identifying an in-*
22 *formation system as a national security system con-*
23 *sistent with applicable requirements for national se-*
24 *curity systems, issued in accordance with law and as*
25 *directed by the President.*

1 “(c) *In developing standards and guidelines required*
2 *by subsections (a) and (b), the Institute shall—*

3 “(1) *consult with other agencies and offices and*
4 *the private sector (including the Director of the Office*
5 *of Management and Budget, the Departments of De-*
6 *fense and Energy, the National Security Agency, the*
7 *General Accounting Office, and the Secretary of*
8 *Homeland Security) to assure—*

9 “(A) *use of appropriate information secu-*
10 *rity policies, procedures, and techniques, in*
11 *order to improve information security and avoid*
12 *unnecessary and costly duplication of effort; and*

13 “(B) *that such standards and guidelines are*
14 *complementary with standards and guidelines*
15 *employed for the protection of national security*
16 *systems and information contained in such sys-*
17 *tems;*

18 “(2) *provide the public with an opportunity to*
19 *comment on proposed standards and guidelines;*

20 “(3) *submit to the Director of the Office of Man-*
21 *agement and Budget for promulgation under section*
22 *11331 of title 40, United States Code—*

23 “(A) *standards, as required under sub-*
24 *section (b)(1)(A), no later than 12 months after*
25 *the date of the enactment of this section; and*

1 “(B) minimum information security re-
2 quirements for each category, as required under
3 subsection (b)(1)(C), no later than 36 months
4 after the date of the enactment of this section;

5 “(4) issue guidelines as required under sub-
6 section (b)(1)(B), no later than 18 months after the
7 date of the enactment of this section;

8 “(5) ensure that such standards and guidelines
9 do not specify the use or procurement of certain prod-
10 ucts, including any specific hardware or software;

11 “(6) ensure that such standards and guidelines
12 provide for sufficient flexibility to permit alternative
13 solutions to provide equivalent levels of protection for
14 identified information security risks; and

15 “(7) use flexible, performance-based standards
16 and guidelines that, to the greatest extent possible,
17 permit the use of off-the-shelf commercially developed
18 information security products.

19 “(d)(1) There is established in the Institute an Office
20 for Information Security Programs.

21 “(2) The Office for Information Security Programs
22 shall be headed by a Director, who shall be a senior execu-
23 tive and shall be compensated at a level in the Senior Exec-
24 utive Service under section 5382 of title 5, United States
25 Code, as determined by the Secretary of Commerce.

1 “(3) *The Director of the Institute shall delegate to the*
2 *Director of the Office of Information Security Programs the*
3 *authority to administer all functions under this section, ex-*
4 *cept that any such delegation shall not relieve the Director*
5 *of the Institute of responsibility for the administration of*
6 *such functions. The Director of the Office of Information*
7 *Security Programs shall serve as principal adviser to the*
8 *Director of the Institute on all functions under this section.*

9 “(e) *The Institute shall—*

10 “(1) *submit standards developed pursuant to*
11 *subsection (a), along with recommendations as to the*
12 *extent to which these should be made compulsory and*
13 *binding, to the Director of the Office of Management*
14 *and Budget for promulgation under section 11331 of*
15 *title 40, United States Code;*

16 “(2) *provide assistance to agencies regarding—*

17 “(A) *compliance with the standards and*
18 *guidelines developed under subsection (a);*

19 “(B) *detecting and handling information*
20 *security incidents; and*

21 “(C) *information security policies, proce-*
22 *dures, and practices;*

23 “(3) *conduct research, as needed, to determine*
24 *the nature and extent of information security*

1 *vulnerabilities and techniques for providing cost-effective*
2 *information security;*

3 *“(4) develop and periodically revise performance*
4 *indicators and measures for agency information security*
5 *policies and practices;*

6 *“(5) evaluate private sector information security*
7 *policies and practices and commercially available in-*
8 *formation technologies to assess potential application*
9 *by agencies to strengthen information security;*

10 *“(6) evaluate security policies and practices de-*
11 *veloped for national security systems to assess poten-*
12 *tial application by agencies to strengthen information*
13 *security;*

14 *“(7) periodically assess the effectiveness of stand-*
15 *ards and guidelines developed under this section and*
16 *undertake revisions as appropriate;*

17 *“(8) solicit and consider the recommendations of*
18 *the Information Security and Privacy Advisory*
19 *Board, established by section 21, regarding standards*
20 *and guidelines developed under subsection (a) and*
21 *submit such recommendations to the Director of the*
22 *Office of Management and Budget with such stand-*
23 *ards submitted to the Director; and*

24 *“(9) prepare an annual public report on activi-*
25 *ties undertaken in the previous year, and planned for*

1 *the coming year, to carry out responsibilities under*
2 *this section.*

3 *“(f) As used in this section—*

4 *“(1) the term ‘agency’ has the same meaning as*
5 *provided in section 3502(1) of title 44, United States*
6 *Code;*

7 *“(2) the term ‘information security’ has the same*
8 *meaning as provided in section 3532(b)(1) of such*
9 *title;*

10 *“(3) the term ‘information system’ has the same*
11 *meaning as provided in section 3502(8) of such title;*

12 *“(4) the term ‘information technology’ has the*
13 *same meaning as provided in section 11101 of title*
14 *40, United States Code; and*

15 *“(5) the term ‘national security system’ has the*
16 *same meaning as provided in section 3532(b)(2) of*
17 *title 44, United States Code.*

18 *“(g) There are authorized to be appropriated to the*
19 *Secretary of Commerce \$20,000,000 for each of fiscal years*
20 *2003, 2004, 2005, 2006, and 2007 to enable the National*
21 *Institute of Standards and Technology to carry out the pro-*
22 *visions of this section.”.*

1 **SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY**
2 **BOARD.**

3 *Section 21 of the National Institute of Standards and*
4 *Technology Act (15 U.S.C. 278g-4), is amended—*

5 *(1) in subsection (a), by striking “Computer*
6 *System Security and Privacy Advisory Board” and*
7 *inserting “Information Security and Privacy Advi-*
8 *sory Board”;*

9 *(2) in subsection (a)(1), by striking “computer*
10 *or telecommunications” and inserting “information*
11 *technology”;*

12 *(3) in subsection (a)(2)—*

13 *(A) by striking “computer or telecommuni-*
14 *cations technology” and inserting “information*
15 *technology”;* and

16 *(B) by striking “computer or telecommuni-*
17 *cations equipment” and inserting “information*
18 *technology”;*

19 *(4) in subsection (a)(3)—*

20 *(A) by striking “computer systems” and in-*
21 *serting “information system”;* and

22 *(B) by striking “computer systems security”*
23 *and inserting “information security”;*

24 *(5) in subsection (b)(1) by striking “computer*
25 *systems security” and inserting “information secu-*
26 *rity”;*

1 (6) *in subsection (b) by striking paragraph (2)*
2 *and inserting the following:*

3 “(2) *to advise the Institute and the Director of*
4 *the Office of Management and Budget on information*
5 *security and privacy issues pertaining to Federal*
6 *Government information systems, including through*
7 *review of proposed standards and guidelines developed*
8 *under section 20; and”;*

9 (7) *in subsection (b)(3) by inserting “annually”*
10 *after “report”;*

11 (8) *by inserting after subsection (e) the following*
12 *new subsection:*

13 “(f) *The Board shall hold meetings at such locations*
14 *and at such time and place as determined by a majority*
15 *of the Board.”;*

16 (9) *by redesignating subsections (f) and (g) as*
17 *subsections (g) and (h), respectively; and*

18 (10) *by striking subsection (h), as redesignated*
19 *by paragraph (9), and inserting the following:*

20 “(h) *As used in this section, the terms ‘information*
21 *system’ and ‘information technology’ have the meanings*
22 *given in section 20.”.*

1 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.**

2 (a) *COMPUTER SECURITY ACT.*—Subsections (b) and
3 (c) of section 11332 of title 40, United States Code, are re-
4 pealed.

5 (b) *FLOYD D. SPENCE NATIONAL DEFENSE AUTHOR-*
6 *IZATION ACT FOR FISCAL YEAR 2001.*—The *Floyd D.*
7 *Spence National Defense Authorization Act for Fiscal Year*
8 *2001 (Public Law 106–398)* is amended by striking section
9 *1062 (44 U.S.C. 3531 note).*

10 (c) *PAPERWORK REDUCTION ACT.*—(1) Section
11 *3504(g)* of title 44, United States Code, is amended—

12 (A) by adding “and” at the end of paragraph
13 (1);

14 (B) in paragraph (2)—

15 (i) by striking “sections 11331 and
16 11332(b) and (c) of title 40” and inserting
17 “section 11331 of title 40 and subchapter II of
18 this chapter”; and

19 (ii) by striking “; and” and inserting a pe-
20 riod; and

21 (C) by striking paragraph (3).

22 (2) Section 3505 of such title is amended by adding
23 at the end—

24 “(c)(1) The head of each agency shall develop and
25 maintain an inventory of major information systems

1 *(including major national security systems) operated by or*
2 *under the control of such agency.*

3 “(2) *The identification of information systems in an*
4 *inventory under this subsection shall include an identifica-*
5 *tion of the interfaces between each such system and all other*
6 *systems or networks, including those not operated by or*
7 *under the control of the agency.*

8 “(3) *Such inventory shall be—*

9 “(A) *updated at least annually;*

10 “(B) *made available to the Comptroller General;*

11 *and*

12 “(C) *used to support information resources man-*
13 *agement, including—*

14 “(i) *preparation and maintenance of the in-*
15 *ventory of information resources under section*
16 *3506(b)(4);*

17 “(ii) *information technology planning,*
18 *budgeting, acquisition, and management under*
19 *section 3506(h), subtitle III of title 40, and re-*
20 *lated laws and guidance;*

21 “(iii) *monitoring, testing, and evaluation of*
22 *information security controls under subchapter*
23 *II;*

1 “(iv) preparation of the index of major in-
2 formation systems required under section 552(g)
3 of title 5, United States Code; and

4 “(v) preparation of information system in-
5 ventories required for records management under
6 chapters 21, 29, 31, and 33.

7 “(4) The Director shall issue guidance for and oversee
8 the implementation of the requirements of this subsection.”.

9 (3) Section 3506(g) of such title is amended—

10 (A) by adding “and” at the end of paragraph
11 (1);

12 (B) in paragraph (2)—

13 (i) by striking “section 11332 of title 40”
14 and inserting “subchapter II of this chapter”;
15 and

16 (ii) by striking “; and” and inserting a pe-
17 riod; and

18 (C) by striking paragraph (3).

19 **SEC. 306. CONSTRUCTION.**

20 Nothing in this title, or the amendments made by this
21 title, affects the authority of the National Institute of
22 Standards and Technology or the Department of Commerce
23 relating to the development and promulgation of standards
24 or guidelines under paragraphs (1) and (2) of section 20(a)

1 *of the National Institute of Standards and Technology Act*
2 *(15 U.S.C. 278g-3(a)).*

3 **TITLE IV—AUTHORIZATION OF**
4 **APPROPRIATIONS AND EF-**
5 **FECTIVE DATES**

6 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

7 *Except for those purposes for which an authorization*
8 *of appropriations is specifically provided in title I or II,*
9 *including the amendments made by such titles, there are*
10 *authorized to be appropriated such sums as are necessary*
11 *to carry out titles I and II for each of fiscal years 2003*
12 *through 2007.*

13 **SEC. 402. EFFECTIVE DATES.**

14 *(a) TITLES I AND II.—*

15 *(1) IN GENERAL.—Except as provided under*
16 *paragraph (2), titles I and II and the amendments*
17 *made by such titles shall take effect 120 days after the*
18 *date of enactment of this Act.*

19 *(2) IMMEDIATE ENACTMENT.—Sections 207, 214,*
20 *and 215 shall take effect on the date of enactment of*
21 *this Act.*

22 *(b) TITLES III AND IV.—Title III and this title shall*
23 *take effect on the date of enactment of this Act.*

1 **TITLE V—CONFIDENTIAL INFOR-**
2 **MATION PROTECTION AND**
3 **STATISTICAL EFFICIENCY**

4 **SEC. 501. SHORT TITLE.**

5 *This title may be cited as the “Confidential Informa-*
6 *tion Protection and Statistical Efficiency Act of 2002”.*

7 **SEC. 502. DEFINITIONS.**

8 *As used in this title:*

9 (1) *The term “agency” means any entity that*
10 *falls within the definition of the term “executive agen-*
11 *cy” as defined in section 102 of title 31, United*
12 *States Code, or “agency”, as defined in section 3502*
13 *of title 44, United States Code.*

14 (2) *The term “agent”—*

15 (A) *means an employee of a private organi-*
16 *zation or a researcher affiliated with an institu-*
17 *tion of higher learning (including a person*
18 *granted special sworn status by the Bureau of*
19 *the Census under section 23(c) of title 13, United*
20 *States Code) with whom a contract or other*
21 *agreement is executed, on a temporary basis, by*
22 *an executive agency to perform exclusively statis-*
23 *tical activities under the control and supervision*
24 *of an officer or employee of that agency; or*

1 (B) means an individual who is working
2 under the authority of a government entity with
3 which a contract or other agreement is executed
4 by an executive agency to perform exclusively
5 statistical activities under the control of an offi-
6 cer or employee of that agency; or

7 (C) means an individual who is a self-em-
8 ployed researcher, a consultant, or a contractor,
9 or who is an employee of a contractor and with
10 whom a contract or other agreement is executed
11 by an executive agency to perform a statistical
12 activity under the control of an officer or em-
13 ployee of that agency; or

14 (D) means an individual who is a con-
15 tractor or who is an employee of a contractor en-
16 gaged by the agency to design or maintain the
17 systems for handling or storage of data received
18 under this title; and

19 (E) who agrees in writing to comply with
20 all provisions of law that affect information ac-
21 quired by that agency.

22 (3) The term “business data” means operating
23 and financial data and information about businesses,
24 tax-exempt organizations, and government entities.

1 (4) *The term “identifiable form” means any rep-*
2 *resentation of information that permits the identity of*
3 *the respondent to whom the information applies to be*
4 *reasonably inferred by either direct or indirect means.*

5 (5) *The term “nonstatistical purpose”—*

6 (A) *means the use of data in identifiable*
7 *form for any purpose that is not a statistical*
8 *purpose, including any administrative, regu-*
9 *latory, law enforcement, adjudicatory, or other*
10 *purpose that affects the rights, privileges, or ben-*
11 *efits of a particular identifiable respondent; and*

12 (B) *includes the disclosure under section*
13 *552 of title 5, United States Code (popularly*
14 *known as the Freedom of Information Act) of*
15 *data that are acquired for exclusively statistical*
16 *purposes under a pledge of confidentiality.*

17 (6) *The term “respondent” means a person who,*
18 *or organization that, is requested or required to sup-*
19 *ply information to an agency, is the subject of infor-*
20 *mation requested or required to be supplied to an*
21 *agency, or provides that information to an agency.*

22 (7) *The term “statistical activities”—*

23 (A) *means the collection, compilation, proc-*
24 *essing, or analysis of data for the purpose of de-*
25 *scribing or making estimates concerning the*

1 whole, or relevant groups or components within,
2 the economy, society, or the natural environment;
3 and

4 (B) includes the development of methods or
5 resources that support those activities, such as
6 measurement methods, models, statistical classi-
7 fications, or sampling frames.

8 (8) The term “statistical agency or unit” means
9 an agency or organizational unit of the executive
10 branch whose activities are predominantly the collec-
11 tion, compilation, processing, or analysis of informa-
12 tion for statistical purposes.

13 (9) The term “statistical purpose”—

14 (A) means the description, estimation, or
15 analysis of the characteristics of groups, without
16 identifying the individuals or organizations that
17 comprise such groups; and

18 (B) includes the development, implementa-
19 tion, or maintenance of methods, technical or ad-
20 ministrative procedures, or information resources
21 that support the purposes described in subpara-
22 graph (A).

23 **SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.**

24 (a) *IN GENERAL.*—The Director of the Office of Man-
25 agement and Budget shall coordinate and oversee the con-

1 *fidentiality and disclosure policies established by this title.*
2 *The Director may promulgate rules or provide other guid-*
3 *ance to ensure consistent interpretation of this title by the*
4 *affected agencies.*

5 (b) *AGENCY RULES.*—*Subject to subsection (c), agen-*
6 *cies may promulgate rules to implement this title. Rules*
7 *governing disclosures of information that are authorized by*
8 *this title shall be promulgated by the agency that originally*
9 *collected the information.*

10 (c) *REVIEW AND APPROVAL OF RULES.*—*The Director*
11 *shall review any rules proposed by an agency pursuant to*
12 *this title for consistency with the provisions of this title and*
13 *chapter 35 of title 44, United States Code, and such rules*
14 *shall be subject to the approval of the Director.*

15 (d) *REPORTS.*—

16 (1) *The head of each agency shall provide to the*
17 *Director of the Office of Management and Budget*
18 *such reports and other information as the Director re-*
19 *quests.*

20 (2) *Each Designated Statistical Agency referred*
21 *to in section 522 shall report annually to the Director*
22 *of the Office of Management and Budget, the Com-*
23 *mittee on Government Reform of the House of Rep-*
24 *resentatives, and the Committee on Governmental Af-*
25 *airs of the Senate on the actions it has taken to im-*

1 *plement sections 523 and 524. The report shall in-*
2 *clude copies of each written agreement entered into*
3 *pursuant to section 524(a) for the applicable year.*

4 *(3) The Director of the Office of Management*
5 *and Budget shall include a summary of reports sub-*
6 *mitted to the Director under paragraph (2) and ac-*
7 *tions taken by the Director to advance the purposes*
8 *of this title in the annual report to the Congress on*
9 *statistical programs prepared under section*
10 *3504(e)(2) of title 44, United States Code.*

11 **SEC. 504. EFFECT ON OTHER LAWS.**

12 *(a) SECTION 3510 OF TITLE 44, UNITED STATES*
13 *CODE.—This title, including amendments made by this*
14 *title, does not diminish the authority under section 3510*
15 *of title 44, United States Code, of the Director of the Office*
16 *of Management and Budget to direct, and of an agency to*
17 *make, disclosures that are not inconsistent with any appli-*
18 *cable law.*

19 *(b) SECTIONS 8, 16, 301, AND 401 OF TITLE 13 AND*
20 *SECTION 2108 OF TITLE 44, UNITED STATES CODE.—This*
21 *title, including amendments made by this title, does not di-*
22 *minish the authority of the Bureau of the Census to provide*
23 *information in accordance with sections 8, 16, 301, and 401*
24 *of title 13 and section 2108 of title 44, United States Code.*

1 (c) *SECTION 9 OF TITLE 13, UNITED STATES CODE.*—
2 *This title, including amendments made by this title, shall*
3 *not be construed as authorizing the disclosure for nonstatis-*
4 *tical purposes of demographic data or information collected*
5 *by the Census Bureau pursuant to section 9 of title 13,*
6 *United States Code.*

7 (d) *SECTION 12 OF THE FEDERAL ENERGY ADMINIS-*
8 *TRATION ACT OF 1974.*—*In accordance with the provisions*
9 *of this title, data acquired for exclusively statistical pur-*
10 *poses under a pledge of confidentiality are exempt from*
11 *mandatory disclosure in identifiable form for nonstatistical*
12 *purposes under section 12 of the Federal Energy Adminis-*
13 *tration Act of 1974 (15 U.S.C. 771).*

14 (e) *PREEMPTION OF STATE LAW.*—*Nothing in this*
15 *title shall preempt applicable State law regarding the con-*
16 *fidentiality of data collected by the States.*

17 (f) *STATUTES REGARDING FALSE STATEMENTS.*—*Not-*
18 *withstanding section 512, information collected by an agen-*
19 *cy for exclusively statistical purposes under a pledge of con-*
20 *fidentiality may be provided by the collecting agency to a*
21 *law enforcement agency for the prosecution of submissions*
22 *to the collecting agency of false statistical information*
23 *under statutes that authorize criminal penalties (such as*
24 *section 221 of title 13, United States Code) or civil penalties*
25 *for the provision of false statistical information, unless such*

1 *disclosure or use would otherwise be prohibited under Fed-*
2 *eral law.*

3 *(g) CONSTRUCTION.—Nothing in this title shall be con-*
4 *strued as restricting or diminishing any confidentiality*
5 *protections or penalties for unauthorized disclosure that*
6 *otherwise apply to data or information collected for statis-*
7 *tical purposes or nonstatistical purposes, including, but not*
8 *limited to, section 6103 of the Internal Revenue Code of*
9 *1986 (26 U.S.C. 6103).*

10 ***Subtitle A—Confidential***
11 ***Information Protection***

12 ***SEC. 511. FINDINGS AND PURPOSES.***

13 *(a) FINDINGS.—Congress finds the following:*

14 *(1) Individuals, businesses, and other organiza-*
15 *tions have varying degrees of legal protection when*
16 *providing information to the Federal Government for*
17 *strictly statistical purposes.*

18 *(2) Pledges of confidentiality by the Federal Gov-*
19 *ernment provide assurances to the public that infor-*
20 *mation about individuals or organizations or pro-*
21 *vided by individuals or organizations for exclusively*
22 *statistical purposes will be held in confidence and*
23 *will not be used against such individuals or organiza-*
24 *tions in any Federal Government action.*

1 (3) *Protecting the confidentiality interests of in-*
2 *dividuals or organizations who provide information*
3 *for Federal statistical programs serves both the inter-*
4 *ests of the public and the needs of society.*

5 (4) *Declining trust of the public in the protection*
6 *of information provided to the Federal Government*
7 *adversely affects both the accuracy and completeness*
8 *of statistical analyses.*

9 (5) *Ensuring that information provided for sta-*
10 *tistical purposes receives protection is essential in*
11 *continuing public cooperation in statistical programs.*

12 (b) *PURPOSES.—The purposes of this subtitle are the*
13 *following:*

14 (1) *To ensure that information supplied by indi-*
15 *viduals or organizations to an agency for statistical*
16 *purposes under a pledge of confidentiality is used ex-*
17 *clusively for statistical purposes.*

18 (2) *To ensure that individuals or organizations*
19 *who supply information to the Federal Government*
20 *for statistical purposes will neither have that infor-*
21 *mation disclosed in identifiable form to anyone not*
22 *authorized by this title nor have that information*
23 *used for any purpose other than a statistical purpose.*

24 (3) *To safeguard the confidentiality of individ-*
25 *ually identifiable information acquired under a*

1 *under a pledge of confidentiality for exclusively sta-*
2 *tistical purposes.*

3 *(c) RULE FOR USE OF DATA OR INFORMATION FOR*
4 *NONSTATISTICAL PURPOSES.—A statistical agency or unit*
5 *shall clearly distinguish any data or information it collects*
6 *for nonstatistical purposes (as authorized by law) by a rule*
7 *that provides that the respondent supplying the data or in-*
8 *formation is fully informed, before the data or information*
9 *is collected, that the data or information could be used for*
10 *nonstatistical purposes.*

11 *(d) DESIGNATION OF AGENTS.—A statistical agency or*
12 *unit may designate agents, by contract or by entering into*
13 *a special agreement containing the provisions required by*
14 *section 502, who may perform exclusively statistical activi-*
15 *ties, subject to the limitations and penalties described in*
16 *this title.*

17 **SEC. 513. FINES AND PENALTIES.**

18 *Whoever, being an officer, employee, or agent of an*
19 *agency acquiring information for exclusively statistical*
20 *purposes, having taken and subscribed the oath of office,*
21 *or having sworn to observe the limitations imposed by sec-*
22 *tion 512, comes into possession of such information by rea-*
23 *son of his or her being an officer, employee, or agent and,*
24 *knowing that the disclosure of the specific information is*
25 *prohibited under the provisions of this title, willfully dis-*

1 *closes the information in any manner to a person or agency*
2 *not entitled to receive it, shall be guilty of a class E felony*
3 *and imprisoned for not more than 5 years, or fined not*
4 *more than \$250,000, or both.*

5 ***Subtitle B—Statistical Efficiency***

6 **SEC. 521. FINDINGS AND PURPOSES.**

7 *(a) FINDINGS.—Congress finds the following:*

8 *(1) Federal statistics are an important source of*
9 *information for public and private decision-makers*
10 *such as policymakers, consumers, businesses, inves-*
11 *tors, and workers.*

12 *(2) Federal statistical agencies should continu-*
13 *ously seek to improve their efficiency. Statutory con-*
14 *straints limit the ability of these agencies to share*
15 *data and thus to achieve higher efficiency for Federal*
16 *statistical programs.*

17 *(3) The quality of Federal statistics depends on*
18 *the willingness of businesses to respond to statistical*
19 *surveys. Reducing reporting burdens will increase re-*
20 *sponse rates, and therefore lead to more accurate*
21 *characterizations of the economy.*

22 *(4) Enhanced sharing of business data among*
23 *the Bureau of the Census, the Bureau of Economic*
24 *Analysis, and the Bureau of Labor Statistics for ex-*
25 *clusively statistical purposes will improve their abil-*

1 *ity to track more accurately the large and rapidly*
2 *changing nature of United States business. In par-*
3 *ticular, the statistical agencies will be able to better*
4 *ensure that businesses are consistently classified in*
5 *appropriate industries, resolve data anomalies,*
6 *produce statistical samples that are consistently ad-*
7 *justed for the entry and exit of new businesses in a*
8 *timely manner, and correct faulty reporting errors*
9 *quickly and efficiently.*

10 (5) *Congress enacted the International Invest-*
11 *ment and Trade in Services Act of 1990 that allowed*
12 *the Bureau of the Census, the Bureau of Economic*
13 *Analysis, and the Bureau of Labor Statistics to share*
14 *data on foreign-owned companies. The Act not only*
15 *expanded detailed industry coverage from 135 indus-*
16 *tries to over 800 industries with no increase in the*
17 *data collected from respondents but also demonstrated*
18 *how data sharing can result in the creation of valu-*
19 *able data products.*

20 (6) *With subtitle A of this title, the sharing of*
21 *business data among the Bureau of the Census, the*
22 *Bureau of Economic Analysis, and the Bureau of*
23 *Labor Statistics continues to ensure the highest level*
24 *of confidentiality for respondents to statistical sur-*
25 *veys.*

1 (b) *PURPOSES.*—*The purposes of this subtitle are the*
2 *following:*

3 (1) *To authorize the sharing of business data*
4 *among the Bureau of the Census, the Bureau of Eco-*
5 *nomics Analysis, and the Bureau of Labor Statistics*
6 *for exclusively statistical purposes.*

7 (2) *To reduce the paperwork burdens imposed on*
8 *businesses that provide requested information to the*
9 *Federal Government.*

10 (3) *To improve the comparability and accuracy*
11 *of Federal economic statistics by allowing the Bureau*
12 *of the Census, the Bureau of Economic Analysis, and*
13 *the Bureau of Labor Statistics to update sample*
14 *frames, develop consistent classifications of establish-*
15 *ments and companies into industries, improve cov-*
16 *erage, and reconcile significant differences in data*
17 *produced by the three agencies.*

18 (4) *To increase understanding of the United*
19 *States economy, especially for key industry and re-*
20 *gional statistics, to develop more accurate measures of*
21 *the impact of technology on productivity growth, and*
22 *to enhance the reliability of the Nation's most impor-*
23 *tant economic indicators, such as the National In-*
24 *come and Product Accounts.*

1 **SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.**

2 *For purposes of this subtitle, the term “Designated*
3 *Statistical Agency” means each of the following:*

4 (1) *The Bureau of the Census of the Department*
5 *of Commerce.*

6 (2) *The Bureau of Economic Analysis of the De-*
7 *partment of Commerce.*

8 (3) *The Bureau of Labor Statistics of the De-*
9 *partment of Labor.*

10 **SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL**
11 **AGENCIES.**

12 *The head of each of the Designated Statistical Agencies*
13 *shall—*

14 (1) *identify opportunities to eliminate duplica-*
15 *tion and otherwise reduce reporting burden and cost*
16 *imposed on the public in providing information for*
17 *statistical purposes;*

18 (2) *enter into joint statistical projects to improve*
19 *the quality and reduce the cost of statistical pro-*
20 *grams; and*

21 (3) *protect the confidentiality of individually*
22 *identifiable information acquired for statistical pur-*
23 *poses by adhering to safeguard principles, includ-*
24 *ing—*

25 (A) *emphasizing to their officers, employees,*
26 *and agents the importance of protecting the con-*

1 *confidentiality of information in cases where the*
2 *identity of individual respondents can reason-*
3 *ably be inferred by either direct or indirect*
4 *means;*

5 *(B) training their officers, employees, and*
6 *agents in their legal obligations to protect the*
7 *confidentiality of individually identifiable infor-*
8 *mation and in the procedures that must be fol-*
9 *lowed to provide access to such information;*

10 *(C) implementing appropriate measures to*
11 *assure the physical and electronic security of*
12 *confidential data;*

13 *(D) establishing a system of records that*
14 *identifies individuals accessing confidential data*
15 *and the project for which the data were required;*
16 *and*

17 *(E) being prepared to document their com-*
18 *pliance with safeguard principles to other agen-*
19 *cies authorized by law to monitor such compli-*
20 *ance.*

21 **SEC. 524. SHARING OF BUSINESS DATA AMONG DES-**
22 **IGNATED STATISTICAL AGENCIES.**

23 *(a) IN GENERAL.—A Designated Statistical Agency*
24 *may provide business data in an identifiable form to an-*
25 *other Designated Statistical Agency under the terms of a*

1 *written agreement among the agencies sharing the business*
2 *data that specifies—*

3 (1) *the business data to be shared;*

4 (2) *the statistical purposes for which the business*
5 *data are to be used;*

6 (3) *the officers, employees, and agents authorized*
7 *to examine the business data to be shared; and*

8 (4) *appropriate security procedures to safeguard*
9 *the confidentiality of the business data.*

10 (b) *RESPONSIBILITIES OF AGENCIES UNDER OTHER*

11 *LAWS.—The provision of business data by an agency to a*

12 *Designated Statistical Agency under this subtitle shall in*

13 *no way alter the responsibility of the agency providing the*

14 *data under other statutes (including section 552 of title 5,*

15 *United States Code (popularly known as the “Freedom of*

16 *Information Act”), and section 552b of title 5, United*

17 *States Code (popularly known as the “Privacy Act of*

18 *1974”)) with respect to the provision or withholding of such*

19 *information by the agency providing the data.*

20 (c) *RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND*

21 *AGENTS.—Examination of business data in identifiable*

22 *form shall be limited to the officers, employees, and agents*

23 *authorized to examine the individual reports in accordance*

24 *with written agreements pursuant to this section. Officers,*

25 *employees, and agents of a Designated Statistical Agency*

1 *who receive data pursuant to this subtitle shall be subject*
2 *to all provisions of law, including penalties, that relate—*

3 *(1) to the unlawful provision of the business data*
4 *that would apply to the officers, employees, and*
5 *agents of the agency that originally obtained the in-*
6 *formation; and*

7 *(2) to the unlawful disclosure of the business*
8 *data that would apply to officers, employees, and*
9 *agents of the agency that originally obtained the in-*
10 *formation.*

11 *(d) NOTICE.—Whenever a written agreement concerns*
12 *data that respondents were required by law to report and*
13 *the respondents were not informed that the data could be*
14 *shared among the Designated Statistical Agencies, for exclu-*
15 *sively statistical purposes, the terms of such agreement shall*
16 *be described in a public notice issued by the agency that*
17 *intends to provide the data. Such notice shall allow a min-*
18 *imum of 60 days for public comment.*

19 **SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PRO-**
20 **VIDED BY DESIGNATED STATISTICAL AGEN-**
21 **CIES.**

22 *(a) IN GENERAL.—Business data provided by a Des-*
23 *ignated Statistical Agency pursuant to this subtitle shall*
24 *be used exclusively for statistical purposes.*

1 (b) *PUBLICATION OF DATA.*—*Publication of business*
2 *data acquired by a Designated Statistical Agency shall*
3 *occur in a manner whereby the data furnished by any par-*
4 *ticular respondent are not in identifiable form.*

5 **SEC. 526. CONFORMING AMENDMENTS.**

6 (a) *DEPARTMENT OF COMMERCE.*—*Section 1 of the*
7 *Act of January 27, 1938 (15 U.S.C. 176a) is amended by*
8 *striking “The” and inserting “Except as provided in the*
9 *Confidential Information Protection and Statistical Effi-*
10 *ciency Act of 2002, the”.*

11 (b) *TITLE 13.*—*Chapter 10 of title 13, United States*
12 *Code, is amended—*

13 (1) *by adding after section 401 the following:*

14 **“§402. Providing business data to Designated Statis-**
15 **tical Agencies**

16 *“The Bureau of the Census may provide business data*
17 *to the Bureau of Economic Analysis and the Bureau of*
18 *Labor Statistics (‘Designated Statistical Agencies’) if such*
19 *information is required for an authorized statistical pur-*
20 *pose and the provision is the subject of a written agreement*
21 *with that Designated Statistical Agency, or their successors,*
22 *as defined in the Confidential Information Protection and*
23 *Statistical Efficiency Act of 2002.”; and*

1 (2) *in the table of sections for the chapter by*
2 *adding after the item relating to section 401 the fol-*
3 *lowing:*

“402. Providing business data to Designated Statistical Agencies.”.

Union Calendar No. 489

107TH CONGRESS
2^D Session

H. R. 2458

[Report No. 107-787, Part I]

A BILL

To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

NOVEMBER 14, 2002

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than November 14, 2002 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printedvernment information and services, and for other purposes.

NOVEMBER 14, 2002

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than November 14, 2002 for consideration.